

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.

[CONTINUED.]

HOPELESSNESS OF PUTTING AN END TO ANTI-
MOSITIES AT PRESENT.

Nor does there appear to be the slightest chance of putting an end to this animosity during the present generation. Passions inflamed during so long a period cannot speedily be calmed. The state of education, which I have previously described as placing the peasantry entirely at the mercy of agitators, the total absence of any class of persons, or any organization of authority that could counteract this mischievous influence, and the serious decline in the district of Montreal of the influence of the Clergy, occur in rendering it absolutely impossible for the government to produce any better state of feeling among the French population. It is even impossible to impress on a people so circumstanced, the salutary dread of the power of Great Britain, which the presence of a large military force in the province might be expected to produce. I have been informed, by witnesses so numerous and so trustworthy, that I cannot doubt the correctness of their statements, that the peasantry were generally ignorant of the large amount of force which was sent into their country last year. The newspapers that circulated among them had informed them that Great Britain had no troops to send out; that in order to produce an impression on the minds of the country people, the same regiments were marched backwards and forwards in different directions, and represented as additional arrivals from home. This explanation was promulgated among the people by the agitators of each village; and I have no doubt that the mass of the *habitants* really believed that the Government was endeavouring to impose on them by this species of fraud. It is a population with whom authority has no means of contact or explanation. It is difficult even to ascertain what amount of influence the ancient leaders of the French party continue to possess.—The name of Mr. Papineau is still cherished by the people; and the idea is current that, at the appointed time, he will return at the head of an immense army, and re-establish "La Nation Canadienne." But there is great reason to doubt whether his name be not used as a mere watchword; whether the people are not, in fact, running entirely counter to his councils and policy; and whether they are not really under the guidance of separate petty agitators, who have no plan but that of a senseless and reckless determination to show in every way their hostility to the British Government and English race. Their ultimate designs and hopes are equally unintelligible. Some vague expectation of absolute independence still seems to delude them. The national vanity, which is a remarkable ingredient in their character, induces many to flatter themselves with the idea of a Canadian republic; the sounder information of others has led them to perceive that a separation from Great Britain must be followed by a junction with the great Confederation on their Southern frontier. But they seem apparently reckless of the consequences, provided they can wreak their vengeance on the English. There is no people against which early associations, and every conceivable difference of manners and opinions, have implanted in the Canadian mind a more ancient and rooted national antipathy than that which they feel against the people of the United States. Their more discerning leaders feel that their chances of preserving their nationality would be greatly diminished by an incorporation with the United States; and recent symptoms of anti-Catholic feeling in New England, well known to the Canadian population, have generated a very general belief that their religion—which even they do not accuse the British party of assailing—would find little favour or respect from their neighbours. Yet none even of these considerations weigh against their present all-absorbing hatred of the English; and I am persuaded that they would purchase vengeance and a momentary triumph, by the aid of enemies, or submission to any yoke. This provisional but complete cessation of their ancient antipathy to the Americans is now admitted even by those who most strongly denied it during the last spring, and who then asserted that an American war would as completely unite the whole population against the common enemy as it did in 1813.

Circumstances having thrown the English into the ranks of the Government, and the folly of their opponents having placed them, on the other hand, in a state of permanent collision with it, the former possess the advantage of having the force of Government and the authority of the laws on their side in the present stage of the contest. Their exertions during the recent troubles have contributed to maintain the supremacy of the law, and the continuance of the connexion with Great Britain; but it would, in my opinion, be dangerous to rely on the continuance of such a state of feeling as now prevails among them, in the event of a different policy being adopted by the imperial Government. Indeed, the prevalent sentiment among them is one of any kind but satisfaction with the course which has long been pursued, with reference to Lower Canada, by the British Legislature and Executive. The calmer view which distant spectators are enabled to take of the conduct of the two parties, and the disposition which is evinced to make a fair adjustment of the contending claims, appear iniquitous and injurious in the eyes of men who think that they alone have any claim to the favor of that Government by which they alone have stood fast. They complain loudly and bitterly of the whole course pursued by the Imperial Government with respect to the quarrel of the two races, as having been founded on an utter ignorance or disregard of the real question at issue, as having fostered the mis-

chievous pretensions of French nationality, and as having by the vacillation and inconsistency which marked it, discouraged loyalty, and fomented rebellion. Every measure of clemency or even justice towards their opponents they regard with jealousy as indicating a disposition towards that conciliatory policy which is the subject of their angry recollection; for they feel that, being a minority, any return to the due course of constitutional government would again subject them to a French majority; and to this I am persuaded they would never peaceably submit. They do not hesitate to say that they will not tolerate much longer the being made the sport of parties at home; and that if the Mother Country forgets what is due to the loyal and enterprising men of her own race, they must protect themselves. In the significant language of one of their own ablest advocates, they assert that "Lower Canada must be English, at the expense, if necessary, of not being British."

