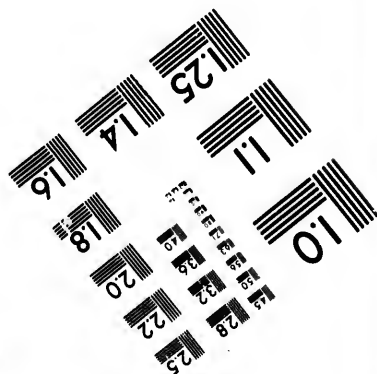
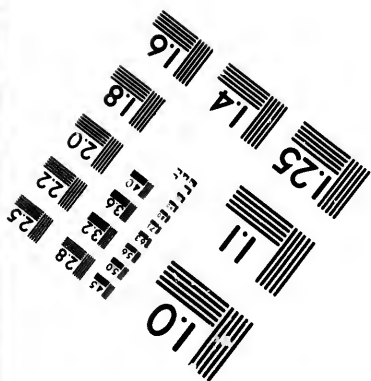
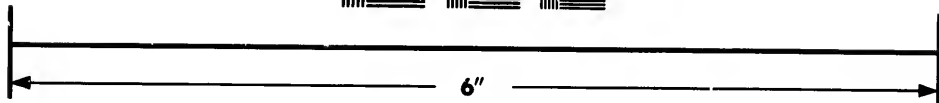
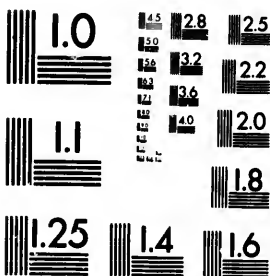


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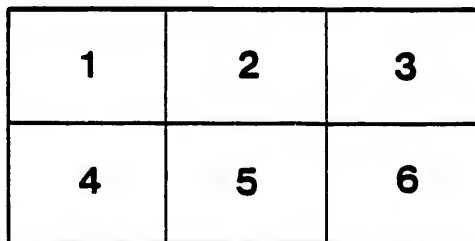
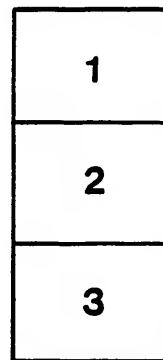
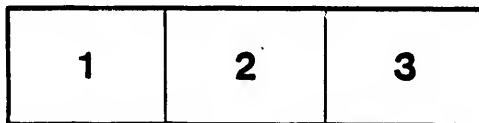
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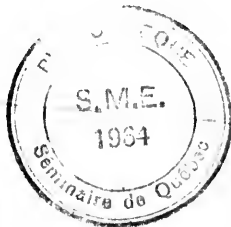
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OBSERVATIONS
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AND ON THE
CANADA GOVERNMENT BILL.

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UNION OF THE CANADAS.

LETTER I.

TO THE EDITOR OF THE GREENOCK ADVERTISER.

SIR,

WELL convinced that the fate of the colony is now at stake, I sit down to make a few remarks on the Canada Bill of 1840. A long and intimate connexion with that magnificent country, and personal acquaintance with the people, have given me some knowledge of the subject. I would not, however, have been tempted thus to enter into a consideration of it, had I not found those with whom I have been on the terms of social intercourse and personal friendship, from the perhaps inevitable consequences of party dispute and civil war, had their views prejudiced. In fact the most honourable upright men have found it so exceedingly difficult to divest their mind of party feeling, that I am under the conviction, indeed I know to a certainty, that some, and I have reason to believe that many, men of influence and standing in Canada, and in Britain connected with Canada, are at present unwilling, or perhaps have not the moral courage, to oppose the Bill now brought forward as a Government measure. It is to be remembered that Union has been a party watchword, and the present Union may be considered a party triumph, and a part of the popula-

tion will be disfranchised from party motives, whatever the ulterior consequences may be. One is met by statements of the difficulty of the question, and that something must be done! but surely it is false reasoning to suppose, because something must be done, that this impolitic and unwise measure, in its present shape, must be carried into effect; *at best* a very doubtful something, as the most vehement supporters of a Union have very great doubt as to the results of the measure now under consideration; for my own part, I have no doubt the plan as a final settlement is impracticable, and if forced into operation, the British connexion with Canada will last just as long as British bayonets continue to hold it. I do not intend minutely to examine every clause of the Bill, but merely such as contain the most objectionable enactments; and first, as to a declaration of union, Clause 1.

It is all very fine in theory talking of a strong government, a united people under the same laws, speaking the same language, and under one legislature; but let the theorist pause, and let any man of plain common sense take up the map; there he will find the Canadas embracing upwards of 300,000 square miles. Let him carefully measure the distance, I will not say from the wilderness, but from the thickly inhabited part of Upper Canada, say from Detroit along the frontiers of the States of Ohio, Pennsylvania, New York, Vermont, New Hampshire, Maine, and the province of New Brunswick, down to Gaspé, and then let him say, if on the face of the earth there is to be found a greater absurdity than to suppose that *practically* this immense stripe of settled frontier, long enough to include the boundaries of six states of the United States, and part of a British Province—that this stripe, open at every part to foreign invasion, where the boundary is along the lakes, the river St. Lawrence, and for a great distance a mere nominal line in the land, is to be united under one legislature, composed of representatives from all parts of this vast territory, and is to contain a united people under the same law, having a strong government, supported by a majority of the Anglo-Saxon race!

Under present circumstances, the thing is preposterously absurd; it is well understood by those who have a knowledge of Upper Canada, that its present seat of government, Toronto, is found to be at an inconvenient distance from the already settled part of the western frontier, yet Toronto, I take it, is about six hundred miles above Quebec, and at least double the distance, 1200 miles, from Gaspé! Much discussion has taken place in the newspapers on the negotiations on the sulphur question dragging slowly on, from the inconvenient distance, Paris being 1200 miles from Naples; but here we are with our eyes open, creating a colony under a REPRESENTATIVE government, having one of the points contended for, to become its seat of government, at an equal distance from one extremity as Paris is from Naples, and including a frontier of infinitely greater extent, if taken as a whole, and a frontier, too, almost entirely exposed to foreign aggression; of the nature of which, one would suppose we have had some experience during the last two years. But the colonists have been made acquainted by Lord John Russell in Parliament, that a person "*had been sent out as Governor-General, having the entire confidence of Government, who with a knowledge of the people to whom he was sent, and by consulting the best authorities there, would be able to point out the course which would be most advisable for her Majesty's Government to adopt.*" Now, this certainly appears very reasonable, and perhaps the very best thing that could be done, if men's minds were allowed to calm down; but let us look into circumstances which have actually taken place, and with facts before us, judge, at least as far appearances go, whether what was stated by Lord John Russell has been fairly, in practice, carried into effect? What is meant by "*a knowledge of the people to whom he was sent?*" If intuitive knowledge, or a mere flourish of trumpets, necessary in speech-making on such occasions, I shall not attempt to decide. I shall therefore have it stand for as much as it is worth; but it certainly is notorious that the Union Bill of last year being sent out, it was in Canada considered that the Governor-General was to carry into effect preconceived opin-

ions on the subject of the union, the details being left for revisal in that country. Whether the "*best authorities*" were consulted I do not pretend to know; but this I do know, that some of the "*best authorities*," highly honourable and estimable men, and for whom I have a great personal regard, are, nevertheless, under the (perhaps unavoidable) bias of violent party feeling; and if the Special Council is considered as the best authority, I must say its consent to the union was obtained under at least suspicious circumstances.

The Special Council was called together, and met on the 12th *November*, not at the usual place, Quebec, the seat of government, but at Montreal, where, a strong opinion prevails that if a Union take place, the future seat of government will be fixed, and where, consequently, the Union is more favourably viewed than in other parts of Lower Canada; and not only did this convention of the Council take place at Montreal, but it actually was held after only *five* days notice! Some of the members resided at quite three hundred miles' distance, which in the mind of any man acquainted with Lower Canada, the climate in *November*, and the state of the roads, must create a doubt of the possibility, supposing it to be the intention that the whole Council should assemble, to decide on the propriety of a Union, or of the present Union. But fifteen or sixteen members actually did assemble, out of twenty-eight of which the Council consists, namely, the Chief Justice, Messrs. Pothier, Harwood, M'Gill, De Rocheblave, Moffat, Quesnel, Gerrard, Molson, Wainright, Cuthbert, Walker, Christie, Hale, Delery, and Neilson. I mention the names, because I believe no less than *nine* reside in Montreal, and there are three new members of 1839; and of this assembly *eleven* voted in favour of a union; so that, as far as appearances go, the consent of Lower Canada rests on the vote of eleven out of twenty-eight of the Special Council, including the Chief Justice, who is understood to have revised the bill as a Government measure. I do not, however, mean to assert that the majority might not have been greater if the whole Council had been obliged, in a manner, to vote, or at least not have had a fair excuse to stay away: but it cer-

tainly is notorious that many of the British party entirely disapprove of the proposed plan, who are unwilling to throw obstacles in the way of the Governor-General, whose good intentions no man can doubt. And, as the Special Council has no representative character, I cannot conceive the accordance of these eleven gentlemen to the wishes of the Governor-General, to have any great weight, all circumstances considered, as to Lower Canada.

Now, as to Upper Canada, it is undeniable that the Legislature last year was opposed to the Union, and that it was with the utmost difficulty the several conditions were *in a manner* got rid of as to the seat of Government; the majority of members to be in favour of Upper Canada, &c.; and even then it was only at the very last moment, viz., on Mr. Cartwright's amended address, that the ungracious clause was struck out, stating that the House only consented "because *no other plan was held out of relief from the embarrassments*;" and, after all, the majority on one division was only eight, and finally only eleven, in favour of the address, including therein, if I mistake not, the Attorney-General, who had previously opposed the Union in the most earnest and vehement manner, but stated, "it now has become a Government measure, the Sovereign has issued her commands."

