

SUBSTANCE OF THE
REPORT ON THE AFFAIRS
OF
BRITISH NORTH AMERICA,
FROM THE EARL OF DURHAM, HER MAJESTY'S
HIGH COMMISSIONER.
(Presented by Her Majesty's Command to both Houses
of Parliament)
TOGETHER WITH THE MOST INTERESTING PARTS OF
LORD DURHAM'S CORRESPONDENCE
WITH LORD GLENELG.

[CONCLUDED.]

"The distinction still lasts, and still causes a good deal of division; the society of each race is said to be in some measure distinct, but not by any means hostile; and some accounts represent the social mixture to be very great. All accounts represent the divisions of the races as becoming gradually less and less marked: their newspapers are printed in the two languages on opposite pages; their local politics are entirely merged in those of the Union; and instead of discovering in their papers any vestiges of a quarrel of races, they are found to contain a repetition of the same party recriminations and party arguments which abound in all other parts of the Federation.

"The explanation of this amalgamation is obvious. The French of Louisiana, when they were formed into a State, in which they were a majority were incorporated into a great nation of which they constituted an extremely small part. The eye of every ambitious man turned naturally to the great centre of Federal affairs, and the high prizes of Federal ambition. The tone of politics was taken from those by whose hands its highest powers were wielded; the legislation and government of Louisiana were from the first insignificant, compared with the interests involved in the discussions at Washington. It became the object of every aspiring man to merge his French, and adopt completely an American nationality. What was the interest of individuals was also the interest of the State. It was its policy to be represented by those who would acquire weight in the councils of the Federation. To speak only a language foreign to that of the United States, was consequently a disqualification for a candidate for the posts of either Senator or Representative; the French qualified themselves by learning English, or submitted to the superior advantages of their English competitors. The representation of Louisiana in Congress is now entirely English; while each of the Federal parties in the State conciliate the French feeling by putting up a candidate of that race. But the result is, that the Union is never disturbed by the quarrels of these races; and the French language and manners fair, in no long time, to follow their laws, and pass away like the Dutch peculiarities of New York.

"It is only by the same means—by a popular government, in which an English majority shall permanently predominate—that Lower Canada, if a remedy for its disorders be not too long delayed, can be tranquilly ruled.

"On these grounds, I believe that no permanent or efficient remedy can be devised for the disorders of Lower Canada, except a fusion of the government in that of one or more of the surrounding provinces; and as I am of opinion that the full establishment of a responsible government can only be permanently secured by giving these Colonies an increased importance in the politics of the Empire, I find in union the only means of remedying at once and completely the too prominent causes of their present unsatisfactory condition.

"Two kinds of union have been proposed—Federal and Legislative. By the first, the separate Legislature of each province would be preserved in its present form, and retain almost all its present attributes of internal legislation; the Federal Legislature exercising no power, save in those matters of general concern which may have been expressly ceded to it by the constituent provinces. A Legislative union would imply a complete incorporation of the provinces included in it under one Legislature, exercising universal and sole legislative authority over all of them, in exactly the same manner as the Parliament legislates alone for the whole of the British Isles.

"On my first arrival in Canada, I was strongly inclined to the project of a Federal Union; and it was with such a plan in view that I discussed a general measure for the government of the Colonies with the Deputation from the Lower Provinces, and with various leading individuals and public bodies in both the Canadas. I was fully aware that it might be objected that a Federal Union would, in many cases, produce a weak and rather cumbersome government; that a Colonial Federation must have, in fact, little legitimate authority or business, the greater part of the ordinary functions of a federation falling within the scope of the Imperial Legislature and Executive; and that the main inducement to federation, which is the necessity of conciliating the pretensions of independent states to the maintenance of their own sovereignty, could not exist in the case of colonial dependencies, liable to be moulded according to the pleasure of the supreme authority at home. In the course of the discussions which I have mentioned, I became aware also of great practical difficulties in any plan of Federal Government, particularly those that must arise in the management of the general revenues, which would in such a plan have to be again distributed among the Provinces. But I had still more strongly impressed on me the great advantage of an united Government; and I was gratified by finding the leading minds of the various Colonies strongly and generally inclined to a scheme that would elevate their countries into something like a national existence. I thought it would be the tendency of a Federation sanctioned and consolidated by a Monarchical Government, gradually to become a complete Legislative Union; and

that thus, while conciliating the French of Lower Canada, by leaving them the government of their own province and their own internal legislation, I might provide for the protection of the British interests by the General Government, and for the gradual transition of the Provinces into an united and homogeneous community.