The course of the late troubles, and the assistance which the French insurgents derived from some citizens of the United States, having caused a most intense exasperation among the Canadian Loyalists against the American Government and people. Their papers have teemed with the most unmeasured denunciations of the good faith of the authorities, of the character and morality of the people, and of the political institutions of the United States. Yet, under the surface of hostility, it is easy to detect a strong under current of an exactly contrary feeling. As the general opinion of the American people became more apparent during the course of the last year, the English of Lower Canada were surprised to find how strong, in spite of the first burst of sympathy, with a people supposed to be struggling for independence, was the real sympathy of their Republican neighbours with the great object of the minority. Without abandoning their attachment to their mother country, they have begun, as men in a state of uncertainty are apt to do, to calculate the probable consequences of a separation, if it should unfortunately occur, and be followed by an incorporation with the United States. In spite of the shock which it would occasion their feelings, they undoubtedly think that they should find some compensation in the promotion of their interests; they believe that the influx of American emigration would speedily place the English race in a majority; they talk frequently and fondly of what has occurred in Louisiana, where, by means which they utterly misrepresent, the end nevertheless of securing an English predominance over a French population, has undoubtedly been attained; they assert very confidently that the Americans would make a very speedy and decisive settlement of the pretensions of the French; and they believe, that after the first shock of an entirely new political state had been got over, they and their posterity would share in that amazing progress, and that great material prosperity which every day's experience shows them is the lot of the people of the United States. I do not believe that such a feeling has yet supplanted their strong allegiance to the British empire; but their allegiance is founded on their deep rooted attachment to English as distinguished from French institutions. And if they find that authority which they have maintained against its recent assailants, is to be exerted in such a manner as to subject them again to what they call a French dominion, I feel perfectly confident that they would attempt to avert the result, by courting, on any terms, a union with an Anglo-Saxon people.

MISTAKEN POLICY OF THE BRITISH GOVERNMENT.

There are two modes by which a Government may deal with a conquered territory. The first course open to it is that of respecting the rights and nationality of the actual occupants; of recognizing the existing laws, and preserving established institutions; of giving no encouragement to the influx of the conquering people, and without attempting any change in the elements of the community, merely incorporating the province under the general authority of central Government. The second is that of treating the conquered territory as one open to the conquerors, of encouraging their influx, of regarding the conquered as entirely subordinate, and of endeavouring, as speedily and as rapidly as possible, to assimilate the character and institutions of its new subjects to those of the great body of its empire. In the case of an old and long-settled country, in which the land is appropriated, in which little room is left for colonization, and in which the race of the actual occupants must continue to constitute the bulk of the future population of the province, policy as well as humanity render the well-being of the conquered people, the first care of a just Government, and recommend the adoption of the first mentioned system: but in a new and unsettled country, a provident legislator would regard as his first object the interests not only of the few individuals who happen at the moment to inhabit a portion of the soil, but those of that comparatively vast population by which he may reasonably expect that it will be filled: he would form his plans with a view of attracting and nourishing that future population, and he would therefore establish those institutions which would be most acceptable to the race by which he hoped to colonize the country. The course which I have described as best suited to an old and settled country would have been impossible in the American continent, unless the conquering state meant to renounce the immediate use of the unsettled lands of the province; and in this case such course would have been additionally inadvisable, unless the British Government were prepared to abandon to the scanty population of French whom it found in Lower Canada, not merely the possession of the vast extent of rich soil which that province contains, but also the mouth of the St. Lawrence, and all the facilities for trade which the entrance of the great river commands.

