

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.]

Lord Glenelg's directions, to require payment for land in less time than previously had been allowed, were totally disregarded by the Surveyor General of Lower Canada; who was supported in his disobedience by the Governor Lord Aylmer.

The importance of accurate surveys, and the inefficiency of the Surveying department in Lower Canada, are especially noticed. The delays and expenses incurred in completing titles, are among the most prominent evils in the present mismanagement. The miscellaneous consequences of large grants of land to persons not intending to occupy them, in creating deserts and causing settlements to be abandoned, are stated on the evidence of the Deputy Surveyor of the Western District; who says, that "ninth-tenths of the land granted by the Crown in that District are still in a state of wilderness."

In Prince Edward's Island, the effect of making large grants of land to persons not intending to settle upon it, is seen in the impoverished condition of the inhabitants. The evils attendant upon the neglect of Emigrants are fully explained. Frequently they have scanty provision on board their ships, and are landed with infectious diseases; they are too often the victims of frauds committed by persons in Quebec and other ports, on their arrival. A quarantine establishment has tended to prevent some of the mischief described; but the necessity of numerous improvements in the arrangements for the voyage of emigrants, and in providing for their reception and support in the colonies, appears from a number of details given in the Report.

CONCLUSIONS.

The High Commissioner comes to the conclusion that the existing state of things cannot continue; that the disorders of Lower Canada admit of no longer delay; and that those of Upper Canada press for a remedy. He is of opinion that though the inhabitants of the latter Province will not endeavor to break their connection with the mother country by open rebellion, they will "at the best only await in sullen patience the coercive measures which may render the preservation of the Province dependent on the devoted loyalty of the great mass of its population."

In the North American Provinces the danger is not imminent, though much dissatisfaction prevails.

A "barren and injurious sovereignty" may be retained over the North American Colonies, but only by a large military expenditure. The addition of a million a year to the annual colonial outlay will barely suffice to attain this end.

There is little sympathy between the French population of Lower Canada and the people of the United States, who now perfectly understand the nature of the conflict between the two races; but in the case of Upper Canada there is a strong and durable sympathy. At present there is no serious danger from the sympathizers of the United States; but the indignation of the Upper Canadian Loyalists is naturally very strong against the nation and the Government which has permitted the incursions from the opposite shore. The facility of intercourse which has created sympathy between the malcontents and the Americans affords occasion for angry collisions between the Loyalists and the Americans.

There are subjects of dispute between the Governments of Great Britain and the United States, unconnected with Canadian rebellion, which may produce less friendly feelings between the two Governments than now exist.

For these reasons, the necessity of applying an early remedy to the existing disorders is enforced; but the chances of rebellion or foreign invasion are not those which Lord Durham regards as most probable or most injurious. Depopulation and impoverishment of the provinces must result from the continuance of the present state of things. The emigration of peaceably disposed persons, with their property and families, to the Western parts of the United States, has commenced; and considerable alarm exists as to the general disposition to quit the country, produced by some late measures of the authorities, among the mild and industrious but peculiar race of descendants from the Dutch, inhabiting the back part of Niagara district.

The evils are manifest, and the causes of them have been laid bare. The more difficult task remains of applying the remedy; and the difficulty is so great, that Lord Durham almost shrinks from grasping with it. He relies chiefly on the efficacy of reform in the constitutional system by which the Colonies shall be governed.

DEFECTS AND REMEDIES OF THE EXISTING COLONIAL SYSTEM.

"The preceding pages have sufficiently pointed out the nature of those evils, to the extensive operation of which I attribute the various practical grievances and the present unsatisfactory condition of the North American Colonies. It is not by weakening but strengthening the influence of the people on its Government; by confining within much narrower bounds than those hitherto allotted to it, and not by extending, the interference of the Imperial authorities in the details of Colonial affairs, that I believe that harmony is to be restored where dissension has so long prevailed; and a regularity and vigor hitherto unknown introduced into the administration of these provinces. It needs no change in the principles of government, no invention of a new constitutional theory, to supply the remedy which would, in my opinion, completely remove the existing political disorders. It needs but to follow out consistently the principles of the British constitution, and introduce into the