"But the period of gradual transition is past in Lower Canada. In the present state of feeling among the French population, I cannot doubt that any power which they might possess would be used against the policy and the very existence of any form of British Government. I cannot doubt that any French Assembly that shall again meet in Lower Canada will use whatever power, be it more or less limited, it may have, to obstruct the Government, and undo whatever has been done by it. Time, and the honest co-operation of the various parties, would be required to aid the action of a Federal Constitution; and time is not allowed, in the present state of Lower Canada, nor co-operation to be expected from a Legislature of which the majority shall represent its French inhabitants. I believe that tranquillity can only be restored by subjecting the province to the vigorous rule of an English majority; and that the only efficacious government would be that formed by a Legislative Union.

"If the population of Upper Canada is rightly estimated at 400,000, the English inhabitants of Lower Canada at 150,000, and the French at 450,000, the union of the two provinces would not only give a clear English majority, but one which would be increased every year by the influence of English emigration; and I have little doubt that the French, when once placed, by the legitimate course of events and the working of natural causes, in a minority, would abandon their vain hopes of nationality. I do not mean that they would immediately give up their present animosities, or instantly renounce the hope of attaining their end by violent means. But the experience of the two Unions in the British Isles may teach us how effectually the strong arm of a popular Legislature would compel the obedience of the refractory population; and the hopelessness of success would gradually subdue the existing animosities, and incline the French Canadian population to acquiesce in their new state of political existence. I certainly should not like to subject the French Canadians to the rule of the identical English minority with which they have so long been contending; but, from a majority emanating from so much more extended a source, I do not think they would have any oppression or injustice to fear; and in this case, the far greater part of the majority, never having been brought into previous collision, would regard them with no animosity that could warp their natural sense of equity. The endowments of the Catholic Church in Lower Canada, and the existence of all its present laws, until altered by the United Legislature, might be secured by stipulations similar to those adopted in the Union between England and Scotland. I do not think that the subsequent history of British Legislation need incline us to believe that the nation which has a majority in a popular Legislature, is likely to use its power to tamper very hastily with the laws of the people to which it is united."

The Union proposed would be advantageous to Upper Canada. The surplus revenue of the Lower Province would supply the deficiency of the Upper; the completion of public works would be promoted; the cost of the Government would be less; the responsibility of the Executive would be secured by the increased weight which the representative body of the United Provinces would bring to bear on the Imperial Government and Legislature.

The same reasons apply, for the most part, to all the Provinces in British North America, and point out the advantages of a legislative union of all. One great benefit would be its influence in counterbalancing existing tendencies to separation. Such a union would provide scope for the ambition of aspiring men, which might be satisfied by the possession of high offices in the Judicature and Executive Government of their own Union. By facilitating co-operation for various common purposes, a Legislative Union would enable the Colonies to act with more advantage on questions of foreign relations. Their internal relations furnish quite as strong motives for union. For instance, the Post-office might be managed by one general establishment; the disposal of Public Lands and Colonization might be regulated by the same rules, and the Banking and Monetary system might be uniform. In the construction of Roads, Railroads, and the establishment of Steam Communication, the advantage of combined action is obvious. To Prince Edward's Island and Newfoundland union appears absolutely necessary for insuring proper attention to their interests.

A letter from the late Duke of Kent to Mr. Sewell, formerly Chief Justice of Quebec, recommending a plan similar in some respects to that which Lord Durham describes, is quoted.

The chief difficulty in the way of union, is the reluctance of the Lower Provinces to lose the immediate control of the funds devoted to local expenditure. But it is suggested that the Provincial Assemblies might be retained with merely municipal powers; though the High Commissioner, in preference, recommends that the disposal of local funds should be intrusted to Municipal Bodies in smaller districts.