In the first regulations adopted by the British Government for the settlement of the Canadas, in the Proclamation of 1763, and the commission of the Governor in Chief of the Province of Quebec, in the offers by which officers and soldiers of the British Army, and

settlers from the other Northern American Provinces, were tempted to accept grants of land in the Canadas, we perceive very clear indications of any intention of adopting the second and wiser of the two systems. Unfortunately, however, the conquest of Canada was almost immediately followed by the independence of the United Province.—From that period the colonial policy of this country appears to have undergone a complete change. To prevent the further dismemberment of the empire, became the primary object with our statesmen; and an especial anxiety was exhibited to adopt every expedient which appeared calculated to prevent the remaining North American Colonies from following the example of successful revolt. Unfortunately, the distinct national character of the French inhabitants of Canada, and their ancient hostility to the people of New England, presented the easiest and most obvious line of demarcation. To isolate the inhabitants of the British from those of the revolted Colonies, became the policy of the Government; and the nationality of the French Canadians was therefore cultivated, as a means of perpetual and entire separation from their neighbours. [A remarkable proof of this is produced in the form of a despatch by Earl Bathurst, dated 1st July, 1816.] It seems also to have been considered the policy of the British Government to govern its Colonies by means of division, and to break them down as much as possible into petty isolated communities, incapable of combination, and possessing no sufficient strength for individual resistance to the empire. Indications of such designs are apt to be found in many of the acts of the British Government with respect to its North American Colonies. In 1775 instructions were sent from England, directing that all grants of land within the Province of Quebec, then comprising Upper and Lower Canada, were to be made in fief and seigniority; and even the grants to the refugee Loyalists and Officers and Privates of the Colonial corps, promised in 1786, were ordered to be made in the same tenure. In no instance was it more singularly exhibited than in the condition annexed to the grants of land in Prince Edward's Island, by which it was stipulated that the island was to be settled by "foreign Protestants;" as if it were to be foreign in order to keep them apart from the Canadian and Acadian Catholic. It was part of the same policy to separate the French of Canada from the British emigrants, and to conciliate the former by the retention of their language, laws and religious institutions. For this purpose, Canada was afterwards divided into two provinces; the settled portion being allotted to the French, and the unsettled being destined to become the seat of colonization. Thus, instead of availing itself of the means which the extent and nature of the province afforded for the gradual introduction of such an English population into its various parts as might have easily placed the French in a minority, the Government deliberately constituted the French into a majority, and recognized and strengthened their distinct national character. Had the sounder policy of making the province English in all its institutions been adopted from the first, and steadily persevered in, the French would probably have been speedily outnumbered, and the beneficial operations of the free institutions of England would never have been impeded by the animosities of origin.

Not only, however, did the Government adopt the unwise course of dividing Canada, and forming in one of its divisions a French community, speaking the French language, and retaining French institutions, but it did not even carry this consistently into effect; for at the same time provision was made for encouraging the emigration of English into the very province which was said to be assigned to the French. Even the French institutions were not extended over the whole of Lower Canada.—The civil law of France as a whole, and the legal provision for the Catholic Clergy, were limited to the portion of the country then settled by the French, and comprised in the seigniories; though some provision was made for the formation of new seigniories, almost the whole of the then unsettled portion of the province was formed into townships, in which the law of England was partially established, and the Protestant religion, of hostile origin and different characters were brought into juxtaposition under a common government, but under different institutions; each was taught to cherish its own language, laws, and habits; and each, at the same time, if it moved beyond its original limits, was brought under different institutions, and associated with a different people. The unenterprising character of the French population, and, above all, its attachment to its church, (for the enlargement of which, in proportion to the increase or diffusion of the Catholic population very inadequate provision was made,) have produced the effect of confining it within its ancient limits. But the English were attracted into the seigniories, and especially into the cities, by the facilities of commerce afforded by the great rivers. To have effectually given the policy of retaining French institutions and a French population in Lower Canada a fair chance of success, no other institutions should have been allowed, and no other race should have received any encouragement to settle therein. The province should have been set apart to be wholly French, if it was not to be rendered completely English. The attempt to encourage English emigration into a community, of which the French character was still to be preserved, was an error which planted the seeds of a contest of races in the very constitution of the colony; this was an error, I mean, even on the assumption that it was possible to exclude the English race from any part of the North American continent. It will be acknowledged by every one who has observed the progress of Anglo-Saxon colonization in America, that sooner or later the English race was sure to predominate even numerically in Lower Canada, as they predominate already, by their superior knowledge, energy, enterprise, and wealth. The error, therefore, to which the present contest must be attributed, is the vain endeavour to preserve a French Canadian nationality in the midst of Anglo-American Colonies and states.

