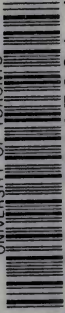


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A HISTORY
OF THE
LATE PROVINCE OF
LOWER CANADA

By
J. H. P. [Name]

[The following text is extremely faint and illegible due to the age and quality of the scan. It appears to be the main body of the book's preface or introductory chapter, containing several paragraphs of text.]

1825

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A HISTORY

OF THE

LATE PROVINCE OF

LOWER CANADA,

Parliamentary and Political,

FROM THE COMMENCEMENT TO THE CLOSE OF ITS EXISTENCE
AS A SEPARATE PROVINCE;

Embracing a period of Fifty Years, that is to say:—from the erection of the Province, in 1791, to the extinguishment thereof, in 1841, and its reunion with Upper Canada, by act of the Imperial Parliament, in consequence of the pretensions of the Representative Assembly of the Province, and its repudiation, in 1837, of the Constitution, as by law established, and of the Rebellions to which these gave rise, in that and the following year; with a variety of interesting notices, financial, statistical, historical, &c., available to the future historian of North America, including a prefatory sketch of the Province of Quebec, from the conquest to the passing of the Quebec Act, in 1774, and thence to its division, in 1791, into the Provinces of Upper and Lower Canada; with details of the Military and Naval operations therein, during the late war with the United States; fully explaining also the difficulties with respect to the Civil List and other matters; tracing from origin to outbreak, the disturbances which led to the reunion of the two Provinces.

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BY ROBERT CHRISTIE.  
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[IN THREE VOLUMES.]

VOL. I.

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1848.

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February, 1848.



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TO HIS EXCELLENCY

THE RIGHT HONORABLE

JAMES, EARL OF ELGIN AND KINCARDINE,

KNIGHT OF THE MOST ANCIENT AND MOST NOBLE

ORDER OF THE THISTLE,

HER MAJESTY'S

GOVERNOR GENERAL

OF

BRITISH NORTH AMERICA,

&c., &c., &c.

THIS WORK IS, WITH HIS EXCELLENCY'S LEAVE,

RESPECTFULLY INSCRIBED BY

THE AUTHOR.

TO THE HONORABLE
THE RIGHT HONORABLE
JAMES EARL OF LINDSAY AND KINGHORN

KNIGHT OF THE MOST ANCIENT AND MOST NOBLE
ORDER OF THE GARTER

LONDON
PRINTED BY
JOHN WATTS
COURTNEY SQUARE

BRITISH NORTH AMERICAN

1844

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THE PRESS

INTRODUCTION.

THE history of Canada previous to the conquest and thence to the division of the province of Quebec into the two provinces of Upper Canada and Lower Canada, is pretty well understood ; but, of neither of these two late provinces, now reunited, has any complete memorial of their separate existence, from first to last, nor any thing beyond pieces of their history, in the english language at least, in so far as has come to the writer's knowledge, been published. The present is an attempt to supply, with respect to Lower Canada, the desideratum, if such there be in the public mind, and with what fidelity and success, the reader will determine. The constitution of this province, modelled upon that of Great Britain, as far as circumstances admitted, having, after a fair trial of nearly fifty years, and much patience and long forbearance on the part of the imperial authorities, proved a failure, the questions, why?—and,—how? very naturally present themselves to those, who, happy enough not to have been mixed up with the agitation and intrigues by which the country was allowed too long to be distracted, nevertheless take an interest in its history and welfare, and look for instruction on the subject. The present work may tend to solve those queries.

Inp
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In Upper Canada, the same constitution which, in Lower Canada, was repudiated by its representative assembly, backed as indubitably it was, by the great majority, indeed nearly the whole of the constituent masses throughout this province, worked well and prosperously for that province, the body of whose inhabitants were, it is to be observed, british or of british origin, and who, finding in it the guarantee of their rights, as british subjects, and the faculty of developing the resources, and with them, also the prosperity of the country, and its defence as well against aggression from without as treason within, cherished, and would have fought and died in its defence. Whether it were that the one race had more aptitude and were better qualified for the appreciation and use of it than the other, it is not with us to say ; but, from whatsoever cause, the fact always is patent and irrefutable, that, in the hands of the one it throve, answered the intended purpose, and was appreciated by the people as a blessing, the palladium of their privileges, and made available accordingly. Whereas, in those of the other, notwithstanding that during the first twenty-five years of its existence it worked to admiration, it signally failed, turning out, unhappily, something worse than a mere failure. The success in the one instance and miscarriage in the other, are not, however, mentioned with any view of drawing unfavorable comparisons, but as facts now of history, accomplished and irrevocable, whatsoever may have been the causes, or the consequences past or to come, and upon which the philosophic reader will expend what conjectures his reflection may suggest. But one thing, it would seem

is certain.—The same spirit that rendered the constitution abortive, in Lower Canada, survives, and far from neutralised by the union, still leavens the larger mass, and though for the moment stifled in it, is not the less actively at work, if recent warnings of sinister augury, scarcely to be mistaken, are to go for any thing, and may again produce the same, if not still greater mischiefs. It will be for those who are “responsible,” to look out, and they are probably not inattentive to what is going on. mt

The present work traces the matters alluded to throughout their progress, from cause to effect, and from origin to result—including the differences between the house of assembly and executive, with respect to the civil list, miscalled “financial difficulties,” there being in the finances themselves, no failure nor embarrassment whatever, nor any thing more than a misunderstanding as to the *manner*, in which the funds to provide for that important object should be given; the assembly setting up pretensions in the matter deemed unconstitutional by the executive, and as such, resisted by it. The pretensions of that body to dictate a reform in the constitution, by insisting upon the introduction of the elective principle in the formation of the legislative council, are also fully traced from commencement to term—from the first proposition in the assembly, and repudiation of the principle by it in adherence to the established constitution, until the period of its formal abdication of the constitution itself, in behalf of the very principle it but recently had repudiated. Such is the progress that innovating notions, foreign, nay, absurd as they may seem when started, mt

and ill received as they may be, for the moment, will sometimes make, involving favorable or fatal consequences, according to circumstances, times, and the direction they take from these. The writer, however, gives no version purely his own, of any of the important public matters submitted to his reader, whom it is his desire faithfully to instruct, by the production of authentic evidences of the facts he relates, or by references to such sources of information as he thinks are to be relied upon, without exaggeration, or extenuation of any thing.

The actors, in the political drama that will be produced, of whatsoever party they may be, are allowed to tell their own tale, lest the writer should misunderstand and unintentionally do them injustice, and the reader will consequently have the advantage of judging for himself, of their pretensions and of their doctrines, by their own shewing and the fruits they have produced. He has endeavoured to guard himself against his own prepossessions and prejudices, neither approving nor condemning, otherwise than as the matters related bear on their face their approval or condemnation, and to confine himself within the province of a faithful pioneer of history, recording the things good or evil, proper to be remembered either as subjects to be admired and imitated, or to be reprobated and avoided in after times—beacons upon which those who are to follow us may be guided and shape their course accordingly—relating such matters of ordinary interest, however, as are generally known and admitted to be facts, and which, if not so, may easily be contradicted, for his reader's information and amusement.

Four distinct and well marked epochs in the history

of Lower Canada, will be observed by the reader — *First*—from the establishment of the constitution, in 1791 to 1810, twenty years, during which it worked well and seemed to promise a long and prosperous futurity. But clouds at the close of this period began to gather—party spirit had set to work, and appealing to national prejudices, began to disturb the harmony between the two races, which, till then, had prevailed. *Secondly*—from 1810, when the assembly spontaneously made the offer to defray all the necessary expenses of the civil government of the province, (which hitherto were only in part defrayed by it, the difference coming from the military chest,) to 1818, when, pursuant to this offer, that house was formally called upon to redeem its pledge and to make, in a constitutional manner, the necessary provision, accordingly.—This space includes the short period of the american war, the best and brightest in the annals of Lower Canada, and indeed, of the people of both Canadas, and of either origin, each and all in their respective sections having acquitted themselves of their duty, with a loyalty, patriotism, and bravery, of which no country or people ever furnished, a nobler example in defence of their homes and their altars. *Thirdly*—from 1818 to 1828, during the so called “financial difficulties;” a period of intrigue, agitation by partisan leaders, and misunderstanding between the house of assembly and the executive relative to the civil list, and other things, resulting in an appeal to the government at home, and parliament of the United Kingdom, by the famous petition of, as pretended, 87,000 lower canadians, complaining of grievances in 1827, and which gave rise to the report

by a committee of the house of commons in 1828, known as, the report of the Canada Committee, accelerating still greater mischiefs upon the inhabitants of the two Canadas than the grievances, it no doubt was, in the best faith possible, intended to redress.—And, *fourthly* and finally—from 1828, when the “conciliatory” scheme, in pursuance of “the report,” came into action, until as anticipated, its perfect abortion, in 1837, by the formal repudiation of the constitution, on the part of the representative body, and the rebellions in various parts of the province, in that and the following year, in connection with its pretensions, and stimulated by its example and doctrines; events in themselves to be deplored, and which brought on, in 1840, the act of reunion, merging the two provinces into one, the province of Canada, as a remedy, whether the right one or not remains to be seen.

The idea of an elective legislative council, it may here be observed, was first started by Mr. Fox, in the discussion of the constitutional act, for the Canadas, in 1791, but without effect, as alien to the british constitution. From this we hear no more of it, till 1828, when Mr. Neilson, one of the bearers of the petition of the pretended 87,000, on canadian grievances, praying, among other things, that the constitution be preserved “*intact*,” on his examination before the committee to whom the petition was referred, revived the idea, but did not recommend it, as to his prejudice is generally understood to have been the case. The defective composition of the legislative council, was one of the subjects complained of in the petition. On being questioned by the committee, as to the amend-

ments that might be suggested, he is represented to have stated, that an elective council might be safe enough, but that it was contrary to the constitution, and to the wishes even of those whom he represented, and the notion was dropt. We next find it introduced for discussion in the assembly, by Mr. Lee, without effect however, the assembly not being then disposed to countenance the proposition ; but finally, a few years afterwards, we find it revived and insisted upon by the assembly, as a principle which, at all hazards, it was determined should be introduced into the formation of the legislative council, repudiating for the sake of it, the existing constitution, refusing also, as previously they had done for years, the necessary supplies to defray the ordinary and extraordinary expenses of the government to carry their point, and coerce the home government into the measure.

As to the difficulties relating to the civil list, the reader will easily see through them. The purposes of the assembly were too palpable to be mistaken, although when the offer was first spontaneously made, nothing, there is every reason to believe, was intended, beyond putting the matter upon a fair and constitutional footing, and to secure to the representatives of the country their just and rightful controul upon the public expenditure. The subject took, however, in the sequel, another turn, and became one of great annoyance to the executive government and to the country. Whatever opinion the reader may form on this and other matters he will meet with on which difficulties arose, he will not fail to mark and appreciate the unwearied, the exhaustless patience of the home government throughout the long

period of the so called financial and other difficulties started in the colony, and which it had to discuss and conciliate, as best it could, but after all could not ;— its earnest and unswerving anxiety to get at and redress all real and tangible grievances submitted, year after year to it, by the assembly, and to do justice in every possible shape to the people of the province, and in particular to those of french origin, down to the very hour, an evil one indeed, when mistaking a spirit of paternity and conciliation, by the authorities of the empire, for weakness, the more hasty and inconsiderate, determined upon doing themselves justice, by an unwise, and, certainly, under all the circumstances, an unprovoked appeal to the *ultima ratio*, putting an end to all further conciliatory steps. The reader will not fail also to perceive that in all the pretensions, however eccentric or unconstitutional, set up by the representative body, it was sustained, from first to last, down to the abdication of its functions and repudiation of the constitution, by the constituent masses throughout the province, with trifling exceptions, as previously mentioned. The endeavours of the home government to conciliate, the determination not to be conciliated by any concessions, it could safely or consistently make, being evident, were viewed from the outset as hopeless, by all who had observed the origin and progress of the “grievances,” which finally broke out in rebellion.

Never had the government of the province, since it had become a part of the british empire, stood in so precarious a position as at this crisis, for which it was in a measure unprepared, although the entire of the forces in the Canadas was concentrated for an expected rupture in

Lower Canada, whither they had been altogether withdrawn from the upper province, by the wise provision of the commander of the forces, and well it was that he had the foresight and prudence to take the precaution.—Never, perhaps, had so extraordinary a change, and as many will insist upon it, causelessly, been wrought in the minds of, it is not too much to say, a whole population in so short a period as now manifested itself in the Montreal district particularly, where twenty-five years previously, upon the threatened invasion by our neighbours, there was not a man living who would not have shed his blood in defence of that government and constitution, which, in some parts almost to a man, it seemed, they were now as determined and ready to subvert, a consummation ardently desired in the fever and delirium of the moment, and which the whole of her Majesty's forces in the country directed as they were by one of the ablest generals in the british army, but with difficulty prevented, and not without loss of life, and though of little consequence compared to it, much waste of treasure,—and how to account for the change? Phrensy, political influenza, sense of wrong—the reader and the casuist may call and attribute it to what they please, but it is of the severe duties of the annalist, however painful to himself or offensive to others the task, faithfully and without bitterness to record the change and the events, and to leave to the statesman and the philosopher the study of them as a subject worthy of their consideration.

Let it not for a moment be supposed from anything that has preceded that there is a disposition to undervalue the estimable qualities, moral and social, of the canadian

habitant of french origin. The class is too generally known and its virtues acknowledged, to need commendation or commentary as to character here. Many indeed of them have erred, but, who has not?—and may err again. Unable always to judge for themselves in matters of policy and government, they are, perhaps, too easily led, and sometimes astray, by those in whom they have confided, but the diffusion of education and the light of the press will, by and bye, it is to be hoped, dispel the darkness; and we who live, may yet before departing see the day when not a spot upon the escutcheon of our fellow subjects of french origin but shall have been wiped away.

The canadian population of french descent are not, be it observed, to be judged of morally, or socially, by the late disturbances, in which numbers of them in certain quarters, were induced to join, at the instigation of leaders and political agitators, some of whom at the crisis, abandoned and fled from those they had misled. In a religious, moral, and social sense, the french canadian character is not excelled by that of any people in the world. He who would be perfectly acquainted with *Jean Baptiste* must visit him at his country residence, and abide with him there awhile—if in the winter season, when the long *veillées* afford leisure and opportunity for conversation, all the better;—see him in his social and domestic circle, in the several relations of parent, neighbour, and friend, and he will then understand and appreciate the old gentleman.

Canada, be it also observed, never was a convict or penal colony to which the offscourings of the mother country, France, were transported. On the contrary, the greatest care was bestowed by the french govern-

ment, from its first occupancy of the country, in the colonization of it; many individuals of the first families in that kingdom, and gentlemen, taking an interest, embarking in the enterprise, and emigrating to the colony then called and known as "*la nouvelle France*," the influence of whose manners and example upon their followers partaking in common with them of the urbanity of the french disposition, is still conspicuous and characteristic of their descendents. Liberal endowments, for the religious needs of the colony, for the instruction of its youth, male and female, for hospitals, asylums, and other charitable institutions, were made at an early period, and on a magnificent scale, as the estates of the late order of Jesuits, those of the seminaries of Quebec and Montreal, and of the various religious communities of ladies in those cities testify. The government, though in its character despotic, was in the reality any thing but that, an exceedingly paternal one, providing mild and wise laws, suitable to the infant state of the colony, and fostering its growth by every means that could be devised, and sparing no expense. In fact, everything was done that foresight and wisdom could suggest; as if the government of France contemplated in the colonization of Canada, as no doubt it did, the establishment of a future empire, and were determined to lay the foundations accordingly, broad and deep, as truly they were, judging of them, as at this day we see them, not in ruins, but still thrifty and thriving under the protection of another not less paternal dominion.

The first and second chapters, it will be perceived, are rather introductory to, than a part of the history

itself, of Lower Canada. But the matters they treat of, being necessary to a right understanding of it, the writer has thought proper to initiate his reader, by submitting to him a sketch of what the province of Quebec or Canada was anterior to its division into the provinces of Upper and Lower Canada;—that is to say, from the conquest in 1759 and 1760, down to 1791, a period of thirty years. The reports of the attorney general Thurlow and solicitor general Wedderburne, on canadian affairs, in 1772 and 1773, copious extracts from which are given in the second chapter, will be found interesting and read with satisfaction. They are from manuscript copies in possession of G. B. Faribault, esq., one of the vice-presidents of “the Literary and Historical Society of Quebec,” to whose industry, in the collection of memorials valuable to the history of the country, it is much indebted; and who, having obligingly communicated them to us, with permission to make use of them, we have not failed to take the advantage of his kindness, (and for which these are our acknowledgments to him,) and to quote largely from them, for the information of the reader. These valuable papers must, in all probability, have been already published; but, not recollecting to have seen them even alluded to in any work on canadian affairs, we have with pleasure and may say, with pride, embodied considerable portions of them in the present. They are splendid and most gratifying proofs of the spirit of justice and liberality towards Canada, that have characterised the statesmen and jurists of our country, from the incorporation of the former with it, and the great empire of which it makes part, and which it is an

agreeable duty to the writer of these lines to put on record, as an humble tribute, of his respect for the memories of the great and good men by whom such noble sentiments were expressed, towards the race and country, of whose general history he is endeavouring to put together a portion for the use of future labourers in the same field.

With respect to the extinguishment of Lower Canada, as a province, and its reunion with Upper Canada, the writer wishes it to be understood that his work is intended, neither as an apology for, nor in animadversion of the measure, but impartially to record, as of history, those matters that led to it. The reader will judge for himself of its expediency or the reverse, according to the view he may take of them. The history of a people is part of their public property, and not the least valuable of it, and this is but the writer's contribution to the general stock. The intelligent reader, will, it is hoped, however, on a perusal of the whole, be able to form a just opinion upon that important measure, and determine whether, consistently with the integrity of the empire and the dignity of its government, the separate existence of Lower Canada as a province, after all that had occurred, were any longer endurable, and its suppression and reunion with Upper Canada (which by the same measure, be it also observed, lost in like manner its separate existence) were not, rather than a matter of choice, one of absolute necessity imposed on the imperial authorities by the former. At all events, the reunion being now a work accomplished and done, not hastily nor without due consideration of the subject, in all its bearings, will, probably, not hastily be undone. Confiding more in

the wisdom of those who have adopted the measure, than in those who forced it upon them, we may, without presumption, entertain the belief, that agitate, not to use a stronger term, who may, for its undoing, the game will scarcely pay, and that the labour may prove worse than lost. It will, one may reasonably suppose be wiser, taking all things to account, in the masses, frankly to join in carrying out the views of the imperial legislature, than to combine in thwarting them, if such be contemplated:—to make it in good faith, and in the true spirit of british subjects faithful to their duty, their allegiance and their interests, work in the right direction, as a measure of internal union and strength for constitutional purposes, the promotion and stability of good government, and above all, the integrity of the empire, rather than as some political sciolists of the day treacherously would turn it, to sap the foundations of our whole social and political fabric, facilitate the progress of treason, and hasten the subjugation of the british north american possessions, or if the reader prefer the term, “annexation” to the ambitious republic adjoining us; which heaven in its mercy and our own prowess, if we must come to blows, avert.

Quebec, January, 1848.

CHAPTER I.

Sketch of Canada from the Conquest, (1759 and 1760) to the passing of "*The Quebec Act*," in 1774—Provisions of the Act—It defines the boundaries of the newly acquired dominions constituting "the Province of Quebec"—Continues the old Civil Laws of the country—Establishes the English Criminal Code—Declares the free exercise of the religion of Rome, and confirms the Clergy in their accustomed dues—The Governor or Commander in Chief for the time being, and a Council appointed by the Crown, empowered to make Ordinances for the peace, welfare, and good government of the Province, &c.—Opinions of the Act in England—Address of the General Congress to the inhabitants of the Province of Quebec.

THE first intervention of the British Parliament in the affairs of Canada, after the conquest, finally achieved by the capitulation of Montreal in 1760, and confirmed by the treaty of peace between France and England in 1763, was in 1774, when two Acts were passed relating to the newly acquired territory, then called "the Province of Quebec." The one gave it a constitution and form of government which we shall more particularly notice presently.—The other provided a revenue for defraying the administration of justice and support of the civil government, by the imposition of certain duties on spirits and molasses, and which duties were in lieu of others enjoyed by the French King previous to the conquest. They were, however, in the total but inconsiderable

Chap.
1.
1760
to
1774.

Chap. and far short of the amount annually required
 I. for the purposes to which they were appro-
 1760 priated, the deficiency being supplied from the
 10 Imperial treasury.*
 1774.

From the conquest to this epoch, fourteen years, the province appears to have been governed generally to the satisfaction of the inhabitants. During the three first years of this period, however, the government was a purely military, though it seems an equitable one, and, indeed, more to the taste, as some will have it, of "*the new subjects*," (as the Canadians were then denominated,) themselves a brave and military people inured to war and discipline, than that which immediately succeeded it, and perhaps than any that have since followed. The royal proclamation of 1763, by their new Sovereign, King George the third put an end to this, and introduced a new order, something more congenial to British feelings and habits, with the double view of tranquilizing the new subjects, by the introduction of a government better suited to protect them in their civil rights and institutions than previously, and of encouraging emigration from home into His Majesty's newly acquired North American dominions. All disputes from this time forward, between the new subjects concerning rights in land and real property, inheritance, succession to, and division of the same among co-heirs, continued as

* See the Statutes of 14 Geo. III, chapters 83 and 88.

previous to the conquest, to be determined according to the ancient customs and civil laws of Canada, and by judges conversant with those laws, selected from among their own countrymen; and these also were the rules of decision in the like matters, between the old subjects of the King who had immigrated hither and settled in the province. Most of these expected, however, that in all cases wherein *they* were personally concerned, civilly or criminally, the laws of England were to apply, in conformity as they read it, with His Majesty's proclamation, imagining also that in emigrating, they carried with them the whole code of English civil and criminal laws for their protection.

Chap.
I.
1760
to
1774.

The criminal law of England following the conqueror, as a matter of right prevailed as the proper code under which the innocence or guilt of "*British subjects*" on trial ought to be tested, and the new subjects were not long without feeling its superiority over the laws it supplanted. In all cases of personal contracts and debts of a commercial nature the English laws, it would also seem, practically ruled, but as in all civilized countries the laws which regulate such matters are nearly the same, they were cheerfully acquiesced in, and although anomalies, unavoidable in the novel and transition state in which the colony and its judicature were placed, did undoubtedly occur in the administration of civil justice occasionally, (there not being wanting those who have

Chap. 1. asserted that there was no fixed rule in administering it, justice being sometimes dealt out according to the one code, and at times according to the other, and perhaps imperfectly, in reference to either,) it seems clear that justice was intended, and in the main fairly dealt out by those entrusted with it, and indeed to the public satisfaction. This, however, the reader will observe, relates to the period occurring between the conquest and 1774, subsequent to which and down to the division of the province of Quebec into the two Provinces of Lower and Upper Canada in 1792, great dissatisfaction at the courts of justice and judges, under the new judicature system arose and continued until it was reformed by Act of the Legislature of Lower Canada, in 1794, and which also in its turn has been superseded by an Act of the Legislature of Canada in 1843, to what purpose remains to be seen, but little, if we are to credit those practising in the courts of law, and admitted as the best qualified to judge of it, better than the previous system, if so good, yet infinitely more costly to the province.

Considerable anxiety prevailed, nevertheless, during the former period, (1763 to 1774) as to the system of laws that was permanently to rule ; each class of subjects, old and new, looking for the prevalence of that with which they were most familiar, and consequently considered the best, the old subjects holding out for the English laws, which they insisted had been promised

and guaranteed to them, by His Majesty's proclamation; and the new, for their ancient customs and usages, by which, during a long series of years their civil rights, possessions, and property, had been regulated and secured to them, and which also they maintained were secured to them by the capitulations of Quebec in 1759, and Montreal in 1760, and finally by the treaty of peace in 1763, between France and England.

Chap.
I.
1760
to
1774.

There was, moreover, a general uneasiness both among the old and new subjects with respect to the constitution of government that might finally be established in the province, the former looking for one such as they were accustomed to,—a government partaking of a representative character, which the latter rather deprecated than desired, apprehensive that in the more skilful hands of their fellow subjects of the other origin it might be turned to their disadvantage.—In fact, they looked rather to the preservation of their laws and institutions, their civil and their social rights which they perfectly understood and appreciated, than to any of a political nature to which they were entire strangers; self-government, politics and legislation being quite out of their sphere, and beyond their aspirations. The government of a single individual, or governor aided by a council or a certain number of advisers, was perfectly intelligible to them, and such as they had been accustomed to, and if honest and upright, all

Chap.
I.
1769
to
1774.

they desired. A constitution consisting of a governor and two branches, was quite new to the great body, who could not understand their meaning or purposes, and therefore considered the whole as an English invention, (*invention Anglaise*,) intended to cheat them of their rights, and, in the long run, their money; and how far they may have been right or wrong in their suspicions casuists may determine if they can. But of such a government and constitution they had no correct conception, and few in the mass were then qualified to partake of it, if established. Nor in the opinion of the British government, had the time as yet arrived, when the state and circumstances of the province would admit of a constitution modelled after that of England, and, accordingly, the legislation of the country was entrusted to a governor and legislative council appointed by the crown, in conformity to the provisions of "the Quebec Act."

This act was exceedingly unpopular in England as well as unsatisfactory to the old subjects or British settlers in Canada, and besides gave umbrage to the neighbouring colonies then on the eve of revolt, which it contributed to accelerate.* It was, however, just in its

* *Authentic copy of an Address and Petition presented to the King by the Corporation of London, previous to His Majesty signing the Bill for the better government of Quebec:—*

“ To the King’s Most Excellent Majesty.

“ Most Gracious Sovereign.

“ We your Majesty’s most dutiful and loyal subjects, the Lord Mayor, Aldermen and Common Council of the city of London, in common council assembled, are exceedingly alarmed that a bill has passed

provisions towards the King's new subjects, Chap. I.
 suited to the country, and worked well. 1760
 to 1774.

The population of the province at this time, 1774, is variously stated. "The Quebec Act" states it at "over sixty-five thousand," and in other quarters it is asserted, upon what data does not satisfactorily appear, at a hundred and twenty thousand. The truth may lie half way between the extremes or thereabout, but even this is but conjecture. The revenue as

your two houses of Parliament, entitled an "An Act for making more effectual provision for the government of the province of Quebec, in North America," which we apprehend to be entirely subversive of the great fundamental principles of the constitution of the British monarchy, as well as of the authority of various solemn acts of the legislature.

"We beg leave to observe, that the English law, and that wonderful effort of human wisdom, the trial by jury, are not admitted by this bill in any civil cases, and the French law of Canada is imposed on all the inhabitants of that extensive province, by which both the persons and properties of very many of your Majesty's subjects are rendered insecure and precarious.

"We humbly conceive, that this bill, if passed into a law, will be contrary, not only with the compact entered into with the various settlers, of the reformed religion, who were invited into the said province under the sacred promise of enjoying the benefit of the laws of your realm of England, but likewise repugnant to your royal proclamation of the 7th of October, 1763, for the speedy settlement of the said new government.

"That, consistent with the public faith pledged by the said proclamation, your Majesty cannot erect and constitute courts of judicature and public justice for the hearing and determining all cases, as well civil as criminal, within the said province, but as near as may be agreeable to the laws of England; nor can any laws, statutes, or ordinances, for the public peace, welfare, and good government of the said province, be made, constituted or ordained, but according to the laws of this realm.

"That the Roman catholic religion, which is known to be idolatrous and bloody, is established by this bill, and no legal provision is made for the free exercise of our reformed faith, nor the security of our protestant fellow-subjects of the church of England, in the true worship of Almighty God, according to their consciences.

"That your Majesty's illustrious family was called to the throne of these kingdoms in consequence of the exclusion of the Roman-catholic ancient branch of the Stuart line, under the express stipulation that

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previously stated was slender. According to Mr. Smith, (*History of Canada*) the whole duties on wine and spirituous liquors collected at the port of Quebec, for the three years preceding 1766, only amounted to £2,327, Halifax currency. By the Receiver General's accounts, observes the same gentleman, the territorial revenue for the thirteen years from 1st May, 1775, to 1st May, 1788, comprehend-

they should profess the protestant religion, and according to the oath established by the sanction of parliament in the first year of the reign of our great deliverer King William the Third, your Majesty at your coronation has solemnly sworn that you would, to the utmost of your power, maintain the laws of God, the true profession of the Gospel, and the protestant reformed religion established by law.

“ That although the term of imprisonment of the subject is limited to three months, the power of fining is left indefinite and unrestrained, by which the total ruin of the party may be effected by an enormous and excessive fine.

“ That the whole legislative power of the province is vested in persons to be wholly appointed by your Majesty, and removable at your pleasure, which we apprehend to be repugnant to the leading principles of this free constitution, by which alone your Majesty now holds, or legally can hold, the imperial crown of these realms.

“ That the said bill was brought into parliament, very late in the present session, and after the greater number of the members of the two houses were retired into the country, so that it cannot fairly be presumed to be the sense of those parts of the legislature.

“ Your petitioners, therefore, most humbly supplicate your Majesty, as the guardian of the laws, liberty, and religion of your people, and of the great bulwark of the protestant faith, that you will not give your royal assent to the said bill.

“ And your petitioners, as in duty bound, will ever pray.”

Extract of an Address to the people of Great Britain, from the Delegates appointed by the several English Colonies of New Hampshire, Massachusetts Bay, Rhode Island, and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, the lower Counties on Delaware, Maryland, Virginia, North Carolina, and South Carolina, to consider of their grievances in General Congress, at Philadelphia, September 5th, 1774 :—

“ Well aware that such hardy attempts (to take our property from us—to deprive us of that valuable right of trial by jury—to seize our persons, and carry us for trial to Great Britain—to blockade our ports

ing arrears, was in actual receipt at the treasury, not equal to ten thousand pounds sterling. Chap. I.

“The Quebec Act” defined the boundaries of the Province of Quebec. It set aside all provisions under the royal proclamation of 7th October, 1763, pursuant to which the province had since been governed, the same having, it was said in the Act, upon experience, been found inapplicable to the state and circumstances of the province, the inhabitants whereof amounted at the conquest to over sixty-five thousand persons professing the religion of the church of Rome, and enjoying an established form of constitution and system of laws by which their persons and property had been

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—to destroy our charters, and change our forms of government) would occasion, and had already occasioned great discontent in all the colonies, which might produce opposition to these measures, an act was passed “to protect, indemnify, and screen from punishment, such as might be guilty even of *murder*, in endeavouring to carry their oppressive edicts into execution;” and by another act “the dominion of Canada is to be so extended, modelled, and governed,” as that by being disunited from us, detached from our interests, by civil as well as religious prejudices, that by their numbers swelling with catholic emigrants from Europe, and by their devotion to administration, so friendly to their religion, they might become formidable to us, and, on occasion, be fit instruments in the hands of power, to reduce the ancient free protestant colonies to the same state of slavery with themselves.

“This was evidently the object of the act: and in this view, being extremely dangerous to our liberty and quiet, we cannot forbear complaining of it, as hostile to British America.—Superadded to these convictions, we cannot help deploring the unhappy condition to which it has reduced the many English settlers, who, encouraged by the royal proclamation, promising the enjoyment of all their rights, have purchased estates in that country. They are now the subjects of an arbitrary government, deprived of trial by jury, and when imprisoned cannot claim the benefit of the habeas corpus act, that great bulwark and palladium of English liberty:—nor can we suppress our astonishment, that a British parliament should ever consent to establish in that country a religion that has deluged your island in blood, and dispersed impiety, bigotry, persecution, murder, and rebellion, through every part of the world.”

Chap. protected, governed and ordered for a long
 I. series of years, from the first establishment of
 1760 Canada ; and it reinstated, or rather continued
 to and established the civil laws of the country,
 1774. which practically, with respect to property and
 civil rights, had been observed since the con-
 quest, as just stated.

The existing commission, under authority of which the government was administered, and all ordinances by the governor and council of Quebec, for the time being, relative to the civil government and administration of justice, and all commissions to judges and other officers were revoked and made null by the Act. The exercise of the Roman catholic religion was declared free, and the clergy thereof maintained in their accustomed dues and rights, with respect to such persons only as professed the said religion, which thus became established by law, in this part of the British empire in virtue of an Act of Parliament, while at home, and in other parts of the empire, persons professing the religion of Rome still laboured under the most galling disabilities on account of their religious creed.

All His Majesty's Canadian subjects within the Province of Quebec, the religious orders and communities only excepted, (nor were any of these, in fact, ever divested of their property, of which to the present time they remain in undisturbed possession, except the Jesuits, whose order had been suppressed by a papal brief,) were secured in their property

and possessions, customs and usages relative thereto, and all other civil rights to the fullest extent consistent with their allegiance to His Majesty, and subjection to the crown and parliament of Great Britain, it being specially enacted that in all matters of controversy relative to property and civil rights, resort should be had to the laws of Canada as the rule for the decision of the same, liable, however, to alteration by any ordinances of the Governor and Legislative Council that might be made for that purpose.

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The criminal law of England, "the certainty and lenity" whereof, and the benefits and advantages resulting from the use of which, it was also observed in the act, had been sensibly felt by the inhabitants from an experience of more than nine years during which it had been uniformly administered, was continued and to be observed as law to the exclusion of every other criminal code which might have prevailed before 1764, but subject in like manner to modification and amendment by ordinances of the Governor and Council.*

His Majesty was authorised to appoint a Council for the affairs of the Province, con-

* In 1752, Pierre Beaudoin dit Cumberland, with three others, soldiers in a corps called "Détachement des Troupes de la Marine," then in garrison in the town of Three Rivers, were accused of having set fire to the Town, in different places, on the night of the 21st May. The crime of arson was proved by witnesses against Beaudoin, but he was placed on the *rack* in order to discover whether he had any accomplices. He suffered this punishment without making any declaration, and was finally executed.

The punishment of the rack was frequently applied to criminals, and in one instance on a female for having hidden the birth of an illegitimate

Chap. 1. sisting of not more than twenty-three, nor less than seventeen persons, which council, with consent of the governor, or commander in chief for the time being, was to have power to make ordinances for the peace, welfare and good government of the province. They were not, however, to lay on any taxes or duties except such as the inhabitants of any town or district might be authorised to assess and levy within its own precincts for roads or other local conveniences:—No ordinance touching religion nor by which any punishments could be inflicted greater than fine (which, however, as to amount, strange to say, was unlimited,) or imprisonment for three months was to have any force or effect until it received his Majesty's approbation;—nor were any ordinances to be passed at any meeting of the Council where less than a majority of the whole body should be present; nor at any time except between the first of January and first of May, unless upon some urgent occasion, in which case, every member thereof resident at Quebec, or within fifty miles of it, was personally to be summoned by the Governor. Every ordinance passed was to be transmitted within six months next after enactment,

child.—In another instance a negro female, for having set fire to her master's house, was condemned to be burnt at the stake, after having been hung on the gallows.

The authenticity of the above taken from old manuscript judicial records and papers in possession of G. B. Faribault, Esqr., one of the Vice Presidents of the Literary and Historical Society of Quebec, may be relied upon.—It shews that the *rack* actually was in use in Canada, at a very short period before the conquest.

for His Majesty's approbation, and if disallowed to be null from the time the disallowance were promulgated at Quebec.

Such were the principal provisions of this important Act, known as "the Quebec Act," which gave to the conquered people of Canada almost a national existence, and under which the province was governed until divided into the two provinces of Upper and Lower Canada, that is to say, from October 1774, when the Act came into operation, to the 26th December 1791, when the provisions of another Act (31 Geo. 3, ch. 31,) of still greater importance superseded it by the constitutions conferred upon those provinces, which also in their turn, owing to the failure of that of Lower Canada, after a fair trial of nearly fifty years, it has been found necessary in like manner to supersede by the reunion of those provinces effected by a recent Act (3 and 4 Vict. ch. 35,) of the parliament of the United Kingdom. Several useful laws were passed during this *régime*, and in particular that relating to the *Habeas Corpus*, by an ordinance in 1785, intituled "An Ordinance for securing the liberty of the subject and for the prevention of imprisonment out of the Province."

The American revolutionary war breaking out shortly after the passing of the Quebec Act, matters in Canada remained in a state of suspense during the war, in which the new subjects feeling little or no interest took no

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Chap. very decided or active part. It was a quarrel
 1. between Great Britain and her own offspring,
 1760 the motives to which, on either side, were
 to foreign to the inhabitants of the recently ac-
 1774. quired possessions, peopled by inhabitants of
 French descent. They, indeed, could scarcely
 be expected, in the transition they so re-
 cently had undergone from the dominion of
 their hereditary monarch to that of a foreign
 king whose beneficence they were but begin-
 ning to feel, as yet cordially to espouse the
 cause of the latter in a matter which could
 have so little bearing, as they understood it,
 on their immediate interests. There were in-
 stances, it is true, of defection and of consi-
 derable marauding parties attendant upon and
 in the trail of the provincials from New England,
 who in 1775 and subsequently made irruptions
 into Canada, in the revolutionary service, and
 from which they were driven with disgrace, after
 suffering a signal defeat at Quebec, by a handful
 of sailors and loyal citizens of the two origins,
 who had organized themselves for its defence,
 —and there were also, it should be observed,
 instances of adherence on the part of several of
 His Majesty's new subjects, of active loyalty
 and of services highly honorable to them, which
 it needs not the pen that traces these lines to
 commemorate.—They are already inscribed on
 the page of history, by abler pens.—But there
 was no rising *en masse*, no organization for co-
 operation in the revolutionary cause, nor, so
 far as we know or can learn, agitation with

any such view among any considerable portion of, or influential persons of the Canadian people.—On the contrary, those who at that period possessed their confidence and were looked up to by them, are known to have rejected all propositions, conveyed through delegates and others from the revolutionary authorities in the revolted colonies, of a character to disturb their allegiance, or to sever Canada from its dependence upon the British Crown.* Some will probably be of opinion, that all things considered, it was enough (and so it may be) that they did not turn upon their recent conqueror in the time of his need, and that to their forbearance or supineness, the reader may view it as he pleases, the preservation of the Colony to Great Britain is mainly due. This, however, is but a negative kind of merit, and in sober truth, may be all that can be claimed for them on that occasion. But not so, however, with respect to one of more recent date and still greater importance, as will be seen as we proceed, in which the zeal, unshaken loyalty, and active service of the Canadian population, in co-operation with their fellow-subjects of British origin in both Canadas, saved them from the grasp of our greedy and insatiable neighbours, (as in case of need they again would,) in the war of 1812 against England, vainly counting upon the disloyalty and treason of her North American Provinces, and in particular of her subjects of French origin in Lower

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* See the Address at the end of this Chapter.

Chap. I. Canada, in which they were woefully in error, as, to their cost, they found.

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It is not intended, as the reader will have understood from the title page, to go into the military operations in Canada during the American revolutionary war. They are only incidentally here alluded to, as illustrative to a certain degree of the state of the country, feeling and disposition of the population that afterwards constituted the Province of Lower Canada, a sketch of whose political history, during its late constitution and existence as a province, we are endeavoring to lay before him. That part of the province of Quebec which subsequently became Upper Canada was then little better than a vast wilderness. If the writer, as it is his desire, shall succeed in recording faithfully and impartially, things as they have occurred, explaining those that have been misrepresented from party spirit or by malevolence, or that in good faith have been misunderstood, and in pointing out the course, which, while followed by our good ship, "the Constitution," was prosperous and promised us the most successful results, and above all, in marking the fatal shoals and rocks carefully to be hereafter avoided by succeeding voyagers, upon which, in deviating from the proper route, it finally was cast away, his object will be accomplished. He is fully aware of the difficulty of the task he is imposing upon himself.—That he has to guard against his own prepossessions and prejudices—that his work is one merely of narra-

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tion and not of creation, and that he must not lose sight of these important considerations in its progress.

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Address of the General Congress to the Inhabitants of the Province of Quebec. 1774.

Friends and Fellow-subjects,

We, the delegates of the colonies of New-Hampshire, Massachusetts Bay, Rhode Island, and Providence Plantations, Connecticut, New York, New-Jersey, Pennsylvania, the counties of Newcastle, Kent and Sussex on the Delaware, Maryland, Virginia, North-Carolina, and South-Carolina, deputed by the inhabitants of the said Colonies, to represent them in a general congress at Philadelphia, in the province of Pennsylvania, to consult together of the best methods to obtain redress of our afflicting grievances, having accordingly assembled, and taken into our most serious consideration the state of public affairs on this continent, have thought proper to address your province, as a member therein deeply interested.

When the fortune of war, after a gallant and glorious resistance, had incorporated you with the body of English subjects, we rejoiced in the truly valuable addition, both on our own and your account; expecting, as courage and generosity are naturally united, our brave enemies would become our hearty friends, and that the Divine Being would bless to you the dispensations of his over-ruling Providence, by securing to you and your latest posterity the inestimable advantages of a free English constitution of government, which it is the privilege of all English subjects to enjoy.

These hopes were confirmed by the King's proclamation, issued in the year 1763, plighting the public faith for your full enjoyment of those advantages.

Little did we imagine that any succeeding ministers would so audaciously and cruelly abuse the royal authority, as to withhold from you the fruition of the irrevocable rights, to which you were thus justly entitled.

But since we have lived to see the unexpected time, when ministers of this flagitious temper have dared to violate the most sacred compacts and obligations, and as you,

Chap. educated under another form of government, have artfully
 I. been kept from discovering the unspeakable worth of that
 form you are now undoubtedly entitled to, we esteem it our
 1760 duty, for the weighty reasons hereinafter mentioned, to
 to explain to you some of its most important branches.
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“ In every human society, (says the celebrated Marquis Beccaria) there is an effort continually tending to confer on one part the height of power and happiness, and to reduce the other to the extreme of weakness and misery. The intent of good laws is to oppose this effort, and to diffuse their influence universally and equally.”

Rules stimulated by this pernicious “ effort,” and subjects, animated by the just “ intent of opposing good laws against it,” have occasioned that vast variety of events, that fill the histories of so many nations. All these histories demonstrate the truth of this simple position, that to live by the will of one man, or set of men, is the production of misery to all.

On the solid foundation of this principle, Englishmen reared up the fabric of their constitution with such a strength, as for ages to defy time, tyranny, treachery, internal and foreign wars: and as an illustrious author of your nation, hereafter mentioned, observes, “ They gave the people of their colonies the form of their own government, and this government carrying prosperity along with it, they have grown great nations in the forests they were sent to inhabit.”

In this form the first grand right is, that of the people having a share in their own government, by their representatives, chosen by themselves, and in consequence of being ruled by laws which they themselves approve, not by edicts of men over whom they have no controul. This is a bulwark surrounding and defending their property, which by their honest cares and labours they have acquired, so that no portions of it can legally be taken from them, but with their own full and free consent, when they in their judgment deem it just and necessary to give them for public services; and precisely direct the easiest, cheapest, and most equal methods, in which they shall be collected.

* Montesquieu.

The influence of this right extends still farther. If money is wanted by rulers, who have in any manner oppressed the people, they may retain it, until their grievances are redressed ; and thus peaceably procure relief, without trusting to despised petitions, or disturbing the public tranquillity.

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The next great right is that of trial by jury. This provides, that neither life, liberty, nor property can be taken from the possessor, until twelve of his unexceptionable countrymen and peers, of his vicinage, who from their neighbourhood may reasonably be supposed to be acquainted with his character, and the characters of the witnesses, upon a fair trial, and full enquiry, face to face, in open court, before as many of the people as choose to attend, shall pass their sentence upon oath against him ; a sentence that cannot injure him, without injuring their own reputation, and probably their interest also ; as the question may turn on points that, in some degree, concern the general welfare : and if it does not, their verdict may form a precedent, that, on a similar trial of their own, may militate against them.

Another right relates merely to the liberty of the person. If a subject is seized and imprisoned, though by order of government, he may, by virtue of this right, immediately obtain a writ, termed a Habeas Corpus, from a judge, whose sworn duty it is to grant it, and thereupon procure any illegal restraint, to be quickly enquired into and redressed.

A fourth right is, that of holding lands by the tenure of easy rents, and not by rigorous and oppressive services, frequently forcing the possessors from their families and their business, to perform what ought to be done, in all well regulated states, by men hired for the purpose.

The last right we shall mention, regards the freedom of the press. The importance of this consists, besides the advancement of truth, science and morality, and arts in general, in its diffusion of liberal sentiments on the administration of government, its ready communication of thoughts between subjects, and its consequential promotion of union among them, whereby oppressive officers are shamed or intimidated into more honourable and just modes of conducting affairs.

These are the invaluable rights that form a considerable

Chap. part of our mild system of government : that sending its  
 I. equitable energy through all ranks and classes of men, de-  
 ~~~~~ fends the poor from the rich, the weak from the powerful, the  
 1760 industrious from the rapacious, the peaceable from the vio-
 to lent, the tenants from the lords, and all from their superiors.
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These are the rights, without which a people cannot be free and happy, and under the protection and encouraging influence of which, these colonies have hitherto so amazingly flourished and increased. These are the rights a profligate ministry are now striving, by force of arms, to ravish from us, and which we are, with one mind, resolved never to resign but with our lives.

These are the rights you are entitled to, and ought at this moment in perfection to exercise. And what is offered to you by the late act of parliament in their place? Liberty of conscience in your religion? No. God gave it to you; and the temporal powers with which you have been and are connected firmly stipulated for your enjoyment of it. If laws divine and human, could secure it against the despotic capacities of wicked men, it was secured before. Are the French laws in civil cases restored? It seems so. But observe the cautious kindness of the ministers who pretend to be your benefactors. The words of the statute are, that those "laws shall be the rule, until they shall be varied or altered by any ordinances of the governor and council." Is the "certainty and lenity of the criminal law of England, and its benefits and advantages," commended in the said statute, and said to "have been sensibly felt by you," secured to you and your descendants? No. They too are subject to arbitrary "alterations" by the governor and council; and a power is expressly reserved of "appointing such courts of criminal, civil, and ecclesiastical jurisdiction, as shall be thought proper." Such is the precarious tenure of mere will, by which you hold your lives and religion.

The crown and its ministers are empowered, as far as they could be by parliament, to establish even the *inquisition* itself among you. Have you an assembly composed of worthy men elected by yourselves, and in whom you can confide, to make laws for you, to watch over your welfare, and to direct in what quantity, and in what manner your money shall be taken from you? No. The power of making laws

for you is lodged in the governor and council, all of them dependent upon, and removeable at the *pleasure* of a minister. — Besides, another late statute, made without your consent, has subjected you to the imposition of *excise*, the horror of all free states; they wresting your property from you by the most odious taxes, and laying open to insolent tax-gatherers, houses the scenes of domestic peace and comfort, and called the castles of English subjects in the books of their laws. And in the very act for altering your government, and intended to flatter you, you are not authorised to “ assess, levy, or apply any *rates* and taxes, but for the inferior purposes of *making roads*, and erecting and repairing *public buildings*, or for other *local* conveniences, within your respective towns and districts.” Why this degrading distinction? Ought not the property honestly acquired by *Canadians* to be held as sacred as that of *Englishmen*? Have not *Canadians* sense enough to attend to any other public affairs, than gathering stones from one place and piling them up in another? Unhappy people! who are not only injured, but insulted. Nay more!—With such a superlative contempt of your understanding and spirit has an insolent ministry presumed to think of you, our respectable fellow-subjects, according to the information we have received, as firmly to persuade themselves that your gratitude, for the injuries and insults they have recently offered to you, will engage you to take up arms, and render yourselves the ridicule and detestation of the world, by becoming tools, in their hands, to assist them in taking that freedom from *us*, which they have treacherously denied to *you*; the unavoidable consequence of which attempt, if successful, would be the extinction of all hopes of you or your posterity being ever restored to freedom: for idiocy itself cannot believe, that, when their drudgery is performed, they will treat you with less cruelty than they have us, who are of the same blood with themselves.

What would your countryman, the immortal *Montesquieu*, have said to such a plan of domination, as has been framed for you? Hear his words, with an intenseness of thought suited to the importance of the subject.—“ In a free state, every man, who is supposed a free agent, *ought to be concerned in his own government*; therefore the *legislative*

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Chap. I. should reside in the whole body of the *people*, or their *representatives*."—"The political liberty of the subject is a *tranquillity of mind*, arising from the opinion each person has of his *safety*. In order to have this liberty, it is requisite the government be so constituted, that one man need not be *afraid* of another. When the power of *making* laws, and the power of *executing* them, are *united* in the same person, or in the same body of magistrates, *there can be no liberty*; because apprehensions may arise, lest the same *monarch* or *senate* should *enact* tyrannical laws, to *execute* them in a tyrannical manner."

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"The power of *judging* should be exercised by persons taken from the *body of the people*, at certain times of the year, and pursuant to a form and manner prescribed by law. *There is no liberty*, if the power of *judging* be not *separated* from the *legislative* and *executive* powers."

"Military men belong to a profession which *may be* useful, but is *often* dangerous."—The enjoyment of liberty, and even its support and preservation, consists in every man's being allowed to speak his thoughts, and lay open his sentiments."

Apply these decisive maxims, sanctioned by the authority of a name which all Europe reveres, to your own state. You have a governor, it may be urged, vested with the *executive* powers, or the powers of *administration*. In him, and in your council, is lodged the power of *making laws*. You have *judges*, who are to *decide* every cause affecting your lives, liberty or property. Here is, indeed, an appearance of the several powers being *separated* and *distributed* into *different* hands, for checks one upon another, the only effectual mode ever invented by the wit of men, to promote their freedom and prosperity. But scorning to be illuded by a tinselled outside, and exerting the natural sagacity of Frenchmen, *examine* the specious device, and you will find it, to use an expression of Holy Writ, "a painted sepulchre," for burying your lives, liberty and property.

Your *judges*, and your *legislative council*, as it is called, are *dependent* on your *governor*, and *he* is *dependent* on the servant of the crown in Great Britain. The *legislative*, *executive*, and *judging* powers are *all* moved by the nods of a minister. Privileges and immunities last no longer than

his smiles. When he frowns, their feeble forms dissolve. Chap. 1.
 Such a treacherous ingenuity has been exerted in drawing up the code lately offered you, that every sentence beginning with a benevolent pretension, concludes with a destructive: and the substance of the whole, divested of its smooth words, is—that the crown and its minister shall be as absolute throughout your extended province, as the despots of Asia and Africa. What can protect your property from taxing edicts, and the rapacity of necessitous and cruel masters? your persons from *lettres de cachet*, gaols, dungeons, and oppressive service? your lives and general liberty from arbitrary and unfeeling rulers? We defy you, casting your view upon every side, to discover a single circumstance, promising from any quarter the faintest hope of liberty to you or your posterity, but from an entire adoption into the union of these colonies. 1760
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What advice would the truly great man before mentioned, that advocate of freedom and humanity, give you, was he now living, and knew that we, your numerous and powerful neighbours, animated by a just love of our invaded rights, and united by the indissoluble bands of affection and interest, called upon you, by every obligation of regard for yourselves and your children, as we now do, to join us in our righteous contest, to make a common cause with us therein, and to take a noble chance of emerging from a humiliating subjection under governors, intendants, and military tyrants, into the firm rank and condition of English freemen, whose custom it is, derived from their ancestors, to make those tremble who dare to think of making them miserable.

Would not this be the purport of his address? “Seize the opportunity presented to you by Providence itself. You have been conquered into liberty, if you act as you ought. This work is not of man. You are a small people, compared to those who with open arms invite you into a fellowship. A moment’s reflection should convince you which will be most for your interest and happiness, to have all the rest of North America your unalterable friends, or your inveterate enemies. The injuries of Boston have roused and associated every colony, from Nova Scotia to Georgia. Your province is the only link that is wanting to complete the bright and strong chain of union. Nature has joined your country to

Chap. theirs. Do you join your political interests. For their own
 I. sakes they never will desert or betray you. Be assured that
 ~~~~~ the happiness of a people inevitably depends on their liberty,  
 1760 and their spirit to assert it. The value and extent of the  
 to advantages tendered to you are immense. Heaven grant you  
 1774. may not discover them to be blessings after they have bid  
 you an eternal adieu.

We are too well acquainted with the liberality of senti-  
 ment distinguishing your nation, to imagine, that difference  
 of religion will prejudice you against a hearty amity with us.  
 You know, that the transcendent nature of freedom elevates  
 those, who unite in the cause, above all such low-minded  
 infirmities. The Swiss Cantons furnish a memorable proof  
 of this truth. Their union is composed of Catholic and Pro-  
 testant states, living in the utmost concord and peace with  
 one another, and thereby enabled, ever since they bravely  
 vindicated their freedom, to defy and defeat every tyrant  
 that has invaded them.

Should there be any among you, as there generally are in  
 all societies, who prefer the favours of ministers, and their  
 own interests, to the welfare of their country; the temper of  
 such selfish persons will render them incredibly active in  
 opposing all public-spirited measures, from an expectation of  
 being well rewarded for their sordid industry by their supe-  
 riors: but we doubt not you will be upon your guard against  
 such men, and not sacrifice the liberty and happiness of  
 the whole Canadian people and their posterity, to gratify the  
 avarice and ambition of individuals.

We do not ask you, by this address, to commence hosti-  
 lities against the government of our common sovereign. We  
 only invite you to consult your own glory and welfare, and  
 not to suffer yourselves to be inveigled or intimidated by  
 infamous ministers so far as to become the instruments of  
 their cruelty and despotism, but to unite with us in one  
 social compact, formed on the generous principles of equal  
 liberty, and cemented by such an exchange of beneficial and  
 endearing offices as to render it perpetual. In order to com-  
 plete this highly desirable union, we submit it to your con-  
 sideration, whether it may not be expedient for you to meet  
 together in your several towns and districts, and elect depu-  
 ties, who after meeting in a provincial congress, may chuse

delegates, to represent your province in the continental congress, to be held at Philadelphia, on the tenth day of May, 1775. Chap. I.

In this present congress, beginning on the fifth of last month, and continued to this day, it has been with universal pleasure, and an unanimous vote, resolved, that we should consider the violation of your rights, by the act for altering the government of your province, as a violation of our own; and that you should be invited to accede to our confederation, which has no other objects than the perfect security of the natural and civil rights of all the constituent members, according to their respective circumstances, and the preservation of a happy and lasting connection with Great Britain, on the salutary and constitutional principles herein before mentioned. For effecting these purposes, we have addressed an humble and loyal petition to his Majesty, praying relief of our grievances; and have associated to stop all importation from Great Britain and Ireland, after the first day of December, and all exportation to those kingdoms and the West Indies, after the tenth day of next September, unless the said grievances are redressed. 1760  
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1774.

That Almighty God may incline your minds to approve our equitable and necessary measures, to add yourselves to us, to put your fate, whenever you suffer injuries which you are determined to oppose, not on the small influence of your single province, but on the consolidated powers of North America, and may grant to our joint exertions an event as happy as our cause is just, is the fervent prayer of us, your sincere and affectionate friends and fellow-subjects.

By order of the Congress,

Oct 26, 1774.

HENRY MIDDLETON, Presdt.

The above document fell to the ground, still-born as it were, not one *habitant* of a thousand in Canada, ever having heard of it. There was, indeed, but one press, and that an English one, in the Province at the time, which was introduced subsequently (there being none previous) to the conquest, for the publication of the *Quebec Gazette*, first issued in 1764.

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## CHAPTER II.

Extracts from the Reports of Mr. Solicitor General Wedderburne, (in 1772) and Mr. Attorney General Thurlow, (in 1773) to His Majesty George the Third, pursuant to His Majesty's Order in Council, relative to the Laws and Courts of Judicature of Quebec, and Government of that Province—remarkable for their liberality towards the King's new subjects—their soundness and justice.

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It is but fair to apprise the reader that the present is a chapter wholly of "quotations," but from unquestionable sources, rich and admirable in their way, and which he who would like a more ample sketch of the affairs of Canada, previous to the passing of the Quebec Act, than that we have just gone through presents, had as well read. It will afford him not only a better insight into the then actual state of the country, its laws and institutions, but also of the just and liberal policy that influenced the statesmen of the day in the passing of that important measure. They also who opine that ignorance of and indifference to the concerns of Canada have invariably characterised the home government, and who will neither give credit to it for, nor recognise in British statesmen, of whatsoever denomination, intelligence, generosity nor justice in their treatment of this country, that is, of Lower Canada, and particularly towards that part of its population of French origin, may, if they are for the moment



liberally disposed, peruse it to advantage. In either case the reader's time will not be lost. Chap. II.

A more faithful picture need not be sought of the state of Canada, than that we find in the reports to His Majesty of Mr. Attorney General Thurlow, and the Solicitor General Wedderburne, the former dated 22d January 1773, and the latter 6th December 1772, in consequence of references to them by order of the King in Council.—They were directed by His Majesty's orders of 14th June 1771, and 31st July 1772, “to take into consideration several reports and papers relative to the laws and courts of judicature of Quebec, and to the present defective mode of government in that Province, and to prepare a plan of civil and criminal law for the said Province, and to make their several reports thereon.” It was most probably in accordance with the views of these gentlemen upon the matters referred to them, concurred in by Mr. Marriott's report of 1773, already familiar to those conversant with the Canadian history of that period, that the Quebec Act of 1774 was framed, and whether enlightened and liberal, the reader will determine. 1760  
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1774.

From these reports, not hitherto published, at least not in any work that has fallen under the observation of the writer of this narrative, the following extracts are deserving of especial notice. “I have taken (says the Solicitor General Wedderburne, whose report in point of date precedes the Attorney General's, and

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we therefore take it first,) the same (the subjects referred to him) into consideration, and in the course of my reflections upon the subject, I have found myself led into a discussion of the form of government, and of the religion of the Province, which must necessarily have great influence upon the plan of civil and criminal law proper to be adopted there. I have, therefore, presumed to form some ideas upon both those heads as necessarily connected with the more immediate object of reference, and humbly to submit the result of my observations upon so important and so difficult a subject, under the following heads:—

First—The Government of the Province.

Secondly—The Religion of the Inhabitants.

Thirdly—The Civil and Criminal Laws.

Fourthly—The Jūdicatures necessary to carry those laws into execution.

“ Canada is a conquered country. The capitulations secured the temporary enjoyment of certain rights, and the treaty of peace contained no reservation in favor of the inhabitants, except a very vague one as to the exercise of religion. Can it therefore be said that, by right of conquest, the conqueror may impose such laws as he pleases? This proposition has been maintained by some lawyers who have not distinguished between force and right. It is certainly in the power of a conqueror to dispose of those he has subdued, at discretion, and when the captivity of the vanquished was the consequence of victory the proposition

might be true; but in more civilized times, when the object of war is dominion, when subjects and not slaves are the fruits of victory, no other right can be founded on conquest but that of regulating the political and civil government of the country, leaving to the individuals the enjoyment of their property, and of all privileges not inconsistent with the security of the conquest.

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“ The political government of Canada, before the conquest, was very simple; for, whatever appearance of regularity of controul and limitation the Arrêts and Commission present, all power, in fact, resided in the Governor and the Intendant. The Superior Council was generally at their devotion. They had the command of all the troops, of all the revenues, and of all the trade of the country. They had also the power of granting land; and in conjunction with the bishop, they had so superior an interest at the Court of France, that no complaint against their conduct was dangerous to their authority. This was the state of Canada till the treaty of peace. Upon the reduction of the province, a military government took place, and the change was not very sensible to the inhabitants.

“ After the treaty of peace, a government succeeded which was neither military or civil, and it is not surprising that the Canadians should have often expressed a desire to return to a pure military government, which they had found to be less oppressive. Such a govern-



Chap. II. ment, however, is not formed for duration, and  
 1760 in a settlement which is to become British,  
 to could not be endured beyond the limits of a  
 1774. garrison.

“ The first consideration, in forming the political constitution of a country is, in what manner the power of making laws shall be exercised. If it were possible to provide every necessary regulation for a distant province, by orders from England, it might, perhaps, be the most eligible measure to reserve that authority entirely to the British legislature. But there must be many local interests of police, of commerce, and of political economy, which require the interposition of a legislative power, acquainted with the affairs, and immediately interested in the prosperity of a colony. In all the British colonies, that legislative power has been entrusted to an Assembly, in analogy to the constitution of the mother country. The most obvious method would then be, to pursue the same idea in Canada ; but the situation of that country is peculiar. The Assembly must either be composed of british subjects, or of british and Canadians.

“ In the first case, the native Canadian would feel the inequality of his situation, and think (perhaps truly) that he should be exposed to the oppression of his fellow-subjects.

“ To admit the Canadian to a place in that Assembly (a right, which, from the nature of a conquest he has no absolute title to expect,) would be a dangerous experiment with new

subjects, who should be taught to obey as well as to love this country, and, if possible, to cherish their dependence upon it. Besides, it would be an inexhaustible source of dissension and opposition between them, and the British subjects. It would be no less difficult to define the persons who should have a right to elect the Assembly.—To exclude the Canadian subject would be impossible, for an Assembly chosen only by the British inhabitants, could no more be called a representative body of that colony, than a council of state is. To admit every Canadian proprietor of land would be disgusting and injurious to all the men of condition in the Province, who are accustomed to feel a very considerable difference between the seignior and the censier, though both are alike proprietors of land. Nor would it be beneficial to men of inferior rank ; for every mode of raising them to the level of their superiors, except by the efforts of their own industry, is pernicious. It seems, therefore, totally inexpedient at present to form an Assembly in Canada. The power to make laws could not with safety be entrusted to the Governor alone ; it must, therefore, be vested in a Council consisting of a certain number of persons, not totally dependent upon the Governor.

“ The Chief Justice, the Attorney General, the Judge of the Vice Admiralty, the Collector of the revenue, and the Receiver General, (if these officers were obliged, as they ought, to reside there,) should hold a seat by virtue of

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Chap. II. their office; the other members to be nominated by your Majesty, and to be removed only by your royal orders.

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“ As power lodged in few hands is sometimes liable to be abused, and always subject to suspicion, some controul to this authority is necessary. The *first* is, the establishment of a general system of laws for the colony. The *second* is, that in matters of taxation, in those which affect life, and in those which import an alteration of the established laws, no ordinance of the Council should have effect till it is confirmed in Great Britain. The *third* is, that it should not be in their power at all times to act as a legislative body; but that, their session should be confined to the period of six weeks previous to the opening of the navigation to Britain, and at no other time should they be assembled in that capacity, except upon some urgent occasion.

“ Under these restraints, it seems reasonable that the power of making laws should be entrusted, for a limited number of years, to this Council, who will be enabled, from their knowledge of local circumstances, to form the necessary detail for executing the plan of laws to be transmitted to them, the regulations for the police of the country, for the administration of justice, for the collection of the revenue, and the improvement of trade and agriculture; and being bound down by certain rules upon the great objects of legislation, and subject to the constant inspection of government, they



will be sufficiently restrained from abusing the power committed to them. Chap.  
II.

“ As the immediate power of taxation is not intrusted to this Council, it is necessary that a revenue should be provided under the authority of an Act of Parliament, for which no better plan can be formed than that which has already been proposed to the Commissioners of your Majesty’s Treasury, for raising a fund to defray the expenses of government in the Province of Quebec, by a tax upon spirituous liquors. 1760  
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“ The religion of Canada is a very important part of its political constitution. The 4th article of the treaty of Paris, grants the liberty of the Catholic religion to the inhabitants of Canada, and provides that His Britannic Majesty should give orders that the catholic subjects may profess the worship of their religion according to the rites of the Romish church, as far as the laws of England will permit. This qualification renders the article of so little effect, from the severity with which (though seldom exerted) the laws of England are armed against the exercise of the Romish religion, that the Canadian must depend more upon the benignity and the wisdom of Your Majesty’s government for the protection of his religious rights than upon the provisions of the treaty, and it may be considered as an open question, what degree of indulgence true policy will permit to the catholic subject.

“ The safety of the state can be the only

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just motive for imposing any restraint upon men on account of their religious tenets. The principle is just, but it has seldom been justly applied; for experience demonstrates that the public safety has been often endangered by those restraints, and there is no instance of any state that has been overturned by toleration. True policy dictates then that the inhabitants of Canada should be permitted freely to profess the worship of their religion; and it follows of course, that the ministers of that worship should be protected and a maintenance secured for them.

“ Beyond this the people of Canada have no claim in regard to their religion, either upon the justice or the humanity of the crown; and every part of the temporal establishment of the church in Canada, inconsistent with the sovereignty of the king, or the political government established in the province may justly be abolished.

