IMPERIAL PARLIAMENT.

HOUSE OF COMMONS—MAY 2.

THE CANADAS.

Mr. HUSKISSON said, that the subject to which he desired to call the attention of the House, however uninviting it might be in its aspects, and however it might bear upon interests and feelings remote from the country, was, nevertheless, one of very considerable importance. The question which he wished to prevail upon the House to submit to the investigation of a select committee was, whether those extensive, valuable, and fertile possessions, the provinces of Canada, were or were not administered under a system of civil government, suited to the wants, and well being, and happiness of near a million of British subjects now inhabiting those colonies, and well adapted to the maintenance of those mutual relations of allegiance and subjection which ought to exist between colonies and the mother country ? If, upon enquiry, it should be found that the present system did not answer those functions, and that alterations were necessary which could not be made without the authority of Parliament, it was for Parliament to deal with the evil, and to promote such changes as should seem requisite for the purpose of improving the existing condition of the colonies. Though there might exist defects, as indeed was acknowledged, in the present mode of administering in those colonies, it did not necessarily follow that any person was responsible or to blame for those imperfections. The constitution under which those colonies were governed, was introduced into that house by some of the greatest characters that had ever been within its walls. That constitution had, besides, been fully canvassed and discussed before it was adopted ; but when it was considered how little the country was known, how thinly it was then and even now settled, it could not be a matter of surprise, that in the application of that system to the details of the government of such a country, imperfections should have arisen which required remedy, and omissions were discovered which must be supplied. In the investigation about to take place, he trusted the committee would always bear in mind the great principle on which this country had hitherto acted, which was to fulfil with good faith all the engagements we were under towards the French settlers, who were the original population of the country, or at least so far as was consistent with the introducing, as much as possible, the benefit of British laws and institutions, and that system of jurisprudence which had so much contributed to advance the prosperity of this country and her dependencies. There could be no difficulty in undertaking to examine fully and fairly into all the merits and demerits of the present system of government in Canada, as connected with the constitution given by the act of 1781. The legislature was at liberty to alter every act as they thought proper. He stated this, not on any abstract or general reasoning, though he might if he pleased to do so, because there must be a paramount and superior power in Parliament, to redress any wrong that existed in the depencies of the country, and to establish any system which might be considered necessary for the welfare of all the subjects of the state. In the present case, however, the principle of the right of the legislature to revise and amend was distinctly laid down, not only in the enactments of the act itself, but likewise in the express declarations, recorded in a manner which left no doubt of their authenticity and of the eminent persons who introduced it. Mr. Pitt, who introduced the bill, stated that there was nothing contained in it which might not be altered as circumstances should require, and he expressly applied that declaration to that part of the measure which assigned a certain portion of land for the maintenance of the Church. The house was, therefore, at liberty to consider the act in question as it would any other act which was found to be imperfect, and the alteration of which would tend to improve the condition of the community to which it was applied. It was fortunate, there could be no doubt, that the Parliament of this country had the supreme power of dealing with difficulties of this nature, because he was sure, that standing aloof as it did from all party feeling, the warmth of controversy, and the local interests and jealousies which unfortunately prevailed in different parts of the community of these colonies, he thought it would come to such a judgment and decision as, first, from an undoubted authority to interfere, and secondly the impartial application of that authority to the circumstances of the case, the colonist would cheerfully acquiesce in ; and he sincerely believed that the result of the measure he was about to propose, would be to allay the existing animosities, and to enable the Government to carry on the affairs of the Canadas more to the satisfaction of those who were governed, and more conducingly to the interests of the mother country.