Here then we are presented with the extraordinary anomaly, that while in Lower Canada the head of the law seems to be the "*best authority*" to have been consulted, in Upper Canada the strongly expressed opinions of the heads of *the church and the law* are of no weight, the Attorney-General having expressed his sentiments without reserve, and the highly respected Chief Justice of Upper Canada not only having done so, but written an able pamphlet to expose the inevitable and ruinous consequences of the proposed Union, while the Bishop has put on record a strong protest; yet the Legislature have been forced into adopting the measure, "because *no other plan of relief from the embarrassments*" is held out; and because with a debt of £1,364,888, and enormous grants not yet raised, they are told, do as you are desired, and Lower Canada will be

saddled with half this debt—a bribe, under such circumstances, difficult to be withstood.

All this was adroitly managed ; it was palpably saying, if you do not agree to this, you will be left to your own resources, abandoned to do as you best can ; and it was so understood. I ask any man acquainted with the events in Upper Canada if it was not so understood ? And under this influence, the most violent of the party, who had insisted on *responsible government* as an insuperable condition of consent to a Union, now began to look about them and change their tactics, convinced that such a Union was the only chance for certain opinions obtaining a predominance in the Legislature ; and men who, only a few months previously, had been using every effort at public meetings to declare a want of confidence in the House of Assembly, now turned round suddenly, declaring that it expressed the wishes of the country. I cannot fancy that this is seriously meant to be “*consulting the best authorities,*” and then to “*point out the course which would be most advisable.*” It is true the Government measure may thus be carried ; an avowedly *unwilling* consent in place of an opinion may be exacted ; Sir George Arthur’s dispatch of April, 1838, may be put in the fire, which stated that, in Upper Canada, “*the same ground of justification of rebellion had been put forth as in Lower Canada.*” It is true a unanimous resolution of the Legislative Council approved of the *judgment* and ability displayed by his Excellency ; but Upper Canada’s rebellion may be forgotten, although it took place at the same period, and “*was justified*” *on the same grounds as in Lower Canada* ; yet Upper Canada may be entirely white-washed, and every man of the Anglo-Saxon race considered as immaculate and pure—the Governor-General may obtain much praise, nay, a coronet for his momentary apparent success ; but the country will inevitably be lost as a British province.

I shall now, as the most convenient mode, remark on the clauses from the 11th to the 25th, as to the number of Representatives, &c. I may be permitted to doubt if any system can be expected to work well which is *not founded on justice*

and equity. I certainly doubt if it is possible, and it appears to me extraordinary to expect, that a *Representative* Government, over an enormous extent of peculiarly unfavourably situated country, such as I have described, can hold together, where a proportion of the population, which I shall call 400,000 in Upper Canada, are to have the same number of Representatives as 700,000 in Lower Canada, open rebellion having taken place at the same time in both provinces; but as of the parties in Lower Canada who rebelled the greater proportion spoke French, and as in Upper Canada the greater proportion of those who rebelled spoke English, which is the general language of that part of the country, the traitor there is not distinguished as of a distinct race; and by the most unaccountable theory, and singular infatuation, every man who speaks English is evidently set down as a loyal British subject, and calculated as such—this being the very basis and foundation on which this Union scheme is founded.

And while in Upper Canada not only is every man to have his full share of political rights—but a share in proportion as seven to four in his favour—in Lower Canada not only are 700,000 to be placed on an equality, and have only the same number of Representatives as 400,000 in Upper Canada, but the population in Lower Canada is again to be subdivided, and a considerable portion disfranchised, or nearly so, in an attempt to render the number of Representatives of 450,000 of the Lower Canadian population only equal to the number of Representatives for the remaining 250,000 in the same province; and I apprehend that no man, with a knowledge of the facts, and with Sir George Arthur's dispatches before his eyes, will pretend to say that this is even-handed justice to all classes of her Majesty's subjects, free from party feeling and prejudice!

But the proposed measure, as it stands, is unsatisfactory to any party, and only submitted to by any party under the circumstances I have already described; namely, its being a Government measure, a bribe of six or eight hundred thousand pounds held out to Upper Canada, with equal number of representatives—an expectation of the seat of Government

being there fixed—and under the excitement created by the expectations produced by Lord Durham's remarks on responsible Government, by which, coming from so high a quarter, many well-intentioned men were deceived.

It may be well for me here to remark, that I look to the interests of the colony alone. I am perfectly indifferent—it is perfectly immaterial to me—whether those measures emanate from Whig, Tory, or Radical. Few things are more provoking and annoying than the influence party in England has on the true interests of these colonies; but it is intolerable to find these interests likely to be utterly and finally compromised, merely because these measures can probably be carried into effect for the moment, without creating actual rebellion, although it is undeniable that they have not the willing consent of any party. The result is doubted by every body; and, if approved at all, it is only by a few of the most violent party men in Lower Canada, looking thus to coerce their political opponents. The only excuse I have ever heard for the adoption of these avowedly, and, at best, uncertain measures, is the difficulty of the question—to which I shall revert when I have gone over the bill.

Clauses 13 to 20 provide for the division of the country for the purposes of representation, on the principle I have mentioned, reducing the number of representatives for counties in Lower Canada, and uniting eight, so as to form half that number, and which are to have in future only one representative each; on which I will not remark, as if it be considered *just* to coerce a part of the population, the means are sufficiently well chosen; but a very grave and important blunder has unquestionably been made in the constituency of towns.

Those who know any thing at all of the subject, are aware that the greatest of all difficulty is precisely because Upper Canada has no port of entry from foreign parts by sea, and the consequence naturally is, that the very great proportion of Upper Canada foreign trade is carried on through the means of houses in Montreal and Quebec; and the Upper Canada Legislature have not had the same opportunities to give the subject of foreign trade consideration. But now, it would appear, the

regulations of trade are virtually to be settled by Upper Canada, not only for herself, but in the United Legislature for the whole country, as no less than seven towns, Toronto, Kingston, Brockville, Hamilton, Cornwall, Niagara, and London, are called into sufficient political importance to have one member each in the Legislative Assembly, while, in Lower Canada, the cities of Quebec and Montreal, having a population of 35,000 to 40,000 each, and at present four members each, and the town of Three Rivers, are only to have one member each, in the new Legislature; while William Henry is to be disfranchised altogether.

This, on the face of it, is unfair, and will be attended with even more serious consequences than are apparent, as it has been found exceedingly useful to have a few men of the Anglo-Saxon race, conversant with trade, to hold seats in the House of Assembly along with the great majority of unquestionable Norman descent, but whose habits have not been so extensively devoted to the cultivation of foreign trade. Now, by the present bill, the trade of Lower Canada will be effectually disfranchised; and in the new Legislature the representatives to regulate foreign commerce will come from towns and villages in the interior, many hundreds of miles from a sea-port. This is a plain and undeniable fact, of a very important nature, but which any body can understand by reference to the map. I leave it without comment to its own merits, and in the meantime take my leave.

I am, &c.

B.

Nice, June 16, 1840.

LETTER II.

SIR,

I HAVE pointed out in my last letter the utter absurdity of expecting that an effective and strong representative government can be formed out of materials composed of eleven parts, four of which are arbitrarily valued as equal to the remaining seven ; and of the seven, four and a half are depreciated to reduce their value as near as can be to that of the remaining two and a half. This division of power is not raised on any principle of equity, or of justice, and only a matter of supposed expediency—submitted to by the first proportion (Upper Canada), because there they are not so placed as to be able to resist a heavy bribe, and submitted to by the second (the Norman Canadians) as a matter of absolute coercion ; while of the third (persons speaking English) a part entirely disapprove, and the remainder, at best, doubt the result. Such a representative government was never yet heard of, to govern a country, with a frontier nearly as far as from Paris to St. Petersburg—a frontier exposed at every point, and where, if the seat of Government be continued in what is now Lower Canada, immediate offence will be taken by what is now Upper Canada, (where the people certainly expect the seat of Government to be,) and with seemingly good grounds of complaint, as it is admitted that Toronto, the present seat of Government in Upper Canada, is at an inconvenient distance from the western settled part of the country. On the contrary, if the seat of Government be moved to Upper Canada, not only does the same just reason of complaint exist as to distance to a greater degree, Gaspe, the eastern point, being some 1200 miles from

Toronto; but Lower Canada, and, consequently, precisely the whole 450,000 of French population, which by these harsh and coercive measures may be expected to become united as one man, will be at a great distance from the seat of Government, and liable at any moment, along so extensive and exposed a frontier, to be entirely cut off therefrom. Nay, the *navigable* channel of the St. Lawrence, itself the great thoroughfare, actually passes for some distance within the United States territory, according to the survey held with the intention of carrying out the provisions of the Treaty of 1783; the importance of which will be understood by those who choose to refer to the resolutions of Congress, of January, 1839, as to “the *free navigation* of navigable rivers,” &c.

