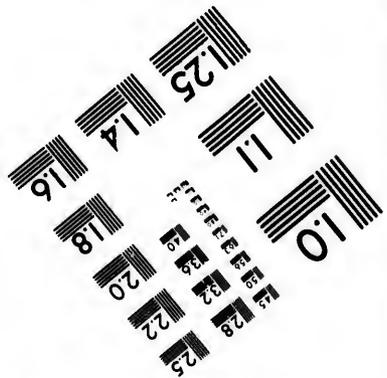
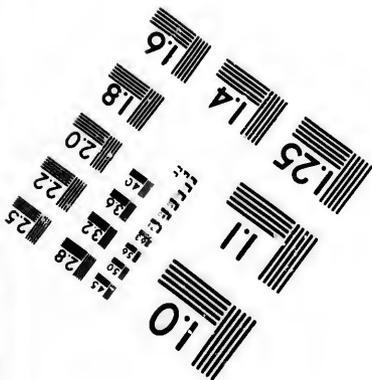
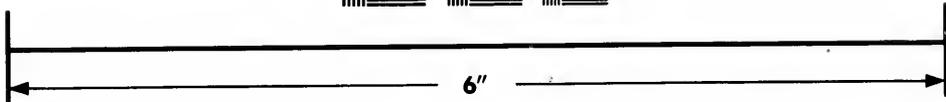
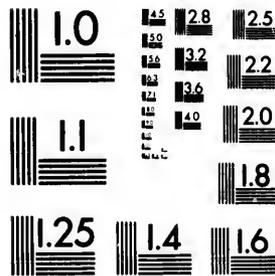


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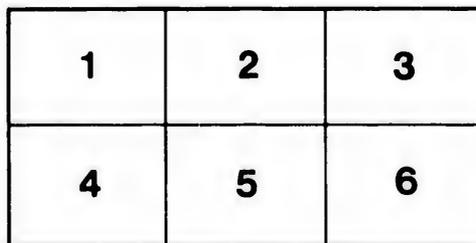
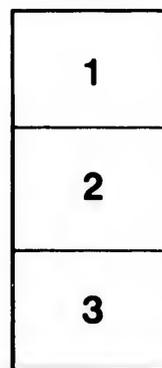
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A
BRIEF REVIEW
OF THAT SECTION OF THE REPORT
FROM THE
SELECT COMMITTEE
OF THE
HOUSE OF ASSEMBLY OF UPPER CANADA,
APPOINTED TO
REPORT ON THE STATE OF THE PROVINCE,
WHICH ADVERTS TO THE REPORT
OF THE EARL OF DURHAM.

BY THE EDITOR OF "THE EXAMINER."

TORONTO:
PRINTED AT THE EXAMINER OFFICE.
1839.

TO
THE RIGHT HONOURABLE
THE EARL OF DURHAM, G. C. B.
&c. &c. &c

This vindication of His Lordship from the charges brought against him on behalf of the "Family Compact" of Upper Canada, in a Report of a Select Committee of the House of Assembly, signed by C. A. Hagerman, Attorney General,—Henry Sherwood, Q. C., son of Judge Sherwood, and nephew of Judge Jones,—W. B. Robinson, brother of Chief Justice Robinson and Superintendent of the Welland Canal,—William Clisholm, a post-master, Collector of Customs & Colonel of Militia,—John Prince, a Colonel of Militia and late Commandant on the Western frontier,—J. A. H. Powell, Sheriff of the Bathurst District during pleasure,—R. Rollo Hunter, a Lieutenant Colonel of Militia,—is, on behalf of a grateful and admiring people, most respectfully inscribed by

His Lordship's most obedient

And very humble servant,

THE AUTHOR.

R E V I E W .

The favourable manner in which Lord Durham's masterly Report has been received in all parts of British America by the great majority of the people, and the manifest disinclination evinced by the organs of the Oligarchical Compact to enter on any discussion of the principles of government, the application of which to these Colonies, his Lordship has so strongly recommended, have hitherto rendered it unnecessary for the supporters of those principles to do more than give expression to the general admiration felt by the community. We feel warranted in asserting that no document has ever been promulgated in British America that has given such general satisfaction as this Report. Copious extracts have been published by nearly all the journals in the Canadas. Thousands of copies have been distributed in pamphlet form, and the demand instead of abating, is greater than ever.

Although public opinion has been thus clearly manifested in its favour, the baneful Compact, whose misdeeds have been so fully, so ably, and so eloquently exposed, have not yielded to the force of truth. They feel that if Lord Durham's views should be carried out by the Home Government, there will be an end to their influence and power, and they have accordingly spared no exertions to damage the political character of His Lordship and shake public confidence in his statements.

