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IMPORTANT FOR
1837 REBELLION
AND
1867 CONFEDERATION

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AN

ESSAY

ON

H. Mitchell

THE RE-CONSTITUTION

1839-

OF

HER MAJESTY'S GOVERNMENT

IN

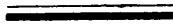
CANADA.



BY

HENRY BLISS, ESQ.

OF THE INNER TEMPLE, BARRISTER-AT-LAW.



LONDON :

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INTRODUCTION.

WHAT is to be done for the Peace and Good Government of Canada? A question of momentous importance to all concerned in the British Northern Colonies, deeply interesting as a problem of political jurisprudence, and which, after two High Commissions sent out to solve it, is now about to be submitted to Parliament.

However the time for deliberation may have been employed, the moment for action is arrived. Something efficient and conclusive must now be done. No more elusion of the difficulty, procrastination of the remedy, coquetting with parties, compromising of principles,—no more of this can be admitted. Half measures are out of date. Temporary expedients will no longer answer. Enough has been sacrificed to the chance of events, and the expectation of accidents. The destinies of two great colonies require to be immediately and permanently settled. Government must govern; the legislature give law; the Imperial

Parliament must speak out; or all will betray their office. And, more, the exigency is so instant and so urgent, that it behoves even private individuals to come forward, if any, from peculiar opportunity or observation, be enabled to suggest what may appear to deserve consideration; every good subject seems called upon, by his duty to the crown and the empire, to declare what advice he can offer, or what opinion he has formed, that may profit his country, or serve the present occasion.

A deep sense of this obligation, no less than an attachment to such studies, and a peculiar interest in their present application, have been among the principal motives for the present publication. Safer, undoubtedly, and far less anxious and laborious would be the task, to expect some measure of her Majesty's Government, and reserve oneself for either alleging the errors, or accusing the absence, of any such bill. That, however, is an office which persons will never be wanting to undertake. But a worthier effort, and one more suited to the emergency of the times, is at once to assume the responsibility of humbly tendering counsel upon a subject, which, had adequate counsel been already possessed, or heretofore adopted, would never have been brought to so momentous a crisis. The attempt, whatever its character or success, may at least serve to attract attention, aid deliberation, and hasten a solution of the

question; the further deferring of which would be its most unfortunate result. What then is to be done for the peace and good government of the Canadas?

The question is of a complex character, involving a subject of foreign relations as well as of internal legislation. For the former,—the wealth and power of Great Britain are too vast for any opportunity of her dismemberment to pass neglected. The rebellions and piracies perpetrated in Canada have undoubtedly received from foreign powers supplies of men, arms, and money. The source of the two former is notorious; but large pecuniary assistance would little suit the means and character of either the people or government of that country. Yet such assistance must have been given from some quarter, and not sparingly; otherwise those enterprises were too expensive to have been prepared, and too desperate to have been undertaken. Their plotters and contrivers must have made money, by so repeatedly sending others to a peril, ever considered too hopeless for themselves. Russia has been accused, and with too much reason, of interposing by pecuniary at least, if by no other, encouragement. The journalism of France has evidently discovered a disposition to interfere, restrained, however, by considerations of public right, and the improbability of success; considerations, which may not for ever prevail, against either her an-

tipathy to British dominion, or sympathy for her Canadian descendants. But the United States of America have never even pretended that such considerations could for a moment restrain their citizens from taking, in this contest, such a part as either political animosity, the hope of plunder, or the merest wantonness of outrage and aggression, should at any time suggest. Not for once, nor twice, nor a third, nor a fourth time only, but oftener than can be enumerated with exactness, or remembered with endurance, expeditions have been assembled, equipped, and dispatched from the American territories; nay, the public arsenals of that country have been repeatedly emptied of their stores, with impunity; to invade the unoffending dominions of Great Britain, at a moment of profound peace. And when we demand the reason of this, we are told, forsooth, their government has no power to prevent it! Is Great Britain still herself? Has she any thing left of that ancient courage, which once would have regarded such an excuse as a mockery and an insult? Is there a country in Europe that would submit to this? Is there one other in the world that would dare to inflict, on Great Britain, this grossest outrage of public law and national rights? How long is the thing to be endured? How much is this country to tolerate? What limit is our patience to assume? That reparation has been demanded, as is presumed to be the fact, that com-

pensation will be exacted, is by no means enough. Prevention is necessary. The foreigner requires again to be convinced that Great Britain will not submit to the slightest wrong. The first affront must in future be resented ; the least aggression repelled. Let the United States be informed that the next expedition they suffer to be equipped and dispatched by their citizens, for the invasion of Canada, shall be regarded by us as an act of hostility. When the seas shall be swept again, as a fish-pond is netted, the Americans will be undeceived in their hope, that we are so simple as to suffer them to have war in Canada, and peace upon the ocean. Let them be forewarned that, if they will have hostility, they must not expect to choose the scene, or limit the object : that insurrection and rebellion is a game at which two may play, though we scorn to begin it in peace, or to allege the impotence of our own government, or the barbarism of our people, to disguise a war.

Friendship and commerce between ourselves and the United States are unquestionably most desirable for both parties, but this is seldom rendered less secure by an attitude imposing respect and exacting just rights. Our amity will only be the more prized in proportion as our hostility is more formidable. The people of this country, though perhaps about to lament that policy of their government, which has made them so de-

pendant on one foreign power for the material of a manufacture so important as cotton, will never prefer that or any other trade, to the great character of the British empire, its national honour, and fame. War is too great an evil to be incurred for any other cause: but, for this, no sacrifice is too large to be braved, and no indignity too slight to be resented. History has by too many examples ascribed this spirit to the English name, for any fear to be now felt lest we should shrink from that policy and renown, to which we are hitherto indebted for all that is noblest and most exalted in our social feelings and relations.

Persons, however, will no doubt be found, so possessed with the temper of faction or the dogmas of a theory, so ready to confound insurrection with liberty, or so accustomed to measure all utility by pecuniary economy, as to look barely to the immediate cost of this policy, and compare that with its immediate object, and therefore, as commending the fabled wisdom of the hunted Castor, call upon us to cast off and dismiss a possession which involves so great danger and expense. But is it wise or fair to compute the cost of a territory by the expenditure it requires, if happening to be made the seat of hostility; or to compare such an amount with the profits of our commerce to that quarter? Is it thus that we estimate the cause of the blood and treasure we have lavished in Portugal or in Spain, or through

so many ages in, that great arena of national combats, the Netherlands? Is the battle of Waterloo to be estimated according to our trade with Belgium? The victory of the Nile by its exports for our manufactures? As well might the importance of such conflicts be judged by the value of the field on which the struggle is decided. No; though of all the dependancies of Great Britain none is more important to her industry and pre-eminence than Canada, for its rich and vacant lands, its forests, fisheries, mines, trade (nearly 3,000,000*l.* of our exports), employment of navigation (nearly 700,000 tons annually), and its situation; yet it is not with these that the cost of its defence is to be compared. Enemies we must always have, and they will find us out upon one side of the water or another. The battle must be fought somewhere. The scene is by no means the cause. The outworks of a fortress are always the first assailed, but do they either weaken defence, or provoke attack? There is no refuge in littleness. Without Canada, we should have other dominions. The assault would be soon transferred to them. Without them, the assailants would only commence the nearer to our own doors. There is no mutilation of ourselves that will satisfy the cupidity of our enemies; none that will not weaken our means of defence: and to give more truth as well as a better moral to the apologue, the Castor in the fable must have found,

that the hunter, to whom it cast its members, continued his pursuit for its skin. No; the snail may retire to its shell when insects make attack; at the scream of an eagle hawks will quit the food fished up for their young; vermin counterfeit insensibility to escape destruction; but a rich and mighty empire can only find peace and security by flying to defend the extremest part with the power and energy of the whole.