I shall now revert to clause 4th of the Canada Bill—the appointment of Legislative Councillors. It appears that while a member of the House of Assembly is required to have a freehold qualification to a certain extent, there is no restriction whatsoever to the appointment of legislative councillors, unless to be a British subject, which leaves the question open to the same complaints, and to the same discussions on the subject of an elective council, as heretofore. I presume it to be an unquestionable fact, that it has at all times been the intention of the British Government, that the most fit and proper persons were to be appointed to the Council; and I certainly will not presume to assert that any Governor has in any instance acted otherwise than what he considered conscientiously right, in recommending such appointments; yet it must be admitted the result has proved very far from satisfactory. Now, in this liberal age, I may be permitted to hope, that it will be considered sound policy to allow the Legislature in Canada to govern that fine country, as far as at all practicable or consistent with its interests and duties as a colony; and to do this effectually and well, it certainly appears necessary that a very great proportion of the upper branch of the legislature be composed of men of influence and standing, and who hold a certain and even permanent interest in the colony. That it is necessary to insert this in the face of an imperial act of Parliament may be denied,

as may be the necessity of the precaution of a certain qualification being rendered absolutely indispensable. All I mean to bring forward is, the simple and undeniable fact of the evils which have existed under the present system ; and it appears to me impossible for any man who has studied the subject, and who has read the reports of the different Commissioners sent out to Canada, the different urgent representations of Lower Canada, Lord Durham's report, and Sir Francis Head's narrative, calmly and deliberately to come to any other conclusion, than that the arrangement under the present bill is an *unrestricted continuation of the same system*, but rendered infinitely more difficult and complicated by the present state of matters in Upper and in Lower Canada.

The principle of influential persons of the Assembly being called to the Council I understand to have been admitted, and it appears is to be extensively acted on. This, there can be no manner of doubt, would have been a very powerful engine in the hands of any Governor, to forward the true interests of the colony, had it not been that the ostentatious way in which the measure has been proclaimed may lessen its utility, as it looks something very like a premium for agitation, in place of a reward for merit, and I cannot help thinking would have been much more useful to have been quietly and judiciously carried into practical effect, than to be trumpeted forth as a theory. The term of office of the new councillors is to be for life, which is well ; what is to be done with the old councillors ? As Lord Durham's report seems to be the basis of some of these measures, I shall quote his Lordship's opinion on this branch of the subject, the Legislative Council ; Report, page 31 :—“ The composition of this body, which has been so much the subject of discussion both here and in the colony, *must certainly be admitted to have been such as could give it no weight with the people, or with the representative body on which it was meant to be a check.*”

I now come to the 40th clause, by which all journals, writs, instruments, and written or printed proceedings of the Legislative Council and Legislative Assembly shall be “ *in the Eng-*

lish language ONLY!" The palpable injustice of such an enactment is only to be equalled by the folly of attempting unnecessarily thus to trample on the feelings and prejudices of a very sensitive people, who, for half a century, have been freely permitted—perhaps, strictly speaking, entitled to exact the enjoyment of their own religion and laws, and almost, as a necessary consequence, of their language; and now, in half a year from the passing of this Act, these 450,000 persons must speak and write English, or be disfranchised, and prevented from being members of the House of Assembly or of the Legislative Council! Such I take to be the true meaning of the bill, as I cannot fancy, even supposing the writs to be understood and acted on, that a representative is expected to take and to subscribe a declaration and an oath which he does not understand a word of! But this measure, harsh as it appears to be, becomes tenfold more arbitrary and unjust, when it is known that not only were the Canadians of French origin permitted to retain their religion, language, and laws, but they were by every possible means encouraged to remain a distinct race. Perhaps one of the greatest reasons, next to the too extensive frontier, for the division of Canada into two provinces, was precisely to retain the French population as such, whose language, habits, and, in short, national character, would present a barrier to their amalgamating with the citizens of the United States, to whom, until of late years, they had a known antipathy; and the British Government not only acted on this principle, but from time to time instructions were sent out not to grant the lands in the immediate frontier of Lower Canada with the United States. Nay, in the evidence before the Committee of the House of Commons, only a few years back, will be found the report of a gallant officer, who resided many years in Lower Canada, in a high official situation, which brought him into close contact with the Canadian French population, and who was subsequently sent by the Government on a mission to that country. He says—"The barrier which 'the bush' afforded can no longer be said to exist; *the best which can be offered in its place is a dense population of French Canadians, who from the entire*

difference, not only in language and religion," &c. "*Would it not be well, then, to appropriate the waste lands in that direction to an extension of seigniorics, and a continuous chain of French Canadian settlements from the St. Lawrence towards the States?*" Lord Durham admits that "*nationality of the French Canadians was therefore cultivated, as a means of perpetual and entire separation from their neighbours.*"

I would ask, is it fair, is it reasonable, is it just, to say to such a people "it is all very true such was the policy of the British Government, but that was a Tory Government; we know better now-a-days, we will have no more such barriers against the United States. Are they not of the same race as ourselves? Are you so blind as not to perceive the interesting sympathy they have exhibited in our colonial affairs? But as for you, we will have you instantly to amalgamate with this, the great Anglo-Saxon family of North America; give up your habits and prejudices, and speak English in six months from this date; and as to your laws, and more particularly as to the ancient possessions of your forefathers, the Seignouries, and all that kind of thing, these, without reserve or restriction, we shall intrust to the tender mercies of your political opponents, placing you in a minority, *if we can.*"

But I may be told that these people as a body are disloyal. That they almost inevitably will by these measures be forced into being disloyal I shall not attempt to dispute, but that they are, or have been as a body disloyal, I utterly deny, and I shall attempt to make clear. In the years 1809-10, very much the same kind of excitement occurred, and although actual rebellion can scarcely be said to have taken place, the French Canadians were represented as dangerous, and as having a bad feeling towards the British Government; members of the House of Assembly were imprisoned, and energetic measures taken; everybody acquainted with that country knows the events of Sir James Craig's government—but, in 1812-13 came the American war, and found the Canadas utterly unprepared, having a very few British troops scattered over the country, yet the loyal and gallant population, French

and British, came forward with much enthusiasm. A part of the militia was called into active permanent service, and others were called on to take their turns of garrison duty ; and, let it be borne in mind, that when a large American force marched on Montreal, I believe I do not exaggerate when I say nearer to 30,000 than to 20,000 men, and a very great proportion of which were entirely of the French Canadian population, armed themselves as they best could, and in a great majority of cases carrying provisions for a few days, likewise marched on Montreal for the protection of that city. Let it be understood that a great proportion of these people are accustomed to carry arms, and I would ask if such a body of men were so instantaneously formed from so small a division of the country, will any man seriously pretend that the whole 450,000 French are disloyal, and meant rebellion, by the outbreak in two or three districts, and excitement and party feeling in others? It has been said they had no leader of sufficient importance. It is quite true they had none, and why? Because those who would have placed themselves at the head of a successful rebellion knew better; they know very well that a small part of the people had been excited into rebellion, but that the mass, although under the influence of party feelings inseparable from such a state of things, yet were not disloyal, and would not join their cause. Armed as they are, and as they might have been, let me ask if the French of Lower Canada, 450,000 in number, are disloyal, what proportion of fighting men would have been for the enemy, when against the American invading force men from eight to sixty marched?

I am quite aware that those who do not know any thing about the matter, or have their information from sources tinctured with prejudices as strong as those of the Canadian French, or biassed by party feeling, may question my conclusions; but no man can deny the facts I have stated; and I cannot resist contributing my mite towards the defence of the French Canadians, by quoting a general order of the Governor-in-Chief and Commander of the Forces, of 4th November, 1813. He thanks "the loyal and brave militia of Lower Canada

for the zeal and alacrity with which they flew to their posts, and for the patience and firmness with which they have endured this inclement season, and the severe hardships and privations to which they have been exposed: the steadiness and discipline of the whole have been conspicuous; and the undaunted gallantry displayed by six companies, *almost to a man composed of Canada Fencibles and militia, under the immediate command of Lieut.-Col. de Salabery, in repelling, with disgrace, an American invading army twenty times their numbers, reflects unfading honour on the Canadian name;*" signed Edward Baynes, Adjutant-General. I will only add, that Col. de Salabery was a Canadian. We have likewise the evidence of a gallant officer who, as Quartermaster-General in Lower Canada for many years, had an excellent opportunity to judge, and who states, "*a better militia than that of Lower Canada does not exist, or a more tractable or well-disposed people than the lower order of French Canadians I never saw.*" Such is the character of the French Canadians as described by the high authorities I have mentioned, when not under the influence of party prejudice and misrepresentation, but judging with an intimate knowledge of the people, acquired by *personal* observation, and from events passing under *their own view*.

Much of the evil, which will inevitably arise if these rash measures are proceeded in, is owing to the utter failure of Lord Durham's mission for any good purpose; but as it appears that, nevertheless, some of the more objectionable recommendations are likely to be adopted, I shall make a few remarks on the subject. His Lordship, understood to be a violent reformer, was so much on his guard against party as to dispense with the services of the Council, and employ means of his own; and the result was looked for with the utmost anxiety by both, but perhaps with the more intense interest by the Canadian party, who expected that the true state of matters would be exposed, freed of party prejudice, admitting the faults which had been committed on both sides under the influence of violent excitement. But such was not destined to be the case. The failure of an agent (understood to be officially, or

semi-officially) employed to gain the confidence of some of the demagogues of the Canadian party, and the appointment of a good man and true, but of one of the most violent party men in all Lower Canada, left but little hope. Previous to this, I have reason to believe, his Lordship had much in his power, and much might have been done by a firm but equitable Government; and even up to the last moment expectation was entertained that his Lordship's eyes would be opened to the bias party must inevitably create, and that demagogues are not the whole people.

The report is a well-written, or rather ably compiled document, containing very little new matter of fact, but much exaggerated misapprehension with regard to the French population, and an entirely party view of the state of affairs in Lower Canada. And as to Upper Canada, in the contrast drawn so unfavourably to that country as compared with the neighbouring States, it can scarcely be supposed probable that the fact was taken into consideration of the census of Upper Canada in 1822 being 130,000, while fifteen years afterwards the whole face of the country was changed, and its population augmented to 396,000! The report says the demarcation of parties is HAPPILY not one of race, "*the quarrel is one entirely English, if not British,*" forgetting that the quarrel was rebellion, and the *anti-British* rebel in the British province is tenfold more dangerous in the heart of an "*entirely English, if not British*" population, than the man of a distinct race. The report states that "*it is very difficult to make out, from the avowals of parties, the real objects of their struggles.*" Then after an episode on responsible government, which has been given up as impracticable, the report displays much faulty and improper information as to Upper Canada.