“ The exercise of any ecclesiastical jurisdiction under powers derived from the see of Rome, is not only contrary to the positive laws of England, but is contrary to the principles of government, for it is an invasion of the sovereignty of the king, whose supremacy must extend over all his dominions, nor can his Majesty by any act divest himself of it.

“ The establishment of the Jesuits and of the other religious orders, as corporations holding property and jurisdiction, is also repugnant to the political constitution, which Canada

must receive as a part of the British dominions. Chap. II. 1760 to 1774.

“ The point then, to which all regulations on the head of religion ought to be directed is, to secure the people the exercise of their worship, and to the crown a due controul over the clergy.

“ The first requires that there should be a declaration that all the subjects in Canada may freely profess their religion without being disturbed in the exercise of the same, or subject to any penalties on account thereof, and also that there should be a proper establishment of parochial clergymen to perform the offices of religion.

“ The present situation of the clergy in Canada, is very fortunate for establishing the power of the crown over the church. It is stated in the reports from your Majesty’s officers in Canada, that very few have a fixed right in their benefices, but that they are generally kept in a state of dependence which they dislike, upon the person who takes upon him to act as bishop, who, to preserve his own authority, only appoints temporary Vicars to officiate in the several benefices.

“ It would be proper, therefore, to give the parochial clergy a legal right to their benefices. All presentations either belonging to lay pastors or to the crown, and the right in both ought to be immediately exercised with due regard to the inclinations of the parishioners in the appointment of a priest. The governor’s license should in every case be the title



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to the benefice, and the judgment of the temporal courts the only mode of taking it away. This regulation would, in the present moment, attach the parochial clergy to the interests of government, exclude those of foreign priests, who are now preferred to the Canadians, and retain the clergy in a proper dependence on the crown. It is necessary, in order to keep up a succession of priests, that there should be some person appointed whose religious character enables him to confer orders, and also to give dispensations for marriages; but this function should not extend to the exercise of a jurisdiction over the people or the clergy; and it might be no difficult matter to make up to him for the loss of his authority, by emoluments held at the pleasure of the government.

“The maintenance of the clergy of Canada was provided for by the payment of one *thirteenth*\* part of the fruits of the earth in the name of tythe, and this payment was enforced by the Spiritual Court. It is just that the same provision should continue, and that a remedy for the recovery of it should be given in the temporal courts; but the case may happen that the land-owner is a protestant, and it may be doubted whether it would be fit to oblige him to pay tythes to a catholic priest.

“It has been proposed that all tythes should be collected by the Receiver General of the Province, and appropriated as a fund to be distributed by government for the stipends of the

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\* Error—one *twenty--sixth* was the tythe by law allowed.

clergy, out of which a certain proportion may be reserved for the support of protestant preachers This measure, I humbly conceive to be liable to two objections,—*First*—tythe even to the clergy is paid with reluctance, and the government, by undertaking the collection of it, would lose more in the affections of its subjects than it would gain by the additional dependence of the clergy,—*Secondly*--by thus being brought into one fund, the catholic subject will be made to contribute to the support of the protestant clergy, which he may think a grievance.

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“ There is less objection, however, to require the protestant inhabitant to pay his tythe to the receiver general, allowing him, at the same time, to compound for less than the full sum; though I should not deem it expedient to reduce the rate by any positive law.

“ The increase of that fund will be a proof of the increase of the protestant inhabitants, and it will afford the means of providing for the protestant clergy, whose functions will then become necessary. In the mean time, it may be sufficient to appoint that a protestant clergyman shall be nominated to any parish in which a majority of the inhabitants require it.

“ In regard to the monastic orders, it will be fit to secularise them entirely, but so great a change ought not to be made at once. It is proper to see how many of them may take benefices, from which they are not excluded by the foregoing provisions.

“ The Jesuits, however, and the religious

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houses in France, which have estates in Canada, are upon a different footing from the others. The establishment of the first is not only incompatible with the constitution of an English province, but with every other possible form of civil society. By the rule of their order the jesuits are aliens in every government. Other monastic orders may be tolerated, because, though they are not useful subjects, still they are subjects, and make a part of the community ill employed. The jesuits form no part of the community. They, according to their institution neither allow allegiance nor obedience to the prince, but to a foreign power. They are not owners of their estates, but trustees for purposes dependent upon the pleasure of a foreigner, the general of their order. Three great catholic states\* have, upon grounds of policy, expelled them. It would be singular, if the first protestant state in Europe should protect an establishment that ere now must have ceased in Canada, had the French government continued.

“ Uncertain of their tenure in Canada, the jesuits have hitherto remained *very quiet*, but should the establishment be tolerated there, they would soon take the ascendant of all the other priests; the education of the canadians would be entirely in their hands, and averse as they may be at present to France, it exceeds any measure of credulity to suppose that they would ever become truly and systematically friends to Britain.

\* Portugal, Spain, and France.



“ It is therefore equally just and expedient in this instance, to assert the sovereignty of the king, and to declare that the lands of the jesuits are vested in his Majesty, allowing, at the same time, to the jesuits now residing in Canada, liberal pensions out of the incomes of their estates.\*

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“ The information to be collected from the papers transmitted with the reference, is not particular enough to be the ground of an immediate law as to the property claimed by religious societies in France. The principle is clear, that every trust for their use, is void and devolves to the crown. But in applying that principle, the circumstances of each case must be considered, and, in general, it seems expedient to confirm all the titles of persons occupying lands under their grants; to make the terms of payment to the crown easier than to the former proprietors, and to apply the produce for the purposes of educating the youth of Canada, which deserves particular attention. But this subject is more fit for gradual regulations, pursuant to the instructions that may be given to your Majesty’s governor, than to form an article in a general plan of laws to be immediately carried into execution.†

\* The Government dealt most liberally with them. They were allowed to die out before it took possession of the estates or interfered with them, which was not till after the death of Father Casot, the last of the order, in 1800.

† This has been done by an act of the legislature of Lower Canada, in 1832, and the revenues from the jesuits’ estates, accordingly, are now applicable to purposes of education only.

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“ The convents in Canada do not fall under the same rule as the monasteries. They are not much connected with the political constitution. They may, for a time, be necessary for the convenience and honor of families—perhaps it may be expedient always to retain some such communities there, for the honorable retreat of unmarried women. Certainly it would be inexpedient and cruel to dissolve them by any immediate law. No such change is essential to the political constitution, and whenever it becomes so, the remedy is easy, and the subjects will then receive it as a favor from the crown.

“ The political and religious constitution of the province of Quebec being established, the next matter of inquiry is, what plan of civil and criminal law is best adapted to the circumstances of the province ? and this is not altogether an open question ; for, Canada is not in the condition of a new settled country, where the invention of a legislator may exercise itself in forming systems. It has been long inhabited by men attached to their own customs, which are become a part of their nature. It has, of late, acquired some inhabitants superior in power, but much inferior in number, to its ancient inhabitants, equally attached to different usages. The prejudices of neither of these classes of men can be entirely disregarded ; in policy, however, more attention is due to the native Canadian than the British emigrant, not only because that class is the most numerous ; but

because it is not the interest of Britain that many of her natives should settle there.\* The Canadian also has a claim in justice to the enjoyment of as much of his ancient laws regarding private rights, as is not inconsistent with the principles of the new government; for, as his property is secured to him, the laws which define, create, and modify it, must also be retained, otherwise his property is reduced to the mere possession of what he can personally enjoy.

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\* \* \* \* \* “ It should also be provided that any Canadian subject of the age of twenty five, who is unmarried and without children, holding land immediately of the crown, may convert his tenure into a soccage holding, by which he shall have the power of devising the whole, and that the purchaser of land held of the king, may convert the tenure into soccage at his pleasure, and it shall then be held and enjoyed as by the law of England.†

\* It is now, (1847) however, different, and the policy is as it no doubt also is the interest, of the home government, to encourage a loyal, hale and industrious emigration thence to her splendid North American Empire.

† This, however, was not provided for by the statute of 1774, nor was any provision made on the subject, either by the Legislative Council erected under it, for the province of Quebec, nor subsequently by the Parliament of Lower Canada, averse, it would seem, to a change of tenure as a policy prejudicial to the influence prevailing in this body, which the influx of British emigrants and British capital, would be of a tendency to disturb, and at length, subvert. The feudal thralldom was consequently cherished, as one means of checking the apprehended evil, for as such the growth of the British population and interests in Lower Canada have been viewed by many of their fellow subjects of French origin, particularly while the dream of “ *nationalité*,” with which, for a time, they amused themselves, prevailed. A provision authorising a change of land tenures in Canada, into free



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\* \* \* \* \* “ The criminal law of England, superior as it is to all others, is not, however, without imperfections; nor is it, in the whole extent of its provisions, adapted to the situation of Canada. It would be improper to transfer to that country all the statutes creating new offences on temporary or local circumstances.

\* \* \* \* \* “ It is recommended by the governor, the chief justice, and the attorney general, in their report, to extend the provisions of the Habeas Corpus act to Canada. The inhabitants will, of course, be intitled to the benefit of the writ of Habeas Corpus at common law, but it may be proper to be better assured of their fidelity and attachment, before the provisions of the statute are extended to that country.

“ The form of civil government for the province, as it now consists in the distribution of judicial authority, is the most difficult and the most important part of the plan, for, without an easy and exact execution, laws are of very little use to society.

“ The several opinions reported to your

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and common soccage was at last made by Act (3 Geo. IV.ch. 119) of the Imperial Parliament, known as the *Canada trade act*, but little progress has hitherto (1847) been made, in the commutation, owing to the difficulty, expense, and delay incidental to the process of commuting, as adopted by the Executive of the province, and which it rests with it to redress, if only it will.—P. S. Since the above note was put together, the legislature has been in session, and among a variety of Bills passed by it, there is one for facilitating the process of commutation. This, however, the Governor General, Lord Elgin, has been advised to reserve for the royal consideration, the result of which remains to be seen.

Majesty, by the governor, the chief justice and the attorney general, concur in the causes of the complaints upon this head, and differ little in the remedies proposed.

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“ It is their opinion that the expense and delay of proceeding are at present very grievous, and they seem to think that the division of the province into three districts, and the establishment of courts of justice in each, as in the time of the French government, would afford some remedy to this evil.

“ To diminish the expense of law suits, too great already for the poverty of the country, by adding to the number of persons who are to be maintained by the law, is at least a doubtful proposition.

“ It is necessary, therefore, to consider whether other causes besides the want of proper judicatures, may have concurred to produce the grievance of which the Canadians complain, and whether other expedients, besides an increase of places and expense, may not, in part, remove it. The uncertainty of the law of the province must have been one principal cause of the expense of suits. That evil will, in time, be removed.

“ The change of property, together with the alteration of the course of commerce consequential upon the conquest, producing new contracts in new forms, created a great deal of business for which there would be no established fees, and the ignorant execution of that business opened a new source of litigation.

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The same thing has happened in the other settlements, where, for a certain time, the gains of those who took upon themselves to act as lawyers, and of course the expense to the other inhabitants, of law proceedings, has been very great. But this evil is also temporary. Without disputing the reality of the grievance, one may suppose that it is a little exaggerated, for all the French lawyers who remained in Canada, were interested to magnify it. They partook of the profits arising from its continuance, and their profits were increased by exciting the complaints.

“ I cannot conceive that this grievance would be removed by adopting the French judicature, for if one can trust the accounts given by themselves, the expense and the delay of law suits, are in France a most intolerable evil.

\* \* \* \* \* “ The Canadians, it is said, complain, and not without reason, of the arrest and imprisonment in civil cases. There could be no objection to confine that severe proceeding to the cases in which they are accustomed to it. These are stated to be actions upon bills of exchange, debts of a commercial nature, and other liquidated demands, by which probably is to be understood actions upon bond and other instruments, where the sum demanded is certain. In other cases, the arrest upon mesne process, which is only used to compel appearance or answer, may be abolished, and in lieu of it the plaintiff might be allowed, after due summons, to enter an appearance for the



defendant, and if more was required than a mere appearance, the constitution of the court is very well calculated to adopt the process of sequestration, which has already prevailed under the French government.

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“ The execution against the person of the debtor, after judgment, may also be laid aside, and, indeed, in an increasing colony it is very impolitic, and a very cruel proceeding.\* An effectual and speedy process against the goods and estate would, in most cases, answer the ends of justice much better.

\* \* \* \* \* “ As the affairs of the colony require a very particular attention, and some regard must there be had to political considerations, it might be proper to attribute the cognizance of all questions concerning the rights of the clergy, the profits of benefices, and the presentation to them, to the council, with an appeal to England; and all the most material questions of police might, perhaps, be also subjected to their jurisdiction.”

The liberal spirit which pervades the above, renders comment unnecessary. None who read can misunderstand it. Such, then, were the enlightened views in which the act of 1774, conferring, for the first time a constitution and civil government, on the recently

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\* The barbarous power formerly given to the creditor, of immuring his debtor as a criminal, is falling into disuse, and is now, it is believed, repudiated or qualified, in most civilised countries. It is pleasant to see that the views of our lawyers and statesmen of that day were such as we here find them,—equally humane and just,—as in their adoption, by our local Legislatures, time and experience have proven them to be.

Chap. II. acquired French territory in North America, constituting the province of Quebec, was conceived; and such also, it is not too much to say, have uniformly been those of the Imperial authorities, and of British statesmen towards Canada, notwithstanding the divergencies of portions of its population from the course which, for their own, no less than for the interests of the empire, it were desirable had been avoided.

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“Canada,”—observes Mr. Attorney General Thurlow,—“had been holden by the French king, in the form of a province, upwards of two hundred years; and considerably peopled near one hundred and fifty years, by the establishment of a trading company, with great privileges and extensive jurisdictions, seconded by the zeal of the age, to propagate the gospel in foreign parts.—Parishes, convents of men and women, seminaries, and even a bishoprick were established there. The supreme power, however, remained with the king, and was exercised by his governor and lieutenant-general with the assistance of a council. About one hundred years ago, Louis the fourteenth resumed the country, and gave it the constitution which was found at the conquest.

“He gave them a body of laws, namely, those of the Prévoté, and Vicompté de Paris. The sovereign power remained with the king. But because the immense distance made it impossible to provide them with local regulations so

speedily as the occasion might demand, he gave them a council, with authority to order the expenditure of public money, trade with the savages, and all the affairs of police, to appoint courts and judges at Quebec, Trois Rivières and Montreal, and to be judges themselves in the last resort.

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“ This council consisted of the governor, representing the king’s person ; and the bishop and five notable inhabitants, named by the two first. To this establishment in a few years were added two more councillors, all seven named by the king ; and an intendant of justice, police and revenue, who held the third place in council, and acted as president, collecting voices, &c., and who had, by a separate commission, very large power, particularly in police, wherein he could, if he thought fit, make laws without the council ; and in the ordering of the revenue, in which he was absolute ; and judge without appeal, of all causes relative to it, as he was, indeed, in all criminal cases.

\* \* \* \* \* “ Office, rank and authority were annexed to land, and otherwise divided among the gentry, with due degrees of subordination ; so that all orders of men habitually and perfectly knew their respective places, and were contented and happy in them. The gentry, in particular, were drawn into a still closer attachment to the governments of their posts, in the provincial and royal troops which were kept up there.

“ This system, a very respectable and judi-



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cious officer, your Majesty's chief justice of Quebec, justly extols, as being admirably calculated to preserve internal tranquility and due reverence and obedience to government, and endeared to the natives by long usage, and perfect conformity to their manners, habits and sentiments.

no } " The natives, at the conquest, were one hundred and twenty thousand, whereof about one hundred and twenty-six were noble. And their laws were, such parts of the laws of Paris, as had been found necessary and applicable to their situation, reformed, supplied, changed and enlarged by the king's ordinances and those of the provincial legislature. These have been very judiciously collected, and are among the papers which your Majesty commanded me to consider.

" On the eighth of September, 1760, the country capitulated in terms which gave to your Majesty all that which belonged to the French king; and preserved all their property, real and personal, in the fullest extent, not only to private individuals, but to the corporation of the West India company, and to the missionaries, priests, canons, convents, &c., with liberty to dispose of it by sale if they should want to leave the country. The free exercise of their religion by the laity, and of their function by their clergy, was also reserved.

" The whole of these terms were stipulated on the 10th of February 1763, in the definitive treaty of peace. By your Majesty's proclama-

tion of the 7th October, in the third year of your reign, (1763) your Majesty was pleased to declare that four new governments were erected, of which Quebec was one, containing a large portion of that country which had been included in the French government of Canada, some parts of which were settled in such manner as hath been mentioned before, but great districts of which still remained rude and barbarous.

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“ And considering that it would greatly contribute to the speedy settling of the new governments, that your Majesty’s loving subjects should be informed of your paternal care of the security of the liberty and properties of those who are or shall become inhabitants thereof, your Majesty thought fit to declare that your Majesty had, in the constitution of these governments, given express power and direction to the governors of the said colonies respectively, that so soon as the state and circumstances of the said colonies would admit thereof, they shall, with the advice and consent of your Majesty’s council, summon and call general assemblies within the said governments respectively, in such manner and form as is used and directed in those colonies and provinces in America, which are under your Majesty’s immediate government. And that your Majesty had given power to the said governors, with the consent of your Majesty’s said council and the representatives of the people, so to be summoned as aforesaid, to make, constitute and ordain laws, statutes and

Chap. II. ordinances for the public peace, welfare, and  
 1760 good government of your Majesty's said colo-  
 1774. nies, and of the people and inhabitants thereof,  
 as near as may be, agreeable to the laws of  
 England, and under such regulations and res-  
 trictions as are used in other colonies; and that  
 in the mean time, and until such assemblies can  
 be called as aforesaid, all persons inhabiting in  
 or resorting to your Majesty's said colonies,  
 might confide in your royal protection for the  
 enjoyment of the benefit of the laws of Eng-  
 land, for which purpose your Majesty declared  
 that your Majesty had given power under the  
 great seal to the governors of your Majesty's  
 said colonies respectively for the erection of  
 courts of judicature and public justice within  
 the said colonies, for the hearing and deter-  
 mining all causes, as well criminal as civil,  
 according to law and equity, and as near as  
 may be, agreeable to the laws of England, with  
 liberty to all persons who may think themselves  
 aggrieved by the sentence of such courts, in all  
 civil cases, to appeal under the usual limitations  
 and restrictions, to your Majesty in your privy  
 council.

\* \* \* \* " On the 21st of November 1763,  
 your Majesty appointed Mr. Murray, to be  
 governor of Quebec, commanding him to exe-  
 cute that office according to his commission,  
 and instructions accompanying it, and such other  
 instructions as he should receive under your  
 Majesty's signet and sign manual, or by your  
 Majesty's order in council, and according to



laws made with the advice and consent of the council and assembly. \* \* \* \* \* He is further authorised, with the consent of the council, as soon as the situation and circumstances of the province will admit of it, to call general assemblies of the freeholders and planters, in such manner as in his discretion he should think fit, or according to such other further instructions as he should receive under your Majesty's signet or sign manual, or by your Majesty's order in council. The persons duly elected by the major part of the freeholders of the respective parishes and places, before their sitting, are to take the oaths of allegiance, and supremacy, and the declaration against transubstantiation.

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“ The said governor, council and assembly are to make laws for the public peace, welfare and good government of the said province, and for the benefit of your Majesty, not repugnant, but as near as may be to the laws of Great Britain, such laws to be transmitted in three months to your Majesty, for disallowance or approbation, and if disapproved, to cease thenceforward.

“ The governor is to have a negative voice, and the power of adjourning, proroguing and dissolving all general assemblies.

\* \* \* \* \* “ Some criminal laws must be put into immediate and constant execution, to preserve the peace of the country. The English were so. They act most strikingly upon the minds of the people, and must be

Chap. II. administered without any equitable qualifica-  
 1760 ed. In truth, they could neither be refused nor  
 to avoided.  
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\* \* \* “ Three very different opinions have been entertained. There are those who think that the law of England, in all its branches, is actually established, and in force in Quebec. They argue that your Majesty, upon the conquest, had undoubted authority to establish whatever laws should seem fittest in your royal wisdom: that your Majesty’s proclamation dated the seventh day of October, 1763, was a repeal of the existing laws, and an establishment of the English laws in their place, in all parts of the new subjected countries: that the several commissions to hear and determine by the laws of England, were an actual and authoritative execution of those laws; and that the law, as it prevails in the province of New York and the other colonies, took its commencement in the same way, and now stands on the same authority.

“ If your Majesty should be pleased to adopt this opinion, it seems to afford a full answer to the whole reference, by exhibiting not only a general plan, but a perfect system of civil and criminal justice, as perfect as that which prevails in the rest of your Majesty’s dominions, or at least it leads off to questions widely different, touching the expediency of a general change in the established laws of a colony, and touching the authority by which it ought to be made.

“ Others are of opinion that the canadian laws remain unrepealed. They argue that according to the notion of the english law, upon the conquest of a civilized country, the laws remain in force till the conqueror shall have expressly ordained the contrary. They understand the right acquired by conquest, to be merely the right of empire, but not to extend beyond that, to the liberty and property of individuals, from which they draw this consequence, that no change ought to be made in the former laws beyond what shall be fairly thought necessary to establish and secure the sovereignty of the conqueror. This idea they think confirmed by the practice of nations, and the most approved opinions. “ *Cum enim omne imperium victis eripitur relinqui illis possunt, circa res privatas, et publicas minores suæ leges, sui que mores, et magistratus hujus indulgentiæ pars est, avitæ religionis usum victis, nisi persuasis non eripere.*” Grot. 3. 15. 10.; and if this general title to such moderation could be doubted, they look upon it to be a necessary consequence of the capitulation and treaty alluded to before, by which a large grant was made them of their property and personal liberty, which seem to draw after them the laws by which they were created, defined and protected, and which contain all the idea they have of either. This moderated right of war, flowing from the law of nations and treaties, they think may have some influence upon

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Chap. the interpretation of the public acts above  
 II. mentioned.

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“ Though the proclamation of 7th October, 1763, is conceived in very large terms, generally enough to comprehend the settled countries together with the unsettled, yet the purview of it seems to apply chiefly if not altogether to the unsettled, where the laws of England obtain a course till otherwise ordered; for it seems to assume and proceed upon it, as manifest that the laws of England are already in force, which could not be true of any settled country reduced by conquest. It also recites for its object that it will greatly contribute to the *speedy settling* our said new government; and at any rate, they think it too harsh a conclusion to be admitted that such an instrument in the state thereof, not addressed to the Canadians, nor solemnly published among them, nor taking any notice of their laws, much less repealing them, should be holden to abrogate all their former customs and institutions, and establish the english laws in every extent and to every purpose, as it may be thought to do in unsettled countries, which conclusion, however, they know not how to avoid, but by confining it to those countries where no settled form of justice existed before.

“ If it be true that the laws of England were not introduced into Canada by this proclamation, they consider the several commissions above mentioned, to hear and determine according to those laws, to be of as little effect

as a commission to New York to hear and determine according to the laws of Canada. Chap.  
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\* \* \* \* \* “ Others, again, have thought that the effect of the above mentioned proclamation, and the acts which followed upon it, was to introduce the criminal laws of England, and to confirm the civil law of Canada. In this number were two persons of great authority and esteem;—Mr. Yorke and Mr. De Grey, then Attorney and Solicitor General, as I collect from their report of the 14th April, 1766. One great source, they represent, of the disorder supposed to prevail in Canada, was the claim taken at the construction put upon your Majesty’s proclamation of 1763, as if it were your Majesty’s intention, by your Majesty’s judges and officers of that country at once to abolish all the usages and customs of Canada, with the rough hand of a conqueror, rather than in the true spirit of a lawful sovereign, and not so much to extend the protection and benefit of your Majesty’s english laws to your new subjects, by securing their lives, liberties and properties, with more certainty than in former times, as to impose new, unnecessary and arbitrary rules, especially in the titles to lands, and in the modes of descent, alienation and settlement, which tend to confound and subvert rights instead of supporting them. 1760  
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“ There is not, they observe, a maxim of the common law more certain, than that a conquered people retain their ancient customs till the conqueror shall declare new laws. To change

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at once, the laws and manners of a settled country, must be attended with hardships and violence. And, therefore, wise conquerors having provided for the security of their dominions proceed gently, and indulge their conquered subjects in all local customs which are in their nature indifferent, and which have been received as rules of property or have obtained the force of laws. It is the more material that this policy should be pursued in Canada, because it is a great and ancient colony, long settled and much cultivated by french subjects who now inhabit it, to the number of eighty or one hundred thousand.

\* \* \* \* \* “ In criminal cases, whether they be capital offences or misdemeanors, it is highly fitting so far as may be, that the laws of England should be adopted, in the description and quality of the offence itself; in the manner of proceeding to charge the party, to bail or detain him, to arraign, try, convict, or condemn him. The certainty and lenity of the English administration of justice, and the benefits of this constitution, will be more peculiarly and essentially felt by his Majesty’s canadian subjects, in matters of crown law which touch the life, liberty and property of the subjects, than in the conformity of your Majesty’s courts to the english rules in matters of tenure, or the succession and alienation of real and personal estate. This certainty and this leniency are the benefits intended by your Majesty’s royal proclamation, so far as concerns judicature. These



are irrevocably granted and ought to be secured to your Majesty's canadian subjects according to your royal word.

“ I have rather presumed to trouble your Majesty with a copy of their expressions than any abstract of their opinion; because, though I subscribe absolutely to the truth and good sense of their positions, I freely confess myself at a loss to comprehend the distinction whereby they find the criminal law of England introduced, and the civil laws of Canada continued, by instruments which seem to establish all the laws of England, both civil and criminal at the same time, in the same sentence, and by the same form of words, if they are understood to establish any, or to relate to Quebec.

“ They seem to proceed much upon the supposed superiority which they justly impute to the criminal laws of England. It is very unfit that I should speak of them to your Majesty without the utmost reverence. But I can conceive that a Canadian, blinded, perhaps, by the prejudices of different habits, may think of them in a different manner, and even set but small value on that excellent institution the trial by jury; whereby the natural equality among men is so admirably preserved, and the lowest subjects of the state admitted to more than an equal share of the supreme judicial authority. I have been actually informed that a canadian gentleman would think himself degraded, and more hardly used by being sub-

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mitted for life or limb to the judgment of his tradesmen, than if he were put to the question and tortured by the king's authority.

“ If the difficulties were liquidated and the way more open, I humbly submit to your Majesty, that some other points should be previously settled, before the forms of mere civil and criminal justice can be legally conceived. What form of civil government is fittest to be adopted in that country is doubtless a question of policy and state; notwithstanding which, it seems no less manifest, that any given form of civil government will take effect and influence in a thousand ways, upon any scheme to be designated, of civil and criminal justice.

“ Religion also, so far as it affects the state and becomes an object of establishment or toleration, seems to be a matter of policy and state; and yet it is sufficiently obvious what a multitude of laws must follow upon any given establishment or toleration, more or less according to the degrees in which the religion is incorporated with the state.

“ What public revenue is to be established in a new province is, perhaps, a question merely political; but when decided, it generally draws after it a system of laws peculiar to itself and an appropriated tribunal. The same observation holds, in a certain degree, of the police of a country.

“ Being totally uninformed of your Majesty's royal pleasure touching these important articles, I feel it extremely difficult to state any

certain scheme of civil and criminal laws, or any which must not receive deep and material alterations for that which your Majesty shall be pleased to determine on those heads.

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There are, at the same time, certain principles which seem, in my humble opinion, to claim your Majesty's gracious attention, as the basis of any new laws to be made in Quebec.

“ The Canadians seem to have been strictly entitled by the *jus gentium* to their property, as they possessed it upon the capitulation and treaty of peace, together with all its qualities and incidents, by tenure or otherwise, and also to their personal liberty ; for both which they were to expect your Majesty's gracious protection.

“ It seems a necessary consequence that all those laws by which that property was created, defined, and secured must be continued to them. To introduce any other, as Mr. Yorke, and Mr. De Grey emphatically expressed it, tend to confound and subvert rights instead of supporting them.

“ When certain forms of civil justice have long been established, people have had frequent occasions to feel themselves and observe in others the actual coercion of the law in matters of debt and other engagements and dealings, and also in the recompense for all sorts of wrongs. The force of these examples goes still further and stamps an impression on the current opinion of men and puts an actual check on their dealings ; and those who never



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heard of the examples or the laws which produced them, yet acquire a kind of traditional knowledge of the legal effects and consequences of their transactions, sufficient and withal absolutely necessary for the common affairs of private life. It is easy to imagine what infinite disturbance it would create to introduce new and unknown measures of justice; doubt and uncertainty in the transaction; disappointment and loss in consequence.

“The same kind of observation applies with still greater force against a change of the criminal law, in proportion as the examples are more striking, and the consequences more important. The general consternation which must follow upon the circumstance of being suddenly subjected to a new system of criminal law, cannot soon be appeased by the looseness or mildness of the code.

“From these observations, I draw it as a consequence that new subjects, acquired by conquest, have a right to expect from the benignity and justice of their conqueror the continuance of all these old laws, and they seem to have no less reason to expect it from his wisdom. It must, I think, be the interest of the conqueror to leave his new subjects in the utmost degree of private tranquillity and personal security; and, in the fullest persuasion of their reality, without introducing needless occasion of complaint and displeasure, and disrespect for their own sovereign. He seems, also, to provide better for the public

peace and order, by leaving them in the habit of obedience to their accustomed laws than by undertaking the harsher task of compelling a new obedience to laws unheard of before. And if the old system happens to be more perfect than any thing which invention can hope to substitute on the sudden, the scale sinks quite down in its favor.

“ It should be remembered that the scheme of government and laws for Canada, was conceived by a wise court in a cool moment, untainted with private passion or public prejudice. The principles of humanity and the views of state combined to suggest that plan which might serve to build a flourishing colony upon. The plan was improved, from time to time, by the wisdom and experience of succeeding times, and not left to become obsolete and unfit for the progressive state of the province.

“ Although the foregoing observations should be thought just, as a general idea, yet circumstances may be supposed, under which it would admit some exceptions and qualifications. The conqueror succeeded to the *sovereignty* in a title at least as full and strong, as the conquered can set up to their private rights and ancient usages. Hence would follow every change in the form of government which the conqueror should think *essentially necessary* to establish his sovereign authority and assure the obedience of his subjects. This might possibly produce some alteration in the laws, especially

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those which relate to crimes against the state, religion, revenue and other articles of police, and in the form of magistracy. But it would also follow, that such a change should not be made without some such actual and cogent necessity, which real wisdom could not overlook or neglect;—not that ideal necessity which ingenious speculation may always create by possible supposition, remote inference and forced argument—not the necessity of assimilating a conquered country in the article of laws and government to the metropolitan state, or to the older provinces which other accidents attached to the empire, for the sake of creating a harmony and uniformity in the several parts of the empire; unattainable, and, as I think, useless if it could be attained:—not the necessity of stripping from a lawyer's argument all resort to the learned decisions of the Parliament of Paris, for fear of keeping up the historical idea of the origin of their laws:—not the necessity of gratifying the unprincipled and impracticable expectations of those few among your Majesty's subjects who may accidentally resort thither, and expect to find all the different laws of all the different places from which they come, nor according to my simple judgment, any species of necessity, which I have heard urged for abolishing the laws and government of Canada.

“ The foregoing thoughts are humbly submitted to your Majesty, as general and abstract



propositions, liable to be much altered in the application, by what your Majesty may think fit to resolve upon the matters of policy and state which have appeared to me in some degree previous considerations to any plan for the administration of civil and criminal justice, and upon which I have not presumed to offer any opinion. All which is humbly submitted to your Majesty's royal wisdom."

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Such were the sentiments of british statesmen of that day, and which every generous and genuine british heart of the present will respond to, and take pride in.—Sentiments, certainly not in the spirit of “foreigners and intruders,” as their countrymen, since immigrating to this, a land acquired by their forefathers, assuredly not through any complacency of its former owners, (for neither were they wanting in virtue or in bravery,) but by their trusty arms, recently have been designated by their fellow subjects of french origin in the colony, the descendents of the then so called “*new subjects*,” for whose welfare and happiness so much solicitude was then evinced, as from that time to this it unceasingly has been.

The reader will have perceived the elements of *the Quebec Act* in the advice we have just perused, as submitted to the king by his Majesty's constitutional advisers, in reference to Canada ; and if he be a truly british subject, sensible of the honor of his country and of the reputation of her statesmen and legislators, he must feel, and with an honest satisfaction, that

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there was not less of wisdom displayed in their councils, than of valour in the field by the little but gallant division of the army which, under the immortal Wolfe, establishing itself, on the memorable 13th September, 1759, on the plains of Abraham, made classic by his fall in the moment of victory, and by the achievement of that glorious day, placed the british standard on the hitherto impregnable citadel of Quebec, where, in triumph and unblemished, it has ever since waved, and let us hope long will wave in despite of all its enemies.

One position we may take in starting, as certain, and which, as we go on, we shall find to be confirmed by experience; namely, that whatever abuses the colonists have, from time to time, had cause to complain of in the administration of their local affairs, these have been chiefly if not altogether attributable to the local authorities; and that on the part of the imperial government and british parliament, a disposition, favorable to Canada, and to redress all real grievances and well-founded complaints submitted to their judgment by the inhabitants of the colony, particularly by those of french origin, has never been wanting. These high authorities, have invariably been above all reproach, and uniformly just and liberal, though no doubt, occasionally embarrassed, in the diversity of opinions as to the line of policy which it might be the most desirable to pursue. Embarrassments that must have been enhanced by the discontent of the colonists of

british origin, or british birth, immigrating to  
 Lower Canada; who, at times, deeming the  
 british interests in the colony sacrificed to pro-  
 pitiate a party of the other origin, hostile to  
 them, have thought the home government, to  
 use Mr. Wedderburne's language, and in pro-  
 secution of his policy, to have shewn "more  
 attention to the native Canadian than to the  
 british emigrant," and felt wounded at it.

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## CHAPTER III.

The King signifies by message to parliament his intention to divide the province of Quebec into two separate provinces, to be called Upper Canada, and Lower Canada—Bill accordingly introduced by Mr. Pitt—his views of the subject—Mr. Fox's views different from those of Mr. Pitt as to the division of the province into two, thinking it more desirable to preserve its unity, as most likely to produce an amalgamation of the inhabitants of english and french origins—suggests an elective Legislative Council—Mr. Lymburner heard at the bar in opposit on to the bill—his objections to it—various interesting notices by him on the state of the province of Quebec, since the passing of *The Quebec Act*, its judicature, &c.—his anticipations in case the bill become law, and the province be divided in two—remarkable, as time and experience have verified, for their general accuracy.

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PASSING over the military and naval occurrences of those days in Canada, which, as previously mentioned, are not within our plan, we proceed to the division of the province of Quebec, as established by the act of 1791,\* into the two provinces of Upper and Lower Canada, following the latter from birth to dissolution, and to its reincorporation with the former, from which, as many think, and perhaps justly, it ought never to have been separated.

The time had come, in the opinion of the british government, when the state and circumstances of Canada, rendered it expedient to

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\* 31 Geo. III., ch. 31, usually called "The constitutional Act."

confer upon the inhabitants of it, a more popular constitution than that they held under the Quebec Act. The old subjects, or those of british birth or origin, were rapidly increasing in the province by immigration from the United States, after the establishment of their independence, and were anxious for a government and constitution more in accordance with such as they had been accustomed to, and better suited to the advancement and welfare of their adopted country, than the government which, on their advent, they found in it.

There were also heavy complaints from the british settlers in the province to the government at home, on the state of affairs in the colony. The Quebec Act had not, it was said, secured the peace, nor promoted the happiness or prosperity of the people of the province, but produced the contrary effects;—that from the uncertainty as to the laws intended to be introduced by that act, his Majesty's subjects had been obliged to depend for justice on the vague and uncertain ideas of the judges—and that although it had been sixteen years in force, the courts had not yet settled or agreed whether the whole of the french laws, or what part of them, composed the custom of Canada, as they sometimes admitted and sometimes rejected whole codes of the french law.

The progress of opinions in Europe, and the movements in France at the time, probably also had some influence upon the minds of those

Chap. III. at the helm of affairs in England, in their determination to leave to their fellow-subjects in Canada nothing to be coveted in the example of foreign countries, particularly in the neighbouring one, and to bestow upon them a constitution as liberal as they could desire, and as might consist with the dependence of the province upon the crown and parliament of Great Britain.

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As british subjects who had forfeited their worldly possessions in the cause of the empire and its integrity, and had abandoned their homes in preference to an abandonment of their allegiance, and migrated to the wilderness of the north, to seek an asylum and a new country, they were worthy of the solicitude of the government and nation to whose cause they conscientiously adhered. "The loyalists," as they were denominated, had located themselves principally in the western parts of the province, along the north bank of the St. Lawrence, and in the vicinity of the lakes Ontario and Erie, where the climate was more genial and the soil better suited to agriculture than in the lower section of the province, known as Lower Canada. The country bordering upon those great lakes was at the time a vast solitude, with but very little exception.

On the 4th of March, 1791, the following message from the king, was transmitted to the House of Commons:—"His Majesty thinks it proper to acquaint the House of Commons that it appears to his Majesty, that it would be for



the benefit of his Majesty's subjects in his province of Quebec that the same should be divided into two separate provinces, to be called the province of Upper Canada, and the province of Lower Canada, and that it is accordingly his Majesty's intention so to divide the same, whenever his Majesty shall be enabled by act of parliament to establish the necessary regulations for the government of the said provinces. His Majesty, therefore, recommends this object to the consideration of this house.

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“ His Majesty also recommends to this house to consider of such provisions as may be necessary to enable his Majesty to make a permanent appropriation of lands in the said provinces for the support and maintenance of a protestant clergy within the same, in proportion to such lands as have been already granted within the same by his Majesty; and it is his Majesty's desire that such provision may be made with respect to all future grants of land within the said provinces respectively, as may best conduce to the same object, in proportion to such increase as may happen in the population and cultivation of the said provinces; and for this purpose, his Majesty consents that such provisions and regulations may be made by this house respecting all future grants of land to be made by his Majesty within the said provinces, as this house shall think fit.”

Mr. Pitt stated, in introducing his bill on this subject, “ that the division of the province into Upper and Lower Canada, he hoped would

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put an end to the competition between the old french inhabitants and the new settlers from Britain and the british colonies : this division, he trusted, would be made in such a manner as to give each a great majority in their own particular part, although it could not be expected to draw a complete line of separation. Any inconvenience, however, to be apprehended from ancient Canadians being included in the one, or british settlers in the other, would be averted by a local legislature to be established in each.

“ In imitation of the constitution of the mother country, he should propose a Council and House of Assembly for each ; the Assembly to be constituted in the usual manner, and the members of the Council to be members for life ; reserving to his Majesty to annex to certain honors an hereditary right of sitting in the Council. All laws and ordinances of the province were to remain in force till altered by the new legislature. The habeas corpus act was already law by an ordinance of the province, and was to be continued as a fundamental principle of the constitution.

“ It was further meant to make a provision for a protestant clergy in both divisions, by an allotment of lands in proportion to those already granted, and as in one of them the majority of the inhabitants would be catholics, it was meant to provide that it should not be lawful for his Majesty to assent to future grants for this purpose, without first submitting them to

the consideration of the British Parliament. The tenures were to be settled, in Lower Canada, by the local legislature. In Upper Canada, the settlers being chiefly british, the tenures were to be soccage tenures. To prevent any such dispute as that which separated the thirteen states from the mother country, it was provided that the British Parliament should impose no taxes but such as might be necessary for the regulation of trade and commerce; and to guard against the abuse of this power, such taxes were to be levied and disposed of by the legislature of each division.”

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The bill was warmly opposed in its progress through the house by Mr. Fox and some other gentlemen. They objected, in the first place, to the division of the province. “ It had been urged,” Mr. Fox said, “ that by such means we could separate the english and the french inhabitants;—but was this to be desired?—Was it agreeable to general and political expediency?—The most desirable circumstance was that the french and english inhabitants should coalesce into one body, and that the different distinctions of people might be extinguished for ever. If this had been the object in view, the English laws might soon have prevailed universally throughout Canada—not from force, but from choice and conviction of their superiority.”

Mr. Fox also proposed that the Legislative Council, or aristocratic branch of the new constitution should be “ elective.” “ Instead,



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therefore,"—said he—" of the king's naming the Council at that distance, (in which case they had no security that persons of property and persons fit to be named would be chosen,) wishing as he did to put the freedom and stability of the constitution of Canada on the strongest basis, he proposed that the Council should be elective. But how elective?—not as the members of the House of Assembly were intended to be, but upon another footing.—He proposed that the members of the Council should not be eligible unless they possessed qualifications infinitely higher than those who were eligible to be chosen members of the House of Assembly, and in like manner the electors of members of Council must possess qualifications also proportionably higher than those of the electors of representatives in the House of Assembly. By this means,"—Mr. Fox said—" they would have a real aristocracy chosen by persons of property, from among persons of the highest property, who would thence necessarily possess that weight, influence, and independency, from which alone could be derived a power of guarding against any innovations that might be made, either by the people on the one part, or the crown on the other. In answer to this proposition"—Mr. Fox observed—" it might possibly be said to him, if you are decidedly in favor of an elective aristocracy, why do you not follow up your own principles, and propose to abolish the House of Lords and make them elective?—

For this plain reason, because the British House of Lords stood on the hereditary, known, and acknowledged respect of the country for particular institutions, and it was impossible to put an infant constitution upon the same footing.”

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Mr. Pitt, in reply to the various objections of Mr. Fox and others to the bill, stated among other matters—“ that the population of Upper Canada amounted to only *ten thousand* inhabitants, and that of the Lower Province to not more than *a hundred thousand*,” an estimate differing considerably from those already seen. Dividing the province he considered as the best means of conciliating the french inhabitants, as they would, by this measure, be made sensible that there was no intention to force the british laws upon them. It would also, in elections, prevent that contest between the two parties, which would be likely to take place, if there were but one House of Assembly.

Mr. Pitt, again, in answer to a question asked by Mr. Francis, whether it were his intention, by the division of the province, to assimilate the Canadians to the language, the manners, the habits, and above all, to the laws and constitution of Great Britain, said, that he certainly did mean so, and that he was clearly of opinion, in the present case, that an attempt to force on them those laws, to which their own prejudices were averse, was not the way ever to reconcile them to the british laws and constitution.

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The bill, as introduced, gave dissatisfaction to many in Canada, and Mr. Adam Lymburner, a merchant, of Quebec, as their agent, was heard, on the 23d March, 1791, against it at the bar of the House of Commons, where he read an interesting and able paper on the subject:—"While that province belonged to France,"—said Mr. Lymburner, in addressing the Speaker—"the country was thinly inhabited; agriculture and commerce were neglected, despised and discouraged; credit and circulation were very confined; and mercantile transactions were neither numerous, extensive, nor intricate, for the India company had been permitted to retain the monopoly of the fur-trade, which was almost the only export, during that period, from the province. The French government seems to have been totally unacquainted with the mercantile resources of the country, and to have estimated the possession of it merely as being favorable to their views in distressing the neighbouring british colonies; the inhabitants were miserably poor, and the province was a dead weight on that kingdom. But, sir, the province has greatly changed since it was ceded to Great Britain. At the peace of 1763, the commercial spirit and energies of those Britons who have resorted to and settled in the country have, by promoting industry and cultivation, discovered to the world the value of that province; and though the efforts of a few individuals have not been sufficient to counteract all the pernicious consequences of



an arbitrary system of government and an uncertain administration of law, yet they have produced a wonderful change on the face of that country; the towns and villages are greatly increased; the number of the people is nearly tripled; there is a double quantity of land cultivated; the farmers are more comfortably lodged, and a great number of ships are annually loaded with a variety of articles the produce of the province. If such amazing progress has been made in the period of twenty-five years, not only without any assistance from the government, by bounties or encouragements, but while the province was labouring under oppression and the people scarcely assured of enjoying the fruits of their industry, what may not be expected from the country, if encouraged by a generous system of government and assisted by the fostering hand of Great Britain? When, in consequence of the people being enlightened by education and science, the effects of ancient and narrow prejudices are destroyed, and the farmers have been induced to change their present wretched system of agriculture, I have no doubt, sir, that the province will be considered as a valuable appendage in the line of trade; and, instead of exhibiting a weak government and impoverished country, it will acquire that degree of respectability which its situation, soil and numbers ought to command.

“ The bill, sir, now under the deliberation of this honorable house states in the preamble,

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that the act of the 14th of his Majesty, commonly called 'the Quebec Act' is in *many* respects inapplicable to the present condition and 'circumstances of the province.'

"This, sir, is very true, and justifies the complaints of the people, so often expressed in their petitions against that act. They have had a long and painful experience of the inefficiency of the act. They have severely felt and suffered under the confusion which that act introduced into the government of the province;—they have been exposed to the pernicious effects of uncertain and undefined laws, and to the arbitrary judgments of courts guided by no fixed principles or certain rules,—and they have seen their property, in consequence thereof, dissipated without a possibility of helping themselves. It was these evils which induced them to pray this honorable house that the act intituled, "An act for making more "effectual provision for the government of the "province of Quebec," might be repealed in toto.

"Sir, though the present bill declares in the preamble that the Quebec Act is "in many respects inapplicable to the condition and circumstances of the province," yet it only proposes to repeal one clause. Will it be considered as doing justice to the declaration or to the petitioners, or to the province to declare thus publicly, that the act is pernicious in *many* respects, and to give the necessary relief only in *one* point? I have examined the Quebec

Act with a great deal of care, but have not been able to perceive any powerful reason for which it ought to be preserved.

\* \* \* \* \* “ I cannot perceive any reason for retaining that act as part of the new constitution. Sir, I have understood government were fully convinced that what is called in the Quebec Act, *the laws of Canada*, had not yet been defined;—that though sixteen years have now elapsed since that act began to operate, it is yet to be determined what or how many of the laws of France composed the system of canadian jurisprudence previous to the conquest, or even if there was any positive system, particularly for commercial transactions.

“ Is it intended, by making the Quebec Act the foundation of the new bill, that we shall remain in the same state of doubt and uncertainty which has already given us so much trouble—or that we are, in the new legislature, to combat the prejudices of these our fellow subjects, who, being unacquainted with the nature, the privileges, or circumstances of mercantile and personal transactions, are little inclined to favor them? I might instance Scotland in this particular—how strenuously did the people of that country contend at the union to preserve the whole of their own laws? I believe it will be allowed that the reservation has not been favorable to that part of the kingdom, and the people of Scotland were at

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Chap. III. that time much more enlightened than the  
 1774 Canadians are now.  
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“ Sir, this honorable house may, perhaps, be told that the french Canadians esteem the Quebec Act ;—that some of them have expressed their approbation of it in petitions to his Majesty ; and, therefore, that great respect ought to be paid to the prejudices and prepossessions of these people. I have, sir, a very high respect for the prejudices of education ; and every person, I suppose, has felt the effects of them ; they often proceed from the most amiable motives ; and I have known men of the best hearts and of sound understandings greatly influenced by them ; but, because I respect these natural defects in my neighbours, would it be fair or honorable in me to foster, cherish and encourage them ?

“ Is it conferring any favor on a people to nurse and feed prepossessions which from their very name must be considered as faults or blemishes ? No, sir, for though it would be extremely wrong to wound the feelings of a people, by attempting rudely to eradicate their prejudices ; yet, I consider it as the duty of government, in kindness to its subjects, to weed out these prejudices gently and by degrees.

“ The french Canadians have now been thirty years subject to the british empire ;—they have had time to acquire some of our customs and manners ;—to study, in a certain degree, the principles of our laws and con-

stitution,—and I stand before this honorable house the agent, I have no hesitation to say, of a number of the most respectable and intelligent of these french Canadians, to solicit the total repeal of the Quebec Act.

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“ The investigation which was made by order of Lord Dorchester, in the year 1787, into the past administration of justice in the province, and which is in the hands of his Majesty’s ministers, as well as the disputes between the upper and lower courts in the province since that period, will shew that neither the judges, the lawyers, nor the people understand what were the laws of Canada previous to the conquest. There has been no certainty on any object of litigation except in such matters as regarded the possession, transmission, or alienation of landed property, where the custom of Paris is very clear. I cannot, therefore, suppose that this honorable house will consider it incumbent on them to gratify the prejudices of a part of the people on a point of so much importance to the whole ;—an object that must continue and, perhaps, increase the confusion which has too long prevailed in the province, and which has brought the courts into disrespect and occasioned much uneasiness among the people.

“ I shall hope that this honorable house will repeal the whole of the Quebec Act, in compliance with the desires of my constituents, french and english, as being a statute extremely obnoxious to them. One or two short clauses

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added to the new bill will provide for every part of that act which is necessary to be retained. We shall, perhaps, find it sufficiently difficult to explain and understand the new law; but it must greatly increase our difficulties, if we are obliged to revert to the Quebec Act, to know the full extent of our constitution.

“ My constituents wish to receive from the british parliament a new and complete constitution, unclogged and unembarrassed with any laws prior to this period. Acts explaining acts, or amending acts, however they may be proper or necessary in the progress of legislation, often involve the objects in greater perplexity and confusion, and it is of the utmost importance to the tranquillity of the province that the new constitution should be clear, distinct, pointed and intelligible.

“ The bill now under the deliberations of this honorable house proposes, in the second and subsequent enacting clauses, to separate or divide the province into two governments, or otherwise, to erect two distinct provinces in that country, independent of each other. I cannot conceive what reasons have induced the proposition of this violent measure. I have not heard that it has been the object of general wish of the loyalists who are settled in the upper parts of the province ; and I can assure this honorable house that it has not been desired by the inhabitants of the lower parts of the country. I am confident this honorable house will perceive the danger of adopting



a plan which may have the most fatal consequences, while the apparent advantages which it offers to view are few and of no great moment.

“ Sir, the loyalists who have settled in the upper parts of the province have had reason to complain of the present system of civil government, as well as the subscribers to the petitions now on the table of this honorable house.— They have been fellow sufferers with us, and have felt all that anxiety for the preservation of their property which the operation of unknown laws must ever occasion ; a situation of all others the most disagreeable and distressing, and which may have engaged some of these people who could not perceive any other way to get out of such misery, to countenance the plans of a few individuals who were more intent to support their own schemes, than to support the true interest of government in the general tranquillity and prosperity of that extensive country. But, sir, even supposing that this division has been proposed in consequence of the general wish and desire of the loyalists, I hope this honorable house will consider, on an object of such vast importance as that of separating for ever the interests and connections of the people of that country, who, from local situation, were certainly designed by nature to remain united as one,—that the interest, the feelings and desires of the people of Lower Canada ought to be consulted and attended to, as well as the wild project of a

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small body of people, who are thinly scattered over the upper parts of the province, who have not had time to enquire into and examine their relative situation, and the natural dependence which their country must have on the lower parts of the province.

Sir, in the petitions now on the table, from my constituents, inhabitants of the province of Quebec, this honorable house will observe they have complained that the province has been already greatly mutilated, and that its resources would be greatly reduced by the operation of the treaty of peace of 1783. But, sir, they could not have the most distant idea of this new division. They could not conceive that while they complained of the extent of their country being already so much reduced as materially to prejudice their interests and concerns, it would be still further reduced and abridged. If, at the time they penned their petitions, they could have supposed or foreseen this proposed division, it would have furnished them with much stronger reasons of complaint that their interests would thereby be injured. Sir, I am sure this honorable house will agree that the province ought not to be divided into separate and independent governments, but on the most urgent reasons, and after having seriously and carefully weighed all the consequences which such a separation is likely to produce. For, if, from experience, the division shall be found dangerous to the security of government, or to the general interests of

the people, it cannot again be reunited. \* Chap. III. 1774 to 1791.

That strong principle of nationality or national prejudice which at present connects the people of that province to one another, as being members of one state, who, though scattered over an immense country, yet all look up to one centre of government for protection and relief, is of the utmost consequence to the security of a country where the inhabitants are so much dispersed. It is that political connexion which forms such a prominent feature in the character of all nations;—by which we feel, at first sight, a degree of friendship and attachment which inclines us to associate with, and to serve a subject of the same kingdom;—which makes us look on a person from the same country and province as an acquaintance, and one from the same town as a relation;—and it is a fact which the history of all countries has established beyond the possibility of a doubt, that people are more united in the habits of friendship and social intercourse, and are more ready to afford mutual assistance and support from being connected by a common centre of government than by any other tie. In small states this principle is very strong; but even in extensive empires it retains a great deal of its force;—for, besides the natural prejudice which inclines us to favor the people from our own country, those who live at the extremities of an extensive kingdom or province are compelled to keep up a connection or correspondence

\* This, however, has been done.



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with those who live near the centre or seat of government, as they will necessarily, at times, have occasion to apply for favors, justice or right; and they will find it convenient to request the assistance and support of those whose situation enables them to afford it.

“ I might here compare the different situation of Scotland, now united to England and governed by the same legislature, with some other of the dependencies of the british empire; but I consider it to be unnecessary, as the object must be present to the recollection of every member of this honorable house.

“ I beg leave to mention as a consideration worthy the attention of this honorable house against the division of that country and the establishment of a new government in the upper part of it, that the new province will be entirely cut off from all communication with Great Britain;—that their government will be complete within itself;—and as from their situation they cannot carry on any foreign commerce but by the intervention and assistance of the merchants of Quebec and Montreal, they will, therefore, have little reason to correspond with Great Britain, and few opportunities of mixing in the society of Britons. How far these circumstances may operate in gradually weakening their attachment to the kingdom, I shall leave to the reflection of the honorable members.

“ These are considerations which I have no doubt will have due weight with this honorable

house ; and there are many others of a general political nature equally strong, and, perhaps, more pointed, against this innovation, which will necessarily occur in the consideration of the subject.—But there is one consideration which is of the utmost importance to the tranquillity of the people inhabiting all the parts of that country, and which will alone, I hope, be sufficient to induce this honorable house to reject the plan of a new independent government. I beg leave to request that the honorable members will recollect and attend to the geographical situation of that country, from which it will appear evident that no vessel of any kind can proceed further up the river St. Lawrence than the city of Montreal, on account of the rapids which are immediately above that town.\* Of course, as every article of neces-

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\* These natural obstacles are now, however, effectually overcome by means of steamers and the Lachine Canal. How would the enlightened mind that produced the almost prophetic document we are perusing, if it could revisit us, and see again the localities there alluded to, admire the astonishing improvements that have taken place, in the short period that has elapsed since that day. The Lachine, the Grenville, the Rideau, the St. Lawrence, the Welland Canals, have opened the way for sea going ships from Lake Huron to the ocean, and a canal at Sault Ste. Marie, of a mile or less, at no great expense, (not exceeding £100,000, if so much,) would render lake Superior accessible to ships from sea and war steamers. These are, of themselves, gratifying proofs of the superior enterprise and energy of the british race, and british colonists in the Canadas, by whose industry and capital chiefly these great improvements have been effected, and in the rapidly increasing numbers of whom, at no distant period from the present time, their less enterprising, though, perhaps, more frugal fellow subjects of the other origin, claiming a national existence as *la nation canadienne* will be merged, as they once imagined, and possibly many of them still may, those emigrating hither from the british isles, would be, in the midst of the "*nation*." This whim, imaginary and idle as it is, tending only to keep alive national prejudices, and distinctions of national origin among british subjects, for the benefit of a

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sity, or luxury, which the inhabitants of the upper district have occasion for from Britain, or any foreign country, must come to them by the river St. Lawrence,† they must be landed at or below Montreal, where they must be stored by the merchants of Quebec or Montreal, until carriages and boats are provided to send them forward;—likewise, that every article of produce which the people of these upper districts wish to export, must be sent in boats to Montreal; or perhaps to Quebec, for the purpose of being shipped for exportation, and that as well the articles of import as of export must, in passing through the lower country, become subject to the laws, regulations, duties and taxes which may be imposed by the legislature of the lower country. Now, supposing the division to take place, as it may be expected that the new legislature of Quebec shall, in due time, provide a revenue towards the support of the civil government of that part of the province, it is more than probable that whatever money is raised for that or any other public purpose, will be done by duties payable on importations. It is, therefore, an object that deserves the most serious reflection of the honorable members, to

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few to the injury of the mass, and to perpetuate the isolation of the Canadians of french descent from the great english, or as it is fashionable to term it, anglo saxon family of North America is still, it seems, entertained, notwithstanding the unsuccessful attempts of 1837 and 1838 to realise the "*nationalité*" so ardently, but we will add, hopelessly aspired to.

† Here, again, what would be his astonishment to find New York, the favorite seaport for importations to Upper Canada, and Portland, (in Maine) to Montreal.



consider how far the people inhabiting the upper government will approve of, and be content to pay taxes or duties on their importations or exportations, when the produce of those taxes or duties is to be applied towards supporting the expenses of the civil government of the lower province, or for building public edifices; or otherwise improving or beautifying that part of the country; or the purpose of granting bounties or encouragement to promote agriculture or particular trades or manufactures, of which the people in the upper province cannot, from their situation, in any manner participate in the advantages.

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“ It is impossible, sir, if the province of Quebec is divided, for the wisdom of man to lay down a plan for these objects that will not afford matter of dispute and create animosities between the governments of the two provinces which, in a few years, may lead to the most serious consequences. This would be sowing the seeds of dissension and quarrels which, however easy it may be to raise, it will be found extremely difficult to appease.

“ I see, sir, there has been amendment made to the bill, in the committee, relative to the duties which may be ordered to be levied by parliament for the regulation of commerce, which is—‘ that parliament may appoint and direct the payment of drawbacks of such duties so imposed.’ This, sir, I suppose is intended to give drawbacks to the upper part of the country on such goods as are carried there

Chap. which may have paid duties of entry on impor-  
 III. tation into the lower country. But this will  
 1774 open a wide door for smuggling in a country  
 to where there is no possibility of preventing it,  
 1791. and I am sure the people of the lower country  
 will not be pleased to see large sums of money  
 levied on the importations drawn back by  
 smugglers. This will be found a very ineffec-  
 tual mode of providing a remedy for an object  
 of that importance, and may have the most  
 serious consequences by raising questions of  
 the most delicate, and, to the province, of the  
 most interesting nature.

“ In short, sir, this division appears to me  
 dangerous in every point of view to the british  
 interest in America, and to the safety, tran-  
 quillity, and prosperity of the inhabitants of  
 the province of Quebec. It may, perhaps,  
 have been alleged in favor of dividing the pro-  
 vince, that the distance which some of the  
 deputies of the upper districts will have to  
 travel to meet those of the lower districts in  
 legislature, would be inconvenient and expen-  
 sive ; but, sir, is the convenience of fifteen or  
 twenty members of the legislature an object of  
 such moment that the tranquillity of the whole  
 of that extensive country must be endangered  
 to assure their ease ? Do not Caithness and  
 the Orkneys send members to represent them  
 in this honorable house ? And I will venture to  
 assure this honorable house that it will not be  
 more difficult to travel in the inhabited parts of  
 that country than it is from the Orkneys to

London. I beg leave on this point to bring to the recollection of this honorable house that the distance from Quebec to Niagara is about 500 miles, and that Niagara may be considered as the utmost extent westward of the cultivable part of the province. For although there is a small settlement at Detroit, which is and must be considered of great importance as a post of trade with the Indians; yet it must appear to this honorable house, from its situation, it can never become of any great importance as a settlement; the falls of Niagara are an insurmountable bar to the transportation of such rude materials as the produce of the land.\* As the farmers about Detroit, therefore, will have only their own settlement for the consumption of their produce, such a confined market must greatly impede the progress of settlement and cultivation for ages to come. Sir, as the greatest extent of the cultivable part of the province westward, may be estimated at 500 miles distance from Quebec, the districts of Gaspé and Chaleurs Bay are almost as far east of that capital, being about 400 miles distance. So that Quebec is nearly in the centre of the cultivable part of the province, and when the roads are properly made, which will be the course in a few years, the distance of either of

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\* Here, also, Mr. Lymburner would be surprised to find how realities have outstripped his imagination. The progress of the country between Niagara and Detroit, and, indeed, in all that western country, has been wonderful since his day; and the Falls of Niagara, far from having been insurmountable, are actually overcome by the Welland Canal.—But these remarks of Mr. L., are like spots in the Sun, not blemishes—but subjects for our admiration.



Chap. III. these places will not be considered as any material objection.

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1791. “ This honorable house will likewise consider that in such an extensive country it is impossible to fix the residence of government, or the seat of legislature and superior courts in any place where some of the members of the assembly, if they are residents of the districts for which they are chosen, will not have a great distance to travel ; and, therefore, 200 or 300 miles is not an object of consequence, more particularly when it is considered that it will be through the old settled part of the country, where the roads are tolerably good, accommodations convenient, and travelling expeditious. Besides, it cannot be expected that the new settlers will be for some time sufficiently advanced in the cultivation of their farms to find it convenient to be absent from their homes three or four months, for the service of the public, either to meet the legislature in their own country or at Quebec ; and it is more than probable that they would, for some years at least, prefer choosing for their deputies gentlemen residing in Quebec and Montreal, who being connected with them in the line of business will be sufficiently interested in the prosperity of these countries to make them attend to any thing that concerns the new settlements.

“ All the trade of these upper settlements must, from their situation, depend on and centre in Quebec and Montreal. The difficul-

ties of communication in the mercantile line are already very great, and require much perseverance and industry to overcome them.— This intended division will naturally create many more obstacles, and will immediately be injurious to and eventually operate to the ruin of both countries.

“ Sir, it may likewise have been asserted in favor of the division, that the loyalists in the upper districts must have a code of laws for landed property and inheritance different from that of the lower districts, where the tenures are all on the feudal system; but that is an argument which cannot have any great weight with this honorable house. The union of England and Scotland, under one legislature, shews that though two countries or districts may have different laws to regulate and govern their courts of justice, one legislature may be fully sufficient for all the purposes of legislating for both, and can attend to the laws and regulations or alterations that may become necessary or convenient to either. I have not heard that the people of Scotland have ever complained that their interests have been neglected by the british legislature, or that such laws and alterations as have appeared necessary, have been at any time refused. The upper districts, therefore, can have no just cause to be afraid of being included as members of the province of Quebec.

“ There are, sir, between three or four thousand loyalists settled upon the banks of the

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river Cataraqui and the north side of lake Ontario, in detached settlements, many of them at a great distance from the others, besides those on Lake Erie and at Detroit. Civil government cannot have much influence over a country so thinly inhabited, and where the people are so much dispersed. During twenty years that I have resided in that province, I do not recollect a single instance of a highway robbery ; and the farmers consider themselves so secure that they often go to sleep without bolting their doors.

“ The crimes which have been brought before the criminal courts in the province have been generally committed in the towns and their vicinity, where the concourse of strangers encourages vice and immorality, and where idleness, drunkenness and dissipation lead to quarrels, thefts, and sometimes, but very seldom, to higher crimes. It will be evident, from these facts, that a criminal judge will have very little to do in these upper districts where there are no towns, and *where a stranger must at all times be a desirable sight.*

“ In the year 1788, lord Dorchester, in consequence of an ordinance of the legislative council, divided these upper settlements into four districts or counties, and, for the convenience of the people, established a court of common pleas in each district, and appointed judges, justices of the peace, and sheriffs for each ; and these people, since that time, have had their courts regularly. How far it may be



proper to appoint a chief justice having jurisdiction over the districts, to act as a criminal judge when necessary, and with a lieutenant governor, to carry into effect the powers and orders of government, to form a court of errors or appeal, to revise the proceedings of the courts of common pleas, I shall not presume to say; but such an establishment cannot be any impediment to the union of the country under one legislature;—and I beg leave humbly to suggest for the consideration of this honorable house whether a large society, from the variety of contending interests which it includes, may not be more easily managed and governed than when it is divided into smaller and more compact bodies.”

