IMPERIAL PARLIAMENT.

HOUSE OF COMMONS—MAY 2.

THE CANADAS.——[*Concluded.*]

Mr. WILMOT HORTON said, the Right hon. Member appeared to have completely misunderstood the argument upon which his Right hon. Friend (Mr. Huskisson) had grounded his demand of a Committee. But before he entered on this question he wished to make one simple statement. The Right hon. Member had said that an attempt was made by his Majesty's Government to bring about a Union between the two provinces of Canada, contrary to their feelings and wishes, in a House in which there were only sixty Members present. The fact was, however, that the question was brought forward, and much to their inconvenience. A late member of Coventry, no longer in this House assured him (Mr. HORTON)—he even assured him in writing—that his political friends were so convinced of the advantages and benefits to be derived from such a measure, that no opposition on their parts would be given, but that on the contrary, it had only to be presented to be carried through. He repeated, this statement had been made in writing ; and he considered that never was there one worse used than he was. (Hear, hear, and laughter.) He said, plainly, that an instance of greater baseness had never yet been shown. He declared that he was in possession of the communication in which that statement was made, and one word would make him produce it. The Right hon. Gent. (Sir J. Mackintosh) had argued, that because the Colony was French—because it had fallen into our hands by conquest—it ought to remain French to the end of time. Now he (Mr. W. Horton) thought that it became that House to speak out, and declare what plan of colonial policy it was their intention to pursue. He agreed with the Right hon. Member as to the basis upon which it ought to be fixed. The argument was, that the Colony was French—the laws were French. He admitted this ; and also that a settler, even if an Englishman, was bound by those laws. But this did not prevent Parliament from interfering to modify those laws ; else what became of the Right hon Member's reasoning respecting the Dutch laws of the Cape of Good Hope, or the Spanish laws of Trinadad, which he declared it scandalous for an Englishman to be subjected to, as being contrary to all his feelings and prejudices. For himself he would never flinch from the position that all our Colonies should be Anglicised, rather than preserved in their original form. The quotation given from Mr. Pitt convinced him that the idea of that great man was, that the French Canadians would in the course of time, become imbued with English feelings and sentiments, and that their laws would be changed progressively until they became assimiliated to those of England. But it had been decidedly the contrary. There were three points upon which the Right hon. Member had shown more wit than sound argument. He had spoken of the law of property without considering that the question was not how that law affected the French, but also the other inhabitants of Canada ; for the French held, that their law extended not only over the Seigniories, but also over the whole surface. That law was parculiarly defective as respected mortgages, which any man might execute, whether he possessed an acre of land or not. There were 250 notaries before any one of whom they might be executed ; and there was no registration, nor any means of the morgagees knowing if any previous mortgage existed, or if there were any land to mortgage, all the Notaries being bound to secrecy. The consequence was, that there was no confidence in the transmission of property from one hand to another. He asked would they decide on giving a triumph to those who favoured the French class when such were the principles of their laws ? The Right hon. Gentlemen had made one great mistake. He (Mr. H.) held in his hand a petition from Lower Canada, complaining of the English Parliament imposing a tax of any kind on Lower Canada ; and he would ask the House whether they had not a right to impose duties when they granted protection ; and were they to be debarred from legislating on trade ? for if so, their Colonial system was at once and forever at an end. The petition contained another clause, which was, if possible, still more unreasonable ; it was, that the King had no right to interfere with feudal tenures, which he considered to be a most extravagant proposition. He would now come to the dispute between the executive and legislative parts of the Government. It depended on this—each Act that was passed concerning Canada, reserved the preceeding ones, whereby the 14th Geo. III. was still in force after the passing of the 31st Geo. III. By the former, the executive was placed under the Lords of the Treasury. But the Canadians had objected to taxation, and the only answer, though the most minute explanations were submitted to them, was one—we deny your law, and never will acknowledge it. And how did the executive act on the occasion ? Most mildly For the answer was, if you move a civil list we shall be satisfied, for our only anxiety is, that Government may not be stopped from want of funds to provide for its expenditure. With respect to the Judges, he could not be brought to think that it was well that they should be placed entirely under the controul of the Assembly, by its voting their salaries from year to year, and holding the power of extending them at will. Upon the whole, he felt that they were bound to legislate on liberal principles, and he hoped to see the Canadas prosper, for he thought our own prosperity was mainly involved in their's. He could truly say with the Right hon. Member, that he hoped there would be found in them the germs of future Englands, where their laws and institutions would be preserved. But he knew of no better course that could be adopted than the appointment of a Committee to examine into the anomalies caused by the 31st of the late King. He hoped the anxiety manifested by the House to augment their resources would do much to tranquillize the Colonies. He had now, he thought, stated sufficient special grounds for a Committee. He would not touch on the subject of religion. It was surrounded with difficulty and delicacy. There were also many details which he would not go into, but would conclude by saying, that he supported the motion of his Right hon. Friend most cordially.