I find I have omitted to mention a very prominent difficulty with regard to the Legislative Council, which is to consist of at least twenty members, to be appointed immediately; but from whence are the twenty to be derived? I may be told from the great country *now* to be called Canada; and this may be all very well in theory, but not so in practice, where the acci-

dental circumstances of a man living in a certain part of the country, and of his speaking English, increase his political power in one branch of the government. Where in both the Provinces, under more favourable circumstances, the nominations have *not* been at all times prudent, or even safe, and where so much dispute has arisen already, it certainly does not appear easy to raise up this power so as to act cordially and safely together, not as belonging to the one or to the other section of the country, but to the general good! On this, Lord Durham's report, page 116, says, "*the very fact of the Union will complicate the difficulties which have hitherto existed*, because a satisfactory choice of Councillors would have to be made with reference to the varied interests of a much more numerous and extended community." In my next I shall examine the clause of the bill on District Councils.

I am, &c.,

B.

Nice, 19th June, 1840.

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LETTER III.

SIR,

In my last I dwelt at some length on the subject of the French Canadians, with the earnest wish to endeavour, in some degree, to disabuse the minds of upright men unwittingly brought under the influence of party representation; and the *Times* of the 13th Juno having just been put into my hand, containing the debate, if such it may be called, on the Canada Bill, I cannot refrain from making a few remarks thereon. Before doing so, however, I will quote a paragraph from the *Quebec Gazette* of December, 1839—a paper edited for many years by its proprietor, Mr. John Neilson, a talented and highly estimable man, known to many of the Members of the House of Commons, as having been on a mission from the British party in Lower Canada in 1835, and for the clear and masterly views of the true interests of that important colony he displayed on that and on a former occasion. He says—“The minds of men most actively concerned in public affairs have been perverted—passions and prejudices have been excited. The interests and feelings of the masses, under these circumstances, ought to have an opportunity of BEING HEARD.” “With a fair representation of the property and intelligence of the country, without regard to those wretched distinctions which have been so much brought into play during the late discussions, we should have no apprehension of the restoration of peace, confidence, and security to all, and the permanent prosperity of the country.”

Well might the *Gazette* say, “wretched distinctions”—well may the unfortunate colonist be astonished to find the apathy with which the bill has been treated, and the very extraordinary

B.

views taken of the subject. Sir Robert Peel is made to say, that with a full consideration of the "habits of the people, and their division into two races, *one well attached, and the other hostile to British connection,*" &c. ; that "the people of the *two Canadas* had also declared their intention to stand by the Union ;" "he took the opinion of the people of the *Canadas*, of the authorities of the *Canadas*, and of the *Governors of the Canadas* ;" "it was said that undue means had been used for the purpose of extorting these opinions. He must say he had a better opinion of the inhabitants of Upper and Lower Canada—at least of those who had been called to the chief offices of the State—than to believe that, after public notice, they would have acted so dishonourable, shabby, and effeminate a part, as to have shrunk from the performance of their duty on account of some cajoling of a Governor who had arrived only two months ago." "He freely owned to the Noble Lord that he thought the majority of representatives in the new Assembly influenced by British feelings and interests, and in favour of British connexion, would be a very narrow one." Now, in my former letters I have already demolished every part of the foundation on which to ground an atom of this fallacious reasoning, which it is distressing to find, in so high a quarter, adduced as the only excuse for so precarious but important a measure. Every man knows that rebellion broke out in Upper as well as in Lower Canada—that in Upper Canada "it was justified on the same grounds as in Lower Canada." There, Lord Durham informs us, "I believe the sympathy to have been much more strong and durable than in Lower Canada—there, if I mistake not, many more of the Anglo-Saxon family were hanged, or killed in the rebellion, than of the French Canadians in Lower Canada." Under such circumstances, well may the unfortunate Canadian of Lower Canada exclaim, in the language of the *Gazette*, why these "wretched distinctions!"

Lord Durham has said, "The state of the Lower Canadian Province, though it justifies the proposal of a Union, would not, I think, render it gracious, or even just, on the part of

Parliament to carry it into effect without referring it to the *ample deliberation* and consent of the people of these colonies ;” and Sir Robert Peel says, “ I took the opinion of the people of the *Canadas* ;” but I have already explained no such consent of the people was asked in Lower Canada. Sir Robert is made to say, that twelve out of fifteen of the Special Council voted in favour of an address, &c. ; and I have already given the names, not of twelve out of fifteen, but of eleven out of twenty-eight, of which the whole Council consists, nine of whom were residents of Montreal. It is a subject of bitter complaint that the people have in no way been consulted—nay, many of the British in Lower Canada are utterly opposed to this bill, and none of them sanguine of its success. As to the “ *Governors of the Canadas*,” the “ *authorities of the Canadas*,” it is not asserted that Sir George Arthur’s opinions are favourable. Sir Francis Head, I apprehend, was not one of those who approved ; and I shall quote a speech of the Attorney-General of Upper Canada, which has appeared in the public prints as delivered in the House of Assembly. In it he is made to say, “ *I think it necessary to state a fact, which ought not to be left out of sight—I mean that Lord Durham did, within a few days of his departure from Lower Canada, give it as his opinion, that an Union was not desirable ; he, however, recommended it. In consequence of these measures, her Majesty’s Government recommended it.*” Here, then, is the truth. Lord Durham, about to leave Canada, had determined that an Union “ *was not desirable ;*” but it appears he subsequently changed his mind, and then comes forward the Attorney-General, who is reported to say, “ *I had before endeavoured to avert the measure, but it has now become a measure of Government.*” Previous to this the Solicitor-General had opposed this measure of Union, as well as the Attorney-General, the Chief Justice and the Bishop. All of these, from long residence, have a thorough knowledge of the country and of the people, and are well aware of the ruinous consequences of such a measure as the present in a new and rapidly increasing colony ; and they, in the most vehement

and earnest manner, have expressed "*their opinion*" against it. Lord Durham remained in Upper Canada fully ten days, and, notwithstanding the part he took there, he returned to Lower Canada, convinced that "*an Union was not desirable*;" and I must say his Lordship's departure from Canada was sincerely regretted by many of both parties.

When, or how, his Lordship changed his mind, I shall not attempt now to explain. I have, however, in a former letter given some clue to the real cause of the utter failure of his Lordship's mission, so far as the French Canadians are concerned, speaking of whom the report, with sufficient candour, says, "*It is not easy to know who really possess their confidence!*" But what has become of the assertion as to the people of the Canadas, the authorities of the Canadas, and the Governors of the Canadas? The opinion of the people of Lower Canada was not asked. They were not consulted. The Special Council have no representative character; and if they had eleven or twelve, if you wish, out of twenty-eight, collected together as they were, and these nine residing in a place anxious to become the new seat of government, this is not a fair representation of the wishes of the people. In Upper Canada, on a former occasion, only a short time before, the Union had been rejected, or consented to on terms objected to by the Government; but the payment of £700,000 or £800,000 of debt brought them round, it being understood that otherwise they would be left to shift for themselves as they best could. The transference of the seat of Government to Upper Canada, too, and other reasons already explained in a former letter, assisted to turn the scale in the House of Assembly, where "*the question was finally disposed of on Saturday, 21st December, by passing an address to the Governor-General. Yeas, 28; nays, 17; majority in favour of a Union, 11.*" I do not think it necessary to give the names, although I have them before me.

This, then, is the consent, the opinion, of the people of the Canadas in favour of the Union!! As to the public functionaries, although no doubt they were perfectly free agents, Sir John Harvey, in plain but honest language, gives a significant

hint, 21st December, 1839—"If they would at any time hereafter find themselves called upon to avow sentiments adverse to the policy which that Government may pursue, or otherwise to oppose or obstruct the proceedings which it may adopt, they will at the same time fully recognise the conditions which such a dissent from the views of the Colonial Government so carried out must necessarily involve."

To return to the debate. Next comes Mr. Ellice, saying that although he had originally been an advocate for the measure, it was well known to his friends "that he had since felt much hesitation about the prudence of the measure, and particularly as to the extent of the *United Province*;" and he considered that it would be more desirable to leave the *Local Legislature alone, than form a Central Legislative body to administer the affairs of the whole colony*; "but having expressed his opinions, he willingly gave them up to what he considered to be the expressed feelings of the inhabitants." Now, Mr. Ellice stands in precisely the same position, as regards his own opinions, as a great proportion the British party do to the Government, except that they dread expressing their opinions against this particular measure. Union has been a party watchword; but I say distinctly and boldly, let the British party in Lower Canada, and those in London connected with them, be consulted—not as a party, but individually—set aside the question as to the seat of Government, or fix it in Upper Canada, and I am thoroughly convinced that, if not the very great proportion, at least a very valuable portion will say, that this measure, on its merits, is a very ruinous one, and utterly unfit for the present state of matters. Nay, if I am not much mistaken indeed, her Majesty's Government would be astonished to find that, divest the question of party consideration, and a great proportion of those who are supposed to support this measure of a Union in truth cordially agree with Mr. Ellice in opinion.