The Athenian minister, who boasted that he knew how to raise a single state to the head of a great confederacy, was constrained to own that he could neither tune the lute nor play upon the harp. There is among us a class of politicians, who, if only proficient in music, are every way possessed of accomplishments the converse of Themistocles; for theirs is the science of reducing the head of a great confederacy to the condition of a single state. Certainly, the greatness of the British dominions was founded and acquired by principles the converse of theirs, and by men most unlike themselves. But the people of this country are too high minded, too conscious of their own worth and strength, to confine themselves to the shores of these kingdoms, or even to the sea that surrounds them. And if we will have colonies, as Heaven forbid we should doubt, we can only retain them by readiness to resent and repel, with the whole strength of the empire, the first and slightest aggression upon the least and remotest

province. It is every way better to do so. It is not only nobler, more honourable, and worthier of the fame, character, and power of Britons, but it is even cheaper. An army of 50,000 men, consisting of 15,000 regulars and 35,000 volunteers, is now maintained in Canada, to carry on peace with the United States. War might be carried on to more advantage by such a force. The object of the Americans may be to wear us out by an expenditure made on such unequal terms, and win from us in peace a conquest, they have twice attempted vainly in war. Pure economy requires us to make a demonstration. Honesty is the best policy, and so is courage, and fortitude, and every virtue, and for communities as well as individuals. Then let this great, rich and fortunate empire assume that attitude of preparation and resolution, which may enforce denunciations of indemnification for the past and instant reprisals for the future. The proudest nation of the world will pause before it affront this by any injustice. But we have to deal with one of the feeblest. No country is more vulnerable than the United States from Great Britain. From scarce any could Great Britain receive less injury than from the United States. The moment is peculiarly favourable to us, and embarrassing to them. In that quarter Great Britain was never better prepared; and if, as seems probable, a great conflict of nations be approach-

ing, she had better begin it with the only part she left half-finished in the last. Sooner or later the Americans are sure to turn upon us. Is it wise to leave to so subtle an adversary the choice of both the time and scene? Yet far be it from us to require any thing but right. That Republic needs only to be assured that we will not submit to the slightest wrong, and they will cease to inflict it, or to attempt it, or to desire. Supported by the effect of such an attitude on our part, the good and wise and just among them will recover that influence, which their institutions, apportioning authority to numbers, seem at present to bestow on a very different class; and the civilized world will no longer be insulted by that apology for piratical invasions of a peaceful country, that the government cannot prevent them: an apology disgraceful to the nation which offers, and not very creditable to the government which accepts. This then, as far as regards foreign relations, is an answer to the question—What is to be done for the Peace and Good Government of Canada?

The remaining division of the inquiry needs in like manner a preliminary resolution to front responsibility, and grapple with all its difficulties, in a spirit of energy, courage, and decision. Duty and policy alike require this effort; the occasion favours it; the future demands; and the past has

proved no other means remain. To those, therefore, who have studied the character and consequence of previous events, and are willing to enter upon this inquiry in no spirit of dissent or disposition to cavil and object, but honestly to inquire what is best to be done, or which is the least of necessary evils to be sustained; to such, (and such only are capable of judging these affairs, or even of understanding them,) further preface is unnecessary to the following propositions.

1st. There exists in the two Canadas a class of inhabitants, who are hostile to the British Constitution and connexion, and a class who are devotedly attached to the same.

2nd. Of the former class, the whole have repudiated the British Constitution, and a great number have taken arms to dissolve British connexion. The latter class, on the contrary, have never ceased to invoke that Constitution; never wished but to perpetuate that connexion; never hesitated to fly to arms to defend both; and never failed in that endeavour.

3rd. The former are not composed of the same parties in the two Provinces, but in each are of different origin, and have different objects. In the Lower Province they are almost entirely of French descent, forming a large majority, and aspiring to establish there a Canadian Republic. In the Upper Province they are an inconsiderable minority, consisting of hot-headed democrats

from all quarters, whose purpose is to add Canada to the United States.

4th. The loyalists are in the Lower Province a minority, but in numbers equal to one-fourth of the whole population, and amply compensating for their deficiency in that respect, by their superior energy and intelligence, industry and resolution. In the Upper Province this class forms an overwhelming majority of the same character, origin, interest, and feeling, as the minority in the Lower Province. Like them, too, they claim the British Constitution and British connexion, for which like them they have gallantly and devotedly fought, and have conquered.

5th. The end, therefore, of the measures to be adopted by the Imperial Parliament, should be to establish and secure the British Constitution in those Provinces, and perpetuate their connexion with this country.

6th. The means to that end are,—since the British Constitution is a mixed government, having one branch of representatives elected by the people, and since the French majority in the Lower Province have refused either to administer that branch, or to obey that Government:—to take from that French majority its ascendancy in the representation,—give the British minority, in constituency, an equality in elections,—place both classes permanently on the same footing in the House of Assembly;—nay more, if it be necessary,

give the loyal British class a temporary ascendancy ; and then unite the Legislatures of both Provinces.

Such are the general principles of the present proposal, and such their deduction. The details require ampler explication. And in order to give them in the most distinct aspect, and definite shape, they are here submitted in the form of the Bill, which follows, and will be succeeded by some Remarks, as well upon the policy of the whole measure, as its separate clauses. It should however be further premised, that every instrument of government is considered to require, as essential ingredients, that it should be practicable in operation, and permanent in its nature, and therefore should be adapted to the people it concerns, and contain within itself the means of self-preservation ; and consistently with these requisites, should make in existing laws and institutions as little change as possible, beyond the necessity of the case, and the purposes in view. These objects, therefore, have been also consulted in the following Bill ; which is here inserted, by no means as an instrument free from objections, but merely as presenting an exact and tangible description of the remedy proposed.

A BILL

*For Uniting the Legislatures of Upper and Lower
Canada and making more efficient provision for
their Civil Government.*

WHEREAS by an Act passed in the thirty-first year of the reign of his Majesty King George the Third, intituled "An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province," reciting that his said Majesty had signified his intention to divide his said Province of Quebec into two distinct Provinces, to be called respectively the Province of Upper Canada and the Province of Lower Canada, it was enacted, that there should be within each of the said Provinces respectively a Legislative Council and an Assembly, to be severally composed and constituted as in and by the said Act is after described: And whereas by an Act passed in the last Session of this present Parliament, in the first year of her Majesty's reign, intituled "An Act to make temporary provision for the Government of Lower Canada," reciting that in the present state of that Province the Assembly could not be called together without serious detriment to the interests of the said Province, and that it was expedient to make temporary provision for the government of Lower Canada, in order that Parliament might be enabled after mature deliberation to make permanent arrangements for the constitution and government of the said Province upon such a basis as may best secure the rights and liberties of all classes of her Majesty's subjects in the said Province, it was enacted, that so much of the said first-men-

Preamble.

Recites stat. 31
Geo. 3, c. 31.