He was anxious to save, as much as possible, the time of the House, and therefore he would not enter at any great length into a detail of the changes which had taken place, either in the constitution or the administration of the Government of Canada, since it became a possession of the British Crown, further than to make intelligible to the House the grounds of the controversies and differences which had arisen in the colony. The House was aware that the colony was ceded to the British Crown by the King of France, under the treaty of 1763. The British Crown thus became possessed of it with full and entire sovereignty, without any stipulation or obligation on the part of this country, with respect to the mode in which they were hereafter to be administered. It was necessary to observe that the country, so far as it had been settled, had been settled about the middle of the 17th century, or 1660. When first the French Sovereign directed his attention to the Canadas, the population was confined within certain districts bordering on the River St. Lawrence, and the two towns being built, —namely Montreal and Quebec. At the period of the conquest, the number of French settlers did not exceed 65,000. Amongst this limited population, it had been thought wise by the French Government to graft the whole of the feudal system of France, as it existed in all its vigour, and, he might add, in all its deformity, about the middle of the 17th century. This was not unlike the manner in which the French built their country houses at this period, which usually possessed all the errors in taste which distinguished Versailles, and wanted all its grandeur. In the same bad taste, the French Government established the feudal system in Canada, in the midst of a boundless wilderness and a small population. If he wished to illustrate the evils resulting from this state of things, he might state, that whilst the French grafted the feudal system in the colony, they did not adopt that part of the system which relates to the law of succession, which was that of primogeniture, and would have been intelligible ; but they resorted to the custom of Paris, by which the land was allotted into lordships, held by the original grantee. These seignories, which in the language of the law were in corporeal hereditaments, were not capable of severance, though they might be divided into ever so minute shares. In this state, things have remained ever since, and in consequence of the division of the land into various shares, such confusion had arisen, as was greatly to the prejudice of those who had to administer the affairs of the colonies, as well as of those who possessed property there. The extent of confusion and difficulty arising from this system was hardly conceivable. Only that morning he saw an advertisement in a Canadian paper, stating that 1-1300th part of one of these seignories was to be sold. He believed it would even puzzle Mr. Finlayson himself, to make out what portion of property was described in another advertisement as wanting a purchaser. It was stated to be 3-7th's of the half of a sixth. (A laugh.) Another lot was stated to be a 4th of a 10th of a 6th ; another the 11th of the 4th of the 5th of a 6th; and another, the 44th of the 5th of a 6th. (Laughter.) It was quite impossible, under such a system, for an individual to know to whom he owed service ; and yet each person holding land owed service, in some shape or other, to the abstract being who was thus subdivided. Very shortly after the treaty of 1763, the King of England issued a Proclamation, by which he invited his subjects to settle in the newly acquired country, and in that document the sovereign declared that he would grant to it, as soon as possible, a Legislative Assemby ; and further, that he would give it all the benefit of the British Law and Courts of Judicature. In 1774 the British Courts of Judicature were, as far as possible, introduced into Canada, according to the promise made in the Proclamation. The other part of the promise, with respect to the Legislative Assembly, was not then carried into effect. The fact was, that owing to the situation of the provinces in the neighbourhood of Canada, then belonging to the British Crown, it was not thought desirable to try the experiment of granting a Legislative Assembly to the latter Colony. The people of Canada were then very much attached to the customs which they had derived from their former Government, and they were very little pleased with the administration of the new Government ; and under those circumstances it was thought desirable to take every measure possible to conciliate the feelings and secure the co-operation and assistance of the native subjects. Accordingly the Act of 1744 was resorted to. That Act recorded all the ordinances under which the Colony had been governed, up to that period ; it re-established all the French laws and French admistration, as far as related to propetty, in all its branches ; also the administration of the civil law, which included all the ordinances of the French Governors, up to the time of the conquest, and the Roman civil law ; and the Act likewise provided for retraining the administration of the criminal law of England. From that period, therefore, Canada had been governed under the system of civil law which existed under the French administration, and, under a system of civil law derived from this country. Between 1763 and 1774, the British Crown had proceeded to settle new inhabitants, and make grants of land, and all the grants so made were held by the tenure of common soccage.

The Act provided that all the lands thus granted should continue to be held in the same manner ; but it at the same time placed this property under the administration of the complicated law which existed prior to the annexation of Canada to England. In the same year (1774) another Act was passed for the conciliation of Canada. That provided that all duties which had been imposed by the French Government, and had been continued to be levied by the English Government from the period of the conquest up to that moment, should cease, and in their lieu, imposed other duties of a less onerous nature, with this further provision,—that the produce of the new duties should be applied solely and exclusively to the bettering of the administration of the civil government and justice of the colony : thus, then, it would be seen, that in 1774 some of the most valuable boons were conferred on Canada, by the British Legislature. One of those boons was the restoration of the laws under which the inhabitants lived before the time of the conquest : another boon which must have pleased the Canadians greatly, was the recognition of their religion, as the established religion of the state : another boon was the mitigation of their fiscal burdens, and the application of the remaining revenue to the maintenance of their own government.

In 1788, a law was passed in this country, which, though not immediately connected with the colony in question, was in some degree bearing upon it, and was a momorable part of the Legislation, as regarded the colonies. The law to which he alluded was the declaration Act, which provided that all the sums raised by the Legislative Assemblies of the Colonies, should be applied to defray the expense of the government of those colonies. In one sense it might be said that this Act did not apply to Canada, because it had then no Assembly. In 1791, it was thought necessary by Mr. Pitt to introduce an Act commonly called the 'Quebec Act,' which excited very particular attention at the period, owing to the peculiar situations of parties. That act bestowed upon the Canadas a form of government assimilated to that prevailing in other colonies, —namely, one of popular representation. By this Act the right of controlling and appropriating the revenue, derived from imposts on commerce, was reserved to the Colonial Legislature. One subject which the Act had in contemplation, was to divide Canada into two separate provinces. It was considered desirable to invite into Canada, the loyalists and other parties who had suffered for this country, during the unfortunate contest in North America, now the United States. These persons were invited to settle in the upper part of the provinces where there were no seignories, no feudal system, and no French language spoken, and there to form a separative government. By the constitution then given to Canada, the lower province was to enjoy the right of sending 50 representatives to the House of Assembly, whilst the upper only enjoyed the right of electing 15 members to represent its interests in that House ; which 15 were to be increased in number, in proportion as the population of those districts increased

The gallant officer then having the supreme command in that colony, who was, he believed, now alive, made an apportionment of the elective fran-