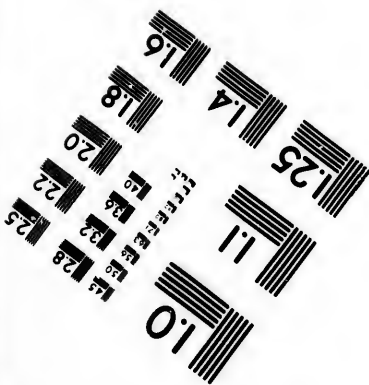
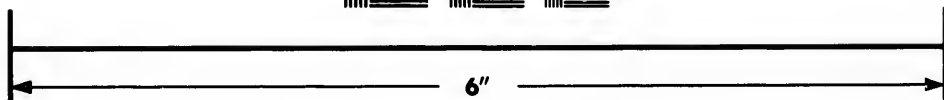
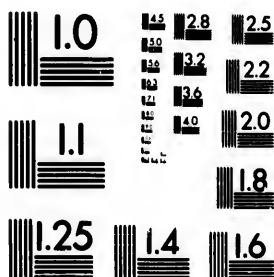


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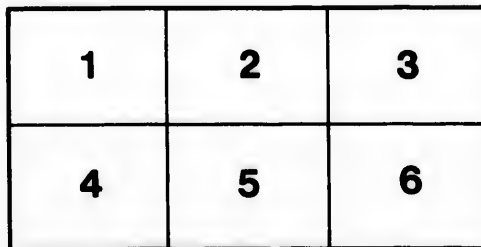
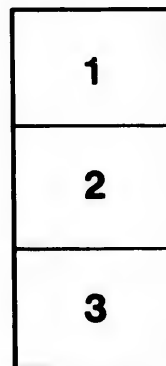
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P A P E R

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At the Bar of the House of Commons, by Mr.  
LYMPURNER, Agent for the Subscribers to the  
Petitions from the Province of QUEBEC, bearing  
Date the 24th of November 1784.

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(23d March 1791.)

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(23d March 1791.)

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S I R,

I AM Agent from Quebec for the Subscribers to the Petitions from that Province, now on the Table of this Honourable House. I had the Honour of appearing at this Bar late in the Session of 1788, and of stating, for the Information of the Honourable Committee, the unhappy Situation of that Province. Soon after that Period I went to Quebec; but, at the urgent Request of the Petitioners, I returned to Britain the same Year, with new Powers, and more ample Instructions, to renew my Application for their Relief; and to represent to the British Legislature the pressing Necessity, for the Peace, the Security, and Prosperity of the Inhabitants of that Country, that the Constitution of the Province should undergo an immediate and thorough Reform.

Every Day new Matter, and further Circumstances arise, which confirm and strengthen the Sentiments of the Petitioners, as expressed in their Petitions. And they are now fully convinced that, unless a proper Constitution of Government is established immediately for that Country, the whole Affairs of the Province must inevitably fall into such extreme Confusion as will operate to the entire Ruin of their Fortunes, and ultimately the absolute Destruction of the Province.

It is not necessary to enter into any Detail of the Reasons which have induced me to defer applying to Parliament on these Affairs during the Two last Sessions, as the Circumstances are within the Recollection of every Member of this Honourable House.

These Petitions were framed and agreed on in public Meetings held  
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for that Purpose, in the Cities of Quebec and Montreal; and Committees were then named and appointed by the People, to forward and support them.

In these Petitions, Sir, the Inhabitants of the Province of Quebec have exposed to this Honourable House, that their Situation has become truly deplorable by the Operation of the System of Government established for that Province by the Act of the Fourteenth of His Majesty, commonly called the Quebec Act. And they have likewise thought it their Duty to point out, for the Consideration of Parliament, those Reforms which, in their Apprehension, will tend most effectually to promote the Happiness and Prosperity of the Province, and at the same Time give due Strength, Energy, and Support to its Government.

As His Majesty's Ministers have submitted to this Honourable House a Bill, professedly designed to remedy the Evils of the present System, it is unnecessary for me to enter into any Detail of the Distresses which the People of that Province have suffered, from the Confusion and Uncertainty of the Laws, and the Want of determinate Rules and fixed Principles in the Courts of Justice; though I am confident the Detail would afford every Member of this Honourable House, as it must be Matter of Surprise that such a Series of Anarchy and Oppression should have been permitted to prevail during so many Years in a British Province. I can, however, not clearly see how any Proof that can possibly be offered or required, that the Official Information from that unfortunate Province has not been such as the British Government had a Right to expect; for if Parliament had been duly informed that the Quebec Acts, by which it was certainly intended to secure the Peace, and to promote the Prosperity and Happiness of the People of that Province, had produced the very contrary Effects; that, from the Uncertainty of the Laws supposed to be introduced by that Act, His Majesty's Subjects had been obliged to depend for Justice on the vague and uncertain Ideas of the Judges,—we are sure, from the Generosity and Justice of the British Government, that we should have had no Difficulty in procuring the necessary Relief.

In this Stage of the Business I shall not waste the Time of this Honourable House to explain the Nature of the Civil Government of that Province while it belonged to France, nor to prove to this Honourable House, that although the Quebec Act has been in full Force sixteen Years, the Courts in that Province have not yet settled or agreed on whether the Whole of the French Laws, or what Part of them, competed the Custom of Canada; as they sometimes admitted, and at other Times rejected, the Customs of the French Law. It is not necessary to enquire, whether the Subjects, as the Bill now under Consideration proposes, that the present Constitution of the Province is defective, and that the said Bill, before it receives the Sanction of this Honourable House, should be so modified and arranged as to preclude the Necessity of ever returning to the British Legislature again, to reform the Constitution of Government of that Country.

While

While that Province belonged to France the Country was thinly inhabited; Agriculture and Commerce were neglected, despised, and discouraged; Credit and Circulation were very confined; and Mercantile Transactions were neither numerous, extensive, nor intricate; for the India Company had been permitted to retain the Monopoly of the Far Trade, which was almost the sole Object of Export during that Period from the Province. The French Government seems to have been totally unacquainted with the Mercantile Interests of the Country, and to have esteemed the Rebellion of it merely as being favourable to their Views in distressing the neighbouring British Colonies; the Inhabitants were miserable poor, and the Province was a dead Weight on that Kingdom. But, Sir, the Province has greatly changed since it was ceded to Great Britain at the Peace of 1763; the Commercial Spirit and Genius of the Britons who have retained it, and settled in that Country, have by promoting Industry and Cultivation discovered to the World the Value of that Province; and though the Effort of a few Individuals have not been sufficient to counteract all the pernicious Consequences of an arbitrary System of Government, and an uncertain Administration of Law, yet they have produced a wonderful Change on the Face of that Country, the Towns and Villages are greatly increased; the Number of the People is nearly tripled; there is double the Quantity of Land cultivated; the Farmers are more comfortably lodged, and a great Number of Ships are Annually loaded with a Variety of Articles the Produce of the Province: If such amazing Progress has been made in the Period of 25 Years, not only without any Assistance from Government by Bounties or Encouragements, but while the Province was labouring under Oppression, and the People scarcely assured of enjoying the Fruits of their Industry, what may not be expected from the Country if encouraged by a generous System of Government, and assisted by the fostering Hand of Great Britain? When, in Consequence of the People being enlightened by Education and Science, the Effects of ancient and narrow Prejudices are destroyed, and the Farmers have been induced to change their present wretched System of Agriculture, I have no Doubt, Sir, but the Province will be considered as a valuable Appendage in the Line of Trade, and instead of exhibiting a weak Government and impoverished Country, it will acquire that Degree of Respectability which its Situation, and Numbers ought to command.

I shall now request the Indulgence of this Honourable House while I offer a few Observations on some of the Articles of the new Constitution, as they appear in the Bill; and submit, for their Consideration, such Reasons for altering these Clauses as have occurred to me in the short Time since I have had Communication of the Bill.

Sir, the Bill now under the Deliberation of this Honourable House states, in the Preamble, that the Act of the 14th of His Majesty, commonly called the Quebec Act, "is, in many Respects, inapplicable to the present Condition and Circumstances of the said Province."

This, Sir, is very true; and justifies the Complaints of the People,

so often expressed in their Petitions against that Act. They have had a long and painful Experience of the Inefficiency of the Act; they have severely felt, and suffered, under the Confusion which that Act introduced into the Government of the Province; they have been exposed to the pernicious Effects of uncertain and undefined Laws, and to the arbitrary Judgments of Courts, guided by no fixed Principles or certain Rules; and they have seen their Property, in consequence thereof, dissipated, without a Possibility of helping themselves. It was these Evils which induced them to pray this Honourable House, that the Act, intitled, "An Act for making more effectual Provision for the Government of the Province of Quebec," might be repealed *in toto*. But, Sir, the Bill now before this Honourable House, in the First enacting Clause, proposes to repeal only that Clause of the Quebec Act which gives Power to the Governor and Council to make and enact Laws and Ordinances. Sir, that Act has occasioned too much Trouble in the Province, that it has become extremely obnoxious to that Part of the Inhabitants who, from Education, are able to look up to the Source of the Evil, and to comprehend from what Cause the Confusion has proceeded. They have considered that Act as the Origin of all their Trouble; and they flatter themselves, that in consequence of their earnest Solicitations it would be entirely repealed, so as not to leave any Part of an Object which had given them so much Uncertainty exposed to their View.