A select committee of the House of Assembly was appointed "on the State of the Province" at an early period of the late Session, on the motion of some of the Compact party, consisting with one exception, of members who have voted *in the minority* on all the leading questions which have come before Parliament. The chairman of this committee was Mr. Hagerman, Attorney General, and one of the principal joints of the Family Compact, and it is generally understood that the Report, which has been presented and of which 2000 copies were ordered to be printed, was drawn out by him, and although signed by all the members of the committee, we feel warranted in asserting that some of those gentlemen are dissatisfied with considerable portions of it.

In the first page of this Report, we find in large capitals, "UNANIMOUSLY ADOPTED," while the date at the conclusion is "Commons House of Assembly" instead of "Committee Room," a piece of chicanery which if perpetrated by a Reformer would have been the theme, and justly so, of all the Tory papers of the Province. We entertain not the slightest doubt that 9 out of every 10 who read this document, particularly in England, will suppose that it was adopted *by the House*, instead of by a *Select Committee* nominated by the Compact. The House of Assembly has not profited by the lesson, taught them in the case of the Grievance Report, that it is dangerous to order a large number of copies of a document to be printed of

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which they do not approve. The mere fact of printing is taken as a mark of approbation, and we shall find accordingly that this Report will be taken as the deliberate opinion of the House of Assembly of Upper Canada.

It has, we understand, been asserted in the House by one of the members of the committee, that the words "unanimously adopted" and the date "Commons House of Assembly" instead of "Committee Room" were inserted *by mistake*. How *two errors* of this description could be inserted by mistake in different parts of the document; and how Mr. Hagerman who we understand *corrected the proofs*, could avoid seeing them it is not for us to determine. We give it as our opinion, and we shall be supported in it by all who understand the character of the members of the Family Compact, that there was *no mistake* about the matter. Copies of the Report are already on the way to the leading journals of England, and it will be received as the unanimous opinion of the House of Assembly of Upper Canada.

The Report of the Select Committee is divided into two parts. The first is taken up with an account of the various incursions made into the Province from the United States, for which the Home Government is almost ordered to demand satisfaction from the American government; in other words Mr. Hagerman and his friends want to involve the two countries in war. The second part of the report is that in which the people of this Province are more particularly interested, and to that alone shall our attention be at present directed. It is in fact, a review of Lord Durham's Report.

It commences by informing us of the disappointment felt by the loyal population of the Province, i. e. the Compact, at the appointment of Lord Durham, and their further apprehensions when they heard the names of his Chief Secretary and other attaches. Finding however that there was *no remedy*, the compact determined to receive his Lordship with confidence, in the hope that he would fall into their hands, as his vain or weak predecessors had invariably done. We deem it unnecessary to notice the censure bestowed upon various acts of Lord Durham's administration, particularly his ordinances disposing of the political prisoners, because the *author of the Report*, and the leading members of his party expressed *their strongest confidence* in Lord Durham *after* all these acts had been committed, and we are therefore bound to believe that their present disapprobation is the result of disappointment at finding that his Lordship has escaped their snares and given a faithful account of the state of the Province.

Mr. Hagerman thinks that the statements of Lord Durham should be received with caution because his Lordship never resided in this Province, and paid only a twenty four hours visit to Toronto. Mr. Hagerman has perhaps forgotten that one of Lord Durham's first acts was to invite communications from all parties in the Canadas. The effect of this wise and statesman-like course was, that his Lordship received (as his Report

clearly proves) a mass of valuable information *from persons of all parties*, and as he had the means of ascertaining the character of every individual who addressed him, he ran little chance of being imposed upon.

The first exception which Mr. Hagerman takes to the Report is the division of parties in this Province into three classes.—Family Compact Canadians,—Reform Canadians,—and British emigrants. Mr. Hagerman should have recollected that the report divides the British party into two classes, Tory and Liberal. This is an important point, as a few months will prove to Mr. Hagerman's entire dissatisfaction.

In reviewing that part of the report which treats of the parties, Mr. Hagerman most disingenuously asserts that Lord Durham desired the Family Compact party to be put down to make way for the Reform party. This is untrue. Lord Durham has *not* advocated the *putting down* of any party; he *has* asserted the principle that the majority should influence the government, a principle which Mr. Hagerman knows full well is strictly British and constitutional.

Mr. Hagerman says "it is somewhat singular to find it represented that the Reformers of the Province complain of the existence or influence of a Family Compact composed of persons who are represented to be of the same origin with themselves." This may indeed be singular in Mr. Hagerman's opinion but it required his *unparalleled assurance* to deny a fact which is asserted by five out of seven Journals in the city of Toronto and by almost the entire press in other parts of the Province. But, says Mr. Hagerman, "the differences which have existed in the Province have proceeded from political disagreements that have unhappily grown up in this as in every other community." Does the "Report" deny this obvious truth? Most certainly not. It points out clearly that the compact party was devoted to the maintenance of the Episcopal Church, that the majority of the people was against them, and that the Reformers found that success at the elections insured them little practical benefit, because the official party not being removed when in the minority continued to influence the policy of the Government.