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How far Mr. Lyburner's anticipations have been realised let the events answer. Any man who is at all acquainted with the course of public matters in Canada and its general history, for the last forty years, will not fail to appreciate the wisdom and the foresight with which he treated his subject before the representatives of the kingdom. According to the bill, the legislative council was to consist of councillors appointed for life by the king, and to hereditary titles of honor his Majesty was authorised to annex the right of being called to this council; in other words, to establish an hereditary canadian peerage or aristocracy. On this Mr. Lyburner remarks:—

“By the bill now under the consideration of this honorable house, it is proposed that the office of

Chap. member of the legislative council may, at his  
 III. Majesty's pleasure, be made hereditary: that is,  
 1774 to form a kind of nobility or aristocratic body in  
 to that province. This, sir, is going further than  
 1791. the people have desired, as this honorable  
 house will see by their petitions, for they have  
 therein only requested that the councillors  
 should hold their places during their life and  
 residence in the province. This they consid-  
 ered was all that was necessary for them to  
 ask, or that was proper and expedient for the  
 the present to grant them. The idea of here-  
 ditary councillors, like many other speculative  
 opinions, has more of plausibility in it, than of  
 real advantage. It is an expedient extremely  
 dangerous in any infant or young colony, but  
 it must appear absolutely ridiculous in the  
 province of Quebec, where there are so few  
 landed estates of any considerable value, and  
 where, by the laws of inheritance, these estates  
 must, at every succession, be so much subdiv-  
 ided. The laws of primogeniture, as followed  
 in this kingdom, enable the representatives of  
 noble families to support the dignity and splen-  
 dor of their situations, and to live in that state  
 of independence which secures the proper  
 respect to their elevated rank, as hereditary  
 peers of the realm; but, sir, the french laws  
 relating to succession and inheritance, which,  
 by this bill, are intended to regulate the landed  
 property of the lower part of the country, give  
 to the eldest son, on the death of the father,  
 only one half of those of his father's landed

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estates, which are held by what is called in the french law noble tenure, that is, in fief and seigneurie immediately from the crown. The other half of these estates is divided amongst the other children; and the moveables as well as those landed estates which are held by grant and concession from a subject, which are called base tenures, are equally divided among all the children, male and female. Therefore, as there are very few gentlemen in that country who possess estates of the first description, in fief and seigneurie, which produce to them a clear annual revenue of £500, sterling, this honorable house must perceive the impropriety of making any honorable posts in that country hereditary. For these estates, *from the mere operation of law*, independent of the imprudence of the possessors must, at every succession, be reduced to one-half; and, in two generations, must inevitably sink into insignificance; and the hereditary councillors, from their poverty, become the objects of contempt to the public. Sir, the amazing progress of population in that country, points out the little probability of places becoming vacant for want of heirs. It may, therefore, be found difficult, in a few years, to support the dignity of that council by new creations, without increasing the number of the members too much.

“ It may, perhaps, be said, sir, that the families of these hereditary councillors may be supported in an independent situation, by introducing the laws of primogeniture into the

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Chap. constitution of that country. I shall not attempt  
 III. to discuss the advantages or disadvantages  
 1774 which that law produces in this kingdom ; but  
 to I can, without any hesitation, assure this hono-  
 1791. rable house that it would be extremely injurious  
 to that province. The french law, as followed  
 at present is, in that respect, much better  
 calculated for a young province, where it is of  
 great benefit and advantage to cultivation and  
 population, that landed property should be  
 divided and fluctuate and change its owners ;  
 and more particularly as some establishment is  
 necessary for the younger branches of families  
 in a country where there are no manufactures,  
 and where a young person, without fortune,  
 has few opportunities of setting out in life in a  
 respectable line.

“ But suppose the law of primogeniture shall be established, and the estates of these new created hereditary councillors thereby secured undivided to the oldest son : suppose even that the estates now belonging to these new councillors shall be entailed upon their heir at law ; all that would have very little effect, and those estates would be far from sufficient to support the dignity of hereditary councillors, which, probably, would be considered the highest rank in that country. For, poor as that country really is, in consequence of the oppressive system of laws they have been kept under, there are now among the mercantile gentlemen in the province, those whose moveable fortunes are perhaps equal, if not

superior to any of the seigniorial estates, and who, from the employment and support they give to thousands of the people, have infinitely more influence in the country than the seigneurs. For it would not be difficult to prove to this honorable house that the seigneurs are almost universally disliked by their tenants; but this is a natural consequence of feudal servitude when its strong support, a slavish dependence on a great chief, is removed.

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“ From these facts, I hope this honorable house will see the impropriety, and I may say, the danger of rendering the place of councillor hereditary in that province. The country is yet too young, and the people are too much dispersed to admit of that refinement; and the fortunes are too small to support an establishment of that kind, or a proper style of independence.

“ How far it may be proper and judicious, if his Majesty should so incline, to confer hereditary honors on gentlemen of the greatest property and influence in that country, by way of attaching them more strongly to the interests of government, it would be improper for me in this place to discuss. But if such a plan is considered expedient, these hereditary honors ought to be independent of the place of councillor. These gentlemen may, at the same time, be admitted of the council, and on the demise of any of these honorable councillors, the son who succeeds to his father’s hereditary honors may, if his Majesty pleases, be named

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to succeed to the vacant seat at the council board ; for the place of councillor will ever be considered as honorable in that country, unless it is degraded by the insignificance and inconsequence of the members, which it is extremely probable will be the case, if the places are made hereditary. For, supposing that the councillors to be appointed in consequence of this bill, should really be those who have the greatest influence and possess the greatest fortunes in that country, this honorable house must perceive, from the very small value of the landed fortunes, that the only means of accumulation must be by the operations of trade and commerce ; and I think I may venture to assert, that it is more than probable, in twenty years, nay, perhaps in ten years, a new set of men may come forward who may have acquired and realised fortunes much superior to any now in that country ; and who, it is natural to suppose, will possess a proportional degree of political power and influence.

“ I shall hope that these arguments are sufficiently powerful to convince this honorable house of the impropriety of making the place of councillor hereditary ;\* as it may, in a few years, greatly embarrass government, and be the means of degrading the aristocratic branch of the legislature, from their poverty or their numbers, in the eyes of the public, which I

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\* The provision, however, was persisted in and became part of the act, but was never, in any instance, acted upon in either of the Canadas.



submit as an object of very serious consideration to this honorable house.”

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Passing over a variety of other interesting matter in Mr. Lyburner's discourse, the following particularly deserves attention:—"I likewise observe that the governor is to be vested with the power of nominating and appointing, from time to time, the returning officer. Sir, this is placing the whole power in the hands of the governor;—he is to divide the province as he pleases,—he is to order the proportion of representatives as he pleases,—and he is to have the power of naming whom he pleases to act as returning officer. Sir, the freedom and independence of the legislature is an object of the utmost importance to every country; and it has been one great cause of complaint against the Quebec Act, that the legislature was too much dependent upon the governor. But, sir, I know that this honorable house will not place so much power in the hands of any man, particularly where there is no responsibility. I know that this honorable house will make such provision as will save the province from the dangerous consequence of such unlimited power. Sir, the distribution of the representation is an object of the greatest importance to the province, and ought to be settled, in a certain degree, by this honorable house: I hope I may be excused for presuming to say that there has been a radical defect in the representation of all our american colonies. From the nature of the settlements, there

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are few towns in these colonies, and as these towns have had only their proportion of representatives, the landed interest has always been too prevalent, and has, at times, greatly oppressed the commerce\* and impeded the operations of government. In this kingdom, sir, of 558 members of which this honorable house is composed, there are only 122 knights or representatives of the landed interest. I do not mean to enter on the discussion of the propriety of that division, but I hope it will be allowed that the towns ought to have such a proportion of representatives as to preserve the equilibrium between the two interests, which is for the general benefit of both. \* \*

In the province of Quebec, sir, we have, in fact, only three cities or towns; and if these are to have only the proportion of representatives which their numbers bear to the general population of the province, they will have a very small representation; indeed, not above a seventh or eighth part. This is a consideration worthy of the attention of this honorable house, and I hope they will determine on and settle the proportion of representatives for the towns.” \* \* \* \* \*

“ Sir, it may, perhaps, be expected from the 14th clause of our petitions, that in consequence of our being allowed representatives in the

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\* And such proved to be the case in the assembly of Lower Canada, in which, with the exception of the first parliament, the commerce of the country was never adequately represented; and such, also, hitherto has been the case in the parliament of United Canada, swarming with attorneys.

legislature, the province shall immediately raise the necessary funds for defraying the expenses of the civil government. Chap.  
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“ I acknowledge that it is the intention of my constituents that the province should support these expenses. I will say further, it is a shame the province has not paid these expenses many years past;—but there are situations when the impossibility of doing what is right and proper obliges an individual, or a public, to stifle that keen sense of shame, and to expose their inability to perform those duties which, of right, ought to be expected from them. 1774  
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“ Sir, that province has been so long oppressed by an arbitrary system of government, and the tyranny of uncertain and unknown laws;—the country has been so much neglected and every object of industry and improvement apparently discountenanced, as to be now reduced to such a state of langour and depression that it is unable to provide for the expenses of its civil government.

“ Sir, we may be reproached, perhaps, for our poverty; nay, we have already been reproached by some ungenerous minds with our unhappy situation; but it is a misfortune to be poor, not a crime. Is it not a natural, if not an infallible effect of arbitrary government?—Have not poverty and wretchedness ever been the attendants of arbitrary power?—Italy, Sicily, Greece, Asia Minor, the coast of Barbary, were rich, populous, and powerful coun-



Chap. tries while they encouraged free governments.  
 III. “ Sir, to recite all the species of oppression  
 1774 which that country has suffered would encroach  
 to  
 1791. honorable house. We have been told that ignorance  
 and poverty were the best security for the  
 obedience of the subject ; and that those who  
 did not approve of these political principles  
 might leave the country. We have, however,  
 the happiness, sir, this evening, of seeing our  
 affairs submitted to the inspection and discus-  
 sion of this honorable house. But, sir, we have  
 had a long and painful struggle to arrive at this  
 desirable issue. We have had to encounter  
 numberless difficulties which the pride and  
 insolence of a set of men, whose minds were  
 corrupted by the exercise of despotic power,  
 have thrown in our way in every step we made,  
 and it is only by great perseverance that we  
 have been able to overcome these difficulties.  
 But during this long contest the country has  
 been exhausted, and we hope this honorable  
 house will exercise that tenderness and gene-  
 rosity towards us which our unfortunate situa-  
 tion requires. Such, sir, has been the unhappy  
 tendency of the government of that province,  
 that not only the people have been oppressed  
 and the resources of the country neglected ;  
 but almost every public building in the province  
 has been suffered to fall to decay and perish.  
 There is not a court house in the province,  
 nor a sufficient prison, nor a house of correc-  
 tion :—there is not a public school house. In

short, the country is reduced absolutely to a state of nature. These are objects which will require the immediate attention of the new legislature. Besides, a house must be prepared for the reception of the legislature—the traveling expenses of many of the members must probably be paid, and, perhaps, a daily pay during the time of sitting. Taxes or duties must be laid on the people to build the necessary edifices; and, to provide for these and other purposes, which, added to what may be necessary to be employed in bounties and premiums to engage the farmers to change their present miserable system of farming, and to encourage the preparing of our produce in a better manner, to suit the different markets, will be as much as the province can possibly raise for some years.

“It may, perhaps, be said that Britain has been burthened already too long with the expenses of our civil government. Sir, I agree that it has been too long the case, but it has not been our fault. It might have been otherwise many years ago, if our petitions had been attended to. \* \* \* \* \* I therefore hope this honorable house will either order the necessary provision for the purposes I have mentioned, or release the province of the expenses of the civil list for a certain number of years.”\*

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\* This was complied with, it must be admitted, most liberally, at least with respect to Lower Canada. It was not, as will be seen in the sequel, until 1818, that the assembly of this province was called upon, pursuant to their voluntary offer in 1810, to vote the necessary expenses of the civil government.

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Mr. Lymburner again resuming the subject of the intended division of the province into two, observes:—"It is a rule, I believe, universally followed in common life, when the alternative of two difficulties is given, always to choose that which is likely to produce the least evil; and, I presume, the same rule may be adopted with advantage in politics. We trust, therefore, that in arranging the new constitution, this honorable house will save us from the troubles and difficulties that must result from the plan proposed in the bill, for, under a new constitution, it will evidently require some time not only to make the people fully acquainted with the great advantages of a free constitution, but also to make them fully comprehend all the duties which a free government requires of the subjects, and as this honorable house must perceive, the great danger of dividing the province and of disuniting the people at such a critical period.

"Sir, I have considered the subject a thousand times since I first heard of this intended division, but have not been able to form any reasonable idea of the motive which has induced the proposition of such a dangerous experiment. If I should admit, what I do not believe is the case, that the loyalists settled in the upper parts of the province have generally requested this separation, I know that the wisdom of this house, before complying with the wild request of a people, will consider it as necessary to enquire into the reasons which



may have engaged them to prefer such petitions; for a people may be deceived in political plans by the specious pretences of designing individuals. Instances of this are, perhaps, within the recollection of every member of this honorable house. When the loyalists began their settlements in the year 1785, the lands were then entirely covered with woods, they had then to clear the lands and build themselves houses, and on that account government generally assisted them, by furnishing them provisions and many other articles necessary for a new settlement; and though I will allow that they have, for the time, made great progress, yet I may safely assure this honorable house, that before last year, their farms had not furnished them with more than a bare subsistence, and if it had not been for the compensation which they, with many others, received from the generosity of this nation, many of them must have been at this period in great distress. Can it be supposed then, that a people dispersed as they are, and whose minds have thus far been entirely occupied in procuring the means of subsistence, have had time to consider of their political situation, or that they have been able to procure sufficient information on the consequences of such a separation as would justify such a request to the british legislature?

“ Will any person assure this honorable house that the loyalists settled in the district of Lunenburgh, which joins the district of Montreal, have advised and consulted with those

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who are settled at Niagara or Detroit, on the propriety of this measure? I am confident, sir, that no person will assert any such thing; for, I believe I may truly say, that few of the people of these different settlements have ever seen one another since they began their settlements except, perhaps, in passing to Montreal.

“ What kind of government must that upper part of the country form? It will be the very mockery of a province, three or four thousand families\* scattered over a country some hundred miles in length, not having a single town, and scarcely a village in the whole extent; it is only making weakness more feeble, and dividing the strength of the province to no purpose. Sir, a measure of this importance ought not to be adopted on the suggestion of one or a few individuals. The happiness, tranquillity and security of every part of the province is involved in its consequences, and I cannot doubt that the british legislature will attend to the interests of the people of every part of the province. But will it be said that the people inhabiting the province of Quebec have been consulted on this grand question? Will any one assure this honorable house that this proposed division has been approved of by the *inhabitants* of that province? or that they have by their petitions, requested it? If any such petitions shall be laid before this honorable

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\* A census of the province of Quebec was taken in 1790, which made the population amount to 224,466—(Mr. Smith’s history)—Mr. Pitt stated in debate on the Quebec Act, that the population of Upper Canada did not exceed 10,000, including men, women and children.

house, I hope the honorable members will consider not only the apparent motive and tendency of the request, but likewise the responsibility, influence, and numbers of the petitioners. Sir, if I recollect right, it was said at passing the Quebec Act, in 1774, that the french people had petitioned for the introduction of the french laws and system of government into that province. The names of the french inhabitants had, of course, great influence on the deliberations of parliament, as, at that time, they formed, perhaps, nineteen twentieths of the population of the province. But, sir, if these petitions had been submitted to parliament, it would have appeared, so far from comprehending the whole french people, that they were signed by a very small number of them, only about 100 ; and that even among these were many very insignificant names.

\* \* \* \* \* “ Sir, when we proposed that the province should, as soon as her affairs are brought into some kind of order, raise the necessary supplies for defraying the expenses of its civil government, we considered it a duty we owed to the empire to relieve Great Britain of that charge ; but, if the province is divided as proposed in this bill, it will most effectually destroy our hopes and good intentions in that respect ; for, although I have no doubt that the united province will, in a short time, be able to raise sufficient to relieve Great Britain of the expenses of our civil government, I can, without hesitation, assure this honorable house,

Chap.  
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Chap. that it will be absolutely impossible for them
 III. to raise sufficient to support two governments.

1774
 1791. “ Sir, though it may be necessary, for the
 convenience of the people, with regard to the
 distribution of justice, to divide an extensive
 country into small districts, I hope I shall be
 excused for saying that I think it must be dan-
 gerous to the tranquillity of government to
 divide it in that manner for the purposes of
 legislation.

“ If at any future period, experience should
 point it out as expedient for the advantage and
 safety of government, or for the general conve-
 nience and prosperity of the people, to divide
 that country, it may then be done with more
 judgment, from a more certain knowledge of
 the consequences of such division. The incon-
 veniences that may arise from continuing the
 province united under one legislature are few,
 and they are well known and understood. The
 advantages are *unanimity, mutual support, and
 strength*; but no man can tell the dangers of
 a separation. The dangers, however, to be
 apprehended are *political weakness, disunion,
 animosities and quarrels*.

* * * * * “ What they (the inhabitants of
 the province) want is expressed in their peti-
 tions now on the table of this honorable house,
 and it is nothing more than the principles of
 the english constitution. The articles are plain
 and simple and easily understood, and what,
 as far as my judgment in politics will go, may
 be granted without injury to any class of people

in the province, or the interest of Great Britain, as they are nearly similar to the constitution of the other colonies and provinces of the empire.

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“ They pray, sir, that the Quebec Act may be repealed *in toto*, as being too imperfect a system to serve as a foundation and secure the tranquillity and permanency of the new government, and they have taken the liberty of stating in a few concise and very clear propositions or articles, those laws or principles of laws which they wish may be made fundamental parts of that new constitution.

“ They pray that a triennial house of assembly or representatives of the people may be a constituent part of the legislature, with a free admission therein of roman catholics.

“ That a council appointed by the king be another constituent part thereof, consisting of a limited number; and that the members hold their places for life, residence in the province, and good behaviour.

“ The laws which they wish to be fundamental are,—the criminal laws of England for the whole province—the commercial laws and customs of England for the whole province—the Habeas Corpus act 31. Charles II., and the other acts relating to personal liberty for the whole province—the ancient laws and customs of Canada respecting landed estates, marriage settlements, inheritance and dower, for the districts of Quebec, Montreal and Three Rivers as at present bounded, with a reservation that proprietors may alienate by will—the common

Chap. law of England for the districts of Lunenburg,
 III. Mecklenburg, Nassau, Hesse * and Gaspé.

1774
 to
 1791. “ That optional juries may be granted in civil cases, on the same footing as in England, except that nine jurors out of twelve may be sufficient to establish a verdict.

“ That the sheriffs, which is an office of great trust and responsibility, may be struck annually, by the governor, from a list presented by the assembly.

“ That the judges may not be subject to suspension or removal by the governor.

“ That offices of trust may be executed by the principal in the appointment.—These are the principal articles which they propose for their new constitution.

* * * * * “ Sir, I consider it as absolutely necessary that the british parliament should establish the great outlines of our constitution ;—that they should point out clearly those principles of law which are to direct and govern the legislature of the province in their future deliberations. If that is done, the parties will more easily approach and assimilate together, and mutually accommodate one another in such parts of either of the systems as require softening or modifying.

“ There are among both the english and french inhabitants who are proprietors of lands held under the feudal grants ;—there are of both who are married and have families ;—and

* These four districts were in that part of the province of Quebec, which subsequently constituted Upper Canada.

there are of both who have personal dealings and transactions. The old laws, therefore, which are requisite for these purposes, are necessary to, and must be desired by both. But, sir, the whole trade and commerce is in the hands of, and depends on the english. It is, therefore, extremely necessary for them to have laws fitted and applicable to the nature of commercial dealings and transactions. As the french canadians are not much engaged in these pursuits, they cannot be much acquainted with its operations, and may not feel the anxiety and trouble which the want of proper laws occasions to the mercantile body. It is only from its trade that the province can be useful or in any wise of importance to this kingdom, and on that account it is the more necessary to establish such laws as will promote and increase it. We, therefore, hope, that parliament will repeal the whole of the old system, and in the new constitution, give us those parts of the english and french laws which we have pointed out as necessary to us.

* * * * * “ I likewise beg leave to submit to this honorable house, if it would not be proper to insert in the clauses concerning future grants of land, a power to authorise his Majesty, with the consent and advice of the legislature of the province, to change the tenure of the lands granted and now held under the feudal tenure, when requested so to do, by petitions from the proprietors for that purpose. I mean that the government should, upon petition,

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Chap. accept of the surrender of the old feudal grants,
 III. and regrant the same to the proprietor in free
 1774 and common soccage. This being optional and
 to not compulsory, cannot meet with any opposi-
 1791. tion; and, in a short time, might be happily
 assistant in anglifying the colony, as it would,
 by degrees, remove that detestable badge—
 vassalage.

“ I have now fully stated the defects of the bill, as it at present stands. My objections go principally against the following clauses:—

“ The establishment of two independent legislatures in the province.

“ The making the place of councillor hereditary and not limiting the number of councillors.

“ The small number of representatives intended for the assembly,* and making the duration of the assembly septennial.

“ The continuing of the laws, statutes and ordinances now in force, or supposed to be in force in the province generally.

“ The investing the governor with the power of dividing the province into districts, for the purpose of representation, and appointing the returning officer, from time to time, and fixing the places of meeting of the legislature.

“ The claiming of tythes from the distant protestant settlers, and not settling the rate.

“ The requiring appeals from the province

* The number originally intended was 30, but this was altered, the bill fixing the number to at least 50 for Lower Canada.

to go before the king in council, in their progress to his Majesty in parliament. Chap.
III.

“The additions we wish to the bill I have stated before.” 1774
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1791.

The reader will perceive, in the next chapter, that the bill, before it became law, underwent accordingly, various alterations.

“Sir, we know that a free government will not act like a charm and produce wonders. We are sensible that it will occasion some trouble in the first years, till the people get accustomed to its operations. We do not expect that every thing is to prosper and flourish immediately on its establishment; but we hope and expect that, in a few years, its beneficial consequences will be felt by the people and become evident to the observation of government; that the new legislature may be able to rouse the people from their present inactive state, and by bounties and encouragements, stimulate them to industry, enterprise and invention.

“Such are the hopes we entertain of the advantages which the united province may derive from a liberal constitution, and it will be our chief glory to convince the british nation that the province of Quebec is and ought to be considered as a valuable appendage to the empire.

“But, sir, if the province is to be divided and the old system of laws continued;—if it is expected that either part of the province, separated as proposed in the bill shall, in its present

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exhausted and impoverished state, raise the supplies for supporting the whole expenses of government—it will be reducing the province to a situation as bad as the children of Isreal in Egypt, when they were required to make bricks without straw.—The people will see that the apparent freedom held out by the new system is delusive, and the new constitution will complete that ruin which the former pernicious system had left unfinished.”

These copious extracts from Mr. Lymburner’s* address, will give the reader a tolerable idea of the state of the province at that time, and of the opinion which the british inhabitants of the colony, whom that gentleman represented, entertained of it, and better, perhaps, than could be gleaned from the journals of the day, and pamphlets which, from time to time, at the period from which we are starting, or since, have made their appearance on canadian affairs. It is scarcely necessary to observe

* This well-informed and highly respectable man lived long enough to see several of his predictions verified. The following notice of his decease is taken from a Montreal paper of March 1836:—“The late Adam Lymburner, Esq., died at his residence in Bernard street, Russell square, London, on Sunday the 10th day of January last, at the advanced age of 90. His remains were interred at St. George’s church, Bloomsbury; and at his particular request laid alongside of his friend the late Alexander Auldjo, Esq., formerly of this city. Mr. L. came to this country upwards of 60 years ago. In 1776 he succeeded to the business of his brother, the late John Lymburner, Esq., who sailed from Quebec in the fall of 1775, and the vessel with all on board was lost on the passage. Mr. L. was a native of Kilmarnock, Ayrshire. He was for many years a member of the executive council of this province, and was called to the bar of the house of commons to give evidence regarding Canada affairs, where he strongly opposed the separation of the two provinces.”—*Quebec Mercury*, 10th March, 1836.

that the government was not to be turned from its purpose, and that the province of Quebec, was accordingly divided, and the two provinces of Upper and Lower Canada erected in its stead, which, after remaining distinct provinces during fifty years, are now reunited since 1841, inclusively, by act of parliament.

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It is to notice and put on record, for the perusal of the general reader of our own day, and for that of the future historian of America, the principal political and other interesting matters that have characterised the existence and career of Lower Canada, as a british province of foreign origin, and enjoying a constitution like that of the neighbouring province, modelled, as far as circumstances would admit, after that of Great Britain, and under the same charter, that the present is intended, and that they may judge how far the reunion that has taken place of the two provinces may have been necessary and called for. As to the results, be they beneficial or the reverse, time alone can truly develope them. —The work will be one of some toil, but as concise as may be consistent with a clear understanding of the various subjects necessarily introduced, yet we entertain a hope of getting through it, and to survive the accomplishment, however laborious it may be.

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CHAPTER IV.

The governor in chief, lord Dorchester, embarks for England, on leave of absence—The lieut.-governor, Alured Clarke, Esquire, assumes the government—Arrival of his royal highness prince Edward, commanding 7th royal fusiliers, from Gibraltar—The constitutional act and its principal provisions—commences 26th December, 1791—Lower Canada divided, by proclamation, of 7th May, 1792, into counties, cities, and towns—general elections—representatives chosen—provincial parliament convoked—meets at Quebec, 17th December—governor's speech, and proceedings of the assembly—mail communications at this period between the province and England, &c.

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THE governor in chief, lord Dorchester, embarked at Quebec, for England, on the 17th August, on board H. M. ship Alligator, and sailed on the following day, leaving the government in the hands of major-general Alured Clarke, who, by proclamation, accordingly gave notice that it had devolved on him, in consequence of the absence of lord Dorchester, by leave of his Majesty. His lordship received, on the eve of his departure, several warm and very flattering addresses expressive of the respect entertained for him by all classes.

His royal highness prince Edward, commanding the 7th, or royal fusiliers, arrived with his regiment, from Gibraltar, in H. M. ships Ulysses and Resistance, at Quebec, on the 12th August. The arrival of his royal highness, (fourth son of

the king, and father of her Majesty our present most gracious sovereign) at this period, seemed auspicious, and was hailed by the citizens of Quebec, who, after receiving him with great demonstrations of respect waited upon him with an address, for which, in suitable terms, he returned them his grateful acknowledgments. His royal highness became popular and a great favorite with the inhabitants of this city, as generally he was wherever he sojourned, residing among them on the best of terms, and never so happy as when contributing, in some shape or other, to their festivity, their comfort, their assistance or relief.—He seemed to be acquainted with every body of respectability, and every body knew, esteemed, and loved **THE PRINCE**,* who, young, active, and vigorous, was ever,

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* The following anecdote is related of his royal highness :—
“ At Charlesbourg, on closing the poll of the county election on Wednesday last the 27th of June, a riot, at taking down the place of the hustings, was upon the point of bursting out into open violence. The instant **PRINCE EDWARD** discovered the exasperated crowd, he came up and took a position to be seen by *all*, and gave the command for silence.

“ Can there be (said his royal highness in pure french, and with a tone of affection and authority) a man among you that does not take the king to be father of his people ?”

His words were answered with huzzas and cheers of *God save the king*.

“ Is there a man among you (added the Prince) that does not look upon the *New Constitution* as the best possible one, both for the subject and the government ?”

The huzzas were repeated.

“ Part then in peace, (concluded his royal highness) I urge you to unanimity and concord. Let me hear no more of the odious distinction *English* and *French*. You are all his britannic Majesty’s canadian subjects.”

The tumult ceased, *menace, rage and fury*, gave place to language of admiration and applause.

May the laconic and effectual oratory of **PRINCE EDWARD**, and the wisdom of his council, be universally attended to and everlastingly remembered.—*Quebec Gazette, 5th July, 1792.*

Chap. without sparing himself, foremost at the head
 IV. of his gallant men, in lending a hand at
 1791. subduing fires that accidentally, day or night,
 broke out in the city, or on any other emergency in which he could do a good turn to the citizens. The discipline of his regiment was strict and severe ; but his royal highness liberally patronised merit, never losing sight of the individual, however humble or obscure his station or birth, whom he found deserving of his confidence and once took by the hand. Remarkably temperate in his habits and regular in business, he patronised these qualities, particularly in those serving under him, and to all in whom he found such, the path to promotion and to honor was laid open through his influence, and their attainment depended but upon themselves. The patronage of his royal highness was, in itself, a proof of merit, none obtaining but such as were ascertained to be deserving of it, and of which, when he could, he invariably made himself the judge.

The constitutional act repealed so much of the Quebec act as related to the appointment of a council for the affairs of the province of Quebec, and the powers given to it to make ordinances for the government thereof.

His Majesty's message expressive of his intention to divide the province of Quebec into two separate provinces, as previously noticed, to be called Upper Canada and Lower Canada, being recited, it was enacted that a legislative council and assembly should be established in

each province, with power to make laws for the peace, welfare, and good government thereof. Chap. IV.

The members of the legislative council were to be appointed by the king for life, and in Upper Canada to consist of not fewer than *seven*, and in Lower Canada not fewer than *fifteen* persons. No person not being of the full age of twenty-one years, and a natural born subject of his Majesty, or naturalised by act of the british parliament, or a subject of his Majesty by the conquest and cession of Canada, could be appointed to it. His Majesty was authorised to annex to hereditary titles of honor, the right of being summoned to the legislative council in either province. 1791.

The governor had the right of appointing a speaker to the legislative council. Each province was to be divided into districts or counties, or cities, or towns, or townships, which were to return representatives to the assemblies, the governor fixing the limits of such districts and the number of representatives to be returned to each. The whole number of members of the assembly in Upper Canada was to be not less than sixteen, and in Lower Canada not less than fifty, and to be chosen by a majority of votes. The county members were to be elected by owners of land in freehold or in fief or roture, to the value of forty shillings sterling a year, over and above all rents and charges payable out of or in respect of the same. Members for the towns or townships were eligible by persons having a dwelling-

Chap. IV. house and lot of ground therein of the yearly value of five pounds sterling or upwards, or who having resided in the town for twelve calendar months, next before date of the writ of election, shall *bonâ fide* have paid one year's rent for the dwelling-house in which he shall have resided, at the rate of ten pounds sterling per annum, or upwards.

1791.

No person being a legislative councillor or a clergyman of the church of England or Rome, or a teacher of any other religious profession, was eligible to the house of assembly in either province, nor was any person under lawful age, to vote at any election of a member to serve in the assembly, nor eligible thereto; nor was any person eligible as such who was not a natural born subject, or naturalised as aforesaid, or a subject of his Majesty by the conquest.

Power was given the governor to fix the times and places of holding the first and every other session of the legislative council and assembly in each province, giving due notice thereof, and to prorogue the same from time to time, and dissolve it whenever he deemed such expedient. They were to be convoked once at least, in every twelve months, and each assembly was to continue four years from the day of the return of the writs for choosing the members; subject, however, to be sooner prorogued and dissolved, at the pleasure of the governor.

The governor was authorised to give or withhold his Majesty's assent to all bills, passed

by the two branches, and to reserve such as he might think fit, for the signification of his Majesty's pleasure thereupon. Copies of all bills he might assent to, were also to be forwarded to the secretary of state ; and his Majesty might, at any time within two years after receipt by the secretary, disallow them if he thought fit.

Bills reserved by the governor for his Majesty's pleasure, were not to have effect till sanctioned and notice thereof given by message to the two houses of the provincial parliament, or by proclamation ; nor could the royal assent to bills so reserved be given, unless within two years next after the day when presented to the governor for the royal assent.

All laws, statutes and ordinances in force in either province, except as repealed or altered by that act, were to remain in force, as they might be at the time of its coming into operation.

The governor and executive council, which, by an ordinance of the province of Quebec, had been constituted a court of appeals, were, in each province, to continue so ; liable, however, to such other provisions as might be deemed necessary by the new legislatures.

It was enacted that an allotment of crown lands, in each province, should be made for the support and maintenance of a protestant clergy within the same, and such allotment was to be as nearly as circumstances and the nature of the case would permit, equal in value to a

Chap. seventh part of the lands granted, and to be
 IV. granted. This provision of the act became,
 1791. and, indeed, still is a source of much agitation
 and discord in Canada. Far better for it had
 it been, if such enactment had never taken
 place.

His Majesty was authorised to empower the
 governors in each province, to erect parsonages
 and endow them, and to present incumbents
 or ministers of the church of England, subject
 and liable to all rights of institution and all
 other spiritual and ecclesiastical jurisdiction
 and authority, lawfully granted to the bishop of
 Nova Scotia.

Power was given to the provincial legisla-
 tures to vary and repeal the provisions relating
 to such allotments for the support of a protes-
 tant clergy, parsonages and rectories, and pre-
 sentation of incumbents or ministers; but it
 was provided that no bills in this behalf were
 to be assented to by his Majesty, until thirty
 days after they had been laid before both
 houses of the imperial parliament, nor was his
 Majesty to assent to any such bill in case of an
 address from either of the houses during that
 period, requesting him to withhold the royal
 assent from it. The intent of these privileges
 was to preserve the rights and interests of
 the established church of England in both
 provinces from invasion by their respective
 legislatures.

All lands to be thereafter granted in Upper
 Canada, were to be in free and common soc-

cage, and so also in Lower Canada, when the grantee required it.

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The british parliament reserved to itself the right of providing regulations or prohibitions, imposing, levying, and collecting duties, for the regulation of navigation, or for the regulation of commerce, to be carried on between the said two provinces, or between either of them, and any other part of his Majesty's dominions, or any foreign country, or for appointing and directing the payment of duties so imposed; leaving, however, the exclusive appropriation of all monies so levied, in either province, to the legislature thereof, and applicable to such public uses therein, as it might think fit to apply them.

1791.

The governor, pursuant to the king's instructions, was to fix upon and declare the day when the act should commence, which was not to be later than the 31st December, 1791; nor was the calling together of the legislative council and assembly, in each province, to be later than the 31st December, 1792.

The above are the principal provisions in the act which conferred a constitution upon the new provinces of Upper and Lower Canada, respectively, or as much of them at least as it is necessary to quote. By a proclamation dated at the Castle of St. Louis, Quebec, 18th November, 1791, of his excellency the lieutenant governor Alured Clarke, Esquire, it was declared that the act should commence within the said provinces of Upper and Lower Canada,

Chap. respectively, on the 26th December, 1791.—
 IV. The proclamation issued on the occasion stated,
 1791. that by an order of the king in council, in August previous, the two provinces were separated by a division line “commencing at a stone boundary on the north bank of the lake St. Francis, at the cove west of the Point *au Baudet*, in the limit between the township of Lancaster and seigniory of new Longueuil, running along the said limit in the direction of north thirty-four degrees west to the westernmost angle of the said seigneurie of new Longueuil, thence along the north-west boundary of the seigneurie of Vaudreuil, running north 25 degrees east, until it strikes the Ottawa river, to ascend the said river into lake Tomiscanning, and from the head of the said lake, by a line drawn due north until it strikes the boundary line of Hudson’s Bay, including all the territory to the westward and southward of the said line, to the utmost extent of the country commonly called or known by the name of Canada.”

The day was celebrated at Quebec by a public dinner, numerously attended by citizens of all classes and denominations, enlivened by the Prince’s band of music, and by a splendid illumination of the city in the evening,—all were agreed (remarks the Gazette) that distinctions between *old* and *new* subjects should henceforward cease, and that they should be united in one body—as the only means of promoting the happiness and prosperity of the

whole. A "constitutional club" was formed by the gentlemen (upwards one hundred and sixty) who had dined together on the occasion.*

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By a subsequent proclamation dated at the Castle of St. Lewis, Quebec, 7th May, 1792, Lower Canada was divided into counties, cities and towns, and the limits of each defined. The counties were—Gaspé, Cornwallis, Devon, Hertford, Dorchester, Buckinghamshire, Richelieu, Bedford, Surry, Kent, Huntingdon, York, Montreal, Effingham, Leinster, Warwick, St. Maurice, Hampshire, Quebec, Northumberland, Orleans, twenty-one in all, besides the cities or towns of Quebec and Montreal, the borough of Three Rivers and borough of William Henry. These counties were each to return two representatives to the Assembly,

* This evening the committee which had been appointed to support the petition of November 1784, to the King and parliament of Great Britain, met a number of merchants and citizens at the Merchants' Coffee-House, and having laid their accounts before the meeting, they informed them, that the object for which they were elected being now accomplished, they considered it their duty to resign the office, and to intimate the resignation more generally by an advertisement in the public paper.

The committee having declared themselves dissolved, it was then moved and unanimously resolved,

"That the thanks of the citizens now assembled, be given to Adam Lymburner, Esquire, for his activity, zeal, and unwearying application, during his agency and mission from this province, to Great Britain, in maintaining and supporting the petition of 1784, for a representation of the people, as a constituent part of the government of Canada, to the King and parliament of Great Britain."

The gentlemen who composed the late committee having retired, it was moved, and unanimously resolved, by the citizens then present—

"That the thanks of the citizens now assembled, be given to the late committee, for their activity, zeal, and unremitting attention, in the faithful discharge of the important trust reposed in them by their constituents."—Published by order.

Quebec, 24th Dec., 1791.

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with the exception of Gaspé, Bedford and Orleans, each of which was to return but one. Quebec and Montreal were respectively to return four, Three Rivers two, and William Henry one, in all fifty representatives.

A proclamation issued on the 14th of May, giving notice that writs of election had that day been ordered, and were to issue, bearing teste the 24th of the same month, returnable on the tenth day of July following. The elections accordingly took place in June, and were in general warmly contested, and on the whole, the people judiciously exercised their franchise, by a good selection of members at this the outset of the constitution, the best, as some will have it, made during the existence of Lower Canada as a province.† There were several merchants in the body, of the first standing in Quebec and Montreal.

The provincial parliament was convoked by proclamation of the 30th Oct. for the despatch of business, and pursuant thereto met for the first time at Quebec, on the 17th December, 1792. The honorable William Smith, the chief

† The following is the return as found in the Journal of the Assembly:—Gaspé, Edward O'Hara; Cornwallis, P. L. Panet and Jean Digé; Devon, Fras. Dambourges and Jas. Tod; Hertford, P. Marcoux and Louis Duniere; Dorchester, Gabriel Elz. Taschereau and Louis De Salaberry; Buckinghamshire, A. Juc. Duchesnay and J.M. Tonnancour, Painé. Richelieu—Borough of William Henry, John Barnes; County, Pierre Guerout and Benj. Cherrier. Bedford, J. B. M. H de Rouville; Surry, Philip Rocheblave and Fran. Malhiot; Kent, Rene Boileau and Pierre Le Gras Pierreville; Huntingdon, Hyp. St. Geo. Dupre and G. C. Lorimier; York, M. E. G. Ch. De Lotbiniere and P. A. De Bonne. Montreal—West Ward, James McGill and J. B. Durocher; East Ward, Joseph Frobisher and John Richardson; County, Joseph Papineau and James Walker. Effingham,

justice of the province, was appointed speaker of the legislative council, by the lieutenant governor. The names of those constituting the legislative council were as below.*

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J. A. Panet, Esquire, an old and eminent advocate of the Quebec bar, returned a member for the upper town of Quebec, was chosen by the assembly for its speaker.† His excellency the lieutenant governor, after confirming the choice

Jacob Jordan and Jos. La Croix; Leinster, Fran. Antoine La Roque and Bonav. Panet; Warwick, P. P. M. La Valtrie and Louis Olivier. St. Maurice—Borough of Three Rivers, John Lees and Nicholas St. Martin; County, Thomas Coffin and Augustin Rivard. Hampshire, Matthew Nider and Jean Boudreau. Quebec—Upper Town, J. Antoine Panet and William Grant; Lower Town, Robt. Lester and John Young; County, Louis De Salaberry and David Lynd. Northumberland, Pierre Bedard and Joseph Dufour; Orleans, Nicholas Gaspard Boisseau.

* The legislative council, at the opening of the parliament, consisted of—the honorable William Smith, speaker; J. G. Chaussegros de Lery, Hugh Finlay, Picotté de Belestre, Thomas Dunn, Paul Roc de St. Ours, Edward Harrison, Francois Baby, John Collins, Joseph de Longueuil, Charles Delanaudiere, George Pownal, R. A. De Boucherville, John Fraser.—The receiver general, Henry Caldwell, was soon after added, making the number fifteen as by law required.

† This excellent man and good citizen, served, as we shall see in proceeding, many years as speaker of the assembly, and without other remuneration or reward than the approbation of his fellow citizens and subjects. His brother, Mr. P. L. Panet, is said thus to have expressed himself during the debates relating to the choice of speaker, and which deserves to be recorded:—"I will explain my mind on the necessity that the speaker we are about to choose should possess and speak equally well the two languages. In which ought he to address the governors?—is it in the english or french languages?—To solve the question, I ask whether this colony is or is not an english colony?—what is the language of the sovereign and of the legislature from whom we hold the constitution which assembles us to-day?—what is the general language of the empire?—what is that of one part of our fellow citizens?—what will that of the other and that of the whole province be at a certain epoch? I am a canadian, the son of a frenchman—my natural tongue is french; for, thanks to the ever subsisting division between the canadian and english since the cession of the country, I have only been able to procure a little knowledge of that of the latter—my testimony will not, therefore, be questioned. It is then my opinion, that there is an absolute necessity that the cana-

Chap. of the house, opened the session with a speech
 IV. of which the following are the prominent parts :

1792. " Gentlemen of the Legislative Council, and Gentlemen of the House of Assembly.—Our most Gracious Sovereign, always watchful over the happiness of his people, having taken into consideration the condition of his loyal subjects of this province and recommended them to his parliament for such change in their colonial government as circumstances might require and admit, the act was passed that has made it my duty, as it is my pride, to meet you in general assembly, which I have endeavoured to do at a season least inconvenient to your private interests.

On a day like this, signalized by the commencement in this country of that form of government which has raised the kingdom, to which it is subordinate, to the highest elevation, it is impossible not to feel emotions difficult to be expressed.

" To give an opportunity for your loyal and grateful acknowledgments to his Majesty is one of my motives for calling you together, and that debt discharged, your councils will, doubtless, be next employed for enacting the laws necessary to confirm and augment the prosperity of your country.

" Gentlemen of the House of Assembly.—Acquainted as you are with the condition and desires of the people you represent, it is from your house the public will chiefly expect such ordinary provision as the common weal may require, and I trust, that if any measures conducive to it shall necessarily be postponed for mature consideration to a subsequent session, no regulation of indispensable utility will escape your present attention.

" Gentlemen of the Legislative Council, and gentlemen of the House of Assembly.—Great Britain being happily at

dians, in course of time, adopt the english language, as the only means of dissipating the repugnance and suspicions, which the difference of language would keep up between two people united by circumstances and necessitated to live together ;—but in the expectation of the accomplishment of this happy revolution, I think it is but decent that the speaker on whom we may fix our choice, be one who can express himself in english when he addresses himself to the representative of our sovereign."—*Quebec Gazette*, 20th December, 1792.

peace with all the world, and, I hope, without apprehension of its interruption, the present moment must be most fit and urgent for all those arrangements best made at a season of tranquillity and falling within the sphere of our trust. The conviction I feel of your disposition to cultivate that harmony amongst yourselves and each branch of the legislature, which is always essential to the public good and private satisfaction, makes it unnecessary for me to enlarge upon this subject.

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“Such objects as it may become my duty to recommend to your consideration shall be occasionally communicated to you by message.”

The address of the assembly in answer to his excellency's speech was cordial:—

“May it please your excellency,—Truly sensible of the paternal solicitude of our most gracious sovereign, in watching over the happiness of his people, and of the justice and benevolence of the parliament of Great Britain, in granting to his Majesty's loyal subjects of this province, a new and liberal constitution for their colonial government, we shall ever retain the most grateful and lively sense of the duties we owe to the parent state.

“We cannot express the emotions which arose in our breasts, on that ever memorable day, when we entered on the enjoyment of a constitution assimilated to that form of government, which has carried the glory of our mother country to the highest elevation.

“We beg leave to assure your excellency, that our feelings and those of our constituents, fully sensible of the magnitude of the blessings conferred by the change which brought us to so memorable a convention, are of the most lively nature; and next to our gratitude to the almighty arbiter of the universe, we cannot sufficiently extol the magnanimity and grace of the king, the common father of his people, and of that parliament which has so generously co-operated for the establishment, that is most deservedly the subject of our general joy.

“It is an unparalleled happiness for us, to have an opportunity of presenting to his Majesty our loyal thanks, and of expressing to him our gratitude; such homage is the

Chap. language of our hearts, and it is due from us, for all the favors,
 IV. with which we have been loaded. That duty fulfilled, we
 will turn our attention with most ardent zeal, to forming
 1792. such laws, as may tend to the prosperity and advantage of
 our country.

“ We hear with pleasure that Great Britain is at peace with all the world, and we consider this as the most favorable time for the consideration of the objects that fall within the sphere of our charge :—to cultivate harmony among ourselves and each branch of the legislature, is our most ardent wish, convinced as we are, that it is a condition essentially necessary to the public good, and our own private satisfaction.

“ We will, at all times, give the most speedy and deliberate consideration to such messages as we may receive from your excellency.”

The lieutenant governor, immediately after delivering his speech, sent a message acquainting the assembly that he had it in command, to recommend to their immediate attention the establishment of the number proper to constitute a *quorum* of the house, and likewise the forming of such rules and standing orders for regulating the form of proceedings as might be most conducive to the regular despatch of business. He at the same time submitted to their wisdom whether it would be best to establish the quorum by an act of the legislature, or by a standing rule of the house. This matter created much warm discussion. The quorum was fixed by a standing rule, at thirty-four members, including the speaker; but this was afterwards, in the same session, reduced to twenty-six, (a majority of the whole house) and at the following session to eighteen, but subsequently again increased.

Shortly after the opening of the session, the lieutenant governor transmitted the message following to the assembly, relating to the enactment of laws :—

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“ Mr. Speaker of the house of assembly,—I am instructed by his Majesty respecting the enactment of laws in this province, upon sundry points, which I think fit to communicate to the legislature for their information, certain articles whereof are in the words following :—

“ That the style of enacting all the said laws, statutes and ordinances shall be by us, our heirs or successors, by and with the advice and consent of the legislative council and assembly of our province of Lower Canada, constituted and assembled by virtue of, and under the authority of an act passed in the Parliament of Great Britain, intituled “ an act to repeal certain parts of an act, passed in the fourteenth year of his Majesty’s Reign, intituled an act for making more effectual provision for the government of the province of Quebec in North America ; and to make further provision for the government of the said province ;”—And that no bill in any other form shall be assented to by you in our name.”—“ That each different matter be provided for by a different law, without including in one and the same act such things as have no proper relation to each other.

“ That no clause be inserted in any act or ordinance which shall be foreign to what the title of it imports, and that no perpetual clause be part of any temporary law.

“ That no law or ordinance whatever be suspended, altered, continued, revised, or repealed by general words, but that the title and date of such law or ordinance be particularly mentioned in the enacting part.

“ That in case any law or ordinance respecting private property shall be passed without a saving of the right of us, our heirs and successors, and of all persons or bodies politic or corporate, except such as are mentioned in the said law or ordinance, you shall declare, that you withhold our assent from the same ; and if any such law or ordinance shall be passed without such saving, you shall in every such case, declare that you reserve the same for the signification of our royal pleasure thereon.

Chap. " And whereas laws have formerly been enacted in several of our plantations in America, for so short a time, that
 IV. our royal assent or refusal thereof could not be had before
 1792. the time for which such laws were enacted, did expire, you shall not assent in our name to any law that shall be enacted for a less time than two years, except in cases of imminent necessity, or immediate temporary expediency; and you shall not declare our assent to any law containing provisions which shall have been disallowed from us, without express leave for that purpose first obtained by us, upon a full representation by you to be made to us, by one of our principal secretaries of state, of the reasons and necessity for passing such law."

In answer to this a deputation of four members was appointed to wait on his excellency the lieutenant governor with the humble thanks of the house, and at the same time to assure him that the house would duly attend to his Majesty's instructions communicated by message, as the basis whereon safe and sound legislation may be raised, private and public rights secured and protected, and the interests of Great Britain and this colony lastingly combined.

It may here be observed, that the business of the house was carried on, and the motions put by the speaker in english and french, (the latter being his native tongue,) and that the journals were kept in both languages. It was made a standing rule of the house " that no motion shall be debated or put unless the same be in writing and seconded; when a motion is seconded it shall be read in english and french by the speaker before debate." It was a few days after the adoption of this rule resolved to

amend it, by adding after the word "speaker," the words "if he is master of the two languages, if not, the speaker shall read in either of the two languages most familiar to him, and the reading in the other language shall be by the clerk or his deputy at the table." Chap.
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His excellency also sent down early in the session a message relating to a new judicature system, recommended by the home government. A bill was accordingly, in compliance with it, introduced in the legislative council and passed, but did not meet with the concurrence of the lower house, which put off the consideration of it until the next session; apologizing, however, for the delay, by a respectful address on the subject, to the lieutenant governor.

An immensity of discussion arose as to the language (english or french) in which bills should be introduced, and which was to be deemed the language of the law. It was moved "to resolve that the house shall keep its journal in two registers, in one of which the proceedings of the house and the motions shall be wrote in the french language, with a translation of the motions originally made in the english language; and in the other shall be entered the proceedings of the house and the motions in the english language, with a translation of the motions originally made in the french language."

To this, Mr. Richardson, moved to add, in amendment, the following—"but although the

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journal shall be thus kept in english and in french, and all bills that may be brought in or laws that may be enacted, shall be translated from the one into the other language, at such stage of their progress as may be determined upon, yet in order to preserve that unity of legal language indispensably necessary in the empire, and touching any alteration in which, a subordinate legislature is not competent, the english shall be considered the legal text.”— The proposed amendment was negatived (yeas 13, nays 26,) and the original motion unanimously passed.

In addition to this, it was a few days afterwards “resolved that such bills as are presented, shall be put into both languages; that those in english be put into french, and those presented in french be put into english, by the clerk of the house or his assistants, according to the directions they may receive, before they be read the first time; and when so put shall also be read each time in both languages. It is well understood that each member has a right to bring in any bill in his own language; but that after the same shall be translated the text shall be considered to be that of the language of the law to which said bill hath reference.” Thus this matter, which at one moment threatened to disturb the equanimity of the house and kindle national animosities among the members, was compromised, and settled down in the resolutions cited, which being made a rule of the house, was

ever afterwards cheerfully observed and worked to the satisfaction of all. Chap.
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An address relating to the new constitution, was voted by the assembly to his Majesty:— 1792.

“ We your Majesty’s most dutiful and loyal subjects the representatives of Lower Canada, met in assembly for the first time under our new constitution, humbly approach the throne to express to your most gracious Majesty, our sentiments of gratitude and joy on the happy change which has taken place in the forms of our government.

“ The constitution which it hath pleased your Majesty in parliament to give us, modelled upon that of Great Britain, a constitution which has carried the empire to the highest pitch of glory and prosperity, assures to this colony the most solid advantages, and will for ever attach it to the parent state. STY

“ Now partaking without distinction the benefits of a government, which protects all equally, we offer our thanks to divine providence for the happiness prepared for us; our prayers are for the general prosperity of the nation of which we make a part, and for the preservation and felicity of our august and virtuous sovereign.

“ May it please your Majesty to receive favourably our respectful homage, and permit us anew to express our loyalty and attachment,

“ May it also please your Majesty and parliament to receive our most humble thanks for the favor conferred upon this colony.

“ Such are the heartfelt wishes of the representatives of the people of Lower Canada.”

This truly loyal address was forwarded to his Majesty by the lieutenant governor.

His excellency transmitted to the assembly a message, on the 26th February, of which the following is an extract:—

“ I am directed also to recommend to the legislative council and house of assembly, to make due provision for erecting and maintaining of schools where youth may be ED

Chap. educated in competent learning and in knowledge of the
 IV. principles of the christian religion, which I do in full confi-
 ~~~~~ dence, that they will receive the consideration due to such  
 1793. important objects."

A petition on the subject of education was shortly after this presented to the assembly by divers inhabitants of Quebec, in which it was stated—

"That since the abolition of the jesuits, those of Canada had generously offered, and still persisted in offering to this province the remitment and possession of all the property and funds of the college (estates) for the use of the public, to whom they belong, and only desire a subsistence, but that such restitution has been retarded and impeded by many difficulties.

"That the petitioners are convinced that his most gracious Majesty, by his royal instructions, was ever desirous of being well informed of those titles (of the jesuits) and to reserve of all those funds, whatever might be requisite for the public education, without prejudice either to the causes or effects, such as the establishment had in view.

"Wherefore the petitioners hope that this honorable house will consider that the estates of the jesuits have been improved only by the labour, courage and industry of the inhabitants of this country, in hopes of educating their posterity, and that those estates, though sufficient, do not exceed the necessary expenses to afford a public education properly organised on a liberal plan, for which purposes they were granted, and therefore that they justly claim the same with the respect due to this honorable house."

Much discussion arose on this matter, which terminated in an address to his Majesty, wherein it was represented—

"That the deplorable state of education in this province has long been a matter of the deepest regret; and as the object of our present humble address and petition to your Majesty is to remedy so great an evil, it cannot fail interesting the feelings of the beneficent and enlightened sovereign



of a liberal and magnanimous nation,—permit us to say that a matter of more serious and important concern to this part of your Majesty's dominions cannot occupy our attention. Chap. IV.

“ In contemplating this subject, we have been naturally led to look forward to the reversion of the property now and heretofore possessed by the jesuits in this province, as greatly contributing to so desirable an end. 1793.

“ We therefore most humbly beseech your Majesty to be graciously pleased, upon their extinction or demise, to order such measures as to your Majesty, in your royal wisdom and justice shall seem meet, to secure and apply the same to the education of the youth in this province, by the reestablishment of a college therein ; a purpose apparently congenial to the original intention of the donors, most benevolent in itself, and most essentially necessary for the promotion of science and useful knowledge.”\*

\* The revenues from these estates were, accordingly, after many years discussion and several applications, year after year, on the subject, by the assembly to the government, finally given up by his late Majesty king William the Fourth ; and, as previously mentioned, by an act of the parliament of Lower Canada, (2 Will. IV., ch 41.) appropriated to education exclusively ; but an effort has recently been made in the parliament of the united province, and will probably be renewed, to appropriate them exclusively to the education of catholics. An unsuccessful application, it seems also has more recently been made, to the governor general, lord Elgin, by the roman catholic clergy, for a portion of the funds arising from those estates, for missionary purposes of their church, (probably with a view to the instruction of the Indian tribes in the north, whither missionaries have recently gone,) for the promotion of which, no doubt, some of the estates belonging to the late order of jesuits in Canada were, in part, conferred upon them by the original donors. His excellency felt himself bound, however, to refuse the application, on the ground that the revenues in question were already appropriated by the legislature, “ to educational purposes,” adding, also, that in his opinion, it was neither “ expedient or desirable” to endeavour to divert those funds from their existing destination. The following is the letter, as it has gone the round of the public prints, written by order of his excellency in answer to the application :—

“ We learn from the *Canadien*, that Mr. C. F. Cazeau, Secretary to the bishop of Quebec, has lately received the following reply to the petition of the canadian roman catholic clergy, presented in the month of June last :—(*Quebec Gazette*, 13th Sept., 1847.)

“ SECRETARY'S OFFICE, Montreal, 22d July, 1847.

“ Sir,—In your two-fold capacity of subscriber to the petition of the catholic clergy of the diocese of Quebec and Montreal, requesting

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On the 25th of April, his excellency sent a message to the assembly, informing them that he had received a letter from the secretary of state, of the 9th February last, "stating that the persons exercising the supreme authority in France, had declared war against his Majesty." A proclamation also issued notifying the circumstance.

STY  
In answer to the message, the assembly sent up an address thanking his excellency for it, "and assuring him that it was with horror they had heard that the most atrocious act which ever disgraced society had been perpetrated in France, (alluding to the recent decapitation of the unfortunate Louis XVIth,) and that it was with concern and indignation they now learned that the persons exercising the supreme authority there, had declared war against his Majesty.

"His Majesty's faithful subjects,"—said they

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the appropriation of the estates of the formerly existing order of jesuits, to the accomplishment of the objects to which they were originally devoted, and as secretary to the archbishop of Quebec, which gives you the means and opportunity of easy communication with the reverend subscribers to the said petition, I have the honor, by command of the governor general, to forward to you his excellency's answer to the said petition.

"His excellency enjoins me to point out to you that the legislature has formerly appropriated the revenues of the jesuits' estates to educational purposes, and that these revenues, consequently, cannot be diverted therefrom into the hands of the clergy of the church of Rome, without the previous sanction both of the crown and the legislature; and his excellency is of opinion that this is an object which it is neither expedient or desirable to endeavour to attain.

"Under these circumstances, his excellency finds it impossible to adopt any measures towards fulfilling the desire of the petitioners.

"I have the honor to be, &c., &c.,

"D. DALY, Secretary."

—“ earnestly pray that his arms may be crown-<sup>Chap.</sup>  
ed with such signal success over his enemies, <sup>IV.</sup>  
as shall speedily bring about a peace, honora-  
ble, safe, and advantageous to his Majesty and  
the empire.” 1793.

They assured his excellency in conclusion, that the house would immediately proceed to a revision of the militia laws, and if alterations and amendments were necessary, they would make such as should be deemed the most fit and proper to secure and protect the province from every injury and insult of his Majesty's enemies.

The subject was taken up and discussed, but as no alterations were made in the militia ordinance then in force, and which gave the governor very great powers, it is to be inferred that they were deemed, by the assembly, adequate to any emergency as, in fact, they were.

A variety of standing rules relating to the proceedings in the house, and to its intercourse with the other house, framed upon those in use in the imperial parliament, was adopted. A fund was provided, by a small imposition on wines imported into the province, for paying the salaries allowed the officers of the legislative council and assembly and defraying the contingent expenses thereof.\* This induced

\* The following are the salaries allowed the officers of the house of assembly :—Clerk, £250—Clerk Assistant, £150—Under Clerks, £100—Sergeant at Arms, £75—Total, £575. And to the officers of the legislative council, as follows :—Clerk, £250—Clerk Assistant, £100—Under Clerk, £50—Black Rod, £75—Mace, £40—Contingencies, £50—Total, £565. Total of both, £1140. The whole supply granted to pay the officers of the legislative council and house of

Chap. the house to record upon its journals, the fol-  
 IV. lowing resolution:—

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“Resolved and declared,—That in order to remove all anxiety and disquietude, and to preserve a perfect union and good correspondence with the province of Upper Canada, this house will at all times be ready to take into consideration the allowance or drawback to be allowed to the province of Upper Canada upon all wines consumed therein and subject to a duty on importation into this province under the bill intituled “an act to establish a fund “for paying the salaries of the officers of the legislative “Council and assembly, and for defraying the contingent “expences thereof,”—whenever arrangements tending to ascertain the quantity of wine exported to the province of Upper Canada from or through this province, shall be fixed and settled in such manner as may be deemed expedient by the joint concurrence of the government of each province, and that an humble address be presented to his excellency the lieutenant governor, requesting he would be pleased to take the earliest opportunity of communicating this resolve to his excellency lieutenant governor *Simcoe*, or person administering the government of the province of Upper Canada for the time being.”

The session having now been spun out to the beginning of May, the members, tired of it, and most of them gone home, his excellency, on the ninth of that month, went down to the legislative council chamber, whither the assembly being summoned, he, after giving the royal assent to eight bills, prorogued the parliament with the following speech:—

“Gentlemen,—At the first meeting of the Legislature, I congratulated you upon the flattering prospects which opened

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assembly the salaries and allowances voted them for the current year and other contingencies incurred since the meeting of the legislature was £1500. The amount now (1847) annually required is more than double as many thousands as there were hundreds then!



to your view, and upon the flourishing and tranquil state of the british empire, then at peace with all the world ; since that period I am sorry to find its tranquillity has been disturbed by the unjustifiable and unprecedented conduct of the persons exercising the supreme power in France, who, after deluging their own country with the blood of their fellow-citizens, and imbruing their hands in that of their sovereign, have forced his majesty and the surrounding nations of Europe into a contest, which involves the first interests of society. In this situation of public affairs I reflect with peculiar pleasure upon the loyalty and faithful attachment of his majesty's subjects of this province to his royal person, and to that form of government we have the happiness to enjoy.

“ Mr. Speaker, and Gentlemen of the House of Assembly, —The provision you have made for the payment of the salaries of the officers, together with the contingent expenses of both houses of the legislature, claims my best thanks, and furnishes a well founded hope that though the peculiar circumstances attending this your first session has, for the present, excluded the great object of supplying more generally the medium of support to the exigencies of a sufficient and well regulated government, your next meeting may afford leisure for the mature consideration of this important subject, and be productive of such grants as will enable the executive power to create and maintain such colonial establishments as may be absolutely requisite to the general welfare of the province.

“ Gentlemen,—The laws that you have prepared, and to which I have given his majesty's assent, will afford relief to some of the objects that demanded immediate attention, and I persuade myself that those of a more important nature will receive your private reflection during the recess, and be the result of your mature deliberation at the next session, particularly that respecting the courts of judicature which has been strongly recommended to your attention, and such further regulations as may appear necessary for the better organizing and more effectually calling forth the militia for the defence of this extensive and valuable country, when war or the evil disposition of our enemies of any description shall make it necessary.”

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Thus ended this first session of the first parliament of Lower Canada, to the general satisfaction, as far as at this distance from it, we can understand.

Canada, in its intercommunications with England and the rest of the world, at this period, may have been as, according to Virgil, England itself was, in his time, with respect to Italy—“*penitus toto divisos orbe britannos.*” To give the reader an idea of the rate at which news, in those times, travelled backward and forward, it has only to be stated that the mail between Quebec and New York, as well as to Halifax, was but monthly, and not always regularly so. In the Quebec Gazette of the 10th November, 1792, it is stated that the latest news from Philadelphia and New York, were to the 8th of October, giving accounts of a battle on the Wabash and Anguille rivers in August, between an expedition of the American forces, consisting of 523 rank and file, under general Wilkinson and a body of indians, in which the latter were routed, news, which, at the present time, would reach Quebec, in three days and perhaps less, from the place of action, and in direct line.— Again, on the 29th December, it is said, “yesterday’s post from Montreal, brought New York papers to the 27th November.” In a notice from the “General Post Office, Quebec, 17th November, 1791, information is given that “a mail for England will be closed at this office, on Monday, 5th December next, at 4 o’clock, *p. m.*, to be forwarded by way of New

York, in H. M. packet-boat, which will sail from thence in January." Similar notices were sometimes given of mails for England by way of Halifax, by which route they also, occasionally, came and went. But a month was the average time of the mail between either of those places and Quebec, and from the latter to England, two months.\*

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Contrast the following with the above:—We have now, frequently, at Quebec, since the establishment, in 1840, of the Cunard line of steamers, from Liverpool to Halifax and Boston, news from India, viâ the Mediterranean and England, in less than two months; from England in sixteen to eighteen days, regularly; from Boston and New York in three, the mail coming and going daily; and, at the hour of committing this to paper, (half-past noon, 4th October, 1847,) we learn by the electric telegraph just finished and in operation between Quebec and Montreal, that the steamer *Hibernia*, from Liverpool, with the english mail of the 19th ult., arrived yesterday, at 2, *p. m.*, at Boston; the information reaching Montreal by the circuitous route of Buffalo and Toronto, and which we might have,

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\* We find in the Quebec Gazette of 20th December, 1792, a notice from the general post office, announcing for the first time a mail, once every fortnight, between Montreal and the neighbouring States.

As to the foreign trade of the province, if we can so call that with Britain, and her dependencies, at this time, some notion of it may be formed, by the number of vessels from abroad visiting the port of Quebec, which, in 1791, was as follows:—ninety vessels in all, of which 36 were ships, 1 snow, 47 brigs, and 6 schooners.—*Quebec Gazette*, 17th Novr., 1791.

Chap. as probably we shortly will, in one hour, when  
 IV. the line shall have been established direct from  
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 1793. Montreal to Boston. Truly, in this respect,
 times are changed since the close of the last
 century, and for the better. Who can say that
 before the close of the present, an overland trip
 hence to the Columbia or California, and voyage
 thence to the blooming isles and edens of the
 Pacific, including Hawaii and its magnificent
 Volcano, the mighty Mauna Loa, to which
 Vesuvius, Ætna, Hecla, are said to be mole
 hills, *en route* for Europe, via China and India,
 to spend the winter in St. Petersburg or
 Paris, may not be fashionable, and of more
 frequent and easy accomplishment, than is,
 at the present time, a voyage to Naples or
 Gibraltar, Madeira or Teneriffe?—when the
 whole may be done in fewer weeks, perad-
 venture days, than it took Sir George Simpson
 months, to perform his famous overland expe-
 dition;—and a tour of the globe, from Quebec,
 by that route, looking at London and the lions,
 on the way home, in spring, but an agreeable
 excursion during winter, of four months at most,
 including stoppages at Delhi, Tobolsk, Con-
 stantinople, Vienna and Berlin!

CHAPTER V.

Opening of the parliament, by lord Dorchester, who had returned from England—departure for England of lieutenant governor Alured Clarke—address of the assembly to his royal highness Prince Edward—citizens of Quebec and Montreal address him on his departure—statement of the public revenues—proceedings in parliament—Mr. de Lotbinière, speaker, *vice* Mr. Panet made judge—prorogation—reopening of parliament—speech—public accounts of the province laid before the assembly for the first time—vote of £5,000, sterling, annually, in future, towards defraying administration of justice and support of the civil government—first articles of agreement with Upper Canada, relative to duties and drawbacks—money bills—speaker of the assembly on presenting them addresses the governor—speech at the prorogation—miscellaneous.

THE provincial parliament met again at Quebec, on the 11th November, 1793, and was opened by lord Dorchester, who had arrived at Quebec from England, on the 24th September, in H. M. S. Severn, and reassumed the government, his excellency major-general Clarke, the lieutenant-governor, returning to England, bearing with him the best wishes of the people whose constitution he had fairly started and put in operation to their satisfaction. His government had been popular, and he received several flattering addresses at departing. Lord Dorchester's return was cordially welcomed, a general illumination taking place at Quebec, the evening of his arrival. In his

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speech to the legislature, he stated, that the due administration of justice, together with the arrangements necessary for the defence and safety of the province, were matters of such high importance and so indispensably requisite, that he was persuaded they would lose no time in reassuming the consideration of them, and in making such amendments to the existing laws, as should afford the best security to person and property.

In telling the assembly that he would order to be laid before them an account of all the receipts of the provincial revenues of the crown since the division of Upper and Lower Canada, he observed, that the general expenditure was very great, but could not all be placed to the provincial account. "Such parts of it,"—said his excellency,—“as more particularly belong to that head, I am not at this time enabled to bring forward; I can only say it greatly exceeds the provincial funds: yet, it is not, at present, my intention to apply to you for aid; that you may have time to consider by what means the provincial revenue may be rendered more productive; in hopes, nevertheless, that Great Britain, in the mean while, will continue her generous assistance to this colony, and defray such surplus expenses as are absolutely necessary to its prosperity.

“Gentlemen,—you will perceive that the infant state of our constitution requires great circumspection, in the foundation of such laws as may tend to strengthen and establish it, and

I flatter myself you will deliberately and cordially unite in the promotion of such measures as are essential to the happiness and well-being of your country.”

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The address from the assembly, in answer to this, was cordial and complimentary, :—

“Fully convinced of the happy effects to be derived from a solid and invariable administration of justice, and of the indispensable necessity for an establishment for assuring the defence and safety of the province, we will lose no time in resuming the consideration of these important objects ; and in making such amendments to the existing laws, as may best protect the persons and property of its inhabitants.

“By receiving from your excellency an account of the receipt of the provincial revenues of the crown, we shall be enabled to deliberate on the means by which they may be rendered more productive ; and penetrated with gratitude to the parent state for having hitherto defrayed the surplus expenditure of the province, we flatter ourselves that in consideration of our situation, we shall continue to experience her generous assistance ; a hope further strengthened by your excellency’s intention of not requiring from us any subsidy at present, which confirms the benevolence of our mother country.

“In the infancy of our constitution we perceive the necessity of the greater circumspection in the formation of laws, that may tend to support and establish it ; and also to cultivate amongst the different branches of the legislature, that cordial harmony and concord, so necessary to promote those measures essential to the happiness and well-being of our country”.

The assembly, immediately after its meeting, unanimously voted an address to his royal highness Prince Edward, in the following terms :—

“The representatives of the province of Lower Canada, deeply impressed with the most lively sense of the ardent zeal and indefatigable activity, which your royal highness displays on all occasions, for the protection of their property,

Chap. the security of their persons, and the defence of their
 V. country ; take the liberty respectfully to approach your
 ~~~~~ person, to offer you their thanks.