Sir, though the present Bill declares, in the Preamble, that the Quebec Act is, "in many Respects, inapplicable to the Condition and Circumstances of the Province," yet it only proposes to repeal One Clause. Will it be considered as doing Justice to the Declaration in the Preamble, or to the Petitioners, or to the Province, to declare thus publicly that the Act is pernicious in many Respects, and to give the necessary Relief only in *one* Point? I have examined the Quebec Act with a good deal of Care, but have not been able to perceive any powerful Reason for which it ought to be repealed. There are Nine distinct Heads or Clauses in this Act, and I cannot see any Thing in them, individually or collectively, which makes it necessary to build the new Constitution thereon.

Nor, surely, the First Clause, which regards the Limits of the Province, as those are materially changed by the Treaty of Peace of 1763; Nor the Second, which repeals the former Ordinances, as they, of course, were entirely done away; Nor the Third Head, which relates to Religion, that is sufficiently provided for in the new Bill. Nor the Fourth, which establishes the ancient Laws of Canada—so much of them as are necessary can be easily provided for in the new Bill. Nor the Fifth, which regards the granting of Lands—that is settled in the new Bill. Nor the Sixth, which establishes the English Criminal Law, as that can be incorporated in the new Bill. Nor the Seventh Head, which establishes the Legislative Council, as that is repealed by the First Clause of the new Bill. Nor the Eighth, which impowers His Majesty to erect Courts; as this Object ought to be expressly provided for in the new Bill. Nor the Ninth,

Ninth, which establishes the Operation of certain Acts of Parliament; as that is provided for by the new Bill.—In short, I cannot perceive any Reason for retaining that Act as Part of the new Constitution. Sir, I have understood Government were full convinced, that what is called in the Quebec Act “*the Laws of Canada*,” had not yet been defined; that, though Sixteen Years have now elapsed since that Act began to operate, it is yet to be determined what or how many of the Laws of France composed the System of Canadian Jurisprudence previous to the Conquest; or even if there was any positive System, particularly for Commercial Transactions. Is it intended, by making the Quebec Act the Foundation of the new Bill, that we shall remain in the same State of Doubt and Uncertainty, which has already given us so much Trouble; or that we are, in the new Legislature, to combat the Prejudices and Prepossessions of those of our Fellow Subjects, who being unacquainted with the Nature, the Principles, or Circumstances of mercantile and personal Transactions, are little inclined to favour them? I might instance Scotland in this particular—how strenuously did the People of that Country contend at the Union, to preserve the Whole of their own Laws? I believe it will be allowed that the Reservation has not been favourable to that Part of the Kingdom; and the People of Scotland were at that Time much more enlightened than the Canadians are now.

Sir, this Honourable House may perhaps be told that many of the French Canadians esteem the Quebec Act; that some of them have expressed their Approbation of it in Petitions to His Majesty; and therefore that great Respect ought to be paid to the Prejudices and Prepossessions of those People. Sir, I have a very high Respect for the Prejudices of Education; every Person, I suppose, has felt the Effects of them; they often proceed from the most amiable Motives; and I have known Men of the best Hearts and of sound Understandings greatly influenced by them,—but because I respect these natural Defects in my Neighbours, would it be fair or honourable in me to foster, cherish, and encourage them?

Is it conferring any Favour on a People to nurse and feed Prepossession; which from their very Name must be considered as Faults or Blemishes? No, Sir, for though it would be extremely wrong to wound the Feeling of a People, by attempting rudely to eradicate their Prejudices; yet I consider it as the Duty of Government, in Kindness to its Subjects, to weed out these Prejudices gently and by Degrees.

The French Canadians have now been Thirty Years subject to the British Empire; they have had Time to acquire some of our Customs and Manners, to study in a certain Degree the Principles of our Laws and Constitution; and I stand before this Honourable House the Agent, I have no Hesitation to say, of a Number of the most respectable and most intelligent of these French Canadians, to solicit the total Repeal of the Quebec Act.

The Investigation, which was made by Order of Lord Dorchester, in the Year 1787, into the past Administration of Justice in the Province, and

of the Honourable Members of His Majesty's Ministers, as well as the Disputes arising in the Superior and lower Courts in the Province since that Period, and I will leave neither the Judges, the Lawyers, nor the People, under the Law, were the Law of Canada previous to the Conquest. There has been no General and common Object of Litigation, except in such Matters as concern Partition, Transmutation, or Alienation of Landed Property, where the Custom of Paris is very clear. I cannot, therefore, suppose that this Honourable House will consider it incumbent on them to enact Laws, Proprieties on a Part of the People, on a Point of so much Importance to the Whole, the Object that must continue, and perhaps be more and more necessary, has too long prevailed in the Province, and would be brought into Dispute, and occasioned much Uncertainty to the People.

I shall hope that the Honourable House will repeal the Whole of the Quebec Act, in conformity with the Desires of our Constituents, French and English, and enact a Statute extremely conformable to them. One or Two more Clauses will settle the new Bill and provide for every Part of that Act which is necessary to be retained.—We shall, perhaps, find it extremely Difficult to explain and understand the new Law; but I shall greatly enlarge our Difficulties if we are obliged to revert to the Quebec Act to know the full Extent of our Constitution.

My Constituents wish to receive from the British Parliament a new and complete Constitution, unlogged and unembarrassed with any Laws prior to this Period. Acts explaining Acts or amending Acts, however they may be proper and necessary in the Progress of Legislation, often involve the Objects in greater Perplexities and Confusion, and it is of the utmost Importance to the Tranquillity of the Province, that the new Constitution should be clear, distinct, pointed, and intelligible.

The Bill now under the Deliberation of this Honourable House proposes, in the Second and subsequent enacting Clauses, to separate or divide the Province into Two Governments, or otherwise to erect Two distinct Provinces in that Country, independent of each other. I cannot conceive what Reasons have induced the Proposition of this violent Measure. I have not heard that it has been the Object of general Wish of the Loyalists, who are settled in the upper Parts of the Province; and I can assure this Honourable House, that it has not been desired by the Inhabitants of the lower Parts of the Country. I am confident this Honourable House will perceive the Danger of adopting a Plan which may have the most fatal Consequences, while the apparent Advantages which it offers to View are few, and of no great Moment.

Sir, the Loyalists who have settled in the upper Parts of the Province have had Reason to complain of the present System of Civil Government, as well as the Subscribers to the Petitions now on the Table of this Honourable House. They have been Fellow Sufferers with us, and have felt all that Anxiety for the Preservation of their Property, which the Operation of unknown Laws must ever occasion;  
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a Situation of all others the most disagreeable and distressing, and which may have engaged some of these People, who could not perceive any other Way to get out of such Misery, to countenance the Plans of a few Individuals, who were more intent to support their own Schemes than to promote the true Interests of Government, in the general Tranquillity and Prosperity of that extensive Country. But, Sir, even supposing that this Division has been proposed, in Consequence of the general Wish and Desire of the Loyalists, I hope this Honourable House will consider, on an Object of such vast Importance as that of separating for ever the Interests and Connections of the People of a Country, who from local Situation were certainly designed by Nature to remain united as One, that the Interests, the Feelings, and Desires of the People of Lower Canada ought to be consulted and attended to, as well as the wild Projects of a small Body of People, who are thinly scattered over the upper Parts of the Province, who have not had Time to enquire into and examine their relative Situation, and the natural Dependence which their Country must have on the lower Parts of the Province.

Sir, in the Petitions now on the Table from my Constituents, Inhabitants of the Province of Quebec, this Honourable House will observe they have complained, that the Province has been already greatly mutilated; and that its Resources would be greatly reduced by the Operation of the Treaty of Peace of 1763. But, Sir, they could not have the most distant Idea of this new Division. They could not conceive that, while they complained of the Extent of their Country being already too much reduced, as materially to prejudice their Interests and Concerns, it would be still farther reduced and abridged. If at the Time they penned their Petitions they could have supposed or foreseen this proposed Division, it would have furnished them with much stronger Reasons of Complaint, that their Interests would thereby be injured. Sir, I am sure this Honourable House will agree, that a Province ought not to be divided into separate and independant Governments, but on the most urgent Occasions, and after having seriously and carefully weighed all the Consequences which such a Separation is likely to produce: For if from Experience the Division shall be found dangerous to the Security of Government, or to the general Interests of the People, it cannot again be re-united. That strong Principle of Nationality or National Prejudice, which at present connects the People of that Province to one another, as being Members of One State, who, though scattered over an immense Country, yet all look up to One Centre of Government for Protection and Relief, is of the most Consequence to the Security of Government, in a Country where the Inhabitants are so much dispersed. It is that political Connection which forms such a prominent Feature in the Character of all Nations, by which we feel at first Sight a Degree of Friendship and Attachment which inclines us to associate with, and to serve, a Subject of the same Kingdom; which makes us look on a Person from the same Country or Province as an Acquaintance, and One from the same Town as a Relation: And it is a Fact which the History of all Countries has established beyond the Possibility of a Doubt, that People are more united in the Habits of Friendship and social In-

tercourse,

recourse, and are more ready to afford mutual Affiance and Support, from being connected by a common Centre of Government, than by any other Tie. In small States this Principle is very strong; but even in extensive Empires it retains a great Deal of its Force; for, besides the natural Prejudice which inclines us to favour the People from our own Country, those who live at the Extremities of an extensive Kingdom or Province are compelled to keep up a Connection or Correspondence with those who live near the Centre or Seat of Government, as they will necessarily at Times have Occasion to apply for Favours, Justice or Right; and they will find it convenient to request the Affiance and Support of those whose Situation enables them to afford it.

I might here compare the different Situation of Scotland, now united to England, and governed by the same Legislature, with some other of the Dependencies of the British Empire; but I consider it to be unnecessary, as the Object must be present to the Recollection of every Member of this Honourable House.