Mr. Hagerman will not find many persons to agree with him in the opinion that Lord Durham has designated "the great body of the people of the country as a compact." We are positively amazed at the impudent barefaced assertion in defiance of public opinion and of truth that the notorious "compact" has any pretension to represent "the great body of the people." Surely people will ask themselves this obvious question. If the "Compact" represent the great body of the people why are they afraid of responsible government?

The next portion of Mr. Hagerman's report is a denial of the truth of Lord Durham's assertion that there is a British party jealous of the Family Compact. Here again we are astonished at the assurance of the learned gentleman. The fact is *as well known to Mr. Hagerman* as is his own existence. To prove a negative, three members of the select committee who

have lately emigrated are instanced. The first is Col. Prince. Now every one familiar with Upper Canada politics knows that Col. Prince is actually a principal leader of the very British party described by Lord Durham. He is intimate with the very persons from whom Lord Durham derived his information and is forward on all occasions in denouncing the "Family Compact." The same remark applies, to a certain extent, to Col. Gowan. If the British party have made representations to Lord Durham which coming from men of high standing in society and unimpeached character he has given credence to, and if afterwards their leader have endorsed a document denying the truth of the very statements which his party have furnished, not on Lord Durham be the blame or the discredit, but on themselves. But we do not believe the British party will so act. Col. Prince has signed a lengthy document, on the state of the province part of which, that unconnected with Lord Durham's Report he probably approved, and which he had not much time to reflect on, but we feel assured that Col. Prince would never vote for *the adoption* of the report as a whole.

The next instance is Mr. Hunter. Now a more unfortunate case Mr. Hagerman could not have brought forward. Mr. Hunter is member for Oxford a strong Reform County. At the late election very few of the Reformers voted, and the contest was between two Tories. It turned on British and Canadian interest and we are credibly informed that Mr. Hunter has himself stated that he did not get 10 Canadian votes. Could a stronger proof be brought of the truth of Lord Durham's statement?

The allusion of Lord Durham to British emigrants being treated as Aliens refers evidently to the restraints on members of the legal and medical professions which Mr. Hagerman well knows have been *loudly complained of* and to evade which a special act has been passed in favour of one of the very parties alluded to in the report as a *reward for services rendered to the Province*. Now Lord Durham happened to think that such a privilege was Mr. Prince's *right* and ought not to have been given as a *reward* or compliment.

The long list given of British emigrants filling lucrative offices is no proof of Lord Durham's being in error more particularly as several of the parties named are known to entertain the greatest jealousy of the Compact, and have we doubt not expressed it to Lord Durham.

The next branch of Mr. Hagerman's document purports to be "a refutation of the opinions and statements of Lord Durham" who it is said obtained his information by means of "agents" who again acquired it from incompetent persons. Mr. Hagerman will hardly convince the people of Upper Canada that Lord Durham was the simpleton he would represent. We have indeed frequently heard expressions of astonishment at the extraordinary correctness of the information obtained by his Lordship and at the intimate knowledge of our affairs which

the Report displays. We shall proceed to notice Mr. Hagerman's refutation.

The first point seized upon is a statement in the Report that Sir Francis Head dismissed three Executive councillors to make way for three new ones. This certainly is an *inaccuracy*, but one which in no way affects the argument in the report. Previous to Sir F. Head's arrival two councillors Archdeacon Strachan and Chief Justice Robinson had withdrawn from the Council and their places had not been filled up when Sir F. Head arrived. Now Lord Durham naturally supposed that the Government had not been carried on *without a full council* and thus fell into the trifling mistake that Sir Francis had dismissed part of his Council to make way for the popular members whom he introduced. The allusion to this inaccuracy which even Mr. Hagerman has not pretended to be of any consequence shews the weakness of his cause.

The next charge of inaccuracy in the Report is as to the motives of the late Executive council for resigning. Mr. Hagerman on this point falsifies Lord Durham's argument, endeavouring to make it appear that his Lordship stated that the Council resigned in consequence of certain appointments.—Now Lord Durham's own language is:—"Sir Francis desired them to make a formal representation to him on the subject; they did so and this produced *such a reply from him, as left them no choice but to resign.*" The origin of the dispute between the Council and Sir Francis is given most accurately in the "Report," viz: "the new Council finding that their opinion was never asked on these or other matters remonstrated," &c. As to the accuracy of the statement that the obnoxious appointments by Sir Francis Head (Capt. Simcoe Macaulay and Col. Van Koughnet, which are those alluded to in the Report) were made *after* the appointment of the Council instead of *simultaneously*, it is a matter of no moment. The appointments were obnoxious to the Assembly, and they were disapproved of by the Council, and there cannot be a doubt that they materially assisted in causing the rupture. Lord Durham's account of the Council difficulty is, we assert, substantially correct.