Stat. 1 Vict.
c. 9.

tioned Act or of any other Act of Parliament as provided for the constitution or calling of a Legislative Council or a Legislative Assembly for the Province of Lower Canada, or conferred any powers or functions upon either of those bodies, should, until the first day of November in the year 1840, cease and be of no force; and that it should be lawful for her Majesty to constitute a special council for the affairs of Lower Canada; and that it should be lawful for the Governor of the said Province, with the advice and consent of a majority of the said councillors, to make laws or ordinances for the peace, welfare and good government of the said Province, subject to the conditions, limitations and restrictions in the same Act contained: And whereas it is now expedient to unite the Legislatures of the said two Provinces, and to provide for the immediate tranquillity of the same, and to make such permanent arrangements for the constitution of her Majesty's government therein, as may best secure the rights and liberties of all classes of her loyal subjects, and the more efficient co-operation of the several parts of the said Legislature for the peace and welfare of the said Provinces: May it therefore please your most excellent Majesty that it may be enacted, and be it enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present Parliament assembled, and by the authority of the same, That from and after the commencement of this Act, as hereinafter provided, so much of the said Acts as in any manner relate to the future summoning, electing and constituting a Legislative Council and Assembly for each of the said Provinces separately, or a Special Council for the said Lower Province, and the power given by the former of the said Acts to the said Legislative Council and Assembly for each of the said Provinces separately, and the power given by the latter of the said Acts to the said Special Council of the Lower Province, to make laws for the peace, welfare and good government of each of the said Provinces separately, with the consent of her Majesty or of her Majesty's Governor, Lieutenant Governor, or person administering the government within the same respectively for the time being, shall be and the same are hereby repealed.

Objects of this Act ;
union of Legislatures ;
immediate tranquillity ;
permanent constitution ;
to secure the rights and liberties of all classes ;
and co-operation of all parts of the legislature.

Enacts—
repeal of legislative powers under 31 Geo. 3, c. 31, and 1 Vict. c. 9.

II. And be it further enacted by the authority aforesaid, that from and after the commencement of this Act as hereinafter provided there shall be in and for the said two Provinces jointly one united Legislative Council and one united Assembly, to be composed and constituted in the manner hereinafter described, and that her Majesty, her heirs and successors, shall have power during the continuance of this Act, by and with the advice and consent of the said united Legislative Council and Assembly of the said two Provinces, to make laws for the peace, welfare and good government thereof, such laws not being repugnant to this Act; and that all such laws being passed by the said united Legislative Council and Assembly of the said Provinces, and assented to by her Majesty, her heirs or successors, or assented to in her Majesty's name by such persons as her Majesty, her heirs or successors, shall from time to time appoint to be Governor of the said Provinces, or by such persons as her Majesty, her heirs or successors, shall from time to time appoint to administer the government in chief within the same, shall be and the same are hereby declared to be, by virtue of and under the authority of this Act, valid and binding to all intents and purposes whatever within both the said Provinces.

United legislature.

Power to make laws.

Not repugnant to this Act.

III. And be it further enacted, that for the purpose of constituting such united Legislative Council as aforesaid for the said two Provinces, all and every such persons as heretofore have been summoned and sworn in and at the passing of this Act are members of the Legislative Council of the Province of Upper Canada under the first herein recited Act, and all and every such persons as heretofore have been appointed and sworn in and at the passing of this Act are members of the said Special Council of the Province of Lower Canada under the said secondly herein recited Act, shall be and become and are hereby constituted and made members of the said united Legislative Council for both the said Provinces for and during the same term, and subject to the same restrictions and conditions, and with the same rights and privileges as enacted and provided in and by the said first herein recited Act for the members of either of the respec-

Composition of the united Legislative Council;

of the legislative Councillors of Upper Canada;

and of the existing Special Councillors of Lower Canada.

Their tenure for life.

Addition of new members.

tiye Legislative Councils thereby constituted; and that it shall also be lawful for her Majesty, her heirs or successors, from time to time by an instrument under her or their sign manual to authorise and direct the Governor, or person administering the government in chief in the said Provinces, to summon to the said Legislative Council hereby constituted for the said two Provinces such other person or persons as her Majesty, her heirs or successors, shall think fit, and every person who shall be so summoned shall thereby become a member of the said Legislative Council hereby constituted for the said two Provinces, for and during the same term, and subject to the same restrictions and conditions, and with the same rights and privileges as hereinbefore enacted.

Composition of United Assembly from Upper Canada.

IV. And for the purpose of constituting on the part of the said Province of Upper Canada such an United Assembly as aforesaid for both the said provinces jointly, whereas it is expedient to make by this Act no change in either the number of members to be returned or the places returning them as appointed by the existing laws of the said Upper Province; and whereas the existing Assembly in the said Upper Province having been in the year 1836 elected for the term of four years under and by virtue of the said hereinbefore first-recited Act may have expired or be about to expire at or soon after the commencement of this Act as hereinafter provided; be it therefore enacted, that such and so many members as by virtue of any existing law of the said Upper Province now are or at the commencement of this Act shall be appointed to be chosen by any district, county, riding, circle, town, township, or place within the same, and to be returned, as members of the said Assembly as under and by virtue of the said hereinbefore first-recited Act constituted, shall continue and be and are hereby appointed to be chosen for and by each and every the same several districts, counties, ridings, circles, towns, townships, or places within the said provinces, and to be returned as members of the said United Assembly hereby constituted for both the said provinces jointly, with the same rights and privileges, and subject to the same conditions and restrictions as in and

The same number of members and for the same places as now for the Upper Canada Assembly to be members of the United Assembly.

by the said hereinbefore first recited Act is enacted and provided, unless it shall at any time be otherwise provided by any act of the said United Legislative Council and Assembly assented to by her Majesty, her heirs and successors.

Till otherwise provided by the United Legislature.

V. And for the purpose of constituting, on the part of the said Province of Lower Canada, such United Assembly as aforesaid for both the said provinces, whereas the number of members by the laws of the said Lower Province under the said hereinbefore first mentioned Act to be elected and returned to the Assembly of Lower Canada, would be more than justly proportionate to the number of members hereby appointed for the part of Upper Canada in the said United Assembly, and that the appointment and distribution of members by virtue of the existing laws of the said Province of Lower Canada to be returned to the Assembly thereof by the several counties and towns or townships of the same province, and the qualification of electors therein established by the said hereinbefore first recited Act have not there proved adequate to the objects for which the said Act was passed, or the peace, welfare and good government of the said province; and whereas it is expedient so to distribute and appoint the members to be chosen for the several districts or counties or circles and towns and townships of the said Lower Province as better to protect the rights and liberties of all classes of her Majesty's subjects therein, and establish and secure the power and authority of her Majesty's government and of the said United Assembly hereby constituted within their just limits, and promote the peace and welfare of the said province, and the more rapid improvement of the same in wealth and population by emigrants from other parts of her Majesty's dominions; be it therefore enacted, that it shall and may be lawful for her Majesty to authorise the Governor or person administering the government in chief of the said provinces to issue a proclamation declaring and appointing the whole number of members to be returned to the said United Assembly on the part of the said Province of Lower Canada, and dividing the said province into electoral districts, which may and shall consist of

Composition of the United Assembly from Lower Canada. Recites— number of Lower Canada members at present disproportionate, and their distribution objectionable;

and qualification of electors also.

New electoral districts expedient for rights of all classes,

and for preserving the powers of government;

and to promote improvement by British settlers.