1793. “Sensibly affected at seeing the son of their sovereign, discovering in the service which he has embraced, talents worthy of the illustrious blood which flows in his veins ; and manifesting the greatest desire of putting them in practice with more effect against the attacks of the common enemy ; they consider it their duty and owe it to justice to pay tribute to such distinguished merit, by a public declaration of their sentiments of respect and admiration.

“Accept therefore their most earnest wishes for the preservation of your royal highness, and for your rapid advancement in a profession to which you do honor.”

To this address, presented by the house, on the 15th November, to his royal highness, he answered :—

“Gentlemen,—Be pleased to accept of my warmest thanks for the very flattering proof, which you have given me of your attachment to my person, in presenting me your address of this day. It is particularly gratifying to my feelings, to find that my conduct has been such, as to merit your good opinion, and to ensure me your esteem. I trust you will not find me wanting in future endeavours to merit a continuance of the sentiments from you, which you have expressed in a manner so particularly obliging. I look forward with anxious expectation to the moment, when, if I am called upon, to the more immediate active service of my country, I may prove to you, that, I shall ever exert myself with redoubled zeal, when employed in a cause so dear to me, as must ever be, the protection of your property and persons, and the defence of your country. Once more, gentlemen, allow me to assure you, that I shall ever retain the most grateful sense, of the high honour conferred on me this day, and must hope that you will remain persuaded that, while I must from duty ever feel the warmest interest in your general welfare as a public body,—I shall also consider myself as particularly fortunate whenever it may be in my power to render service to any one of your respectable body as individuals.”



The Prince shortly after this, receiving notice <sup>Chap.</sup> of his promotion to the rank of major-general, <sup>V.</sup> and appointment to a command in the West <sup>1793.</sup> Indies, was presented, previous to his departure from Quebec, with several congratulatory addresses of a most gratifying character. The legislative council, the roman catholic clergy, the citizens of Quebec, those of Montreal, and the burgesses of William Henry, paid his royal highness their respects in this manner, to whom he responded feelingly and affectionately, for the spontaneous proofs of esteem which, in parting, they gave him, and which, in truth, were not the effusions of adulation, but an homage due by a grateful people to the intrinsic virtues, unostentatious, social, and manly character of a son of, as he truly was called,—  
“the best of sovereigns.”

The judicature bill, of the previous session, was taken up in the assembly, which, after bestowing much attention on the subject, brought it to maturity, as it also did the militia bill; which, repealing the ordinances on that head, substituted in their stead provisions better suited to the circumstances of the province. An alien bill was also introduced and passed, establishing “regulations respecting aliens and certain subjects of his Majesty who have resided in France coming into this province and residing therein, and for empowering his Majesty to secure and detain persons charged with or suspected of high treason, and for the arrest and commitment of all persons who may

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individually, by seditious practices, attempt to disturb the government of this province.\*

1794.

The following message was transmitted to the assembly, by the governor-in-chief, on the 29th April, 1794; interesting, from its being the first financial statement laid before the legislature of Lower Canada:—

“The governor has given directions for laying before the house of assembly an account of the provincial revenue of the crown from the commencement of the new constitution to the 10th January 1794.

“First, the casual and territorial revenue as established prior to the conquest, which his majesty has been most graciously pleased to order to be applied towards defraying the civil expenses of the province. This arises from various rights appertaining to the crown, some of which are not now productive. The governor doubts not but the house will bring forward measures to relieve the subject by other duties not objectionable, if raising the *lods et ventes*, *droits de quint*, &c. up to the legal standard would prove oppressive to the people.

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\* It would seem by a proclamation of lord Dorchester, dated at Quebec, the 26th November, 1793, that there were emissaries from France, or others in the province, busying themselves in propagating in it the revolutionary principles of that country in those times. The proclamation alluded to stated, that “Whereas divers evil disposed persons had lately manifested seditious and wicked attempts to alienate the affections of his Majesty’s loyal subjects, by false representations of the cause and conduct of the persons at present exercising the supreme authority in France, and particularly certain foreigners, being alien enemies, who are lurking and lie concealed in various parts of this province, acting in concert with persons in foreign dominions, with a view to forward the criminal purposes of such persons, enemies of the peace and happiness of the inhabitants of this province, and of all religion, government and order;”—His excellency therefore, required all magistrates in and throughout the province, captains of militia, peace officers, and others her Majesty’s good subjects, to be vigilant, and to do their utmost to discover and secure all and every person who might hold seditious discourses, or utter treasonable words, spread false news, publish or distribute libellous papers, written or printed, tending to excite discontent, or lessen the affections of his Majesty’s subjects, or in any manner to disturb the peace and happiness under his Majesty’s government in this colony, &c.

“ Secondly,—The duties payable to his majesty under the act of the 14th year of his reign, chap. 88, on articles imported into the province of Quebec, and on licences granted to persons for retailing spirituous liquors. As soon as the provinces of Upper Canada and Lower Canada shall have passed laws laying the same or other duties to an equal amount to those which are payable under this act, and such laws shall have obtained the royal assent, the king’s ministers will be ready to propose to parliament a repeal of the act abovementioned. Chap. V. 1794.

“ Thirdly,—The duties imposed by the provincial legislature, with the appropriation and balance.

“ Fourthly,—Amount of cash received, arising from fines and forfeitures imposed by the courts of justice.

Fifthly,—The naval officer’s returns inwards since the division of the province, which were originally intended as a check on the customs, but seem not to answer the end proposed. The governor relies on the wisdom and loyalty of the house, that while they select proper objects of luxury for raising those aids, the public exigencies may require, they will, at the same time, bring forward arrangements to prevent all irregularities from creeping into the receipt of the public revenue. The true measure of the burthen laid upon the people by any tax or duty being the gross sum taken out of the pocket of the subject on that account;—this gross sum should fully appear;—the aid given thereby to the state is the balance which remains in the public coffers, after all the expenses occasioned in the collection are paid. More effectually to prevent any abuse from connecting itself with the receipt, the governor recommends that no part of the burthen be suffered to lie concealed under the name of fees, perquisites, gratuities, &c., but that the whole of the monies drawn from the subject be lodged in the public coffers, and proper compensation for the collection be openly issued therefrom, by warrant under the signature of the governor or person administering the government.—That the house may better judge the burthen laid on the people, and the aid granted to the state, the governor has given directions that the annual accounts of the provincial revenue of the crown be accompanied by

Sixthly,—A statement of the monies taken out of the poc-

Chap. V. 1794. ket of the subject on this account;—its progress and diminution before it lodges in the public coffers, with the after diminution on account of the collection, that every circumstance of this important business may be constantly before their eyes;—that in the outset of the constitution and its progress, they may guard this important branch from those corruptions and abuses which have brought so many miseries of other nations.”\*

\* It is unnecessary to introduce here the whole of the details alluded to in his excellency's message, but the following sketch may not be amiss:—

The gross receipts, from the different sources constituting the provincial revenue, from 26th December, 1791, to 24th December, 1792, as laid before the assembly, by order of lord Dorchester, were as follows, viz:—

|                                 |   |                              |   |   |                                                                  |       |                            |   |
|---------------------------------|---|------------------------------|---|---|------------------------------------------------------------------|-------|----------------------------|---|
| Casual and territorial revenue, | - | £ 720                        | 0 | 0 | —leaving, after expenses of collection and other deductions, net | £ 712 | 16                         | 0 |
| Duties by act 14 G. 3.          |   | 3771                         | 9 | 7 | Ditto,                                                           | 3241  | 10                         | 5 |
| Licences by do.                 |   | 1013                         | 8 | 0 | Ditto,                                                           | 1003  | 5                          | 4 |
|                                 |   | <u>Gross stg. £5504 17 7</u> |   |   |                                                                  |       | <u>Net stg. £4957 11 9</u> |   |

And from 25th December, 1792, to 5th January, 1794, the following:—

|                                       |   |                             |       |   |    |   |                            |      |     |    |
|---------------------------------------|---|-----------------------------|-------|---|----|---|----------------------------|------|-----|----|
| Gross casual and territorial revenue, | - | -                           | £ 389 | 7 | 8½ | - | Net £ 385                  | 9    | 10½ |    |
| Duties of 14 Geo. 3.,                 |   |                             | 5692  | 3 | 8  | - | -                          | 4926 | 19  | 6  |
| Licenses by do.                       |   |                             | 754   | 4 | 0  | - | -                          | 746  | 13  | 2  |
| Duties by the legislature,            |   |                             | 1613  | 6 | 1  | - | -                          | 1478 | 3   | 11 |
| Fines and forfeitures,                |   |                             | 174   | 3 | 6½ | - | -                          | 172  | 8   | 8½ |
|                                       |   | <u>Gross stg. £8623 5 0</u> |       |   |    |   | <u>Net stg. £7709 15 2</u> |      |     |    |

Such at this period, the outset of the constitution, was the revenue of Lower Canada, (but it owed nothing) insufficient, by some thousands, to defray the expenses of its civil government, stated generally at “about twenty-five thousand pounds, annually.” By the public accounts laid before the assembly of Lower Canada in the session of 1835-6, (the last, previous to the union, that were submitted to it, owing to the repudiation of its functions by the body,) the gross amount of revenue, for the year ended 10th October, 1835, was £205,910, currency, leaving, after deducting all expenses of collection, incidents, drawbacks, and £54,876 to Upper Canada, for its portion of the duties levied in the lower province, a net amount of £140,747, currency. The revenue



The house, by an address, thanked his excellency for the message and papers accompanying it, observing, that they saw in it an additional proof of the paternal solicitude of his Majesty to ease the burthen of his subjects, and of his excellency's anxiety to promote the interests of this province; and that the magnitude and utility of the objects recommended to their consideration, could not fail engaging their serious attention, as soon as the important matters now before them and in a state of progression were accomplished; but that the very advanced period of the session hardly afforded a hope that discussions and examinations of such consequence in their nature, and necessarily requiring much time and deliberation, could be entered upon this session, with any prospect of effect, and they therefore anticipated the necessity of postponing them to the next, when they would obtain their earliest consideration.

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During this session, Mr. Panet, the speaker of the assembly, being appointed, by lord Dorchester, one of his Majesty's judges of the court of common pleas, the house was informed (28th January,) of the circumstance, by message from his excellency, who also stated that, as Mr. Panet's duty as such, might cause his absence occasionally to interfere with that of

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of United Canada for the year 1846 was £512,993, currency,—saddled, however, with a public debt, the annual interest whereof is stated in the public accounts laid before parliament, at the late session (June, 1847,) at £145,244, and of course, on the increase.

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speaker, his excellency, that there might be no delay to public business, gave leave to the house to proceed to the choice of another speaker. The house chose, by an unanimous vote, Chartier de Lotbinière, esquire, its speaker, and the governor confirmed the choice. The appointment of Mr. Panet, however, did not take place, that gentleman, whose residence was in Quebec, preferring to relinquish the appointment conferred upon him, to a transfer of his domicile to Montreal, where his appointment would have obliged him to reside, and he consequently retained his seat as a member of the assembly to the end of the parliament.

The session was closed on the 31st May, 1794, lord Dorchester giving the royal assent to five bills, including those noticed above, (with the exception of the judicature bill, which being reserved for the royal pleasure, did not become law until December following,) and one for appointing commissioners to treat with commissioners on behalf of Upper Canada, relating to duties or drawbacks to be allowed that province on importations through the lower province.

The following was his excellency's speech on proroguing the parliament:—

“ Gentlemen of the legislative council and gentlemen of the house of assembly,—I have no doubt that on returning to your respective homes, you will zealously diffuse among all ranks of people, those principles of justice, patriotism and loyalty, which have distinguished your public labours during this session; and that you will use your best exertions to find out and bring to justice, those evil disposed persons, who, by inflammatory discourses, or the spreading of seditious writings, endeavour to deceive the unwary and

disturb the peace and good order of society ;—and that you will avail yourselves of every opportunity to convince your fellow subjects that the blessings they enjoy under a truly free and happy constitution, can be preserved only by a due obedience to the laws, all breaches of which are the more inexcusable, as the constitution itself has provided for the safe and easy repeal or modification of such as may be found not to answer the good intentions of the legislature. Chap. V. 1795.

“ The success of his Majesty’s arms in the West Indies, is an event that on every account must afford you great satisfaction, particularly as it holds out a prospect of the most important commercial advantages to this province, as well as to the rest of his Majesty’s dominions.”

From the close of this to the opening of the following session, we find nothing in the occurrences of the time of any great interest.

His excellency lord Dorchester again met the parliament on the 5th January, 1795, which he opened with the speech following :—

“ Gentlemen,—The attention manifested by you during the last session of the legislature, to provide for the internal tranquillity of the province, as well as for its protection against hostile attempts from without, leaves me no room to doubt of your continuing the same laudable vigilance so long as we may be threatened by war, or by a calamity more dreadful than war, the present system of political hypocrisy contrived to delude the multitude, and render them instruments of their own misery and destruction.

“ Gentlemen,—I shall order to be laid before you a statement of the provincial revenue of the crown, for the last year, together with such part of the expenditure as may enable you to estimate the ways and means for the most necessary supplies ; in bringing forward of which you will keep in view the advantages of providing for the public exigencies, by a prudent restraint on luxury, and by regulations which may, at the same time, encourage and extend our commerce.

“ Gentlemen,—The judges and law officers of the crown have been directed to draw up and report their opinion on

Chap. V. 1795. the subject of your address to me of the 28th day of May last;\* and I have much satisfaction in perceiving this early disposition on your part, to prevent and guard against abuses which might impede the course of justice, or give rise to customs that would establish oppressive demands, and gradually efface from our minds a due sense of their unwarrantable origin.

“Your own disinterested conduct in your legislative capacity;—your zealous endeavours to promote a general obedience to the laws, connected with a benevolent attention to the interests of the subject,—form a solid foundation for government, and afford me great hopes that our new constitution will be firmly established, and ensure, for ages to come, the happiness of the people..”

The foresight, the rectitude, the wisdom, of this most upright man and virtuous governor, cannot fail to strike the reader and command his admiration and respect.

The address in answer was an echo to this, the assembly observing in conclusion:—“It is highly flattering to us that our conduct in our legislative capacity has met with your excellency’s approbation. Being thoroughly sensible of the happiness we enjoy under the free and liberal constitution which has been granted us by the parent state, under your excellency’s prudent and wise administration, we will continue to exert our most zealous endeavours to promote a general obedience to the laws, and to establish that constitution in such a manner as may ensure, for ages to come, the happiness of the people.” How fallacious are

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\* This related to the establishment of forms of proceeding in the courts of justice and a table of fees, to which the different civil officers, advocates, notaries and land surveyors should be entitled, in their respective offices.



the prospects and the best hopes of men!— Chap. V. Scarcely had that generation passed away, when the constitution, so cherished, had lost 1795. all its charms, was repudiated, and the demon discord, which for want of a more appropriate term we call civil, but of most uncivil aspect, was abroad and stalking over the land, preparing the horrors of intestine war, with fire and sword. However expert, “*dans les formes*,” their successors may have grown by experience, they were wanting “*au fond*,” in the wisdom which, at this period, guided the public counsels of the men whose professions we are now scanning, and which there is every reason to believe were hearty and sincere. The political mania that afterwards seized upon the masses, and the corrupt doctrines springing from it, preached by the new brood of politicians, that some few parliaments after this, succeeded those prudent and truly patriotic men, were unknown to, and would have been spurned by them. S

On the 16th February, the governor sent down the public accounts, now for the first time laid before the assembly, with the message to be found below.\* The expenses of the civil

\* “The governor has given directions for laying before the house of assembly, the accounts of the provincial revenue of the crown, from the 6th January, 1794, to 5th January, 1795, also of the civil expenditure for the same period.

No. 1.—Cash received for casual and territorial revenue, between 6th January, 1794, and 5th January, 1795.

No. 2.—Ditto for duties and licenses under the act of the 14th of his Majesty, between ditto and ditto.

No. 3.—Ditto arising from fines imposed by the courts of justice, between ditto and ditto.

Chap. V. 1795. government of the province, for the year ending the 5th January, 1795, it appears by these were £19,985, and the estimate for the following year was £19,993, sterling. The House

- No. 4.—Ditto for duties under the act of the province, between ditto and ditto.
- No. 5.—An annual statement to shew the net remain of duty after the expense of the collection, compared with what is taken out of the pocket of the subject, with the progress of the diminution before and after it gets into the public coffers, between ditto and ditto.
- Nos. 6 & 7.—Accounts of part of the civil expenditure of last year, and by which it will appear, that the expenses have exceeded the revenues, in the sum of sixteen thousand one hundred and twenty-two pounds twelve shillings and two pence three farthings.
- No. 8.—Estimate of such part of the civil expenditure for the ensuing year, as may enable the house of assembly to calculate the ways and means for the most necessary supplies, all the pensions amounting to one thousand seven hundred and eighty-two pounds six shillings and seven-pence sterling, though chiefly granted for services rendered to Canada, are deducted, these services being considered as rendered to the empire at large; it is from thence, therefore, their reward with other acts of benevolence may be expected to flow. The salaries of sundry officers to the amount of seven hundred and eighty-two pounds ten shillings, appearing to belong to the military rather than the civil expenditure are also deducted.

The governor doubts not the readiness of the house to grant such aids on account of this expenditure, as may be most easily raised by imposts on articles of luxury without being injurious to commerce.

No. 9 to 20.—The governor has also directed to be laid before the house of assembly, the accounts of duties received by the collector of the customs, by virtue of several acts of parliament passed in the 25th year of Charles 2d, chap. 7; 6th George 2d, chap. 13; 4th George 3d, chap. 15; and 6th George 3d, chap. 52, for the years 1792, 1793, and 1794, which shew the several articles of commerce on which duties at present are laid, the net proceeds whereof, amounting to six hundred and eighty-eight pounds, one shilling and one penny farthing, per [No. 21] annum, as per statement, are paid into the receipt of his Majesty's exchequer in Great Britain, "to be there entered separate and apart from all other monies, to be reserved to be from time to time disposed of by parliament towards defraying the necessary expenses of defending, protecting and securing the british colonies and plantations in America." But supposing these as well as the other revenues collected in the province had been, in the first instance, appropriated to the defraying the expenses thereof, the expenditure has still exceeded the receipts in the sum of fifteen thousand four hundred and thirty-four pounds eleven shillings and one penny half penny sterling."

went into committee of supply and ways and means, with the view to provide the necessary funds, as far as the resources of the province would admit, and made provision accordingly. After voting the reimbursement to the military chest, of some £638, advanced from it towards defraying the salaries of the officers and contingencies of the legislative council and assembly, and for certain repairs to the building in which the assembly sat, (the *Eveché*, or old roman catholic episcopal palace,) they voted “ that the sum of £5,000, sterling, be granted to his Majesty towards defraying the administration of justice and support of the civil government of this province, for each year, to count from the 5th of January, 1795, and in future.”

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The commissioners appointed under the act of last session, to treat with commissioners on behalf of Upper Canada, concerning duties and drawbacks to be allowed in favor of that province, reported that they had met and finally adjusted with them the sum to be reimbursed to Upper Canada, for the years 1793 and 1794. They stated, that being, as well as those from the other province, “ authorised to enter into an agreement for a further period, and being equally desirous to treat on the subject, which, if unprovided for, might give rise to difficulties hereafter ; being, at the same time, most solicitous on both sides, to preserve the harmony and cordiality which prevail between the two provinces, the article in the provisional agree-



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ment for two years was cheerfully assented to ; by that article the province of Upper Canada is entitled to one-eighth part of the revenue already payable, or that may become payable on goods, wares or merchandise coming into Lower Canada, under an act of the legislature thereof, and to assure the most perfect freedom of intercourse and trade with our sister province, it is provided that no imposts or duties shall be laid by Upper Canada, which not only renders unnecessary the establishing of custom-houses on the line which divides the two provinces, but saves to both an expense that, in all probability, would far exceed any trifle of revenue that this agreement may take from one or the other of the provinces more than their absolute proportion.”\*

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\* “ The commissioners having met and communicated to each other their respective powers and authorities, and having taken into consideration and maturely weighed certain statements of revenue raised in the province of Lower Canada, in the years one thousand seven hundred and ninety-three and one thousand seven hundred and ninety-four, and certain statements of the exportation of part of the wines into the province of Upper Canada, also the apparent population and relative situation of those provinces respectively, have unanimously agreed :—

I. That the province of Lower Canada, shall be and hereby is made accountable to the province of Upper Canada, in full of all rights, claims and demands which the said province of Upper Canada, may have on the province of Lower Canada, by reason of the duties levied upon wines, in the years one thousand seven hundred and ninety-three and one thousand seven hundred and ninety-four, under an act of the legislature of Lower Canada, passed in the thirty-third year of his Majesty’s reign, entitled “ an act to establish a fund for paying the salaries of the officers of the legislative council and assembly, and for defraying the contingent expenses thereof,” in the sum of three hundred and thirty-three pounds four shillings and two pence currency ; which said sum shall be paid into the hands of such person or persons as may be appointed on the part of Upper Canada.

II. The legislature of Upper Canada, will not impose any duties whatever on any goods, wares, or merchandise imported into Lower



Several important acts were passed this session, among them two of revenue, for defraying the charges of the administration of justice and support of the civil government of the province, and other purposes. The speaker, Chartier De Lotbinière, esquire, in presenting those bills for the royal assent, according to usage and the privileges of the commons, addressed his excellency:—

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“ In a pecuniary point of view, my lord, this supply can be an object but of small amount to his Majesty ; but when the slender abilities of our constituents are considered, and that it is presented as a tribute of gratitude, for the happiness which we enjoy under the fostering care and protection of the parent state, and the benign influence of that constitution which has been accorded to us, upon a model of perfect practical excellence ; it thence assumes an importance, that we doubt not our most gracious sovereign,

Canada, and passing into Upper Canada, but will allow and admit the legislature of Lower Canada, to impose and levy such reasonable duties on such goods, wares and merchandise aforesaid as they may judge expedient for the raising a revenue within the province of Lower Canada.

III. That of such duties as the legislature of Lower Canada has already imposed or may hereafter impose on goods, wares and merchandise coming into the province of Lower Canada, the province of Upper Canada, shall be entitled to receive annually, and to dispose of one-eighth part of their net produce for the use and benefit of the said province of Upper Canada, the other seven-eighths remaining for the use of Lower Canada.

IV. That there shall annually, in the month of December, or as soon afterwards as possible, be furnished to the lieutenant governor or person administering the government of the province of Upper Canada, for the time being, duplicates of the accounts of all duties that now are or hereafter may be imposed by the legislature of Lower Canada.

V. That this agreement is to continue and be in force until the last day of December, which will be in the year of our lord one thousand seven hundred and ninety-six, and no longer.

This done and concluded at Montreal, this eighteenth day of February, one thousand seven hundred and ninety-five, having signed six copies of the same tenor and date.”

Chap. and the magnanimous and generous nation which he governs,  
 V. will measure only by our intentions.

1795. “ On such an occasion, my lord, I cannot but consider it a very singular happiness to myself, that the first bills which, by command of the assembly of Lower Canada, I have the honor to present to your excellency, have passed with a degree of zeal and unanimity, that evinces the warmest sentiments of attachment and duty to his Majesty, and esteem and respect for your lordship’s administration.

“ If I omitted to represent a circumstance so creditable to the assembly and to this province ; I should ill discharge the trust which they reposed in me, and which your lordship so graciously confirmed.

“ In forming the first bill, the assembly were solicitous to select such objects of revenue, as are calculated to bear the least oppressively on the community : the greater number of articles subjected to duties are acknowledged luxuries in most countries ; and only one (salt) is considered in any, as of necessity ; that circumstance, however, is far more than compensated, by its being an article so generally diffused, that each individual will pay but a trifle ; by the certainty of the collection of the impost thereon ; by the impracticability of smuggling so bulky a commodity, and by the consideration that it can still be furnished to the consumer, at a price below that of almost any other country : hence it became a very fair object of revenue.

“ The other bill of supply, which I have the honor to present to your excellency, is formed upon the principle of combining revenue with regulation, in order to prevent abuses in certain occupations, and to render them of utility to the province.

“ The bills, my lord, which I have in my hand are intitled, “ an act for granting to his Majesty additional and new duties on certain goods, wares and merchandises, and for appropriating the same towards further defraying the charges of the administration of justice and support of the civil government within this province, and for other purposes therein mentioned,” and “ an act for granting to his Majesty duties on licenses to hawkers, pedlars and petty chapmen, and for regulating their trade ; and for granting additional duties on licenses to persons for keeping houses of

public entertainment, or for retailing wine, brandy, rum, or any other spirituous liquors in this province, and for regulating the same; and for repealing the act or ordinance therein mentioned;" to which the assembly humbly beseeches your excellency to give the royal assent in his Majesty's name.' Chap. V. 1795.

His excellency prorogued the legislature, on the 7th May, much gratified, as may be seen in the terms of his speech, at the result of the session. The speeches of lord Dorchester, being invariably short, and to the purpose, the reader will not, in running over this, think the time he may bestow in the perusal lost:—

“Gentlemen,—I cannot put an end to this session of our provincial parliament, without expressing my approbation and thanks for that zeal for the public welfare, which has distinguished all your proceedings.

Gentlemen of the house of assembly,—The cheerfulness with which you have granted a supply towards defraying the civil expenditure of the province, gives me great satisfaction, the judicious choice you have made of the means for this purpose, evinces a tender regard for the interests and condition of this country; and the unanimity you have manifested in this tribute of gratitude and attachment to the king's government, cannot but be highly pleasing to his Majesty.

“Gentlemen,—The assiduous and earnest attention to the public good, which you have collectively exerted during the course of a long session, renders it unnecessary for me to recommend a continuance of the same laudable spirit in the different parts of the country where your several private avocations may now call you: you will there have the opportunity individually to inculcate the advantages arising from habits of order, industry and sobriety, which must evidently tend, as well to the particular benefit of the people, as to the general prosperity of the province.”



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The gross amount of the revenues of the present year, that is to say, of the year ending the 5th January, 1796, was £11,141 6s. 1d., currency, and the net amount remaining, after all expenses of collection were paid, £10,425 18s., derived from the following sources, viz:—

|                                                        |            |              |               |
|--------------------------------------------------------|------------|--------------|---------------|
| Casual and territorial, -                              | £ 441 13   | 4 gross,—net | £ 434 4 1     |
| Duties by 14 Geo. 3, ch. 88,                           | 2500 15    | 4 do. do.    | 2125 5 8      |
| Licenses under do.                                     | 898 0      | 0 do. do.    | 882 16 6      |
| Duties by prov. parliament,<br>under act 33d of H. M., | 1132 14    | 8 do. }      | do. 6857 11 8 |
| Do. act 35th of H. M.,                                 | 6039 19    | 4 do. }      |               |
| Fines, - - -                                           | 128 3      | 5 do. do.    | 126 0 1       |
|                                                        | <hr/>      |              |               |
|                                                        | £11141 6 1 |              | £10425 18 0   |

The civil expenditure of the province for the year 1795, was £24,711, currency,—including £1205 2s. 10d., to Upper Canada, for its portion of the duties levied in Lower Canada.

The salaries of the officers of the legislative council and assembly, and contingent expenses thereof, for the year 1795, amounted to £1565, currency; the fund to cover which, under the act passed for the purpose (33d Geo. III.) as seen above, realizing only £1132.



## CHAPTER VI.

Parliament meets—sketch of the speech—and of the address in answer to it—new road-law bill—*lods et ventes, droit de quint, &c*, and petition relating to them—bills passed—one relating to the revenue reserved—prorogation—Lord Dorchester embarks on leave of absence, for England, in the Active frigate—wrecked on Anticosti—succeeded by Mr. Prescott, as lieutenant governor—general elections—members returned—meeting of the new parliament—proceedings—lieutenant governor appointed governor in chief—congratulated by the assembly on his appointment—bills passed during the session—prorogation—miscellaneous—trial and execution of McLane, for high treason—financial statements.

These details will, to most readers, be heavy and uninteresting, but they are, nevertheless, essential to the proper understanding of the subject we are upon. If they could, with propriety, be seasoned with something more racy than mere politics, the writer would take pleasure in indulging his readers in as liberal a sprinkling of matter foreign to them, as the subject could bear. But it is one, be it always remembered, of facts—of history, if we may so dignify it, and not of romance, and the gravity belonging to it, must not be lost sight of. If now and then we do deviate, the deviation will be but momentary and little from the track, to which we shall invariably keep an eye, returning to it as soon as possible.

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Lord Dorchester again met his parliament on the 20th November. After alluding to the deficiency in the late harvest in Europe, and that in Canada, whereby he had found it necessary to prohibit, till the 10th December, the exportation of wheat and bread stuffs, he recommended to their consideration whether any thing further could be done to prevent the distresses with which this failure might threaten the poor.

His excellency, in informing the assembly that he would order to be laid before them a statement of the provincial revenue of the crown, together with the annual expenditure, observed, that “the simplifying of all the regulations concerning the revenue, by such mode as circumstances may render most expedient, and the providing such prudent restraints as may prevent its unauthorised diminution, are matters highly deserving your most serious consideration.

“Gentlemen of the legislative council, and gentlemen of the assembly,—After pointing out to you the advantages arising from a revenue formed on judicious principles and vigilantly guarded against abuse, I have nothing to recommend more deserving your immediate attention than a well-regulated militia:—this is the constitutional guard to which the magistrate should have recourse if, at any time, extraordinary aid should be found necessary to enforce the laws, or to maintain internal tranquillity:—this alone can secure to you respect from without, and,

assisted by the regular troops, will afford effectual defence against the open attempts of external enemies.”

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The address of the assembly to his excellency corresponded with the speech:—“Im-pressed”—said they—“with a sense of the propriety of securing to Great Britain and her dependencies, in the time of scarcity, all the grain and other articles of sustenance which this province can afford beyond its own consumption, we cannot but highly approve of your excellency’s proclamation of the 18th May last, laying a partial embargo for that purpose: and we entertain the most grateful sense of the paternal care and tender regard your excellency has shewn for the welfare of his Majesty’s subjects in this province, by laying a general embargo on all wheat, peas, oats, barley, indian-corn, flour and biscuit, in consequence of the general failure of the crop in Lower Canada, and we shall not fail to adopt such further measures as the circumstances of the province may require, to prevent the distressing consequences with which this failure may threaten the poor.” A bill for indemnifying all persons who had been concerned in advising and carrying into effect the embargo, was accordingly passed, but no further measure of relief was found necessary.

The formation of a new system of road laws, particularly occupied the attention of the legislature this session, and a bill to that effect was passed, which operated well during



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many years; and indeed, until recently, when, mutilated by innovations, inoperative and impracticable in Lower Canada, what remains of it in force, seems so imperfectly understood by the country people, that it is become comparatively, in many places throughout the province, a dead letter. The assembly also earnestly occupied itself, going frequently into committee of the whole on the subject, with that part of the governor's message to the house, of the 29th April, 1794, concerning the casual and territorial revenue, and the raising of *lods et ventes, quintes, &c.*, due to the crown, but without coming to any final determination on the matter.

While it was under discussion, a petition from divers inhabitants of Quebec, was laid before the house, which, as the subject is still unredressed, and a grievance to its citizens, after the lapse of fifty years, deserves a passing notice. They represented,—

“ That when this country was surrendered to the arms of his britannic majesty, whereby he became vested with all the feudal rights of the most christian king, the city of Quebec, and particularly the lower town, was a heap of ruins. That his Majesty's loyal subjects, old and new, have, since that period, been at great expense in repairing the ravages of war, by rebuilding the city, and in making valuable and extensive additions thereto; in wharves, stores and other buildings, especially towards the river, in so much that the value of his majesty's *censive*, in the city of Quebec, by the enterprising industry of his loyal subjects, is augmented beyond calculation.—That, however burthensome the feudal rights may in general be considered throughout this province, their operation as a tax upon industry and improvement, is more particularly felt in the towns and



villages, where the buildings, erected at the expense of the inhabitants, may be said to constitute the whole value; and where a lot of ground, originally worth nothing, may be improved to an immense amount; and that this is the case, in innumerable instances in the city of Quebec, is a fact well known to every individual in the provincial parliament.

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“The petitioners humbly beg leave further to state, that his Majesty’s claim to *lods et ventes*, on the various alienations that took place in this city, having been suffered to lay dormant for upwards of twenty-five years after the conquest, and having never yet been enforced; the petitioners, as well as their predecessors, were led to indulge a hope that it would never be revived: and under these circumstances, many of the petitioners, as well as their predecessors, acquired considerable property by purchase, in his Majesty’s censive, at its full value, without adverting to the payment of *lods et ventes*, or calculating upon that claim in making their purchases.

“That many of the petitioners are men in trade, whose real property has undergone so many mutations since the conquest, that if the *lods et ventes* on each alienation, were to be rigorously exacted, it would be productive of ruin to them, and involve their creditors in the loss.

“The petitioners, therefore, humbly pray, that all the *lods et ventes* due to his Majesty, in the city and suburbs of Quebec, may be graciously remitted, and that the same may be commuted in future into an annual ground rent, proportionate, in some degree, to the situation and value of their respective lots at the time of the conquest, having regard to their superficial extent.”\*

\* This, it is to be observed, relates only to such parts of Quebec, and its suburbs, as are within the domain of the crown. The seminary, the fabrique, the nunneries, or religious communities of ladies, are also, as well as the crown, respectively proprietors (in mortmain,) of different portions of ground held by them *en fief* in the city, and which being subdivided into lots and built upon by the *censitaires*, pay a small annual ground-rent, as an acknowledgment to the institution within whose *censive*, or seigniorial precincts, the ground is situate, besides *lods et ventes* equal to a twelfth of the purchase money, upon every sale of the ground, including the buildings and improvements upon it, in addition to the purchase money.—These rights, appertain-

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Twelve bills received the royal assent this session.—One, a bill repealing certain acts granting duties to his Majesty, (including those of the imperial act of the 14th Geo. III., ch. 88.) and granting new and additional duties, in lieu of the same, for defraying the expenses of the administration of justice and civil government, was reserved for the royal pleasure. Among those passed was an act for regulating the trade with the United States.—Another for appointing commissioners to treat with Upper Canada concerning the proportion of duties and drawbacks to be allowed it by Lower Canada, and a third making further improvements to the militia acts of last session.

His excellency prorogued the session on the 7th of May. “It had afforded him great satisfaction,”—he said—“to observe, during the present session, a continuance of the same zealous attention to their legislative duties, and to the general interests of the province,” which he had occasion to notice in their former proceedings.

“Gentlemen of the house of assembly,—

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ing to them by law, cannot be extinguished without an equivalent. and their own free consent, which, by a recent act of the legislature, these communities, holding in mortmain, are, in common with the seigneurs, now competent to. The act has, hitherto, worked slowly; the institutions alluded to being, it would seem, reluctant to accept of compensation and commute. The consequence of this is, that improvements are retarded, and a compulsory process of commutation of tenure looked forward to as the means of disencumbering property of this vassalage, detrimental to industry and trade, and which probably the legislature, in its wisdom, will authorise.

The measures adopted by you for consolidating and improving the provincial revenue of the crown, and for guarding it from all abuse, evince that you justly consider his Majesty's interests and those of his subjects as inseparable, and cannot fail of producing the most beneficial effects.

“Gentlemen of the legislative council, and gentlemen of the house of assembly,—In expressing my approbation of your proceedings, I must further observe that the unanimity, loyalty, and disinterestedness manifested by this first provincial parliament of Lower Canada, have never been surpassed in any of his Majesty's provincial dominions, and I feel convinced that the prosperity and happiness of of this country will continue to increase in proportion as succeeding parliaments shall follow your laudable example,”

The pith as well as brevity of lord Dorchester's speeches will not have escaped the reader. Thus ended the first provincial parliament of Lower Canada, and as auspiciously as could be desired. Agitators, and emissaries, as it was believed, from France, had been sufficiently busy in various quarters of the province, since the french revolution, to draw the attention of the executive government, and cause it to issue a proclamation on the subject as previously noticed; but the canadians were in general well disposed, and instructed by the clergy, and others residing among them perusing the public journals, of the recent atrocities in France, they

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justly held them in detestation and horror. Some discontent prevailed among the rural population, on account of the road act, which had made essential innovations for the better, upon the preceding road laws, but which the inhabitants being accustomed to, were averse to see altered, and in some quarters disturbances in consequence took place. They were, however, but momentary, and only local.—The advantages of the new laws soon became apparent, and as the people grew familiar with their operation, the opposition ceased. This spirit of resistance to the new road act was interpreted by some into disloyalty and disaffection in the people towards the government, but it really was not of that character nor at all concerned their allegiance. Some examples, however, were made on conviction, both in Montreal and Quebec, for riots in opposing the act, and for seditious language, by short imprisonments and small fines; and three or four bills of indictment for high treason (constructive treasons, it is to be supposed, in opposing the laws,) were even found, but do not appear to have been prosecuted to verdict, being probably relinquished by the law officers of the crown, who, at this time, must have found their account in the numerous criminal prosecutions in the courts, to which the road act gave rise, and for which, as in similar cases, thence until a very recent date, those officials were prodigally paid from the public treasury, as in fact some of the same



fraternity, and in a spirit of corruption it is to be feared, still are.\* Chap.  
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Lord Dorchester having again obtained his Majesty's leave of absence, embarked with his family at Quebec, the 9th July, 1796, in the Active frigate, for England, leaving general R. Prescott, in charge of the government, who notified his assumption of it, by proclamation, of the twelfth of the same month. His lordship, who had been known and venerated in Canada as Sir Guy Carleton, by all classes, received from the citizens of Quebec and Montreal, on this his final departure from the province, the warmest testimonials of respect it was in their power to express, and no less sincere, there is every reason to believe, than ardent. 1796.

“ Having experienced for many years your lordship's mild and auspicious administration of his Majesty's government, and being conscious that, during that period, the resources, prosperity and happiness of this province have increased in a degree almost unequalled, we, the inhabitants of the city of Quebec, respectfully request your lordship, to accept our sincere and most grateful thanks and acknowledgments.

“ The length of your residence in the province, the advantages derived to our society from the example of private virtues, shown by yourself and your family, — your lordship's

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\* The attorney general and solicitor general had seats then as now in the assembly, and with such members of it as were also executive councillors, represented the government.—Jonathan Sewell, esquire, (afterwards chief justice,) filled the former office, to which he had, in the month of May last, been promoted from the solicitor generalship; Louis Charles Foucher, esquire, (subsequently promoted to the bench,) succeeding him as solicitor general, and at the same time as inspector general of the king's domain, these two offices being then in the same hands, but since disjoined.

Chap. uniform, prudent, and paternal attention, under every change  
 VI. of time and circumstance, to the true interests of his Majesty's subjects entrusted to your immediate care,—and that  
 1796. gratitude which we feel (and must be permitted to repeat,) excite in our minds, the warmest sentiments of personal attachment, of which allow us to tender you the strongest assurances.

“ Under these impressions, we view your lordship's intended departure, with the deepest regret ; and submitting to your determination to leave us with unfeigned reluctance, we entreat you to accept our most sincere wishes for your favourable passage to Great Britain,—for the future prosperity of yourself and of all your family.

“ We request your lordship, most humbly and respectfully to assure our sovereign, of our faithful loyalty and attachment to his sacred person, and to offer our gratitude, for the various blessings which we continue to enjoy under that most excellent constitution of government, which we have received from his Majesty and his parliament, during your lordship's administration.

“ It is our fervent prayer, that your lordship may continue for many years, to receive new and additional proofs of the royal approbation, to which, from your virtues and your merit, you hitherto have been, and must ever remain, most justly and eminently entitled.”

That of Montreal was equally fervent :—

“ The inhabitants of Montreal, penetrated with gratitude for the happiness enjoyed by them, under your lordship's administration of the government of this province, during a great number of years, embrace the present opportunity of your intended departure for Great Britain, to entreat you to receive their humble acknowledgments, and accept their most sincere wishes for a favorable passage, for your health and prosperity, and for that of all your family.

“ The prudence and moderation which distinguished your conduct in this province, assured internal peace and tranquillity ;—and in reflecting infinite honor on your lordship, have fully justified the confidence reposed in you by our august sovereign, and secured to you the affections of the inhabitants.

“ We beseech your lordship, to carry our most ardent Chap. IV. 1796.  
 vows to the foot of the throne, for the happiness of our gra-  
 cious monarch,—to assure him of our attachment to his  
 sacred person, and to the happy government under which it  
 is our glory to live ; and we fervently pray that his Ma-  
 jesty’s approbation may continue to distinguish and reward  
 your virtues and your merit.”

His lordship returned to both addresses the following answer :—

“ Gentlemen,—I am much obliged by this testimony of your regard for me and my family. It is unnecessary for me to assure you, that your welfare, and the general prosperity and happiness of the province, in which I have passed so great a part of my life, will ever interest me in the most sensible manner.

“ I shall, with the utmost pleasure, embrace every occasion of representing to his Majesty the loyalty of his subjects in Lower Canada, and their attachment to his person and government.

“ Your veneration for a monarch who may justly be styled the father of his people, is a proof that you hold in proper estimation the excellent constitution he has given to this country, and which, I have no doubt, will rapidly advance it to be of the first importance among the british provinces.”

The Active was wrecked on Anticosti, on her way home, but without any loss of life, or other serious inconvenience than the detention occasioned to the governor and his family by the accident, who crossed over to Percé, near the bay of Gaspé, to await a conveyance for England, which soon was provided for them. His lordship arrived at Portsmouth, the 19th of September, in H. M. S. Dover, from Halifax. Writs for the general election had issued previous to his excellency’s departure, tested the third of June, and the elections



Chap. VI. accordingly took place in the course of that and the ensuing month.

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The communications by mail had improved considerably since the period at which we noticed them. An advertisement from the post office, dated "Quebec, 18th January, 1797," informs the public that a "*weekly*" conveyance by post, has lately been established between Montreal and Burlington, in the state of Vermont. A similar advertisement, of the following day, gives notice that "a mail for *the upper countries*, comprehending Niagara and Detroit, will be closed at this office, on Monday 30th instant, at 4 o'clock in the evening, to be forwarded from Montreal by the annual winter express, on Thursday, 3d February next." These may give an idea of the intercourse at that time, particularly during winter, between the two Canadas. Unfrequent as were still the communications between those provinces, and thence to Britain through the neighbouring states, they had vastly increased, and to a degree which several then may have thought required no further extension,\* nor would they, if the country were to have remained stationary;—but every thing was in rapid progress of development—the resources of the country were beginning to be understood at home, and the capital and energies of the

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\* We have by the arrival to-day of the english mail *via* Boston, per Cambria steamer, which left Liverpool the 5th instant, dates from Lahore to the 12th, from Delhi and Meerut to the 18th, Calcutta to the 20th, Madras to the 24th, and Bombay to 31st August, and from China.(Canton and Hong Kong) to 25th July !—*Quebec, 22d Oct. 1847.*



british race to act upon them,—and nothing that could, in the way of trade, be turned to account escaped attention, nor was allowed to stand still. The intercourse with New York, since the establishment of the fortnight mail between Montreal and Burlington, had correspondingly improved,—the Quebec Gazette of 8th March, stating that “by this day’s Burlington mail we have received New York papers of the 16th ult —they contain european intelligence to the 15th December, inclusive.” The mail between Quebec and Montreal at this time was weekly, the journey up taking nearly three days, and downwards the same time. The steamers which now, (1847) during the summer months, convey passengers and the mails, in one night from city to city, were not as yet dreamt of, nor perhaps contemplated as a thing within the art and power of man ever to accomplish.

The new parliament met on the 24th January, 1797.\* Mr. Panet being again chosen speaker

\* The assembly consisted of the following members, returned at the late general election :—

Gaspé, Edward O’Hara ; Cornwallis, Pascal Sirois and Alexander Menut ; Devon, N. Dorion and F. Bernier ; Hertford, L. Duniere, fils, and F. Têtu, Not. ; Dorchester, Charles Begin and Alex. Dumas ; Buckinghamshire, John Craigie and G. W. Allsopp ; Richelieu, B. Cherrier and Charles Millette ; Borough of William Henry, Jonathan Sewell ; Bedford, Nathaniel Coffin ; Surry, P. Derocheblave and O. Durocher ; Kent, A. Ménard Lafontaine and J. Vigé ; Huntingdon, J. Périnault and Jos. Perrault ; York, H. Lacroix and Jos. Hétiér. Montreal—East Ward, A. Auldjo and L. C. Foucher ; West Ward, Joseph Papineau and D. Viger ; County of Montreal, J. M. Ducharme and E. Guy ; Effingham, J. Jordan and C. B. Bouc ; Leinster, Joseph Viger and Bonav. Panet ; Warwick, J. Cuthbert and G. de Lanaudière ; Borough of Three Rivers, J. Lees and P. A. De Bonne ; County of St. Maurice, T. Coffin and N. Montour ; Hamp-

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Chap. VI. 1797. and the choice confirmed by the lieutenant governor, his excellency delivered his speech, in which he slightly descanted upon the recent treaty of amity, commerce and navigation, between his Majesty and the United States, as favorable to this province. He observed that, “from the flourishing state of our commerce, amidst the hazards and obstructions of war, well founded hopes might be entertained of the future prosperity of the colony, when the blessings of peace shall be restored.

“Gentlemen of the legislative council, and gentlemen of the house of assembly,—As we may confidently trust to the care and vigilance of our mother country and the superiority of the british navy for our external protection, so it becomes our duty and interest to guard against treacherous attempts to disturb our internal tranquillity.

“You are not unapprised that, in addition to the customary mode of warfare, the emissaries of France have been dispersed in every quarter, and by holding out delusive prospects to the people, they have endeavoured to disturb the quiet of all settled governments.

“Attempts of this nature having recently been made in this province,\* it is incumbent on

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shire, Joseph Planté and Francis Huot. Quebec—Upper Town, J. A. Panet and Wm. Grant; Lower Town, J. Young and A. J. Raby; County, John Black and Louis Paquet; Northumberland, P. Bedard and James Fisher; Orleans, Jerome Martineau. Of the fifty names, if it is of any importance to distinguish them, thirty-six denote a french, and fourteen a british or irish origin.

\* These, however, appear by the evidence on the trial of McLane, noticed presently, and by all that has since transpired, to have been

me to direct your attention to the salutary <sup>Chap.</sup> effects already produced by the alien bill, and <sup>VI.</sup> as its duration is limited to a period which will <sup>1797.</sup> soon expire, to recommend to your consideration the expediency of prolonging its continuance."

The address perfectly responded to the speech:—"With the utmost confidence"—said they—"we trust in the vigilance of our mother country and in the superiority of her navy, for our external defence; and as it is our inclination as well as our duty, to co-operate with your excellency, in whatever may be necessary to frustrate the treacherous attempts of the emissaries of France, to disturb our internal tranquillity, we will immediately proceed to the consideration of the alien bill,"—which they accordingly took up without delay, and gave to the executive powers as ample as could be desired.

The assembly also strengthened the executive by a temporary act "for the better preservation of his Majesty's government, as by law happily established in this province," limiting its duration to the month of May, 1798, as it gave extraordinary powers to the executive, the abuse of which might be rendered exceedingly oppressive, to any subject becoming obnoxious to it, or incurring its displeasure.\*

much overrated, probably by the ultra loyal of the day, who may have found their account in speculating on reports of this nature.

\* This act empowered the executive to apprehend and commit, during pleasure, any person accused or *suspected* of treasonable prac-

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In the course of the proceedings in this session, there was a proposition by Mr. Grant, "to resolve that, for the instruction of youth in the higher branches of knowledge, it is necessary that an university, upon liberal principles, be founded and established in this province, as soon as circumstances shall permit."—This was lost by a majority of fifteen, on moving "the previous question," and was thus disposed of without an absolute negative on the merits of the proposition itself.

An address was sent to his excellency,

tices, without trial, without bail, or mainprise, and without the right of being confronted with his accuser, or even of knowing who he was, or of being entitled to a knowledge of the contents of the deposition or matter sworn to, in virtue whereof the accused was in custody. It, in fact, suspended the habeas corpus writ with respect to those falling under its operation *i. e.* the displeasure of the executive, and finally became so odious, in consequence of the arbitrary imprisonments in 1810, that the assembly refused to renew it, and although the war with the United States immediately followed, the want of it was never felt by the government, which there is every reason to believe was more cheerfully supported in the struggle without, than it would have been with so formidable an engine of despotism in its hands, as the act alluded to, "for the better preservation of his Majesty's government, as by law happily established in this province," and which, not to misrepresent it, is, in part, here submitted to the reader's inspection:—

"Whereas it is necessary to defend and secure his Majesty's good and loyal subjects, against any traitorous attempt that may be formed for subverting the existing laws and constitution of this province of Lower Canada, and for introducing the horrible system of anarchy and confusion, which has so fatally prevailed in France; therefore, and for the better preservation of his Majesty's government, and for securing the peace, the constitution, laws and liberties of the said province,—Be it enacted, &c., and it is hereby enacted, that every person or persons who are, or shall be in prison within the province of Lower Canada, at or upon the day on which this act shall receive his Majesty's royal assent, or after, by warrant of his Majesty's executive council of and for this province, signed by three of the said executive council, for high treason, misprision of high treason, suspicion of high treason, or treasonable practices, may be detained in safe custody without bail or mainprise, and shall not be bailed without a warrant for that purpose, from his Majesty's executive council, signed by three of the executive council."



acquainting him that the assembly being con-  
vinced of the inconveniences and defects of the  
places in which the courts of justice were  
held in the cities of Quebec, Montreal and  
county of Gaspé, had come to the resolution of  
praying his excellency would be pleased to  
give directions that a report be made him of  
the places best adapted for erecting public  
buildings or halls for the sittings of the courts  
in those places, with plans and estimates of  
the expenses of such buildings, that the same  
may be laid before the house early in the next  
session, whereby it might be enabled to take  
into consideration an object so essential to the  
dignity of the administration of justice, and to  
the lives and property of his Majesty's subjects.

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The lieutenant governor, during the session, received the appointment of governor general, and on the 28th of April, it was by the assembly resolved, *nem con*, that an address be presented to his excellency the governor general expressive of the satisfaction of this house, in having an opportunity, before the end of the session, of congratulating his excellency on his advancement as governor general of the provinces of Upper and Lower Canada, and to express the gratitude they feel for the paternal attention of our august sovereign, who, in rewarding his excellency's distinguished merit, confirms his loyal canadian subjects in the continuation of the happy constitution under which they live, the preservation whereof depends upon their co-operating with the wise

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measures and prudent exertions, of which his excellency has already given such effectual proofs, towards maintaining the tranquillity of the province, and an address to that effect was accordingly presented him, the speaker and whole house attending on the occasion.

But six bills are to be found as the result of this session, on the statute book, including the two (the alien, and the preservation of government bills,) previously noticed. They were, however, all measures of importance;—one continued the act regulating the trade with the neighbouring states—another ratified certain provisional articles of agreement with Upper Canada, relative to duties, entered into by commissioners named for that purpose,—a third, made more effectual provision than heretofore for the pilotage in the St. Lawrence, between Quebec and the Island of Bic,—and finally, an act continuing a temporary act relating to returning officers at elections. Sanctioning these, his excellency dismissed, on the 2d May, the representatives in the following commendatory terms:—

“The bills that have now received the royal assent,”—said his excellency,—“afford the strongest evidence of your attention to the safety and welfare of the province.—Among others, the act for the better preservation of his Majesty’s government cannot fail to meet the particular approbation of our gracious sovereign: as it is a demonstration not only of your attachment to the constitution under which you live, but also that you are sensible how necessary it is, in a time of peculiar danger, to vest additional powers in the hands of the executive government.

“It would give me the greatest pleasure could I acquaint

you that his Majesty's earnest endeavours to negotiate a general peace had met with success; but whenever the miseries of war shall terminate, whether they shall speedily cease, or be wantonly protracted by our enemies, still the disinterested offer of our sovereign to procure restitution to his allies by a sacrifice of his conquests, will not fail to be recorded to future ages; it will stand as a proof of the generosity of his Majesty's councils and of the high station held by Great Britain among the powers of Europe.

"I have the happiness to inform you, that the unprovoked aggression of the court of Spain, in declaring war against our gracious sovereign, has been effectually checked in the outset by a signal victory gained by his Majesty's navy off cape St. Vincent, in which a british squadron attacked the fleet of Spain, and captured several ships of the line, although the enemy were nearly double in number.

"After having faithfully discharged your public duties, with respect to such objects as required immediate attention, it will doubtless afford you great satisfaction to be enabled to assure your neighbours and constituents on your return among them, that the naval power of our mother country still retains its superiority, and that the british standard is displayed in every quarter of the globe, to protect the property and encourage the industry of all the faithful subjects of the british empire."

David McLane, an american citizen, representing himself on his trial, as a bankrupt trader, formerly of Providence, Rhode Island, being apprehended in the month of May, at Quebec, on a charge of high treason, was soon after brought to trial and convicted. His project was great—no less than the total extirpation of the british power from the continent of America, beginning with Quebec, which he intended to take by surprise. This he purposed, according to the evidence at his trial, to effect by obtaining, in the first place, the confidence of men of influence in Canada, and through them,



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the co-operation of the canadians. He was to put himself at the head of a party of *engagés* from the neighbouring states, (who, as he informed those to whom he had broached the subject, were already retained, and by small bodies, as raftsmen, to rendezvous and be in readiness near Quebec,) and to make, on a day fixed, a sudden rush with his men, armed with wooden pikes eight feet long headed with a spear of iron upon the garrison, which he had no doubt of carrying. He spoke also of a previous distribution of liquors mixed with laudanum among the troops, to keep them quiet while accomplishing his purpose, but when or how these were to be administered does not appear. He represented himself as a general in the french service, and acting under the immediate directions of Mr. Adet, the french minister or *chargé d'affaires* in the United States. He had, it seems, visited Canada the previous year, on a tour of information, but to little or no purpose, acquiring no partisans or friends of the least consideration or influence in the country, or that could, in the smallest degree, promote the humblest of his projects. On his return the present year, in coming in from the States by the way of St. John's, he hired a habitant of that neighbourhood by the name of Charles Frichette, whom he induced to accompany him to Quebec, making him at the same time a confidant, and opening to him his schemes.—Applying to a person at Quebec, not disposed to participate in his schemes, he was given up



by him to justice, tried, and on the 21st July, executed as a traitor, with all the revolting accompaniments, on the glacis outside the wall of Quebec, near St. John's gate. Fricchette, who was an illiterate man, and of no importance, was also soon afterwards tried and convicted of misprision of treason, in having a knowledge of the designs of McLane, and concealing them. He was sentenced to imprisonment for life, but not long confined, being pardoned and set at large shortly after trial.

This, from the conquest to that time, is the only instance in Canada, of a trial and conviction for high treason, and it, be it also observed, not of a british subject. It is creditable to the canadian character that, with the single exception mentioned, none were concerned with McLane, the very absurdity of whose whole scheme denoted him a mono maniac, and who, had not the government deemed an example necessary, in the agitation of the times, might with more propriety have been treated as an unhappy lunatic than as a criminal. A stranger, friendless and unknown, he was altogether powerless, and now that time has dispelled the mist of prejudice against him at the moment, and that we can coolly survey the whole matter from first to last, there seems more of cruelty than of justice in the example made of this unfortunate person, who suffered rather for the instruction of the people, uneasy under the road act, than for any guilt in a plan perfectly impracticable and preposterous.

Chap. VI. The revenues for the last year, (1796) according to the public accounts, were as follows:—  
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|                                  |                 |
|----------------------------------|-----------------|
| First.—Casual and territorial,   | Cry. £1249 12 4 |
| 2.—Duties and licenses, under 14 |                 |
| Geo. III.,- - - -                | 7524 14 2       |
| 3.—Duties on wine, under 33      |                 |
| Geo. III., - - - -               | 1452 11 2       |
| 4.—Duties and licences, under 35 |                 |
| Geo. III., - - - -               | 8565 7 8        |
| 5.—Fines, - - - -                | 182 16 8        |
|                                  | <hr/>           |
|                                  | £18975 2 0      |

The payments for the civil expenses of the province for the same year, ending 5th January, 1797, amounted to £25,380, currency, including £1040 to Upper Canada, for its proportion of the duties levied under those Acts. To this are to be added the expenses of the Legislature, amounting to £1845—exceeding, by £392 10s., the funds appropriated by the above act (33. Geo. III.) to their discharge. The commission to the collector and comptroller on the amount of duties collected in the years 1795 and 1796, was £498, currency.

## CHAPTER VII.

Meeting of parliament—speech—address in answer—bills passed—none of any importance—prorogation—no events of any interest during the recess—parliament meets—topics of the speech—address—message from the governor relating to the erection of court houses—bill for making provision on the subject—prorogation of the legislature—state of the province—retrospective view of its progress since the conquest—executive council—judges and certain other public functionaries, and their salaries—civil expenditure—finances—general Prescott succeeded by lieutenant governor Robert Shore Milnes, esquire.