Government of these great Colonies those wise provisions by which alone the working of the representative system can, in any country, be rendered harmonious and efficient. We are not now to consider the policy of establishing representative Government in the North American Colonies. That has been irrevocably done; and the experiment of depriving the people of their present constitutional power is not to be thought of. To conduct their government harmoniously, in accordance with its established principles, is now the business of its rulers; and I know not how it is possible to secure that harmony in any other way than by administering the government on those principles which have been found perfectly efficacious in Great Britain. I would not impair a single prerogative of the Crown; on the contrary, I believe that the interests of the people of these Colonies require the protection of prerogatives which have not hitherto been exercised. But the Crown must, on the other hand, submit to the necessary consequences of representative institutions; and if it has to carry on the government in union with a representative body, it must consent to carry it on by means of those in whom that representative body has confidence.

"In England, this principle has been so long considered an indisputable and essential part of our constitution, that it has hardly ever been found necessary to inquire into the means by which its observance is enforced.—When a Ministry ceases to command a majority in Parliament on great questions of policy, its doom is immediately sealed; and it would appear to us as strange to attempt for any time to carry on a government by means of Ministers perpetually in a minority, as it would be to pass laws with a majority of votes against them. The ancient constitutional remedies, by impeachment and a stoppage of the supplies, have never, since the Reign of William the Third, been brought into operation for the purpose of removing a Ministry. They have never been called for; because, in fact, it has been the habit of Ministers rather to anticipate the occurrence of an absolutely hostile vote, and to retire, when supported only by a bare and uncertain majority. If Colonial Legislatures have frequently stopped the supplies; if they have harassed public servants by unjust or harsh impeachments, it was because the removal of an unpopular administration could not be effected in the Colonies by those milder indications of a want of confidence, which have always sufficed to attain the end in the Mother Country.

"The means which have occasionally been proposed in the Colonies themselves, appear to me by no means calculated to attain the desired end in the best way.—These proposals include such a want of reliance on the willingness of the Imperial Government to acquiesce in the adoption of a better system, as, if warranted, would render an harmonious adjustment of the different powers of the state utterly hopeless. An elective Executive Council would not only be utterly inconsistent with monarchical government, but would really, under the nominal authority of the Crown, deprive the community of one of the great advantages of an hereditary monarchy. Every purpose of popular control might be combined with every advantage of vesting the immediate choice of advisers in the Crown, were the Colonial Governor to be instructed to secure the co-operation of the Assembly in his policy, by intrusting its administration to such men as could command a majority; and if he were given to understand that he need count on no aid from home in any difference with the Assembly, that should not directly involve the relations between the Mother Country and the Colony. This change might be effected by a single despatch containing such instructions; or if any legal enactment were requisite, it would only be one that would render it necessary that the official acts of the Governor should be countersigned by some public functionary.—This would induce responsibility for every act of the government; and, as a natural consequence, it would necessitate the substitution of a system of administration, by means of competent heads of departments, for the present rule-machinery of an Executive Council. The Governor, if he wished to retain advisers not possessing the confidence of the existing Assembly, might rely on the effect of an appeal to the people; and if unsuccessful, he might be coerced by a refusal of supplies, or his advisers might be terrified by the prospect of impeachment. But there can be no reason for apprehending that either party would enter on a contest, when each would find its interest in the maintenance of harmony; and the abuse of the powers which each would constitutionally possess, would cease when the struggle for larger powers became unnecessary. Nor can I conceive that it would be found impossible or difficult to conduct a colonial government with precisely that limitation of the respective powers which has been so long and so easily maintained in Great Britain.

"I know that it has been urged that the principles which are productive of harmony and good government in the mother country, are by no means applicable to a colonial dependency. It is said that it is necessary that the administration of a colony should be carried on by persons nominated without any reference to the wishes of its people; that they have to carry into effect the policy, not of that people, but of the authorities at home; and that a colony which should name all its own administrative functionaries, would, in fact cease to be dependent. I admit that the system which I propose, would, in fact, place the internal government of the colony in the hands of the colonists themselves; and that we should thus leave to them the execution of the laws of which we have long entrusted the making solely to them. Perfectly aware of the value of our colonial possessions, and strongly impressed with the necessity of maintaining our connexion with them, I know not in what respect it can be desirable that we should interfere with their internal legislation in matters which do not affect their relations with the mother country. The matters which so concern us are very few. The constitution of the form of government—the regulation of foreign relations, and of trade with the mother country, the other British Colonies, and foreign nations,