The next inaccuracy charged is that relating to Mr. Hepburn's case. We are of course ignorant of the source whence Lord Durham got his information on this subject, but as the matter was never brought before the public, it must have been from some of the parties interested. Mr. Hagerman denies the truth of his Lordship's statements. We assert, on the contrary, that Lord Durham's account is true and Mr. Hagerman's false, and we challenge the latter to get Mr. Hepburne to sustain him.—Rumour tells strange tales of the indignation justly felt by Mr. Hepburne at Mr. Hagerman presuming to deny the truth of his case without sending for him to give information.

The next point seized upon by Mr. Hagerman, and really with a gravity that would lead one to suppose that he believed it of importance, is Lord Durham's allusion to the law preventing American citizens from holding land in the province.

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Lord Durham's object was to prove that as Americans were forbidden to hold land "it is of the more consequence that the country should be made as attractive as possible to the emigrating middle classes of Great Britain." Has Mr. Hagerman attempted to dispute the soundness of his Lordship's arguments? No! but with a puerility, utterly unbecoming in a statesman, he seizes upon the very slight inaccuracy of his Lordship "that a law had been passed immediately after the late war forbidding American citizens to hold land." Whilst we admit the inaccuracy we shall prove his Lordship to have been *substantially correct* in his statement. It is well known that under proclamations from Governors Simcoe and Gore, Americans were *invited into this Province* after its first settlement, and that it is owing to the exertions of these enterprising men, that the present emigrants are indebted for the great improvement of the country. Previous to the time alluded to by Lord Durham, the law, which Mr. Hagerman informs us, had always existed, "preventing foreigners from holding land, unless naturalised," was virtually a **DEAD LETTER**. Foreigners bought and sold land in the province at pleasure, and without obstruction. After the late war, however, at the time that Lord Durham thought that a bill had been passed, doubts were raised by the Family Compact Party in the province as to the right of these persons to their lands and other privileges although they had settled in the province on the faith of Royal proclamation. We need not enter into a history of the long contest which followed on the subject of the "Alien Bill," in which Chief Justice Robinson so eminently distinguished himself. A bill was finally passed in 1828, confirming to those American citizens, then in the province, their titles to property, and all other rights and privileges. To all new emigrants from the United States, the law against aliens has since remained in full force. It will clearly appear from the above remarks that Lord Durham's inaccuracy was only to this extent,—that he mistook the *revival* or *enforcement* of a law, heretofore a *dead letter*, for a new enactment, a most natural mistake for his Lordship to fall into, but one of not the slightest consequence to his argument.

It would be unprofitable on this occasion to discuss whether Lord Durham's doubts of the policy of excluding American citizens from the province are well-founded. We cannot, however, forbear to notice that but a very short time has elapsed since some of the members of the very Select Committee whose report is under consideration, were strenuous advocates for their admission. The encouragement of emigration from all quarters seems to be held by the Governments of all new countries, to be the soundest policy, and it is paying but a poor compliment to our system of government, that while our neighbours encourage emigrants from all countries to settle on their lands without any fear of their institutions being overturned, we are obliged to restrict ourselves to a class of emigrants whose prejudices will, we imagine, prevent them from being dissatisfied. It is, however, an egregious error to suppose that

the American population are more dissatisfied with *irresponsible Family Compact government*, than the settlers of British and Irish origin. It has been a very convenient watchword, ad captandum vulgus, that the Reformers are desirous of introducing Republican Institutions and effecting separation,—Emigrants of recent date are too apt to be deceived by the assertions of the "Compact" and are frequently induced to lend their aid to sustain an oligarchy who are in reality their bitterest enemies. After a few years residence in the country they begin to understand its politics, and to quote the words of Lord Durham "none are more hostile to them (the Family Compact) than the greater part of that large and spirited British born population &c." Were the principle of the British Constitution fairly acted upon in the government of Upper Canada, not only would there be no serious political discontent, but we firmly believe that so far from there being a necessity to exclude American emigrants, on political grounds, to our serious loss in a commercial point of view, it would be impossible to prevail on any considerable portion of the people, under any circumstances, to withdraw themselves from the protection of the greatest nation in the world. We are, however, wandering from our subject. Lord Durham's argument is not that foreign emigration should be encouraged, but that while it is excluded, the country should be made *as attractive as possible* to British emigrants. How can the British Emigrant read this sentiment of His Lordship, without feeling indignant at his slanderer Mr Hagerman, who declared a few days since, in his place in the House of Assembly, that he solemnly believed that the object of Lord Durham was to divert British emigration to the United States?