THE legislature opened on the 28th February. The governor, after descanting upon the ineffectual attempts that recently had been made by his Majesty, to procure a peace with the government of France, observed that—

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“ The accession of territory subdued by the british arms, and the superiority of the british navy, successively experienced by our enemies when they have sailed forth upon the ocean, and recently confirmed by the splendid and effectual victory gained by his Majesty’s fleet under the command of admiral Lord Duncan, might have justified pretensions of a much more tenacious nature than those contained in the proposals made with such unexampled candour and liberality on behalf of his Majesty—but the king’s public declaration, solemnly renewed before the whole world, of his readiness, amid the exultations of victory, to conclude a peace upon the same equitable terms he had previously offered, leaves his enemies without a pretext.—It affords a most convincing proof of the stability of his Majesty’s councils, and of his paternal solicitude for the welfare of the people, that the constancy of his measures is

Chap. not regulated by the success of the moment, and that he is  
 VII. willing to relinquish the triumph of victory, that his sub-  
 ~~~~~jects may enjoy the blessings of tranquillity.

1798. "I shall order the accounts of the provincial revenue of the crown and of the expenditure of the last year to be laid before you.—I shall also cause to be communicated to you, an act of the provincial legislature of Upper Canada, by which it appears that some further arrangements may be necessary for settling the duties and drawbacks on articles passing between the two provinces;—in framing the necessary regulations, I doubt not but you will bear in mind, that the interest of the sister provinces are so intimately blended, that the most liberal intercourse will be most conducive to their mutual advantage.

"Gentlemen of the legislative council, and gentlemen of the house of assembly,—The unremitting spirit of animosity against the king, his subjects and government, that is openly avowed by the present ruling powers in France, calls upon you, in the most forcible manner, not to relax your vigilance against their insidious attempts to disturb the tranquillity of this province. The beneficial exercise of the powers vested, for a period now about to expire, in the executive government, having already been experienced, it will naturally lead you to consider whether it is not still necessary that the remedy should continue to be prompt while the danger is imminent.—In the discussion of this subject, I have the firmest reliance that your measures will evince how much you value the benefits of a mild and orderly government, and confidently trust that you will exemplify its advantages, by persevering in that harmony which has hitherto influenced your deliberations."

The assembly answered by an address quite in spirit of the above:—"We shall not,"—they said—"lose sight of the advantages that must necessarily result from the continuance of the good understanding which has hitherto been cultivated between the two provinces of Canada, so intimately connected by their local

circumstances and situation. "Our duty,"—^{Chap. VII.} they continued—"to his Majesty's government, as well as to our constituency, whose prosperity and happiness depend on the firm and decided support thereof, indispensably calls for our united efforts to repel the insidious attempts of the emissaries or agents employed to disturb our tranquillity, by those who rule in France; and, for that purpose, we will cheerfully join in such measures as are necessary to enable the executive government to be prompt in the remedy, while the danger is imminent. 1798.

"We cannot be otherwise than unanimous when the support of the mild and orderly government under which we happily live is the subject of our deliberations; and we trust we shall ever continue to conciliate harmony amongst ourselves, so necessary to promote the general welfare of the province."

Nothing worthy of special notice took place this session. But five bills were passed, three of them continuing temporary acts about to expire, and the act "for the better preservation of his Majesty's government."—One allowing Upper Canada, pursuant to agreement, its proportion of duties imposed and levied under acts of this province, another repealing the act appointing commissioners to treat with those of Upper Canada, and to appoint others.

The legislature was prorogued on the 11th May. The governor general, in addressing the assembly, remarked that "the temper and liberality they had shewn, in renewing the act to

Chap. VII. 1798. appoint commissioners for the purpose of treating with the commissioners of Upper Canada, were such as became a deliberative assembly, and must tend to confirm that harmony and good understanding which subsisted between the sister provinces.

“ From the dutiful and loyal demeanor manifested by his Majesty’s subjects of all descriptions in this province, there will be little occasion, I am persuaded, for resorting to the extraordinary powers vested for a time in the executive government for its preservation ; and should any alien emissaries persist in their attempts to disturb our tranquillity, I trust they will find that your vigilance and zeal for the constitution are in no respect abated.”

Nothing of any moment seems to have occurred in the interval between the prorogation and the next meeting of parliament, which took place on the 28th March, 1799. His excellency informed the legislature that—“ Although he could not as yet congratulate the country on the return of peace between his Majesty and the persons exercising the powers of the government in France, he felt a sincere satisfaction in congratulating them on the security and protection with which these remote parts of the king’s dominions were blessed amidst the storms that agitated other countries, and on the recent glorious victories obtained by his Majesty’s naval forces over the fleets of our enemies, by which (although their secret endeavours to sow dissensions among his Majesty’s subjects might

not be abated,) their power to disturb our Chap. VII. repose by open hostility was greatly abridged.” 1799.

That while he congratulated them on the friendly disposition and intercourse which subsisted between the province and our neighbours, the United States of America, in consequence of the treaty of amity, commerce, and navigation recently entered into between his Majesty and that country, and on the important successes with which the Almighty had blessed his Majesty's arms, whereby the hostile power of our inveterate foe was greatly reduced; it, nevertheless, was incumbent upon them to bear in mind the character of the country with whom, for the safety of his people, our gracious sovereign was contending, and the secret machinations carried on in every country to which our foes had access, for the purpose of misleading the credulous from their duty, and subverting the governments by which they were protected. These considerations rendered it, he said, necessary that care and vigilance for the security of the internal tranquillity should not be relaxed.

The provisions heretofore made for this purpose, by “the act for the better preservation of his Majesty's government, as by law happily established in this province,” being temporary and about to expire, he recommended to their consideration the expedience of a further prolongation thereof, assuring them that the utmost care should be taken on his part, to prevent the powers vested in the executive government,

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from being applied to any other purpose, or in any other degree than should be necessary for the preservation of good order, and the protection and security of his Majesty's faithful people over whom he had the honor to preside.

The assembly, thanking his excellency for his speech, heartily, they said, joined his excellency in congratulation upon the glorious and important victories recently obtained by his Majesty's naval forces. The salutary effects which they had experienced from the act mentioned, together with the wise and prudent manner in which it had been executed under his excellency's benevolent administration, removed every doubt that could be suggested against the necessity and propriety of continuing so beneficial a law. His excellency, they added, might rely upon the continuation of harmony in the discharge of their duty in every object tending to the support of the excellent and happy government under which they lived. The bill was accordingly continued for a year longer.

The session, as usual, went off smoothly, being prorogued on the 3d June. It is scarcely necessary to enter upon details of the measures before the legislature, being of little, if any interest;—the following matter may, nevertheless, deserve a passing notice. It is to be observed that hitherto there were no suitable buildings in Quebec or Montreal, erected or set apart for the sittings of the courts of justice, nor were the funds as yet sufficiently large to

justify the legislature in authorizing the erection of edifices proper for the purpose. This, the british government liberally undertook to encourage, by a spontaneous offer to advance the necessary means, by way of loan. The governor, by message, consequently stated that he had "the pleasure to inform the house of assembly, that his Majesty had been graciously pleased to view, with great satisfaction, the zealous and liberal attention paid by the legislature of his province of Lower Canada, to the provincial revenue since the commencement of the present happy constitution. And that his Majesty has also been graciously pleased, in his paternal regard for the welfare and happiness of his faithful subjects in this province, to give his royal attention to the representations that have been made relative to the erection of proper buildings for holding the courts of justice in the districts of Quebec and Montreal, and to authorize the governor to advance, on the part of his Majesty, the sums that shall be requisite for that purpose ; to be replaced at such time and in such manner as in the wisdom of the provincial parliament may be found expedient."

The assembly, by an address to his excellency, returned him its sincere thanks, assuring him "that his Majesty's loyal subjects, the representatives of the people of Lower Canada, feel with the most lively pleasure the satisfaction his Majesty has been graciously pleased to signify of their endeavours to improve the

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Chap. provincial revenue, and that the additional
 VII. proof of his Majesty's paternal regard for the
 1799. welfare and happiness of his subjects in this
 province, in authorizing his excellency to advance, on the part of his Majesty, such sums of money as may be requisite for erecting proper buildings for holding the courts of justice, in the districts of Quebec and Montreal, will call forth the gratitude of this house to replace these sums in such manner as may be most expedient."

A bill was accordingly passed "for erecting court-houses, with proper offices, in the several districts of Quebec and Montreal, and for defraying the expenses thereof." These were provided for by the imposition of certain taxes on legal writs and other law proceedings, which proving productive, the amount advanced from the military chest, by the home government was, in a few years, reimbursed. As a further proof of the increase of business and rapid improvement of the province, it may be observed, that in less than twenty years after the erection of those buildings, deemed at the time spacious palaces, though now eclipsed by others of more recent structure, they were found inadequate to their intended purposes, from the want of roomy and sufficient apartments for the public accommodation.

His excellency dismissed the legislature with the warmest terms of commendation for the zeal and unanimity with which they had attended to the several objects commended to

their consideration, and the general harmony with which the business of the session had been conducted.

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“Gentlemen of the house of assembly,—I have observed,”—he added,—“with peculiar pleasure, the cheerfulness and cordiality with which you proceeded in reëstablishing the bill “for repealing certain acts granting rates and “duties to his Majesty, and for granting new and additional “duties in lieu thereof, for appropriating the same towards “defraying the expenses of the administration of justice “and support of the civil government within this province, “and for other purposes therein mentioned;” commonly called “the consolidation act;”—and I must request your acceptance of my best thanks for your attention to the several other objects that relate to the revenue and necessary disbursements of the province; nor must I omit taking particular notice of the zeal you have shewn in making so early a provision for replacing the sums which his Majesty, in his paternal regard for the welfare and happiness of his faithful subjects in this province, has been graciously pleased to authorise me to advance for defraying the expenses to be incurred in erecting the intended new court houses in the districts of Quebec and Montreal.

“Gentlemen of the legislative council, and gentlemen of the house of assembly,—The relief given to the poorer classes of his Majesty’s subjects in the cities of Quebec and Montreal, by the amendments made to that part of the road act which relates to those cities and suburbs, will, it is hoped, evince to the people at large, the readiness of the legislature to pay due regard to their circumstances and conveniences, when represented with decency and with a desire of yielding proper obedience to the laws.

“The general tranquillity which at present happily prevails throughout the province, affords good reason to hope, that there will be little occasion for having practical recourse to those extraordinary powers that have been thought proper to be vested temporarily in the executive government; and if, from the secret machinations of the enemy, any instances should happen in which it may become necessary to resort to those extraordinary powers, I doubt not but

Chap. the vigilance of the magistrates, actuated by your influence
 VII. and example, and supported by the zeal of his Majesty's
 faithful subjects in this province, will convince the offenders
 1799. of their temerity and give an effectual check to their
 designs."

1799
 This was the last time that his excellency general Prescott met the provincial parliament, and which, as seen, he now parted with on the best of terms. So far the constitution had worked to admiration, and promised success.—The government and parliament were in perfect harmony,—commerce began to thrive, and the vast resources of trade to unfold themselves—the province evidently was prospering—and all classes of the people contented and happy, friendly and well-disposed in all respects towards each other—there were no religious feuds or disputes of any kind—national-origin prejudices were scarcely felt or known—never publicly appealed to, and by an universal tacit consent avoided and discountenanced—the habitual politeness, the loyalty, the chivalrous feeling characteristic of the gentlemen of the old french school, were still in the ascendant, and harmonized admirably, with the gentlemanly bearing, upright character, and general information which, in all countries, distinguish the british merchant, and for which those in Canada of that, not less than of this day, were eminent.—The earth yielded, in abundance, fruits food for man and beast, and with but little labor,—taxes, none, except upon litigation, as just observed, and upon

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luxuries, which were not felt by the cultivator,—and truly may it be said, that the last sun of the eighteenth century, that set upon Canada, left its people the happiest upon this earth of all the sons of men it that day had shone upon.

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We may here, also, at the close of the century, take a retrospect, for a moment, of the important changes which Canada and the neighbouring british colonies in North America, during that period, had undergone. The old english provinces, arrived at maturity, had passed from the colonial state, to independence, and taken, the first on this continent, rank among the nations of the world; the adjoining old french possessions having, as a prelude to the drama, previously become british provinces, in itself an improvement to their former condition, without taking to account the various prospective advantages awaiting them in that quality. A favored colony of France, from the outset, ruled by an arbitrary but paternal government, and colonized by a brave and warlike people hostile to, and dreaded by their british neighbours, who had often smarted under their incursions; sometimes, indeed, sullied by acts of cruelty—we find it, somewhat this side of the middle term, passing by conquest, after hard fought battles, from the dominion of its old to that of its new sovereign, in an orderly spirit, and with an attachment to its institutions, its ancient laws, its usages, and its customs, unexcelled in the history of any

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people; and before the end of it, enjoying a constitutional government such as no british colony before it ever possessed; and though of foreign origin and a conquered people, favored by the king and parliament of the United Kingdom, beyond all others of their own lineage. It had not only thus become the favored of England, but the peculiarly so of providence, as of England.—Severed from France, it happily escaped the horrors of the french revolution, and its consequences, which Canada knew only by report;—for, while that country was subverting its ancient monarchy—trampling in the dust its crown, and disembowelling itself—the canadians, its offspring, were prospering under the british government, quiet within and at peace with all the world, without contributing to the expenses incidental and necessary to the immunities and protection they were enjoying. But while England was thus extending her american territories to the north, and not yet well assured of them, she also was preparing the causes for an unhappy quarrel with her ancient north american colonies, and a costly and inglorious war, resulting in their independence, and vastly overbalancing the advantages and glory of her recent acquisition. The conquest of Canada added some rays to the lustre of the british arms, but the loss to England of her thirteen splendid colonies, and the creation of a rival though kindred empire, if that acquisition, as some pretend it did, at all contributed towards

the separation, quite overshadows the splendour of the achievement;—yet, there is some satisfaction in the reflection that, of the continent we inhabit, between the Atlantic and the Pacific, from the Labrador and Straits of Belleisle, to Puget's Sound and Vancouver, enough remains to Britain and her adventurous sons, for the formation of a still more powerful empire than that which has already passed from her hands.

Descending to humbler matters, and more within our scope, it may not be amiss, before closing the chapter and taking leave of the eighteenth century, to pass also in review, the "*dramatis personæ*," of our provincial political and judicial theatre, and see who were the men of that epoch, that wielded the—"little brief authority" of their day, and their value. It may prove instructive to the general reader, as well as to those who now have their hour, and exercise the powers that be, and who, looking back at their predecessors on the stage of fifty years ago, may see them, as, probably, they will, some fifty years hence, be themselves seen, and perhaps compared with them, by their successors on the same boards they now tread, if, by any chance, some idle chronicler like the present, shall think it worth his while, to rake their deeds and recal their names, from the oblivion, to which, in all probability they shall, before that, have been consigned.

The salary of the governor in chief was then

Chap. but £2,000 ; increased, this year,* in favor of
 VII. Sir Robert Shore Milnes, the lieutenant gover-
 nor, to £2,500,—“ being £1,000 per annum,
 1799. in addition to the present salary of £1,500 per
 annum, during such time as he shall exercise
 the administration of the government of Lower
 Canada, in the absence of the governor.” The
 executive council consisted of

Chief Justice William Osgoode,*
 The Right Revd. Jacob Mountain,
 Lord Bishop of Quebec,
 P. R. de St. Ours,*
 Hugh Finlay,*
 François Baby,*
 Thomas Dunn,*
 Joseph de Longueuil,*
 Pierre Panet,*
 Adam Lymburner,
 James McGill,*
 Chief Justice James Monk,*
 P. A. De Bonne,
 John Lees,
 A. J. Duchesnay,
 John Young,
 Herman Witsius Ryland, clerk.

Each of these* gentlemen received £100, sterling, a year, as executive councillor, and the clerk, Mr. Ryland, £400, besides £200 as secretary to the governor, and fees to a considerable amount annually.

The Court of king's bench at Quebec, consisted of the chief justice of the province,

* Pursuant to a despatch from the minister.

William Osgoode, Thomas Dunn, Jenkin Wil-^{Chap.} liams, and P. A. de Bonne; that of Montreal,^{VII.} of chief justice James Monk, James Walker, 1799. P. L. Panet, and Isaac Ogden.—There was besides a judge at Three Rivers, P. A. Deschenaux, styled provincial judge, and judge of king's bench for that district—a provincial judge, Felix O'Hara, for Gaspé, and a judge, James Kerr, for the court of vice admiralty. The salaries were as follows:—to the chief justice of the province, £1200, sterling; chief justice at Montreal £900—each of the other judges £500—the judge at Three Rivers £300—judge at Gaspé 200, and the judge of vice admiralty £200.—There was a secretary and registrar of the province, Sir George Pownall, at £400—an attorney general, Jonathan Sewell, at £300, besides fees—a solicitor general, Louis Charles Foucher, £200 and fees—a receiver general, Henry Caldwell, at £400—an inspector general of public provincial accounts, Thomas Aston Coffin, at £365—a surveyor general of lands, Samuel Holland, at £300—a surveyor general of woods, John Coffin, at £200, (a sinecure)—a french translator, X. de Lanaudière, £200—a grand voyer of the province, Charles de Lanaudière, at £500—(a sinecure.)

Of all these, nothing now remains above ground but the names! and even most of these, but for the public accounts in which their memories are embalmed, had probably ere this have been forgotten, though several of them

generally believed that those gentlemen were not altogether personally disinterested, and which it is said occasioned his recall. He was universally deemed an upright and honorable man, much respected by all classes and popular as a governor.

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1799.

Mr. Prescott left the province with the universal esteem and regret of the inhabitants, receiving from all quarters, previous to his embarkation, the most gratifying proofs of their high estimation of his conduct in the administration of affairs.

CHAPTER VIII.

Parliament called—speech and address—voluntary contributions in support of the war—culture of hemp considered—Jesuits' estates—communication concerning them to the assembly—address to the governor relating to them—answer—proposal for ulterior proceedings, but postponed—C. B. Bouc, esq., expelled the assembly—alleged causes of the expulsion—prorogation—revenue and expenditure of 1800—general election—new parliament meets—Mr. Panet rechosen speaker—proceedings in parliament—liberal acts of the government—prorogation—lieutenant governor made baronet of the United Kingdom—finances and expenditure of 1801.

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VIII.
1800.

MR. MILNES, the lieutenant governor, did not meet his parliament until the 5th March. There was nothing, in his speech, of particular interest. He observed, ~~that~~ those who ruled in France, notwithstanding the repeated checks which they had received, in every part of the british dominions they had assailed, their spirit of hostility had not abated, nor had their destructive principles, still more to be apprehended by all civilized governments, been disavowed. That it became, therefore, those vested with executive authority, to exert their attention wherever there was a possibility that the emissaries of discord might establish an intercourse; and that under these impressions, he would propose to their consideration the expediency of continuing those temporary laws,

with
respect
to
that

which, seconded by the zeal and attachment of his Majesty's faithful subjects in this province, had been found to produce such salutary effects.

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VIII.
1800

“It was with no small pleasure”—he said—“he had observed that demonstration of regard and zeal for his Majesty's government, and the interests of civilised society, which was lately manifested by the voluntary and liberal contributions within this province,* which could not but be favorably accepted, and the motives which produced such a tribute of loyalty duly appreciated by our most gracious sovereign.” He congratulated them also, on the very friendly intercourse happily subsisting between his Majesty's subjects and the citizens of the neighbouring United States, observing, that the communications he had received, contained the strongest expressions of desire that such good understanding might long endure.

The assembly, as usual, loyally answered the speech from the throne:—“The spirit of

* In this province, as in New Brunswick and Nova Scotia, spontaneous contributions had been liberally made during 1799, by individuals in aid of the home government, for carrying on the war.—Among the foremost in this patriotic move, we find the lord bishop (Mountain) of Quebec, £300—chief justice Osgoode, £300—Sir Geo. Pownall, £116 13s. 4d.—Henry Caldwell, £300—G. Herriot, esqr., post-master, £50—Quebec Seminary, £50—J. A. Panet, £30—W. Grant, £22—Thomas Dunn, £66—Le coadjuteur de Quebec, (Plessis), £25—Robert Lester, £30 per annum during the war—Munro and Bell £100—Jenkin Williams, £55—François Baby, £40—G. Elz. Taschereau, £10—Louis Dunière, £23 6s. 8d.—X. de Lanaudière, £23 6s. 8d.—Lymburner and Crawford, £50—Rev. Père Cazeau, £25—Jonathan Sewell, 25—A. McNider, £25—Felix O'Hara, esqr., £27 15s. 6d.—The 1st battalion royal canadian volunteers, commanded by lieut.-col. Longueuil, £500, sterling, &c. &c.

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1800.

hostility and the destructive principles of the common enemy of all civilized governments still continuing, without disavowal, the same measures of precaution which have hitherto been found so effectually salutary, appear to us equally necessary. We shall, therefore, forthwith take into consideration the renewal of those temporary laws which have contributed to frustrate the machinations of the emissaries of discord." * * * * * "The general mediocrity of the fortunes"—they continued—"of his Majesty's subjects in this province being well known, we flatter ourselves our voluntary contributions, though small, will be favorably received."

The house, having proceeded to business, went, soon after the opening, into committee, to take into consideration the advantages that might arise to the province and the british empire, from the culture of hemp within it, and adopted the resolution—"that it would be advantageous for this province and the british empire, to renew, extend and encourage the culture of hemp in this province" This, however, was not followed up by any enactment on the subject this session.

The consideration concerning the jesuits' estates was resumed, and on a motion by Mr. Planté, "that the house do resolve itself into a committee to consider of the most proper measures of obtaining information concerning the rights and pretensions which this province may have upon the college of Quebec, (the

jesuits' college) and the estates thereunto annexed," Mr. Young, one of the executive council, rose in his place and said that he was authorised by his excellency the lieutenant governor to inform the house, that his excellency by and with the advice of his Majesty's executive council, had given orders to take possession of the estates of the order of the jesuits in the name of, and as the property, of his Majesty.* The house, nevertheless, went into committee, and reported as follows:—

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“ That it is the opinion of this committee, that an humble address be presented to his excellency the lieutenant governor of this province, setting forth, that the house is anxious to investigate the pretensions or claims which this province may have on the college of Quebec, on the estates thereunto annexed, and the nature of the same : That as there are a great number of documents and official reports relative to the said rights and pretensions blended with other papers, that concern the estates heretofore possessed and claimed by the religious order known by the name of jesuits in this province, fyled in the late legislative council office of the province of Quebec ; particularly a report made on or about the 30th June, 1789, to his excellency lord Dorchester, the governor general, in conformity to a commission issued the 29th December, 1787, for the purpose of examining and enquiring into the nature of the estates of the said religious

* This occurred on the 12th of March, 1800—on the 16th of the same, Father Casot (sometimes written *Cazeau*) died. The following obituary notice of this deserving old jesuit, appears in the *Quebec Gazette* of 20th March, 1800:—“ On Sunday last, the 15th instant, died the reverend father Jean-Joseph Casot, priest, of the company of Jesus, procureur of the missions and colleges of the jesuits in Canada, the last of the jesuits of this province. The immense charities which he bestowed assure him for a long time, the blessing of the poor. He was one of those men whose life is a hidden treasure, and his death is a public calamity,”

The worthy father is still spoken of with esteem by those who knew him personally, though few of them survive.

Chap. order, and all papers that might have been at any time fyled
 VIII. relative to the same ; the house desires to have communica-
 ~~~~~ tion, if necessary, of all or part of the said titles, documents,  
 1800. reports and papers, inasmuch as by an order of his excellency lord Dorchester, the governor, in council of the 25th August, 1790, the clerk of the said council was then directed to allow access to the said papers and grant copies or extracts thereof to all persons conceiving themselves interested therein:—That his excellency may therefore be pleased to order, that the officers now having charge of the said titles, documents and reports of the said commission and other papers above mentioned, do forthwith communicate and officially deliver, or allow copies to be taken, or, if thereunto required, extracts only, of all the said titles, reports of the commission, and papers, to or by such committees as may be authorised by the house to that effect.”

This resolution being concurred in by the house, (by a vote of 16 to 8,)—an address accordingly was sent up to the lieutenant governor, who answered the messengers:—

“ Gentlemen,—I think it necessary to inform you on the subject matter of the present address, that the whole proceedings of the commission issued on the 29th December, 1787, including every claim and pretension respecting the estates of the late order of jesuits in this province, together with the humble address of the house of assembly, voted on the 11th of April, 1793, have been respectively submitted to the king:—That his Majesty having been graciously pleased to refer the whole proceedings to his privy council, the result of their consultations, with his Majesty’s order thereon, was transmitted to this government in the month of April last ; and, in consequence of such order, commissions have issued to take the whole of the property into the hands of the crown.

“ After reflecting on these circumstances, should the house of assembly continue to deem it advisable to persist in their proposed investigation, I shall comply with their request, to allow them access to those papers which have already been made public, and shall in that case give orders



that all persons duly authorised by the house of assembly, Chap. be at liberty to take copies of all titles, documents, reports, VIII. papers, and all proceedings under the commission mentioned, which were returned into the council office, on or before the 25th of August, 1790. 1800.

“ But, after the information I have now given, the house of assembly will certainly deem it incumbent on them to consider whether it is consistent with that respect which they have hitherto uniformly manifested towards their sovereign, to reiterate any application on the subject.”

It was nevertheless resolved, a few days after this, that the house would go into committee, to take into consideration his excellency's answer, which it accordingly did, but came to the resolution “ that the house ought to postpone, to a future time, the inquiry into the rights and pretensions alluded to.” \*

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\* This resolution was adopted by way of amendment to a motion proposed by Mr. Grant, for an address to his Majesty with reference to those estates, in the following terms; and which is introduced here as containing historic matter worth recording:—

“ That a special committee of five members be named by the house to prepare an humble, loyal and respectful address to his Majesty, humbly supplicating his Majesty, to take into his royal and paternal consideration, the deplorable state of the education of youth in this province since the conquest thereof by his Majesty's arms, in the years 1759 and 1760.

“ That at and before that eventful period, the society of jesuits established in Canada, had zealously devoted themselves and their fortunes, to the propagation of the christian religion, and the education of canadian and indian youth—and had been peculiarly successful in their endeavors; forming men, who by their talents and enterprise, have done honor to their country, as well in arts as in arms.

“ That though his Majesty's general the late gallant and sage lord Amherst, by the capitulation which he was pleased to grant to the canadians at Montreal, on the 8th of September, 1760, assured the jesuits as to others, their estates and properties, yet the downfall of that order in Europe, immediately following the conquest, the reverend fathers in Canada, were thrown into such consternation and incertitude, that they relinquished the duties or rules of their institution as to the education of youth; and their houses of mission and college of Quebec, soon became converted, perhaps necessarily, into store-houses, gaols, courts of justice and barracks. And the revenues

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Charles Baptiste Bouc, esquire, a member representing the county of Effingham, was this session expelled the assembly, it appearing to the house by the record of a conviction which, upon motion of the attorney general, had been laid before it, that he had been convicted upon an indictment found against him the year before, at the criminal assises at Montreal, of a conspiracy, with sundry other persons, unjustly and fraudulently to obtain of one Etienne Drouin, divers large sums of money. It appeared that Bouc having purchased a quantity of wheat

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of their other estates and possessions diverted from the humane and pious purposes of the donors, the kings and subjects of France; have been, since the conquest, absorbed by the reverend fathers in Canada for their personal support; or have been by them distributed in alms and other benevolent charities.

“ That by the late demise of the reverend father Casot, the last of the order in this province, the estates and possessions of the society of jesuits are now indubitably vested in his Majesty, and at his royal disposition and will.

“ That therefore, his dutiful and faithful canadian subjects, most humbly beseech his Majesty to appropriate the said estates, if not already disposed of, to the purpose of education in this his province of Lower Canada, in such manner as to his Majesty in his royal wisdom may seem meet; or if already disposed of by his Majesty, that he may be graciously pleased to grant and assign some other estate, or portion of the waste lands of the crown, or other fund, with royal foundation, for the purposes of learning and science, as his royal munificence may direct.

“ That it is the humble opinion of the representatives of the commons of Canada, in the present parliament assembled, that the enlightening of the minds of the youth of the province, by liberal education, is the surest means of attaining the ends of that free and generous constitution which his Majesty in parliament has so graciously been pleased to bestow upon his canadian people. That the more his subjects here, are enabled to perceive the benefits arising from the inestimable boon conferred, the more they will admire and be attached to that wise and incomparable system of civil and political order and freedom which the nations of the world envy, in the kingdoms and countries living under his Majesty's dominion. The happy combination of government, which, as avowed by a conspicuous modern reformer, enables his Majesty, our gracious sovereign, to “ reign over a free nation, with the sole view of making it happy.”

from Drouin, afterwards accused him of hav- Chap. VIII.  
 ing fraudulently "moistened and wetted" it, 1800.  
 to increase its volume and weight, and threat-  
 ened to prosecute him for it criminally unless  
 he gave him an indemnity. Drouin being a timid  
 man and led by Bouc, and others in his interest,  
 to believe that they had him in their power,  
 and could convict him of this, which they gave  
 him to understand was a capital offence, gave  
 his note to Bouc for £75, as a composition for  
 the pretended offence, or hush money, of  
 which he actually soon after paid him £58,  
 Bouc releasing him of the balance. Drouin  
 pretending that he had been wronged, and  
 being advised to seek redress, laid the matter  
 before the law officers of the crown, by whom  
 Bouc and his confederates were indicted for  
 this as a conspiracy, and convicted. Bouc was  
 sentenced to three months imprisonment and  
 to pay a fine of £20, and to enter into bonds  
 for good behaviour during three years, himself  
 in £500 and two sureties in £200 each. The  
 others were severally fined in six shillings and  
 eight pence, and sentenced to three weeks  
 imprisonment. The record of those proceed-  
 ings being laid upon the table, it was ordered  
 that "the said Charles Baptiste Bouc, be heard  
 by his counsel at the bar of this house, on  
 Wednesday next, (2d April) at three o'clock  
 in the afternoon," on which day the assembly,  
 after hearing his counsel voted, his expulsion,  
 by a majority of thirteen, (yeas 21, nays 8.)  
 Mr. Bouc was reëlected more than once, but



Chap. VIII. 1800. finally disqualified by act of parliament. It has been insisted upon by persons of high respectability, some of whom taking an interest in Mr. Bouc's treatment, endeavoured to procure the repeal of the act proscribing him, that *he* was the person conspired against, and a persecuted man, owing to his politics, which were anti-executive it would seem. It is certain from the standing he maintained in the county of his residence, and his reëlection, that he must have enjoyed the general respect of his neighbours.

The lieutenant governor prorogued the legislature on the 26th of May, but in the sterility of his speech there is nothing to be found deserving of notice. Eight bills received the royal sanction, including one for continuing "the act for the preservation of his Majesty's government."

The public accounts make the revenues of the province for 1800 amount to £20,081, currency, and the civil expenditure £36,459, sterling, besides the salaries of the officers of the legislature, £1496, exceeding, by upwards of £200, the fund appropriated for their defrayal. The sum paid to Upper Canada as "the just proportion of the duties imposed by the legislature, on such articles as have been transported from this province into Upper Canada, between 1st January and 31st December, 1800," was £903, sterling. That of the previous year was £1404. The salaries of the judges were, from £500, increased on the 1st of October of this year, to £750, per annum.



and the judge at Three Rivers, to £500 from Chap. VIII. £300, sterling \* 1800.

The second provincial parliament ending with this session, the writs for a general election, tested 7th June were issued, and the elections immediately took place, being, as on the previous occasions they had been, warmly contested. There being nothing extraordinary in the occurrences of the present year, we shall proceed to the opening of the Legislature.

This took place on the 8th January, 1801, and Mr. Panet being again chosen speaker, the business of the session was entered upon.†

\* This was in virtue of a dispatch from the duke of Portland, dated 16th July, 1800. The salaries of the chief justices, of the province (Osgoode), and of Montreal (Monk); the former at £1200, sterling, the latter £900, remained stationary until 15th August, 1802, when they also were augmented, the first to £1500, and the second £1100. Mr. Osgoode was allowed to retire on the 1st May, 1802, with an annuity of £800 for life, pursuant to a despatch from lord Hobart, to that effect. Those officials were at that time and for several years subsequently, exceedingly busy politicians, as well as judges, mixing themselves up with the politics of the day, and elections, as if the sacred functions of their judicial stations were but a secondary consideration. Some of them had seats in the assembly, and some in the executive, and legislative councils; and, consequently, a ready access, at all times, to the governor's ear. They availed themselves, of course, of their position, often misleading the governor who incautiously followed their suggestions, making themselves in return his tools, but invariably pursuing that first grand policy of most colonial politicians, their own personal interests. The reader will see, as we proceed, the trouble and annoyance to which the country was put, in excluding the judges from politics, and restricting them to their judicial duties exclusively.

† This the third assembly of Lower Canada, consisted of the following members:—

For the Lower Town of Quebec, Robert Lester and J. Young; Dorchester, John Caldwell and Thos. Taschereau; Borough of William Henry, Jonathan Sewell; Hampshire, Joseph Planté and François Huot; Esfingham, Chs. B. Bouc and André Nadon; Borough of Three Rivers, P. A. De Bonne and John Lees; the Upper Town of Quebec, J. A. Panet and A. J. Raby; Devon, Bernard Peltier, fils, and F. Bernier; St. Maurice, T. Coffin and Mathew Bell; Richelieu,

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The speech recommended a reconsideration of “the expediency of continuing that act of precaution for the public safety which, from time to time, had been renewed, and hitherto found beneficial,” meaning the act for the better preservation of the government.

His excellency informed the legislature “that his Majesty had been graciously pleased to give directions for the establishment of a competent number of free schools for the instruction of children in the first rudiments of useful learning and in the english tongue, and also, as occasion might require, for foundations of a more enlarged and comprehensive nature, and that his Majesty had been further pleased to signify his royal intention that a suitable proportion of the lands of the crown should be set apart, and the revenues thereof appropriated to such purposes.”

“He had it further in command”—he said,—“to express the just sense his Majesty entertained of the loyalty and public spirit of the inhabitants of Lower Canada, manifested by

Is. E. Hubert and B. Livernois; Kent, Ant. M. Lafontaine and Franc. Vigé; Orleans, Jerome Martineau; Surry, P. de Rocheblave and F. Levesque; Quebec, county—Louis Paquet and M. A. Berthelot; Leinster, Joseph Beaumont and J. Archambault; Huntingdon, J. F. Perrault and J. Bte. Raimond; Warwick, James Cuthbert and Ross Cuthbert; Bedford, John Steele; Montreal, County—Joseph Papineau and Thos. Walker; York, Joseph Bedard and L. C. Foucher; Cornwallis, Joseph Boucher and Alexander Menut; West Ward of Montreal, James M-Gill and J. Périnault; East Ward of Montreal; P. L. Panet and F. Badgley; Buckinghamshire, John Craigie and Louis Gouin; Northumberland, J. M. Poulin and Pierre Bedard; Hertford, Michel Tellier and Louis Blais; Gaspé, William Vondenvelden. Of these, fourteen denote a british, one a german, the others a french origin.

their liberal contributions, and also of the zeal and attachment they had shewn, as well to his royal person, and family, as to the principles of our most excellent constitution.”

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The assembly, in answer, assured him that they would most cordially concur in continuing that act of precaution for the public safety which they had hitherto found so beneficial. They rejoiced in the promised establishment of free schools. “If the fortunes”—they observed—“of his Majesty’s subjects in Lower Canada, were equal to their loyalty and attachment to their most gracious sovereign, their contributions for the support of the war, which circumstances rendered so inconsiderable, would have been more deserving of the royal approbation.”

Some important acts were passed this session, including two of revenue, one granting a duty on the licencing of billiard tables, the other imposing duties on tobacco and snuff. These bills were reserved for the royal pleasure, which being sanctioned soon after, * became law—one related to the decisory oath (“*serment decisoire*,”) in commercial matters, which, there being previously a doubt of its admissibility in such cases, this bill admitted when referred by either party to the other, in a cause pending at law—the other related to the establishment of free schools, as proposed by the lieutenant governor, and the establish-

* 7th April, 1802, as notified by proclamation of the lieutenant governor, dated at Quebec, 12th August, 1802.

Chap. VII. 1801. ment of a corporation under the style of "*the royal institution for the advancement of learning*,"*—the third was "for removing the old walls surrounding the city of Montreal," the demolition of which had three or four years previously been petitioned for by the inhabitants, and was now consented to as necessary to "the salubrity, convenience, and embellishment of the city." This act was a fresh proof to the country of the respect for private rights entertained by the british government. The ground upon which, for the common safety, those walls had been built was, for the most part, private property, and had been taken by the french government without allowing any indemnity to the respective owners, it being understood that if ever the walls were demolished the ground should revert to the rightful proprietors, or their legal representatives. It

* This act has proved a failure, and though still unrepealed, on the statute book is virtually a dead letter. No appropriation of lands as proposed, was ever set apart for the purpose of education, for what reason is not apparent. The institution was kept alive for many years by money grants from the assembly, from year to year, for paying the teachers and others employed by it. The roman catholic hierarchy and priesthood throughout the province, universally discountenanced it from the commencement, not, as it is believed, from averseness to the spread of instruction, but from objections to the composition of the board at its first establishment, being chiefly, if not altogether of protestants, the protestant bishop of Quebec at the head, and therefore, in their estimation, sectarian. It has failed, as might have been anticipated, from the want of co-operation and cordial support, not to say opposition of so influential a body as the roman catholic clergy, in Lower Canada, who like all other religious denominations insist, and with reason, on having in their own hands exclusively, the education of their own flock. Lord Dalhousie made an effort to combine the two interests, protestant and roman catholic, in this matter, but without success. How the recent school act of 1846, now creating a stir in several of the rural parishes will work, remains to be seen.

was to assure justice in this respect, no less than for the demolition of the walls now become a nuisance to the city of Montreal, that this act was passed, authorising their removal and the appointment of commissioners for those purposes, all which was accomplished so effectually by 1817, that nothing remains of them to-day, and the claims settled to the satisfaction, it is believed, of all concerned.— This very liberal and equitable act admitted the right of recovery and repossession to all those whose claims, on examination by the court of king's bench at Montreal, might be found good. The following is the preamble :—

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“ Whereas in pursuance of an *arrêt* of his most christian Majesty, bearing date at Versailles, the 13th day of May, 1724, for the better defence of the city of Montreal, in this province, a stone wall and other fortifications of stone were heretofore built and erected around the said city, partly on land ceded to his most christian Majesty by the ancient company of New France, and partly on land the property of divers individuals. And whereas your majesty, by message through your lieutenant governor was, on the 21st March, 1797, graciously pleased to express your royal will and pleasure that the legislature should deliberate on the most expedient measures to be adopted for the improvement and embellishment of the city of Montreal, and for the more expeditious and effectual method of deciding

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all questions that may arise on the subject of the repossession of the ground now occupied by the old fortifications thereof;—and whereas it is expedient to take down and remove the said walls and fortifications yet standing, but in a ruinous condition, and otherwise to provide for the improvement of the said city of Montreal, by new squares and streets, to be laid out, opened and made upon the site of the said wall or fortifications, or lands adjacent. And whereas it is just and reasonable that the land which the said wall and fortifications now occupy and which does not belong to his Majesty, should be delivered up to the lawful proprietors thereof, their heirs or assigns,—and whereas also, the objects herein before recited require the aid and authority of the provincial parliament:—Be it enacted,” &c.

The message received from his excellency the lieutenant governor, (R. Prescott,) on this subject, was as follows:—

“ His Majesty having been graciously pleased to signify his acquiescence to the petition of his good subjects of the city of Montreal, praying to be permitted to repossess such part of the ground occupied by the fortifications of that city, as shall not be deemed necessary for military or other public purposes, the lieutenant governor feels great satisfaction in being authorised to communicate the king’s pleasure to the house of assembly on that subject.

“ It having been suggested that the ground occupied by those fortifications was taken up on condition, that the several lots should revert to the original proprietors, or their heirs or representatives, when the same shall be found no longer necessary for public uses; and as adverse claims may, possibly, arise respecting such property, by which the relinquishment thereof, instead of being a public benefit

according to his Majesty's gracious intentions, may, in giving occasion to strife and litigation, become a source of public detriment, the lieutenant governor recommends to the assembly to deliberate on the adoption of some expeditious and effectual method of finally deciding all questions that may arise on this subject. Chap. VIII. 1801.

“As the present appears to be a suitable occasion for considering of such improvements as may conduce to the salubrity, convenience and embellishment of the town, the lieutenant governor further recommends to the house, the consideration of providing additional powers, in case they should be found necessary for carrying these desirable objects into execution.

“The commanding engineer will be directed to lay before the house, a plan of the town and fortifications as soon as the same can be prepared, and to give to them the requisite information relative to the reserves which it will be necessary to make, on the part of the crown, for public uses.

(Signed) “R. P.”

“Castle of St. Lewis, Quebec, 21st March, 1797.”

Nor while the british was thus discharging the obligations of the french government was it unmindful of its own. An assignment of three townships was, at this time laid off, for the officers, non-commissioned officers and privates who had served during the blockade of this city, in the winter of 1775-6.*

* The following notice, founded on the order in council passed on this head, appeared in the *Quebec Gazette* of the 19th March, 1801:—

“ADVERTISEMENT—CANADIAN MILITIA.—Whereas by a report of the committee of the whole council, dated the 20th May last, approved by his excellency the lieutenant governor, the townships of Windsor, Simpson, Wendover, and another to be taken on the south side of the River Becancour, should it be necessary, to complete the lots of the canadian militia, have been appropriated for the officers, non-commissioned officers and privates of the canadian militia, who served during the blockade of this city, in the winter of 1775-6, and for the widows of those who were married prior to or during that epoch; and who by advertisement in the *Quebec Gazette*, of the 24th May last, were requested to give in their names to le comte Dupré,

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Among the miscellaneous matters of the session was the reëxpulsion of Mr. Bouc, who had been again returned at the late general election. It appears by the journals of the assembly, that "a member in his place informed the house that he was present at the late election of knights of the shire, to serve in this provincial parliament for the county of Effingham, and that he is well acquainted with the person of Mr. Bouc, who is returned to serve for the said county, and that he is the same identical Charles Baptiste Bouc, who was expelled this house during the last session." From the above, to fix his identity, it would seem, he had not yet appeared to take his seat. It accordingly was therefore "resolved, that as it appears by a record of the court of king's bench for the district of Montreal, that Charles Baptiste Bouc, a member of this house, upon an indictment in the aforesaid court exhibited

esq., colonel of the canadian militia, who are to receive lands according to the following schedule:—

| | | | | | |
|---|---|---|---|---|---------------|
| For a field officer, | - | - | - | - | 1000 acres. |
| a captain, | - | - | - | - | 700 do. |
| a lieutenant and ensign, | - | - | - | - | 500 do. |
| non-commissioned officers and privates, | | | | | 400 do. each. |

And to the widows according to the rank which their husbands held.

And whereas there has, in consequence, issued a warrant of survey; all persons concerned are hereby required to deposit into the hands of captain Charles Pinguet, esquire, before the 1st day of May next, their share of the expenses of survey and other necessary disbursements for obtaining the letters patent, at the rate of two pounds seventeen shillings and six-pence for every 400 acres, which they may be entitled to receive according to the foregoing schedule.

Quebec, 19th March, 1801.

LE CTE. DUPRE', Colonel.

N. B.—The widows of such militiamen as have served during the blockade, are requested to send in their names and surnames to Mr. James Voyer, the agent, residing in the lower town.

against him, had been convicted of the crime of conspiracy, with sundry persons, unjustly and fraudulently to obtain of Etienne Drouin, divers large sums of money;—and whereas the said Charles Baptiste Bouc, in consequence thereof, was expelled during the last session, that he be expelled this house.”

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1801.

Mr. Bouc, notwithstanding this, was reëlected by his constituency, but it was resolved that “having been in this session of parliament expelled it, he was and is incapable of being elected a member to serve in the present parliament.” He, therefore, was again “expelled for the reasons (the above) set forth in the resolutions of this house, the 2d of April, 1800, and of the 24th of January last.” He was, nevertheless reëlected, but disqualified, as we shall observe, at the ensuing session, by an act of the provincial parliament, and his person subsequently incarcerated in the common gaol at Quebec, on *suspicion* of treasonable practices, under the act for the better preservation of his Majesty’s government, which began thus to be made an instrument of oppression, and to put down an humble individual who, however troublesome to the assembly, could not have been an object worthy of any apprehension by the government, which, in this manner, unconsciously lent itself, there is cause to believe, to the suggestions of personal pique and the vengeance of a coterie against him.

The legislature was prorogued on the 8th of April, but beyond the common place obser-

Chap. VIII. 1801. vances usual on a friendly parting, there was nothing of note in the lieutenant governor's speech. "It will, I am persuaded,"—said his excellency,—“be highly satisfactory to his Majesty to observe that, in the regulations which you have framed for the improvement of certain parts of the revenue, you have evinced a laudable disposition to lessen the burthen of the parent state, in defraying the expenses of the civil administration of this province.” A few days after the prorogation, his excellency learned that the king had been pleased to grant him the dignity of a baronet of the United Kingdom.

A bill also was passed “for the relief of persons holding lands or immoveable property of his Majesty *en roture*, upon which *lods et ventes* and mutation fines are due.” It authorised the appointment of commissioners with power to remit, in certain cases, the arrears of *lods et ventes* due to the crown, and in others, to make large deductions on immediate payment of a small proportion of the dues. Those who had served in defending Quebec during the blockade of the winter 1775-6, were altogether exonerated from the payment of *lods et ventes* to which any property they then possessed may have been liable, who were thus favored in this manner, as well as by grants of crown lands in reward of their services.

The revenues of the year 1801, amounted in all to £27,166, currency, of which £17,120—were available towards the discharge of the

expenses of the civil government, this year amounting to £33,831, sterling, including £903 paid to Upper Canada, for its proportion of revenue collected in 1800. The amount due that province for 1801, remaining due to it from the above, was £1069.—The expenses of the legislature were £1961, currency, and the revenue to defray them £1785.

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1801.

The following were the members of the legislative council in 1801 :—

Chief justice Osgoode, speaker.

Rt. revd. Jacob lord bishop of Quebec.

| | |
|----------------------|-------------------------|
| Hugh Finlay, | R. A. de Boucherville, |
| Thomas Dunn, | Henry Caldwell, |
| P. R. de St. Ours, | Chief justice Monk, |
| François Baby, | Sir John Johnston, |
| Joseph de Longueuil, | Chartier de Lotbinière, |
| Chas. de Lanaudière, | Gen. El. Taschereau, |
| Sir George Pownall. | |

ERROR TO BE CORRECTED.

For—" He observed that those who ruled in France," in the fourth line of this chapter, page 204, read—He observed *with respect* to those who ruled in France *that*.

CHAPTER IX.

Parliament meets—lieutenant governor congratulates them on the peace—encouragement of the culture of hemp proposed—acceded to—money voted and a board appointed—Mr. Bouc disqualified—expedience of salary to the speaker and an allowance to members considered—close of the session—settlement of the eastern townships commenced—session of 1803—militia and gaols recommended—revenue and expenditure of 1802—prorogation—short session in 1803, owing to renewal of hostilities between England and France—strong manifestation of loyalty throughout the province—parliament again opened in 1804—nothing of interest—*quorum* of the assembly reduced to twelve—prorogation—revenue—general election in 1805—members returned—meeting of new parliament—Mr. Panet again speaker—proceedings of the session—a cloud—prorogation—revenue of 1804—departure of Sir Robert Shore Milnes for England—Quebec Mercury established in 1805, by T. Cary, esqr.

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1802. THE parliament met on the 11th January. The lieutenant governor congratulated them on the return of peace, recently concluded between Great Britain and France. He stated that he had, at the close of the last session, received his Majesty's commands to take into consideration the means of introducing and increasing the culture of hemp in the province, and to offer the subject to their particular attention. The information he had obtained from persons who had made experiments in the culture of the article, satisfied him, he said,

that the soil and climate of Lower Canada, were peculiarly adapted to this branch of cultivation, and induced him strongly to recommend to them the early adoption of such measures as might seem best calculated to encourage it throughout the province.

The assembly, accordingly, appropriated £1200 for the purpose, but the experiment did not succeed.* Mr. Bouc having been reelected was again expelled, and a bill was now introduced and passed disqualifying him. A move was made in the assembly to take into consideration the expedience of fixing an allowance for the speaker and members of the assembly, but no determination adopted. The session closed on the 5th of April, the lieutenant governor sanctioning eleven bills on the occasion.

Large tracts of land in the eastern townships had been granted to various persons, in order to encourage settlements in that quarter, and it was at and shortly previous to this period that the first settlements were commenced there, under great disadvantages for the want of roads of communication with Quebec and Montreal. Many improvident grants were made to favorites and speculators, who allowed them to remain waste until the toil and improvements of those actually settled in their neighbourhood

* A board was appointed at which the lieutenant governor himself usually presided. Small specimens of hemp and of a good quality were produced from year to year, during several seasons, while the premiums lasted; but the *habitants* could not be induced to relinquish their old system of agriculture and produce of wheat, yielding them a certain profit, for the growth of hemp which they were unacquainted with.

Chap. IX. should give them value. In several instances, the grantees of these tracts have disappeared, some by dying off and others by leaving the province, while the lands granted have, in many parts, been occupied and improved by "squatters," to whom, however odious they are to the absentee proprietors, the province is chiefly indebted for the thriving settlements which, at the present time, present themselves to the tourist, in the eastern townships, known as the district of St. Francis.

1803.

The speech, in opening the session, on the 8th February, 1803, if we except a recommendation to renew the militia laws, about to expire, and to make provision for the insufficiency of the gaols at Montreal and Quebec, was uninteresting. His excellency congratulated the legislature on an increase of the revenue, which, for the year just ended, amounted to £31,241, currency, while the civil expenditure of the same was £37,008, including £2017 to Upper Canada, and £6,000 to the governor in chief and lieutenant governor, that is, to the former, who was absent on leave, £2,000, and the latter, £4000, besides the salaries of the officers of the legislature, £2,099, currency, and upwards of £750 more, for contingencies. Nothing of any importance took place during the session, but six bills being passed, one of them for the better regulation of the militia, and of which, in proroguing the parliament, the lieutenant governor spoke in terms of satisfaction.

A short session of the legislature took place in August, in consequence of the recommencement of hostilities between Great Britain and France. The alien act, and that for the better preservation of his Majesty's government had been allowed to expire on the late advent of peace, but the return of war rendered, in the opinion of the government, their revival necessary. His excellency stated to the legislature that, under these circumstances, it was their immediate duty to provide for the internal security of this part of his Majesty's dominions, by a renewal of those temporary laws which were found so beneficial during the late war, and by which, under the blessing of providence, the internal happiness and tranquillity of the colony were so effectually maintained.

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1803.

To this the assembly very loyally responded, by stating that, under these circumstances, they felt it to be their indispensable duty to provide, without delay, for the internal security of the province, not forgetting that during the late war, the temporary laws that were then passed did contribute to assure the tranquillity then enjoyed, and that they agreed with his excellency that the first object of their consideration should be the renewal of those acts. They were accordingly passed, and being assented to, the assembly, after a short session of ten days were, on the eleventh of August, prorogued.

Upon the recurrence of the war, there was a strong manifestation of loyal feeling universally

Chap. throughout the province. The lieutenant gover-
 IX. nor sent down, late in the session, a message
 1803. to the assembly stating, that he had "the satis-
 faction to acquaint them that a considerable
 number of his Majesty's subjects in this pro-
 vince, actuated by a spirit of loyalty and zeal
 for the interests and honor of his crown, had
 offered to form themselves into volunteer com-
 panies for the defence of the province at the
 present moment, and to serve under such offi-
 cers as his Majesty's representative should
 appoint to command them." And he recom-
 mended the subject accordingly to the consi-
 deration of the house. A bill was introduced,
 passed, and sent up to the legislative council
 relative to it but too late, the prorogation tak-
 ing place the next day. No inconvenience,
 however, was felt from the circumstance, the
 militia act being in force and sufficient for every
 practical purpose, in case of an emergency,
 not very likely to occur unless in case of a
 rupture with the neighbouring republic, of
 which there was then no probability. The de-
 monstrations of loyalty which this renewal of
 hostilities brought out, nevertheless were grate-
 ful to the government and to all loyal men ; it
 contributed to confound distinctions of national
 origin, and to bind all classes together in the
 common cause, as brethren of the same great
 political family, and was very creditable to the
 canadian people.

In reopening his parliament, on the 10th of
 February, 1804, he again called upon them to

continue the two acts they had renewed at the late short session. Beyond this there was nothing of any moment in the speech. We shall, however, note a part :—

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1804.

“ Gentlemen of the legislative council, and gentlemen of the house of assembly,—In proceeding to the consideration of the several objects to which I have adverted as well as such others as may come before you in the course of the session, you will not fail to keep in mind the important advantages which have resulted from the unanimity, as well as from the energy with which the public affairs have been conducted in the parent state, and you will, I am confident, be emulous of manifesting a like unanimity in the proceedings of this provincial parliament.

“ I have, indeed, in every session of the present parliament, had experience so satisfactory, of your dutiful affection to the person of our most gracious king, and your unremitting attention to the interests of his government, that I do, with the greatest reason, confidently rely upon a continuance of them in the present conjuncture.

“ I will do my part—I earnestly and strongly recommend to you unanimity and vigour in the dispatch of public business, and you will, I am assured, be desirous of proving to your sovereign, that your hearty zeal for his service, and your just concern for the security and prosperity of this province, are incapable of relaxation and decline.”

As the session advanced, it was found difficult to keep together a sufficient number of members to carry on the business of the house, and the *quorum* was consequently reduced to twelve members, including the speaker. The session ended on the 2d May, thirteen bills being assented to, one for making a further appropriation for encouraging the culture of hemp.

The lieutenant governor gave the assembly his “ sincere thanks for the zeal and unanimity

Chap. IX. 1804. they had manifested in renewing the act for the better preservation of his Majesty's government, the alien and foundling acts, (by this last, an appropriation was made towards the relief of insane persons, and for the support of foundlings, a provision afterwards continued by vote of the assembly from year to year,) and for the act encouraging the culture of hemp. This was the last session of the third provincial parliament, which thus parted with the executive on the best of terms, returning to their constituents loaded with its approbation, and the consciousness, let us believe, still more gratifying, of having done their duty.

The revenues of the last year (1803) were £32,276, currency, and the expenditure £36,821, sterling, including £1340 to Upper Canada.

The general election took place in July, for this the fourth provincial parliament. The legislature met on the 9th of January, 1805,*

* The members constituting the fourth assembly of Lower Canada, were:—For the

Upper Town of Quebec, William Grant and J. A. Panet; Lower Town of Quebec, J. Young and Louis de Salaberry; County of Quebec; P. A. De Bonne and M. A. Berthelot; County of Northumberland, J. M. Poulin and Pierre Bedard; County of Orleans, Jerome Martineau; County of St. Maurice, David Monro and Michel Carron; County of Leinster, C. G. de Lanaudière and J. Archambault; County of Dorchester, John Caldwell and Thos. Taschereau; County of Effingham, Thomas Porteous and André Nadon; Borough of William Henry, Jonathan Sewell; County of Kent, François Vigé and Pierre Weillbrenner; County of Warwick, James Cuthbert and Ross Cuthbert; Borough of Three Rivers, L. C. Foucher and John Lees; County of Hampshire, J. A. Juch. Duchesnay and Joseph Planté; County of Buckinghamshire, Louis Proulx and F. Le Gendre; County of Devon, F. Bernier and Jean Bte. Fortin; County of Richelieu, Louis Bourdages and Louis Brodeur; County of Cornwallis, J.N. Per-

and Mr. Panet being again chosen and confirmed in the customary terms speaker of the assembly, the lieutenant governor recommended the renewal of the alien act and that for the better preservation of his Majesty's government, as necessary to the security and tranquillity of the province, which was readily complied with. Much of the time of the session was absorbed in inquiries relating to contested elections.

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1805.

The navigation of the inland waters of the province was, however, taken into consideration this session for the first time. It was resolved that its improvement would greatly facilitate the intercourse with Upper Canada, and increase the trade and navigation of both provinces, and that the removal of certain impediments in the rapids between Lachine and Montreal, would greatly tend to that end; and that an attempt should be made to remove the impediments in those rapids, and a sum not exceeding a thousand pounds, currency, appropriated for the purpose. That amount was accordingly appropriated, but to little purpose, unless to confirm the opinion now prevalent, that nothing short of a canal, long contemplated, (and since accomplished,) could

rault and Alex. Roi; County of Huntingdon, J. Bte. Raimond and Sir A. M'Kenzie; County of Montreal, Benjamin Frobisher and L. Roi Portelance; East Ward of Montreal, John Richardson and J. Marie Mondelet; West Ward of Montreal, James M'Gill and Louis Chaboillez; County of Surrey, Noel de Rocheblave and Jacques Cartier; County of York, John Mure and Eustache L. Dumont, fils; County of Hertford, Louis Turgeon and Etienne Ferreol Roy; County of Gaspé, George Pyke; County of Bedford, ———

Chap. permanently overcome the difficulties present-
IX. ed by those rapids.

1805. A bill "to enable the seigneurs to compound their feudal rights and dues with their vassals and censitaires," was introduced but fell through, from what cause is not apparent. Several bills received the royal assent at the close of the session, among them one for the erection of common gaols in Quebec and Montreal, and imposing duties upon the trade exclusively, to defray the expenses of their erection, a measure exceedingly distasteful to the commercial world, who, it seems, petitioned his Majesty to disallow it;* and another for the better regulation of pilots and shipping, and improving the navigation of the St. Lawrence, probably the most important of the session. The trinity house was established by it, with very important powers relating to the navigation of this noble river, and to the ports of Quebec and Montreal.

A slight misunderstanding seems to have arisen between the lieutenant governor and assembly, relative to an increase of salary which the latter were disposed to allow one of its officers, the french translator to the house. An address was sent up requesting his excellency

* This, "*the Gaol's act*," as it has commonly been called, imposed a duty of two and a half per cent., upon goods, wares, and merchandise sold at public auction; a duty of two pence a pound on bohea tea; four pence a pound on souchong; six pence on hyson, and upon all other green teas, four pence. And an additional duty, to those already existing, of three pence a gallon on all spirits or other strong liquors, three pence on all wines, and two pence on molasses or syrups.

would be pleased to take into consideration the services of Mr. P. E. Desbarats, french translator of the house, and make such addition to his salary as in his wisdom he should see fit. To this he answered—"that however he might feel disposed to accede to every request of the house of assembly, he found himself called upon in the present instance to decline doing so,—and that he regretted the necessity for remarking that when the usual observances which tend to preserve a due harmony between the executive power, and the other branches of the legislature were omitted, he felt himself compelled to resist a precedent which might lead to consequences so injurious."

This gave great umbrage to the assembly, who immediately resolved (yeas 8, nays 7,) to go into committee on the subject, but a message from his excellency by the usher of the black rod, requiring the immediate attendance of the members in the legislative council prevented it, and put an end to the session. He prorogued the legislature, nevertheless, in terms of satisfaction, assuring them that an earnest solicitude for their welfare would ever be a prevailing sentiment in his mind, recommending them, "at all times and upon all occasions, to keep steadily in view those sound principles of loyalty and gratitude to our most gracious sovereign, by which alone that genuine happiness and that ample security they had hitherto enjoyed under his paternal government, could be effectually and permanently secured. The

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above was the first instance since the establishment of the constitution to the present time, of the shadow of a misunderstanding between the executive and the assembly. What the "observances," which the assembly had "omitted" were, does not appear by the journals of the house.

The provincial revenue of the last year, (1804) by the accounts laid before the assembly this session, came to £33,633, currency. The civil expenditure to £33,003, sterling. Of this the lieutenant governor, Sir Robert Shore Milnes, administering the government, was in the receipt of £4,000, and the governor in chief, Prescott (absent) £2,000 ; it included also £1,272 to Upper Canada. The salaries to the officers of the legislature now amounted to £2519, currency, independently of the sum stated as the amount of civil expenditure. The expenses of the late election were £545, currency.

The lieutenant governor sailed for England on the fifth of August, in H. M. S. Uranie, leaving Mr. Dunn, as the senior executive councillor, to administer the government. His excellency received an address from the citizens of Quebec on his departure, but was not a popular governor. The general opinion of Sir Robert Shore Milnes, as far as one can judge of it at this distance, ranks him as an easy well-meaning man, with talents scarcely above mediocrity, of no self-confidence whatever, and consequently easily influenced by the

irresponsibles about him, to whom he looked for advice. Chap.
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It is worthy of remark that a new weekly paper, "*The Quebec Mercury*," exclusively english, still extant and thriving, was set on foot at the commencement of the present year, in Quebec, by Thomas Cary, esqr., an english gentleman, brought up to commercial pursuits, and for several years previously established in the province, of extensive information, and editorial talents of the first order; the point and pungency of whose pen we shall hereafter have occasion to notice. Mr. Cary was patronised by the trade, and remained editor of the paper he had established, and conducted with ability, until his decease, which took place in 1823, regretted by a large circle of acquaintances, and even by many of those to whose politics he was, from principle, opposed. 1805.

The total of arrivals at Quebec, this year, from abroad, was 146 vessels, burthen 25,136 tons.* The following post office notice published in *The Quebec Mercury*, of 2d December, 1805, will give an idea of the mail communications

* The annexed comparative statement of arrivals and tonnage, at the port of Quebec, up to the 22d November, in each of the years 1846 and 1847, from an authentic source, will contrast well with the above:—

| | Vessels. | Tonnage. |
|--|----------|----------|
| 22d Nov., 1846—1439, - - - | - | 573,104 |
| 22d Nov., 1847—1178, - - - | - | 474,486 |
| Less this year, 261, - - - | - | 98,618 |
| —from the " <i>Morning Chronicle</i> " Quebec, 22d Nov., 1847. | | |

Chap. IX. at this time, with England and the neighbouring provinces :—

1805. *The winter Mails for England via Halifax, will be closed on the following days, viz :—*

| | | |
|------------------------|--|-----------------------|
| On Wednesday 27th Nov. | | Wednesday, 18th Feby. |
| Do. 26th Dec. | | Do. 19th March. |
| Do. 22d Jan. | | Do. 16th April, |

and on Wednesday, 24th May, first fortnight trip.

The Mails for Upper Canada, will be despatched on the following days, viz :—

| | | |
|-----------------------|--|------------------------|
| Monday, 29th instant, | | Monday, 10th February. |
| Do. 16th Decr. | | Do. 10th March, |
| Do. 13th January, | | Do. 7th April. |

Quebec, 20th November, 1805.

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CHAPTER X.

Mr. Dunn, president and administrator of the government—convokes the parliament—topics of the speech—crusade against the freedom of the press—Isaac Tod and Edward Edwards voted guilty of breach of privileges of the assembly—Thomas Cary in like manner—gaols bill of previous session, and proceedings with respect to it—address on the subject to his Majesty—transmitted through the president—remark of his honor on receiving the address—assembly take umbrage—president in proroguing expresses dissatisfaction that business had not been despatched, owing to non-attendance of members—revenue and expenditure of 1805—“Le Canadien,” established—its purposes—anecdote—meeting of parliament in 1807—speech—favorable address of the assembly in answer—miscellaneous matters during the session—death of Mr. Lees, member for Three Rivers, and election of Ezekiel Hart, esquire, in his stead—prorogation—revenue and expenditure for 1806.

MR. DUNN assumed the government, as president and administrator, on the 31st July, 1805, Sir Robert Shore Milnes having administered it six years, day for day. He convoked the parliament for the 22d February, 1806, and on opening it congratulated the country on the victory gained by his Majesty's fleet over the combined fleets of France and Spain, off Cape Trafalgar, on the 21st October last, when nineteen of the enemy's line of battle ships surrendered; and also on the subsequent action off Ferrol, on the 4th November, in

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which four french ships of the line were captured by an equal force; victories which placed Great Britain and her colonies in a state of perfect security from the meditated attempts of the most ferocious enemy she ever had to contend with. “But although we are thus, by the blessing of divine providence, and the power of his Majesty’s arms protected,”—said the president—“from the danger of external attack, I make no doubt but your prudence and loyalty will induce you to renew those temporary acts which, during the last as well as the present war, have been deemed expedient for the better preservation of his Majesty’s government, and the internal tranquillity of the province, though happily very few instances have occurred in which it has been found necessary to put them in force.” This was suitably answered in the address, the assembly assuring him they would renew the acts.

The first crusade against the freedom of the press, by the assembly of Lower Canada, took place this session, and ought not to pass unnoticed. An article in the Montreal Gazette, No. 503, dated “*Monday, April 1st, 1805,*” printed by “*E. Edwards,*” was, on motion of Pierre Bedard, esqr., voted, by a majority of 16 to 6,* “a false, scandalous, and malicious

* The division was as follows:—Yeas, Messieurs Fortin, Ferréol Roy, Carron, Weillbrenner, Martineau, Turgeon, Taschereau, Alexander Roy, Lussier, Bedard, Bourdages, Le Gendre, Berthelot, De Salaberry, Planté and Proulx,—16.

Nays, Messieurs Richardson, Pyke, Mure, Roy Portelance, Frobisher and Young,—6.

libel, highly and unjustly reflecting upon his Majesty's representative in this province, and on both houses of the provincial parliament, and tending to lessen the affections of his Majesty's subjects towards his government in this province."—A "committee of seven members was, therefore, appointed to enquire into the authors, printers and publishers of the said libel." They reported Edward Edwards to be the printer of the paper in question; and "that it appears to this committee that Isaac Tod, esquire, of Montreal, merchant, was president at a dinner given at Montreal, in the month of March, 1805, in Dillon's tavern, by the merchants of that city, to the representatives of the town and county of Montreal, and that he there gave the sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth toasts inserted in the said printed paper," and which constituted the "libel."†

† The following are the toasts on the occasion alluded to:—1. The King. 2. The british empire; and may the people of this province be impressed with a grateful sense of the happiness and advantages they derive from being a part of it. 3. The lieutenant governor and prosperity to the province. 4. General Hunter and prosperity to Upper Canada. 5. The navy and army. 6. The honorable members of the legislative council, who were friendly to constitutional taxation, as proposed by our worthy members in the house of assembly. 7. Our representatives in provincial parliament, who proposed a constitutional and proper mode of taxation, for building gaols; and who opposed a tax on commerce for that purpose, as contrary to the sound practice of the parent state. 8. May our representatives be actuated by a patriotic spirit, for the good of the province as dependent on the british empire, and be divested of local prejudices. 9. Prosperity to the agriculture and commerce of Canada, and may they aid each other, as their true interest dictates, by sharing a due proportion of advantages and burthens. 10. The city and county of Montreal and the grand juries of the district, who recommended local assessments for local purposes. 11. May the city of Montreal be

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Pursuant to this, it was resolved by the house, on motion of Mr. Bedard, "that Isaac Tod, esquire, merchant, of the city of Montreal, having published the libel mentioned in the resolutions of this house, at a dinner given at Montreal, in the month of March, 1805, in Dillon's tavern, by the merchants of Montreal, to the representatives of the city and county of Montreal, where he was president, is guilty of a high breach of the privileges of this house,"—and "that the said Edward Edwards, having printed the said libel, is guilty of a high breach of the privileges of this house."—These two gentlemen were accordingly ordered to be taken into custody of the serjeant at arms, but not being found by his deputy who went to Montreal in quest of them, the matter was dropped. The dinner given to the representatives of the city and county of Montreal, was, it seems, in approbation of their opposition to the "gaols bill" of the previous session, unpopular with the merchants, as providing the

enabled to support a newspaper, though deprived of its natural and useful advantages; apparently for the benefit of an *individual*. 12. May the commercial interest of this province have its due influence on the administration of its government. 13. The fair sex, being the great spur to our pursuits, and the prize of our industry.

(57) F
A correspondent of the Quebec Mercury, observes:—"The foregoing toasts were given by Mr. Tod, who was president; and the band played at intervals and apropos—*God save the King—Rule Britannia—Roast beef of old England—The conquering hero comes—Britons strike home—Hearts of oak—The staunch man of the mill, and the myrtle of Venus*. Upwards of fifty of the first people of the place were present, on this occasion; and I am sure none of them ever dreamed of acting wrong, or contrary to the constitution of the country." How, indeed, these patriotic sentiments could give offence to the assembly, morbidly sensitive, it would seem, and be construed by it into libel, is at this time of day, difficult to conceive.

ways and means upon the commerce of the country, for defraying the expenses of the new gaols.