and the disposal of the public lands, are the only points on which the mother country requires a control. This control is now sufficiently secured by the authority of the Imperial Legislature; by the protection which the colony derives from us against foreign enemies; by the beneficial terms which our laws secure to its trade; and by its share of the reciprocal benefits which would be conferred by a wise system of colonization. A perfect subordination on the part of the colony, on these points, is secured by the advantages which it finds in the continuance of its connexion with the empire. It certainly is not strengthened, but greatly weakened, by a vexatious interference on the part of the Home Government, with the enactments of laws for regulating the internal concerns of the colony, or in the selection of persons intrusted with their execution. The colonists may not always know what laws are best for them, or which of their countrymen are the fittest for conducting their affairs; but at least they have a great interest in coming to a right judgment on these points, and will take greater pains to do so than those whose welfare is very remotely and slightly affected by the good or bad legislation of these portions of the empire. If the colonists make bad laws, and select improper persons to conduct their affairs, they will generally be the only, always the greatest sufferers; and, like the people of other countries, they must bear the bills which they bring on themselves, until they choose to apply the remedy. But it surely cannot be the duty or the interest of Great Britain to keep a most expensive military possession of these colonies, in order that a Governor or Secretary of State may be able to confer Colonial appointments on one rather than another set of persons in the Colonies. For this is really the only question at issue. The slightest acquaintance with these Colonies proves the fallacy of the common notion, that any considerable amount of patronage in them is distributed among strangers from the mother country. Whatever inconvenience a consequent frequency of changes among the holders of office may produce, is a necessary disadvantage of free government, which will be amply compensated by the perpetual harmony which the system must produce between the people and its rulers. Nor do I fear that the character of the public servants will, in any respect, suffer from a more popular tenure of office. For I can conceive no system so calculated to fill important posts with inefficient persons, as the present, in which public opinion is too little consulted in the original appointment, and in which it is almost impossible to remove those who disappoint the expectations of their usefulness, without inflicting a kind of brand on their capacity or integrity.

"I am well aware that many persons, both in the Colonies and at home, view the system which I recommend with considerable alarm, because they distrust the ulterior views of those by whom it was originally proposed, and whom they suspect of urging its adoption with the intent only of enabling them more easily to subvert monarchical institutions, or assert the independence of the colony. I believe, however, that the extent to which these ulterior views exist, has been greatly overrated.—We must not take every rash expression of disappointment as an indication of a settled aversion to the existing constitution; and my own observation convinces me, that the predominant feeling of all the English population of the North American Colonies is that of devoted attachment to the mother country. I believe that neither the interests nor the feelings of the people are incompatible with the Colonial Government, wisely and popularly administered. The proofs which many who are much dissatisfied with the existing administration of the government, have given of their loyalty, are not to be denied or overlooked. The attachment constantly exhibited by the people of these Provinces towards the British Crown and Empire has all the characteristics of a strong national feeling. They value the institutions of their country, not merely from a sense of the practical advantages which they confer, but from sentiments of national pride; and they uphold them the more, because they are accustomed to view them as marks of nationality, which distinguish them from their Republican neighbours. I do not mean to affirm that this is a feeling which no impolicy on the part of the mother country will be unable to impair; but I do most confidently regard it as one which may, if rightly appreciated be made the link of an enduring and advantageous connexion. The British people of the North American Colonies are a people on whom we may safely rely, and to whom we must not grade power.—For it is not to the individuals who have been loudest in demanding the change, that I propose to concede the responsibility of the Colonial administration, but to the people themselves. Nor can I conceive that any people, or any considerable portion of a people, will view with dissatisfaction a change which would amount simply to this, that the Crown would henceforth consult the wishes of the people in the choice of its servants.