Then comes Lord Stanley, with Mr. Ellice objecting, in the strongest manner, to that extraordinary invention, District Councils—Lord Howick sneering at Mr. Ellice saying any.

thing about the matter, because he has more personal knowledge of the subject than perhaps any other member of the House, and might be personally interested!! Probably Lord Howick was not aware of Mr. Ellice having long since sold his immense territory of Beauharnois. As a wind-up, Lord John Russell tells us that it was rather from expediency than from any abstract belief "*that the Union was free from danger,*" that he had been led to prefer that measure. At the same time, his Lordship rather ingeniously made use of Mr. Robinson, the Chief Justice of Upper Canada's mistaken ideas on the subject of the Church Establishment, to treat lightly his opinions with respect to the system of Government, as "*the views of the political party to which he belonged in Upper Canada;*" while, with inconceivable inconsistency, the opinion of the Chief Justice Stuart is quoted as if he belonged to no party!! —Now, no man acquainted with Canada will deny the very deservedly high estimation in which these gentlemen are held, both in their public and in their private capacities; but it is rather too much to quote the opinions of the former as those of a party man, and those of the latter as influencing the British Government; for it is notorious that perhaps there is scarcely another individual in Lower Canada who has played, from time to time, so conspicuous a part in local politics as the very man who is supposed to have overlooked and influenced this very bill.

What are the Colonists to think of all this? They are very much puzzled to find out what was meant by the political battle fought in England last year, on this, to them, vital question of the Union. They care little about Whig or Tory, or political party in England; but there are men in the Colonies who pretend to local knowledge, who have some idea of the interests of the country in which they have spent the whole, or the best part of their lives, who are not legislators on a great scale, it is true, and perhaps judge more from the practical results of what they have seen, than from theory. These cannot comprehend, under the circumstances, what can be intended by conceding the principles of the Union. As a matter of plain common sense, one might imagine the theory to be, to unite these

two Provinces into one great country; to form part of the residence of the great Anglo-Saxon family, under one representative Government, having the same laws, speaking the same language, &c. &c. But I will quote one truism from Lord Durham's report,—“*It is not in America that men can be cheated by an unreal semblance, &c.*” The people of Lower Canada never have been asked. This implied consent is a unreal mockery. The consent of Upper Canada has been obtained under such extraordinary circumstances as I have described. The theory I have mentioned may be all very well for theorists, but to the plain man, anxious “to go a-head,” but not to join the great Anglo-Saxon family, as a part of the United States, it is palpably evident, that practically to attempt to carry out such a theory, bears utter absurdity in the face of it, as totally inapplicable to a country containing a population of 1,100,000, scattered over a frontier of 1200 miles, 45 millions of acres, and open at all points.

I am, &c.,

B.

Nice, 21st June, 1840.

LETTER IV.

SIR,

THE debate in Parliament, referred to in my last, has rendered it almost unnecessary to dwell on the subject of clauses 57 to 62 of the bill, which, in fact, create a sort of double power, an indescribable kind of thing, by which two distinct and authorised Legislatures may resort to direct taxation—the one by the usual constitutional means; the other, to an unlimited extent, according to their own good will and pleasure, with no other check than the Governor. This appears to be defended on no other ground than that Mr. Justice Stuart thought it practicable, and because Upper Canada expressed an opinion that they thought it expedient to introduce into Lower Canada a system of municipal government on the same principle as that which was established in Upper Canada. So says Lord John Russell; but the address from Upper Canada likewise says, “as a matter of *justice* to your Majesty’s subjects in Upper Canada, we earnestly and confidently appeal to your Majesty to admit their right to have the seat of the provincial government established within this province” (Upper Canada). Is this to be done? They say—“We trust that a sufficient qualification of real estate will be required from any person holding a seat in the Legislature.” Is this to be done, as to the Legislative Council? They say,—“No time, in our humble opinion, should be lost in the establishment and vigorous prosecution of a well organised system of emigration.” Is this to be done? They say,—“The system of municipal government established by the Provincial Legislature, after repeated and careful revision, *has in its operation proved highly beneficial to the people.*” And I would ask, is it possible to imagine any

reasonable grounds why the system adopted as suitable to the country, and, in practice, *found in its operation to prove highly satisfactory,*" is to be superseded by the erection of a kind of non-descript petty power, or rather five and twenty petty governments, with more arbitrary power than the Legislative Government of the country? If the new Legislature is to have an "*English, if not a British*" majority, is there any plausible reason why the Legislature should not be allowed to judge of what is best for the wants of the country? Is it not the intention of the British Government to permit these colonies to regulate their internal affairs by their own Legislature? Or, to put a plain, but very important question, is it possible that the meaning of the 62d clause can be, by a side wind, to sacrifice the seigneurs of Lower Canada as a concession to their political opponents? This may not be the intention of England. I trust it is not so; or the language of Sir Robert Peel, with regard to the public functionaries in Canada, might be justly applied to the adoption of such means. I am by no means sure, however, that it is not the intention of party men in Canada, as no provision is made for the safety of such property, but absolute power given to erect townships, which may supersede the seigneurial rights. I would, moreover, ask, is it prudent at such a moment to set aside the system which is found to answer in Upper Canada, on the bare report of a mere theorist, who had only been five or six weeks in the country, whose report itself, as Mr. Ellice very justly remarks, went to show that a better system of local government can scarcely be found than what at present exists; or having such a system in operation, can it be for a moment supposed that Upper Canada desired anything more than its extension to Lower Canada, unless, perhaps, to secure a full share of the revenue? On the contrary, if an English majority is not found to exist, our neighbours of the United States are keen observers; and I shall quote from the *New York Gazette* sufficient to show that it will be unnecessary to make the experiment of such new plans of legislation—"The Governor-General of the Canadas appears to be acting under specific instructions from the Go-

vernment ; but there is nothing unneighbourly, we suppose, in prophesying that the British Government will have very little further trouble in defending their North American provinces *after the Union of the two Canadas*, as proposed. This is none of our business, except in so far as it involves us in the risk of being importuned to take these colonies into our own co-partnership."

I do not mean at all to detract from the merits of Captain Pringle, I merely judge of the facts as they stand apparent. He does not attempt to deny that the institutions of Upper Canada are good, and he may have experience as to other parts of the world ; but Lord Liverpool wisely said, in a debate on this subject :—" It is a mistake to suppose that what is excellent in itself, is excellent for all times, all climates, and all conditions of society. The peculiar wants and special circumstances of a country must be looked at if you wish to do a lasting good." It is at least highly improbable, and nearly impossible, for a residence of five or six weeks to enable any man fairly to judge of the "peculiar wants and special circumstances" of a country, and to form an entire new system suitable to its wants, and preferable to what has been already found to answer admirably well. It is understood that, for the purposes of these District Councils, Lower Canada would be divided into twenty-five districts—the boundaries of which districts, "the number of councillors which shall be for every district, and the qualification necessary for councillors, are all to be arbitrarily settled by the Governor, and a Warden to be appointed by the Governor to preside over each district." These Councils are to have almost unlimited power of direct taxation ; in short, a government within a government is raised up, as if on purpose to oppose each other—the Council which has nominally the lesser power having, in fact, more arbitrary power than the Assembly and Legislative Council. Lower Canada is to be divided as if a large village ! but of these districts many will be equal to *large* principalities.

As to the tax of 3d. an acre, it will prove confiscation ; and not only so, but it would never answer the intended purpose.

Those who know the country well—the wilderness, the townships, and the seigneuries—according to Lord Howick's liberal ideas, may not be the proper persons to give an opinion, in case they should be interested. But let Government employ an individual ignorant of the subject—a person well acquainted with prison discipline in the West Indies, for instance—and, with the aid of a map and a compass, he will probably find out the country, and, in five or six weeks, by his wisdom, upset the present institutions, and point out what is proper to be done! But those also who do know something of the peculiar wants and special circumstances of the country may perhaps be permitted to remark, that the more the subject is examined, the more the conviction will be forced on the minds of men of plain common sense, that one fixed system of emigration and settlement cannot be adopted as applicable to all the colonies. The peculiar wants and special circumstances of each must be looked to. What is suitable to, and found excellent for Australia, may be utterly unfit, and found execrable in Canada.

The theory to force up the price of land by the application of some stringent power, "*if there should occur a difficulty on the part of the capitalist to obtain labourers,*" &c. (so says Mr. Wakefield) is more theory as to Canada, and I am not about to dispute a theory, but merely to assert that it is not only inapplicable to the country, but cannot be attempted to be carried into effect without the most disastrous results. I believe one of the great advantages held out in a late publication, to settlers in New Zealand, is "that for many years to come, more agricultural produce than New Zealand is likely to produce, will be required by New South Wales," and this at once establishes the essential difference; Canada being an agricultural country, possessed of as much fine land in proportion as can be found in almost any country, while, on the contrary, New South Wales and Australia depend on foreign importation; and, being grazing countries, the man who cannot purchase stock, as well as land, must labour. He is at the end of his tether there; he must labour or starve. But in

Canada, circumstances are entirely different. During the years 1832,-33, and 34 there arrived 104,433 emigrants, of whom a very great proportion indeed were labourers, or small farmers, with a little money; yet many of them settled in the townships in Lower Canada. To induce them to do so, great facilities and easy terms were given by parties at Quebec. The Land Company's lands too, in the same quarter, are sold at from 4s. to 10s. an acre. Of the former price one-fourth, and of the latter one-fifth cash, is required, and the balance in six annual payments. A considerable number, moreover, went to Upper Canada, and some settled in the seigneuries; and let me here state a fact, that of this class of men who settle in the seigneuries, the great complaint seems not to be the seigneurial tenure otherwise, *but the annual rent*, although that rent is generally about 1d. per acre. Now, supposing the new plan had been adopted already—the minimum price of land fixed at 8s. 6d.—these new District Councils in operation, and 3d. an acre tax on wild land—I ask any man, practically acquainted with the subject, what the effect would have been? It may be all very fine *in theory*, that a man must become a labourer, if not sufficiently rich to purchase 100 acres of land at 8s. or 10s. an acre, and stock a farm. Mr. Wakefield may lay down a plan for an aristocracy of land-owners, in place of small farmers residing on their own lots: and Captain Pringle a theory of new institutions and taxations; but neither the one nor the other can alter local circumstances, or bar the outlet along the frontier.