But though perfectly convinced of the advantage of a Legislative Union of all the Provinces, yet as the regular course of government is not perilled or impeded in the Lower Provinces, Lord Durham thinks it would be ungracious and unjust to force upon the latter, measures which the condition of the Canadas render it necessary at once to adopt with regard to them. He therefore refers his proposition "for the ample deliberation and consent of the people of these Colonies;" and the Report concludes with the following.

RECOMMENDATIONS OF THE HIGH COMMISSIONER.

"In existing circumstances, the conclusion to which the foregoing considerations lead me, is, that no time should be lost in proposing to Parliament a bill for repealing the 31st Geo. III.; restoring the Union of the Canadas un-

der one Legislature, and reconstituting them as one Province.

"The bill should contain provisions by which any or all of the other North American Colonies may, on the application of Legislature, be, with the consent of the two Canadas, or their United Legislature, admitted into the Union on such terms as may be agreed on between them."

"As the mere amalgamation of the Houses of Assembly of the two Provinces would not be advisable, or give at all a due share of representation to each, a Parliamentary Commission should be appointed, for the purpose of forming the electoral divisions, and determining the number of Members to be returned on the principle of giving representation, as near as may be, in proportion to population. I am averse to every plan that has been proposed for giving an equal number of members to the two Provinces, in order to attain the temporary end of out-numbering the French; because I think the same object will be obtained without any violation of the principles of representation, and without any such appearance of injustice in the scheme as would set public opinion, both in England and America, strongly against it; and because, when emigration shall have increased the English population in the Upper Province, the adoption of such a principle would operate to defeat the very purpose it is intended to serve. It appears to me that any such electoral arrangement, founded on the present provincial divisions, would tend to defeat the purposes of the union, and perpetuate the idea of disunion.

"At the same time, in order to prevent the confusion and danger likely to ensue from attempting to have popular elections in district recently the seats of open rebellion, it will be advisable to give the Governor a temporary power of suspending by proclamation; stating specifically the grounds of his determination, the writs of electoral districts, in which he may be of opinion that elections could not safely take place.

"The same Commission should form a plan of local government by elective bodies subordinate to the General Legislature, and exercising a complete controul over such local affairs as do not come within the province of general legislation. The plan so framed should be made an Act of the Imperial Parliament, so as to prevent the General Legislature from encroaching on the powers of the local bodies.

"A General Executive on an improved principle should be established, together with a Supreme Court of Appeal, for all the North American Colonies. The other establishments and laws of the two Colonies should be left unaltered until the Legislature of Union should think fit to change them; and the security of the existing endowments of the Catholic Church in Lower Canada, should be guaranteed by the Act.

"The constitution of a Second Legislative Body for the United Legislature, involves questions of very great difficulty. The present constitution of the Legislative Councils of these Provinces has always appeared to me inconsistent with sound principles, and little calculated to answer the purpose of placing the effective check which I consider necessary on the popular branch of the Legislature. The analogy which some persons have attempted to draw between the House of Lords and the Legislative Councils seems to me erroneous. The constitution of the House of Lords is consonant with the frame of English society; and as the creation of a precisely similar body in such a state of society as that of these Colonies is impossible, it has always appeared to me most unwise to attempt to supply its place by one which has no point of resemblance to it, except that of being a non-elective check on the elective branch of the Legislature. The attempt to invest a few persons, distinguished from their fellow colonists neither by birth nor hereditary property, and often only transiently connected with the country, with such a power, seems only calculated to insure jealousy and bad feelings in the first instance, and collision at last. I believe that when the necessity of relying, in Lower Canada, on the English character of the Legislative Council as a check on the national prejudices of a French Assembly, shall be removed by the union, few persons in the Colonies will be found disposed in favour of its present constitution. Indeed, the very fact of union will complicate the difficulties which have hitherto existed; because a satisfactory choice of Councillors would have to be made with reference to the varied interests of a much more numerous and extended community.

"It will be necessary, therefore, for the completion of any stable scheme of Government, that Parliament should revise the constitution of the Legislative Council, and by adopting every practical means to give that institution such a character as would enable it, by its tranquil and safe, but effective working, to act as a useful check on the popular branch of the Legislature, prevent a repetition of those collisions which have already caused such dangerous irritation.