Enacts—

Her Majesty's government to settle the proportion for Lower Canada, and to appoint

electoral districts—
of counties and towns or circles thereof;
to appoint number of members for each—
and returning officers,
till otherwise provided by the United Legislature.
Provided.
No town to have less than 200 electors.
No town or circle of a town to have above two members.
Quebec and Montreal to have same as now.
No county to have more than now—no town less.
No circle of counties more than such counties now.

either any existing county, town or township, or of any union or circle of such counties or towns or townships within the said province, and declaring and appointing the number of members to be chosen either by each of the several counties and towns or townships, or by any union or circle of such counties or towns and townships; and that it shall also be lawful for her Majesty, her heirs and successors, to authorise such Governor or person administering the government in chief from time to time to nominate and appoint proper persons to execute the office of returning officer in each of the said districts or counties, and towns or townships, or circles of the same, respectively; and that such division of the said province into districts of counties and towns or townships or circles of the same; and such declaration and appointment of the number of members to be chosen by each of the said districts of counties and towns or townships or circles of the same respectively, and also such nomination of returning officer in the same shall be valid and effectual to all other purposes of this Act, unless it shall at any time be otherwise provided by any Act of the said United Legislative Council and Assembly of the said provinces, assented to by her Majesty, her heirs or successors: provided always, that no declaration and appointment of any member to be chosen by any such town or townships, or by any circle of such towns or townships shall be good or valid under this Act where the whole number of electors qualified as hereinafter directed shall not within any such circle, town or townships or circles of the same exceed two hundred: provided also, that not more than two members shall be so appointed to be chosen by any town or township or circle of the same, except the towns of Quebec and of Montreal, for which the same number of members shall be appointed as are now by the existing laws of the said province appointed to be chosen: provided also, that no greater number of members shall be so appointed to be chosen by any county, and no lesser number of members shall be appointed to be chosen by any town or township than are by the existing laws of the said province appointed for the same; and no greater number of members shall be so appointed to be chosen by any such circle of counties than are now by the existing laws of the said pro-

vince appointed to be chosen for all the counties of which such circle may be composed, and that at least one member shall be appointed to be chosen for every county, except such counties as shall be united to any circle for which more than one member shall be appointed to be chosen.

Each county to have one member, or belong to a circle returning more.

VI. And be it further enacted, that the members for the several counties or the circles of the same, in the said Lower Province, shall be chosen by the majority of votes of such persons as shall severally be possessed, for their own use and benefit, of lands or tenements within such county or circle, as the case shall be, such lands being by them held in freehold or by certificate derived under the authority of the Governor and Council of the said Province, and being of the yearly value of forty shillings sterling or upwards, or being by them held in fief or in roture, and being of the yearly value of ten pounds sterling or upwards, over and above all rents and charges payable out of or in respect of the same, or being by them held, whether in freehold or any other tenure whatever, for the unexpired residue, whatever it may be, of any term originally created for a period of not less than twenty years, whether determinable on a life or lives or not, and being of the clear yearly value of ten pounds sterling or upwards, over and above all rents and charges payable out of or in respect of the same, or being by them occupied as tenants at a bonâ fide yearly rent of twenty pounds sterling or upwards: And that the members for the several towns or townships within the said Lower Province shall be chosen by the majority of votes of such persons as shall either be possessed for their own use and benefit of a dwelling-house or other building, either separately or jointly with any ground, or of any land within such town or township, being by them held in freehold, or by such certificate as aforesaid, and of the clear yearly value of five pounds sterling or upwards, or being by them held in fief or in roture, or being by them held, whether in freehold or any other tenure, for the unexpired residue of any term originally created for not less than twenty years as aforesaid, and being of the yearly value of ten pounds sterling or upwards, or as having been resident within the said town or township for the space of twelve

Qualification of electors for counties.

40s. freeholders and holders by certificate.

10l. holders in fief and in roture.

10l. termors for any residue of twenty years,

and 20l. renters.

Qualification of electors for towns.

Freeholders and holders by certificate of 5l.

Holders in fief or roture of 10l.

Termors of residue of twenty years of 10l.

and 10*l.* renters
of houses.

Proviso for as
many partners
to vote as mul-
tiples of 10*l.*
value.

calendar months next before the date of the writ of summons for the election, shall bonâ fide have paid or be liable to pay one year's rent for the dwelling-house in which they shall have so resided, either separately or jointly with any ground or any other building, at the rate of ten pounds sterling per annum or upwards in the whole : Provided always, that where any premises as aforesaid in any such town or township shall be jointly possessed or occupied by more persons than one as owners or tenants, each of such persons so jointly possessing or occupying shall be entitled to vote in the election for such town or township, in respect of the premises so jointly possessed or occupied, in case the clear yearly value of such premises shall be of an amount which, when divided by the number of such occupiers or persons so possessing, shall give a sum of not less than ten pounds for each and every person so possessing or occupying, but otherwise only so many of such persons shall be entitled to vote as such amount of the clear yearly value, so divided by their number, shall give for each a sum of not less than ten pounds.

Power to give
one member to
the freeholders
and the other to
the censitaires.

VII. And be it further enacted, that in every such county or circle of counties, so to be made and appointed, for which two members shall be appointed to be chosen, and in which there shall be persons so qualified to vote by reason of their being so possessed of lands or tenements held by them in fief or in roture as aforesaid, and also of persons so qualified by reason of their being so possessed of lands or tenements held by them in freehold, or by such certificate as aforesaid, or for any such residue of a term originally created for not less than twenty years as aforesaid, or occupied by them as tenants at a bonâ fide yearly rent of twenty pounds sterling, as aforesaid, it shall and may be lawful for her Majesty to authorise the Governor or person administering the government in chief of the said Provinces to direct and appoint that one only of the members so to be appointed to be chosen for any such district, or county or circle, shall be chosen by the persons so possessed of lands or tenements held in fief or in roture, and that the other only of such members shall be chosen by the persons so possessed of lands or tenements held in freehold or by such certificate, or for such residue of

a term of twenty years as aforesaid, or occupied at such bonâ fide yearly rent as aforesaid, and that distinct and separate writs for such respective elections of such members be issued by the said Governor or person administering the government in chief of the said Provinces : Provided always, that no such appointment of one member to be chosen by persons holding lands or tenements in fief and in roture, and the other members to be chosen by persons holding lands or tenements in freehold, or by such certificate, or for such residue of a term of twenty years, or occupied as aforesaid, shall be valid for any county or circle of counties in which the number of persons so qualified by holding in fief and in roture shall not together, in the whole, exceed two hundred, and in which also the number of persons so qualified respectively, by holding in freehold or by such certificate, or for such residue of a term of twenty years, or occupied at such bonâ fide yearly rent as aforesaid, shall not together, in the whole, exceed two hundred.

Proviso that there be 200 of each class.