"The important alteration in the policy of the Colonial Government which I recommend, might be wholly or in great part effected for the present by the unaided authority of the Crown; and I believe that the great mass of discontent in Upper Canada, which is not directly connected with personal irritation arising out of the incidents of the late troubles, will be dispelled by an assurance that the Government of the Colony should henceforth be carried on in conformity with the views of the majority in the Assembly. But I think that for the well being of the Colonies, and the security of the mother country, it is necessary that such a change should be rendered more permanent than a momentary sense of the existing difficulties can insure its being. I cannot believe that persons in power in this country will be restrained from the injudicious interference with the internal management of these Colonies, which I deprecate, while they remain the petty and divided communities which they now are. The public attention at home is distracted by the various and sometimes contrary complaints of these different contiguous provinces. Each now urges its demands at different times, and in somewhat different forms;

and the interests which each individual complainant represents as in peril, are too petty to attract the due attention of the empire. But if these important and extensive Colonies should speak with one voice—if it were felt that every error of our Colonial policy must cause a common suffering and a common discontent throughout the whole wide extent of British America—those complaints would never be provoked; because no authority would venture to run counter to the wishes of such a community, except on points absolutely involving the few Imperial interests which it is necessary to remove from the jurisdiction of Colonial Legislation.

"It is necessary that I should also recommend what appears to me an essential limitation on the present powers of the Representative bodies in these Colonies. I consider good government not to be attainable while the present unrestricted powers of voting public money and of managing the local expenditure of the community, are lodged in the hands of an Assembly. As long as a revenue is raised, which leaves a large surplus after the payment of the necessary expenses of the Civil Government, and as long as any member of the Assembly may, without restriction, propose a vote of public money, so long will the Assembly retain in its hands the powers which it everywhere abuses, of misapplying that money. The prerogative of the Crown, which is constantly exercised in Great Britain for the real protection of the people, ought never to have been waived in the Colonies; and the rule of the Imperial Parliament, that no money vote should be proposed without the consent of the Crown, were introduced into these Colonies, it might be wisely employed in protecting the public interests, now frequently sacrificed in that scramble for local appropriations which chiefly served to give an undue influence to particular individuals or parties."

Good municipal institutions should be established. A sound and general system for the management of the lands, and the settlement of the Colonies, is a necessary part of any good and durable system of Government. [The High Commissioner's plan for this purpose is the subject of a distinct Report.]

LOWER CANADA MUST BE MADE ENGLISH.

"These general principles apply, however, only to those changes in the system of government which are required in order to rectify disorders common to all the North American Colonies; but they do not in any degree go to remove those evils in the present state of Lower Canada which require the most immediate remedy. The fatal seed of origin, which is the cause of the most extensive mischief, would be aggravated at the present moment by any change which should give the majority more power than they have hitherto possessed. A plan, by which it is proposed to ensure the tranquil government of Lower Canada, must include in itself the means of putting an end to the agitation of national disputes in the Legislature, by settling, at once and for ever, the national character of the province. I entertain no doubt as to the national character which must be given to Lower Canada; it must be that of the British Empire—that of the majority of the population of British America—that of the great race which must, in the lapse of no longer period of time, be predominant over the whole North American Continent. Without effecting the change so rapidly or so roughly as to shock the feelings and trample on the welfare of the existing generation, it must henceforth be the first and steady purpose of the British Government to establish an English population, with English laws and language, in this province, and to trust its government to none but a decidedly English Legislature.

(Continued on second Page.)

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FOR SALE.

A LOT of LAND in the lower part of the Town of Fredericton, containing one acre and a half. For further particulars apply to CHRISTOPHER BROWN, Jr. Regent Street. Fredericton, February 13, 1839.

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Fredericton, March 5, 1839.

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N. B. Persons asking for any of the above will please say that they are advertised. W. B. PHAIR, Post Master.

NOTICE.

ALL Persons who have any demands against the Estate of the late HENRY GEORGE CLOPPER, Esquire, deceased, will render accounts thereof, within six months from this date, at the Office of JOSEPH BEEK, Esquire, in Fredericton; and those who are indebted to the said Estate, will make immediate payment to the said JOSEPH BEEK who is authorised to settle and give discharge, therefor. Dated at Fredericton, the 19th day of December, 1838. MARY ANN CLOPPER, & Esq. RICHARD KETCHUM, Esq.

THE ROYAL GAZETTE.

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