On the subject entitled "Policy towards the Catholics," Mr. Hagerman asserts that none are more fully aware than the Catholics themselves that "no invidious policy" has been acted upon towards them. Now what will the public think of Mr. Hagerman when they learn that he had documents in his possession, when he penned these words, proving that the Irish Catholics themselves *forced* upon Lord Durham's attention, the "invidious policy" exercised towards them. Mr. Hagerman would represent Lord Durham as endeavouring to "foment dissensions" by referring to the existence of Orangeism, although he knows perfectly well that this subject was brought before his Lordship, when in Toronto, by Bishop McDonnell and the leading Roman Catholics of the Province, and that as High Commissioner he was *bound in duty* to attend to the complaint.

The remarks on Lord Durham's contrast between Upper Canada and the United States evince any thing but a disposition to place a liberal construction on the motives of his Lordship. His Lordship noticed the contrast between the countries, which has been pointed out by almost every traveller, but he did so with the patriotic view of removing our disadvantages and enabling us to vie successfully with our neighbours. Mr. Hagerman will find it hard to convince his readers that because the United States has a population of Fifteen millions, *therefore*

the State of Michigan, or Illinois, or Indiana has advantages superior to us. The improvements alluded to, are carried on by each State independently on *its own credit*, and the money is obtained in England, where our debentures cannot be sold.—The unhandsome allusions made by Mr. Hagerman are but a poor return for Lord Durham's generous efforts to promote our public improvements. Equally unhandsome is the allusion to the recommendation of New York as a port of entry. It is well known that the Hon. W. Allan, and the Hon. R. Sullivan, and we believe Mr. Hagerman himself, joined nearly all the principal merchants of this city in recommending this project. It was brought under Lord Durham's notice and he is now censured for recommending, what all parties, Tories as well as Reformers concurred in demanding. Mr. Hagerman assumes that the effect of this arrangement would be to prevent our public works being supported. Such would not be the case. The St. Lawrence would still be the outlet for all heavy goods, and we should only obtain those commodities via New York, suited for the Spring trade, and which would arrive six weeks sooner by this route. The matter is only mentioned incidentally by Lord Durham, no argument in favour of his measures is founded on it, and he *had reason to suppose* that in bringing it under the consideration of her Majesty's Government, he was complying with the wishes of the very party who now basely endeavor to found on it an accusation against him. How Mr. Hagerman could deliberately make the assertion that the project would not "*receive countenance from any quarter*" after an expression from the Board of Trade of Toronto, from a public meeting of the inhabitants at which were two, if not more, of the present Executive Council, and which expression has never been publicly recalled, we are at a loss to imagine.

Lord Durham's allusion to the "carelessness and profusion" which marked the expenditure on the public works, has given great offence to Mr. Hagerman and his friends, and has been indignantly repelled as a "most unmerited and ungenerous insinuation." We cannot be surprised at this. One of the very cases alluded to by Lord Durham was, doubtless, that of Mr. W. B. Robinson, one of Mr. Hagerman's select committee on the Report. This gentleman was a Commissioner for expending a large sum of money, say £7,500, on the Welland Canal. His services were *not gratuitous*, as Mr. Hagerman insinuates. No proper account of the money was ever rendered. The vouchers were scandalous, in fact entirely inadmissible. *Crosses* without witnesses were produced as receipts for money. In one case a receipt of a man named Shore (a cross without a witness) was altered from £8 10s. to £18 10s. although the order for the money was for £8 10s. and the entry in the Secretary's book £8 10s. Credit was taken on this voucher, altered as it was, for £18 10s. and the matter *still remains unexplained*. The report of a select committee of the House of Assembly, signed by six members of the present House, charges Mr. Robinson with being *deficient about £300 in his ac-*

ount, which was principally composed of items for which he had taken credit twice over. The same report charges Mr. Robinson "with great dereliction of duty." Mr. Robinson and his friends would have found it more for the benefit of his character, if they had permitted Lord Durham's remarks on this subject to pass unnoticed.