I beg Leave to mention, as a Consideration worthy of the Attention of this Honourable House against the Division of that Country, and the Establishment of a new Government in the upper Part of it, that the new Province will be entirely cut off from all Communication with Great Britain; that their Government will be complete within itself, and as from their Situation they cannot carry on any Foreign Commerce but by the Intervention and Affiance of the Merchants of Quebec and Montreal, they will therefore have little Occasion to correspond with Great Britain, and few Opportunities of mixing in the Society of Britons. How far these Circumstances may operate in gradually weakening their Attachment to this Kingdom I shall leave to the Reflection of the Honourable Members.

These are Considerations which I have no Doubt will have due Weight with this Honourable House; and there are many others of a general Political Nature equally strong, and perhaps more pointed against this Innovation, which will necessarily occur in the Consideration of the Subject. But there is One Consideration, which is of the utmost Importance to the Tranquillity of the People inhabiting all the Parts of that Country, and which will alone, I hope, be sufficient to engage this Honourable House to reject the Plan of a new independent Government. I beg Leave to request that the Honourable Members will recollect and attend to the Geographical Situation of that Country, from which it will appear evident that no Vessel of any Kind can proceed farther up the River St. Lawrence than the City of Montreal, on Account of the Rapids, which are immediately above that Town. Of course, as every Article of Necessity or Luxury which the Inhabitants of the upper Districts have occasion for from Britain or any Foreign Country must come to them by the River St. Lawrence, they must be landed at or below Montreal, where they must be stored by the Merchants of Quebec or Montreal until Carriages and Boats are provided to send them forward; likewise, that every Article of Produce which the People of these upper Districts wish to export, must be sent in Boats to Montreal,

real, or perhaps to Quebec, for the Purpose of being shipped for Exportation, and that as well the Article of Import as of Export must, in passing through the Lower Country, become subject to the Laws, Regulations, Duties, and Taxes which may be imposed by the Legislature of the Lower Country. Now, supposing the Division to take Place, as it may be expected that the new Legislature of Quebec shall, in due Time, provide a Revenue towards the Support of the Civil Government of that Part of the Province, it is more than probable that whatever Money is raised for that, or any other public Purpose, will be done by Duties payable on Importations. It is therefore an Object that deserves the most serious Reflection of the Honourable Members, to consider how far the People inhabiting the Upper Government will approve of, and be content to pay Taxes or Duties on their Importations or Exportations, when the Produce of those Taxes or Duties is to be applied towards supporting the Expenses of the Civil Government of the Lower Province; or for building public Edifices, or otherwise improving or beautifying that Part of the Country; or for the Purpose of granting Bounties or Encouragements to promote Agriculture, or particular Trades or Manufactures, of which the People in the Upper Province cannot, from their Situation, in any Manner participate of the Advantages.

It is impossible, Sir, if the Province of Quebec is divided, for the Wisdom of Man to lay down a Plan for these Objects that will not afford Matter of Dispute, and create Animosities between the Governments of the Two Provinces, which in a few Years may lead to the most serious Consequences. This would be sowing the Seeds of Dissention and Quarrels, which, however easy it may be to raise, it will be found extremely difficult to appease.

I see, Sir, that there has been an Amendment made to the Bill in the Committee, relative to the Duties which may be ordered to be levied by Parliament for the Regulation of Commerce; which is, "that Parliament may appoint and direct the Payment of Drawbacks of such Duties so imposed." This, Sir, I suppose is intended to give Drawbacks to the Upper Part of the Country, on such Goods as are carried there which may have paid Duties of Entry on Importation into the Lower Country. But this will open a wide Door for Smuggling, in a Country where there is no Possibility of preventing it; and I am sure the People of the Lower Country will not be pleased to see large Sums of the Money, levied on the Importations, drawn back by Smugglers. This will be found a very ineffectual Mode of providing a Remedy for an Object of that Importance, and may have the most serious Consequences, by raising Questions of the most delicate, and to the Province of the most interesting Nature.

In short, Sir, this Division appears to me dangerous in every Point of View to the British Interest in America, and to the Safety, Tranquillity, and Prosperity of the Inhabitants of every Part of the Province of Quebec.—It may, perhaps, have been alledged in Favour of dividing the Province, that the Distance which some of the Deputies of the Upper



Districts will have to travel to meet those of the Lower Districts in Legislature would be inconvenient and expensive. But, Sir, is the Convenience of Fifteen or Twenty Members of the Legislature an Object of such Moment, that the Inconvenience of the Whole of that extensive Country must be endangered to assure their Life? Do not Caithness and the Orkneys send Members to represent them in this Honourable House? And I will venture to assure this Honourable House, that it will not be more difficult to travel in the inhabited Parts of that Country than it is from the Orkneys to London. I beg Leave, on this Point, to bring to the Recollection of this Honourable House, that the Distance from Quebec to Niagara is about 500 Miles, and that Niagara may be considered as the utmost Extent, Westward, of the Cultivable part of the Province. For although there is a small Settlement at Detroit, which is and must be considered of Importance as a Post to trade with the Indians, yet it must appear to this Honourable House, from its Situation, that it can never become of any great Importance as a Settlement; the Falls of Niagara are an unsurmountable Bar to the Transportation of such rude Materials as the Produce of the Land. As the Farmers about Detroit, therefore, will have only their own Settlement for the Consumption of their Produce, such a confined Market must greatly impede the Progress of Settlement and Cultivation for Ages to come. Sir, as the greatest Extent of the Cultivable part of the Province Westward may be estimated at 500 Miles Distance from Quebec, the Districts of Gaspé and Chaleur Bay are almost as far East of that Capital, being about 400 Miles distance; so that Quebec is nearly in the Centre of the Cultivable part of the Province; and when the Roads are properly made, which will be the Case in a few Years, the Distance of either of these Places will not be considered as any material Objection.

This Honourable House will likewise consider, that in such an extensive Country it is impossible to fix the Residence of Government, or the Seat of the Legislature and Superior Courts, in any Place where some of the Members of Assembly, if they are Residents of the Districts for which they are chosen, will not have a great Distance to travel; and therefore 200 or 300 Miles is not an Object of Consequence, more particularly when it is considered that it will be through the old settled Part of the Country, where the Roads are tolerably good, Accommodations convenient, and Travelling expeditious. Besides, it cannot be expected that the new Settlers will be, for some Time, sufficiently advanced in the Cultivation of their Farms to find it convenient to be absent from their Homes Three or Four Months for the Service of the Public, either to meet the Legislature in their own Country, or at Quebec; and it is more than probable that they would, for some Years at least, prefer choosing for their Deputies Gentlemen residing in Quebec and Montreal, who, being connected with them in the Line of Business, will be sufficiently interested in the Prosperity of these Countries to make them attend to any Thing that concerns the new Settlements.

All the Trade of the Upper Settlements must, from their Situation, depend on, and centre in, Quebec and Montreal. The Difficulties of Communication in the Mercantile Line are already very great, and require

quire much Perseverance and Industry to overcome them. This intended Division will naturally create many more Obstacles; and will immediately be injurious to, and eventually operate the Ruin of, both Countries.

Sir, it may have been likewise asserted, in Favour of the Division, that the Loyalists in the Upper Districts must have a Code of Laws for Landed Property and Inheritance different from that of the Lower Districts, where the Tenures are all on the Feudal System; but that is an Argument which cannot have any great Weight with this Honourable House. The Union of England and Scotland under One Legislature shews that though Two Countries or Districts may have different Laws to regulate and govern their Courts of Justice, that One Legislature may be fully sufficient for all the Purposes of legislating for both, and can attend to the Laws and Regulations, or Alterations, that may become necessary or convenient to either. I have not heard that the People of Scotland have ever complained that their Interests have been neglected by the British Legislature, or that such Laws or Alterations as have appeared necessary have been at any Time refused: The Upper Districts, therefore, can have no just Cause to be afraid of being included as Members of the Province of Quebec.

There are, Sir, between Three and Four thousand Families of Loyalists settled upon the Bank of the River Cataragui, and the North Side of Lake Ontario, in detached Settlements, many of them at a great Distance from the others, besides those on Lake Erie and at Detroit. Civil Government cannot have much Influence over a Country so thinly inhabited, and where the People are so much dispersed. During 20 Years that I have resided in that Province I do not recollect a single Instance of a Highway Robbery; and the Farmers consider themselves so secure that they often go to sleep without bolting their Doors.

The Crimes which have been brought before the Criminal Courts in the Province have been generally committed in the Towns and their Vicinity, where the Concourse of Strangers encourages Vice and Immorality, and where Idleness, Drunkenness, and Dissipation, lead to Quarrels, Thefts, and sometimes, but very seldom, to higher Crimes. It will be evident from these Facts, that a Criminal Judge will have very little to do in these Upper Districts where there are no Towns, and *where a Stranger must at all Times be a desirable Sight.*

In the Year 1783 Lord Dorchester, in Consequence of an Ordinance of the Legislative Council, divided these Upper Settlements into Four Districts or Counties, and for the Convenience of the People established a Court of Common Pleas in each District, and appointed Judges, Justices of the Peace, and Sheriffs for each; and these People since that Time have had their Courts regularly. How far it may be proper to appoint a Chief Justice, having Jurisdiction over these Districts, to act as a Criminal Judge when necessary, and, with a Lieutenant Governor, to carry into Effect the Powers and Orders of Government, to form a

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Court of Errors or Appeal, to revise the Proceedings of the Courts of Common Pleas, I shall not presume to say, but such an Establishment cannot be any Impediment to the Union of the Country under One Legislature; and I beg I leave humbly to suggest for the Consideration of this Honourable House, whether a large Society, from the Variety of contending Interests which it includes, may not be more easily managed and governed, than when it is divided into smaller and more compact Bodies.