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X.
1806.

The proceedings of the assembly, on this matter, gave occasion to Mr. Cary, the editor of "*The Quebec Mercury*," to make some remarks upon them while in progress, which brought down upon him also the indignation of the house. The following are extracts from the journals of the assembly, of the 11th March, 1806, relating to the matter:—

"A complaint was made to the house by Mr. Berthelot, in his place, that Thomas Cary, editor of the "*Quebec Mercury*," had in his paper of yesterday, presumed to intermeddle in the proceedings of this house. Mr. Berthelot then laid upon the table a printed paper, with several passages pointed out therein, and desired that the said passages might be now read by the clerk, which being objected to by several members, debates arose thereon, and Mr. Speaker having refused to cause this complaint to be entered upon the journal otherwise than by motion.

"Mr. Berthelot moved, seconded by Mr. Bourdages,

"That an entry be made on the journal of this house, that he had complained to the house, that Thomas Cary, editor of the paper intituled "*The Quebec Mercury*," had in his paper of yesterday, undertaken to render an account of the proceedings of this house, and that he had desired the same might be read by the clerk.

"The house divided upon the question, and the names being called for they were taken down as follows, viz:—

"Yeas—Messieurs Ferréol Roy, Alexander Roy, Fortin, Weilbrenner, Lussier, Martineau, Proulx, Le Gendre, Caron, Taschereau, Poulin, Turgeon, Bedard, Berthelot, De Salaberry, Planté and Bourdages.

"Nays—Messieurs Richardson, Moore, Caldwell, Monro, Young, Mure, and Roy Portelance.

Chap. "And the same being carried by a majority of ten votes,
X. it was ordered accordingly.

1806. "Ordered, that Thomas Cary, editor of the newspaper intituled, "The Quebec Mercury," for undertaking in his paper of yesterday, to give an account of the proceedings of this house, be taken into custody of the serjeant at arms attending this house."*

Mr. Cary, by petition to the assembly, having expressed his regret at the publication by

* The articles at which the assembly took offence are the following:—"We beg leave to direct the attention of our readers, in a particular manner, to a paragraph, in page 77, of this paper, under the head of FRENCH INFLUENCE. It is certain that nothing could be more gratifying to our arch-enemy and the french nation, than a prohibition on our presses. The usurper well knows the wholesome truths they teach—how strongly they inculcate a hatred of tyranny; how ardently they cherish that noble, that inspiring passion, a love of country, whence every briton so sensibly feels that the cause of his country is his own. We cannot forget the efforts of the tyrant to curb the presses, in England, just before the breaking out of the present war. May his *influence* never extend to us! We know ourselves to be beyond the reach of his arms; but where will not italian art and french cunning insinuate themselves.

"The resolve of the house of assembly on Friday, on the subject of a libel, in the Montreal Gazette, relates to some toasts given at a public dinner, and published in that paper. The mover, we hear, was Mr. Bedard. All the old subjects, in the house, with Mr. Portelance, voted against the resolve. If the object be to charge the printer with a breach of privilege, and to call him from his family and business, we are extremely sorry for it, because we think it must give rise to unpleasant investigations of the rights and powers of the house. The division on the resolve was—for 16, against 6.

"FRENCH INFLUENCE.—"In the 'Secret History of Europe,' an old and scarce book, we have read some remarks, by which it would seem that the french nation supported the same character formerly as at present. 'Tis observable,' says the writer, 'that wherever the french are concerned, they are very uneasy at the *liberty of free states*, which will not admit the *tying up of the tongue*; and *locking up of the press*, as is done where their tyranny is predominant. This needs no comment. 'Wherever french councils prevail; there follows immediately a spirit of persecution and cruelty.'—'But the french faction were always ready to load their opponents with the very crimes they only could be guilty of.'"

These remarks were at the time, and under the circumstances, perhaps, indiscreet; but certainly not worth the indignation which the assembly evinced on the occasion.

which he had incurred the displeasure of the house, was immediately released. But even at the time, it was thought the assembly would have acted far more wisely in taking no notice of the matter than in taking it up, which seemed to all the world more like an attempt to overawe the press, than in vindication of their privileges, and was scouted accordingly.

It has been previously mentioned that the "gaols' bill" had given dissatisfaction to the commercial community, and that the king had been petitioned to disallow it. This, by the constitutional act, was a power specially reserved to his Majesty, who, at any time within two years next after a bill had received the royal assent in the province, could, by disallowing, render it a nullity. It was from the agitation of this matter that the Montreal dinner and obnoxious toasts, deemed libels by the assembly, had proceeded. It was now, in consequence of the exertions which it was understood had been made on the part of the trade, to induce the government at home to advise the king to disallow this act, determined by the assembly to address his Majesty on the subject. As the two main interests, commercial and agricultural, (the conflict was merely between these, for the idea of *nationalité*, had not yet started,) of the province came in contact in this matter,—and, indeed, have never since to the present day been reconciled,—each maintaining that the other should bear the expenses of erecting the new gaols, it may be

Chap. well to bestow some attention upon it, and
 X. hear their respective reasons, which we give
 1806. as we find them recorded in the journals of the
 assembly :—

“ Mr. Bedard moved, seconded by Mr. Berthelot,—That a committee of nine members be appointed to prepare a loyal, dutiful, and humble address to his Majesty,—humbly to beseech his Majesty that he will graciously be pleased to receive the supply offered by the assembly of his province of Lower Canada, by the act passed in the forty-fifth year of his Majesty’s reign, intituled, “ An act to provide for the erection of one common gaol in each of the districts of Quebec and Montreal respectively; and the means for defraying the expenses thereof;” and that he will be pleased to give his royal assent to the said act: to assure his Majesty of the loyalty of his faithful subjects in this province, of their zeal to maintain his benign government, of the lively gratitude they entertain for the prosperity of this province, and the advancement of its population and agriculture, arising from the powerful effects of his paternal protection; blessings which they look upon as the most solid basis of support to its defence and commerce; and which the assembly, by adopting the tax contained in the said act, did not wish to discourage: together with a memorial containing the reasons which induced the house to prefer the mode resorted to, in preference to a tax upon lands.

“ Mr. Richardson moved, seconded by Mr. Mure, to amend the motion, by leaving out all the words thereof, after the word “ Majesty,” in the first part of the third line, and to substitute the following,—“ Humbly to assure his “ Majesty, that this house being now fully sensible of the “ propriety of adopting the wise practice of the mother coun- “ try, in respect to taxation, do therefore deeply regret that “ they did not yield to the very strong reasons adduced for “ adopting such practice, in preference to the principle laid “ down in the act passed last session, intituled, “ An act to “ provide for the erecting of one common gaol in each of “ the districts of Quebec and Montreal respectively, “ and the means for defraying the expenses thereof;”— “ which they now feel by the experience of its operation, has

“imposed an insupportable burthen upon commerce, and
 “really injures agriculture through the medium by which
 “they intended to encourage it: and further to entreat his
 “Majesty that as the means of immediate redress are now
 “out of their power, by the act having passed the three
 “branches of the provincial legislature, his Majesty will be
 “graciously pleased to apply the constitutional remedy of
 “his royal disallowance of the said act.”

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The proposed amendment was rejected, and the main motion carried by a majority of 13 to 6.

An address and memorial to the king was drawn up by the assembly, explanatory of the motives that had influenced them in adopting, in preference to a land tax, the mode of taxation contained in the “gaols’ act,” for the erection of those establishments.* This was taken

* The following is the address:—

“We, his Majesty’s most dutiful and loyal subjects, the representatives of Lower Canada, in assembly met, humbly approach the throne, with hearts filled with loyalty and attachment to your sacred person, your family and government.

“We humbly beg your Majesty to be assured of the loyalty and fidelity of your people of Lower Canada, and of their zeal for the support of your Majesty’s benign government.

“It is with the most lively gratitude, we feel in common with your other subjects in this country, the powerful effects of your Majesty’s paternal protection and of your government, on the prosperity of this province and on its progressive population, agriculture and commerce. But above all we cannot fail expressing to your Majesty, the pleasure we experience by contemplating in the advancement of its population and agriculture, the increase of that fund which is the most permanent support of its commerce, and of the means of defence, which must insure to us a continuance of the happy effects of your Majesty’s government.

“It is in the confidence of the importance of these objects and of your Majesty’s paternal care, to defeat whatever is opposed to them, that we have, in the unadvanced state of this province, thought it our duty to prefer to a land tax, the means adopted in the act now submitted to your Majesty’s approbation, intituled, “an act to provide for the erecting of a common gaol in each of the districts of Quebec and Montreal respectively, and the means for defraying the expenses thereof.” And we could not learn that the merchants of this country

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up by the assembly, with the speaker at their head, to the president, with an humble address to him, in the following terms:—

“ We his Majesty’s dutiful and loyal subjects the representatives of Lower Canada, take the liberty of soliciting

had taken the means to obtain your Majesty’s disallowance thereto, without conceiving it our duty to submit to your Majesty the motives which induced us to offer you the supply proposed by this act, and our humble prayers that it may not be disallowed.

“ We therefore humbly beseech your Majesty, that you will graciously be pleased to receive the supply offered by this act, and to withhold your royal disallowance therefrom.

“ Your Majesty’s dutiful and loyal subjects, from the reiterated experience of your constant attention to their happiness, have every reason to hope that their application, the object of which is ardently desired by the people of this province, may meet with success.

“ And as in duty bound, your Majesty’s faithful subjects will ever pray for the honor, preservation and prosperity of your Majesty’s sacred person, your family and government.”

“ MEMORIAL, containing the motives which led the assembly of Lower Canada, to adopt in preference to a land tax, the mode of taxation contained in the act of the provincial parliament of Lower Canada, passed in the 45th year of his Majesty’s reign, cap. 13, intituled, “ an act to provide for the erecting of a common gaol in each of “ the districts of Quebec and Montreal respectively, and the means “ for defraying the expenses thereof.”

“ The assembly considered that there was no comparison to be made between this country and Europe as to the propriety of a land tax.

“ In the mother country and other countries of Europe, where agriculture has brought lands to nearly the same value, a territorial burthen bears proportionally on the property of the subject, whereas in Canada, where agriculture is in the commencement of its progress, the lands are in such disproportion that a tax on them at so much an arpent as was proposed, would have been the most unequal, as in that case, the person whose soil was worth only six-pence per arpent, would pay as much as him whose landed property is worth sixty pounds an arpent; a disproportion not likely to happen in Europe, but nevertheless real and even common in Canada.

“ This tax would bear chiefly on those who begin to open lands, as they are generally possessed for the greater part of such lands which are of little value. These new settlers, whose labour is so precious to the province, and whose efforts tend to encrease its real value and soil, the most certain basis of its commerce, would be saddled with the greatest part of the burthen at the time when they should receive every encouragement.

“ A tax on the estimated value of each farm would be equally impracticable; the charges of appraisement and collection would be

your honor upon a subject of the utmost consequence to this part of his Majesty's dominions. Chap.
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“ Having been informed, that the merchants of this country have adopted means to obtain his Majesty's disallowance of the act passed in the last session of the 1806.

more burthensome than the tax itself. The vexations that accompany such a species of tax, left to the discretion of individuals against whom the oppressed poor cannot often obtain justice, induced the assembly to believe that it would be contrary to the spirit of the constitution which the mother country has granted to this province. The odious and tyrannical aspect that such a tax would exhibit, would alone be capable of diminishing those ideas of the blessings which the canadians experience under the paternal protection of his Majesty, and under their happy constitution.—The present evil, although slight, would be looked upon as the signal of some sinistrous change, and would be augmented by apprehensions of what was yet to happen.—The comparison they now make of their happy situation with that of the neighbouring states would no longer strike them so forcibly.

“ The tax or assessment on lands now practised agreeable to the ancient laws of the french government for the erection of churches, furnishes us with an example of the inconveniences that would attend a territorial tax ; for although this assessment is only resorted to in parishes already established and of old standing, wherein the value of lands is less unequal, the new settlers therein suffer much imposition, as their means are measured-by those of the old inhabitants, who being the greater number give law to them. These assessments, although very hard in many cases, are far from producing the bad effects which a tax imposed by the provincial parliament would have, for the particular nature of their object, and the known origin of the laws from whence they proceed, removes from them every idea of a tax imposed by the present government, and every apprehension of the like in future ; and impresses them altogether with very different ideas to what a tax imposed by the present government would give rise to.

“ Such are the motives that led the assembly to believe that generally, from the unadvanced state of this province, a land tax would be impracticable.

“ In the present case, the proposed tax appeared altogether unjust, as the inhabitants of the towns, whose riches consist in moveable effects, would have been totally exempted from contributing to the building of prisons, which are particularly necessary for securing their property.

“ The assembly considered generally, that an impost upon commerce, and particularly upon objects, such as those that are taxed in the aforesaid act, was the most just, the least felt, and the repartition the most equal.

“ The complaints of the merchants against this impost are unfounded, as it is a well known principle, that the consumer pays ultimately and that the merchant only advances the money

Chap. provincial parliament, intituled, "An act for the erection of
 X. a common gaol in each of the districts of Quebec and
 ~~~~~ Montreal respectively; and the means for defraying the  
 1806. expenses thereof," We have conceived it incumbent upon  
 us, humbly to submit to his Majesty, the motives which

in the mean time.—The act in question facilitates this advance in such a manner, as to take away from the merchant every real subject of complaint.

"It has been objected that the merchants labour under more disadvantageous circumstances in this country than else-where on account of the duties, because they cannot re-export their commodities from hence to other markets. This circumstance, in lieu of being a disadvantage to them, appears in their favour, for it gives them the power of regulating the commerce of the country, and making the consumer pay the duty.

"If merchants imported goods to this country to re-export them to other markets where they would experience a competition with foreign merchants, who are not liable to pay the same duties, they would then be exposed to lose those they would have paid in this country: but as they can meet with no competition here but from traders, who pay the like duties as themselves, they are certain, by importing no more commodities, than the country can consume, of not paying the duty; and if they import too great a quantity, the evil is not to be imputed to the duties but to their own imprudence.

"The project of a land tax for building prisons, originated with the representatives of Montreal, at which place the company of merchants reside, who carry on the fur trade in the Indian countries to the north west. If in a certain sense it is true that these merchants pay the impost upon the effects which they re-export to these countries, it is because using the power they hold of getting the highest possible price in a place where they meet with no competitors, they cannot add the amount of duty so paid by them.

"The assembly respect this trade, however contrary it may be to the population of the country, and to the advancement of its Agriculture, on account of the benefits supposed to arise from it to the empire in general; but did not conceive it necessary wholly to sacrifice to that trade the dearest interests of the country, particularly those of its population and agriculture, which holds forth more certain grounds for its commerce and defence than the fur trade.

"Much has been said about the prisons being local objects and that on that account they should not be provided for by a general impost. This objection was only a pretext for obtaining a land tax, which according to the ideas of the Montreal merchants, was the only one that could be put in practice in each separate district. The assembly would not have imposed the impost being put upon the trade of each particular district, if the merchants had preferred it, but it was found that their opposition was not the less against the tax upon commerce in either shape as their view was to get it put upon the lands. No just reason could operate for the tax being put



induced the assembly to adopt the mode of taxation con- Chap.  
tained in the said act, and to expose to his Majesty by X.  
humble address and petition our prayers, that he may  
graciously be pleased to accept the supply offered to him 1806.  
by that act and not give thereto his royal disallowance.

“The attention of your honour to the interests of the empire and of this colony, and your good will towards us, give us reason to hope you will acquiese in our present request, that you will be pleased to transmit to the foot of the throne, an humble petition to his Majesty and the memorial, containing the motives which induced the assembly to prefer, to a land tax, the mode of taxation adopted in the aforesaid act.”

To this Mr. Dunn answered:—

“Gentlemen,—Not having until this moment, had communication of your humble memorial, address, and petition to his Majesty, I can only say, that you may depend on my transmitting them by the first opportunity, to his Majesty’s secretary of state, for the purpose of their being laid at the foot of the throne, unless on a deliberate perusal thereof, any part should appear to be exceptionable, in which case I shall acquaint you therewith by message, on Monday next.”

This gave some umbrage to the assembly, which, from an oversight probably, had omitted

upon each separate district, for the district of Three Rivers was already provided with a prison which it had not separately paid, and the districts of Quebec and Montreal, having the same need of prisons, the mode resorted to appeared to be the fairest.

Besides, such a separation did not appear more necessary for the building of prisons than the erection of court houses and other expenditures attending the administration of justice in these districts: and a proof that the same strictness relating to local objects is not always attended to, the province is daily incurring expenses for matters which if scrutinized with an equal jealousy, would appear as much of a local nature as the prisons: such for example as the expenses voted for the road of communication with Upper Canada, and the improvement of the rapids in the falls of Saint Lewis, which particularly tend to the advantage of the Montreal trade, and the result whereof will increase that opulence which already suggests to it, ideas of a separation in regard to taxes.

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previously to communicate a copy of the address to the president, who deemed himself entitled to a communication of its contents, before pledging himself to its transmittal, and it accordingly resolved itself into a committee to take into consideration the president's answer. Some debates arose, but the house adjourning for want of a quorum, the matter was not resumed. The act was not disallowed by the king, and the gaols at Quebec and Montreal were consequently built by means of the duties imposed by it on the trade, and which, affording a considerable revenue, were afterwards continued and made available towards the defence of the province, during the war with the United States.

The president prorogued the session on the 19th of April, with some expressions of dissatisfaction that "the necessary business" of it had not been completed, which he was "of opinion would have been the case had not so many members declined giving their customary attendance. But,"—added he,—“whilst I lament with reason, a want of zeal on their parts, for the public service, my best thanks are due to you, gentlemen, for the ready attention you have paid to those objects which, at the opening of the session, I recommended to your notice.

The accounts of the previous year, (1805,) laid before the assembly this session, shewed a revenue of £47,153, currency. The civil expenditure of the year came to £35,469,

sterling, including £2,000 to general Prescott, <sup>Chap.</sup> (absent) and £3,406 to Sir Robert Shore <sup>X.</sup> Milnes. To this is to be added the sum of <sup>1806.</sup> £2,604, currency, for salaries to the officers of the legislature, which still exceeded by £869, the revenues appropriated for defraying them.

During the summer, 191 vessels, chiefly square-rigged, measuring per register 33,474 tons, from parts beyond sea, entered at the custom-house, Quebec. Exclusive of these, a great number of coasters were continually employed between Quebec and the bays of Chaleurs and Gaspé, coast of Labrador, the king's and other posts within the gulf and river St. Lawrence. Ship-building also, to a considerable extent, was now carried on at Quebec.

The first number of "*Le Canadien*," a newspaper, entirely in french, issued in November of the present year, in Quebec, from a small press procured for the purpose, by the contributions of several canadian gentlemen, with the professed intention of vindicating the french canadian character, frequently aspersed, as they deemed it, by a press of the other language, in Quebec, and to repel the constant assaults from it, of which they believed they had cause to complain; and to instruct their compatriots in their duties and rights as british subjects under the constitution; in themselves just and commendable purposes. But it far exceeded these, by constantly appealing to national prejudices—subversive of the harmony which until then had prevailed between the

not really had existed since 1791 252

\* with Fr. & Eng. & now more politically aware  
Chap. X. two races, and with it commenced the reign of  
1806. agitation and discord which afterwards unhap-  
pily distracted the province. It was from the  
outset, anti-executive in politics, anti-commer-  
cial in its doctrines, and, indeed, anti-british in  
spirit, treating as anti-canadian every thing  
not british in the colony, and the british immigrants  
true and population as "*étrangers et intrus*,"—  
strangers and intruders. It was, however, con-  
ducted with ability, became popular, and gave  
umbrage and uneasiness to the government,  
which, as we shall observe in the sequel,  
put it down with a strong hand, and in a  
manner, however necessary it may have  
been deemed at the time, by the executive,  
not yet moulded into "responsible govern-  
ment," assuredly altogether irreconcilable  
with english notions, ancient or modern,  
of civil liberty and the freedom of the  
press.\*

\* Though somewhat before the time, it may not be out of place to relate here an anecdote in relation to that paper, both as explanatory of the motives for its establishment, from one of the concerned, and as characteristic of this frank old soldier, but rather peremptory civil governor, which the reader may digest until we introduce him to the stern viceroy in person.

In consequence of perquisitions by the executive, some eighteen or twenty months after the establishment of "*Le Canadien*," as to the proprietors or persons upholding the press whence it issued, it was ascertained that among them, Mr. Planté, a notary of respectability, at Quebec, holding the official situations of "clerk of the terrars," and "inspector general of the king's domain," was one. This gentleman was accordingly dismissed, *sans ceremonie*, from his offices.

In a remonstrance to the governor's secretary, requesting an audience of his excellency on the occasion, he stated in a letter, written in french, which, for the convenience of the english reader, is here translated, that—"The paper" (*Le Canadien*), "to which you allude, was established in consequence of the calumnies and injuries heaped by another paper habitually, upon the assembly and principally upon



Mr. Dunn being still unrelieved of the govern-<sup>Chap.</sup>  
 ment, met the legislature on the 21st January, <sup>X.</sup>  
 1807. He observed to them that the act con-  
 ferring on the colony its invaluable constitution, <sup>1807.</sup>  
 having enjoined the annual meeting of the legis-  
 lature, it had again become his duty, owing to  
 the absence of the governor and lieutenant  
 governor, to call them together, and he felt  
 confident that they would cheerfully continue  
 the same laudable endeavours which they had

those who had voted in it against a land tax. I was, in truth, one of those who feeling those imputations to be unmerited, favored the establishment of this paper, to have the means of defending my character, and that of many others who were assailed. I never have been the *redacteur* of it, nor meddled with it in any way.. I have disapproved highly and still disapprove many articles published in it concerning the government, but I am not more than you, sir, the master to prevent their publication. If I were, you should never have seen them." This letter was followed up two or three days afterwards, by a deposition on oath of the editor, that during his editorship, *i. e.* from the beginning of February, 1807, to March, 1808, Mr. P. had no part in its direction, nor written any thing that had appeared in it against the administration of the government.

Whether Mr. Planté was admitted to the audience he requested, does not appear, though it is probable he was; but the following is the answer given him on the occasion, by command of the governor, Sir James Henry Craig, whose autograph on the subject is still extant:—"Mr. Planté to be told that I have in no respect altered my opinion relative to his conduct towards his Majesty's government. His duty as a servant of the crown should have led him to take effectual measures to prevent the possibility of the publication in question, having the sanction of his name. The very circumstance which he alleges of his having expressed his disapprobation of the publication as it has appeared of late, proves his intimacy with those who did encourage and direct it, and points out the necessity he was under of taking the step I have mentioned. The anxiety which Mr. Planté shews to exculpate himself, however, gives me grounds for believing that he is sensible of the indecency and dangerous tendency of such licentious writings; trusting, therefore, to his own feelings on the occasion, and in the hope that in future, without neglecting his duty to the public, he will, nevertheless, bear in mind what he owes to the crown, I am willing that he should continue in office, the loss of which, I understand, would be much felt by a numerous family."

Though arbitrary, he was far from implacable and not destitute of the milk of human kindness. But we are, perhaps, forestalling.

Chap. hitherto exerted with such good effect, for pro-  
 X. moting to the utmost, the welfare of the  
 1807. province.

That their experience of the utility of the several temporary acts in force, rendered it unnecessary for him particularly to recommend the renewal of them, and that he was sensible it would be doing them injustice were he not to rely on their adopting, with zeal and unanimity, such other measures of a legislative nature, as the public interests might require.

He was particularly happy in having occasion again, to congratulate them on the brilliant success of his Majesty's arms. The conquest of the Cape of Good Hope, so highly advantageous to the interests of the british empire in the East Indies, and the repeated victories gained by a small number of british forces, under the command of Sir John Stuart, in Calabria, were among the most important events of the last twelve months, and in proportion as they contributed to the splendor and stability of the british empire, they would, under the blessing of divine providence, tend to secure to this part of his Majesty's dominions, the solid advantages of freedom and tranquillity.

The assembly heartily responded to the venerable and respected president:—"It is highly flattering to us,"—said they—"that this meeting of the legislature, enjoined by our invaluable constitution, and in the absence of the governor and lieutenant governor, should take place during your honor's presidency, since

another opportunity is thereby afforded, of rendering to your honor that tribute of gratitude which your conduct, during so long a residence amongst us, so justly merits." A more gratifying and disinterested encomium could not be offered, bespeaking alike the worth of Mr. Dunn, an english gentleman who had come to the country, shortly after the conquest, in mercantile pursuits, and resided in it from that to the present time, and the just appreciation of character and friendly disposition, on the part of those with whom he had thus lived on the best of terms, equally creditable to him and to them. "Having experienced,"—they added—"the utility of the temporary laws now in force, your honor may rely on their being renewed, and we hope that you will have no cause to regret your public and honorable testimony of confidence in our legislative proceedings."

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An effort was this session made towards obtaining "an allowance for defraying the expenses of the members of the assembly who reside at a distance from Quebec," but the subject was disposed of (16 to 14,) by a postponement. The house also took into consideration the expediency of having an authorized agent, resident in Great Britain, for the purpose of attending to the interests of the province, when occasion should require, and determined that it would be highly advantageous to have such, legally authorized and resident there.

Mr. Lees, one of the members representing



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the town of Three Rivers, dying in the course of this session, a writ had issued for the election of a member to succeed him, and Mr. Ezekiel Hart, a merchant and old and respectable inhabitant of the town was duly returned, but the return not being made until the last day of the session, he did not appear to take his seat, before the beginning of the next session. Mr. Hart was a jew, highly esteemed by his neighbours and his fellow-townsmen, as a man of reproachless life and upright character; but the good christians of the assembly, nevertheless, took exception at his religion, as will be seen in the following chapter.

The assembly continued the alien act, and the act for the better preservation of his Majesty's government for another year, and passed also a variety of others unnecessary to be detailed. The business of the session having been diligently followed up and brought to as favorable a close as could have been desired, the president prorogued it on the 16th April, warmly thanking the members for their zealous attention to the despatch of the public business. "I feel it in a particular manner incumbent on me to remark,"—said his honour,—“that a more laudable spirit has never been manifested since the establishment of our present form of government, than that which I have had the high satisfaction to observe in the bringing forward the principal acts of this session; and I consider this as an indubitable proof of a sincere devotion to the best of sovereigns, and a



just sense of the blessings resulting from our invaluable constitution.”

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During this summer there were serious apprehensions of a war with the United States, whose interests were suffering between the two great belligerents of Europe. The feeling of hostility throughout the republic, was aggravated by the affair between the Leopard and Chesapeake, in which the former, commanded by captain Humphreys, pursuant to orders from his superior officer, admiral Berkeley, on the Halifax station, to recover certain deserters known to be on board the latter, though denied by her commander, commodore Barron, had fired upon and momentarily taken possession of for the purpose of searching her, and had taken from her four deserters, unhappily killing *six* and wounding *twenty-one*, as it was said by the american accounts, of the Chesapeake's crew in the enforcement of her orders.

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This state of public feeling among our neighbours, who talked of walking into Canada as a matter desired by the inhabitants, and consequently of easy and welcome accomplishment, particularly to the natives, it was deemed by the president, Mr. Dunn, necessary to meet, by a counter demonstration of the public pulse in Canada, on the same subject. He accordingly, towards the end of August, by a militia general order, gave directions for draughting by ballot or otherwise, a fifth part of the whole militia of the province, with orders to hold themselves in readiness to march whenever it might be

Chap. X. found expedient—The command was no sooner  
 1807. given than accomplished. Never was order  
 obeyed with more cheerfulness, alacrity, and  
 patriotism than it, by all classes of his Majesty's  
 subjects, and not to obedience merely, but  
 to emulation. The roman catholic bishop,  
 monseigneur Pléssis, issued a *mandement* or  
 pastoral letter, on the occasion, which was read  
 in all the churches of his diocese, and a *te  
 deum* sung in each throughout Lower Canada.\*

\* The following is the general order issued, after the ballot, on the  
 occasion:—

“ CASTLE OF ST. LEWIS, Quebec, 9th Sept., 1807.

“ The president and commander in chief of the province having  
 received the returns of the militia who have been commanded, under  
 the general order of the 20th August, to hold themselves in readiness  
 for actual service; having also received from the commanding officers  
 of battalions in the districts of Quebec, Montreal and Three Rivers, a  
 detailed report of the spirit and disposition manifested by their respec-  
 tive corps, feels it incumbent on him, in the most public manner, to  
 express his perfect approbation of the conduct of the whole of the  
 militia on the present occasion; with the exception only of some few  
 individuals, who, by their ill-conduct, have rendered themselves con-  
 temptible in the opinion of their fellow subjects.

“ The president also feels himself justified in asserting that a more  
 ardent devotion to his Majesty's person and government, has never  
 been witnessed in any part of the british dominions; and it is particu-  
 larly to be remarked, that the idea of defending their own families  
 and their own property, has appeared in manner to have been absorbed  
 in the minds of all descriptions of persons in this province, by the  
 more general sentiment of coming forward in the cause of a justly  
 beloved sovereign, and in support of a form of government, which has  
 been proved by experience to be the best calculated for promoting the  
 happiness and securing the liberties of mankind.

“ The adjutant general has it in command, to make known to the  
 officers, non-commissioned officers and privates of the militia, the pre-  
 sident's warmest approbation of their conduct; and for this purpose  
 he will transmit a copy of the present general order to the several com-  
 manding officers, who will cause the same to be publicly read to their  
 respective corps. They will, at the same time, make known to them,  
 that the president will avail himself of the earliest opportunity to  
 transmit an account of their conduct to the secretary of state, for the  
 information of their most gracious sovereign, assuring them moreover,  
 that he will consider it as the highest happiness of his life to have had

## The Quebec Mercury observes:—

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“ The first draught was, in consequence, made, on the Esplanade, from the first battalion, of the canadian militia, on Tuesday, (25th August,) from the second battalion on Friday, and from the british battalion, by ballot, yesterday. We should be wanting in justice to our compatriots did we say less than that, never, on a similar occasion, could there be manifested more cheerfulness, alacrity and zeal, than were shewn on these occasions, as well by the canadians as by the british. Numbers volunteered their services. The artillery company, the two flank companies, and captain Burns’s battalion company, who are the strongest and best disciplined of the british, have, to a man, formally tendered their services. Sums of money were offered by individuals, for prize-tickets, for such the tickets were called which, in balloting, were for service. Some young bachelors procured prize-tickets from the married men, who had drawn for service; but the greater part of the latter insisted on keeping their tickets, notwithstanding that offers of exchange were made to them by other bachelors.

“ Too much praise cannot be given to the animating language of the field-officers and others, in their speeches, addressed to the different battalions and companies, on the occasion. The whole has been attended with much festivity and hilarity.

“ We hear that equal cheerfulness and ardour have manifested themselves in the different country parishes.

“ With such a spirit among us, what have we to fear? surely not the windy resolves or inflammatory paragraphs of undisciplined democrats, where there is not sufficient energy

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such an opportunity of doing justice to the zeal, loyalty and public spirit of his Majesty’s subjects in this province.

(Signed)

“ THOS. DUNN,

“ President and commander in chief.”

“ By his honor’s command,

“ Herman W. Ryland, Secretary.”

To colonel BABY,

“ Adjutant general of the militia of Lower Canada.”

Chap. in the governing powers, to produce anything like subordi-  
 X. nation or regular obedience to command."

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The gallant colonel Brock, who then as senior military officer commanded at Quebec, seconding with characteristic industry and energy the president, also immediately set at work to put the garrison and fortifications in a state of defence, to inspire with confidence those who might be called upon to share in the honor of defending it, making every addition to its natural strength, that science, judgment and prudence could suggest.

The revenues of the last year; (1806) by the accounts rendered this session, amounted to £36,417, currency, and the civil expenditure to £36,213, sterling, including £2,000 to general Prescott, as governor in chief, and £1,500 to Sir Robert Shore Milnes, the lieutenant governor, both absent; Mr. Dunn, receiving according to those accounts, only his £750, as one of the judges of the court of king's bench for Quebec, although not acting in that capacity, while president, and £100 more as executive councillor. He, however, on being relieved of the government by Sir James Henry Craig, as governor in chief, retired with a pension of £500, sterling, a year, being also allowed at the rate of £1,500 a year, as president and administrator of the government, for the time he had served as such, in addition to his salary as judge.

The subjoined article, from "The Quebec Mercury" of 1806, may be interesting to the descendants of the families mentioned in it, and



is inserted here as a historical record worthy of being preserved :—

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“ The following has been handed to us for publication, 1807. as commemorative of those families, in the province, who were distinguished under the french government. The pride of ancestry, within due bounds, is certainly laudable, because it has a tendency to preserve, in the descendants of such families, that nobility of sentiment, that nice sense of honor, that loyalty of attachment, and, to adopt a beautiful and expressive antithesis of the great Burke, that proud submission, which, in general, characterize the well-born. The giving publicity to their names may not only serve to awaken those feelings which, otherwise, might lie dormant ; but it is furnishing that kind of information to the community at large, of which no society should be ignorant. The list is the production of Mr. Cugnet, the french translator to the governor and council, the authenticity of whose local information is beyond all question.

“ NAMES of the roots of noble families in Canada, the titles of which are unquestionable, and whose children and descendants have remained in the province since the conquest, viz :—

*Families whose titles of nobility are enregistered :—*

Baron de Longueuil, title granted in 1700.

|                                                                                                      |   |                     |
|------------------------------------------------------------------------------------------------------|---|---------------------|
| Hertel,<br>Boucher,<br>Louis Couillard De Beaumont,<br>Aubert De La Chesnay,<br>Juchereau Duchesnay, | } | ennobled in Canada. |
|------------------------------------------------------------------------------------------------------|---|---------------------|

*Families whose ancestors received the title of esquire, in their commissions as officers :—*

Xavier De Lanaudière,

De Langy,

De Normandie,

Duverger,

Denoyelle,

Sabrevois De Bleury,

Denys De la Ronde,

De Richarville,

De Montigny,

|   |                                        |
|---|----------------------------------------|
| } | Came out in the regiment of Carignan.* |
|---|----------------------------------------|

|   |                                                                                             |
|---|---------------------------------------------------------------------------------------------|
| } | The regiment of Carignan was the first that arrived in Canada, about the year 1652 or 1653. |
|---|---------------------------------------------------------------------------------------------|

\* These officers were all necessarily gentlemen by birth.

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Daillebout,  
De La Corne,  
De Beaujeu,  
St. Ours De Déchallion,  
De Varennes,  
Chabert de Jonquières,  
Desbergers De Rigauville,  
De La Valtrie,  
De Ganne,  
Picoté De Belestre,  
Chaussegros De Léry,  
De Bonne,  
De Vassal,  
De Salaberry,

Officers in the colonial  
corps.

Engineer in do.

Officer in the colonial service.

Officer in the queen's regiment.

Captain in the royal navy.

*Families whose ancestors were councillors in the superior council established in 1663, by act of the parliament of Paris, the provisions of which are enregistered:—*

Damour Duchaufour, in 1663, first councillor.

Villeray,

Lépinay,

La Durantaye,

} in 1670.

Chartier De Lotbinière, 1680, first councillor.

Hazeur Delorme, 1700,

Guillemin, 1715,

De la Fontaine, 1730,

Taschereau, 1732.

Godefroi De Tonnancour held the title of esquire, by the king's commission of lieutenant-general of the district of Three Rivers."

## CHAPTER XI.

Arrival of Sir James Henry Craig—assumes the government—his militia general order—convokes the legislature—speech—eligibility of judges to parliament considered—bill disqualifying them passed by the assembly—rejected in the legislative council—seat of Mr. Hart vacated by a resolution of the assembly—various proceedings of the session—speech and prorogation—revenues and civil expenditure of 1807—general election—sundries—new parliament meets—Mr. Panet again speaker—topics of the speech—the eligibility of judges again considered—Mr. Hart re-expelled—prorogation and dissolution—governor's speech—he makes a tour of the province—first steamer in the St. Lawrence—arrivals from sea at Quebec—revenues and expenses of 1808—Sir Francis N. Burton, lieutenant governor, *vice* Sir R. S. Milnes.

WE are now, as the reader will soon perceive, entering upon more interesting times than we have yet met with in the history of Lower Canada. Lieutenant general Sir James Henry Craig, the new governor in chief, arrived in rather ill health at Quebec, on the 18th October, 1807, in the *Horatio* frigate, and on the 24th of the same, relieved Mr. Dunn of the government. The United States were at that period, as previously mentioned, breathing a hostile spirit against Great Britain, and fierce for war, and it probably was in anticipation of a brush with them that this distinguished officer was sent to their neighbourhood, where it was

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not unlikely there soon would be business in his line. He, however, did not deem it necessary to organize the militia, nor make any demonstrations of defence, there being no hostile movements in the neighbouring republic to create apprehension in his mind, of an immediate rupture. The people of the United States were universally under the delusion that a declaration of war on the part of that government, would be hailed in Canada, particularly by the population of french origin in it, as the harbinger of its emancipation from british bondage, and that if they did not actually rise *en masse* to welcome and aid their deliverers, they would certainly allow themselves to fall an easy conquest to the arms of the Union, and that the americans had only to walk in and take possession—Never were they more in error. But the british government entertained very different sentiments of the feelings and loyalty of its canadian subjects of all origins, to whom, confiding in their loyalty it did ample justice, as the militia general order (below,*)

* " G. O."

" CASTLE OF ST. LEWIS,

" Quebec, 24th November, 1807.

" Among the earliest objects relating to the government committed to his charge, that attracted the attention of his excellency the captain general and governor in chief, on his arrival here, it was with singular satisfaction that he received the reports of the state and condition of the militia of the province, of the steps that had been taken with regard to it, and of the uniform sentiments of attachment to his Majesty's person and government, of zeal for his service, and of readiness to stand forward in defence of the colony, that had so universally shewn themselves, among all ranks, on the occasion. These sentiments, as they reflect honor on the brave inhabitants of the province, have been properly noticed and acknowledged by the honorable the president, who was at the time in the administration of the

issued by Sir James Henry Craig, shortly after his arrival evinces. Chap.
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government, by his order of 9th September; and they will now have the further satisfaction of knowing, that he has not failed in doing them the justice, of impressing upon the mind of the governor general, that favourable opinion of them, to which their conduct has given them so good a claim.

“ Among the particulars of the several reports of the inspections, that have been laid before him, it was with much concern, that the governor found his notice drawn to a very gross instance of misbehaviour and insubordination, in the parish of l’Assomption, in the district of Montreal. Upon enquiry, he learnt, however, that this outrage, as subversive of all discipline, as of the public peace, had been immediately suppressed, and that the persons concerned, having been brought to trial before the courts at Montreal, were now suffering the punishment due to their demerits, under a sentence of twelve months imprisonment each, in addition to the several fines of ten and five pounds, in proportion to the degrees of their respective criminality.

“ Brought to a sense of their misconduct, and under every impression of contrition for their past errors, and of the obligation of atonement by their future behaviour, these culprits have now thrown themselves upon the lenity of his Majesty’s government, and implore that mercy which they know is so liberally extended, where the object can shew a claim to it.

“ Their petition to this effect, backed by the recommendation of the majority of the judges before whom they were tried, and who certify as to their present appearance of repentance, and by the colonel of the district to which they belong, who urges the sufferings of their numerous families, has been presented to the governor, and his excellency having taken it into consideration, has thought himself permitted, in this instance, to overlook the faults of a few where they are so amply covered by the general merit, and he has accordingly directed, his Majesty’s pardon to be made out for the persons in question.

“ In making known this instance of the forbearance and lenity of his Majesty’s government, his excellency has in view, a more particular communication of his sentiments with respect to the militia establishment of the province, and of the expediency he feels, that it be kept up, with every possible attention to its organization, and the best degree of discipline, of which it is susceptible. Every one must be sensible, that upon these, must depend its efficiency in resisting the hostile attacks of an enemy, and every one must feel a pride, in owing to himself alone, his own safety, and the protection of his wife, his children, and his property. That this laudable spirit pervades through the inhabitants of Canada, their exulting acclamations when lately called upon, has loudly proclaimed; and his excellency has no doubt that an invading enemy, if such should present himself, will find it verified to his cost: they will fly with alacrity to the depôts of arms, that are arranging for their use; and they will employ them with a courage, becoming the cause in which they will be engaged.

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He assembled the legislature on the 29th January, 1808, going down in great state to open it, and cheered by the assembled crowd. The speech embraced nothing remarkable, but, nevertheless, may be interesting:—

“ Gentlemen of the legislative council, and gentlemen of the house of assembly,—Having been honored by his Ma-

“ His excellency has the most perfect confidence, that the laws of the country, will at all times meet the most ready submission. The wisdom of the legislature has pointed out the duties of the militia, and if any thing further is found wanting, to give it all the energy, and array it in the best form, of which it is capable, it will be sought for in the same source. In the mean time, the brave canadians of every description, will rest in tranquil reliance on their prudence, and on the vigilance and care of the executive part of the government.

“ But his excellency the governor, further thinks it right, to embrace this opportunity, of earnestly exhorting the inhabitants in general, to be on their guard against the treacherous arts, and insidious language of emissaries who will doubtless be employed to seduce them from their duty. That such will be dispersed among them, there is little doubt. But they will have little weight among a contented and happy people, who feel every moment of their lives, the protection and blessings that they enjoy, under the british government. They will spurn with contempt, and abhorrence, at the traitors, who would lead them to swerve from the sentiments of honor and duty, which now actuate them in their attachment to their king; and they will only feel more determined in their resolution, to shed the last drop of their blood, in defence of his government, and in the protection of their wives, their children and their property.

“ In order, however, the more effectually to prevent the bad effects, that might possibly attend the efforts of these people, among the young and ignorant, who are always credulous from inexperience, and frequently misled because unsuspecting of the design with which they are addressed, his excellency the governor earnestly recommends and commands, that all well disposed militia men in the province, do carefully watch over the conduct and language of such strangers as may come among them, and that wherever these are of a nature to carry with them a well grounded suspicion of any evil intentions, they do immediately apprehend, and carry them before the nearest magistrate, or militia officer, in order that they may be dealt with according to law.

“ The portion of the militia, amounting to one-fifth, directed to be ballotted for, by his honor the president, is to continue to hold itself in readiness, to assemble, on the shortest notice.

“ J. H. CRAIG, Governor.

“ By his excellency’s command,
HERMAN W. RYLAND, Secretary.

“ To colonel BABY, adjutant-general
of the militia of Lower Canada.”

jesty's appointment, to the government in chief of the british provinces in America, I have lost no time, in proceeding hither, to take upon me the arduous and important charge, which his Majesty has thus been pleased to commit to me. It would have been highly gratifying to me, if upon this occasion, I could have been the bearer of any well grounded expectation of the restoration of that peace, which, as the surest foundation of the welfare and happiness of his people, is the constant object of his Majesty's endeavours ; but while an implacable enemy is exerting every resource of a power, hitherto unexampled in the world, and which is controuled by no principle of justice or humanity, in attempting our ruin, while that enemy, under the irritation of a disappointed ambition, which, boundless in its extent, aims at no less than the subjugation of the world, regards with a malignant inveteracy, which he does not attempt to conceal, the now only nation in Europe, which, by the wisdom of its government, the resources of its wealth, and the energy, virtue, and public spirit of its people, has been able to resist him. It must be, with cautious diffidence, and a reliance only on the blessings of divine providence, that we can look forward to the wished for cessation of the inconveniences of war.

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“ The capture of the capital of the danish dominions, and the consequent possession of the entire fleet, with the whole of the naval arsenals of that power, are events, on which I have very cordially to congratulate you. The acquisition to us, would be of little advantage, were it not for the ten-fold greater benefit, which arises, from the having diverted these powerful resources, from the object to which they were to have been directed. Attempts have been made, by the enemies of his Majesty, to cast an imputation on the morality of this measure, but the declaration which his Majesty has been pleased to make, of the motives which have imperiously led to it, must have convinced every mind, not obstinately biassed by an inveterate prejudice, that it was founded upon the strictest grounds of self-defence, and upon the true principles of the law of nations. Britain still stands, proudly pre-eminent, in her love of justice, and her sacred regard for the rights of other nations.

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“ I have no doubt, that you will join with me, gentlemen, in lamenting the discussions that have arisen, between his Majesty’s government, and that of America. I have no information to convey to you, that might tend to throw any light upon a subject, in which this colony must be so materially interested. Let us hope, that the moderation and wisdom of the government of the United States, will lead them to meet that of his Majesty, in its endeavors by an equitable accommodation of differences to avert the calamities of war, from two nations, who from habits of affinity, unity of language, and the ties of common ancestry, seem destined by Providence, for the enjoyment of the blessings of continued peace, while the reciprocal advantages of their commercial intercourse, seem no less to point them out to each other, as the objects of a mutual connection of amity and confidence.

“ But while we indulge in the hope, we will not be deluded by it, into the neglect of any means, that may be necessary, for our defence and safety ; and I place every confidence in your ready co-operation, in any measure that may be judged expedient, to add to the energies of government, with this important view. The loyalty and affection to his Majesty’s government, so spiritedly manifested on the occasion, by the militia of the province, who have stood forward with a cheerfulness, not to be exceeded, demand my warmest applause, and furnishing us with the best ground for hoping, that in the event of any attack on this province, we shall derive from them, all the assistance, that can be expected from a brave people, contending for every thing that is dear to them.

“ Gentlemen of the assembly,—I shall cause to be laid before you statements of the provincial revenue of the crown, and of the expenditure for the last twelve months.

“ Gentlemen of the legislative council, and gentlemen of the house of assembly,—Though a portion of the militia have been selected, and are directed to hold themselves in readiness, to assemble at the shortest notice, yet I have not thought it necessary to call them together ; a measure, which no particular circumstance seemed immediately to call for, and which would have been attended with considerable inconvenience to the province, while, from the season of the year, it would not have been accompanied with the advan-

tages that might otherwise have been derived, from the opportunity it would have afforded, of exercising and training them. While adverting to the subject of the militia, it may not perhaps be inexpedient, that I should call to your recollection, that one of the limits, by which the existence of the militia law is bounded, I mean that of a fixed period, is already expired, so that, it is now in force, only, so long as the war continues. The very great inconvenience, that might arise to the country, from the possible event of a sudden account of a conclusion of peace, at the very moment that there might exist a necessity of being prepared to resist an expected attack from another quarter, will no doubt point out to you the expediency of again fixing a determinate period for the duration of this law.

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“ Considering the erection of gaols for the cities of Quebec and Montreal, as objects of much importance to the welfare of the province, I have lost no time in proceeding to exercise the powers vested in the governør for that purpose, commissioners have been appointed to both places, and as I found that the measure suffered considerable difficulty and delay, in that which was proposed for Quebec, from the circumstance of the old gaol being occupied by the military, to whom it had been formerly given, in lieu of the part of the barrack of the royal artillery, which is now used as a prison, I have made an arrangement for their evacuating it, as soon as possible, although the troops are necessarily put to considerable inconvenience, by doing so before the barracks can be returned to them.

“ I cannot conclude this address, without expressing the high gratification I experience, at meeting you, in the exercise of the noblest office to which the human mind can be directed, that of legislating for a free people. I have the utmost confidence, that in the discharge of this duty, while on the one hand you carefully watch over the interests and promote the welfare of the people, you will, on the other, be no less zealous, of the support of that government, from the power and energy of which, alone, those interests can derive a permanent security ; and I feel particular satisfaction, in looking forward to the most perfect harmony and co-operation between us, because I persuade myself, that in every act of my administration, you will find my conduct,

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directed upon the same principles, of zealous attachment to my sovereign and his government, and of a sincere regard to the happiness and prosperity of the people whom he has committed to my charge."

The address in answer to this was every thing that could be desired:—

"The applause with which your excellency has already been pleased publicly to notice the loyalty and affection to his Majesty's government, of the militia of this province, and reiterated on this occasion, in such flattering terms, demand our warmest acknowledgments. And we can confidently assure your excellency, that, in the event of any attack on this province, they will manifest the same spirit of loyalty, in affording all the assistance in its defence, that can be expected from a brave people, duly sensible of the blessings they enjoy, and contending for every thing that is dear to them.

"Duly appreciating the blessings of our admirable constitution, and impressed with the most gratifying sentiments of thus meeting your excellency in the noblest office to which the human mind can be directed, that of legislating for a free people, your excellency may rely, that in the discharge of this duty, they will, on the one hand, carefully watch over the interests and promote the welfare of the people, while on the other hand, we shall be no less zealous in the support of that government under whose power and energy alone, those interests can derive a permanent security.— And, under a thorough conviction that your excellency's administration will uniformly be directed upon the same principles, it shall be our greatest solicitude to promote the most perfect harmony and co-operation on our part, in every measure, for the advancement of those important objects so peculiarly and deservedly dear to us."

The address being disposed of, the propriety of allowing the judges of the court of king's bench to be elected and sit in the assembly, was again considered. It was resolved (22 to 2) by the house, "that it is expedient to declare

that the judges of the court of king's bench ^{Chap.} now established, the provincial judges of the ^{XI.} districts of Three Rivers and Gaspé, and all 1808. commissioned judges of any courts that may hereafter be established in this province, are incapable of being elected, or of sitting or voting in the house of assembly of any parliament of this province." A bill to render them ineligible was accordingly passed and sent to the legislative council, but by it rejected, to the great displeasure of the lower house, and, indeed, to the dissatisfaction of the public generally, in whom the opinion that the judges ought not to be mixed up in the political concerns of the country had taken root, and was growing. Several were, in consequence of the failure of the bill above, for unseating the judges at once, by a resolution, but the matter was allowed to remain over to the next session.

The return of Mr. Hart, for the town of Three Rivers, as mentioned in the preceding chapter, was also taken up, and less tolerant with respect to that gentleman than towards the judges, probably because less to be feared, his seat was vacated; it being resolved (21 to 5,) "that Ezekiel Hart, esquire, professing the jewish religion, cannot take a seat, nor sit nor vote in this house." Mr. Hart's constituency, with becoming spirit, reëlected him.

Much of the session was taken up in the discussion of these matters. A sum was voted for repairs to the ancient castle of St. Lewis, the official residence of the governors of the

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the province, which was falling into ruin. The militia act was continued, as also the alien act, and that for the better preservation of his Majesty's government—the two last for the year only. A bill relating to the trial of controverted elections was introduced and became law, and on the whole several useful acts were passed this session, his excellency sanctioning thirty-four, and reserving one, (the Gaspé gaols bill) for the royal pleasure, afterwards sanctioned. The business of the session being over, the governor prorogued it on the 14th April, with the following discourse:—

“ I am induced to put a period to your session that I may be enabled to issue writs for summoning a new house of assembly, in which I shall proceed without delay. The critical situation of public affairs, under the advancing season of action, may render me anxious to avail myself of legislative assistance, and it will be extremely desirable that I should have it in my power to do so, under circumstances that will not be liable to interruption from the expiration of the period for which one of the branches of the legislature is chosen.

“ It gives me no small satisfaction to observe, and I do it with every acknowledgment that is so justly due to you on the occasion, that the diligence with which you have pursued, and the temper and moderation with which you have concurred in, the several objects that have been the subjects of your deliberations, by the dispatch that they have enabled you to give to public business, leave no room to regret that a termination of your labours should be called for. The readiness with which you have renewed the acts that have been judged expedient for the further security of his Majesty's government, and the clauses which have been added to that which relates to the admission of aliens into the province, furnish additional proofs of the just estimation in which you hold the blessings we enjoy, under our excellent

constitution, and of your determination to use every exertion in the defence and preservation of them. Chap. XI.

“ I have to offer you my thanks for the act you have passed for granting a sum of money for repairing and ameliorating the ancient residence of your governors the Castle of St. Lewis. I have no doubt that his Majesty will view this act, passed as it has been on your own motion and unasked for on my part, in the light in which I shall think it my duty to lay it before him, as a fresh proof of your attachment to his person and government, in a liberal provision for the accommodation of his representative among you. 1808.

“ Since I had occasion to address you last, events of interesting importance to the empire have taken place. New enemies have been added to the list of those with which we had before to combat. His Majesty has been pleased to inform his parliament, that the determination of our implacable foe to excite hostilities between him and his late allies, the emperors of Russia and Austria, and the king of Prussia, has been but too successful, and that the ministers of those powers have demanded their passports, to retire from his court. On the other hand those same efforts exerted towards a spirited and magnanimous prince, though they have produced the subversion of his government in Europe, have failed in the attempt to bend him to a dishonorable submission to the public spoiler: rather than bow to the degrading chains of a master, the court of Portugal has nobly preferred to encounter all the inconveniences of an unexampled emigration to another hemisphere.

Let us join his Majesty in imploring the protection of divine providence upon that enterprise, while we rejoice in the preservation of a power so long the friend and ally of Great Britain, and in the prospect of its establishment in the new world, with augmented strength and splendour.

“ His Majesty has further been pleased to inform his parliament, that, for an unauthorised act of force committed against an american ship of war, he had not hesitated to offer immediate and spontaneous reparation, but that an attempt has been made by the american government, to connect with the question which has arisen out of this act, pretensions inconsistent with the maritime rights of Great Britain. His majesty is pleased to add, that such pretensions

Chap. his Majesty is determined never to admit, and to that deter-
 XI. mination every voice in his Majesty's dominions is raised in
 ~~~~~ cheerful assent. It will remain now to be seen whether the  
 1808. american government will persist in its unjustifiable preten-  
 sions, or whether it will not at length open its eyes to its  
 true interest, which should lead it to strengthen by every  
 means that it possesses, instead of injuring, the only power  
 that stands between it and a subjugation, which, on the  
 fall of that power, would be its inevitable doom to the  
 worst of tyranny.

You have, gentlemen, ably and diligently discharged one  
 duty, another now remains for you to perform, which I  
 earnestly recommend to your serious attention. You are  
 returning among your constituents, who will naturally look  
 up to you for information and instruction. These are times  
 in which the influence of education and knowledge should  
 be peculiarly exerted to inform and direct the public mind.  
 Let me entreat you to consider this as an obligation laid on  
 you by your public station, and while you exert yourselves  
 in impressing on the people, a sense of their duties in due  
 subordination to the laws and a faithful attachment to the  
 government, let it be your business also, to let them into the  
 knowledge of their true situation: conceal not from them the  
 difficulties with which we are surrounded, but point out to  
 them at the same time, the miseries which we are combating  
 to avoid: these present themselves in every shape of horror  
 in every country which has suffered itself to be brought under  
 subjection to the enemy who pursues us. Assure them  
 that united among themselves, the british nation feels no  
 dread on the occasion.

“The great and powerful resources of the country, the  
 wisdom and magnimity of its monarch, and the energy of  
 its government, in the direction of the public spirit, are the  
 means of security to which it looks up. On these teach his  
 Majesty's faithful subjects of this colony of Canada also con-  
 fidently to rely; they will be employed for their protection,  
 and under the blessing of divine providence, aided by their  
 own exertions, they will ensure their safety, as they will,  
 we doubt not, ultimately crown the glorious struggle in  
 which we are engaged, with a successful issue.”

Thus terminated the fourth session of the fourth provincial parliament of Lower Canada, in harmony with the executive, although there were clouds gathering in the distance, and some indications of a coming storm.

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1808.

The public accounts of 1807, laid at the late session before the assembly, shew the revenues of the year to have been £35,943, currency, and the civil expenditure £44,410, sterling, those of the legislature besides, amounting to £2821, currency.

The general election took place in May, and was, in most places, concluded with unanimity. The late speaker, Mr. Panet, presented himself for the Upper Town of Quebec, but having incurred, from his connexion it was said with the french paper "*Le Canadien*," the displeasure of the executive, which it certainly did not spare, and, consequently, had become the source of considerable uneasiness to the government, as already mentioned, he lost his election, the official class, including the resident military officers, and dependents upon the commissariat, ordnance and other departments in the garrison entitled to vote, going against him, in favor of another gentleman of french origin, more acceptable to the government. Mr. Panet's friends, however, anticipating the result, had taken measures for his election in another quarter, and for which he was returned.\*

\* Mr. Panet and some other gentlemen were, shortly after this, dismissed from their militia commissions. The following letter ad-



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1808.

Some improvements to the fortifications of Quebec, were commenced this summer, and in particular, the foundations of the four towers across the heights west of the city were laid.

dressed to each of them, on the occasion, is explanatory:—

“CASTLE OF ST. LEWIS, Quebec, 14th June, 1808.

“Sir,—I am directed, by his excellency the governor in chief, to acquaint you, that he thinks it necessary for his Majesty’s service, to dismiss you from your situation as ——— of the town militia. His excellency bids me add, that he is induced to adopt this measure, because he can place no confidence in the services of a person whom he has good ground for considering as one of the proprietors of a seditious and libellous publication, that is disseminated through the province, with great industry, and which is expressly calculated to vilify his Majesty’s government, and to create a spirit of dissatisfaction and discontent among his subjects, as well as of disunion and animosity between the two parts of which they are composed.

“I am, &c., “H. W. R.”

The gentlemen to whom the above letter was addressed, according to the *Canadien*, were Messrs. J. A. Panet, lieut.-colonel; P. Bedard, captain; J. T. Taschereau, captain and aide-major; J. L. Borgia, lieutenant; and F. Blanchet, surgeon.

The following from the Quebec Mercury, is given as explanatory of the above, and of the views probably entertained on the subject by the executive of the time:—

“Of Mr. Panet we shall only say that we sincerely regret that the man, who boasts of his having been speaker of the House of Assembly, from its first existence, should have so far forgot that situation as to be ambitious of presiding at such a meeting as was at the hotel, a few days previous to the late general election; and of which he was himself the victim.

“Our regret is not less that he should, in his address to the electors of Huntingdon, have thrown out insinuations for which we should have been happy could we have considered them no more than the splenetic effusions of disappointment, at the moment of the Upper Town election. We should have thought that the ebullitions of triumph would have issued from the pen rather in the sprightly language of light raillery than in that of bilious spleen.

“We wish we could give the conductors of the *Canadien* credit for purity of intention, in developing, as they are pleased to say, to the Canadians, the extent of their rights and the excellence of their constitution, with a view of engaging them to love and defend it. Without being very uncharitable, we must be permitted to say that we have, in common, with the greater part of the community, who are readers, too often been able to trace very different views from those held out. Had gall been the worst ingredient in their ink, the public might have laid their account in some bitterness; but the composition has too often not only been further embittered, but its



The extraordinary state of affairs in Europe, Chap. with the american non-intercourse and embargo XI. system operated favorably for the canadian 1808. trade, particularly in the article of lumber, which, owing to the quasi exclusion of the british from the Baltic, took, about this time, a prodigious start, evincing at once the independence of Great Britain on a foreign power, for that article, and, consequently, the value of her continental North American possessions, taking in return for their timber, large supplies of british manufactures.\*

hue has been, in an uncommon degree, deepened with various ingredients poured in from passions far from beneficent or disinterested.

“ Before we conclude we must be allowed to remind the complainants that during the election for the county of Quebec, a hand-bill appeared, in which the government was charged with being *feeble*. Those concerned in the hand-bill now, it seems, *feel* that they are not quite under the government of king *Log*.

“ The editors boast that the *Canadien* is the freest paper in the province—in *abuse* we are ready to admit. In fact, it proves to be, what we always dreaded it would be, the greatest enemy to the freedom of the press, by its licentious spirit. It no more consults what is expedient to, and proper for, a canadian press, than did the House of Assembly, a few years past, what was suitable to a canadian House of Assembly, on the article of privilege.

“ We flattered ourselves, a fortnight past, on reading the first No. 32, since annihilated for its innocence, that the perturbed spirit of the *Canadien* had been laid at rest. But we unhappily find that it is one of those evil spirits, whose period of haunting the earth, in its frantic form of the demon of discord, is not yet expired. We fear that it is to be doomed to a further ordeal, in order to its complete purgation.”

\* Mr. Sewell, the attorney general was, in August of this year appointed chief justice of the province, vice Allcock, deceased, and Mr. Edward Bowen, a young barrister appointed in his stead, attorney general, over the head of the solicitor general Mr. James Stuart, who had given some offence to the governor, but in what manner has never been publicly explained. He was soon after this dismissed from his office. Mr. Bowen's appointment was superseded by that of Mr. Norman F. Uniacke, from England, (son of the then attorney general of Nova Scotia,) but his disappointment was shortly after repaired by

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The new assembly, (the fifth of Lower Canada,) met on the 9th of April, 1809,\* expectation standing on the tiptoe a while as to the speakership, it being rumoured that the governor having dismissed Mr. Panet from his commission as lieutenant colonel in the militia, owing to his connexion with "*Le Canadien*," would not confirm him as speaker if the choice of the assembly were to fall on him. He was, however, almost unanimously chosen, and the governor confirmed, but in rather cool terms, the choice.†

promotion to the bench. The career of Mr. Stuart, in consequence, probably, of the injustice done him as he may have deemed it, will be seen as we proceed.

\* The members returned were as follows:—Quebec—County, the hon. P. A. De Bonne, (4) and Ralph Gray. Upper Town, J. Blackwood, (1) and C. Dénéchau. Lower Town, Pierre Bedard, (4) and John Jones. Montreal—County, Louis Roy, (1) and J. B. Durocher, (1). East Ward, J. M. Mondelet, (1) and James Stuart. West Ward, W. McGillivray and D. B. Viger. Three Rivers—Borough, J. Badeaux and É. Hart. William Henry—Borough, J. Sewell, (3). Counties—Hampshire, Francis Huot, (2) and A. L. J. Duchesnay, (1); Kent, J. Planté, (3) and J. L. Papineau, jr.; Leinster, J. É. Faribault, and Joseph Turgeon; Dorchester, J. Caldwell, (2) and P. Langlois; Surrey, J. Cartier, (1) and P. Chagnon; Saint Maurice, M. Carron, (1) and T. Coffin, (3); Devon, J. B. Fortin, (1) and F. Bernier, (3); Effingham, J. Meunier, and Jos. Duclos; Hertford, E. F. Roi, (1) and Ls. Turgeon, (1); Warwick, J. Cuthbert, (3) and R. Cuthbert, (2); Huntingdon, J. A. Panet, (4)\* and L. de Salaberry, (2); Orleans, J. Martineau, (3); Richelieu, L. Bourdages, (1) and H. M. Delorme; Bedford, W. S. Moore, (1); Buckingham, J. B. Hebert, and L. Le Gendre, (1); Cornwallis, J. L. Borgia, and J. Robitaille; Northumberland, J. M. Poulin, (2) and A. Carron; York, John Mure, (1) and J. J. Trestler; Gaspé, Geo. Pyke, (2).

The figure after the name shews in how many parliaments the member had served. Those without figures are new. Of the above, 14 indicate a british origin, the others french.

† The honorable the speaker of the legislative council, by command of his excellency, addressed the speaker elect, on the occasion, as follows:—

\* Mr. Panet as previously seen filled the speaker's chair during the four preceding parliaments.

In his speech he descanted upon the unfavorable posture of affairs with America ; the revolution in Spain, and the generous assistance afforded that country by Great Britain ; the emigration of the royal family of Portugal to the new world ; the victory of the british at Vimeira, by which Portugal had been rescued from the french ; and concluded by cautioning the members of the legislature against jealousies among themselves, or of the government, which could have no other object in view than the general welfare :—“ I might be thought insensible to that which I may, with truth, assure you is a subject of the highest gratification to me, were I to omit adverting to the prosperous and advantageous state in which this colony has shown itself during the preceding year. To the policy of the American government which led to the measure of withholding the produce of their country by a general embargo, are we to a certain degree indebted for having called forth, and made us acquainted with the resources of this : but it will depend upon a perseverance in the industrious pursuits which their application has occasioned that the advantages derived from them shall be

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“ Mr. Panet,—I am commanded by his excellency to say, that having filled the chair of speaker, during four successive parliaments, it is not on the score of insufficiency that he would admit of excuse on your part, or form objections on his.

“ His excellency has no reason to doubt the discretion and moderation of the present house of assembly, and as he is at all times desirous of meeting their wishes, so he would be particularly unwilling not to do so, on an occasion, in which they are themselves principally interested ; he does therefore allow and confirm you to be their speaker.”