VIII. And whereas, in the district of Montreal, within the said Lower Province, divers of her Majesty's liege subjects have of late been wickedly and traitorously deluded and seduced into acts of sedition and open insurrection and rebellion against her person and government, and that the immediate exercise of the electoral franchise within such district may not in all places, or by all such classes of her Majesty's subjects as aforesaid, conduce to the peace, welfare, and good government of the said provinces, for remedy thereof be it therefore further enacted, that it shall and may be lawful for her Majesty to authorise the Governor or person administering the government in chief of the said Provinces, by his proclamation for that purpose made, to suspend the issuing of any writ for the election of any member for any of the counties, or towns or townships, or circles of the same within the said district of Montreal, and in lieu of such writ to any such county, or town or township, or circle of the same, and in order also to preserve the just proportion of members for the said Lower Province, it shall and may be lawful for her Majesty to authorise the Governor or person administering the government in chief, by such proclamation or otherwise, to appoint and to issue a like writ for the election of an equal

Power to suspend any writ for elections in the district of Montreal.

and to issue like writs to other places.

number of discrete and proper persons by any other county or town or township, or circle of the same, in the said district of Montreal, or in any other district or part of the said Province, and to appoint a proper person to be returning officer for the execution of such writ, and every person who shall by virtue of such writ be chosen and returned to the said United Assembly shall thereby become a member of the same to all intents and purposes, and for the same term, and with the same rights and privileges, and subject to the same conditions and restrictions as if such persons had been elected and returned for such district or county, or circle, and town or township for which such writ shall have been so suspended: Provided that no such appointment shall be made and writ issued to any town or township, or circle of the same, within which the whole number of persons so qualified as herein provided to choose such member shall not amount to two hundred.

Provided places to which such writs issue have 200 electors.

Two members of the Assembly and two members of the Legislative Council to be in the Executive Council.

IX. And whereas it is expedient to provide for the mutual good understanding and co-operation of the said United Legislative Council and Assembly, as well with each other as with the Governor or person administering the government in chief, for the peace and welfare of the said Provinces, be it therefore further enacted, that the Executive Council of the said Governor, or person administering the government in chief, shall be composed and consist of at least two members of the said United Assembly, and two members of the said United Legislative Council, and of such other persons as her Majesty, her heirs, or successors shall from time to time think fit to appoint; and such members of the said Legislative Council and Assembly, on being so appointed to the said Executive Council by the Governor or person administering the government in chief, shall, unless sooner superseded, continue such members of the Executive Council until the dissolution or expiration of the United Legislative Assembly from which they were so appointed, or until they shall cease to be members of the same; and that it shall and may be lawful for her Majesty to authorise the Governor, or person administering the government in chief, at the commencement of every session of the said United Legislative Council and Assembly, to appoint and summon any members,

Power to summon five members of the Assembly to the Legislative Council for each Session.

not exceeding five in number, duly elected and returned to the said Assembly, to be members of the said Legislative Council during the session then being holden, and from and after such appointment and summons every such member of the said Assembly shall cease to sit or vote in the said Assembly, and shall thereby be and become a member of the said Legislative Council to all intents and purposes during the said session: Provided always that no vacancy shall in the meantime, by reason of such appointment and summons to either the said Executive or the said Legislative Council, be taken or adjudged to have been made in the said Assembly, nor shall any new writ be issued for the election of another member of the said Assembly in lieu of the person so appointed or summoned, and that after the prorogation of the said United Legislative Council and Assembly every such member so appointed and summoned to the said Legislative Council shall again revert to all his rights and duties as member of such Assembly, and cease to be a member of such Legislative Council.

Proviso, no vacancy thereby in the Assembly.

X. And be it further enacted, that her Majesty's Attorney General for the Province of Lower Canada, or her Majesty's Solicitor General for the same Province, and her Majesty's Attorney General for the Province of Upper Canada, or her Majesty's Solicitor General for the same Province for the time being, or any such two of them, or any two such members of the said Executive Council as her Majesty may authorise the Governor or person administering the government to appoint from time to time, shall by virtue of such office and appointment, and during the continuance thereof, be and continue successively, and are hereby made members of the said United Assembly to all intents and purposes, with the same rights and privileges and subject to the same conditions and restrictions, and to the jurisdiction and authority of the said Assembly, in the same manner as any other of its members.

The Attorneys or Solicitors General of the two Provinces, or two members of the Executive Council, to have seats and vote in the Assembly.

XI. And be it further enacted, that it shall and may be lawful for the said Legislative Council, by a resolution to be passed at the commencement of every session, to nominate and empower any two members of the said Legislative Coun-

Two members of the Legislative Council nominated thereby to have

seats in the Assembly for any session. cil to be members of the said Assembly during the sessions then holden, and from and after the passing of such resolution and the communicating the same to the said Assembly, each person so nominated shall cease to sit or vote in the said Legislative Council, and shall thereby be and become a member of the said Assembly to all intents and purposes, and with the same rights and privileges, and subject to the same conditions and restrictions, and to the jurisdiction and authority of the said Assembly, in the same manner as any other of its members during the said session, and after the termination thereof by prorogation shall again revert to all his rights and duties as member of Legislative Council, and cease to be such member of the said Assembly.

Legislative Council to consist of thirty at least.

Ten a quorum.

Assembly to consist of not over one hundred and thirty five.

Twenty a quorum.

Neither body to adjourn for more than two days, except by authority of the Governor.

Qualification of Legislative Councillors.

One thousand acres of land, or four thousand pounds sterling.

Qualification of members of Assembly.

XII. And be it further enacted, that the said United Legislative Council shall consist of not less than thirty members, of whom not more than ten shall be required to be present to form a quorum for the dispatch of business. And that the said United Assembly shall not consist of more than one hundred and thirty-five members, of whom not more than twenty shall be required to be present to form a quorum for the dispatch of business. And that neither the said United Legislative Council nor the said United Assembly respectively shall have power to adjourn for a longer period than two days at a time during any session, except by the consent of the Governor or person administering the government in chief, and by his authority.

XIII. And be it further enacted, that no person shall be capable of being summoned to the said Legislative Council, except such persons as shall be so summoned from the said Assembly, being members thereof as hereinbefore provided, who shall not at the time of his being so summoned be seised or possessed in fee, or for the term of his own or of some other life, or for a term of not less than twenty years, of one thousand acres of land free from any incumbrance, or seised and possessed of real and personal estate of the clear and beneficial value of four thousand pounds sterling within the said Province ; and no person shall be capable of being elected to the said United Assembly or of sitting or voting therein, except

such persons as shall become members thereof under the provisions of this act, as being members of the said United Legislative Council or of the said Executive Council, or her Majesty's Attorney and Solicitor General for either of the said Provinces, so authorised to sit and vote in the said United Assembly as aforesaid, who shall not be and continue seised or possessed in fee, or for the term of his own or some other life, or for not less than twenty years, of five hundred acres of land free from any incumbrance, or of real and personal estate of the clear and beneficial value of two thousand pounds sterling within the said Province.

Except Executive and Legislative Councilors, and Attorneys or Solicitor Generals.

Five hundred acres, or two thousand pounds sterling.

XIV. And be it further enacted, that it shall and may be lawful for her Majesty, her heirs or successors, to authorise the Governor or person administering the government in chief of the said Provinces, to fix the place or places of holding any session of the said United Legislative Council and Assembly in either of the said two Provinces, or in each of them alternately, as may be found most convenient for the dispatch of business and the peace, welfare, and good government of the said Provinces.

Place of holding the sessions.

XV. Provided always, and be it further enacted, that the said provision hereinbefore contained for empowering the Governor or person administering the government in chief of the said Provinces, under such authority as aforesaid from her Majesty, her heirs or successors, to suspend the issuing of any writ for the election of any member for any of the counties or towns, or townships or circles of the same, within the said district of Montreal; and in lieu thereof to issue a like writ to such other county or town, or township or circle of the same, as he may appoint, for the election of an equal number of proper persons to be members of the United Assembly, shall remain and continue in force for the term of five years from and after the commencement of this Act, as hereinafter provided, and no longer; but subject nevertheless to be sooner repealed or varied, or further continued, by any Act of the United Legislative Council and Assembly of the said Provinces, assented to by her Majesty, her heirs or successors.