Sir, by the Bill now under the Consideration of this Honourable House, it is proposed that the Office of Member of the Legislative Council may, at His Majesty's Pleasure, be made hereditary; that is, to form a Kind of Nobility or Aristocratic Body in that Province. This, Sir, is going farther than the People have desired, as this Honourable House will see by their Petitions; for they have therein only requested, that the Councillors should hold their Places during their Life, and Residence in the Province. This, they considered, was all that was necessary for them to ask, or that was proper or expedient, for the present, to grant them. The Idea of hereditary Councillors, like many other speculative Opinions, has more of Plausibility in it, than of real Advantage. It is an Experiment extremely dangerous in any infant or young Colony, but it must appear absolutely ridiculous in the Province of Quebec; where there are so few Landed Estates of any considerable Value, and where, by the Laws of Inheritance, these Estates must, at every Succession, be so much subdivided. The Laws of Primogeniture, as followed in this Kingdom, enables the Representatives of noble Families to support the Dignity and Splendour of their Situations, and to live in that State of Independance which secures the proper Respect to their elevated Rank, as hereditary Peers of the Realm; but, Sir, the French Laws relating to Succession and Inheritance, which, by this Bill, are intended to regulate the Landed Property of the lower Part of the Country, give to the eldest Son, on the Death of the Father, only One Half of those of his Father's Landed Estates which are held by what is called in the French Law Noble Tenure, that is, in Fief and Seigneurie immediately from the Crown. The other Half of these Estates is divided among the other Children; and the Moveables, as well as those Landed Estates which are held by Grant and Concession from a Subject, which are called Base Tenures, are equally divided among all the Children, Male and Female. Therefore, as there are very few Gentlemen in that Country who possess Estate of the first Description, in Fief and Seigneurie, which produce to them a clear Annual Revenue of £.500 Sterling, this Honourable House must perceive the Inappropriety of making any honourable Posts in that Country hereditary. For these Estates, from the mere Operation of Law, in Consequence of the Impudence of the Possessors, must at every Succession be reduced One Half, and, in Two Generations, must inevitably sink into Insignificance; and the hereditary Councillors, from their Poverty, become the Objects of Contempt to the Public. Sir, the amazing Progress of Population in that Country, points out the little Probability there is of Places becoming vacant for Want of Heirs. It may, therefore, be found difficult in a few  
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Years, to support the Dignity of that Council by new Creations, without increasing the Number of the Members too much.

It may, perhaps, be said, Sir, that the Families of these hereditary Councillors may be supported in an independant Situation, by introducing the Laws of Primogeniture into the Constitution of that Country. I shall not attempt to discuss the Advantages or Disadvantages which that Law produces in this Kingdom; but I can, without any Hesitation, assure this Honourable House that it would be extremely injurious to that Province. The French Law, as I follow at present, is in that Respect much better calculated for a young Province; where it is of great Benefit and Advantage to Cultivation and Population that Land Property should be divided, and Succession, and change its Owners; and more particularly as some Establishment is necessary for the younger Branches of Families, in a Country where there are no Manufactures, and where a young Person without Fortune has few Opportunities of setting out in Life in a respectable Line.

But suppose the Law of Primogeniture shall be established, and the Effects of this new created hereditary Councillors thereby secured undivided to the eldest Son; suppose even that the Estates now belonging to these new Councillors shall be entailed on their Heir at Law; all this would have very little Effect, and those Estates would be far from sufficient to support the Dignity of hereditary Councillors, which, probably, would be considered as the highest Rank in that Country. For, poor as that Country really is in consequence of the oppressive System of Laws they have been kept under, there are now, among the mercantile Gentlemen in the Province, those whose moveable Fortunes are perhaps equal, if not superior to any of the Seigniorial Estates; and who, from the Employment and Support they give to Thousands of the People, have infinitely more Influence in the Country than the Seigneurs. For, it would not be difficult to prove to this Honourable House that the Seigneurs are almost universally disliked by their Tenants: But this is a natural Consequence of Feudal Servitude, when its Wrong Support, a slavish Dependance on a great Chief, is removed.

From these Facts I hope this Honourable House will see the Impropriety, and I may say the Danger, of rendering the Place of Councillor hereditary in that Province. The Country is yet too young, and the People too much dispersed, to admit of that Refinement; and the Fortunes are too small to support an Establishment of that Kind in a proper Style of Independence.

How far it may be proper and judicious, if His Majesty should so incline, to confer hereditary Honours on Gentlemen of the greatest Property and Influence in that Country, by Way of attaching them more strongly to the Interests of Government, it would be improper for me in this Place to discuss. But if such a Plan is considered expedient, these hereditary Honours ought to be independent of the Place of Councillor. These Gentlemen may, at the same Time, be admitted of the Council, and on the Demerit of any of these honourable Coun-

cellors, the Son who succeeds to his Father's hereditary Honours may if His Majesty pleases, be named to succeed to the vacant Seat at the Council Board; for the Place of Councillor will ever be considered as honourable in that Country, unless it is degraded by the Insignificance and Inconsequence of the Members, which it is extremely probable will be the Case, if the Places are made hereditary.—For supposing that the Councillors to be appointed in Consequence of this Bill should really be those who have the greatest Influence, and possess the greatest Fortunes in that Country, this Honourable House must perceive, from the very small Value of the Landed Fortunes, that the only Means of Accumulation in that Country must be by the Operations of Trade and Commerce: And I think I may venture to assert, that it is more than probable in Twenty Years, nay perhaps in Ten Years, a new Set of Men may come forward, who may have acquired and realized Fortunes much superior to any now in that Country; and who, it is natural to suppose, will possess a proportional Degree of Political Power and Influence.

I shall hope that these Arguments are sufficiently powerful to convince this Honourable House of the Impropriety of making the Place of Councillor hereditary, as it may in a few Years greatly embarrass the Government, and be the Means of degrading the Aristocratic Branch of the Legislature, from their Poverty or their Numbers, in the Eyes of the Public, which I submit is an Object of very serious Consideration to this Honourable House.

I come now, Sir, to say a few Words on the Manner in which this Bill provides for the Establishment of a House of Assembly or Representatives of the People. The Number of Representatives who are to compose this Branch of the Legislature for Lower Canada is proposed to be not fewer than Thirty.—Sir, in all the free States of Antiquity it was a general Rule that every free Citizen who chose to attend had a Right to give his Vote or Voice on every public Question, either for making Laws or otherwise. It is to modern Times that we are indebted for that noble Invention by which a large, populous, and extensive Kingdom may be governed on Principles which essentially secure the Liberty and Independence of the People; while the Government at the same Time retains that Uniformity, Wisdom, and Dignity, which ought to characterize a great and free People. Every Member of this Honourable House must have anticipated what I mean; for the Representation of the People in the Legislature by their Deputies is perhaps the greatest Stretch of Political Wisdom which the World has yet witnessed.

By this happy Institution the People have the Opportunity, at particular Periods, of chusing from among themselves those of their Fellow Subjects or Citizens who are most remarkable for their Wisdom, Abilities, Honour, and Independence; and of deputing them to meet the Govern-

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nors of the Kingdom, to revise the old and enact new Laws, to assist in directing the Operations of Government, and to examine into the Conduct of the Public Servants. While the People, satisfied that their Deputy has every Inducement to act with Propriety, from the distinguished Honour conferred on him by their Choice, and the great Trust reposed in him, know likewise, that the Period will soon arrive, when he must return into the general Mass; and that all his Hopes of being re-chosen must depend on their Approbation of his past Conduct. The People, being thus relieved from any particular Attention to Public Affairs, are left at full Liberty to follow their several Occupations; to employ their Talents and Industry to their own Profit; and each to enjoy the Fruits of his Labour, or the Advantages of his Situation.—Such are the Benefits which Representation produces to a free People, and this Kingdom has the distinguished Honour of having reduced it to a proper, a regular, and an uniform System. It is that Principle which has enabled the Government of these Kingdoms to flow smoothly on, with an increasing Tide, for a long Series of Years; which has raised her to a high Seat among the Nations; and, I hope, it will continue to support her firm and steady, like the venerable Oak, amidst the Storms and Tempests which do or may convulse surrounding Nations.

I am happy, Sir, to see that an Institution which has contributed so much to the Prosperity of this Kingdom is, by the Bill now under Consideration, to be extended to the Province of Quebec. The People of that Country have long desired it, and often prayed for it; and I hope it will enable them to promote and extend their Trade, so as to assist more beneficially in supporting the Honour, and increasing the Riches of the Empire.

But, Sir, to ensure to the Inhabitants of that Province the Advantages which they ought to derive from that glorious Institution, it is necessary that the Representative Branch of the Legislature should be composed of a Number of Members, sufficient to command the Respect and ensure the Confidence of the People.

Sir, I beg this Honourable House will constantly have in View, in discussing this Bill, that the Constitution which they are now to establish for the Province of Quebec is not for the present Inhabitants only, who may amount to 170 or 180,000 Persons; but that it is intended as a permanent Government for that Country; where, I have not the smallest Doubt, from the astonishing Rapidity with which Population increases, that in 20 or 25 Years hence there will be at least 500,000 Persons; and they will continue to increase in that progressive Manner for a long Period of Years, as there are immense Tracts of fertile Land in that Country, yet ungranted, to settle.

I do not wish to propose to this Honourable House that such strict Attention should be paid to the Proportion of Voters and Representatives as has been followed in some of the American Colonies. I do not think it is necessary; as I conceive that Plan has more the Appearance of Equity and Propriety than it really possesses; for the Deputies, when elected, ought to consider themselves as representing the whole Community.