Chap. permanent, and continue a source of wealth  
 XI. and of importance to the colony.—You, gen-  
 1809. tlemen, who are collected from all parts of the  
 province, must be sensible of its flourishing  
 situation, and of the happiness enjoyed by a  
 people unrestrained by any controul but that  
 of the laws; which, enacted by their own  
 representatives, can solely be directed to their  
 benefit and the advancement of their prosperity.  
 These blessings will be unalterably insured by  
 the diffusion of a spirit of harmony and con-  
 cord, the cultivation of which is more espe-  
 cially called for, from those who have the  
 happiness of the people at heart, from the  
 peculiar circumstances of the different parts of  
 which they are composed.—If any thing can  
 intervene to blast the prospect before us, it can  
 only be the admission of causeless jealousies  
 and suspicions amongst yourselves, or of jea-  
 lousies and suspicions, still more unfounded,  
 and assuredly most unmerited, towards that  
 government under the protecting and fostering  
 care of which you have attained to your  
 present felicity.

“ I regret, gentlemen,”—continued he—  
 “ that I have been compelled from circum-  
 stances, to call you together at a season  
 of the year, which I am well aware, must be  
 highly inconvenient to many of you; this con-  
 sideration dwelt so strongly upon my mind that  
 not seeing any particular object of public ser-  
 vice that indispensably required your immedi-  
 ate attention, I had it in contemplation to defer



your meeting till a period of less prejudicial consequence to your private accommodation ; but, on referring to the act of the british parliament on which the constitution of this province is founded, I felt reason of hesitation, at least as to the grounds on which I supposed myself able to do so ; I have, therefore, been induced to rely on your cheerful acquiescence in the inconvenience under which you may labour, rather than give rise to a possible doubt as to my intention of infringing on a right so valuable to you as that of your annual assembly. And this I have done under the circumstance of being precluded from giving quite that notice which has been, in some degree, sanctioned by custom ; and which, although, not called for by any express law, is, nevertheless, a precaution for the preservation of that mutual confidence which is so desirable, by guarding against the possibility of any suspicion, as to the intention or circumstances under which you may be assembled.”\*

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The house, after the address in answer to his excellency's speech, into which it was endeavoured to introduce an indirect reproof for the hints which had fallen from him, resumed with warmth, the matter concerning the eligibility of the judges, and the propriety of allowing them to sit in the assembly.—The return of Mr. Hart, also was taken into consi-

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\* The proclamation convoking the legislature was dated 14th March, giving consequently only 26 days notice of the time of meeting, for which the above was an apology.

Chap. XI. deration, that gentleman, as mentioned, having been reelected by the citizens of Three Rivers.

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—The more determined members were for expelling the Judges by resolution, but a motion for their expulsion in this mode, was negatived by a considerable majority, part of whom, though disposed to disqualify those officers, were averse to the means proposed, insisting that nothing less than an act of the legislature could operate such disqualification.

This effort having failed, a committee was appointed to enquire into, and report to the house, the inconvenience, resulting from the election of judges to sit in the house of assembly; and, in the mean time, a disqualifying bill was introduced and read for the first time. The enquiry was carried on with perseverance, and proved in no wise, as indeed might be expected from an *ex parté* inquiry by political adversaries, to the advantage of the individual concerned. The exclusion of Mr. Hart, was more closely prosecuted. The house renewed the resolution which had been taken against his admittance to sit and vote in the last session of the preceding parliament; and a bill to disqualify Jews from being eligible to a seat in the house of assembly was introduced, and underwent two readings.\* The lapse of five

\* This most arbitrary and absurd measure was subsequently obliterated by an act, (Will. IV., ch. 57,) of the legislature of Lower Canada, tantamount to the *amende honorable*, declaring all persons professing the jewish religion, being natural born british subjects, residing in this Province, entitled to the full rights and privileges of other subjects of his Majesty. Mr. Hart, who died in 1843, lived long enough to see this act of legislative justice done to those of his

weeks in the prosecution of these measures exhausted the patience of the governor, whose military education and habits may, on this occasion, have influenced him. The perseverance of a deliberative body in a favorite, but unconstitutional measure, appeared to him no better probably than the refractory spirit of an undisciplined corps of recruits, and he seemed determined to crush it.

On the 15th of May, he went down in state from the castle, to the legislative council, where, having summoned into his presence, the assembly, after giving the royal assent to such bills as were ready, (five in number) he informed them of his intention of dissolving the present parliament, and of recurring to the sense of the people. "When I met you,"—said he,—“at the commencement of the present session, I had no reason to doubt your moderation or your prudence, and I therefore willingly relied upon both:—under the guidance of these principles I expected from you a manly sacrifice of all personal animosities, and individual dissatisfaction—a watchful solicitude for the concerns of your country, and a steady perseverance in the executing of your public duty, with zeal and dispatch.—I looked for earnest endeavours to promote the general harmony of the province, and a careful absti-

religious faith, some of the same individuals concurring in the measure who had before disqualified him, most absurdly for it—This is progress from bigotry and intolerance to at least justice, not to say liberality, for there was no liberality in yielding to a british born subject and in a british colony, his birthright.

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nence from whatsoever might have a tendency to disturb it;—for due, and, therefore, indispensable attention to the other branches of the legislature, and for prompt and cheerful co-operation and assistance in whatever might conduce to the happiness and welfare of the colony. All this I had a right to expect, because such was your constitutional duty;—because such a conduct would have been a lasting testimony, as it was the only one sought for by his Majesty's government, of that loyalty and affection which you have so warmly professed, and which I believe you to possess;—and because it was particularly called for by the critical juncture of the times, and especially by the precarious situation in which we then stood with respect to the American States. I am sorry to add, that I have been disappointed in all these expectations, and in every hope on which I relied.

“You have wasted,”—continued he,—“in fruitless debates, excited by private and personal animosity, or by frivolous contests upon trivial matters of form, that time and those talents, to which, within your walls, the public have an exclusive title. This abuse of your functions you have preferred to the high and important duties which you owe to your sovereign and to your constituents; and you have, thereby, been forced to neglect the consideration of matters of moment and necessity which were before you, while you have, at the same time, virtually prevented the introduction

of such others as may have been in contemplation.—If any proof of this misuse of your time were necessary, I have just presented it, in having been called on, after a session of five weeks, to exercise his Majesty's prerogative of assent, to only the same number of bills, three of which were the mere renewal of acts to which you stood pledged, and which required no discussion. So much of intemperate heat has been manifested, in all your proceedings, and you have shewn such a prolonged and disrespectful attention to matters submitted to your consideration, by the other branches of the legislature, that whatever might be the moderation and forbearance exercised on their parts, a general good understanding is scarcely to be looked for without a new assembly.

“ I shall not,”—he added,—“ particularly advert to other acts which appear to be unconstitutional infringements of the rights of the subject, repugnant to the very letter of the imperial parliament, under which you hold your seats:—and to have been matured by proceedings, which amount to a dereliction of the first principles of natural justice ; and I shall abstain from any further enumeration of the causes by which I have been induced to adopt the determination, which I have taken, because, the part of your conduct, to which I have already referred, is obviously and in a high degree, detrimental to the best interests of the country, such, as my duty to the crown forbids me to countenance, and as compels me to have

Chap. recourse to a dissolution, as the only constitu-  
 XI. tional means by which its recurrence may be  
 1809. prevented.

“ Gentlemen of the legislative council, and gentlemen of the house of assembly,—“ I shall give the necessary orders for calling the new provincial parliament, as soon as convenience will permit; and having no other object, and confident that no other will be attributed to me, but to preserve the true principles of the free and happy constitution of the province, and to employ the power entrusted to me by his Majesty, to the only end for which I have received it, the good of his subjects, I have an entire confidence in the electors, to whom I shall recur; trusting that by the choice of proper representatives, further mischiefs may be obviated, and the important interests of the colony, considered in the next session, with less interruption, and happier effect.

“ I will not conceal from you, that it has been very much with the view to obviate misrepresentation, if possible, and to enable the people to judge of the grounds, which have been afforded me, for the conduct I have adopted, that I have entered into any detail upon this subject; the task has been painful to me in the extreme, and I turn from it with peculiar satisfaction, to offer to you, gentlemen of the legislative council, the acknowledgments that are due to you, for that unanimity, zeal and unremitting attention, which you have shewn in your proceedings. It rests not with you that



so little has been accomplished for the public good. To a considerable portion of the house of assembly, my thanks are equally due. I trust they will believe, that I do them the justice of a proper discrimination, in the sense I entertain of their efforts, to avert that conduct of which I have so much reason to complain. By this, gentlemen, you have truly manifested your affection to his Majesty's government, and your just estimation of the real and permanent interests of the province."

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This unique speech surprised the members, who, at the utmost, anticipated no more than a prorogation; but, a dissolution attended with such pointed censure, rather in the language of a master than in that of representative of a constitutional king, far exceeded their expectation, and they returned to their constituents covered with the opprobrium of having incurred the governor's displeasure; a matter of no little moment in the eyes of the multitude, as yet unaccustomed to the freedom of the constitution. The country people who were at first disposed to think favourably of the recent measures of the executive, gradually, however, veered round, and were finally persuaded that the house of assembly had been dissolved for having espoused their interests, in opposition to the encroachments of the crown upon the public rights. The press was put into violent action, and the *Canadien* teemed with severe and abusive commentaries on the speech. The preamble of the bill of rights, in allusion to the

Chap. governor's measures with respect to the assem-  
 XI. bly, and as applicable to the existing circum-  
 1809. stances of the province, was inserted as a motto  
 at the head of that paper, now more than  
 ever industriously circulated in all quarters.

In the middle of June, the governor left Quebec on a tour through the province, attended by a numerous suite, and travelled in great state. The principal citizens of Three Rivers, Montreal, Saint John's, and William Henry, successively received him with addresses of applause and thanks, for the interposition of the royal prerogative in dissolving the house of assembly. These addresses being inserted in the public prints, were criticised in the *Canadien*, with much asperity. On his return to Quebec, a congratulatory address, numerously signed by the citizens, was presented to him, approving also of his "judicious and firm administration," at which he expressed, in a particular manner, his satisfaction, as coming from those "whose situations"—he said—"afforded them the more immediate opportunity of judging of the motives by which he might be actuated on particular occasions."

The following from "The Quebec Mercury" of Monday, 6th November, 1809, announcing the first steamer that made its appearance on the waters of the St. Lawrence, may now be read with interest as a curiosity. It was the commencement of an era, in the navigation of those inland waters and of the lakes, the progress whereof has exceeded any thing that

the most sanguine could have expected at the outset :—

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“ On Saturday morning, at 8 o'clock, arrived here, from Montreal, being her first trip, the steamboat ACCOMMODATION, with ten passengers. This is the first vessel of the kind that ever appeared in this harbour. She is continually crowded with visitants. She left Montreal on Wednesday, at two o'clock, so that her passage was sixty-six hours; thirty of which she was at anchor. She arrived at Three Rivers in twenty-four hours. She has, at present, births for twenty passengers; which, next year, will be considerably augmented.—No wind or tide can stop her. She has 75 feet keel, and 85 feet on deck. The price for a passage up is nine dollars, and eight down, the vessel supplying provisions. The great advantage attending a vessel so constructed is, that a passage may be calculated on to a degree of certainty, in point of time; which cannot be the case with any vessel propelled by sail, only. The steamboat receives her impulse from an open double-spoked, perpendicular wheel, on each side, without any circular band or rim. To the end of each double spoke is fixed a square board, which enters the water, and by the rotatory motion of the wheel acts like a paddle. The wheels are put and kept in motion by steam, operating within the vessel. A mast is to be fixed in her, for the purpose of using a sail when the wind is favorable, which will occasionally accelerate her head way.

This vessel was built at the expense of, and belonged to the late honorable John Molson, of Montreal, to whose public spirit and enterprise the province is indebted for the first establishment of steamers on the St. Lawrence and lakes, the improvements in which from this the first humble essay, to their present wonderful state of perfection, truly are admirable, although probably yet only in their infancy, and still susceptible of vastly greater extension.



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The arrivals from sea at the port of Quebec, this season, as reported by the returns of the harbour master, were 440, but the tonnage is not stated.* The revenues of the previous year (1808) were stated at £40,608, currency, and the civil expenditure at £41,251, sterling. The salaries of the officers of the legislature amounted to £3,077, currency, including contingencies.—The governor in chief's salary was stated in the public accounts at £4,500, sterling, and that of the lieutenant governor (absent since 1805) £1,500, making together £6,000.

It appears by the public accounts of the year, that Sir Robert Shore Milnes, had ceased to be lieutenant governor on the 28th of November, 1808, the honorable Sir Francis Nathaniel Burton (brother of the Marquis of Conyngham) succeeding him and receiving in his stead the salary of £1,500, sterling, from this period, for the tenure of that office (a sinecure) until, upon the remonstrance of the assembly, he came to the province in 1822, the government of which he administered for a short time, as will be seen.

* According to an official return laid before the assembly, the number of vessels cleared during 1808, was 334—tons 66,373—ditto of new shipping 3,902.

CHAPTER XII.

Elections—parliament called together—Mr. Panet again speaker—topics of the speech—surmises thereupon—resolution of the assembly touching the speech at the late prorogation—address in answer—address to his Majesty in congratulation on his reaching the 50th year of his reign—expedience of providing for the civil expenditure considered—resolutions on the subject—address thereupon to the king, lords and commons—the governor's remarks upon them—assembly address his excellency for an estimate for the year—promises compliance—expedience of an agent for the province in England considered—bill for rendering the judges ineligible to the assembly passed—amended in the legislative council and sent back to the assembly—the bill laid aside—resolution for vacating the seat of P. A. De Bonne (judge)—prorogation and speech of the governor—expresses his sense of the proceedings of the assembly and his determination to dissolve—addresses to his excellency—rumours—revenues of 1810—expenses of the same year—arrivals at Quebec this and the previous year and ships built—revenue and expenses of 1809.

THE elections did not take place till October, and the people having had time to reflect upon affairs, re-elected, contrary to the expectation of the executive, most of the late representatives; removing some who were supposed to have wavered, and substituting others of a less flexible temper in their stead.

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1810.

The new assembly met on the 29th January.*

* The following are the names of members chosen at the late elections:—

County of Quebec—Hon P. A. De Bonne and Ralph Gray; Upper

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The speaker of the last assembly, (Mr. Panet) being re-ëlected, was again confirmed by the governor, in rather more gracious terms than on the previous occasion. In his speech he adverted to the unfavorable disposition of America towards Great Britain :—

“ With respect to our relations with the american government, I am concerned to state to you, that, far from that amicable settlement of the existing differences between us, to which the arrangement that had been agreed on by his Majesty’s minister lead us to look forward, the circumstances that have since occurred, seem rather to have widened the breach, and to have removed that desirable event to a period scarcely to be forseen by human sagacity. The extraordinary cavils that have been made with a succeeding minister ; the eager research to discover an insult, which defies the detection of all other penetration ; the consequent rejection of further communication with that minister, and indeed every step of an intercourse, the particulars of which are known by authentic documents, evince so little of a conciliatory disposition, and so much

Town of Quebec, J. Blackwood and C. Dénéchau ; Lower Town of Quebec, Pierre Bedard and John Jones ; County of Montreal, Louis Roy and J. B. Durocher ; East Ward of Montreal, Joseph Papineau and James Stuart ; West Ward of Montreal, D. B. Viger. and Thos. McCord ; County of Saint Maurice, M. Carron and Louis Gugy ; Borough of Three Rivers, M. Bell and J. Badeaux ; Borough of William Henry, Edward Bowen ; County of Northumberland, Joseph Drapeau and Thomas Lee ; County of Hampshire, Francis Huot and A. L. J. Duchesnay ; County of Warwick, J. Cuthbert and Ross Cuthbert ; County of Leinster, Bonaventure Panet and T. Taschereau ; County of Surrey, Pierre Bedard and Jos. Beauchamp ; County of Orleans, J. Martineau ; County of Devon, J. B. Fortin and F. Bernier ; County of Hertford, F. Roi and François Blanchet ; County of Richelieu, L. Bourdages and Hyacinthe Delorme ; County of Buckingham, F. Le Gendre and J. Bte. Hébert ; County of Cornwallis, J. L. Borgia and J. Robitaille ; County of Kent, L. J. Papineau and P. D. Debartzch ; County of York, John Mure and Pierre St. Julien ; County of Huntingdon, J. A. Panet and Stephen Sewell ; County of Bedford, John Jones ; County of Dorchester, Pierre Langlois and T. Taschereau ; County of Effingham, J. Meunier and Jos. Duclos ; County of Gaspé, G. Pyke. Of the above, 13 were persons of british, the others of french origin.

of a disinclination, to meet the honorable advances Chap. made by his Majesty's government, while these have XII. been further manifested in such terms, and by such 1810. conduct, that the continuance of peace between us seems now to depend less on the high sounded resentment of America, than on the moderation with which his Majesty may be disposed to view the treatment he has met with.

“ In laying before you the picture of our actual situation, I am confident I do not deceive myself, when I feel it to be unnecessary to urge you to be prepared for every event that may arise from it. In the great points of our security and defence, I persuade myself, one heart and one mind, will actuate all. On his Majesty's part, should hostilities ensue, I feel warranted in assuring you of the necessary support of regular troops, in the confident expectation of a cheerful exertion of the interior force of the country ; and thus united, I trust we shall be found equal to any attack that can be made on us. Animated by every motive that can excite them to resistance, our militia will not be unmindful of the courage they have displayed in former days, and the bravery of his Majesty's arms has never been called in question.”

He congratulated the legislature on the capture of Martinique, and the battle of Talavera, which had torn from the French that character of invincibility they imagined themselves to have possessed in the opinion of the world. He recommended a renewal of such acts as might enable the executive government more effectually to discharge its duty, in guarding against dangers which could scarcely be remedied by the common course of law. He called their attention to the practice of forging foreign bank bills, which, from the want of a remedy in the present code of penal laws, had of late, grown to a very dangerous extent, to the prejudice of the neighbouring states of

Chap. XII. America, as well as to our own subjects. With respect to the matter which had led to the dissolution of the preceding assembly, he observed:—

“ During the two last sessions, the question of the expediency of the exclusion of his Majesty’s judges of the court of King’s bench from a seat in the house of representatives, has been much agitated. This question rests on the desire of precluding the possibility of the existence of a bias on the minds of persons exercising the judicial functions in those courts, from their being under the necessity of soliciting the votes of individuals, on whose persons, or on whose property they may afterwards have to decide.

“ Whatever might be my opinion on this subject, I nevertheless hold the right of choice in the people, and that of being chosen by them, in too high estimation, to have taken upon myself, had the question ever come before me, the responsibility of giving his Majesty’s assent to the putting limits to either, by the exclusion of any class of his subjects; and they are rights of which it is impossible to suppose they could be deprived by any other authority than that of the concurrence of the three branches of the legislature.

“ That the channel in which flows the current of justice should be pure, and free from every the slightest contamination, is too essential to the happiness of the people not to be interesting to a government which has solely that object in view: and it is perhaps little less necessary to that happiness, that there should exist in the minds of the public a doubt on the subject.

“ In this latter view, I have thought that the early disposal of the question may be of utility, and therefore, in recommending the subject to your Majesty’s consideration, I have to add, that having received his Majesty’s pleasure upon it, I shall feel myself warranted in giving his Majesty’s royal assent to any proper bill for rendering his Majesty’s judges of the courts of king’s bench, in future, ineligible to a seat in the house of assembly, in which the two houses may concur.”

This speech was misinterpreted into an

avowal of precipitancy, in dissolving the last parliament, and it was currently reported, that the governor had incurred the displeasure of ministers, by the exercise of the royal prerogative, in dissolving the late assembly. The first measure of the house was to pass a resolution—"that every attempt of the executive government and of the other branches of the legislature against this house, whether in dictating or censuring its proceedings, or in approving the conduct of one part of its members, and disapproving the conduct of the others, is a violation of the statute by which this house is constituted; a breach of the privileges of this house against which it cannot forbear objecting; and a dangerous attack upon the rights and liberties of his Majesty's subjects in this province."—Yeas 24, nays 11.

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The address responded in loyalty to the speech:—

“Your Excellency may rest assured, that in laying before us, the picture of our actual situation, it is unnecessary to urge us to prepare for every event that may arise from it. In the great point of our security and defence, your Excellency may be persuaded, that one heart and one mind will actuate all, and with the assurance of the necessary support of regular troops, united with the cheerful exertion of the interior force of the country, we trust that we shall be found equal to any attack that can be made on us.

“The sentiments of attachment manifested by the inhabitants of this province for their happy constitution, which insures to them the free exercise of their rights and liberties, naturally commands their gratitude and fidelity to a Sovereign and nation whence the inestimable blessing is derived. Animated by those and every other motive that can excite resistance, the militia of Canada will not be unmindful of

Chap. XII. the courage which they have displayed in former days, and will emulate the bravery of his Majesty's army which has never been called in question."

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Immediately after the delivery of the speech, it was "resolved, *nem. con.*, that a committee of seven members be appointed to prepare and report, with all convenient speed, the draft of a loyal, dutiful and humble address, to our most gracious sovereign, congratulating his Majesty on the happy event of having entered upon the fiftieth year of his reign; and assuring him, that none of his faithful subjects are more grateful to divine providence, than the commons of Lower Canada, for the blessings conferred on them by the preservation of a life so valuable, or more sincere in their prayers for a long continuance thereof."

Pursuant to this, an address to his Majesty was drawn up, in the following terms:—

"We, your Majesty's dutiful and loyal subjects, the representatives of the commons of Lower Canada, most humbly beg leave, on the opening of this session of our provincial legislature, to offer, with profound submission, at the foot of the throne, our most sincere congratulations to your Majesty, on the joyful event of your having entered on the fiftieth year of your reign; a reign so glorious to your Majesty, and to the british empire, diffusing happiness and prosperity to your faithful people, in every part of your Majesty's dominions.

"Your Majesty's dutiful and loyal subjects in this remote colony, acknowledge with gratitude, and affectionate attachment to your royal person and government, the paternal protection which they have so liberally enjoyed, in the full exercise of their civil and religious liberties under your Majesty's reign, which has been further secured to them,

by that precious gift, the excellent constitution under which they have now the happiness to live. Chap. XII.

“ Deeply impressed with a due sense of these inestimable blessings, and of the beneficial encouragement afforded to our agriculture and commerce, whereby the prosperity, population, and resources of this colony are most rapidly encreasing: we glory in being an appendage of that empire which so magnanimously bids defiance to the boundless ambition of the common enemy of the civilized world; and contemplate, with pride and admiration, the distinguished bravery of your Majesty’s fleets and armies, in the arduous and protracted contest, in which the nation is engaged, for the support of social order, religion, and legitimate power. 1810.

“ May the Almighty, by whom Kings reign, be pleased to bless your Majesty, with an uninterrupted health and length of days, and crown the glorious efforts of your arms with the success due to a righteous cause; and when it shall finally please his Divine Wisdom to call your Majesty from a terrestrial to a celestial crown, may the bright example of your Majesty’s virtuous reign be invariably imitated, by your royal successors, to the latest posterity. Such, may it please your Majesty, are the most humble and most fervent prayers of your faithful Commons of Lower Canada.”

This being presented, by address, to his excellency, was forwarded through him to the king:—“ I shall, gentlemen,”—said his excellency,—“ with great satisfaction, take the earliest opportunity of transmitting, to be laid at his Majesty’s feet, your address on the happy event of his entering on the fiftieth year of his reign. Partaking most cordially in the sentiments of loyalty and attachment to his Majesty’s person and government which it contains, I have to offer you my congratulations on the auspicious circumstance which has given occasion to do so.”

The expediency of providing for the civil

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list, which had, for some time previously, been a subject of discussion in the public prints, was taken up by the house. It was maintained that the province was now capable of relieving the mother country of this burthen, which the majority urged, would inevitably, at no very remote period, devolve upon the province with accumulated weight. That to anticipate the charge would, therefore, prove a saving to the country. The minority opposed it with some warmth. The notion of levying additional revenues to the amount of fifty thousand pounds (as it was reported with a view to discredit the measure,) startled the country people, who, on the other hand, were instructed that the house of assembly having the entire civil list at their disposition, would not fail to retrench several pensions and to reduce the heavier salaries, and, by that means, diminish the public expense. A resolution was passed by the house, that the province was able to supply funds for the payment of the civil list, and loyal addresses were drawn up to the king, lords and commons of the United Kingdom.* In these, the

* The resolutions were as follows:—

Resolved—That this province is at present able to pay all the civil expenses of its government.

Resolved—That the house of assembly ought to vote, during this session the necessary sums for defraying the civil expenses of the government of this Province.

Resolved—That this house will vote, in this session, the necessary sums for defraying the civil expenses of the government of this province.

Mr. Bedard moved, seconded by Mr. B. Panet, to resolve, that most humble addresses be voted by this house to his Majesty, the house of lords, and house of commons;—setting forth:—That this house hath, in the present session, taken upon itself, all the civil expenses

house expressed a sense of the many favours the colony had experienced from the beneficence of the mother country, by which it was

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of the government of this province: that it entertains the most lively gratitude for the assistance afforded by his Majesty, in defraying them, to the present time; for his mild and benign government, and for the happy constitution, bestowed by his Majesty, and the parliament of Great Britain, upon this province; all which has raised it to such a pitch of prosperity, that it is now in a state to support the said civil expenses.

The house divided upon the above question, and the names were taken as follows:

Yeas—Messieurs Bedard, Durocher, J. L. Papineau, Lee, Borgia, Meunier, Taschereau, Viger, Drapeau, Bernier, Saint Julien, Herbert, Duclos, Robitaille, Huot, Caron, C. Panet, Ls. Roi, Blanchet, Debartzch and Beauchamp.

Nays—Messieurs M^cCord, Bowen, Mure, Bell, Dénéchau, Jones of Bedford, Blackwood, Gury and Ross Cuthbert,

The address to his Majesty pursuant to the resolutions was as follows:—

“We your Majesty’s most dutiful and loyal subjects the representatives of the commons of Lower Canada, in assembly met, humbly beg leave to approach your Majesty’s throne, with hearts full of loyalty and gratitude.

“We humbly beseech your Majesty to be assured of the sentiments of affection entertained by your Majesty’s subjects of Lower Canada, and also to be persuaded that the people of this colony, ever attached to their sovereigns, will never be surpassed by any others within your Majesty’s empire, in the sentiments of regard and affection which they feel for your sacred person.

“We humbly beg leave to express to your Majesty, the lively gratitude which we feel, on a recollection of all your Majesty’s favours, and on a view of the state of prosperity, to which this province has attained, under your Majesty’s paternal government, and the happy constitution which has been granted to us by the liberality of your Majesty and of the British parliament.

“This state of prosperity is become such, as to enable us to engage to pay, in the course of the present session of the legislature, the civil expenditure of the provincial government, which has hitherto been chiefly defrayed by your Majesty: and this effect of our prosperity is the more gratifying to us, as your Majesty’s people of Great Britain have been so long burthened with the expenses of a war, undertaken for the protection of every part of your Majesty’s vast empire.

“Under these circumstances, your Majesty’s subjects in this province feel themselves happy, in being now able to acquit themselves of an obligation imposed upon them by duty and gratitude.”

The above was carried on motion of Mr. Bedard, seconded by Mr. Borgia, on a division of 13 to 3.

Chap. now enabled to take upon itself the charge of
 XII. the civil expenditure of the government ; an
 1810. effect the more gratifying to them, as the people
 of Great Britain had been so long burthened
 with the expenses of a war undertaken for
 the common protection of every branch of
 her extensive empire. The house of assembly
 presented these addresses to the governor,
 requesting he would be pleased to lay them
 before his Majesty's ministers, for the purpose
 of being submitted to the king, lords and
 commons.

In answer to this request the governor
 observed, that the addresses were, under such
 peculiar circumstances of novelty, as to require
 a considerable degree of reflection. That the
 constitutional usage of parliament, recognised
 by the wisdom of the house of commons, of
 the United Kingdom, forbade all steps on the
 part of the people towards grants of money
 which were not recommended by the crown,
 and although by the same parliamentary usage
 all grants do originate in the lower house, yet
 that they were ineffectual without the concur-
 rence of the upper house : that no precedent
 existed to his knowledge of addresses to
 the house of lords, or house of commons, sepa-
 rately by a single branch of the colonial legis-
 lature : that for these reasons, he conceived
 the addresses to be unprecedented, imperfect
 in form, and founded upon a resolution of the
 house of assembly, which, until sanctioned by
 the concurrence of the legislative council, must

be ineffectual; (except as a spontaneous offer ^{Chap. XII.} on the part of the commons of Canada); that ^{1810.} they were consequently premature: that he regretted he could not, therefore, take upon himself to transmit these addresses to his Majesty's ministers, impressed as he was with a sense of his duty, adding also, that the ministers were not the regular organ of communication with the house of commons, unless by his Majesty's command; that he could not, therefore, pledge himself for the delivery of these addresses were he to transmit them through that channel—"Under some of these considerations, I should equally feel myself bound,"—he said,—“upon ordinary occasions, to decline transmitting any addresses to his Majesty, that might be under circumstances similar to the present.” But that on this occasion, he thought it right to transmit to the king this testimony of the good disposition, gratitude and generous intentions of his subjects in the province of Lower Canada. He said he thought it right also, that his Majesty by their own act, should be formally apprised of the ability, and of the voluntary pledge and promise, which the people of this province by this address to their sovereign, and by the resolution upon which it is founded, had given to his Majesty, to pay the civil expenditure of the province when required, and consequently without repugnance, demand from them the performance of this solemn undertaking, whenever he may in his wisdom, think it expedient so to do.

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For these reasons he engaged to transmit their address to the king as they had requested. "I desire, however,"—said he,—“that it may be distinctly understood, that as I ought not, by any act of mine, to compromise the rights of his Majesty, of the imperial government, or of the legislative council of this province, so I do not, by this compliance with your request, concede to the assembly of this province, or admit that any step on their part, towards grants of money, which are not recommended by the crown, can be constitutional; or that any such step can be effectual, without the concurrence of the legislative council, and the final approbation of the king.

“The expressions of affection and of gratitude towards his Majesty and the two houses of the Imperial parliament, for the favors conferred on this province, under which it has attained its present state of prosperity, which you so warmly and so explicitly profess in your addresses, will not permit a moment’s doubt of the sincerity of your wishes to carry into complete effect the resolution which is the object of them. So commendable a purpose entitles you to every acknowledgment; and I cannot but lament exceedingly, that any circumstances should exist, which, under a sense of duty, have compelled me to express myself on the subject, in a way, that may carry with it, even an appearance, however little intended, of opposing any check to the manifestation of

the sentiments, under which, I persuade myself, ^{Chap.} you have acted." XII.

An address, in the mean time, was also 1810. presented to the governor in chief, informing his excellency—"that this house has resolved to vote, in the present session, the sums necessary for paying all the civil expenses of the government of this province, and to beseech that his excellency will be pleased to order the proper officer to lay before the house, an estimate of the said civil expenses,"—to which his excellency answered, that he would give directions that the desires of the house might be complied with. The sudden prorogation which soon after ensued prevented, however, the transmission of the public accounts and the estimate called for.

The answer of his excellency relative to the addresses to the king, lords and commons, being received, "a committee of seven members on motion of Mr. Bedard, was appointed to search for and enquire upon the constitutional points and parliamentary usage mentioned in the answer made by his excellency the governor in chief, to the humble address of this house to his excellency, presented to-day, and to report with all convenient speed." No report was made, the prorogation taking place two days after this, preventing it.

The appointment of a colonial agent in England, as mentioned before, had been contemplated by the late house of assembly, and the subject was again taken into consideration

Chap. in the present session, but without effect. The
 XII. advantages proposed by this measure, were,
 1810. a regular and direct intercourse between the
 house of assembly and the imperial government
 as well as the commons of the United Kingdom,
 and a check upon the executive of the colony
 by their means. A bill to this intent was intro-
 duced, but did not arrive at maturity in the
 assembly.

During these occurrences, a bill for render-
 ing the judges ineligible to seats in the house
 of assembly was introduced, and having passed
 below, was transmitted to the upper house.
 Here the bill was amended by the introduction
 of a clause postponing the period at which it
 should take effect, to the expiration of the pre-
 sent parliament, and sent down for the concur-
 rence of the assembly. The house, indignant
 at the amendment, and regardless of it, passed
 a resolution "That P. A. De Bonne, being one
 of the judges of the court of king's bench,
 cannot sit nor vote in this house," and declared
 his seat, as one of the members for the county
 of Quebec, vacant—yeas 18, nays 6.* This
 measure again brought things to a crisis. His ex-
 cellency, on the following day, (26th of Febru-
 ary) went down to the council chamber, with the
 usual solemnities, and requiring the attendance

* The members who voted on the question, were:—

Yeas—Messieurs Blanchet, Bourdages, Bedard, L. J. Papineau,
 Taschereau, Borgia, Drapeau, Fortin, Saint Julien Robitaille, Lee,
 Huot, Meunier, Durocher, B. Panet, Langlois, Beauchamp, and
 Debartzsch—18.

Nays—Messieurs M'Cord, Blackwood, Mure, Dénéchau, Ross
 Cuthbert, and Guky—6.

of the assembly, he informed them, that he had come down for the purpose of proroguing the parliament, and that upon a mature consideration of the circumstances which had taken place, he had determined again to refer to the sense of the people, by an immediate dissolution:—

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“Whatever (said he) might be my personal wishes or however strong might be my desire that the public business should suffer no interruption, I feel that on this occasion, nothing is left to my discretion. It has been rendered impossible for me to act otherwise, than in the way I am proposing.

“The house of assembly have taken upon themselves without the participation of the other branches of the legislature, to pass a vote, that a judge of his Majesty’s court of King’s bench cannot sit nor vote in their house.

“However I might set aside the personal feelings which would not be unnatural in me, as to the mode in which this transaction has been conducted towards myself, there is another and infinitely higher consideration arises out of it, which I must not overlook.

“It is impossible for me to consider what has been done in any other light, than as a direct violation of an act of the imperial parliament: of that parliament which conferred on you the constitution to which you profess to owe your present prosperity: nor can I do otherwise than consider the house of assembly as having unconstitutionally disfranchised a large portion of his Majesty’s subjects, and rendered ineligible by an authority which they do not possess, another not inconsiderable class of the community.

“Such an assumption I should at any rate feel myself bound by every tie of duty to oppose; but in consequence of the expulsion of the member for the county of Quebec, a vacancy in the representation of that county has been declared, and it would be necessary that a new writ should issue for the election of another member: that writ would be to be signed by me. Gentlemen (said he, with warmth and emphasis) I cannot, dare not render myself a partaker in the violation of an act of the imperial parliament, and I

Chap. know no other way by which I can avoid becoming so, but
 XII. that which I am pursuing.

1810. “When we met I felt much satisfaction in the consciousness of having taken such steps as I thought most likely to facilitate, indeed I thought would do away every possible objection to a measure that seemed to be wished for, and that in itself met my entire concurrence: but the only objection that can I think exist in the mind of any reasonable man to the eligibility of the Judges, arises from the possible effect that may be produced by the necessity it puts them under, of soliciting the votes of the electors. No well grounded objection can be offered to their sitting in the house when they are elected. On the contrary, their talents and superior knowledge must render them highly useful, and were it not for other considerations highly desirable members. I cannot but exceedingly lament, that a measure which I consider as beneficial to the country should not have taken effect. The people however in the disappointment of their expectations will do me the justice to acquit me of being the cause that so little of the public business has been done.”

On his entrance and departure from the council chamber, the governor in chief was cheered by the people, with loud and repeated acclamations. His military promptitude again exceeded the expectations of the Canadian public, (a very large majority of the population) who, nevertheless, universally expressed their resolution of reëlecting the late members, entertaining the opinion, that the governor, influenced by the judge, only wished to screen him from the ignominy of an expulsion, which they were told and willing to believe the assembly had a right to insist upon, and that its behests in the matter were tantamount to a law.

After the dissolution, addresses flowed in upon the governor from all quarters. The city

and county of Quebec, the city of Montreal, the inhabitants of Terrebonne, the town of Three Rivers, the Borough of William Henry, the counties of Warwick, Orleans, and various other parts, were conspicuous on the occasion, addresses coming from each. The late members, assisted by their friends, in the mean time, exerted themselves diligently to secure their reëlection. Songs, and pasquinades adapted to the vulgar taste, and calculated to rouse the baser passions were composed and circulated; the "*Canadien*" teemed with diatribes, addresses and abusive observations on the occurrences of the day, and the measures of the executive; while on the other hand, the discovery of cabals and plans of insurrection and rebellion, were mysteriously whispered among those connected with the government. At one moment it was rumoured that the french minister in America had supplied large sums in gold, to promote the views of the seditious in Canada; at another, that the whole of his correspondence had been intercepted by some confidential agents of our government. These reports, though utterly groundless, and treated by the adverse party as malicious fabrications, were, nevertheless, evidently intended to prepare the public mind for another crisis.

The assembly having "resolved to vote in the present session the sums necessary for paying all the civil expenses of this province," it may be satisfactory to look at its revenues during the year (1810) and the sources whence

Chap. XII. 1810. they were derived. The reader, by referring back to page 202, in which he will find a statement of the provincial revenues and expenditure for 1799, will perceive the increase made during the last ten years, upon the income and outlay of the province:—

Account of Provincial Revenue collected and received between the 6th January, 1810, and 6th January, 1811:—

| | | | | | |
|--------|---|--------------------------|---------------|------------------|------------------|
| No. 1. | Casual and territorial revenue | - - - - | £ 4292 | 9 | 4 $\frac{1}{2}$ |
| 2. | Duties under the Statutes of the 6th Geo. II, & 4 & 6 Geo. III. | - - - - | 151 | 10 | 1 $\frac{1}{2}$ |
| 3. | Ditto under the Statute of the 14th Geo. III. | £11867 | 6 | 10 $\frac{3}{4}$ | |
| | | Licences under do. do. | 1602 | 0 | 0 |
| | | | <u>13469</u> | 6 | 10 $\frac{3}{4}$ |
| 4. | Duties under the prov. act 33d Geo. III., | | <u>2814</u> | 2 | 2 |
| 5. | Licences under do of 35th do. | 1714 | 0 | 0 | |
| | | Duties under do. do. do. | 19910 | 15 | 3 $\frac{1}{2}$ |
| | | | <u>21624</u> | 15 | 3 $\frac{1}{2}$ |
| 6. | Licences under do. 41st do. | 75 | 0 | 0 | |
| | | Duties under do. do. do. | 1887 | 13 | 3 |
| | | | <u>1962</u> | 13 | 3 |
| 7. | Ditto under do. 45th do. | - - - | 22674 | 14 | 10 $\frac{1}{2}$ |
| 8. | Pilotage Duties under do. do. | - - - | 1874 | 11 | 3 |
| 9. | Licences under do. 47th do. | - - - | 4 | 0 | 0 |
| 10. | Duties under do. 48th do. | | | | |
| | Cap. 19th | - - - | 800 | 9 | 10 $\frac{1}{2}$ |
| 11. | Ditto under do. Cap. 34th, | - - - | 512 | 4 | 7 $\frac{1}{2}$ |
| 12. | Fines and Forfeitures | - - - | 175 | 12 | 6 $\frac{1}{2}$ |
| | | | <u>£70356</u> | 10 | 3 |

Errors excepted,

Quebec, 7th February, 1811.

J. HALE,

Insp. Genl. P. P. Accts.

Of the above, it is to be observed, only the 1st, 2d, 3d and 4th items were applicable towards defraying the administration of justice and civil government, together with £5,000, sterling more, under the the 35th Geo. III., for the same purpose, making in all something

over £26,000, currency. The surplus was for the most part unappropriated monies remaining at the disposal of the legislature. The expenses of the civil government, for the year, were £49,347, sterling, including £3,964, "being the just proportion of duties imposed by the legislature of this province, that the province of Upper Canada was entitled to receive, between 1st January and 31st December, 1809." Besides this, were the expenses of the legislature, including salaries and contingencies amounting to £3,734, currency.

By returns laid before the legislature, it appears that the number of vessels entered at the port of Quebec, and cleared was 635—tonnage, 138,057. Vessels built and cleared 26—tonnage 5,836. The returns of the previous year (1809) state the arrivals at 433 vessels—tonnage 87,825, without specifying the number built at Quebec, and cleared out. The revenue for the same year is stated at £67,932, currency, and the expenditure £41,521, sterling, besides salaries and contingencies of the legislature, £2,246, currency.

 CHAPTER XIII.

Observations on times past, and present—the press—hitherto not beneficial in Canada—violent seizure of the press of *Le Canadien*—imprisonment of certain gentlemen connected with it—remarks—presentment of the grand jury at Quebec—application in favor of prisoners for habeas corpus—refused—some of them released on account of their health—judge De Bonne retires from the bench—Craig's road made—parliament meets—Mr. Panet again speaker—speech—message relating to Mr. Bedard—address of the assembly—sharp reply of the governor—bill passed as desired by the governor—resolutions of the assembly relating to Mr. Bedard, and address to the governor—not presented—miscellaneous proceedings—favorable conclusion of the session and prorogation—governor's character—Mr. Bedard's enlargement—governor's allocution to the executive council concerning him—retires from the government—a remarkable general order by him—postscript—documents interesting to history.

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UNTIL recent times and the crises just noticed, we have seen but harmony in the legislature, and among all classes in the province, with peace and plenty throughout the land. We are now entering upon a period of transition from that happy state, to one of agitation and discord, stirred up by candidates for popular favor and support, and the political intriguers in their interests, in the various quarters of the country, mischievously working upon the prejudices of national

origin in the people, and for which, it is also true, pretexts were sometimes found in occasional remarks from english prints in the colony. Chap. XIII.
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The press in Canada, consisted at this time in all, but of five week'ly papers, three of them issuing at Quebec,—that is to say,—“*The Quebec Gazette*,” the first and oldest paper in Canada, then, as still, in the hands of Mr., now the honorable John Neilson,—the NESTOR, as for his wisdom, discretion and ability, as an editor, he is justly called, of the canadian press—then published in both languages, and the official paper of the government, from its establishment. Secondly,—“*The Quebec Mercury*,” published wholly in english, by Thomas Cary, esquire, as already stated; and thirdly, “*Le Canadien*,” in french, owned by a variety of individuals who had set it on foot by subscriptions, and who paid their own editor, generally a person without any determinate interest in the concern, and hired for the purpose. The two others were “*The Montreal Gazette*,” established originally in 1778, and published in both languages by Mr. James Brown, and “*The Courant*,” of the same city, published in english by Mr. Nahum Mower. A more respectable press did not exist in any province of the british empire, at this period than that of Lower Canada. Sincerely do we wish that as much could be said of it, in this our present day.

But this, admirable engine,—dreaded alike by the despot and the demagogue,—omnipo-

Chap. tent for good or evil, according to the hands
 XIII. that direct it, has not, however, been so far, in
 1810. Canada, a fortunate experiment, but rather the
 reverse. It has scattered abroad the seeds of
 discontent, destroyed harmony, produced dis-
 union and division between fellow subjects, on
 the idle score of their difference of origin and
 of language, fomented party spirit, agitated and
 arrayed the people in masses against each other,
 the final effects of all which it is impossible to
 foresee, though we may but too surely count
 upon results any thing but desirable. If the
 liberty of the press be a blessing, as on the
 whole no doubt it has been, and is, to man-
 kind, it also has its attendant curses. But let
 us not despondingly abandon altogether hope
 of a reform in it also, as in other things.—It
 would be premature to pronounce it a failure,
 as yet only at the outset as it were, of its mission
 in Canada,—nor too hastily conclude, from the
 temporary evils we have felt and feel from it,
 that in the long run, its advantages may not, on
 the whole vastly outweigh, even with us, the
 inconveniences resulting from it, in the strife
 and dissensions we have occasionally been
 involved, principally by means of it.—More
 powerful than the countless legions of the
 mightiest autocrat that ever swayed a sceptre,
 like them, its influences must also be ruled
 by a superior, though to us invisible, but all-
 wise and beneficent power for good purposes.
 Holding on progressively its steady course,
 preceded by letters, those magic harbingers of

light to the human mind, “conquering and to conquer,”—in itself an empire, dispensing in its career knowledge to the nations, their best wealth and firmest power—gathering as it goes fresh and increasing strength from the dissemination of its own exhaustless elements, and in character peculiarly christian, it pervades and will subdue the world to its dominion, bearing religion, civilisation and freedom, to the remotest ends of the earth.

The province, by this time, from the agitation that had arisen, was divided into two distinct parties; the one *canadian*, of french origin, and opprobriously called (for they did not choose to be termed french, an appellative odious in its application to them, and therefore offensive, although the notion of a “*la nation canadienne*” and “*nationalité*” was not yet in vogue,) *the french party*, consisting principally of the rural and agricultural population; the other british, comprising all, or nearly so, of british birth or descent in the province, including the commercial body, without scarcely an exception, each now unhappily animated against the other by a blind party spirit, and fierce almost to hostility and the knife, imputing to each other the most iniquitous and absurd views, and bandying abuse; the one set characterising their opponents by the odious cant terms of “*anti-canadiens, choyens, or anglais*”—those of “*frenchmen, democrats, boutefeus*,” being as freely and indeed angrily bestowed in return by the other class.—The apparent origin

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of these parties is to be found in the conflict previously noticed between the commercial and agricultural interests with respect to the "gaols' bill," rather than in any prejudices of national origin, which, however, having slumbered till then, there is no doubt that this struggle awakened on both sides.—But antipathies of a far different and deeper nature had been kindled in their progress, and threatened to involve the whole social fabric in conflagration.

The storm that had been gathering for some time, was now ready to burst. The elections were approaching, and the executive seemed determined to strike a blow, that would surprise the people, and silence their leaders.—On the 17th of March, a party of soldiers headed by a magistrate and two constables, proceeded to the *Canadien* printing office in Quebec, under the sanction of the executive, where having forcibly seized the press, with the whole of the papers of every description found in the house, they conveyed them to the vaults of the court-house. The printer* was apprehended, and after examination before the council committed to prison. The guards in the meantime were strengthened, and patrols sent in all directions through the city, as if an insurrection were expected. The public, struck at these appearances of unusual precaution, remained in suspense; expecting an official revelation of some deep laid conspiracy.† The Montreal

* Mr. Lefrancois.

† The event alluded to was noticed in the Quebec Mercury, of the 19th March, 1810; but, to enable the reader to understand the sense

courier was detained beyond the usual time, with a view as it was said, of preventing a report of the measures resorted to from spread- Chap. XIII. 1810.

entertained of the language and doctrine of the "*Canadien*," by the "*Mercury*," which may be considered as expressing the opinions of the british public, upholding it, an article preceding the announcement in that paper of the seizure of the press of *Le Canadien*, is given as below. It is impossible in a work of this nature to produce the articles to which the Editor of the *Mercury* refers—all that can be said here upon the subject, and that in fairness, to put the reader on his guard, ought to be said, is, that these two papers, "*The Quebec Mercury*" and "*Le Canadien*," were antagonistic in politics: the former english and governmental, the latter french canadian, and in opposition to the executive, and consequently that the reader may take the observations for just what he may think them worth. It may not be inappropriate to add also, that times and taste have so much altered in Canada, in this respect, that if the productions which, in that day, were termed seditious, were now to be reproduced in the public journals, they would seem very pitiful and flat indeed, compared with those of every day occurrence and in both languages:—

"None who have read the last numbers of the *Canadien* but must be struck with the doctrine repeatedly inculcated in them, particularly in No. 15, that the public have not the right to censure or examine the conduct of the house of assembly, formed of men deputed by the people, to act for them. By this mode of reasoning the representatives of the people, may run into every species of madness, even to the privation of every right and every shilling the people possess, and not a word is to be uttered on the subject, but in such a way as these petty tyrants may think proper to dictate.

"We are at a loss which to admire most, their tyrannical spirit or their consummate vanity. A striking proof of the latter is that they will allow no one to be a judge of the question of the expulsion of judge De Bonne but themselves. They say, of all those who signed the Quebec address to his excellency, not one is capable of understanding the nature of the question.

"Thus much on the part of the people. On the part of the government we take leave to observe, that in a *dependence* such as this colony, when we see the government daily flouted, bearded and treated with the utmost disrespect and contumely, with the view of bringing it into marked contempt, we expect nothing less than that its patience will be exhausted, and *energetic measures* resorted to, as the only efficient ones.

"From any part of a people *conquered from wretchedness into every indulgence and the height of prosperity*, such treatment as the government continually receives, is far different from what ought to be expected.

"After the the late conciliatory step, proposed by the king's representative, at the opening of the last session of our parliament, we cannot help viewing the returns made as the most *incorrigible*

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ing abroad, until the expected discoveries were made. Three successive days were occupied by the magistrates and law officers of the crown in examining the papers seized. On the 19th of March, three french canadian gentlemen* were apprehended under warrant, signed by three members of the executive council and committed to prison. Three others in the district of Montreal† were in like manner committed, all, on a charge of *treasonable practices*. These commitments it is scarcely necessary to observe were made under the “act for the better preservation of his Majesty’s government.” No discovery of any importance resulted from the search, but the hasty imprisonment of the gentlemen mentioned, gave currency to the tales of intended insurrection that were circulated, and it was generally understood that the government was in full possession of all the circumstances of the supposed conspiracy. There is, however, to this day, no proof before the public of the slightest plan to subvert the government: and the reader, in the absence of just grounds for such a presumption, as well as from the enlargement of

ingratitude. But there are characters in the world, on whom *benefits* have no other effect than to produce *insolence* and *insult*.

“The stroke is struck.—The *Canadien* has received its mortal blow.—The greatest misfortune that can ever happen to the press is for it to be in the possession of invisible and licentious hands. We say no more—we war not with the dead.”

* Messieurs Bedard, Blanchet and Taschereau, members of the late House of Assembly.

† Messieurs Pierre Laforce, Pierre Papineau of Chambly, and François Corbeil of Isle Jesus.

the prisoners without trial, is left to judge ^{Chap. XIII.} whether the proceedings resorted to on the occasion were the result of well grounded apprehension of disturbances, or an unnecessary exertion of power. There certainly was much excitement throughout the province, from the agitation of party leaders, principally professional men residing in the cities of Quebec and Montreal, their partisans and the petty demagogues in their interests, but which, if left alone, would probably have burnt itself out. 1810.

On the 21st of March, the Governor issued a proclamation.* The earnestness that flows

* This remarkable proclamation, evidently the production of a haughty but generous mind, is given to the reader, as a piece of literature, not only worthy of his perusal, but of being placed on record for perusal in after times:—

“ Whereas divers wicked, seditious and treasonable writings have been printed, published and dispersed in the province, with the care and government of which I am entrusted; and whereas such writings have been expressly calculated to mislead his Majesty’s good subjects, to impress their minds with distrust and jealousy of his Majesty’s government, to alienate their affections from his Majesty’s person, and to bring into contempt and vilify the administration of justice, and of the government of the country; and whereas, in the prosecution of these wicked and traitorous purposes, their authors and abettors have not scrupled audaciously to advance the most gross and daring falsehoods, whilst the industry that has been employed, in dispersing and disseminating them at a very great expence, but the source of which is not known, strongly evinces the perseverance and implacability with which it is intended that these purposes should be pursued; and whereas, consistently with that duty, which I owe to his Majesty, and that affection and regard with which I view the welfare and prosperity of the inhabitants of this colony, it was impossible for me any longer, to disregard or suffer practices so directly tending to subvert the government of the former, and to destroy the happiness of the latter, I do therefore, hereby announce, with the advice and concurrence of his Majesty’s executive council, that with the same advice and concurrence measures have been adopted, and that due information having been given to three of his Majesty’s said executive councillors, warrants as by law authorized, have been issued under which some of the authors, printers and publishers of the writings aforesaid, have been apprehended and secured. ✓

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through this production shews the determination with which he intended to persevere in his measures, evidently the result of a conviction on

“ Deeply impressed with a desire to promote, in all respects, the welfare and happiness of the most benevolent and best of Sovereigns, whose faithful servant I have been for nearly as long a period as the oldest inhabitant has been his subject, and whose highest displeasure I should incur, if I made any other than that happiness and welfare the rule of my conduct, it would indeed be with a very sincere concern, that I should find reason to believe that the arts of these factious and designing men had produced any effect, and that doubts and jealousies should have found their way, and have established themselves in the minds of deluded persons.

“ To these, if any such there be, and indeed to the public in general, I would recall the history of the whole period during which they have been under his Majesty’s government. Let them remember the state they were in when they became british subjects ; and let them bear in their recollection the progressive advances they have made to the wealth, happiness, security and unbounded liberty which they now enjoy. During fifty years that they have been under the english dominion, has one act of oppression—has one instance of arbitrary imprisonment—or of violation of property, occurred? Have you in any one instance, or under any one circumstance, been disturbed in the free and uncontrolled enjoyment of your religion—and lastly, while all Europe has been deluged in blood, and while various of his Majesty’s other colonies and possessions have at times experienced the horrors of war, and some even under the vicissitudes of that state, have undergone a deprivation of their inestimable happiness of living under british laws and british government, by becoming a prey to temporary conquest, have you not enjoyed the most perfect security and tranquillity under the powerful protection of that same government, whose fostering and paternal care has been equally employed in promoting your internal welfare.

“ What then can be the means used by these evil disposed and wicked persons, by which they can hope to bring about their traitorous and ambitious designs—by what arguments can they expect that a people, in the enjoyment of every blessing that can contribute to happiness in this world, shall renounce that happiness, to embrace their views? By what argument can they expect that a brave and loyal people, hitherto impressed with the warmest and sincerest attachment to the best of Kings, whose whole reign has been one series of benefits bestowed on them, shall abandon that loyalty and become monsters of ingratitude, fit to be held up to the detestation of the world, to promote their projects? It is true, the most base and diabolical falsehoods are insidiously promulgated and disseminated. In one part it is announced as my intention to embody and make soldiers of you, and that having applied to the late house of representatives to enable me to assemble twelve thousand of you for that purpose, and they having declined to do so, I had therefore dissolved them. This is not

his mind of their expedience at this crisis, which, however, does not afford an instance of the trial, of a single individual in the colony, for treason or

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only directly false, such an idea never having entered into my mind, nor the slightest mention having ever been made of it; but it is doubly wicked and atrocious, because it has been advanced by persons, who must have been supposed to speak with certainty on the subject, and was therefore the more calculated to impose upon you. In another part you are told that I wanted to tax your lands, and that the late house of assembly would consent only to tax wine, and that upon that account, I had dissolved the house. Inhabitants of St. Denis! this is also directly false, I never had the most distant idea of taxing you at all, such had never even been for a moment the subject of my deliberations, and when the late house offered to pay the civil list, I could not have taken any step in a matter of such importance without the King's instructions, and therefore it was still long before we came to the consideration of how it was to be paid. In truth not one word was ever to my knowledge mentioned on the subject.

“ In other parts, despairing of producing instances from what I have done, recourse is had to what I intend to do, and it is boldly told you, that I mean to oppress you. Base and daring fabricators of falsehood, on what part or what act of my life do you found such an assertion? What do you know of me or my intentions? Canadians, ask of those to whom you formerly looked with attention and respect, ask the heads of your church who have opportunities of knowing me; these are men of honor and knowledge, these are men from whom you ought to seek for information and advice; the leaders of faction, the demagogues of a party, associate not with me; they cannot know me.

“ For what purpose should I oppress you? Is it to serve the King? Will that Monarch, who during fifty years has never issued one order that had you for its object, that was not for your benefit and happiness—will he now, beloved, honored, adored by his subjects, covered with glory, descending into the vale of years, accompanied with the prayers and blessings of a grateful people, will he, contrary to the whole tenor of a life of honor and virtue, now give orders to his servants to oppress his canadian subjects? It is impossible that you can for a moment believe it. You will spurn from you, with just indignation, the miscreant who will suggest such a thought to you.

“ Is it for myself, then, that I should oppress you? For what should I oppress you? Is it from ambition? What can you give me?—Is it for power? Alas! my good friends! with a life ebbing not slowly to its period, under the pressure of disease acquired in the service of my country, I look only to pass, what it may please God to suffer to remain of it, in the comfort of retirement among my friends. I remain among you only in obedience to the commands of my King. What power can I wish for? Is it then for wealth that I would oppress you? Enquire of those who know me, whether I regard wealth; I never did, when I could enjoy it: it is now of no use to

Chap. XIII. 1810. even sedition. In truth, the heat and bias of the times were such, that it is probable no conviction, nor indeed dispassionate and impartial trial, by jury, however guilty the accused might be, could have been obtained, as in aftertimes in

me; to the value of your country laid at my feet, I would prefer the consciousness of having, in a single instance, contributed to your happiness and prosperity.

“ These personal allusions to myself—These details, in any other case might be unbecoming, and beneath me; but nothing can be unbecoming or beneath me that can tend to save you from the gulf of crime and calamity, into which guilty men would plunge you.

“ It is now my duty, more particularly to advert to the intent and purpose for which this proclamation is issued; I do, therefore, by and with the advice of his Majesty’s executive council, hereby warn, and earnestly exhort all his Majesty’s subjects, to be on their guard against, and to be cautious how they listen to the artful suggestions of designing and wicked men, who, by the spreading of false reports, and by seditious and traitorous writings, ascribe to his Majesty’s government evil and malevolent purposes, seeking only thereby to alienate their affections, and lead them into acts of treason and rebellion, calling upon all well disposed persons, and particularly upon all curates and ministers of God’s holy religion, to use their best endeavours to prevent the evil effects of such incendiary and traitorous doings, to undeceive, to set aright, such as may have been misled by them, and to inculcate in all, the true principles of loyalty to the King, and obedience to the laws.

“ And I do hereby further strictly charge and command all Magistrates, in and throughout the province, all captains of militia, peace officers, and others, his Majesty’s good subjects, that they do severally make diligent enquiry and search, to discover as well the authors, the publishers and dispersers of all such wicked, seditious and traitorous writings as aforesaid, and of false news in any way derogatory to his Majesty’s government, or in any manner tending to inflame the public mind, and to disturb the public peace and tranquillity; to the end that by a vigorous execution of the laws, all offenders in the premises may be brought to such punishment as may deter all persons from the practice of any acts whatever which may in any way affect the safety, peace or happiness of his Majesty’s loyal and faithful subjects in this province.

“ Given under my hand and seal at arms, at the castle of Saint Lewis, in the city of Quebec, in the said province of Lower Canada, this twenty-first day of March, in the year of our Lord one thousand eight hundred and ten, and in the fiftieth year of his Majesty’s Reign.

“ J. H. CRAIG, Govr.

“ By his Excellency’s Command,
JNO. TAYLOR, Depy. Secy.”

cases far more evident, of sedition, and, in fact, of treason and murder, was exemplified. The clergy being expected to support the government on the present occasion, the proclamation, in obedience to its wish was published, in some instances, in the church, during divine service, in others, but with seeming reluctance, at the church door only, after its conclusion.*

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The Chief Justice Sewell at the opening of the criminal sessions in March, in delivering his charge to the grand jury, called their attention to the tendency of the occurrences, that had given room to the proclamation, which he read on the occasion. The grand jury in answer to his speech, drew up an address to the court in which they animadverted strongly upon certain numbers of the *Canadien*, and other productions issuing from that press, as dangerous to the peace and security of the colony. They in like manner expressed their displeasure at divers productions in the *Quebec Mercury*, calculated to excite jealousy and distrust in the minds of his Majesty's canadian subjects, leaving it to the wisdom of the court

* The following paragraphs, in relation to the subject, appeared in the Quebec Mercury of 2d April, 1810:—

“Yesterday, the late excellent proclamation of his excellency the governor in chief was read in the cathedral parish church. The catholic bishop preached on the occasion.

“At one o'clock, (same day) a numerous deputation of *habitants*, presented to his excellency a loyal and affectionate address from the *habitants* of the county of Orleans, expressive of their attachment to the king; abhorrence of certain seditious papers which have been circulated among them for some years past; and thanking his excellency for his firmness in putting a stop to their course. They further express their sensibility and gratitude for the truly paternal proclamation lately issued by his excellency.—It was signed by 671 *habitants*.”

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to adopt such measures thereupon as might be found expedient: and concluded by disclaiming a wish to encroach upon the genuine freedom of the press, stating that the abuse of this inestimable privilege, which could only tend to a subversion of order, was the subject of their animadversion. The chief justice was thought to have exceeded his province, in publicly reading on the bench the proclamation, as a thing foreign to the sacred functions of his post, and which, at that moment, the country was striving to keep aloof from politics.

In the April term of the court of King's bench for Quebec, an effort was made to obtain a *habeas corpus* for one of the gentlemen (Mr. Bedard) detained in prison, but failed. The failure of this application left no alternative to the prisoners, but a patient submission to their imprisonment, until the governor should be pleased to bring them to trial, or release them, which there is reason to believe he immediately, on an appeal to his clemency, would have done. In July following, one of the gentlemen confined in the jail at Quebec, falling seriously ill, was released: another was also shortly after released from the same cause; and the printer, finally, in the month of August, was also turned out of prison. They, however, previous to their enlargement, gave security to appear and answer such bill of indictment as might be afterwards found against them: a precaution intended to save appearances, no bill having

ever afterwards been presented by the crown officers. Chap. XIII.

The September session of the criminal court elapsed without any attention to the prisoner remaining in confinement, Mr. Be-
dard, who solicitous for a trial, had repeatedly refused enlargement, without the opportunity of vindicating his reputation by the verdict of a jury. He inflexibly insisted on the integrity of his conduct and political opinions, repudiating the imputation of treason or disaffection to the person or government of his Sovereign: and the Viceroy himself, was heard to express esteem for the consistency of his conduct. 1810.

The period at which we are arrived, has been termed, by whom the reader may easily divine, the reign of terror. The peremptory measures of the Governor struck indeed the agitators with dismay; but though he had alarmed them, he had not subdued the spirit of the people. The elections for the new parliament took place in April, and the late members were for the most part again returned.

The Judge upon whose account the present difficulties had originated, under the prospect, it was said, of being called to the legislative council, did not again present himself. He however was not called thither; and we are left to conjecture, whether he declined his re-election through a false promise from the administration to that purpose, as was subsequently reported, in order to induce him to retire, and by that means put an end to all

Chap. XIII. 1810. strife on his account, or whether disgusted, with the intrigues and animosity of the times, he consulted his tranquillity by a spontaneous retirement. He soon after resigned the judgeship.

The prisoners confined at Montreal, where they had suffered all the inconveniences and discomforts of a damp and unhealthy prison, and the severity of a surly janitor, were successively released. One of them* is said to have died of illness contracted during his imprisonment. The Governor in the meantime turned his attention to the improvement of the interior of the province, as well as to the cities of Quebec and Montreal: to which he appointed chairmen to preside in the courts of quarter sessions, with annual stipends. He caused a road to be opened from St. Giles, on the south side of the St. Lawrence, in the vicinity of Quebec, to the township of Shipton, near the provincial boundary line, known as "*Craig's road*," a distance of upwards of sixty miles, by a detachment of troops, affording by it a short and easy communication between the new townships, and the Quebec market, and a direct road from Quebec to Boston.

The new parliament (the seventh of Lower Canada)† met at Quebec on the 12th of De-

* Mr. Corbeil.

† The representatives chosen for this parliament, were as follows:—

Borough of Three Rivers, *Matthew Bell and Thomas Coffin*; Borough of William Henry, *Edward Bowen*; County of Surrey, *Pierre Bedard and Joseph Bedard*; Lower Town of Quebec, *Pierre Bruneau and John Mure*; County of Orleans, *Charles Blouin*; East Ward of Montreal, *Joseph Papineau and Stephen Sewell*; County of

cember 1810, and the house of assembly having re-elected their former speaker the Governor after again approving of their choice, informed them by his speech:—

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“That as he had never doubted the loyalty and zeal of the several parliaments which he had occasion to meet since he assumed the administration of the government of the province; so he relied with equal assurance, that he would not fail to experience the same principles in that which he was then addressing: and that in the confident expectation that they were animated by the best intentions to promote the interests of his Majesty’s government, and the welfare of his people: he should look for the happy effects of such a disposition in the tenor of their deliberations and the dispatch of the public business.