It is unnecessary to allude to the subject of the disposal of the political prisoners. This matter has been already amply discussed, but we positively deny the truth of Mr. Hagerman's statement, that the community loudly demanded more numerous examples than those that were made. So far was this from being the case that the petitions in favour of Lount and Matthews were signed by great numbers even of the Tory party. Mr. Hagerman feels very acutely the allusion of Lord Durham to the execution of these unfortunate men, for which the learned gentleman feels that he is held by the public to be principally responsible. Exasperated at the implied censure on the Upper Canada government, contained in Lord Durham's remarks on this subject, Mr. Hagerman has been rash enough to deny their truth. Lord Durham asserted that these unfortunate men "engaged a great share of public sympathy; and that their pardon had been solicited in petitions signed, *it is generally asserted*, by no less than 20,000 of their countrymen." Mr. Hagerman in reply to this observation, asserts *positively* that "there were not 5,000 signatures appended to the petitions presented." On this assertion we shall make a few remarks. Lord Durham, it will be observed, merely states that "*it is generally asserted*" that the petitions were signed by upwards of 30,000 persons, in confirmation of which, it is only necessary to refer to the newspapers of the day, and to common report *never before* contradicted. When we saw Mr. Hagerman's report, we commenced enquiries upon the subject, and asked several parties who had taken an interest in the petitions what the number of signatures was; the answer of one was 10,000, and none stated less than 30,000. One gentleman stated, that he had seen a petition measuring 30 yards long in the possession of John Bell Esq. Barrister at Law, and referred us for further information to that gentleman, who had, he said, taken charge of all the petitions. We immediately called on Mr. Bell, and asked him if he recollected the number of signatures, to which he replied, that he thought there were about 38,000, but he could not be sure. One petition, he said, numbered 8,000. Another gentleman informed us, that there were about 10,000 signatures to the petition from the Gore District.

But we have *official* information on the subject. Sir George Arthur in his despatch to Lord Glenelg, states that *within three days petitions from not less than 8,000 persons* had been presented, so that the report drawn up by Mr. Hagerman contains a *gross misstatement* for which there is no excuse, as its author had every opportunity to ascertain the truth. Sir Geo. Arthur's despatch will prove to every dispassionate enquirer that the unfortunate individuals alluded to, "engaged a great

share of public sympathy," however, it may suit Mr. Hagerman's interest to deny it, and the petitions, no matter what the exact number of signatures may have been, certainly do not disprove its existence.

Mr. Hagerman has the assurance to deny that innocent persons were thrown into prison, that Reformers were subjected to suspicion, that the dominant party made use of the rebellion to disable their political opponents. On this point assertion may go against assertion. Our belief is that Mr. Hagerman's report is false and Lord Durham's strictly true, and with regard to the harrassing proceedings of Magistrates, we ourselves *heard Mr. Hagerman himself*, in the discussion on the militia bill, admit and lament these proceedings, and yet after this admission he has the assurance to call, with affected indignation, on Lord Durham for proof of the fact. Mr. Hagerman says, that he does not believe that any person of intelligence and character among Reformers will be found to sustain Lord Durham in the opinions expressed by him on this subject. We defy Mr. Hagerman to get any such Reformer to contradict his Lordship, meantime we shall furnish some evidence in his support.

We have now before us the Return laid before the British House of Commons of the names of the several persons *arrested* in Upper Canada for political offences, and we have also an official account of the number *convicted* either by trial or on petition. We find by these documents that 824 persons were arrested, and only 217 convicted. In the Midland District 75 persons were arrested. The Bills against 25 were *ignored* by the Grand Jury, 3 were tried and acquitted,—the remainder were discharged by the magistrates or Law Officers. We give these facts in support of Lord Durham's assertion without any comment, for none is required. Mr. Hagerman will require all his brazen effrontery to sustain him under the exposure. Although the number *admitted* by the government to have been arrested say 824 bears a very large proportion to the number convicted, 217; yet the number *actually arrested* was much larger. The return to the House of Commons is *false*, as we are ready to prove. We have not had the document 24 hours in our possession, and we have very limited means of testing its accuracy; yet we can mention the names of 3 persons all of high respectability, which are omitted. They are J. H. Price, Esq. Solicitor of this city; Rev. Geo. Barclay, an Elder of the Baptist church, and a large freeholder in Pickering; Mr. John Comer, one of the most respectable freeholders in the County of York. The return to the House of Commons was on motion of Mr. Hume, and we hope that gentleman will notice that it is a *false one*. What step the government at home will take under such circumstances we know not.

Mr. Hagerman next adverts to the remarks in the Report on the administration of Justice in Upper Canada, more particularly the expression "there is still some integrity in Juries" "which equivocal terms are," says Mr. Hagerman, "as ef-

ensive as they are unjust." We would ask Mr. Hagerman, whether our juries at the political trials were not *packed*? Was not the course adopted here which the government would not venture to pursue in Lower Canada, of selecting juries from one political party? Do not the prisoners and their friends assert that they did not get fair play? Did not Mr. Hagerman himself as Attorney General, *challenge* jurors who were known to have been favourable to acquittal on previous trials, and this although the entire jury list had been carefully selected by the Sheriff from one political party? When these questions are answered satisfactorily Mr. Hagerman may talk of the purity of the administration of justice in Upper Canada.