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And I hope this Honourable House will agree, that in fixing the Number of Representatives, the Record ought to be had, not only to the present Population of the Country, but likewise to its progressive Increase.

I take by the Bill, as it has been fill'd up in the Committee, that the Period or the Duration of the Assembly is fix'd at Seven Years.—However it may be thought necessary that the Parliament of Great Britain should continue Seven Years, for the Purpose of giving Uniformity and Stability to the Operations of Government, the same Reason cannot be apply'd to the Province of Quebec; and our Constituents have therefore, by their Petitions, pray'd that their Assembly should not be elect'd to serve for more than Three Years: They consider that Period would be full long enough, and that it would relieve them from all the Disputes and Controversies about Elections. I shall therefore hope that this Honourable House will change the Period of the Duration of the Assembly from Seven to Three Years, as my Constituents have request'd.

Sir, I have in my Hand a Plan of Constitution for a House of Assembly, which was fram'd and agreed on in the Autumn of the Year 1757, after mature Consideration by the English and French Committees, who were nam'd and appointed by the People, to forward and support their Petitions now on the Table of this Honourable House. They conceived some Information on that Subject might be wanted here, and they thought it incumbent on them to point out the Manner which, from their local Knowledge of the Country, appear'd to them most proper for constituting that Branch of the Legislature.

In that Plan, Sir, they have stat'd it is their Opinion, that the Number of Representatives ought not to be fewer than 60 Members. Sir, I beg pardon I respect this Honourable House not to lose Sight of the amazing Progress of Population in that Country; and when that is consider'd, I am confident that 60 or 70 Members wd not be regard'd, even at present, as too great a Number for that Branch of the Legislature; more particularly, if this Honourable House will attend to the general Situation of public Bodies of that Kind;—that, at Times, some of the Members may be excus'd from attending their Duty in the Legislature, in Consequence of their being employ'd in the Service of Government; that others, again, may be excus'd from the pressing Nature of their private Affairs; and some, perhaps, on Account of Sickness. Therefore, from these and other natural Incidents, it is not likely that more than Two Thirds of the Number elect'd will ever meet, at One Time, in the Legislature, which, even supposing the Number of Members propos'd in the Plan of the Committees should be adopt'd, is perhaps too small a Number to impress on the Minds of the Public that Respect for their Deliberations, and Confidence in the Wisdom and Necessity of their Acts, which is so necessary to the Tranquillity and Stability of the Government.

Sir, it is propos'd by the 14th Clause of the Bill, to give to the Governor the Power “to divide the Province into Counties, Districts, or Circles, and Towns and Townships, and to appoint

“ point the Limits thereof, and to declare and appoint the Number of Representatives to be chosen by each of such Districts, &c.” I do not mean to doubt the Prudence or good Intentions of the Person who may be Governor of the Province at the Time when that momentous Arrangement is to be made, but it is certainly placing him in a very dangerous Situation, and is subjecting the Province to the arbitrary Will of One Person, on an Object of the utmost Importance to their Security and Tranquillity. By this Clause the Governor may order that One District or Township shall elect the same Number of Representatives as another District or Township containing Ten Times the Number of Inhabitants: He may throw the whole Weight of Representation into One Part of the Province, to the great Detriment and Prejudice of the other; and may render a free Representation, which we consider a most invaluable Acquisition, injurious to the Interests of the Country. I likewise observe by the same Clause, that the Governor is to be vested with the Power of nominating and appointing, from Time to Time, the Returning Officer. Sir, this is placing the whole Power in the Hands of the Governor; he is to divide the Province as he pleases, he is to order the Proportion of Representatives as he pleases, and he is to have the Power of naming whom he pleases to act as Returning Officer. Sir, the Freedom and Independence of the Legislature is an Object of the utmost Importance to every Country; and it has been one great Cause of Complaint against the Quebec Act, that the Legislature was too much dependant on the Governor. But, Sir, I know that this Honourable House will not place so much Power in the Hands of any Man, particularly where there is no Responsibility. I know this Honourable House will make such Provision as will save the Province from the dangerous Consequence of such unlimited Power. Sir, the Distribution of the Representation is an Object of the greatest Importance to the Province, and ought to be settled, in a certain Degree, by this Honourable House. I hope I may be excused for presuming to say, that there has been a radical Defect in the Representation of all our American Colonies. From the Nature of the Settlements, there are few Towns in these Colonies; and as these Towns have had only their Proportion of Representatives, the Landed Interest has always been too prevalent, and has at Times greatly oppressed the Commerce, and impeded the Operations of Government. In this Kingdom, Sir, of 553 Members, of which this Honourable House is composed, there are only 122 Knights, or Representatives of the Landed Interest. I do not mean to enter on the Discussion of the Propriety of that Division, but I hope it will be allowed that the Towns ought to have such a Proportion of Representatives, as to preserve the Equilibrium between the Two Interests, which is for the general Benefit of both. In the Province of Quebec, Sir, we have in Fact only Three Cities or Towns; and if these are to have only the Proportion of Representatives which their Numbers bear to the general Population of the Province, they will have a very small Representation indeed, not above a Seventh or an Eighth Part. This is a Consideration worthy of the Attention of this Honourable House, and I hope they will determine on and settle the Proportion of

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Representatives



Representatives for the Towns. Sir, if it is intended by the Bill, in proposing a small Number of Representatives, for the House of Assembly to throw a great Degree of Weight and Influence into the Hands of Government, the Proposer will certainly be deceived by a specious and fallacious Idea; for, if the Number of Deputies is limited to a small Scale, it will only occasion the Elections to be more violently contested; and I am sure, that the Government of the Province will have a much better Chance of retaining a proper Degree of Influence in that House, when it is composed of a considerable Number of Representatives, than if it is limited as proposed by the Bill.

I likewise observe, that by the 25th Clause of the Bill it is enacted, that it shall be lawful for His Majesty to authorize the Governor of the Province to fix the Time and Places of holding the First, and every other Session of the Legislature. This, Sir, will be lodging a Power in the Hands of the Governor of the most formidable Kind. He must, to be sure, be the properest Judge of the Occasions which may require the Interference of the Legislature; and therefore it is proper and necessary that the Times of Meeting should, in a certain Degree, be left to his Discretion; but the same Necessity cannot be alledged for giving him the Power to fix the Place of Meeting every Time the Legislature is to be assembled. This is a Power which, though intended to answer the best, may be perverted to the very worst of Purposes, in such an extensive and thinly inhabited Country. The public Expences of the Province may be greatly increased by this ambulating Legislature; and this Power may be exercised to the general Inconvenience and Distress of the Members of the Council and Assembly. They may be called from one End of the Province to the other, and ordered to meet in Places hurtful to their Feelings, injurious to their Health, and where it may be impossible for them to communicate with their Constituents, or to procure the necessary Information on such Objects as may be submitted to their Deliberation. I hope, therefore, this Honourable House will strike out that Part of the Clause, by which the Governor is to be empowered to change the Place of Meeting, which ought certainly to be at the Seat of Government. If any Exception is necessary, the Legislature, with the Concurrence of the Governor, may settle it.

Sir, it may perhaps be expected, from the 14th Clause of our Petitions, that in consequence of our being allowed Representatives in the Legislature, the Province shall immediately raise the necessary Funds for defraying the Expences of the Civil Government.

I acknowledge that it is the Intention of my Constituents that the Province should support these Expences. I will say farther, it is a Shame that the Province has not paid these Expences many Years past. But there are Situations, when the Impossibility of doing what is right and proper obliges an Individual, or a Public, to rise that keen Sense of Shame, and to expose their Inability to perform those Duties, which of Right ought to be expected from them.

Sir, that Province has been so long oppressed by an arbitrary System

of Government, and the Tyranny of uncertain and unknown Laws; the Country has been too much neglected, and every Object of Industry and Improvement apparently discountenanced, that it is now reduced to such a State of Languor and Depression, as to be unable to provide for the Expences of its Civil Government. There have been Men of a considerable Degree of Enterprize and Mercantile Abilities in that Province, who, in following the Impulse of their Minds, have attempted to encourage Industry and promote Improvements. But the feeble and single Efforts of a few enterprizing Individuals could not counteract the wretched Effects of, or combat with any Prospect of Success, which were deep rooted in the Constitution of the Country. The Consequence has too generally been, that their Expectations were disappointed, their Fortunes dissipated, and their Friends involved. All the Merchants of London trading to that Country, in what Situation that Trade has been for the last Twelve or Thirteen Years. They witness this Honourable House, that it has been extremely heavy and ruinous, that several of their Body have been totally ruined by the Losses which they have met with in that Country, and all of them have lost considerably in their Fortunes; that the Trade is still heavy; and though, from the Abundance of the last Crop, they have Reason to expect considerable Returns this ensuing Season, yet the Country will not be able to support the heavy Debt which has so long hung upon it.

Sir, we may be reproached, perhaps, for our Poverty; nay, we may have been already reproached by some ungenetous Minds, with our unhappy Situation; but it is a Misfortune to be poor, not a Crime. Is it not a natural, if not an insupportable Effect of arbitrary Government? Have not Poverty and Wretchedness ever been the Attendants of arbitrary Power? Italy, Sicily, Greece, Asia Minor, and the Coast of Barbary, were rich, populous, and powerful Countries, while they enjoyed free Governments. It is not necessary for me to remark on their present Situation.