"That contest had arisen by degrees. The

scanty number of the English who settled in Lower Canada during the earlier period of our possession, put out of the question any ideas of rivalry between the races. Indeed, until the popular principles of English institutions were brought effectually into operation, the paramount authority of the Government left little room for dispute among any but the few who contended for its favours. It was not until the English had established a vast trade, and accumulated considerable wealth—until a great part of the landed property of the province was vested in their hands—until a large English population was found in the cities, had scattered itself over large portions of the country, and had formed considerable communities in the townships—and not until the development of representative government had placed substantial power in the hands of the people, that that people divided itself into races arrayed against each other in intense and enduring animosity.

The errors of the Government did not cease with that, to which I have attributed the origin of this animosity. The defects of the colonial constitution necessarily brought the Executive Government into collision with the people; and the disputes of the Government and the people called into action the animosities of race; nor has the policy of the Government obviated the evils inherent in the constitution of the colony and the composition of society. It has done nothing to repair its original error, by making the province English. Occupied in a continued conflict with the Assembly, successive Governors and their Councils have overlooked, in great measure, the real importance of the feud of origin; and the Imperial Government far removed from opportunities of personal observation of the peculiar state of society, has shaped its policy so as to aggravate the disorder. In some instances it has actually conceded the mischievous pretensions of nationality, in order to evade popular claims; as, in attempting to divide the Legislative Council and the patronage of Government equally between the two races, in order to avoid the demands for an Elective Council and a responsible Executive, sometimes it has, for a while, pursued the opposite course. A policy founded on imperfect information, and conducted by continually changing hands has exhibited to the colony a system of vacillation which was in fact no system at all. The alternate concessions to the contending races have only irritated both, impaired the authority of Government, and, by keeping alive the hopes of a French Canadian nationality, contravened the influences which might ere this have brought the quarrel to its natural and necessary termination.

PRACTICAL WORKING OF THE ASSEMBLY.

It was not until some years after the commencement of the present century that the population of Lower Canada began to understand the representative system which had been extended to them, and that the Assembly evinced any inclination to make use of its powers. Immediately, however, upon its so doing it found how limited those powers were, and entered upon a struggle to obtain the authority which analogy pointed out as inherent in a representative Assembly. Its freedom of speech immediately brought it into collision with the Governor; and the practical working of the Assembly commenced by its principal leaders being thrown into prison. In course of time, however, the Government was induced, by its necessities, to accept the Assembly's offer, to raise an additional revenue by fresh taxes; and the Assembly thus acquired a certain control over the levying and appropriation of a portion of the public revenue. From that time, until the final abandonment in 1832 of every portion of the public revenue, excepting the casual and territorial funds, an unceasing contest was carried on, in which the Assembly making use of every power which it gained for the purpose of gaining more, acquired step by step, and entire control over the whole revenue of the country.

I passed thus briefly over the events which have heretofore been considered the principal features of the Canadian controversy, because, as the contest has ended in the concession of the financial demands of the Assembly, and the admission by the Government of a portion of the public revenues from its control, that contest can now be regarded as of no importance, except as accounting for the exasperation and suspicion which survived it. Nor am I inclined to think that the disputes which subsequently occurred are to be attributed entirely to the operation of mere angry feelings. A substantial cause of contest yet remained. The Assembly, after it had obtained entire control over the public revenues, still found itself deprived of all voice in the choice or even designation of the persons in whose administration of affairs it could feel confidence. All the administrative power of government remained entirely free from its influence; and though Mr. Papineau appears by his own conduct to have deprived himself of that influence in the Government which he might have acquired, I must attribute the refusal of a civil list to the determination of the Assembly not to give up its only means of subjecting the functionaries of Government to any responsibility.

The powers for which the Assembly contended appear in both instances to be such as it was perfectly justified in demanding. It is difficult to conceive what could have been their theory of government who imagined that in any colony of England a body invested with the name and character of a representative Assembly, could be deprived of any of those powers which, in the opinion of Englishmen, are inherent in a popular legislature. It was a vain delusion to imagine that by mere limitations in the Constitutional Act, or an exclusive system of government, a body, strong in the consciousness of wielding the public opinion of the majority, could regard certain portions of the provincial revenues as sacred from its control, could confine itself to the mere business of making laws, and look on as a passive or indifferent spectator while those laws were carried into effect or evaded, and the whole business of the country was conducted by men in whose intentions or capacity it had not the slightest confidence. Yet such was the limi-