Proviso. Limiting to five years the power of suspending writs in the district of Montreal, and issuing them elsewhere,

unless sooner repealed, altered, or continued by the United Legislature.

Proviso.

During continuance of such power to suspend writs.

The members from Upper Canada to have a negative on Acts relating to Upper Canada exclusively ;

or imposing or altering any tax, rate, &c. ; or any duty on importation inland ;

or repealing or altering any law of Upper Canada.

XVI. Provided also, and be it further enacted, that so long as the said provision hereinbefore contained, for empowering the Governor or person administering the government in chief of the said Provinces, under such authority as aforesaid from her Majesty, her heirs or successors, to suspend the issuing of any writ for the election of any member for any of the counties or towns, or townships or circles of the same, within the said district of Montreal, and in lieu thereof to issue a like writ to such other county or town, or township or circle of the same, as he may appoint, for the election of an equal number of proper persons to be members of the United Assembly, shall continue and remain in force, no act or law relating exclusively to the Province of Upper Canada, or whereby any tax, rate, or assessment shall be repealed, or altered, or imposed and collected, in the said Upper Province, or whereby any duty upon any article imported by inland navigation or conveyance into the said Upper Province from any foreign country, shall be laid, increased, or lessened, or whereby any existing act or law of the said Province shall be altered, continued, or repealed, shall be made or passed by the said United Assembly, unless such Act or law, and every amendment of the same, shall have been referred to, and received the assent of, a majority of a Special Committee of the said Assembly, to consist of all the members from the said Upper Province present in the said Assembly, and no other member of the same.

Powers of impeachment.

Assembly may impeach any officer subordinate to, and appointed by, the Governor.

XVII. And whereas it is expedient to make provision for the impeachment and trial, for high crimes and misdemeanours, of persons holding any office subordinate to, and appointed by, the Governor, Lieutenant-Governor, or person administering the government in chief of either of the said Provinces : be it therefore further enacted, that it shall and may be lawful for the said United Assembly to pass and present, at the bar of the said Legislative Council, any articles of impeachment against any person holding such office as aforesaid, for any high crime or misdemeanour relating to the duties of such office : and the said Legislative Council shall thereupon appoint by ballot a High Committee

of twenty-two members, of whom five may be struck off by the party so impeached, and five by the managers of the said impeachment for the Assembly, and the remaining twelve, together with the Speaker of the said Legislative Council, or such other member thereof as the Governor, or person administering the government, shall appoint to preside, shall hear and examine into the evidence for and against such articles, according to the usage and practice of the Common Law in the High Court of Parliament, and shall record such evidence and proceedings, and shall report thereupon, for her Majesty in Council, to the Governor, or person administering the government in chief, as well the facts found by the said High Committee, or the major part thereof, as their opinion and judgment thereupon, and the Governor, or person administering the government in chief, shall transmit the said record and report to her Majesty, her heirs and successors; and it shall and may be lawful for her Majesty, her heirs and successors, to refer the said record and report to the Judicial Committee of the Privy Council, to be finally examined and determined after the course and practice of the said Judicial Committee, upon appeals from her Majesty's possessions abroad, according to the form of the statute passed in the third and fourth years of the reign of his late Majesty, King William the Fourth, intituled, "An Act for the better Administration of Justice in his Majesty's Privy Council;" provided always, that no such articles of impeachment shall be so presented or proceeded upon unless the same shall have been assented to, and passed by, a majority, consisting of at least twelve more than a moiety of the whole number of members present after a call of the whole Assembly, and after having summoned the party so to be impeached, and heard him, if he appear and desire to be heard before the said Assembly; provided always, that no pardon under the great seal of the United Kingdom, or of either of the said Provinces, shall be pleadable in bar to any such impeachment.

Legislative Council to name High Committee of twenty-two.
Accused to strike off five; Assembly five.
The remaining twelve, and President, named by Governor.
To hear, record, and report.
Governor to transmit proceedings to her Majesty in Council.
Reference to the Judicial Committee of the Privy Council,
according to stat. 3 & 4 W. 4, c. 41.
Proviso.
Articles of impeachments to be passed in the Assembly by a majority of 12, after a call of the House and hearing the party.
No pardon to bar such impeachment.

XVIII. And whereas also it is expedient to unite the funds and revenues of the said two provinces, and whereas also certain loans have been heretofore made and debts in-

Revenues of both provinces united, and

subject to the debts of either.

curred for the Province of Upper Canada in forming and executing therein canals and other improvements of common benefit to the trade and industry of both provinces; be it therefore enacted, that all the duties, rates, funds, revenues, and monies whatsoever paid or payable for her Majesty's use within either of the said provinces to the Treasurers or Receivers-General thereof respectively by virtue of any act or law heretofore made with the consent of the Legislative Council and Assembly of either province, under the authority of the said hereinbefore first recited Act, or hereafter to be made with the consent of the said United Legislative Council and Assembly under the authority of this Act, shall from and after the commencement of this Act constitute one joint fund and revenue for both the said provinces, and shall be subject to all the debts, liabilities, charges, and appropriations heretofore made by any act, law or ordinance passed with the consent of the Legislative Council and Assembly of either of the said provinces under the authority of the said hereinbefore first recited Act, or of the said Special Council of the said Lower Province under the said hereinbefore secondly recited Act, or hereafter to be made by any act or law passed with the assent of the said United Legislative Council and Assembly under the authority of this Act.

The Civil List. Preamble recites expedience.

Civil list in Upper Canada.

Want of one in Lower Canada.

Her Majesty's revenues of crown lands, royalties, &c.

XIX. And whereas it is expedient for the peace and welfare of the said provinces that a proper provision for the support of the civil government thereof should be made permanently or during the life of her Majesty (whom God long preserve) for the expenses of the civil government of the said provinces; and though such provision has been most freely and dutifully made by the Legislative Council and Assembly of the said Upper Province, yet for want of such provision in the said Province of Lower Canada the necessary administration of justice and of her Majesty's government there has been rendered impracticable without the interposition of the Imperial Parliament: and whereas her Majesty is seised and possessed in right of her crown as well of large and extensive lands, territories, demesnes, woods, forests, mines, minerals, and royalties as of casual and territorial revenues, and also of seigneurial quints, lods and ventès, and other rights, dues and profits within

the said provinces: and whereas by an act passed in the eighteenth year of the reign of his late Majesty King George the Third, intituled "An Act for removing all doubts and apprehensions concerning Taxation by the Parliament of Great Britain in any of the Colonies, Provinces and Plantations in North America and the West Indies, and for repealing so much of an Act made in the seventh year of the reign of his present Majesty as imposes a duty on tea imported from Great Britain into any colony or plantation in America or relates thereto," it was declared "that the King and Parliament of Great Britain will not impose any duty, tax or assessment whatever payable in any of his Majesty's colonies, provinces and plantations in North America or the West Indies, except only such duties as it may be expedient to impose for the regulation of commerce, the net produce of such duties to be always paid and applied to and for the use of the colony, province or plantation, in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective general courts or general assemblies of such colonies, provinces or plantations are ordinarily paid and applied." And whereas also by a certain act made and passed in the fourth year of the reign of his late Majesty King George the Third, intituled "An Act for granting certain duties in the British Colonies and Plantations in America; for continuing, amending and making perpetual an Act passed in the sixth year of the reign of his late Majesty King George the Second, intituled 'An Act for the better securing and encouraging the trade of his Majesty's Sugar Colonies in America; for applying the produce of such duties and of the duties to arise by virtue of the said act towards defraying the expenses of defending, protecting and securing the said colonies and plantations; for explaining an act made in the twenty-fifth year of the reign of King Charles the Second, intituled 'An Act for the Encouragement of the Greenland and Eastland Trades, and for the better securing the Plantation trade;' and for altering and disallowing several drawbacks on exports from this kingdom, and more effectually preventing the clandestine conveyance of goods to and from the said colonies and plantations, and improving and securing the trade between the same and Great