Mr. Hagerman denies the assertion of the Report, that "the late elections were carried by the unscrupulous exercise of the influence of the government, and a display of violence on the part of the Tories, &c." Mr. Hagerman knows that the instructions of Lords Glenelg and Goderich regarding Executive interference at the elections were disobeyed by Sir F. Head. He knows that there *was* violence, and if he can offer no better refutation of Lord Durham's statements than the report of the committee on Dr. Duncombe's petition, he will fail to carry conviction to the mind of any impartial person. With regard to violence, we shall quote one case which *prima facie* would bear out Lord Durham's report. An election took place for the county of Leeds, held we believe at Beverly,—two Conservatives were returned by violence, as was alleged by their opponents, and confirmed by a Grenville committee of the House of Assembly. Another election was held, and again the Conservatives were returned, and again did a Grenville committee unseat them on the ground of violence. A bill was passed to have four polling places for the next election, which being held, *the Reform candidates were returned by a large majority*, and there was no complaint of foul play on either side. This was only a few weeks before the general election in 1836, and *after* the Assembly's quarrel with Sir F. Head. When the general election was held, the polling place was again fixed at Beverly, and a violent political partizan appointed returning officer; and again were the Conservatives returned *under protest on account of violence*. These facts came under the notice of Lord Durham and they cannot be controverted. A majority of the freeholders of Leeds were in favour of Messrs. Buell and Howard at the last election, notwithstanding which the conservative candidates were returned. We give no opinion ourselves on this matter because we personally know nothing about it,—we state facts which are before the world. Again, was there not violence in the county Simcoe? Did not the Reform candidate, the unfortunate Samuel Lount, retire *under protest* from the hustings, owing to violence? Mr. Hagerman knows that he did, and that his friends would inform him that the outrages committed on him at that election were the main cause of his being induced to take the step which he did. Those who have studied the human character will be able to judge, how far

such an outrage would be likely to influence a man to resort even to desperate and unconstitutional remedies.

On the charge against Lord Durham of endeavouring to disparage and bring discredit on the members of the House of Assembly we must say a few words. His Lordship has stated that certain members are "accused of violating their pledges at the elections," of "showing a disposition to act on certain questions as for instance the Clergy Reserves, in direct defiance of the known sentiments of a vast majority of their constituents,"—that "many of them came forward and were elected as being really Reformers who would support Sir Francis Head in those economical reforms which the country desired." As an instance of members violating pledges we need not go further than Col. Chisholm, one of the members of the committee of censure on Lord Durham, and representative for the county of Halton. This gentleman not only voted in a former Parliament in favour of appropriating the Clergy Reserves to education, but pledged himself to continue to do so previous to his last election. He however violated his pledge and on one occasion at least, during the last session, threw out this measure by his vote.

We positively assert that the recent settlement of the Clergy Reserve question is in "direct defiance" of the wishes of the people of the province, who have by their representatives in *four successive Parliaments* insisted on the application of these Reserves to the General Education of the people.

We shall now prove by the following extracts from the election addresses of Sir Francis Head himself that the members of the present House of Assembly were elected *as Reformers*.

"It is with great satisfaction I have observed subscribed to the address which I have just received from the Township of Pickering, the names of 40 individuals who are known to have been *violent Reformers*."

"I will use all my influence with Her Majesty's government to make such alterations in the Land Granting Department, as shall attract to Upper Canada the redundant wealth and population of the mother country."

"I have been commanded by Her Majesty to use every endeavour to correct the real grievances and to promote the interests of this noble Province."

"I need hardly assure you that I am myself an advocate for Reform."

"They (my instructions) desire me to correct without partiality the *grievances* of this country: and it is because the agitators see I am *determined* to do so, that they are endeavoring to obstruct me by every artifice in their power."

"I was sent here by her Majesty on purpose to correct the grievances of the country."

"It is quite certain that I can render this Province *powerful assistance*."

We need not continue our extracts. Enough has been said to confirm the truth of Lord Durham's assertion that the protégés of Sir F. Head were elected *as Reformers*, and on a distinct understanding that they would endeavour to settle the Clergy Reserve and other prominent questions to the satisfaction of the people. It is not surprising however that persons who could stoop to deceive their constituents, and obtain seats in Parliament under false pretences, should be very sensitive at an exposure of their conduct.