"The plan which I have framed for the management of the Public Lands being intended to promote the common advantage of the Colonies and of the Mother Country, I therefore propose that the entire administration of it should be confided to an Imperial authority. The conclusive reasons which have induced me to recommend this course will be found at length in the separate Report on the subject of Public Lands and Emigration.

"All the revenues of the Crown, except those derived from this source, should at once be given up to the United Legislature, on the concession of an adequate civil list.

"The responsibility to the United Legislature of all officers of the Government except the Governor and his Secretary should be secured by every means known to the British constitution. The Governor, as the representative of the Crown, should be instructed that he must carry on his government by heads of departments in whom the United Legislature shall repose confidence; and that he must look for no support from home in any contest with the Legislature, except on points involving strictly Imperial interests.

"The independence of the Judges should be secured by giving them the same tenure of office and security of income as exist in England.

"No money votes should be allowed to originate without the previous consent of the Crown.

"In the same act should be contained a repeal of past provisions with respect to the Clergy Reserves, and the application of the funds arising from them.

"In order to promote Emigration on the greatest possible scale, and with the most beneficial results to all concerned, I have elsewhere recommended a system of measures which have been expressly framed with that view, after full inquiry and careful deliberation. Those measures would not subject either the Colonies or the Mother Country to any expense whatever. In conjunction with the measures suggested for disposing of public lands, and remedying the evils occasioned by past mismanagement in that department, they form a plan of colonization to which I attach the highest importance. The objects at least which the plan has been formed, are to provide large funds for emigration, and for creating and improving means of communication throughout the Provinces; to guard emigrants of the labouring class against the present risks of the passage; to secure for all of them a comfortable resting place, and employment at good wages immediately on their arrival; to encourage the investment of surplus British capital in these Colonies, by rendering it as secure and as profitable as in the United States; to promote the settlement of wild lands and the general improvement of the Colonies; to add to the value of every man's property in land; to extend the demand for British manufactured goods, and the means of paying for them, in proportion to the amount of emigration and the general increase of the Colonial people; and to augment the Colonial revenues in the same degree.

"When the details of the measure, with the particular reasons for each of them are examined, the means proposed will, I trust, be found as simple as the ends are great; nor have they been suggested by any fanciful or merely speculative view of the subject. They are founded on the facts given in evidence by practical men; on authentic information as to the wants and capabilities of the Colonies; on an examination of circumstances which occasion so high a degree of prosperity in the neighbouring states; on the efficient working and remarkable results of improved methods of colonization in other parts of the British Empire; in some measure on the deliberate proposals of a Committee of the house of Commons, and lastly, on the favourable opinion of every intelligent person in the Colonies whom I consulted with respect to them. They involve, no doubt, a considerable change of system, or rather the adoption of a system where there has been none; but this, considering the number and magnitude of past errors, and the present wretched economical state of the Colonies, seems rather a recommendation than an objection. I do not flatter myself that so much good can be accomplished without an effort; but in this, as in other suggestions, I have presumed that the Imperial Government and Legislature will appreciate the actual crisis in the affairs of these Colonies, and will not shrink from any exertion that may be necessary to preserve them to the Empire.

"By the adoption of the various measures here recommended, I venture to hope that the disorders of these Colonies may be arrested, and their future well-being and connexion with the British Empire secured. Of the certain result of my suggestions, I cannot, of course, speak with entire confidence, because it seems almost too much to hope that evils so long growth, and such extent, can be removed by the tardy application of even the boldest remedy; and because I know that as much depends upon the consistent vigour and prudence of those who may have to carry it into effect as on the soundness of the policy suggested. The deep-rooted evils of Lower Canada will require great firmness to remove them. The disorders of Upper Canada, which appear to me to originate entirely in mere defects of its constitutional system, may, I believe, be removed by adopting a more sound and consistent mode of administering the government. We may derive some confidence from the recollection that very simple remedies yet remain to be resorted to for the first time; and we need not despair of governing a people who really have hitherto very imperfectly known what it is to have a government.