18 Geo. 3, c. 12,
Which gives
Colonial Legis-
lature the right
of appropriating
duties thereafter
levied.

4 Geo. 3, c. 15,
Which levies in
the colonies
certain duties
to be appropri-
ated by Parlia-
ment.

Britain," certain duties were imposed upon certain articles imported into any colony or plantation in America which then was or thereafter might be under the dominion of his said Majesty, his heirs or successors; and it was thereby further enacted, that the monies which should arise from the said duties, except the necessary charges of raising, collecting, levying, recovering, answering, paying, and accounting for the same, should be paid into the receipt of his Majesty's Exchequer, and should be entered separate and apart from all other monies paid or payable to his Majesty, his heirs or successors, and should be there reserved, to be from time to time disposed of by Parliament towards defraying the necessary expenses of defending, protecting and securing the British colonies and plantations in America. And whereas, also by an act passed in the sixth year of the reign of his said Majesty King George the Third, intituled "An Act for repealing certain Duties in the British Colonies and Plantations granted by several Acts of Parliament, and also the Duties imposed by an Act made in the last session of Parliament upon certain East India Goods exported from Great Britain, and for Granting other Duties instead thereof, and for further encouraging, regulating, and securing several branches of the Trade of this Kingdom and the British Dominions in America," certain other and further duties were imposed upon certain articles imported into any colony or plantation in America which then was or thereafter should be under the dominion of his said Majesty, his heirs and successors, and it was thereby further enacted, that all the monies which should arise by the said duties, except the necessary charges of raising, collecting, levying, recovering, answering, paying, and accounting for the same, should be paid into the receipt of his Majesty's Exchequer, and should be entered separate and apart from all other monies paid or payable to his Majesty, his heirs or successors, and should be there reserved, to be from time to time disposed of by Parliament towards defraying the necessary expenses of defending, protecting, and securing the British Colonies and Plantations in America. And whereas by an act passed in the fourteenth year of the reign of his late Majesty King George the Third, intituled "An Act to establish a Fund towards further defraying the charges of the Administration of Jus-

6 G. 3, c. 52,
Which levies
in the Colonies
further duties to
be appropriated
by Parliament.

14 G. 3, c. 88,
Which levies in
Canada certain

tice and support of the Civil Government within the Province of Quebec in America," certain other and further duties were imposed on certain articles imported into the said Province of Quebec, and it was thereby further enacted, that the monies arising from such duties, except the necessary charges of raising, collecting, levying, recovering, answering, paying, and accounting for the same, should be applied towards defraying the expenses of the administration of justice and the support of the Civil Government in the said Province, by warrant under the hand or hands of the Lord High Treasurer or the Lords Commissioners of his Majesty's Treasury, and that the residue of the said duties should be reserved for the future disposition of Parliament. And whereas by an act passed in first and second years of the reign of his Majesty King William the Fourth, intituled "An Act to amend an Act of the fourteenth year of his Majesty King George the Third, for establishing a fund towards defraying the charges of the administration of justice and the support of the Civil Government within the Province of Quebec," after reciting the said last recited Act passed in the fourteenth year of the reign of his late Majesty King George the Third, and that since the enactment of the same the said Province of Quebec had been divided into the two Provinces of Upper Canada and Lower Canada, it was enacted, that it should and might be lawful for the Legislative Councils and Assemblies of the said Provinces of Lower Canada and Upper Canada respectively, by any acts to be by them from time to time passed and assented to by his Majesty, his heirs and successors, or on his or their behalf, to appropriate in such manner and to such purposes as to them respectively should seem meet, all the monies that should thereafter arise by or be produced from the said duties, except so much of such monies as should be necessarily defrayed for the charges of raising, collecting, levying, recovering, answering, paying, and accounting for the same. And whereas also by an act passed in the third and fourth years of his late Majesty King William the Fourth, intituled "An Act to regulate the Trade of the British Plantations in America," certain other and further duties were imposed upon certain articles imported into any of his said Majesty's possessions in America,

other duties to be appropriated by the Treasury for the Civil Government of those Provinces.

1 & 2 W. 4, c.

23.
Which gives the Colonial Legislature the power of appropriating the duties last recited.

3 & 4 W. 4, c.
59.

Which levies in the Colonies certain other duties to be appropriated by the Colonial Legislature.

5 G. 3, c. 25.
Which levies in
the Colonies
certain rates of
Postage to be
appropriated by
Parliament.

and it was thereby further enacted, that the produce of such duties should be paid into the hands of the Treasurer or Receiver General, or other proper officer authorised to receive the same in the colony in which the same should be levied, to be applied to such uses as should be directed by the local legislatures of such colonies respectively. And whereas by an act passed in the fifth year of the reign of his late Majesty King George the Third, intituled "An Act to alter certain rates of postage and to amend, explain, and enlarge several provisions in an Act made in the ninth year of the reign of Queen Anne, and in other Acts relating to the Revenue of the Post Office," certain rates or sums were established for the post or conveyance of letters and packets passing between London and the British dominions in America, and between places within the said dominions, and it was thereby enacted, that all the monies arising by the rates aforesaid, except the monies which should be necessary to defray such expenses as should be incurred in the collection and management of the same, and all other expenses attending the said office, and the due execution of the Acts relating thereto, should be appropriated and applied to such and the same uses to which the then existing rates of postage were respectively theretofore by law appropriated and made applicable. And whereas by an Act passed in the fourth and fifth years of the reign of his Majesty King William the Fourth, intituled, "An Act to repeal at the period within mentioned so much of an Act passed in the fifth year of the reign of his late Majesty King George the Third, intituled, an Act to alter certain rates of Postage, and to amend, explain, and enlarge several Provisions in an Act made in the ninth year of the reign of Queen Anne, and in other Acts relating to the Revenue of the Post Office, as authorises the taking of certain Rates of Inland Postage within his Majesty's Dominions in North America," it was enacted, that from and after his Majesty's assent should be so signified as thereinbefore directed to such Acts of Colonial or Provincial Legislatures as thereinbefore mentioned, all the revenues which may arise from the collection of the rates of inland postage within the said respective Colonies or Provinces, (after deducting the expenses of collection, and of the establishment and management

4 & 5 W. 4, c. 7.
Which gives the
proceeds of the
Colonial Post
Office revenue
to be appro-
priated and dis-
tributed among
the several Pro-
vinces.