Mr. STANLEY, after complimenting Sir J. Mackintosh on his learned and constitutional speech, said, that if he did not join him in going altogether the length of supporting the claims of one party, it was because he thought it important that the House should, upon this occasion, divest itself of all partiality, and by rendering equal handed justice, make such lasting provisions for the establishment of mutual confidence and good-will, as would enable all classes of his Majesty's subjects to look to this country as one with which they were firmly and indissolubly connected. He considered that the House was placed in an extremely delicate situation. They were to act as arbitrators between the Crown and its subjects. They, the representatives of the people of England, were to judge between the Crown and Lower Canada. The latter claimed their attention by a petition by 87,000 subjects. The former spoke through the Principal Secretary of state for the colonies, who asked for their opinion upon a question of grave and series difficulty, and who called on the House to take a responsibility that, under ordinary circumstances, would have fallen to the lot of Ministers. He again said that the House was in a situation of very great difficulty, and he for one would willingly go into Committee to examine the case, and assist in giving judgment at their tribunal between the Crown and its subjects. He believed there was no intention upon the part of Government to trench on the rights of the French Canadians, which were secured to them by the Treaty of 1763, and all subsequent Acts. He thought there was a time when the French laws might have been merged in the laws of England, but that time was gone by. He argued that it was intended by the proclamation of 1763, to assimilate the laws to those of England. But it appeared this object was defeated by the Test Act, for a legislative Body could not be framed, as the people were all Roman Catholics, and could not, accordingly, make the declaration that was necessary. It also appeared that a commission was issued to Chief Justice Hey, authorizing him to determine all cases according to the laws of England ; and this was continued from 1774 to the passing of the Quebec Act. There were meetings, in the mean time, between the French Canadians and the English settlers. And there was one communication upon the subject of so extraordinary, and, as he thought, of so interesting a nature, from the view it gave of the feelings and situations of the parties at that time, that with the permission of the House, he would read it to them. It was a letter from one of the leaders of the French Canadians to Mr. Malcolm Brown, who was also a distinguished person, but on the other side. In this letter the writer, after having stated the proposition upon the part of the French Canadians—which was, that there should be a House of Assembly, of which two thirds should be composed of French Canadians, and the remainder of English settlers—proceeds to say, "but this request ought not to alarm the English, since the English third being superior in abilities, in knowledge, and talents, would be always sure to obtain the suffrages of the other two. In this you may think I am paying no compliment to my countrymen, but I know too much of their want of knowledge and capacity to speak in any other manner." The writer adds, "but if, after all, this should not be thought expedient, that his countrymen, from their old habits of obedience, had rather be governed by the King and Parliament than by an Assembly from which they were excluded." It was evident, then, at this period the French Canadians would have gladly placed themselves under the laws of England. In 1774 two other petitions were presented, but he would at once pass to the Act of 1791, which was the ground of the motion. The House was not in the habit of undoing one day what it had done the day before, or of despising the sanctity of laws and constitutions ; they would, therefore, observe caution as they proceeded to touch upon a system that had become identified with the habits and feelings of the people—that had bound them to it, and it to them, until it had become part and parcel of their existence.—He thought that sufficient grounds for going into a Committee had been established both by the Right hon. Secretary for the Colonies, and by the petitioners. The Right hon. Secretary had laid down the state of the representation and of the finances. The Canadians complained of the management of their funds—the want of controul over their own money—and the conduct of their Governors. He would not, however, refrain from doing the Noble Earl, who was at the head of the Government, (the Earl of Dalhousie) the justice of observing, that he, (Mr. Stanley) felt convinced that that Noble Earl, if he had not had the good fortune to give satisfaction to the petitioners, had acted in conformity to the instructions he had received from the Imperial Government, and in conformity with what he considered the constitution of the Province. The division of the two countries was an irremediable mistake. It was a half measure, and had the usual success of such. The Governor, from a natural partiality to his own countrymen, was compelled to govern by a minority. By the Act of 1791, it was attempted to assimilate the Constitution to that of England. But this again was a fatal mistake, for there was no aristocracy ; and that French law, by which the possessions of the father were equally divided amongst the children, prevented the possibility of an aristocracy of rank, birth, and wealth, ever being created. The Legislative Council was accordingly made to supply its place, and that it did so badly, that it considered it the root of all the evils the country had suffered for the last ten or fifteen years. It was always on the side of the Government, against the people, and made but an impotent screen between the Government and the people. All those quarrels and squabbles which had broken out between the Governor and the inhabitants were not the disease, but merely the symtoms—the evidence of the disease. With regard to certain provisions in the Tenure Act, he confessed he did not take the same view of them as the petitioners did, not thinking that they amounted to a grievance. The parts complained of were not compulsory, but optional, on the part of the landholders. He could not conclude without adverting to the ecclesiastical state of the country, a question which in his opinion, it was imperative on the HOUSE to settle now and for ever. Nothing could be more repulsive—more inconsistent with sound policy—than the measures which had lately been pursued in this respect. HE hoped the Act of 1791 would be well considered by the Committee. If he understood the scope of the Right hon. Gentleman's motion, it was to submit the whole of that Act to the consideration of the Committee. It was not necessary to go farther than that. But most carefully did it behove them to go into the investigation of this great subject. HE hoped that the example of Ireland would not be lost on the Committee in entering upon the ecclesiastical part of the question. HE hoped it would be borne in mind that Canada was bordering on a country where religious intolerance was unknown, and with respect to which, it was argued by all the great men in 1791, that care must be taken that the people of Canada could not look across