Few men come to America, unless perhaps absolute paupers, without a certain feeling and expectation to become independent; few will work as labourers, if they have the power to acquire 100 acres of land, which appears to them independence; and so far has this feeling been carried, that, within a moderate distance of the towns in Lower Canada, may be found a very useful and industrious set of small land-owners, who having acquired such lots as I have mentioned, in a township, on easy terms of payment, or a grant from a seigneur free of expense of purchase, except the cost of survey, and who by

working in the towns and harbours in summer, and occupying their lands in winter when work could not be had, have acquired independence, and live on their own property. But if the price of land be run up, under the idea of preventing such emigrants from obtaining a settlement until they are more wealthy; in short, to speculate on increasing the grade of settlers and number of labourers, without decreasing the wages of labour, and thus sending this class into the United States, the whole is an utter and entire fallacy, and evidently must continue so while the American boundary lines are at so short a distance, and beyond which the wages of labour are higher, and the government price of land is 1½ dollar, in place of about two dollars, as proposed to be established under the new system in Lower Canada. It will be found that, when all along the frontier higher wages can be obtained in the United States than in Canada; when in Upper Canada a tax of one eighth of a penny caused the sale, by the sheriff, for a few pence per acre, of a large quantity of land, and when three pence an acre is proposed to be laid on lands in Lower Canada, that it will be equal to general confiscation, and to the ruin and removal of the class of settlers I have mentioned as established in small possessions by their own industry.

It does not appear that any energetic means of encouragement have been taken, in accordance with the demands of Upper Canada; but it is true emigration may be made to flow into Lower Canada. There, however, it certainly will not stop: it will continue on through Canada into the United States; no inducement is held out to the capitalist or rich settler, unless that of becoming a land speculator at sheriffs' sales, and being within the British territory; while those settlers of small means will be ruined, and the new arrivals of the same class be forced into the United States. Such, there is every reason to fear, will be the consequence of this delusive abstract theory, if applied to Lower Canada; and it is equally to be feared, that those new district councils, and taxation, so badly adapted for a country in the state of Lower Canada at present, will in very many, indeed in most cases, be made the foundation of party

dispute, and rank jobbery! Yet I do not contend against the propriety of certain local arrangements for the purpose of opening communication by roads, &c., the extent and nature of which can be best judged of by the Provincial Legislature, and the great lines of public road being in the first instance opened, and put in thorough repair, at the public expense. In my next I shall finish the subject of the Bill.

I am, &c.,

B.

Nice, June 23, 1840.

LETTER V.

SIR,

SINCE my last letter, I have learned with much satisfaction of the whole of the clauses of the bill on the subject of District Councils having been expunged; and I will, therefore, confine myself to a few remarks on the settlement of the country and emigration, which I find it a very difficult matter to do in so limited a space.

Lord Durham's report says, "*all the gentlemen whose evidence I have last quoted, are warm advocates of a systematic emigration,*" and remarks, "I am satisfied that the chief value of the Colonies to the mother country *consists in their presenting a field where millions even, &c. ;*" and as one of the implied, if not precisely exacted conditions by which the consent of Upper Canada was obtained to a union, is "*the establishment and vigorous prosecution of a well-organised system of emigration,*" surely I am justified in supposing it impossible to doubt, but that if the British Government force on these Colonies so very precarious a measure as the Union proposed in the present bill; a measure, at best, of which the probable result is acknowledged to be doubtful even by Her Majesty's Secretary for the Colonies, that, on the other hand, "*a vigorous system of emigration will be established,*" such as demanded by Canada, and such as has been recommended by every Governor, Lieut.-Governor, Grievance Commissioner, Land Commissioner, Emigrant Commissioner, Crown Land Commissioner, and all classes and kinds of Commissioners and Deputy-Commissioners, and public functionaries, great and small, from the Lord High Commissioner down to the Theoretical Commissioner, whose views have found such favour with her Majesty's Go-

vernment, but are thrown away upon the ungrateful Colonists, who are supposed to be entirely ignorant of their own interests, and perhaps, therefore, do not appreciate the theory which, it appears, is to supersede all its predecessors, and founded on the result of five or six weeks residence in the country. One thing they are all agreed in, and I verily believe only one, and that is, to carry out a "*vigorous system of emigration.*" But, supposing this matter of common justice to be extended to Canada, what description of emigrants are to be encouraged, and what is to be done with them when they get there? In the appendix B to Lord Durham's report, I find my opinion entirely borne out by the assertion,—“ In respect to the price of public land, legislation for the North American Colonies *must necessarily be governed by the United States.* In their immediate neighbourhood it would be impossible to adopt the leading principle on which the Colony of Australia has been founded. *One might as well attempt to maintain in the British Colonies a totally different currency from that which prevails in the American Union.*” Now will it be believed possible, such is the danger of writing up to a theory preconceived, that although it is stated that the price of the Government lands in the United States is 1½ dollars, almost in the same breath it is recommended that the price of land in Lower Canada shall be fixed at 2 dols. an acre, and yet the only reason given for this palpable inconsistency, is “ *being satisfied that the price of land required by the American Government is too low, and that a somewhat higher price would not induce British emigrants to prefer a foreign country.*” We are further told that “ the proprietors of the wild land would be compelled to pay the tax for many years before they could reap any great advantage from its application.” But I must do the report the justice to say, that it does not fall into the error so evident in this bill, but recommends that “ *it would be expedient that all proprietors of wild land should be allowed to pay the tax in land.*” The “ *somewhat higher price,*” however, here meant, is a difference of 3s. 9d. an acre, being upwards of 50 per cent. advance on the Government price of lands in the United States; and it

seems utterly to be forgotten that the very head and front of the report is, our being to be united in one great Anglo-Saxon family, and that Canada is to be rendered "*English, if not British.*"

I am tempted to quote what the report says, on the authority of a gentleman stated to be, and I believe who is, the very best authority in Lower Canada, and who gave it as his opinion that the practice of selling wild land to recover the unpaid tax "*is a most unjust one to individuals, and injurious to the public ;*" and also that the price of land is in some places too high, and in others too low. "On the Ottawa, in particular, it is *too high in reference to the means of the settlers.*" But it appears ~~we~~ are to have no more settlers of this class! The same report, appendix B, says, even at that price (10s.) there is great reason to fear that "labouring emigrants may be induced to become purchasers before they have either *the capital or knowledge* to qualify them." Now, I apprehend there is no great danger of any great number of labouring emigrants proving troublesome in this way, under the new system, as they must be a different class than hitherto, or the payment of ten shillings an acre for 150 acres of land, with fees, &c., will stop them to a certainty : and such is the quantity of land fixed as sufficient for such persons by the Surveyor-General of Nova Scotia. Now, I would much like to know by what process the labouring emigrant is to acquire capital and knowledge sufficient? He is well paid in summer, it is true, but it might be well for these theoretical gentlemen to know, that the duration of summer in Lower Canada may be said to be nearer to five than to six months ; but I shall say from May to November, and I tell them that in practice many such men, with the prospect of independence before them, use the utmost economy, lay in provisions, live in their log house, cut down timber, and do every thing that can be done during a severe winter, and the moment the spring will permit, make the necessary preparations, and again go to work, until they have sufficient land cleared, and their independence secured. In the Grievance Commissioners' report, Sir G. Grey says that the price in the

United States of 1½ dollars “*would be too high for the less genial climate of Canada,*” &c. ; and a gentleman of the army, employed by Sir John Colborne to survey some of the eastern townships in Lower Canada, says, “that the people in Vermont would prefer the Colonial Government, being very sensible of the benefit from *its not requiring them to pay taxes.*” And again, “There are a considerable number of American citizens who are desirous of becoming *British subjects, to escape local taxation.*”

Surely this is a very different state of matters from the inflated view of the comparative merits of the Colonies and of the United States, founded on appearances along the line, as seen through a spy-glass, or from hearsay evidence, which might just as well have been taken in Downing Street, and certainly quite as impartially, considering some of the sources from which it flowed, as at Niagara or Quebec.

I cannot help here remarking on the unfairness of comparing Upper Canada with Illinois State ; the latter a part of the United States, joined to the mother country, with a population equal to England, while the former is shut up half the year, unless by going through the heart of a foreign country, and at many thousand miles distance ; but, notwithstanding the banditti on her frontier, during the last two or three years, Upper Canada will stand the test of comparison with any other country nearly similarly situated. Much I have quoted tells powerfully against a land tax ; and although the report itself approves of such, it at the same time argues that such a tax must be vested in some central authority, because “lines of road selected by two neighbouring districts, each having exclusive reference to the present state, or what was supposed to be the individual interests of that district, *might possibly be such as could not be made to coincide ;*” and this, one would have thought, might have been considered a death-blow to these nondescript district councils, and is amply confirmatory of what I have said, that no *such* institutions will work well in Lower Canada, unless the great main routes be opened up at the public expense. That once done, from the proceeds, if you

will, of the sales of Government wild lands and of timber, then indeed local and district arrangements may be advantageously made, and I dare say, will be found highly beneficial ; the great roads will be kept up, and district roads made according to the real wants of the country.*

As the part of the bill, with regard to district councils, is done away with, I shall merely remark, that to those acquainted with the actual state of the country, it is self-evident that the working of such a system would have been in a very great degree liable to the above inconvenience, as where very large tracts of country, inhabited perhaps by a dozen families, or even several entire townships, not possessing any thing near to a population sufficient to give them a representative, must unavoidably have been joined to more populous tracts, it is natural to conclude that the more dense the population *in part* of a district, the greater the chance of local influence and local interests being brought to bear in favour of what appeared the interests of that particular part of the district. Many of those persons who are in favour of the institutions of Upper Canada, consider the selling of wild lands in that country to realise the 1-8th of a penny tax, as an unjust practice ; and if such a limited tax produced such a result in Upper Canada, the inevitable consequence of the proposed tax in Lower Canada would be general confiscation. The opinion of the late Chief Justice of *Lower Canada*, the value of which will be duly appreciated by those who knew the man, appears conclusive as to the injustice of such a measure ; he says, "*a fine is a penalty for some individual misconduct, but a general tax, if a fine, would operate as a general punishment, instead of being confined to those who may have merited it.*" The greatest drawback to the settlement of the country is "*the want of roads, which they*

* A late publication, speaking of the United States, says : " Although the *great roads*, extending through the whole of the Union, are in the hands of the *Federal Government*, and the States Governments take up the improvement on an extensive scale in the States themselves, the townships, knowing exactly what they require, tax themselves for minor advantages."