“I desire to call your attention (said he) to the temporary act for the better preservation of his Majesty’s government, as by law happily established in this province, and to that for establishing regulations respecting aliens or certain subjects of his Majesty who have resided in France. No change has taken place in the state of the public affairs, that can

Warwick, *James Cuthbert* and *Louis Olivier*; County of Devon, *J. B. Fortin* and *F. Bernier*; County of Hertford, *E. F. Roi* and *François Blanchet*; County of Quebec, *Louis Gauvreau* and *Jean Bte. Bedard*; Upper Town of Quebec, *James Irvine* and *C. Dénéchau*; County of Montreal, *Louis Roi Portelance* and *J. B. Durocher*; West Ward of Montreal, *E. N. St. Dizier* and *Arch. N. M’Leod*; County of Leinster, *Jac. Archambeault* and *D. B. Viger*; County of Richelieu, *Ls. Bourdages* and *Hyacinthe M. Delorme*; County of Effingham, *J. Meunier* and *Jos. Malbœuf dit Beausoleil*; County of Northumberland, *Thomas Lee* and *Joseph Drapeau*; County of Dorchester, *Pierre Langlois* and *John Caldwell*; County of Hampshire, *François X. Larue* and *François Huot*; County of Buckingham, *F. Le Gendre* and *J. Bte. Hébert*; County of Saint Maurice, *M. Caron* and *Frs. Caron*; County of Bedford, *Alexis Desbleds*; County of York, *Pierre St. Julien* and *François Bellet*; County of Cornwallis, *J. L. Borgia* and *J. Robitaille*; County of Kent, *L. J. Papineau* and *P. D. Debartzch*; County of Huntingdon, *J. A. Panet* and *Edme Henry*; County of Gaspé, *G. Pyke*.

The reader will perceive that the names denoting an *english* origin, (9) are now, as henceforward they will be, on the decrease.

Chap. warrant a departure from those precautions and that vigilance
 XIII. which have hitherto induced all the branches of the legisla-
 ~~~~~ ture to consider these acts as necessary. In saying that  
 1810. they are important to the interests of his Majesty's govern-  
 ment, you will not, I am confident, for a moment suppose,  
 that I mean to divide these from the interests of the public :  
 they are inseparable. The preservation of his Majesty's  
 government is the safety of the province, and its security is  
 the only safeguard to the public tranquillity. Under these  
 considerations I cannot therefore but recommend them,  
 together with the act making temporary provisions for the  
 regulation of trade between this province and the United  
 States, to your first and immediate consideration."

He intreated them to believe, that he should have great  
 satisfaction in cultivating that harmony and good understand-  
 ing which must be so conducive to the prosperity and happi-  
 ness of the colony, and that he should most readily and  
 cheerfully concur, in every measure which they might pro-  
 pose, tending to promote those important objects. He  
 concluded by observing "that the rule of his conduct was  
 to discharge his duty to his Sovereign by a constant atten-  
 tion to the welfare of his subjects which were committed  
 to his charge, and that he felt these objects to be promoted  
 by a strict adherence to the laws and to the principles of  
 the constitution, and by maintaining in their just balance the  
 rights and privileges of every branch of the legislature."

Immediately after delivering his speech, he  
 sent a message to the house by a member of the  
 executive council, intimating that Mr. Bedard,  
 returned to serve as a member for the county  
 of Surrey, was detained in the common jail for  
 the district of Quebec, under a warrant of  
 three members of his Majesty's executive  
 council, by virtue of the act "for the better  
 preservation of his Majesty's government as by  
 law happily established in this province," for  
 treasonable practices. The assembly by an  
 humble address returned its thanks to his

excellency, for the communication.—The ulterior proceedings of the body, on the subject, will be noticed presently.

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It was evident from the tenor of the Governor's speech, and his subsequent message to the house, that the renewal of this now unpopular act would be insisted upon by the government. The sentiments of the majority of the house were, without doubt, entirely averse to the recent measures of the administration; but, a refusal might embroil them more than ever with the executive, and result in consequences still more unpleasant than before. The dissolutions of the two preceding parliaments were still fresh in their memory, and they knew the inflexible consistency of the Governor's character. They observed in their address to the Governor, in answer to his speech:—

“Proud as we are of the just and elevated sentiments expressed by your Excellency, of the loyalty and zeal of the several parliaments which your Excellency has had occasion to meet in this province, we will leave nothing undone, on our part, to convince your Excellency that those principles exist in us, without the slightest diminution; and, animated by the best intentions to promote the interests of his Majesty's government, and the welfare of our fellow subjects, the effects of those sentiments shall be manifested in the tenor of our deliberations, and the dispatch of the public business.

“We concur with your Excellency, that no change has taken place in the state of public affairs abroad, that can warrant an abolition of the provisions of the provincial temporary act which provides for the better preservation of his Majesty's government, as by law happily established in this province. Yet, we think it our duty to inform your Excel-

Chap. lency, that the fears and apprehensions which prevail  
 XIII. amongst a great number of his Majesty's loyal and faithful  
 subjects, in consequence of the execution of this act, will  
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 1810. demand our serious consideration, before we can determine
 if its continuation, in the whole of its present form and
 tenor, will insure that confidence between his Majesty's
 government and his subjects in Canada, which is the safe-
 guard of the former, and of the interests of the public, in
 themselves inseparable.

“ A mature consideration of this act, and that for estab-
 lishing regulations respecting aliens, and certain subjects of
 his Majesty, who have resided in France, will become the
 objects of our most serious attention ; and we will equally
 keep in mind, all such measures as will secure that mutual
 confidence, which we consider as the firmest support of the
 government ; being convinced with your Excellency, that
 its preservation is the safety of the province, and its security
 the best pledge of the public tranquillity.

“ Fully convinced that it is the most sincere wish of your
 Excellency to cultivate that harmony and good understand-
 ing, which is so conducive to the prosperity and happiness
 of the colony, we shall cheerfully concur in any measure
 tending to promote these important objects ; objects more
 difficult to be obtained in this province, than any other of
 his Majesty's colonies, from the difference in opinions cus-
 toms and prejudices, of his Majesty's subjects residing
 therein.

“ We reflect with pain on the efforts which are made to
 represent in false colors, and in a manner wide of the truth,
 the opinions and sentiments of different classes of his Majes-
 ty's subjects in this province.

“ Following your excellency's example, let every one
 fulfil his duty to our august sovereign, by an unremitting
 attention to the interests of his government, and the happi-
 ness of his subjects in this colony ; and he will feel that a
 strict adherence to the laws and principles of the constitu-
 tion, and a firm support of the equal rights and privileges of
 every branch of the legislature, are the sole means of securing
 to his Majesty's subjects in this province, the full and entire
 enjoyment of their liberty, religious opinions and property ;

and which cannot be more perfectly confirmed to them, ^{Chap.} than by the free constitution which it has pleased his most XIII. gracious Majesty and his parliament to grant to this province." ~~~~~
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Words can scarcely imply a more direct disapproval of the recent measures of the Governor, who felt the force of their reflections, and replied in a way which left no room in their minds to doubt of his resolution to prosecute the renewal of the act in question. He returned them his acknowledgments for the sentiments of loyalty, and the good intentions to promote the interests of his Majesty's government, and the welfare of their fellow subjects, expressed in their address:—

“I shall at all times”—said he,—“receive with attention any information or advice that the house of assembly may think proper to convey to me: in the present instance, however, I feel myself called on to observe, that my information of the state of the province does not warrant that which you say you think it your duty to give me, of the existence of fears and apprehensions, with relation to the execution of the act for the better preservation of his Majesty's government, at least as applied to the people in general. If such fears and apprehensions exist, are they not confined to those who are aware of the possibility of themselves becoming obnoxious to the operation of the act? the voice of such will be always loud; and may not their clamour have misled you to suppose them more numerous than I suppose they really are? But with regard to the good people of the province, I am so far from thinking that they feel any apprehensions on the subject, that I date the subsiding of the ferment that then existed, and the restoration of the calm that has since prevailed among them, precisely from the moment at which the execution of the act took place. Similar means to those formerly employed might again revive the one and disturb the other, and none perhaps

Chap. XIII. would be more effectual for the purpose than infusing amongst them the fears and apprehensions to which you have alluded. Simple and uninstructed as they are, however, I shall trust to their good sense for its being found difficult to shake their confidence in his Majesty's government, because they find it exercising for their protection the means with which it is intrusted by law, or because they see that government armed with the power, and ready to step forward should it become necessary, to crush the aris of faction or to meet the machinations of treason. Viewing your address in the light of an answer to my speech, I must remark that I have been misunderstood in it.

1810. "The harmony and good understanding which I expressed myself desirous of cultivating, was that harmony and good understanding between me and the other branches of the legislature which must be so conducive to the prosperity and happiness of the colony. Whereas I perceive you have applied the expression more generally to the existence of these principles in the community at large. This would be no otherwise of consequence than as it has furnished you with the opportunity of bringing forward a sentiment in which I desire most cordially and truly to express my entire concurrence. I shall join with you in feeling pain in every instance in which the passions of any one part of his Majesty's subjects shall lead them to represent in false colours, and in a manner wide of truth the opinions and sentiments of any other part of their fellow subjects. Without any reference to example, let every one as you say, do his duty to the king and to the public, and as you express yourselves aware of the greater difficulty that exists in this province in the attainment of the important object in question, so I confidently trust I shall find you on all occasions exerting with advantage the superior opportunity which is afforded you by your situation as representatives of the people for promoting and cultivating those true principles of affection and attachment that may unite us as a free and happy people."

This sarcastic reply of the Governor stung them to the quick, but they were too well acquainted with his firmness to disregard his

remarks. The acts recommended by the Governor were first introduced and passed in the legislative council, from whence they were sent down to the lower house, where also they were passed with unusual speed, although the detention of one of their members in prison was the cause of much murmuring and disgust. This obnoxious act was therefore reluctantly continued with the old salvo in favor of the rights and privileges of either house, and of the members of the provincial legislature; it being thereby provided that no member of either house should be imprisoned or detained during the sitting of parliament, until the matter of which he stood suspected was first communicated to the house of which he might be a member, and the consent of that house obtained for his commitment or detention. This clause not having a retrospective effect, the Governor still persisted in detaining the member in confinement. His views on the occasion will appear presently.

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These preliminaries over, the house went to work. A series of resolutions respecting Mr. Bedard was passed, in which it was stated,—“that by a warrant issued from the executive council of the province, signed by three members thereof, the said Pierre Bedard, esquire, was, on the 19th day of March last, apprehended and committed for treasonable practices, and still continues to be detained in the common gaol of Quebec by virtue of the said warrant.

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1810. “ That the said Pierre Bedard was elected on the 27th of March last, and returned as one of the knights representative of the county of Surrey.

“ That the said Pierre Bedard is now one of the members of this house for the present parliament :—

“ Resolved,—That it is the opinion of this committee, that the simple arrest and detention of any one of his Majesty’s subjects, under and by virtue of the authority of the temporary act of the provincial parliament, intituled, “ An act for the better preservation of his Majesty’s government, as by law happily established in this province,” does not bring him under the description of those who are declared incapable of being elected to serve in the house of assembly, by the 23d clause of the act of the parliament of Great Britain, of the 31st year of his present Majesty, chap. 31.

“ Resolved,—That it is the opinion of this committee, that the provisions of the temporary act, intituled, “ An act for the better preservation of his Majesty’s government, as by law happily established in this province,” guarantees to the said Pierre Bedard, esquire, the right of sitting in this house.*

* In the act alluded to, there is a clause which it is probable the assembly built upon, as follows :—

“ Provided always, and be it enacted by the authority aforesaid, that nothing in this act shall extend or be construed to invalidate or restrain the lawful rights and privileges of either branch of the provincial parliament in this province.” Jurists may determine whether the assembly were right in their interpretation, or not ; but it is certain that the governor, who was no lawyer, (as he himself frequently said) paid no attention to it whatever.

The bill passed this session contained the same provision, but under the following words, as sent from the council :—

“ Provided always, that nothing in the said (the above) act contained, shall extend or be construed to invalidate or restrain the lawful rights and privileges of either branch of the provincial parliament in this province, or to the imprisoning or detaining of any member of either house of the said provincial parliament, during the sitting of such parliament, until the matter of which he stands suspected be first communicated to the house of which he is a member, and the consent of the said house obtained for his commitment or detaining.” This was the last appearance of this obnoxious bill in parliament, which refused to renew it, at the ensuing session.

“ Resolved.—That it is the opinion of this committee, that an humble address be presented to his excellency the governor in chief, to acquaint his excellency that this house have taken into serious consideration his excellency’s message of the thirteenth instant, and have accordingly passed several resolutions, which they conceive to be their duty to submit to his excellency; and that it is the wish of this house, should his excellency not deem it proper to lay before them any further communication on this subject, that Pierre Bedard, esquire, knight representative for the county of Surrey, may take his seat in this house.”

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These were carried by a vote of 20 to 5, and a committee consisting of Messieurs Bourdages, Papineau, senr., Bellet, Papineau, junr., Debartzch, Viger, Lee, and Bruneau, was appointed to present the address to his excellency, which it seems, however, they took especial care not to do, as we find, by referring to the journals of the house, in which the following proceedings with respect to it appear.

It was ordered, on the 5th of January, 1811, “ that the members named by the house to present to his excellency the governor in chief the address voted by this house to his excellency, on the 24th December last, do, on Monday next, acquaint this house with their proceedings thereon.” Accordingly, on the day appointed, we find it stated on the journals, “ that Messieurs Bourdages, Debartzch, Bruneau and Lee, four of the members named to present the said address, acquainted the house that to their knowledge the said address had not been presented to his excellency officially.”— Besides this, “ Mr. Viger, Mr. Bellet, and Mr.

Chap. XIII.
1811. Papineau, junior, three of the members named to present the said address, acquainted the house that they were never required agreeably to the custom of this house, to wait on his excellency and present to him the said address."

" Mr. Borgia moved to resolve, seconded by Mr. Huot, that an enquiry be made of the causes for which the messengers did not officially present the address voted by this house, on the 24th December last, to his excellency the governor in chief."—" Mr. Coffin moved in amendment, seconded by Mr. Bowen, to leave out all the words after "*that,*" and insert, " the said messengers be discharged from presenting the said message."—" Mr. Papineau, senior, moved, seconded by Mr. Debartzch, that the consideration of the main question and of the question in amendment be adjourned," upon which the house divided, yeas 16, nays 13—and it being carried in the affirmative, the matter was accordingly adjourned, and no more agitated during the session. The solution of the above will appear at the close of this chapter; as explained by his excellency himself.

The repairs to the ancient castle St. Lewis, for which, at a previous session, an appropriation of £7,000, currency, was made, had cost £14,980, more than double the sum appropriated for the purpose; but, upon examination of the details of expenditure, the difference

was cheerfully made up by the assembly a day or two previous to the prorogation.*

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Several acts of importance were passed this session and received the royal sanction, including that known as the "gaols' bill," a very productive revenue act, yielding the last year, (1810), upwards of twenty-two thousand pounds, currency, and about to expire, but now temporarily continued. The erection of a parliament house on the proceeds of it was contemplated, and fifty thousand pounds were accordingly voted for the purpose, which vote however, never took effect, the necessities of the public service, in the war with the United States, which soon after followed, absorbing the whole.† Besides the alien act, and that "for the better preservation of the government," the militia act was continued to the first

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* "Resolved,—That an humble address be presented to his excellency the governor in chief, praying his excellency that he will be pleased to order that the sum of £7980 19s. 1½d., currency, be taken out of any unappropriated monies which are now, or may hereafter be, in the hands of the receiver general of this province, to be applied to discharge and cover the deficiency which has arisen between the sum of £7,000, currency, granted by the act of the forty-eighth of his Majesty, chapter thirty-fourth, for repairing and ameliorating the ancient castle of St. Lewis, and the sum of £14,980 19s. 1½d, currency, to which the said repairs and ameliorations do amount; and that this house will, at the next session of the legislature make good the same."

† "Resolved,—That it is expedient to erect, either together or separately, and successively, one or more building or buildings, for the purpose of holding with dignity, and in a suitable and advantageous manner, the sittings of the legislature, with the offices and necessary dependencies; and also for holding the sittings of the executive council, with its offices and necessary dependencies, and the offices of the secretary of the province, and of the surveyor general.

"Resolved,—That a sum not less than fifty thousand pounds, currency, will be necessary to carry into execution the resolutions taken by this committee."—25th February, 1811.

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of March, 1813, and to the end of the war, invasion, or insurrection, if any there should then be. The bill to disqualify judges, and rendering them ineligible to the assembly, also passed both houses and received the royal sanction, a measure highly satisfactory to the public. On the whole, the session went off remarkably well, and with every appearance of cordiality between the executive and the popular branch.

The public business being brought to as favorable a close as need be desired, his excellency prorogued the legislature on the 21st of March, with a speech, that, like all his previous speeches, though rather long, prosy, and perhaps unnecessarily admonitory, was remarkable, and which, to do it no injustice, we insert at full length. It is the best testimony that can be resorted to for his opinion of the country and times in which he governed it, and of his own administration of the government:—

“Gentlemen of the legislative council, and gentlemen of the house of assembly:—

“After so long and so laborious a session, I feel great pleasure in being able to release you from any further attendance, and that you can return to your constituents with the satisfactory consciousness of not having neglected their service, or overlooked their interests, in the various acts that you have presented to me for his Majesty’s assent.

“Upon the state of our public affairs, the difficulty of communication with Europe has, this winter, appeared to be greater than usual, probably owing to the impediments thrown in the way of the american commerce, by the acts of their government. I have therefore little to communicate. The feelings which would otherwise have attended the much lamented death of an amiable Princess, were almost

lost in the contemplation of the afflicting calamity by which that event was followed, in the alarming indisposition of our revered Sovereign. Let us place our confidence in the mercy of God, and trust that he will, in his gracious dispensation, realise those hopes, that are held out to us by the last accounts that we have received, of his being speedily restored in health, to his grateful people. Chap. XIII. 1811.

“It is scarcely necessary that I should observe upon a new act of non-intercourse, or non-importation, with respect to Great Britain, which has passed in the American congress. By what I can understand, the best of their lawyers are divided in their opinion as to its operation. With us, however, I fear there can be no difference of sentiment, as to its being a branch of that system of partial and irritating policy, which has so long marked their public proceedings towards us. The bill which you have so wisely passed, for preventing the nefarious traffic that has been but too long carried on, in the forgery of their bank notes, will at least prove, that you have not suffered any sentiment of resentment to weigh against those principles of liberal justice with which you are at all times animated towards them.

“I have, gentlemen, to thank you, for the provision that has been made for the payment of the expenditure that has been incurred in the providing a habitation for your governor, beyond the sum originally voted for the purpose. Having taken this step upon myself, in the confidence I placed in the liberality of Parliament, I feel however some anxiety, that the good people of the province should know, that the expenditure has been conducted, by the gentlemen appointed to act as commissioners, with an economy that has saved some thousands of pounds, and, with respect to myself, under the knowledge that there existed funds, by which it could be answered, without laying any additional burthen upon them.

“Among the acts to which I have just declared his Majesty’s assent, there is one which I have seen with peculiar satisfaction. I mean the act for disqualifying the judges from holding a seat in the house of assembly. It is not only that I think the measure right in itself, but that I consider the passing an act for the purpose, as a complete renunciation of the erroneous principle, the acting upon

Chap. which, put me under the necessity of dissolving the last
XIII. parliament.

1811. “Gentlemen, you are now about to return to your homes, and to mix again in the common mass of your fellow citizens; let me entreat you to reflect upon the good that may arise from your efforts to inculcate those true principles of regularity and submission to the laws, that can alone give stability to that degree of happiness which is attainable in the present state of society. Your province is in an unexampled progress of prosperity: riches are pouring in upon the people, but their attendant evils, luxury and dissipation, will inevitably accompany them; the danger of these is too well known, to require that I should detain you, by enlarging upon it; it will demand all the efforts of religion, and of the magistracy, with the scarcely less powerful influence of example and of advice in the well disposed and better informed, to counteract their effects, to preserve the public morals from sudden relaxation, and, finally, to bar the entry to crime and depravity.

“A large tract of country, hitherto little known, has been opened to you; its inhabitants are industrious and intelligent, and they cultivate their lands with a productive energy, well calculated to increase the resources of the colony. Let them not on these grounds be objects of envy or of jealousy; rather let them be examples, to be carefully watched and imitated, ’till, in the whole province, no other difference of fertility shall appear, but what may arise from variety of soil, or difference of climate.

“And now, gentlemen, I have only further to recommend, that as in an early part of the session, you yourselves took occasion to observe on the difficulty of the task, you will proportionally exert your best endeavors to do away all mistrust and animosity from among yourselves;—while these are suffered to remain, all exertion for the public good must be palsied. No bar can exist to a cordial union—religious differences present none—intolerance is not the disposition of the present times—and, living under one government, enjoying equally its protection and its fostering care, in the mutual intercourse of kindness and benevolence, all others will be found to be ideal. I am earnest in this advice, gentlemen. It is probably the last legacy of a very sincere

well-wisher, who, if he lives to reach the presence of his sovereign, would indeed present himself with the proud certainty of obtaining his approbation, if he could conclude his report of his administration, with saying: I found, sire, the portion of your subjects that you committed to my charge, divided among themselves, viewing each other with mistrust and jealousy, and animated, as they supposed, by separate interests. I left them, sire, cordially united, in the bonds of reciprocal esteem and confidence, and rivalling each other only in affectionate attachment to your Majesty's government, and in generous exertions for the public good."

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In this, as well as in former speeches to the legislature, we find the sentiments of an honest, frank, and philanthropic mind. Although he was thought by many to have been under the influence of party, he was certainly unconscious of it, himself.—But by profession a soldier, and accustomed to war and campaigning, the busy scenes of which he had just left, on coming to Canada, he could not, perhaps, divest himself of its prejudices, nor while in a country where french was the general language, but feel himself, from recent associations in his mind, surrounded by enemies,—a sentiment which some of those about his person, it is not unlikely, may have made it a business to keep alive. His excellency received, previous to the prorogation of the legislature, intimation of the king's compliance with his request to be relieved of the government on account of his declining health; tidings, not less agreeable, it must be acknowledged, to those whose licentiousness he had curbed, than to himself, tired as he seems to have been

interp

Chap. of public life, and worn down in the service of
XIII. his king and country.

1811. Shortly after the prorogation of parliament, the prison door was left open to Mr. Bedard. —By some his release was attributed to orders from his Majesty's ministers to that effect; by others to a conviction in the mind of the governor of his innocence, or, at least, of his having made ample atonement for his errors, by the length and duress of his confinement. But the following allocution (the authenticity of which may be relied upon, as taken from the governor's own autograph on the matter,) with respect to that gentleman, to his executive council, shortly after the prorogation, elucidates the subject as amply as can be desired:—

“Gentlemen—In calling your attention to the imprisonment of Mr. Bedard, I am desirous of taking the opportunity of offering a brief recapitulation of the several circumstances that have attended it, with the view of leaving upon the proceedings of the board a record of the motives by which I have been actuated in the transaction.

“It is not necessary that I should advert to the occasion of this gentleman's confinement; it must be perfectly in your recollection, and I believe no circumstance has since taken place to cast a doubt on the expediency of the measure. In the unanimity of the opinions, by which it was effected, I felt confirmed in that which I had already formed, as to the necessity of steps being immediately adopted to check the mischief, with which we were threatened; for it must always be kept in view that Mr. Bedard's detention was a measure of precaution not of punishment, to which he could be subjected only by a decision of the laws of his country.

“Upon this principle the other persons who were imprisoned at the same time, with Mr. Bedard, having expressed their conviction of their error—I did not hesitate

to consider their having done so a sufficient security for their Chap. XIII. not reverting to the same conduct, and it appearing that the healths of both of them were in danger of being affected by their confinement, I was from that circumstance the more readily induced to propose, and you concurred, in their being released upon their giving security, for their forthcoming, had it been necessary to call upon them. 1811.

“ Upon the same principle, I have no doubt, you would as readily have agreed with me, in as early a liberation of Mr. B.—but having laid before you a petition which that gentleman had presented me, it did not appear to any one of us, to be of a nature to hold out the same expectation of his abstaining from the conduct against which, precaution was held to be necessary. As I did not think it proper to return any answer to his petition, my not doing so, produced a sort of communication between him and Mr. Foy*, to which it does not seem necessary to advert any farther than as regards the mode in which it concluded. It appearing to me that he was desirous of knowing what was expected of him; I sent for his brother, a curé, who I understood was in town, and in presence of one of the members of the board, now present, I authorized him to acquaint his brother with the motives which had induced his confinement, and that looking only to the security of his Majesty’s government and the public tranquillity—I had no wish that it should continue one moment beyond what was required by those objects;—that the moment he expressed a sense of his error, in what he had done,† I should consider that as a sufficient security for his not returning to the same dangerous course, and would immediately propose his enlargement to you. His reply, through the same channel, was couched in respectful terms, but declined admitting an error of which he did not feel that he had been guilty.

“ Mr. Bedard having been re-elected into the provincial parliament, it was not difficult to foresee that his imprisonment would become an object of discussion, when that

* The governor’s secretary, in the absence of Mr. Ryland, who was then in England.

† What had he done? there is no clue to that, nor distinct allegation of anything criminal beyond the indefinite one of treasonable practices.

Chap. assembly met. It therefore became also a subject of serious
 XIII. consideration, on my part, the result of which was a
 1811. determination to pursue a line of conduct—to the particulars
 of which it is not necessary here to advert, as it would be
 only anticipating an account of them, which I shall have
 occasion shortly to give, and in which I can only use the
 very words, which, I should otherwise now employ.

“You are all aware of the part taken by the house of
 assembly, on the occasion. I had already been furnished
 with a copy of the resolutions into which they had entered,
 and was in the daily expectation of their being presented,
 when I received an application from one of the leading
 members, that I would admit him to a conference; this was
 the elder Mr. Papineau, member for Montreal, and the
 subject was these very resolutions.—It would be irrelevant
 to my present object to refer to our conversation, any other-
 wise, than as it drew from me my final determination, and
 the motives on which that determination was founded, which
 I gave to him in the following words:—“no consideration,
 sir, shall induce me to consent to the liberation of Mr.
 Bedard, at the instance of the house of assembly, either as
 a matter of right, or of favor, nor will I now consent to his
 being enlarged on any terms during the sitting of the present
 session, and I will not hesitate to inform you of the motives
 by which I have been induced to come to this resolution. I
 know that the general language of the members has
 encouraged the idea which universally prevails, that the
 house of assembly will release Mr. Bedard; an idea so
 firmly established that there is not a doubt entertained upon
 it in the province;—the time is therefore come when I feel
 that the security as well as the dignity of the King’s govern-
 ment imperiously require that the people should be made to
 understand the true limits of the rights of the respective
 parts of the government, and that it is not that of the house
 of assembly to rule the country.”

“In rendering this account of my conversation with Mr.
 Papineau, in so far as relates to the subject in question, I
 have laid before the board the true grounds on which I
 have hitherto acted in it, to which I may add—that I have
 thought it necessary further to abstain from taking any
 measures towards the enlargement of Mr. Bedard, till the

several members should have reached their respective homes, when it would appear to be impossible by any mis-representation of theirs, for them to ascribe it to the interference of the assembly.

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“ This object being now perfectly accomplished, and a pretty general tranquillity reigning in the province, I submit to your consideration whether the time be not arrived at which it is proper to put an end to the confinement of Mr. Bedard.”

He was accordingly released.

On the 19th of June, 1811, the governor embarked on board H. M. S. Amelia, for England; leaving Mr. Dunn again in charge of the government, and lieutenant-general Drummond, in command of the forces in the Canadas, consisting of 445 artillery, 3783 regular troops, and 1,226 fencibles, in all 5,454 men. He is said to have expressed, at the moment of his departure, a reflection on the deception, and ingratitude of mankind; declaring that he had experienced more of these human imperfections in Canada, than in the whole course of his life before coming to it: but whether his observations were intended to be general, or aimed at some of those immediately concerned with him in the conduct of public affairs, we are left to imagine. His health had long been wasting away with a dropsy and other infirmities contracted in the service of his country, and he doubted whether he should live to see the end of his voyage to England, which, however, he survived some months. \* Lan-

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\* Sir James H. Craig died in England, in the month of January, 1812, aged 62 years, having entered the service of his country in 1763, at the early age of 15 years. He was of a respectable scottish



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guage could not convey to him addresses more gratifying than those, which, previous to his departure, he received from different quar-

family, the Craigs of Dalnair and Costarton, and born at Gibraltar, where his father held the appointment of civil and military judge. In 1770, he was appointed aid-de-camp to general Sir Robert Boyd, then Governor of Gibraltar, and obtained a company in the 47th regiment, with which he went to America in 1774, and was present at the battle of Bunker's hill, in which latter engagement he was severely wounded. In 1776, he accompanied his regiment to Canada, commanding his company in the action of Trois Rivieres, and he afterwards commanded the advanced guard of the army in the expulsion of the rebels in that province. In 1777, he was engaged in the actions at Ticonderoga and Hubertown, in the latter of which engagements he was again severely wounded. Ever in a position of honourable danger, he received a third wound in the action at Freeman's farm. He was engaged in the disastrous affair at Saratoga, and was then distinguished by Gen. Burgoyne, and the brave Fraser, who fell in that action, as a young officer who promised to attain to the very height of the military career. On this occasion he was selected by Gen. Burgoyne to carry home the despatches, and was immediately thereafter promoted to a majority in the new 82d regiment, which he accompanied to Nova Scotia in 1778, to Penobscot in 1779, and to North Carolina in 1781; being engaged in a continued scene of active service during the whole of those campaigns, and generally commanding the light troops, with orders to act from his own discretion, on which his superiors in command relied with implicit confidence. In a service of this kind, the accuracy of his intelligence, the fertility of his resources, and the clearness of his military judgment, were alike conspicuous, and drew on him the attention of his Sovereign, who noted him as an officer of the highest promise. In 1794 he obtained the rank of Major General, and in the beginning of the following year he was sent on the expedition to the Cape of Good Hope, where, in the reduction and conquest of that most important settlement, with the co-operation of Admiral Sir G. K. Elphinstone, and Major General Clarke, he attained to the highest pitch of his military reputation, and performed that signal service to his King and country, of which the memory will be as lasting as the national annals. Nor were his merits less conspicuous in the admirable plans of civil regulation, introduced by him in that hostile quarter, when invested with the chief authority, civil and military, as Governor of the Cape, till succeeded in that situation by the Earl of Macartney, in 1797, who, by a deputation from his Majesty, invested General Craig with the Red Ribbon, as an honourable mark of his Sovereign's just sense of his distinguished services. Sir James Craig had scarcely returned to England, when it was his Majesty's pleasure to require his services on the staff in India. On his arrival at Madras, he was appointed to the command of an expedition against Manilla, which not taking place, he proceeded to Bengal, and took the field

ters, in particular those of Quebec, Montreal, Three Rivers, the county of Warwick, and from Terrebonne.

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The whole british population of Quebec attended his excellency on his departure, from the castle of St. Lewis for embarkation, taking from his carriage the horses, in the castle yard, the multitude conveying it thence to the king's wharf, where he embarked, under every mark of affection and respect it was in their power to shew him, and deeply affected by their demonstrations of personal regard.\*

service. During five years in India, his attention and talents were unremittingly exerted to the improvement of the discipline of the Indian army, and to the promotion of that harmonious co-operation between its different constituent parts, on which not only the military strength, but the civil arrangement of that portion of the british empire so essentially depend. In January 1801, Sir James Craig was promoted to the rank of Lieutenant General, and returned to England in 1802, he was appointed to the command of the eastern district and remained in England till 1805, when, notwithstanding his constitution was much impaired by a long train of most active and fatiguing service, he was selected by his Sovereign to take the command of the british troops in the Mediterranean. He proceeded to Lisbon, Gibraltar, Malta, and from thence to Naples, to act in co-operation with the russian army. But the object of these plans being frustrated by the event of the battle of Austerlitz, sir James withdrew the troops from Naples to Messina, in Sicily. During the whole period of his command in the Mediterranean, he had suffered severely from that malady which terminated his life—a dropsy, proceeding from an organic affection of the liver; and feeling his disease sensibly gaining ground, he returned with his Sovereign's permission to England in 1806. A temporary abatement of his disorder flattering him with a prospect of recovery, and being unable to reconcile his mind to a situation of inactivity, he once more accepted an active command from the choice of his Sovereign, and in 1807, on the threatening appearance of hostilities with the United American States, was sent out to Quebec, as Governor in chief of British America.—(*from a memoir originally published in Scotland.*)

\* “ His excellency was received at the place of embarkation by captain IRBY, and after addressing in an appropriate manner, the worthy men who had paid him the last service he was ever to receive in this province, he gave signs of embarrassment for the first time since his residence amongst us. His heart was full; and his calm and

On the eve of his departure, an action of damages was instituted on the part of several of the proprietors of the "*Canadien*" press, against the magistrate\* who had seized it. This action, however, proved abortive, owing to a flaw in the proceedings, and was not renewed.

Sir James Henry Craig had been, from his youth, in the service of his country, and owed to merit alone, his rank and consideration in the army. He had, upon several occasions, distinguished himself as an able officer, and stood high in the estimation of his sovereign. He was of an agreeable countenance, and impressive presence, stout and rather below the middle

martial look subdued for an instant. He was not only about to terminate an administration marked throughout by pure intentions and successful results,—he was closing for ever a long career of useful public life—he was taking leave of a whole community, whose esteem he had justly won, and looking for the last time on a few who had been his companions in arms in various quarters of the world, and particularly on one, † who long since, and through many of the changes of his life, had enjoyed his entire confidence and friendship.

"Whatever may now be said of this personage, will be spoken across the grave. We shall never fix our eyes upon him again, nor he ever more be approached by any of us. He has taken his seat in history, where his fame will rise in proportion as he shall be judged with rigor. It will be found by a thousand evidences that he united the genius of greatness with an ardent love of doing good; and possessed an association of talents seldom found in any individual. His reigning passion was to perform his duty completely and conscientiously; his favorite amusement, to confer by acts of charity the means of subsistence on the indigent, and to add to the relief of many in declining circumstances. Every project, every act, whatever objects they might refer to, bore the impression of his character; and if one principle of it was stronger than another, it was discoverable in a broad deep tone of benevolence, which reigned throughout the whole. His appearance and address announced a superiority which was readily admitted, because unequivocally felt; and many who, from various causes had frequent access to him, sensibly experienced the magic of such an union of happy qualities."—*Quebec Mercury of 24th June, 1811.*

\* Thomas Allison, esqr., an old officer, and formerly a captain in H. M. 5th regiment of foot, then a resident in Quebec, since deceased.

† Probably, the adjt.-general, Baynes.



stature: manly and dignified, in deportment, but social, polite, and affable: positive in his opinions, and decisive in his measures.—  
 Although hasty in temper, he was, like most men who are so, far from implacable, and, as we have seen, easily reconciled to those who may have incurred his displeasure. Hospitable and princely in his style of living, he was also munificent in his donations to public institutions—and for charitable purposes—a generous patron—and, for the last we shall mention, though not the least of his virtues,—a friend to the poor and destitute, none of whom applying at his threshold, ever went away unrelieved.

In reverting to those times, after the lapse of seven and thirty years, in the course of which all the actors and most of the spectators have disappeared, a dispassionate and perhaps just opinion of the government of that day, may now be pronounced. It was guided, or rather misguided, to speak more aptly, by a few rapacious, overbearing, and irresponsible officials, without stake or other connexion with the country than their offices; having no sympathy with the mass of the inhabitants or community of interests and feelings with them, nor other claim or pretension to the people's confidence and respect, than such as their places together with the monopoly of the public treasury, afforded them. They lorded it, nevertheless, over the people upon whose substance they existed, and by whom, far from being

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confided in, they generally were hated. Their offices, however, and particularly their command of the treasury, over which the representatives of the country had not yet obtained the controul that constitutionally appertained to them, gave them a certain influence and aristocratic standing, that did not belong to them, and which placed them altogether in a false position, according to all constitutional and english notions of their true one.—Servants of the government, they seemed to imagine themselves princes among the natives and inhabitants, upon whom they affected to look down, estranging them as far as they could from all direct intercourse, or intimacy, except through themselves, with the governor, whose confidence, no less than the treasury it was their policy to monopolise, and to keep him as a conveniency in their own hands.—They saw with dread, as a prelude to the downfall of their power, the offer of the assembly to defray the necessary expenses of the civil government, which, of course, would carry with it the right of controlling those expenses, and necessarily divest the officials of the possession of the treasury, which constituted their greatness. Much of the animosity of the times turned, it should also be observed here, upon this vexed question of the civil list, and which afterwards contributed to involve the province in still deeper troubles, finally resulting in the union.

Arriving in the country a stranger, the governor, however upright and independent he were,

(and no man could be more so than Sir J. H. Craig,) necessarily had to look for his information and advice in matters of state, from those he found constituting his council, or whose official stations brought them into immediate communication with him.—It was, indeed, his duty to consult them, and cautious as he might be, he could not long remain perfectly unimpressionable against his constitutional advisers, for such they were.—Once in possession of his confidence, the rest is easily imagined. Seeing matters but as they saw or thought fit to represent them, that he would take his impressions from them, and gradually their prejudices also, it is but natural to suppose. They wielded the powers and dispensed the patronage of government, without any of its responsibility, which rested entirely upon him, while the country had no real or efficient check or controul either upon him or them. There was no access but through them to the governor's confidence, and scarcely to his ear—no preferment, nor admission to office till they were propitiated, and their fiat, as a necessary qualification, were obtained by the aspirant, and who also, in the pursuit, probably, had often to lick the very dust from their feet—their smiles were fortune and their frowns were fate, to the candidates who frequented the purlieus of the castle, or waited in the anti-chambers of it in expectation of the viceregal favors.—In fine, the governor, however unconscious of it he may have been, really was in the hands of, and ruled by a clique of

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officials rioting on the means of the country, yet desiring nothing better than the privilege of tyrannising it, and who, however obsequious to him in appearance, were nevertheless his masters.—The government, in fact, was a bureaucracy, the governor himself little better than an hostage, and the people looked upon and treated as serfs and vassals, by these their official lords.—Such was the inverted order of the government in those times, any thing, it must be avowed, but responsible in the english acceptation and meaning of the term.

Whether the scheme of responsible government, in which Canada now (1848) prides itself, will prove a better speculation, posterity which there is every probability will pay well for it, will determine better than we, of the present day, possibly can pretend to do.

It differs from the former in this, that they were of the appointment of the crown solely, independently of the country; whereas these are named at least with the concurrence of the representatives of the people, if not absolutely of their joint appointment with the crown, for, as pretended, the mutual advantage of the governing and governed, but on a basis always of corruption and consequently no more than a bureaucracy of another and still baser kind. Certain principal officials or heads of departments are, according to it, to retain, it seems, their offices, with the large salaries appertaining to them, and constitute the executive council, or provincial ministry, so long only as they can preserve seats in the assembly and secure a majority in

it of partisans or adherents—no matter by what means, that being their affair,—in proof of their enjoying its confidence. In other words, that while they can secure their dominion in the assembly—in that body intended to be the constitutional check upon them, and to whom they are supposed responsible—and sway it at pleasure, they shall be the responsible ministers, with the treasury at command, and its attendant influences, and theirs the spoils of office, as the reward of corruption, and the means of perpetuating it.—A fair understanding, in fact, that corruption shall be legal, and the people pay, provided always the representatives have their share ; and this is the responsible government ! A more perfect inversion whereof, nevertheless, it is difficult to conceive, promising but agitation to the country and instability in the government—a political eureka, for the moment the rage, in which those who pay and those who receive, equally rejoice and join with one accord. The former bureaucracy held in subjection but the one branch, without any acknowledged responsibility, it is true ;—with the present, it is an incumbent duty to sway the two, under indeed a pretended responsibility amounting really to nothing ; and we have had proof enough of the arrogance and domineering spirit growing out of it towards both branches, to deprecate the monster in its present shape. It is, in fact, but another and more plausible scheme, to monopolise the people's treasury among the few supposed to possess their confidence, or what comes to that, adroit enough, by corruption or otherwise, to

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make it appear so ; and to which for peace, though let us hope, only as an experiment for the moment, till the expensive mania subside, the ruling power has complacently, however delusively with respect to the public weal and its own credit, acceded.

What system would be the most suitable and best for our colonial state, and we are far from ripe for any other, we have not, nor is it our business, the presumption to suggest, nor the talents to imagine ; but one less liable to corruption and of more efficient checks and balances than that we possess, all who hitherto have observed its operation will agree, is desirable, demoralising as it is in its effects, and promising neither strength nor stability to the government, nor freedom nor satisfaction to the people. To exclude the heads of departments and principal officials from all participation in the political concerns of the country, confining them exclusively to their official duties will, perhaps, after all, be found the wisest plan. While the administration of the government is in the hands of declared partisans, its every act will partake of that character or be suspected of it, and there will be no confidence in its justice or impartiality, and the government esteemed any thing but that of the sovereign and just.

The executive, at this time, consisted of

The chief justice Sewell.

Rt. reverend Jacob lord bishop of Quebec.

Thomas Dunn,  
P. de St. Ours,  
Francis Baby,  
James McGill,

Chief justice Monk,  
P. A. de Bonne,  
John Young,  
Jenkin Williams,

John Craigie,  
P. L. Panet,  
John Richardson,  
James Irvine.



P. S.—In a work of this nature, we can have little to say in regard to Sir J.H. Craig's military duties and government, but a general order issued by himself, while in this command, and which subsequently, by order of the commander in chief, was read at the head of every regiment in the british service, is so characteristic of the late Sir J.H. Craig, as a british soldier, subject, and servant of the king, and altogether so valuable a document, that we think we cannot do better than give it a place in these pages:—

“ HORSE GUARDS, January 18, 1810.

The commander in chief has directed the following order, issued by the general officer commanding his Majesty's forces in North America, to be inserted in the general orders of the army:—

“ QUEBEC, 4th October, 1809.

“ General Order.—The commander of the forces has lately had occasion to see in a Halifax newspaper, a copy of an address presented by the sergeants of the 1st battalion Royal Fusiliers, to captain Orr, on that officer relinquishing the adjutancy, in consequence of being promoted to a company. So novel a circumstance could not fail to draw the attention of his excellency, it being the first of the kind that has come to his knowledge during the forty-six years that he has been in the service, and as the first instance has thus (so far as he is aware at least), occurred on the part of the army, with the charge of which the king has been pleased to entrust him, he feels himself called on by every obligation of duty to his Majesty and the service, to bear his testimony against it, by a public expression of disapprobation.

“ His excellency does not mean, in this instance, to ascribe any improper motive to the sergeants—he has no doubt that their sole view was to express their regard and gratitude towards an officer, who, in the intimate connection that had officially subsisted between them, had very commendably conducted himself with kindness to them, without departing from that strictness of discipline which was indispensable to the discharge of his duty.

“ But while his excellency thus does justice to the intention of the sergeants of the Royal Fusiliers, he desires at the same time very seriously to observe to them, that in presuming to meet, in order to deliberate on the conduct of their superior officer, they have in fact, however unintentionally, been guilty of an act of great insubordination.

“ It matters not that the design of the meeting, or in whatever manner the address was unanimously assented to, was solely to express their respect and esteem, the very circumstance implies discussion, and by that discussion they rendered themselves obnoxious to the imputation alluded to. Who, indeed, shall say where such a practice, if once introduced, shall end? If the non-commissioned officers of a regiment are permitted to express their approbation of the conduct of the adjutant, why may they not exercise the same right with respect to their commanding officer? or what reason can be given why they should not be equally entitled to express their disapprobation? Indeed should the practice become general, the merely withholding the former would imply the latter.

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“ General Sir James Craig is the more desirous that his sentiments on this subject should be distinctly understood in the Fusiliers, because it appears on the face of the address of the sergeants in question, that it has been countenanced by the officer who then commanded the regiment. The commander of the forces does no more than justice to the character and services of that officer, when he admits, that feeling as he does the dangerous tendency of the practice which he is censuring, he also feels himself the more bound to oppose it, in the first instance, from the strength which it might otherwise derive from the sanction which he appears to have given to it.—Lieut.-col. Pakenham will, however, believe, that though it was impossible the general should avoid this observation upon his error, yet his doing so can by no means detract from the esteem with which he has been taught to view his character as an officer, or the confidence which he should be disposed to place in his services.

(Signed) “ EDWARD BAYNES,  
Adjt.-Gen. to the british army serving in North America.

The reason for which the commander in chief has directed the circulation of this order, is, that he may avail himself of this opportunity of declaring to the army his most perfect concurrence in the sentiments therein expressed by the distinguished and experienced officer by whom it was framed, on a subject which appears to have been, by some, very much misunderstood.—The circumstance of inferiors of any class of military men assembling for the purpose of bestowing praise and public marks of approbation on their superiors, implies a power of deliberation on their conduct, which belongs to the king alone, or to those officers to whom his Majesty may be pleased to entrust the command and discipline of his troops.

“ It is a procedure equally objectionable, whether in the higher or lower ranks of the army, and as the commander in chief cannot but regard it as, in principle, subversive of all military discipline, he trusts it is a practice which will be for ever banished from the british service, as deserving of the highest censure, and he directs officers in command to act accordingly.

“ By command of the right honorable the commander in chief.

“ HARRY CALVERT, Adj. Gen.”

The following is a translation from the french, of one of a variety of ordinances, or general orders, issued shortly after the conquest by General Murray, as recorded in that language in a register appertaining to the Literary and Historical society, of Quebec. As an authentic record it must be valuable in the estimation of every british subject, who likes to think well of his country, and believes in the honor and integrity of its government, and will together with the succeeding document be read, by such, with interest, particularly at a time when agitation is likely again to be the order of the day, and those of whom better things were to have been expected are at work, abusing, flouting, reviling, not merely the colonial administration,

but the government of the great and glorious empire, the british, of which we make part, and justly may be proud, in terms the most injurious and insolent that language affords and malice can supply; accusing it also of injustice and tyranny, but of whose clemency and benevolence the very detractors themselves are living and striking proofs. It is at all times satisfactory, particularly in such as these, to peruse such records, and find them borne out thirty years afterwards by evidence of the eminent, the wise, and the good, as bishop Plessis really was.

“ By his Excellency James Murray, &c. &c.,

“ His Majesty having signified through his minister to us, his royal pleasure, that the french inhabitants of this colony, who being also his subjects, have an equal right with others, to claim his protection—be treated with the same humanity and tenderness, and enjoy fully the same mild and benignant government, which, already so eminently distinguish the happy auspices of his Majesty’s reign, and which constitute the happiness of all who are subjects of the british empire;—We by these presents declare—that all soldiers, sailors, or others his Majesty’s subjects, who shall be convicted of having in the slightest degree insulted any canadian habitants, now their fellow subjects, either by malicious insinuations as to their inferiority through the fortune of war, or by indecent railleries as to their language, dress, manners, customs, or country, or by uncharitable reflections upon the religion they profess; shall be most rigorously punished. We, moreover, declare that all persons trading, or dealing, with the indians, or others, who taking advantage of their simplicity, shall be convicted of having defrauded them, or of having attempted to surprise them, whether those domiciliated within this government, or those who are protected by it; shall, on being thereof convicted be punished with the utmost severity, for disobedience of the King’s orders, and for dishonoring the commerce of Great Britain—and to the end, that the inhabitants may know what recourse they have, in case of complaint, against any of his Majesty’s british subjects, We command them to make their complaint either directly to us, in person or to our secretary, or in his absence, to the “*Greffier en chef*”—to the end that they be heard and justice done, according as to right it shall appertain. We also require all officers of his Britannic Majesty, as well military as civil, to be aiding and assisting in the execution of these his Majesty’s commands; and to the end that no person shall pretend ignorance of the same, the commanding officers, of british regiments, will see that the present is published to their several companies, throughout all the cantonments of this government, and all commanders of ships and vessels, are also required to notify the same to their respective crews, under pain of answering therefor in case of neglect, and, it is moreover ordered, that the present be read, published and affixed, when and where the same may be necessary.

“ Quebec, 11th March, 1762.

(Signed,) “ JAMES MURRAY.

“ By order, CRAMAHE’, Secretary.”

The following is taken from “*the Quebec Gazette*” of the 8th December, 1847:—



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The following extract from the funeral oration of Monseigneur Jean Olivier Briand, bishop of Quebec, pronounced by the reverend Joseph Octave Plessis, in the cathedral church, on the 27th June, 1794, will shew that the "hatred" between the "new comers" and the descendants of the first settlers of Canada, was not prevalent thirty years after the cession of the province. If any such hatred prevails at present, as is asserted by certain newspapers, it is the work of the politicians and others seeking their own gratification rather than the performance of their duty to their sovereign and the welfare of the country.

The extract is from a manuscript in the hand writing of M. Plessis :  
Extrait de l'oraison funèbre de Monseigneur Jean Olivier Briand, évêque de Québec—prononcée par Mgr. Joseph Octave Plessis, alors curé de Québec, le 27 Juin, 1794, dans la cathédrale de Québec :—

" Les désordres qui régnaient dans cette colonie s'étaient élevés jusqu'au ciel, avaient crié vengeance et avaient provoqué la colère du tout-puissant—Dieu la désola par les horreurs de la guerre, et, ce qui fut considéré par les âmes justes comme un fléau encore plus terrible, l'église du Canada se trouva veuve et sans chef, par la mort du prélat qui la gouvernait depuis dix-neuf ans. (†) Perspective désolante ! Ah ! qu'elle répandit d'amertume dans toutes les familles chrétiennes. Chacun plaignait son malheureux sort et s'affligeait de ne pouvoir quitter un pays où le royaume de Dieu allait être détruit pour toujours. Nos conquérants, regardés d'un œil ombrageux et jaloux, n'inspiraient que de l'horreur et du saisissement. On ne pouvait se persuader que des hommes étrangers à notre sol, à notre langage, à nos loix, à nos usages et à notre culte ; fussent jamais capables de rendre au Canada ce qu'il venait de perdre en changeant de maîtres. Nation généreuse, qui nous avez fait voir avec tant d'évidence combien ces préjugés étaient faux : nation industrielle, qui avez fait germer les richesses que cette terre renfermait dans son sein ; nation exemplaire, qui dans ce moment de crise enseignez à l'univers attentif, en quoi consiste *cette liberté après laquelle tous les hommes soupirent et dont si peu connaissent les justes bornes* ; nation compatissante, qui venez de recueillir avec tant d'humanité les sujets les plus fidèles et les plus maltraités de ce royaume auquel nous appartenions autrefois ; (‡) nation bienfaisante, qui donnez chaque jour au Canada de nouvelles preuves de votre libéralité ;—non, non, vous n'êtes pas nos ennemis, ni ceux de nos propriétés que vos loix protègent, ni ceux de notre sainte religion que vous respectez.—Pardonnez donc ces premiers défiances à un peuple qui n'avait pas encore le bonheur de vous connaître ; et si après avoir appris le bouleversement de l'état et la destruction du vrai culte en France, et après avoir goûté pendant trente-cinq ans les douceurs de votre empire, il se trouve encore parmi nous quelques esprits assez aveugles ou assez mal intentionnés pour entretenir les mêmes ombrages et inspirer au peuple des désirs criminels de retourner à ses anciens maîtres ; n'imputez pas à la totalité ce qui n'est que le vice d'un petit nombre.

" Bien éloigné de donner dans ces erreurs, Mgr. Briand vit à peine les armes britanniques placées sur nos portes de ville, qu'il conçut en un instant que Dieu avait transféré à l'Angleterre le domaine de

ce pays ; qu'avec le changement de possesseurs nos devoirs avaient changé d'objet ; que les liens qui nous avaient jusqu'alors unis à la France étaient rompus, que nos capitulations ainsi que la traité de paix de 1763, étaient autant de nœuds qui nous attachaient à la Grande Bretagne en nous soumettant à son Souverain ; il aperçut ce que personne ne soupçonnait : que la religion elle-même pouvait gagner à ce changement de domination, &c.

“ Mgr. Briand avait pour maxime qu'il n'y a de vrais chrétiens, de catholiques sincères, que les sujets soumis à leur Souverain légitime. Il avait appris de Jésus-Christ, qu'il faut rendre à César ce qui appartient à César ; de St. Paul, que tout âme doit être soumise aux autorités établies ; que celui qui résiste à la puissance résiste à Dieu même, et que par cette résistance il mérite la damnation ; du chef des apôtres, que le roi ne porte pas le glaive sans raison, qu'il faut l'honorer par obéissance pour Dieu, *propter Deum*, tant en sa personne qu'en celle des officiers et magistrats qu'il députe—*sive ducibus tanquam ab eo missis*. Tels sont, chrétiens, sur cette matière, les principes de notre sainte religion ; principes que nous ne saurions trop vous inculquer, ni vous remettre trop souvent devant les yeux, puisqu'ils font partie de cette morale évangélique à l'observance de laquelle est attaché votre salut. Néanmoins, lorsque nous vous exposons quelquefois vos obligations sur cette article, vous murmurez contre nous, vous nous accusez de vues intéressées et politiques, et croyez que nous passons les bornes de notre ministère ! Ah ! mes frères, quelle injustice ! Avez-vous jamais lû que les premiers fidèles fissent de tels reproches aux apôtres, ou ceux-ci au Sauveur du monde lorsqu'il leur développait la même doctrine ? Cessez donc de vouloir nous imposer silence ; car nonobstant vos reproches, nous ne cesserons de vous le redire ; soyez sujets fidèles, ou renoncez au titre de chrétiens.

“ Lors de l'invasion de 1775, notre illustre Prélat connaissait déjà la délicatesse, ou plutôt l'illusion d'une partie du peuple à cette égard. Mais, il aurait cessé d'être grand, si une telle considération l'avait fait varier dans ses principes ou déranger dans l'exécution. Sans donc s'inquiéter des suites, il se hâta de prescrire à tous les curés de son diocèse la conduite qu'ils doivent tenir dans cette circonstance délicate. Tous reçoivent ses ordres avec respect et en font part à leurs ouailles. Le Prélat prêche d'exemples en s'enfermant dans la capitale assiégée. Dieu bénit cette résolution : le peuple, après quelque incertitude, reste enfin dans son devoir : les citoyens se défendent avec zèle et courage. Au bout de quelques mois, un vent favorable dissipe la tempête. Les Assyriens confus se retirent en désordre ; Béthulie est délivrée, la province préservée, et nos temples retentissent de chants de victoire et d'actions de grâces. &c., &c.”

[TRANSLATION.]

“ The disorders which prevailed in this colony ascended to Heaven, crying vengeance and provoking the wrath of the Almighty. God visited the country with the horrors of war, and, what was more felt by devout minds, as a more terrible infliction, the church of Canada was

(†) Mgr. Pévêque Pontbriand, décédé à Montréal, le 8 Juin, 1760,

(†) L'émigration du clergé français en Angleterre.

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widowed by the death and privation of its chief, who had governed it for nineteen years: (†) afflicting perspective! It spread the severest grief among all christian families. They all lamented their own unfortunate lot, and that they could not live where the kingdom of 1811. God was threatened with destruction. Our conquerors were looked upon with jealousy and suspicion, and inspired only apprehension. People could not persuade themselves, that strangers to our soil, to our language, our laws and usages, and our worship, would ever be capable of restoring to Canada, what it had lost by a change of masters. Generous nation! which has strongly demonstrated how unfounded were those prejudices; industrious nation! which has contributed to the development of those sources of wealth which existed in the bosom of the country; exemplary nation! which in times of trouble teaches to the world in what consists that liberty to which all men aspire and among whom so few know its just limits; kind hearted nation! which has received, with so much humanity, the most faithful subjects most cruelly driven from that kingdom to which we formerly belonged; (‡) beneficent nation! which every day gives to Canada new proofs of liberality. No, no! you are not our enemies, nor of our properties which are protected by your laws, nor of our holy religion which you respect. Forgive then this early misconception of a people who had not before the honour of being acquainted with you; and if, after having learned the subversion of the government and the destruction of the true worship in France, after having enjoyed for thirty-five years the mildness of your sway, there are some amongst us so blind or ill intentioned, as to entertain the same suspicions and inspire the people with the criminal desire of returning to their former masters; do not impute to the whole people what is only the vice of a small number.

“Far from yielding to these errors, Monseigneur Briand had hardly seen the british arms placed over the gates of our city, before he perceived that God had transferred to England the dominion of the country; that with the change of possessors our duties had changed their direction; that the ties which heretofore bound us to France were broken, and that our capitulations and the treaty of cession of 1763 were so many engagements which bound us to Great Britain and to submit to her Sovereign; he perceived what none had comprehended, that religion itself might gain by the change of Government, &c.

“Mgr. Briand had for a maxim that there are no true christians, sincere catholics, but such as submit to their lawful Sovereign. He had heard from Jesus Christ, that we must “render to Cæsar the things that are Cæsar’s”; from St. Paul, that every soul must submit to the established authorities; that those who resist the powers that be, resist God himself, and by that resistance incur damnation; from the chief of the apostles, that the King does not carry the sword in vain; that he must be honoured in obedience to God, *propter Deum*, both in his own person as in the persons of his officers and those to whom he confides his authority, *sive ducibus tanquam ab eo missis*. Such, Christians, are, in this matter, the principles of our holy religion, principles which we cannot too earnestly inculcate, nor submit too frequently to your consideration, since they form part of that gospel morality, in conformity to which depends your salvation.



Nevertheless, when we occasionally hold forth observations on this head, you murmur against us, you complain with bitterness and accuse us of interested and political motives, and believe that we exceed the duties of our ministry. Ah! my brethren, what injustice! Did you ever read that the first of the faithful so reproached the apostles, or that they so reproached the Saviour of the world, when he expounded to them the same doctrines? Cease then to endeavour to induce us to silence; for notwithstanding your reproaches we shall never cease to repeat, be faithful subjects or renounce the name of christians.

“On the invasion of 1775, our illustrious Prelate was acquainted with the scruples or rather the illusion of a part of the people on that occasion. But he would have ceased to be worthy of his elevation if such a consideration could have induced him to vary in his principles or abstain from acting on them. Without apprehension of the consequence, he hastened to prescribe to all the curates of his diocese the conduct which they had to observe on this delicate occasion. All received his mandates with respect and communicated them to their flocks. The Prelate preached by example, shutting himself up in the besieged capital. God blessed this resolution; the people after some incertitude defended themselves with zeal and courage. At the end of several months a favorable wind dispelled the storm. The Assyrians in dismay retired in disorder; Bethulia was delivered, the province preserved, and our temples resounded with the songs of victory and thanksgiving, &c., &c.”

It is gratifying to find such evidences in favor of the british government and people, from so eminent a man and in all respects estimable, as the late bishop Plessis, whose liberal and enlightend mind, characterized him in the opinions of all, as one of the first men of his country and of his day; and who in the elevated position he afterwards occupied as the prime dignitary of his creed and church in Canada, the land of his nativity, was not less distinguished as an *homme d'état* than ecclesiastic.

The following letter written by General Simcoe, to the late Major Holland, formerly Surveyor General, of Lower Canada—was in October, 1825, communicated to the author of this work by John Holland, Esq., of Prince Edward Island, who was then on a visit to Quebec, (since deceased) with permission to make use of it. Mr. Holland, (who was a son of the late Surveyor General of this province) was in possession of his father's answer, and was to have forwarded it on his return to the island; but it never came to hand. General Simcoe at the date of this letter was at Quebec on his way to Upper Canada, of which he was the first Lieut. Governor:—

“Quebec, May 26th, 1792.

“Sir,—Having at different times during my residence in this place had various conversations with you, on the operations of the army under General Wolfe,—I feel myself most strongly induced to desire

(†) Monseigneur Pontbriand, who died at Montreal the 8th June, 1760.

(‡) The emigration of the French clergy to England.

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of you to give me the substance of such part of them, in writing, as may tend to confirm me in the opinion I have been taught to form from my infancy, of the consummate ability of that General.

1811. "I beg to call to your recollection what I have told you—that the late Lord Sackville enquired of me, whether I had ever heard why general Wolfe landed at Montmorenci, and afterwards attacked the french works, in that quarter? "Because"—said he, in a very emphatical manner—"Colonel Simcoe and I tell you, that you may remember it;—general Wolfe told me, before he left England, that he would land where he afterwards did land." Personal observation has confirmed me in the apparent impracticability of Mr. Wolfe's forcing his way by the Montmorenci side, to Quebec; and your conversations have established in my mind the conviction that all his movements on that side, *even his attack*, had it succeeded, were meant by him to be, and would have been, no more than feints conducing to the accomplishing his original intent: that of assuming the masterly, but daring position on the heights of Abraham, which at all events must have terminated in the *surrender of the town*, or a battle, in which the veteran troops of Great Britain, under the auspices of general Wolfe, were certain to obtain that ascendancy over the french army, principally composed of irregulars, which a disciplined force capable of manœuvring will always maintain over those who are not habituated to military movements. To support my ideas, I have to beg of you, as the confidential engineer of general Wolfe—to give me in writing those particulars, which you have formerly communicated, of your very minute reconnoitring from the opposite shore, the plains of Abraham, and of that plan which your friend, the general, had intended to have pursued, should Monsieur Montcalm have declined to attack the british army, when it ascended the plains.

"It has been said that the landing was not made exactly in the place where it was intended. I should be glad for information on this point, though not very material. A captain's guard could in no place have prevented the british light infantry, commanded by such a man as Sir William Howe, from securing the landing. It was to remove a strong corps from the possibility of preoccupying that position before General Wolfe could accomplish the landing, or formation, of his army, to which all his designs must have tended.

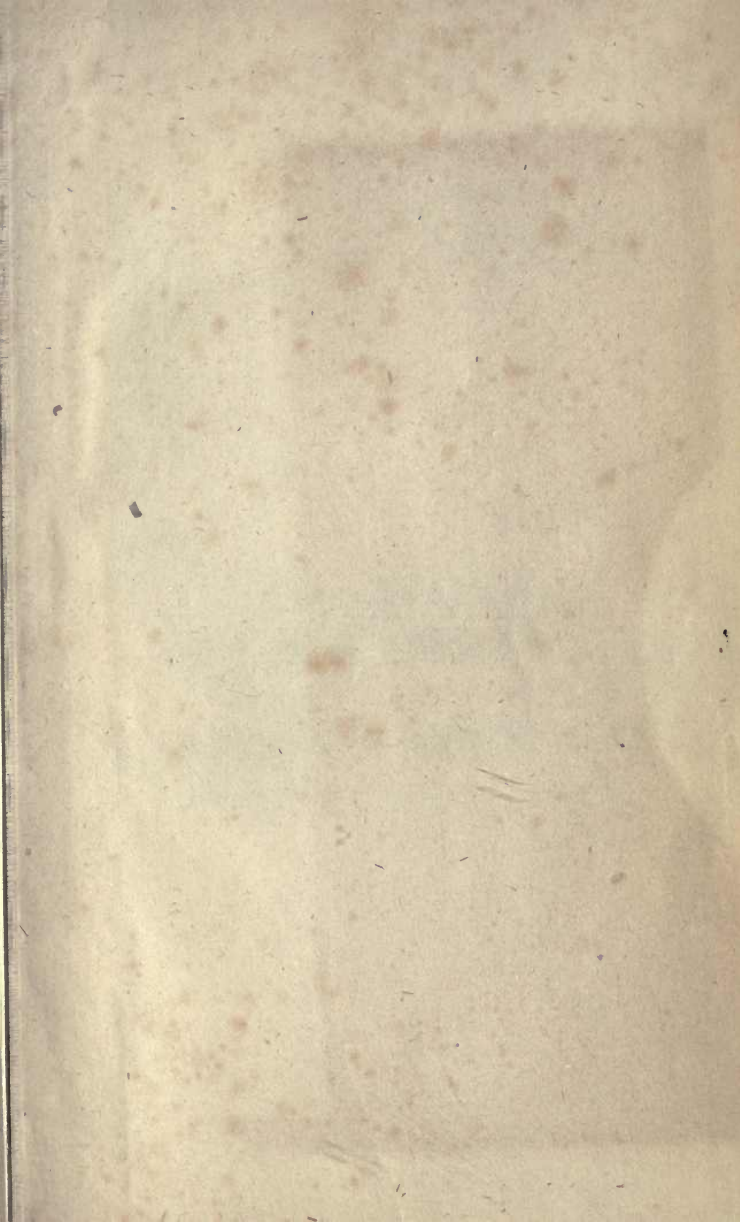
"For my own conviction, I want no written evidence of Mr. Wolfe's ability. I believe in my father's character of him, when at Louisbourg, that he was "skilful, brave, indefatigable, intelligent"—and look upon his conquest of Quebec, as the result of all those qualities; but, I must own, I am sorry to see, what I conceive, erroneous accounts propagated in foreign and some how or other fashionable authors, and wish they should not mislead in future our national historians. I am, Sir, with true respect, Your most obedient Servant  
(Signed) J. G. SIMCOE.

"To Samuel Holland, esquire, surveyor general."

Mr. Simcoe's father commanded one of H. M Ship's of war, at the reduction of Louisbourg.

END OF THE FIRST VOLUME.

[15th January, 1848.]







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