"I have made no mention of emigration on an extended scale as a cure for political disorders, because it is my opinion that until tranquillity is restored, and a prospect of free and stable government is held out, no emigrants should be induced to go to, and that few would at any rate remain in Canada. But if by the means which I have suggested, or by any other, peace can be restored, confidence created, and popular and vigorous government established, I rely on the adoption of a judicious system of colonization as an effectual barrier against the recurrence of many of the existing evils. If I should have miscalculated the proportions in which the friends and the enemies of British connexion may meet in the United Legislature, one year's emigration would redress the balance. It is by a sound system of colonization that we can render these extensive regions available for the benefit of the British people. The mismanagement by which the resources of our Colonies have hitherto been wasted, has, I know, produced in the public mind too much of a disposition to regard them as mere sources of corruption and loss, and to entertain with too much complacency the idea of abandoning them as useless. I cannot participate in the notion that it is the part either of prudence or of honor to abandon our countrymen, when our government of them has plunged them into disorder; or our territory, when we discover that we have not turned it to a proper account. The experiment of keeping colonies and governing them well ought at least to have a trial, ere we abandon forever the vast dominion which might supply the wants of our surplus population, and raise up millions of fresh consumers of our manufactures and producers of a supply for our wants. The warmest admirers and the strongest opponents of Republic institutions admit or assert, that the amazing prosperity of the United States is less owing to their form of government than to the unlimited supply of fertile land,

which maintains exceeding generations in an undiminished affluence of fertile soil. A region as large and as fertile is open to your Majesty's subjects in your Majesty's American dominions. The recent improvements of the means of communication will, in a short time, bring the unoccupied lands of Canada and New Brunswick within as easy a reach of the British Isles, as the territories of Iowa and Wisconsin are of that incessant emigration that annually quits New England for the far West.

"I see no reason, therefore, for doubting that, by good government and the adoption of a sound system of colonization, the British possessions in North America may thus be made the means of conferring on the suffering classes of the mother country many of the blessings which have hitherto been supposed to be peculiar to the social state of the New World.

"In conclusion, I must earnestly impress on your Majesty's advisers, and on the Imperial Parliament, the paramount necessity of a prompt and decisive settlement of this important question, not only on account of the extent and variety of interests involving the welfare and security of the British empire, which are perilled by every hour's delay, but on account of the state of feeling which exists in the public mind throughout all your Majesty's North American possessions, and more especially the two Canadas.

"In various despatches addressed to your Majesty's Secretary of State, I have given a full description of that state of feeling, as I found it evinced by all classes and all parties, in consequence of the events which occurred in the last session of the British Parliament. I do not allude now to the French Canadians but to the English population of both provinces. Ample evidence of their feelings will be found in the addresses which were presented to me from all parts of the North American Colonies, and which I have inserted in an Appendix to this Report. But, strong as were the expressions of regret and disappointment at the sudden annihilation of those hopes which the English had entertained of seeing a speedy and satisfactory termination of that state of confusion and anarchy under which they had so long laboured, they sunk into insignificance when compared with the danger arising from those threats of separation and independence, the open and general utterance of which was reported to me from all quarters. I fortunately succeeded in calming this irritation for the time, by directing the public mind to the prospect of those remedies which the wisdom and beneficence of your Majesty must naturally incline your Majesty to sanction, whenever they are brought under your Majesty's consideration. But the good effects thus produced by the responsibility which I took upon myself will be destroyed; all these feelings will recur with redoubled violence, and the danger will become immeasurably greater, if such hopes are once more frustrated, and the Imperial Legislature fails to apply an immediate and final remedy to all those evils which your Majesty's subjects in America so loudly complain, and of which I have supplied such ample evidence.

"For these reasons, I pray your Majesty's earnest attention to this Report. It is the last act arising out of the loyal and conscientious discharge of the high duties imposed upon me by the Commission with which your Majesty was graciously pleased to intrust me. I humbly hope that your Majesty will receive it favourably, and believe that it has been dictated by the most devoted feelings of loyalty and attachment to your Majesty's person and throne, by the strongest sense of public duty, and by the earnest desire to perpetuate and strengthen the connexion between this empire and the North American Colonies, which would then form one of the brightest ornaments in your Majesty's Imperial Crown.

"All which is humbly submitted to your Majesty."

"DURHAM."

London, 31st January, 1839.

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MARK NEEDHAM.

Fredericton, Nov. 13, 1838.—tf.

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Fredericton, February 13, 1839.

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