(the proprietors,) *could not make without taking upon themselves the burden and expense of making roads not only through their own lots, but also through the crown and clergy reserves.*" And "it appears to me that the neglect to cultivate, on the part of the owner of the land, has been produced as much by the conduct of the Government itself, by having persisted in grants according to the checkered diagram," &c. Now this in fact is the plain truth, plainly told by a man who, with honour to himself and advantage to the country, held for very many years the highest judicial authority in Lower Canada, and which declining years, a short time back, induced him to relinquish.

It is utterly useless to dwell on the subject. Several large tracts of country and entire townships, except the crown and clergy reserves therein, have been granted to militia officers and soldiers, military officers, public functionaries, and others; and this may have been improvidently done by the Government, but the lands are held *with as perfect faith in the right or title as any uncultivated lands in England, Scotland, or Ireland*; and it clearly would not be fair or just to subject lands so held to a fine, indeed to confiscation, which the proposed tax virtually would be.

Some vague idea seems to prevail, that it is all very right and proper to compel persons who hold large blocks of land to cultivate or sell. Now, I will suppose a person possessed of a whole township of 60,000 acres even, within Lower Canada, but on the American line, where every possible means was taken, until within these few years, to prevent settlement. It seems very difficult to find any plausible excuse, why this person should have his lands rendered liable to fine for not doing what it has been the object of Government to prevent his doing, or why he is more liable to a fine for the non-cultivation of his own property, than any landed proprietor in Ireland, Scotland, or England. I will admit that an evil does exist of the intervention of large blocks of uncultivated land; but this evil would be in a very great degree done away with by the opening of the main routes, as I have pointed out; and as this evil has been certainly created by the Government, therefore

the Government ought to be the more cautious in inflicting a penalty, in place of such local taxation as may be found necessary and useful in the present state of different districts of the country, and which clearly can be best judged of *in the country*; but a direct tax of 1d. an acre would produce frightful confusion and confiscation. And if by a tax of 2d. or 3d. an acre it is meant to make a clean sweep, the injustice of the measure will cure itself, although, in the first place, more than half the country will pass through the Sheriff's hands. I must admit that, in all human probability, it would be purchased by land speculators at prices so low, that they will be enabled to hold over for a few years, to take the chances of what the union bill will produce, if persevered in, and the probability of the *Government* price of land being fixed at 1½ dollars an acre, within a very short space of time.

I will conclude by a few remarks on the seigniorial tenure, as to which, perhaps, as much misrepresentation has taken place as on any other subject whatever, arising, in a great degree, from ignorance and prejudice. The greatest fault at present found with the tenure is its being French! and I confess if one race is to be considered hostile merely because it is French, I see no reason why a tenure may not with *equal justice* be condemned on the same ground. *Sir James Kempt, Governor of the Canadas, said of the French Canadians, "They are a loyal and an excellent people, and appear to me to repose every proper confidence in the justice of her Majesty's Government."* "With the very best disposition, *unable for the most part to read, they are liable to great misapprehension,*" &c. &c. In ordinary times, Sir James Kempt is a man whose opinion might have some weight, but now a-days this goes for nothing; and I presume that of the Grievance Commissioners of 1837, including the Governor-General Lord Gosford, will now, in 1840, have equal consideration and weight as to the tenure of land, of which they say, "*The modes of conveyance under the French customs are simple, expeditious, and cheap.*" "We may also state that the French rules of descent *are much preferred to the law of primogeniture by the people, of all origins, on this continent;*"

and they go on to state, that the advantages of the feudal tenure, as well adapted to the settlement of a new country, "*were strongly insisted on by persons of weight and consideration in the province, who appeared before a committee,*" &c.

The seigneuries are large tracts of land, generally having a point on the river St. Lawrence, granted by the Kings of France to the nobles ; to persons having claims on the Government, or for the purposes of hospitals and religious houses ; and it is disputed among lawyers whether, by two old French ordinances or *arrets* of the French King, of 1711 and 1732, the holders of these seigneuries, or a certain class of them, for they are differently held, were rendered liable to the obligation to concede land on the *taux ordinaire*, or customary rate. But, in practice, the *censitaire*, or tenant, obtains a grant from the seigneur *in perpetuity*, liable to about a penny an acre annual rent, and to *Lods et Vents*, being a fine of one-twelfth part on each mutation, by sale of the property, as the tenant, in fact, is the proprietor ; but, in case he sells the property, the purchaser must pay one-twelfth ere he can obtain a legal title by the concurrence of the seigneur. The tenant or *censitaire*, if a Roman Catholic, is liable to a twenty-sixth as tithe ; but if a Protestant, such is *not* exacted, and if ever it could have been so, the right has become extinct.

I cannot help thinking that, to any impartial unprejudiced man, it must be palpably evident, that as the only payment required of a settler on a seigneurie, previous to his being put in possession, is the expense of survey, and a mere trifle for a deed of concession, a new settler who requires 150 acres of land, already pointed out to be the necessary quantity, and to acquire which, on the new system, in a township, at the price recommended, of 10s. an acre, must have, in the first place, £75, and in the next, all the vexation and expense of delay and uncertainty, with fees and expense of survey—say equal to £20 more—that is £95 for actual outlay, to purchase his land, without laying in any necessary to enable him to occupy. A settler on 150 acres in a seigneurie requires precisely £95 less money to set himself down with his family than the same man and his family

require, or rather *will require*, on township lands, under the new system! These are stubborn, plain facts, not to be got rid of, unless by the assertion that such men ought not to be allowed to become settlers—that such men are without “either the capital or knowledge requisite.” This may be the theory, but experience has proved, in the various settlements in the seigneuries, how much may be done with little capital; and I would like very much to know what the capital of the American squatter amounts to? Hundreds of those are to be found in the eastern townships in possession of improved farms, and thousands and tens of thousands in their own back woods.

Mr. Astle, in his evidence before the Emigration Committee, says he had taken out emigrants, and had conversed with great numbers—that when the winter comes on at Quebec employment ceases, but that the lowest Irish peasantry would make their way, if their passage were paid, and five pounds given them on landing, “*particularly if the first emigration possessed sufficient capital to locate themselves.*” But if we are not to have any more of this description of settlers, or of the small farmer from Scotland and Ireland, there is an end of the argument. It must, however, be perfectly understood, *that for the price which the new system will require to be actually paid down for land, survey, &c., the settler could with his family sit comfortably down, having his cows, and his house, and a few acres of land cleared, on a seigneurie.* This has been done to a considerable extent, and no doubt would be done to a much larger extent, so soon as those unfortunate differences have had time to calm down; and capitalists under a settled state of things induce the more rapid improvement of the seigneuries, many of which have become the property of persons of British birth or descent, who consider Canada as their home. But if a settler must have not only so large a sum as £95 to purchase land, pay expenses, &c., but also have nearly an equal sum to enable him to sit down on it, it seems quite clear that the labourer and small farmer, with a small sum in his pocket, had much better go on, and, in fact, they will go on, into the United States. But party violence has been at work; a dis-

pute about the seignery of Montreal has very much augmented this feeling. The tenure has been magnified into—I do not know what!—most grossly and absurdly misrepresented; and the ignorance on this subject certainly is incredible. Under such circumstances, I am sorry to find that, in the proposed bill, the rights of the seigneurs are not protected by at least such a precautionary measure as the 25th clause of the bill. If the French are to be treated as entirely a disloyal race, and their rights as well as their prejudices trampled under foot, in spite of the high authorities I have mentioned, it is only according to “human nature” to expect they must be kept under by force! The settlement of the seigneuries will be thus effectually prevented, as you may call them new townships, or any thing else you please; but settlers in a new country cannot be forced into contact with what will be rendered by this bill a population of political enemies.

The truth is, the difficulty has arisen, not from any fault of the feudal tenure, but from the Acts of Parliament throwing things into confusion, by meddling, precisely in the same way as about these District Councils, with what had much better have been done by the Colonial Legislature. By an Act of 1774, English law on several points was established; but, in fact, the English law of descent was so much disliked, that generally the French law had prevailed, until, by the Tenures Act of 1826, under which the mistake was made of rendering all property which might be changed from seigneurial into free and common socage tenure, then to become liable to English law; and as by the same Tenures Act the power is given, on certain terms, to so change the tenure in practice, the whole country may be divided into patches, liable to different laws of succession, division, and alienation; and notwithstanding that the French rules of descent and conveyance, as appears by the evidence of the Commissioners’ report, are preferred by every body, such is prejudice and ignorance, that for all this the seigneurial tenure is blamed.

In the seigneuries, the main roads are already established, and the proprietors are obliged to keep them in proper repair

through their own ground ; and, on complaint of the Grand Voyer, or of an individual to the Grand Voyer, this is enforced, and there is no intervention of Crown and Clergy reserves to obstruct settlement ; but it would appear that in the townships a tax of 2d. or 3d. an acre is to be laid on the settler, to compel him not only to pay for the improvement of his own land, but to make the roads through the Crown and Clergy reserves also.