tation placed on the authority of the Assembly of Lower Canada; it might refuse or pass laws, vote or withhold supplies, but it could exercise no influence on the nomination of a single servant of the Crown. The Executive Council, the law officers, and whatever heads of departments are known to the administrative system of the province, were placed in power, without any regard to the wishes of the people or the representatives; nor indeed are there wanting instances in which a mere hostility to the majority of the Assembly elevated the most incompetent persons to posts of honour and trust. However decidedly the Assembly might condemn the policy of the Government, the persons who had advised that policy retained their offices and their power of giving bad advice. If a law was passed after repeated conflicts, it had to be carried into effect by those who had most strenuously opposed it. The wisdom of adapting the true principle of representative government, and facilitating the management of public affairs, by entrusting it to the persons who have the confidence of the representative body, has never been recognized in the government of the North American Colonies. All the officers of government were independent of the Assembly; and that body which had nothing to say to their appointment, was left to get on as it best might, with a set of public functionaries whose paramount feeling may not unfairly be said to have been one of hostility to itself.

A body of holders of office thus constituted, without reference to the people or their representatives, must, in fact, from the very nature of colonial government, acquire the entire direction of the affairs of the province. A Governor, arriving in a colony in which he almost invariably has had no previous acquaintance with the state of parties, or the character of individuals, is compelled to throw himself almost entirely upon those whom he finds placed in the position of his official advisers. His first acts must necessarily be performed, and his first appointments made, at their suggestion. And as these first acts and appointments give a character to his policy, he is generally brought thereby into immediate collision with the other parties in country, and thrown into more complete dependency upon the official party and its friends. Thus, a Governor of Lower Canada has almost always been brought into collision with the Assembly, which his advisers regard as their enemy. In the course of the contest in which he was thus involved, the provocations which he received from the Assembly, and the light in which their conduct was represented by those who alone had any access to him, naturally imbued him with many of their antipathies; his position compelled him to seek the support of some party against the Assembly; and his feelings and his necessities thus combined to induce him to bestow his patronage and to shape his measures to promote the interests of the party on which he was obliged to lean. Thus, every successive year consolidated and enlarged the strength of the ruling party. Fortified by family connexion, and the common interest felt by all who held and all who desired subordinate offices, that party was thus erected into a solid and permanent power, controlled by no responsibility, subject to no serious change exercising over the whole government of the province an authority utterly independent of the people and its representatives, and possessing the only means of influencing either the Government at home or the colonial representative of the Crown.

"This entire separation of the legislative and executive powers of a state, is the natural error of governments desirous of being free from the check of representative institutions. Since the revolution of 1688, the stability of the English constitutions has been secured by that wise principle of our government which has vested the direction of the national policy and the distribution of patronage in the leaders of the parliamentary majority. However partial the Monarch might be to particular Ministers, or however he might have personally committed himself to their policy, he has invariably been constrained to abandon both as soon as the opinion of the People has been irretrievably pronounced against them through the medium of the House of Commons. The Government on a different principle, seems to be the rock on which Continental imitation of the British Constitution have invariably split; and the French Revolution of 1830 was the necessary result of an attempt to uphold a Ministry with which no Parliament could be got to act in concert. It is difficult to understand how any English statesmen could have imagined that representative and irresponsible government could be successfully combined. There seems, indeed, to be an idea that the character of representative institutions ought to be thus modified in colonies; that it is an incident of colonial dependency that the officers of Government should be nominated by the Crown, without any reference to the wishes of the community whose interests are entrusted to their keeping. It has never been very clearly explained what are the imperial interests which require this complete nullification of representative government. But if there be such a necessity, it is quite clear that a representative government in a colony must be a mockery, and a source of confusion. For those who support this system have never yet been able to advise, or to exhibit in the practical working of colonial Government, any means for making so complete an abrogation of political influence palatable to the representative body. It is not difficult to apply the case to our own country. Let it be imagined that at a general election the Opposition were to return 500 out of 658 Members of the House of Commons, and that the whole policy of the Ministry should be condemned, and every bill introduced by it rejected by this immense majority; let it be supposed that the Crown should consider it a point of honour and duty to retain a Ministry so condemned and so thwarted; that repeated dissolutions should in no way increase, but should even diminish, the Ministerial minority; and that the only result which could be obtained by such a development of the force of the Opposition, were not the slightest change in the policy of the Ministry, not the removal of a single Minister, but simply the election of a Speaker (Continued on second Page.)