Sir, to recite all the Species of Oppression which that Country has suffered, would encroach too much on the Indulgence of this Honourable House. We have been told, that Ignorance and Poverty were the best Securities for the Obedience of the Subject; and that those who did not approve of their Political Principles, might leave the Country. We have, however, the Happiness, Sir, this Evening, of seeing our Affairs submitted to the Inspection and Discussion of this Honourable House. But, Sir, we have had a long and painful Struggle to arrive at this desirable Issue. We have had to encounter numberless Difficulties, which the Pride and Insolence of a Set of Men, whose Minds were corrupted by the Exercise of despotic Power, have thrown in our Way, in every Step we have made; and it is only by great Perseverance that we have been able to overcome these Difficulties. But, during this long Contest, the Country has been exhausted; and we hope this Honourable House will exercise that Tenderness and Generosity towards us, which our unfortunate Situation requires. Such, Sir, has been the unhappy Tendency of the Government of that Province, that not only the

People

People have been oppressed, and the Resources of the Country neglected, but almost every public Building in the Province has been suffered to fall to Decay and perils. There is not a Court House in the Province, nor a sufficient Prison, nor a House of Correction: There is not a public School House. In short, the Country is reduced absolutely to a State of Nature. These are Objects which will require the immediate Attention of the new Legislature. Besides, a House must be prepared for the Reception of the Legislature. The travelling Expences of many of the Members must probably be paid, and perhaps a Daily Pay during the Time of Sitting. Taxes or Duties must be laid on the People, to build the necessary Edifices, and to provide for these and other Purposes; which, added to what may be necessary to be employed in Bounties and Premiums, to engage the Farmers to change their present miserable System of Farming, and to encourage the preparing of our Produce in a better Manner to suit the different Markets, will be as much as the Province can possibly raise for some Years.

It may perhaps be said that Britain has been burthened already too long with the expences of our Civil Government.—Sir, I agree that it has been too long the Case; but it has not been our Fault. It might have been otherwise many Years ago, if our Petitions had been attended to. We have made every Exertion in our Power to procure a Constitution, which, in its Operation, would have relieved Great Britain of that Annual Expence; but from certain Political Reasons, absolutely unknown to us, we have not thus far succeeded in our Endeavours for that Purpose. It must appear to this Honourable House that it is no more than fair, now we are to be allowed to participate in the Direction of our own Affairs, that they ought to be delivered over to us in a proper State. I therefore hope this Honourable House will either order the necessary Provision for the Purposes I have mentioned, or release the Province of the Expences of the Civil List for a certain Number of Years: For though Britain, Sir, has expended for many Years large Sums in that Province for the Maintenance of the Civil Government, as the People, during all that Time, were deprived of the Power of exerting their united Efforts to encourage Industry, and to direct it to those Objects which would be most profitable to the Community, and of course to the Empire at large, the Money has been expended in vain, and the Province at the same Time has been almost totally ruined.

It is a Rule, I believe, universally followed in common Life, when the Alternative of Two Difficulties is given, always to choose that which is likely to produce the least Evil; and, I presume, the same Rule may be adopted with Advantage in Politics. We trust, therefore, that in arranging the new Constitution, this Honourable House will save us from the Troubles and Difficulties which must result from the Plan proposed in the Bill; for, under a new Constitution, it will evidently require some Time, not only to make the People fully acquainted with the great Advantages of a free Constitution, but also to make them fully comprehend all the Duties which a free Government requires of the Subjects; and this Honourable House must perceive the great  
 Danger

Danger of dividing the Province, and of disuniting the People at such a critical Period.

Sir, I have considered the Subject of this Motion, since I first heard of this intended Division, but I have not been able to form any reasonable Idea of the Motive which has induced the Propriety of such a dangerous Experiment. If I should admit, what I do not believe is the Case, that the Loyalists settled in the Upper Parts of the Province have generally requested this Separation, I know that the Wisdom of this House, before complying with the wild Requests of a People, will consider it as necessary to enquire into the Reasons which may have engaged them to prefer such Petitions; for a People may be deceived in Political Plans by the specious Pretences of designing Individuals. Instances of this are, perhaps, within the Recollection of every Member of this Honourable House.—When the Loyalists began their Settlements, in the Year 1785, the Lands were then entirely covered with Woods, they had therefore to clear the Lands, and to build themselves Houses, and, on that Account, Government generously assisted them, by furnishing them Provisions, and many other Articles necessary for a new Settlement: And though I will allow that they have, for the Time, made great Progress, yet I may safely assure this Honourable House that, before last Year, their Farms had not furnished them with more than a bare Subsistence; and if it had not been for the Generosity of this Nation, many of them must have been at this Period in great Distress. Can it be supposed then that a People, dispersed as they are, and whose Minds have thus far been entirely occupied in procuring the Means of Subsistence, have had Time to consider of their Political Situation; or that they have been able to procure sufficient Information on the Consequences of such a Separation, as would justify such a Request to the British Legislature?

Will any Person assure this Honourable House that the Loyalists settled in the District of Lunenburg, which joins the District of Montreal, have advised and consulted with those who are settled at Niagara or Detroit on the Propriety of this Measure? I am confident, Sir, that no Person will assert any such Thing; for I believe I may truly say, that few of the People of these different Settlements have even seen one another since they began their Settlements, except perhaps in passing to Montreal.

What Kind of a Government must that of the Upper Part of the Country form? It will be the very Mockery of a Province, Three or Four thousand Families scattered over a Country of some hundred Miles in Length, not having a single Town, and scarcely a Village, in the whole Extent: It is only making Weakness more feeble, and dividing the Strength of the Province to no Purpose. Sir, a Measure of this Importance ought not to be adopted on the Suggestion of One, or a few Individuals. The Happiness, Tranquillity, and Security of every Part of the Province is involved in its Consequences; and I cannot doubt that the British Legislature will attend to the Interests of the People of every Part of the Province. But, will it be said that the People, inhabiting

biting the Province of Quebec have been consulted on this grand Question? Will any One assure this Honourable House that this proposed Division has been approved of by the *Inhabitants* of that Province? or that they have by their Petitions requested it? If any such Petitions shall be laid before this Honourable House, I hope the Honourable Members will consider, not only the apparent Motive and Tendency of the Request, but likewise the Responsibility, the Influence, and Numbers of the Petitioners. Sir, if I recollect right, it was said, at passing the Quebec Act in 1774, that the French People had petitioned for the Introduction of the French Laws and System of Government into that Province. The Name of the French Inhabitants had, of course, great Influence on the Deliberations of Parliament; as, at that Time, they formed perhaps Nineteen Twentieths of the Population of the Province. But, Sir, if these Petitions had been submitted to Parliament, it would have appeared, so far from comprehending the whole French People, that they were signed by a very small Number of them, only about 100. And that, even among these, there were many insignificant Names.

The Bill before this Honourable House this Evening, and the Petitions now on the Table, are the best Proofs I can offer that the Petitions on which it was thought expedient to pass the Quebec Act did not afford such full Information on the Subject as to justify the Principles of that Act. The Confusion which has ensued in Consequence of that Act is greater than it is possible for me to express to this Honourable House. It is evident that a System of Law was adopted entirely on a supposed Idea; for so late as the Month of June last, in the High Court in this Kingdom, to which our last Appeal at present lies, in a Cause appealed from the Province, in which an Honourable Member of this House is interested, the Court ordered the Lawyers of the Parties, who were of the highest Rank in their Profession in this Country, to agree on and draw up a State of the Case, and to send it to Paris for the Opinion of French Lawyers, to ascertain the Laws in Force, and which composed the System of Canada previous to the Conquest. If the System enacted by the Quebec Act had been properly understood, I cannot suppose the Court would have found it necessary to order such a Reference; so that after Sixteen Years Experience and Investigation by the Courts and Lawyers, we are now waiting for the Opinions of Parisian Lawyers to know what was intended by the Quebec Act: But such must ever be the Consequences of Political Plans and Schemes, when adopted without proper Information and full Investigation, particularly if they are intended to operate on Countries situated so far distant that the probable Effects and Consequences can scarcely be sufficiently known to the Members of the British Legislature; it therefore requires great Care and Circumspection in framing any Act which is to operate on the Extremities of the Empire, every Kind of Information ought to be courted from all Quarters and from all Parties; Objections ought to be received and heard coolly and dispassionately; for though much of the Information, and many of the Objections, may not be pertinent to the Subject, it is reasonable to expect that such Conduct would procure Light on many Points with regard to the Situation of the Country, the

Desires

Desires of the People, their local Customs, Manners, and Laws; and it would afford a more certain Prospect of arranging a Constitution that would answer the Purposes intended, of securing to the People their Rights and Privileges, of supporting the Dignity, and of giving Strength and Energy to the Government in the Way most agreeable and easy to the Subject, but more particularly if the Object of the Act is likely to produce Difficulties, which cannot afterwards be removed but with much Trouble, and perhaps Danger.

For, though it is a very easy Matter to draw a Line of Division across the Map of a Country, it is extremely difficult, at 3,000 Miles Distance, to foresee or ascertain the Consequences which such a Partition may produce. The People of the whole Country ought to be consulted on a Matter of this Importance, as it may be found no easy Task to persuade them of the Propriety or Necessity of the Measure, particularly if they find their Interests or Tranquillity are materially affected by it.

If, Sir, the Quebec Act was hurried through Parliament with too much Rapidity, and in its Consequences has involved the Inhabitants of that Province in Difficulties, Troubles, and Uncertainty, it is the more necessary now, in settling the new Constitution for that Country, to proceed with Care and Attention, so as to prevent further Complaints, and to satisfy the People. Their Minds have been long harrassed with uncertain Laws, and bad Administration; and they will now be feelingly alive to any Thing in the new Constitution which has the Appearance of continuing their Trouble. Their Desire is, that a Constitution may now be settled by Parliament, that will spread its genial Influence over the Whole of that extended Country, and unite the People in one firm Bond of Attachment to Great Britain, by the strongest of all Ties, those of general and individual Interest.