I have thought it unnecessary to enter further into the manner of holding of the seigneur, or of the Crown by the seigneur, some of which are free gifts, liable to *foi et hommage*, when required—some are liable to a “grant” on each mutation of the seigneurie ; and I shall now conclude by an extract from the Report to the House of Commons, of 1837, by Lord Gosford, sent out as Governor, and others sent out on purpose to examine into the true state of the country, and who, after much pains, and much longer residence than any of those Commissioners who have since been sent out, state that, as to “a Legislative Union of the two provinces of Upper and Lower Canada, without entering into any discussion of it, we would only observe, that this is a question which *ought not to be entertained except with a general prevalence of opinion in its favour in both provinces.*” That this prevalence of opinion does not exist is but too evident, were it only from Lower Canada not having been consulted, and the mode adopted to make the implied consent of that part of the country appear ; while the virtually conditional consent of Upper Canada has been purchased as I have explained. It is undeniable that this bill, so far from being supported by any general opinion in its favour, is regarded by its greatest supporters with a feeling of great doubt, and dread of the consequences. Now, even her Majesty’s Colonial Minister is made to say, that it was rather from other reasons than from a belief “*that the Union was free from danger*, that he had been led to prefer the measure of an Union.” In short, this bill is a mere make-shift measure of expediency. Lower Canada has not been consulted : Upper Canada has been cajoled into a mistake. Parties in England have got so entangled by their own party divisions on this

question, that they dare not look the matter in the face, on its merits as it stands; and the only remaining hope for the Canadas as a British colony is in the House of Lords. If they are unfortunately deceived by the misrepresentations as to the state of parties and of feeling in Upper and Lower Canada, then indeed the country may become incorporated as a part of the great Anglo-Saxon family, but not as a British colony. I had intended now to take leave of the subject, but shall add a short letter on what might be done.

I am, &c.

B.

Nice, 29th June, 1840.

I find I have under-rated the extent of settled frontier. The distances I now quote from a document lately published:—

| | Miles. |
|---|--------|
| From Goderich, U.C., to Sandwich, and from thence to Toronto (York), - - - - - | 452 |
| From Toronto, (York,) U.C., to Kingston, 177, and Cornwall, 117, - - - - - | 294 |
| From Cornwall to Montreal, L.C., 82, and Quebec, 180, - - | 262 |
| From Quebec to Gaspé—say 600 or 700, - - - - - | 600 |
| Frontier—Total, - - - | 1608 |
| Not including Upper Canada above Goderich. | |

LETTER VI.

WHAT IS TO BE DONE ?

SIR,

IN my last, I brought my subject to a close. It is enough for others to point out the evil consequences of proposed measures, without intruding their ideas or plans ; and the great question of—What is to be done ? it is for her Majesty's Government to solve. But perhaps people may be permitted to express their anxious wish on the question so very important to the colony, and how grieved they would be to see any fresh batches of Commissioners sent out. Lord Durham failed to gain the confidence of the Canadians, from circumstances of which perhaps his Lordship is even yet unaware. They were then distrustful, and they are now more so, and no man, or set of men, by residing in the country for a few months in the midst of party violence, can fairly judge of a people ; and each new set of Commissioners, having of course the entire confidence of her Majesty's Government, seem to set about cutting and carving into piecemeal the fruits of their predecessors' research, who had also the entire confidence of her Majesty's Government. It now would appear that all this accumulation of wisdom is to be thrown to the winds, and that things are likely to end precisely where they began, by adopting the Union Bill rejected in 1822, and since abandoned by some of its most vehement and able supporters. Enough is known of the country ; sufficient information is in the hands of the Government, or at least as much information as can be obtained by such means. But to come to a just conclusion, it is necessary to discard all party influence in Canada ; all speechifying and

party coquetting in the House of Commons; and calmly and deliberately to weigh all the circumstances of 1810, and of the different epochs subsequently, that have given political consequence to parties in Upper and in Lower Canada; not forgetting to give due consideration and weight to reasons which have induced influential men, well acquainted with the country, (such as Mr. Ellice,) the most warm supporters of the Union of 1822, now to have changed their opinion. It is impossible to hit on a more dangerous plan than the proposed Union; therefore, let no evil be done trusting that good may follow.

I shall now venture to quote the high authority of the Chief Justice of *Upper Canada*, viz., his 7th proposal—to leave the territorial arrangements of the two provinces as at present, and to construct a legislative body for the purpose of regulating trade and revenue, establishing a civil list, and improving the navigable waters common to both provinces, leaving to *Upper Canada* its legislature for other purposes, and restoring to “*Lower Canada* its former constitution, as soon as tranquillity shall be established;” and I would add, thus leave open the question of a *great federal Union of the British North American colonies*. Or, the 8th proposal of the same high authority, in substance, to restore to *Lower Canada* its legislature, and provide by Act of Parliament for the two provincial legislatures entering into arrangements in relation to trade and revenue, and the improvement of the navigation common to both; but when they do not concur, provide for a decision by Act of Parliament, on a reference through the Governor-General. Or, in preference to the proposed Bill, adopt something like the plan of one of the Commissioners, by dividing *Lower Canada* into several subordinate legislatures, with one central controlling one; and regulations as to *Upper Canada* may be adopted as in last proposal. Or, divide the provinces into three, (for which there is ample room, the inhabited frontier being 1608 miles in length,) with a controlling legislature on the subjects of revenue and navigation, &c. Or, even in preference to the present dangerous Bill, combine the 5th and 6th proposals of the Chief Justice, with what is concisely but

clearly expressed by Sir Francis Head, which is to make the north bank of the Ottawa the boundary of Lower Canada, giving the waters of the river, and the expenses of making them navigable, to Upper Canada; Lower Canada having free right to use them by paying the same tolls as the Upper Province.

The junction of Montreal to Upper Canada is liable to several weighty objections, but was a much-talked of plan, and only two years ago the Select Committee of the Legislative Council of Upper Canada stated in its report on the subject, "*that this would be an incalculable advantage to Upper Canada,*" while at the same time, their report stated, "*they cannot convince themselves that an Union with Lower Canada would be safe or desirable.*" If it be true that opinions have so rapidly changed in Upper Canada, and that an Union is now generally considered "*safe and desirable,*" is there any reason why the Lower provinces of Nova Scotia and New Brunswick should not as earnestly desire to enter a *great federal* Union of their provinces?

It appears that a combination of the provisions of the 7th and 8th proposals of the Chief Justice would answer every purpose, unless, indeed, it be intended to attempt to control more decidedly the French population by changing the face of things in Lower Canada, and which, in the case of the proposed Bill, would be attempted, it is admitted on all hands, at the imminent risk of having an anti-British majority, within twelvemonths, in the purposed joint legislature. The measure of *justice* dealt out would be much the same; and, as a matter of expediency, it would be infinitely more safe, to obtain the same end, with regard to the French population, by more direct and certain means; and not only so, but such would be less offensive than the proposed Bill, provided Lower Canada remain a separate Government; and, to meet this, the 7th and 8th proposals I have mentioned could be modified.

I am tempted to take leave of the subject by quoting a published letter of a person very intimately acquainted with Canada, lately, I believe, connected with the *Chronicle* newspaper. "All I wish to impress on those who have the patience

to read this letter through, is, that they must not mistake a few hundreds of desperate outcasts, headed by lawyers without clients, and doctors without patients, *for the people of Lower Canada!* Each Canadian has his own house, warm, substantial, and commodious; fuel for little more than his trouble of cutting it; his land and garden, (in which the tobacco, free from duty or excise, makes a conspicuous and luxuriant appearance,) rarely failing to yield a good crop; cattle according to the extent of his land, and his own taste; and, with rarely an exception, one or more stout little horses of the old Norman breed, with his two carriages, a cariole or sledge for winter, and the old-fashioned caleche for summer. I wish that those who cry out against the oppressed state and *discontented spirit of the French Canadians* could witness, as I have often done, the assembly at one of the *paroisses*, or parish churches, on a Sunday. Scores, I believe I may say hundreds, of these carriages, waiting, without coachman or footman it is true, but in perfect security, till the service is over; and then a pouring forth of cheerful and respectable-looking men, with their wives and children, all well and warmly clad, chiefly in clothes of their own manufacture, preparing to drive back to their respective homes; but not till they have made their respectful and affectionate farewell to their curé. Follow the course of the St. Lawrence, from its gulph up to the confines of the Upper province, (for Lower Canada is in truth little else than a belt of villages running along each bank of the river,) and say whether this picture be partial or overdrawn. All those who know the country will pronounce it to be universally and strictly true." I am one of those; I recognise the picture; I know the kind warm-hearted people, generally much attached to their clergy, whose *loyalty* and *good feeling* have been spoken of in the highest terms by the different Commissioners and Governors. A few of the people have been misled by designing men, but the mass are loyal; and from my heart I regret the painful circumstances under which they are placed, and I trust this sincere feeling will in some degree excuse any strong expression I may have inadvertently been

led into. It is melancholy to see the grievous effects produced by the efforts of a few demagogues, and the consequences that may, I fear, be about to be inflicted on this excellent peasantry, through misapprehension, misrepresentation, and party feeling. Alas, poor Jean Baptiste! is it possible? is your joyous spirit indeed to be thus quelled! your laws and customs no longer fostered by the British Government! your language to be changed in six months! your seigneuries to be turned over to the tender mercies of your political enemies! and your race—your Norman blood—scouted and considered a crime! But there is yet hope; there may be misapprehension; but I trust we have not arrived at an era when the British Government will permit the prejudices of race to influence even-handed justice—the right of every one of her Majesty's subjects—or adopt a measure fraught with tyranny and injustice, merely because they are at a loss what to do!

I am, &c.,

B.

Nice, July 7, 1840.