We rather suspect Mr. Hagerman has made an unfortunate appeal to the farmers of Upper Canada when he calls on them

to read Lord Durham's "degrading account" of their condition and asks them whether they would feel safe "in entrusting their future political fate to the dogmas of such a man."—The people of Upper Canada know too well that Lord Durham's account is substantially true; they know that property in this Province is depreciated almost to nothing, that every branch of business is languishing, that the Province has been compared to a "girdled tree," "a land of pestilence and famine," by Mr. Hagerman's favorite Sir Francis Head. Nay, even one of the members of the select committee (Col. Prince) declared only a few days since in the House, that had he settled in Michigan instead of Canada, his children would have blessed him for the act. Will then the Farmers of Upper Canada join Mr. Hagerman in his unqualified abuse of the generous and patriotic nobleman who has honestly described their miserable condition to her Majesty's Government for the purpose of effecting an improvement in it? Will they, having tasted the bitter fruit of family compact government, and having been ruined by it, refuse to *make a trial* of the remedies pointed out by Lord Durham? Most assuredly not. It is unnecessary to do more than allude to the base calumny on Lord Durham representing him as desirous of diverting emigration from our shores and directing it to those of the neighbouring Republic. Is this the reward for the gigantic schemes for promoting emigration and public improvement to which his Lordship devoted so much of his time? Surely Mr. Hagerman has overshot his mark. Even his own party will not bear him out in this most unjustifiable attack.

It will seem strange that Mr. Hagerman has not ventured to discuss the propositions contained in the Report for the future government of Canada, and which, persons of common understanding would suppose, were the very points to which the attention of the committee should have been principally directed. It is said, and very properly, that the two points of most importance are "the Legislative Union of the Provinces" and "the Responsibility of the officers of government to the Legislature." The first of these has, it is said, been assented to under certain specified conditions. The second, Mr. Hagerman considers inconsistent with the dependence of Colonies on the mother country. He however does not attempt to answer a single one of Lord Durham's unanswerable arguments in favour of this long sought for change, and we may therefore fairly assume that he felt himself unequal to the task.

Mr. Hagerman winds up his report in rather an extraordinary manner, declaring the conviction of the committee that some great change is about to take place *in the system of government* in the Canadas, but "they do not believe that it will involve any departure from the principles of the British constitution so far as they can be made applicable to a colony." Now Lord Durham recommends no departure from the principles of the British constitution, neither have the Reformers of this Province asked any,—Both on the contrary have urged

their application. Mr. Hagerman evidently understands very little about the working of the British constitution. He has lived all his life under the despotism of an Oligarchy, and he hates and fears the people. Lord Durham we are gratified to find advocates principles more suited to this enlightened age. Though Mr. Hagerman has not ventured to enter upon the discussion of the main question, Responsible Government, he declares that the House of Assembly has pronounced such responsibility *inconsistent with Colonial dependence*. We shall make a few short extracts on this subject from Lord Durham's Report:—

“ I admit that the system which I propose would, in fact, place the *inter-nal* government of the Colony in the hands of the *Colonists themselves*; & that we should thus leave to them the execution of the laws, of which we have long *entrusted the making solely to them*.” Again,

“ The constitution of the form of Government,—the regulation of foreign relations, and of trade with the mother country, the other British colonies, & foreign nations,—and the disposal of the public lands, are the *only points* on which the mother country requires a controul.”

“ Nor can I conceive that any people or any considerable portion of a people will view with dissatisfaction a change *which would amount simply to this*, that the Crown would henceforth *consult* the wishes of the people in the choice of its servants.”

It is not however our intention to enter into a discussion of this question in the absence of any attempt to rebut the unanswerable arguments contained in the “ Report.” We felt convinced that the efforts of the Compact would be directed to throw discredit on the statements of his Lordship with a view to damage his political character. Their report is however a complete failure. There is hardly even an inaccuracy to be found in his Lordship's statements, and certainly none which in the slightest degree bears upon the main question.

We cannot conclude these remarks without earnestly imploring people at a distance, more especially the members of the Imperial Parliament and her Majesty's government, not to give credence to the misrepresentations of a party, who though in temporary ascendancy, do not in any way represent the sentiments of the people of Upper Canada. We trust it will be borne in mind, that the present members of the Assembly were in some cases elected by violence, and in all, by the unscrupulous exercise of government influence. If Her Majesty's government be not convinced by the unanswerable arguments of Lord Durham, supported by the Nova Scotian delegates, by the approbation of the Canadian press; and by the result of the Elections for Grenville & York ridings, let them take the proper means to ascertain the wishes of the people. Let them recal Sir George Arthur, and send a firm and impartial governor in his place, who will see fair play at the elections. Let the present House of Assembly be dissolved and the sense of the country taken on the propositions recommended by Lord Durham. If they take these steps they will ascertain the real wishes of the people; but we warn them of the consequences of believing a document framed by the very party whose iniquitous policy and mis-government has been so faithfully exposed by a truly *impartial observer*.

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