Sir, when we proposed that the Province should, as soon as her Affairs are brought into some Kind of Order, raise the necessary Supplies for defraying the Expences of its Civil Government, we considered it a Duty we owed to the Empire to relieve Great Britain of that Charge; but if the Province is divided as proposed in this Bill, it will most effectually destroy our Hopes and good Intentions in that Respect; for although I have no Doubt that the united Province will, in a short Time, be able to raise sufficient to relieve Great Britain of the Expences of our Civil Government, I can without Hesitation assure this Honourable House that it will be absolutely impossible for them to raise sufficient to support Two Governments.

The Loyalists who are settled in the Upper Parts of the Province are at a great Distance from foreign Navigation, and must therefore be at a great Expence of Time and Labour to transport such Part of their Produce as they can spare to a Place of Embarkation; or they must sell it at a very low Price to enable the Purchaser to transport it there, and they must at the same Time pay a high Price for every foreign Article they have Occasion for. Therefore, though they may assist the Lower Country in the Article of Public Expence, and add to the

Consequence

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Consequence and Power of the United Province, they cannot be expected to raise any Thing like sufficient for the Expences of a Province; and Britain must continue to pay Annually as much for the Support of the Civil Government of the Upper Division as has been paid for the whole Province, besides what may be necessary to support the Lower Province. This will be continuing the Burthen of Great Britain, and increasing ours to no Purpose.

Sir, though it may be necessary, for the Convenience of the People with regard to the Distribution of Justice, to divide an extensive Country into small Districts, I hope I shall be excused for saying, that I think it must be dangerous to the Tranquillity of Government to divide it in that Manner for the Purposes of Legislation.

If at any future Period Experience shall point it out as expedient for the Advantage and Safety of Government, or for the general Convenience and Prosperity of the People, to divide that Country, it may then be done with more Judgment from a more certain Knowledge of the Consequences of such a Division. The Inconveniences that may arise from continuing the Province united under One Legislature are few, and they are well known and understood. The Advantages are *Unanimity, mutual support, and Strength*, but no Man can tell the Consequences of a Separation. The Dangers however to be apprehended are, *Political Weakness, Dissension, Animosities, and Quarrels*.

Sir, I know it must be extremely difficult to arrange and settle a Constitution for a Province situated at 3000 Miles Distance, and containing so many Inhabitants, without full and ample Information of the relative Situation of the Country; of the Nature of the Settlements; and of the Desires, the Wants, and the Opinions of the Inhabitants; or at least of those of them who are the best informed, and who have the greatest Influence in the Country. I know further, that a great Degree of Confidence ought to be given to the Reports of the Officers placed by His Majesty at the Head of the Government of the Provinces, otherwise called Official Information: But this Honourable House is not bound to follow such Reports. The British Legislature is responsible to no Power upon Earth, and from the open and public Manner in which Affairs are canvassed and discussed in this Honourable House, I am confident that the Honourable Members will not trust *implicitly* to the Reports of Officers, even of the highest Rank in the Government, if they recommend Measures repugnant to the Prayers, Petitions, and Representations of such a numerous Body of the most respectable People in the Province as my Constituents. I allow that Government have a Right to expect from the principal Officers in the Provinces fair and true Accounts of every Object relative to their Governments: But is it always to be considered as a certain Fact that these Officers are the wisest, most prudent, and best informed Men in the Province?

Sir, that Province has been near Thirty Years harrassed by imperfect and improper Systems of Government; and the People have often represented their wretched and unhappy Situation. These Circumstances





Quebec, Montreal, and Three Rivers, as at present bounded, with a Reservation that Proprietors may alienate by Will.

The Common Law of England for the Districts of Lunenburg, Mechlenburgh, Nassau, Hesse, and Gaspe.

That optional Juries may be granted in Civil Cases on the same Footing as in England, except that Nine Jurors out of Twelve may be sufficient to establish a Verdict.

That the Sheriffs, which is an Office of great Trust and Responsibility, may be struck Annually by the Governor from a List presented by the Assembly.

That the Judges may not be subject to Suspension or Removal by the Governor.

That Offices of Trust may be executed by the Principal in the Appointment.

These are the principal Articles which they propose for their new Constitution.

There is no Doubt that the new Legislature will have some Trouble to ascertain the Bounds of the French Law, as well as of the English Law, but they will do that as the Circumstances and Cases occur.

Such is the Outline of the Constitution which the People of that Province desire. It is plain, clear, and simple, and however some Parts of the new Laws may not be fully understood at first, the People will at all Times know to what Principle of Law they must resort. But, Sir, the Bill now before this Honourable House is extremely defective, and fraught with the most dangerous Consequences. It is defective in not establishing the English Commercial Laws, the Habeas Corpus Act, and the Trial by Jury in Civil Causes, as fundamental Parts of the Constitution. And the Division of the Province, and establishing hereditary Honours annexed to the Office of Councillor, will introduce such Confusion and Trouble into the Province, as will prove ruinous to the Whole.

Sir, there were no positive Laws for Commerce in Canada during the French Government, nor are there any at this Day. The French Commercial Law, or *Code de Commerce*, was not introduced into Canada; and however that Code may have been esteemed at the Time it was composed, it cannot reach the Variety of Mercantile Cases which now daily occur. This is the Reason that the People of the Province desire to have the English Laws relating to Commerce introduced generally, as a Part of the Constitution of the Province, the Bankrupt Laws excepted; and that Landed Estates may be made subject to the Payment of Book Debts.

The Commercial Laws of this Kingdom, Sir, are the Result of the Wisdom, the Experience, and the Reason of Ages. We know that there are but few Statute Laws relating to Trade. But the just and proper  
Laws

Laws which ought to regulate Trade, and govern Mercantile Transactions, are to be found in the Judgments of the Courts, grounded on approved and established Customs. From that very Circumstance they are either to be introduced generally, or not at all. The Legislature of the Country will of course regulate any Difficulties that occur. On this Point it deserves the serious Consideration of this Honourable House, besides attending to the Convenience and Security of the Merchants in the Province, to provide and establish such Laws for the Province as will afford Security to the Merchants of Britain, who trust large Sums into the Province. They cannot be supposed to understand any other Laws but those which prevail in this Kingdom. If, therefore, Laws are established which they do not understand, they will be subject to numberless Impositions, as they have been for some Years past\*. The Trial by Jury, at the Option of either of the Parties, is an absolute Requisite in all Mercantile Causes, and ought likewise to be a Constitutional Point.

It is likewise necessary, for the Tranquillity of, and to satisfy the People, that the Laws relating to Personal Surety should be established by Parliament. Sir, the People of that Province do not wish to depend even on their own Legislature, for Objects so essential to their Security and Happiness. They wish to have them ascertained and fixed by the British Legislature, as Parts of the Constitution. They do not desire that Parliament should attend to the Minutes of making Laws for them; but they pray this Honourable House will lay down the great leading Points of their Constitution, to serve as Land Marks to guide their new Legislature in the future Exercise of Legislation.

Sir, it has been objected to me, against introducing the English Commercial Laws, that they are too voluminous for a young Colony; but if this Honourable House will recollect that we wish to except the Statute Bankrupt Laws; and that we can have no Occasion for those relating to Insurances, they will not, I hope, consider them as too greatly exceeding the proper Bounds.

This Honourable House will, I hope, allow, that we must have some Laws to regulate Trade, as at present we have none. If we are to depend on the Custom of Paris, and *Coutume Civile* for that Purpose, a Merchant would be obliged to have a Notary Public at his Elbow from Morning to Night: In his Compting House, to certify every Paper he wrote; in his Warehouse or Cellars, to certify the Sale of Goods and

\* *Coutume de Paris*. Article 126.—Merchants, Trades People, and others, who sell Goods, &c. by Retail, cannot bring their Action after Six Months have elapsed from the Day of the first Deliverance of their said Goods, &c. unless the Account has been settled and signed.

Article 127.—Drapers, Mercers, and other Wholesale Merchants, cannot bring their Action, or Demand for their Goods, after a Year has elapsed, reckoning from the Day of the Deliverance of their Goods, unless there has been an Obligation given, or that the Account has been settled and signed.

Liquors; in the Streets, or at the Coffee-House, to take Minutes of every intended Bargain or Transaction; otherwise he would find that his Books and Clerks would not be considered in the Courts as sufficient Evidence to establish a Debt; that his Papers and Letters would be adjudged as wanting the requisite Forms; and that Oral Evidence would not be received in Proof of a Bargain\*. In what Manner, therefore, are we to get Commercial Laws? Our Provincial Legislature may, to be sure, adopt One or more of the few Acts of Parliament which relate to Trade; for the British Legislature have been at all Times sensible of the Difficulty and Danger of shackling Commerce with systematic Laws, and they have therefore left the Merchants to follow their own Customs, and to ascertain these in the Courts of Justice, when necessary: It is therefore in the Judgments of the Courts that we are to seek for these Commercial Laws, and these may be compressed into a few Volumes of Reports. But, Sir, can the Provincial Legislature adopt one Book of Reports, and reject another? or is it intended that they shall enact a Number of Laws, and by that Means form a System of Commercial Jurisprudence? Is it to be left to the Quebec Legislature to settle and adjust a System which has been considered as too difficult and dangerous for the Wisdom of the British Senate?—It cannot be possible; and I am sure this Honourable House will see the Necessity of introducing the English Commercial Laws into the Bill, as forming Part of the Constitution of the Province of Quebec.

By the 31<sup>st</sup> Clause of the Bill, all the Laws, Statutes, and Ordinances, now in Force in the Province, are to remain in Force until altered by the new Legislature.—I have already been very full on this Point.

My Constituents pray, as the Honourable House will see by their Petitions, that the Quebec Act, and all the Laws which were supposed to be introduced by it, as well as all the Ordinances of the Legislative Council, may be repealed and annulled. This, Sir, is the only possible Way of settling the Constitution of that Country, so as to satisfy and please the People. If that System, which nobody has been able to comprehend, is to be continued, how, or in what Manner, is the new Legislature to modify and reform it?—Is it prudent to refer to the new Legislature a Subject which is likely to eternize those Distinctions which have, to the Disgrace of the Colony, subsisted already too long, by encouraging

\* See *Code Civile*. Title 20. Article 20.—Acts under the Hands of the *Parties*, or before Notaries, shall be paid for every Object exceeding 120 *Livres*.

Article 54.—If a Party makes several Demands at the same Time, of which there is no Proof, or no Beginning of Proof, by Writing, and that together those Sums amount to more than 120 *Livres*, they cannot be proved by Witnesses, even though they be different Sums, proceeding from divers Causes, and at different Times.

Article 60.—All Demands of every Kind, that are not wholly justified by Writing, shall be joined into one Body; after which the other Demands, of which there is no Proof by Writing, shall not be received.

the one and the other Party to struggle for and support their favourite System, from Day to Day, or from Session to Session, as the one or the other Party is most predominant in the Legislature? This would be laying the Foundation of Animosities, Quarrels, and Division among the People, which must greatly impede the Growth and Population of the Province; which would diminish its Strength, and render it of less Value in the Line of Trade to Great Britain.

Sir, I consider it as absolutely necessary that the British Parliament should establish the great Outlines of our Constitution; that they should point out clearly those Principles of Law which are to direct and govern the Legislature of the Province in their future Deliberations. If that is done, the Parties will more easily approach and affiliate together, and mutually accommodate one another, in such Parts of either of the Systems as require softening or modifying; and, however they may differ about the Introduction of a whole System, there would probably, if it is introduced by Parliament, be only one Opinion on the Propriety of rendering it as easy, as effective, and as useful as possible.

There are among both the English and French Inhabitants, who are Proprietors of Lands held under the Feudal Grants, there are of both who are married, and have Families; and there are of both, who have personal Dealings and Transactions. The old Laws, therefore, which are requisite for these Purposes, are necessary to, and must be desired by both. But, Sir, the whole Trade and Commerce is in the Hands of, and depends on, the English. It is therefore extremely necessary for them to have Laws fitted and applicable to the Nature of Commercial Dealings and Transactions. As the French Canadians are not much engaged in these Pursuits, they cannot be much acquainted with its Operations; and may not feel the Anxiety and Trouble, which the Want of proper Laws occasion to the Mercantile Body. It is only from its Trade that the Province can be useful, or in anywise of Importance to this Kingdom, and on that Account it is the more necessary to establish such Laws as will promote and increase it. We, therefore, hope that Parliament will repeal the Whole of the old System, and in the new Constitution give us those Parts of the English and French Laws which we have pointed out as necessary for us.

In the 32d Clause of the Bill, where Permission is granted, in Appeals from the Province, to appeal from the King in Council to His Majesty in His Parliament, it would conduce very much to abridge the Delay of Law Proceedings, to promote the Ends of Justice, and to diminish the Expences of the Parties, if the Appeal was allowed to be made directly from the last Court in the Province to His Majesty in Parliament. We do not wish or desire to intrude in any Manner on the Privilege, in any Thing that is essential to the Interest and Dignity of the Crown, but we know that it is the Glory of His Majesty's Reign, that it has ever been the Intention and constant Desire of His Majesty, that Justice should be administered to the Subject in the easiest, most speedy, and most effectual Manner. We therefore hope that the Province may be

gratified in this Point, as it will be the Means of checking the Spirit of Litigation, by bringing their Disputes to a more speedy Issue and Determination.

I beg Leave further to remark to this Honourable House, that by the 33d Clause of the Bill, that Part of the Quebec Act is continued which authorized His Majesty to order the Tythes of the Lands and Possessions, occupied by Protestants, to be collected for the Purpose of making Provision for the Encouragement of the Protestant Religion. This, to People residing in Great Britain, may appear fair and proper, but it will, I hope, be allowed that Tythes are only due to the Church for the Services which the Clergy of that Church may or can perform to the Persons from whom these Tythes are claimed. Sir, there are Protestants settled in that Country on Farms 150 Miles distant from any Protestant Church or Minister, who from their Situation are deprived of the Benefit of the Ordinances, Ceremonies, or Services, of the Protestant Church; and it therefore appears to me that it will be unjust to compel them to pay Tythes, and to contribute towards supporting a Protestant Clergy, from whom they can derive no Assistance, no Advice, or Instruction. I do not wish to raise any Difficulties against a necessary Provision for the Establishment of a Protestant Clergy in the Province, it is a very desirable Object, and much wished for, and it has been Matter of Surprise that no Provision of that Kind has yet been made in the Province; the Recommendation of it to the Attention of Parliament, however, is a strong Proof of His Majesty's Attention to the present and future Happiness of His Subjects; but I have thought it my Duty to state the Circumstance. As it would be in the Nature of a partial Tax for a public Service, it might perhaps be proper to limit the Right of claiming Tythes in this Clause to a certain Distance from the Residence of the Protestant Clergy.—Say 30 Miles. Besides, I apprehend it would be proper to explain what is meant by Tythes, if it is understood that they shall be received according to the Rule followed by the Roman Catholic Clergy in the Province, or the Rule that is followed in England. I likewise beg Leave to submit to this Honourable House if it would not be proper to insert in the Clauses concerning future Grants of Lands a Power to authorize His Majesty, with the Consent and Advice of the Legislature of the Province, to change the Tenure of the Lands granted and now held under the Feudal Tenure, when requested to do, by Petitions from the Proprietors for that Purpose: I mean that Government should, upon Petition, accept of the Surrender of the old Feudal Grants, and re-grant the same to the Proprietor again in Free and Common Socage. This being optional, and not compulsory, cannot meet with any Opposition; and in a short Time might be a happy Assistan in Anglizing the Colony, as it would by Degrees remove that detestable Badge, Vassalage.

I have now stated fully the Defects of the Bill as it at present stands. My Objections go principally against the following Clauses:

The establishing Two Independent Legislatures in the Province.

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The making the Place of Councillor hereditary, and not limiting the Number of the Councillors,

The small Number of Representative intended for the Assembly, and making the Duration of the Assembly triennial,

The continuing the Laws, Statutes, and Ordinances, now in Force, or supposed to be in Force, in the Province generally,

The investing the Governor with the Power of dividing the Province into Districts, for the Purpose of Representation, and appointing the Returning Officer from Time to Time, and fixing the Places of Meeting of the Legislature.

The claiming of Tythes from the distant Protestant Settlers, and not settling the Rule.

The requiring Appeals from the Province to go before the King in Council, in their Progress to His Majesty in Parliament.

The Additions we wish to the Bill I have stated before.

With these Alterations and Additions, the Bill would, I am persuaded, give general Satisfaction to the People of the Province. It would prove a real Blessing to the Country; and by the Means of reviving Industry, improving Agriculture, and promoting Commerce, and of attaching the Inhabitants to the British Nation and Government by the strength of all Ties, those of Interest and Gratitude.

Sir, we know that a free Government will not act like a Charm, and produce Wonders. We are sensible that it will occasion some Trouble in the first Years, till the People get accustomed to its Operations. We do not expect that every Thing is to prosper and flourish immediately on its Establishment; but we hope, and expect, that in a few Years its beneficial Consequences will be felt by the People, and become evident to the Observation of Government; that the new Legislature may be able to rouse the People from their present inactive State, and by Bounties and Encouragements stimulate them to Industry, Enterprize, and Invention; and that the Individual, while encouraged to pursue his own Interest and Advantage, may be directed so as to promote the general Prosperity of the Province, and Benefit of the Empire.

Such are the Hopes we entertain of the Advantages which the united Provinces may derive from a liberal Constitution; and it will be our chief Duty to convince the British Nation that the Province of Quebec ought to be considered as a valuable Appendage to the Empire.

But, Sir, if the Province is to be divided, and the old System of Laws continued, it is expected that either Part of the Province, separated as proposed in the Bill, shall in its present exhausted and impoverished State be able to supply the Supplies for supporting the whole Expences of the Government; or it will be reducing the Province to a Situation as bad as the Children of Israel in Egypt, when they were required to make Breads

without Straw. The People will see that the apparent Freedom held out by the new System is delusive; and the new Constitution will complete that Ruin which the former pernicious System had left unfinished.

I have not intended to propose any Thing for the Advantage of the Province that I think can, in anywise, injure the Interests of Great Britain, in so far as they are connected with the Affairs of the Province. My only Desire is to procure that Kind of Constitution for the Province which may promote the Happiness and Prosperity of the Inhabitants of every Part of that extended Country, as connected with and dependant on the Crown and Parliament of these Kingdoms.

In what I have urged on this Honourable House I have intended to acquit that Duty which I owe to my Constituents for the Confidence and Trust they reposed in me.

And I now trust the Affairs of the Province to this Honourable House, in perfect Reliance on their Wisdom and Judgment; fully satisfied that they will not adopt any strong Measure, without clear and positive Proof that it is not only necessary, but that it will be generally acceptable to the People settled in every Part of that great Country; hoping that this Honourable House will constantly keep in their View that the Constitution which is now to be established for the Province of Quebec involves the Security and Happiness not only of the present Generation, but of Thousands—perhaps Millions, yet unborn.

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