of the post office within and throughout the said respective Colonies or Provinces under the direction of his Majesty's Post Master General or his Deputies,) should and might, instead of being remitted as heretofore to the General Post Office in London, as part of the general revenue of the Post Office, be appropriated, applied, and distributed to and among the said respective Colonies and Provinces, in proportion to the gross amount of the rates and duties of postage, which should be raised, collected, and received within each and every such respective Colonies or Provinces, unless and until the said Colonies or Provinces should by Bills or Acts of their respective Legislatures, to which his Majesty's consent should in the usual form be signified, unite and agree in directing any other mode in which such surplus should be applied and disposed of. And whereas also by divers Acts heretofore passed by the Legislative Council and Assembly of the said Lower Province, with the royal assent, under and by virtue of the said herein first mentioned Act, certain duties, rates, and other aids and supplies have been permanently raised and granted, and the monies arising from the same have in some instances been appropriated and applied to the support so far of the civil government of the said Lower Province, but in other instances such monies have long remained and still are unappropriated by any permanent law of the said Province. And whereas by a statute made and passed in the third year of the reign of his late Majesty King George the Fourth, intituled, "An Act to regulate the Trade of the Provinces of Lower and Upper Canada, and for other purposes relating to the said Provinces," it was enacted, that all and every the duties which at the time in the said Act mentioned were payable under any Act or Acts of Lower Canada, on the importation of any goods, wares, or commodities, into the said Province of Lower Canada, except such as may have been imposed for the regulation of the trade by land or inland navigation between the said Province and the United States of America, should be payable, and should be levied according to the Provisions contained in any such Acts, until any Act or Acts for repealing or altering the said duties, or any part thereof respectively, should be passed by the Legislative Council and Assembly of the said Province of Lower Canada; and until

Divers provincial acts raising revenue in Lower Canada.

3 G. 4, c. 119. Which continues such provincial acts and duties until repealed as therein provided.

such Act or Acts repealing or altering such duties should, after a copy thereof had been transmitted to the Governor, Lieutenant Governor, or person administering the government of the Province of Upper Canada, be laid before both Houses of the Imperial Parliament, according to the forms and provisions contained in the said Act passed in the thirty-first year of the reign of his said late Majesty King George the Third; and that no act of the Legislature of the Province of Lower Canada, whereby any additional or other duties should be imposed on articles imported by sea into the said Province of Lower Canada, and whereby the Province of Upper Canada should in any respect be directly or indirectly affected, should have the force of law, until the same should have been laid before the Imperial Parliament, as provided in certain cases by the said Act passed in the thirty-first year of his said late Majesty's reign, and the royal assent thereto published by proclamation in the said Province of Lower Canada, a copy of such Act having within one month from the time of presenting the same for the royal assent in the said Province been transmitted by the Governor, Lieutenant Governor, or person administering the government of the Province of Lower Canada, to the Governor, Lieutenant Governor, or person administering the government of the Province of Upper Canada: Provided always nevertheless that it should not be necessary to transmit any such Act to be laid before the Imperial Parliament, if before the same should have been presented for the royal assent within the said Province of Lower Canada, the Legislative Council and House of Assembly of the said Province of Upper Canada should, by address to the Governor, Lieutenant Governor, or person administering the government of the Province of Upper Canada, pray that their concurrence in the imposition of the duties intended to be imposed by such Act might be signified to the Governor, Lieutenant Governor, or person administering the government of the said Province of Lower Canada. Be it therefore enacted, that as soon as the said United Legislative Council and Assembly shall have made and granted to her Majesty, either for the life of her Majesty, whom God long preserve, or permanently to her Majesty, her heirs and successors, a proper and sufficient provision for the support

Enacts—
On Civil List
being granted
for her Majesty's
life or perma-
nently,

of the Civil Government of her Majesty in the said Lower Province, and her Majesty shall have been graciously pleased to assent to any Act or Law for that purpose to be made, it shall and may be lawful for her Majesty, her heirs and successors, either by such Act or Law or otherwise, from time to time, to surrender and place at the disposal of the said Legislative Council and Assembly all her Majesty's interest in the net proceeds arising as well from any sale or rent of her Majesty's said lands, territories, demesnes, woods, forests, mines, minerals, and royalties, as from her Majesty's said territorial and casual revenues, seigneurial quints lods and ventes, and other seigneurial dues and profits within the said Province of Lower Canada, and also the monies and proceeds arising and paid within the said Lower Province from each and every of the said rates and duties imposed and paid by virtue of any of the hereinbefore recited Acts of Parliament, or of the said Legislative Council and Assembly of the said Lower Province, except as in and by each of the said Acts respectively is excepted, and except the necessary expense of managing and administering the said lands, territories, demesnes, woods, forests, mines, minerals and royalties, and of collecting, paying and accounting for the said casual, territorial and seigneurial revenues, and the said monies and proceeds may and shall thereafter be appropriated and disposed of by any Act to be passed by the said United Legislative Council and Assembly, with the assent of her said Majesty, her heirs and successors, during the continuance of such Act or Law, for such support of her Majesty's said Civil Government; and that from and after the passing of such Act or Law so much of the said herein-recited Act, passed in the third year of the reign of his late Majesty King George the Third, as restrains the passing of any Law in the said Lower Province to repeal any of the duties in the said Act mentioned, or to impose any duties whereby the said Upper Province may be affected, shall cease and determine and be thereafter hereby repealed.

her Majesty may surrender,

the net proceeds of sales of lands, rents, &c., and her Majesty's revenues, casual, territorial, and seigneurial; and monies paid under the recited statutes;

and Acts of Lower Canada.

To be appropriated by United Legislature.

Repeal of the recited part of 3 G. 4, c. 119.

XX. And be it further enacted, that whenever the said provision already made as aforesaid by the Legislative Council and Assembly of the said Upper Province for the support of her Majesty's Civil Government therein shall expire, or be

Like provision for future Civil List of Upper Canada.

otherwise determined, it shall and may be lawful for her Majesty, her heirs or successors, upon a proper and sufficient provision for the support of the said Civil Government in the said Upper Province being made in like manner as hereinbefore mentioned for the said Lower Province, in like manner also from time to time to surrender and place at the like disposal of the United Legislative Council and Assembly all her Majesty's interest in the net proceeds arising from the sale or rent of her Majesty's said lands, territories, demesnes, woods, forests, mines, minerals and royalties within the said Upper Province, and all her Majesty's casual, territorial and seignorial revenues, and all other her dues and profits being or accruing within the said Upper Province, and all the monies and net proceeds arising from any duties imposed by the said herein recited Acts, and paid and collected within the said Upper Province; and all and every of the terms and provisions herein contained relating to the appropriation of the monies and proceeds arising and paid as well from her Majesty's lands and revenues as from any duties within the said Lower Province, shall in like manner and upon the same conditions be hereby extended to the said Upper Province.

On Civil List
expiring her
Majesty to re-
vert to all rights
as heretofore.

XXI. Provided always, and be it further enacted, that on the expiration of any such Act or Law for such support of her Majesty's said Civil Government in either of the said Provinces, all and singular her Majesty's said revenues, royalties and rights so surrendered during the continuance of such Act or Law as aforesaid, shall revert to and be and remain again at the disposal of her said Majesty, her heirs and successors, in the same manner as before the making of such law and surrender, and all and singular the said monies and proceeds arising from each and every of the rates and duties imposed by any of the said Acts of Parliament, or of the said Lower Province, which may be then continuing in force, shall thereafter be appropriated and applied as before the making of such surrender.

Civil List may
be granted either
in a gross sum,
or by separate

XXII. Provided also, and be it further enacted, that in making such proper and sufficient provision for the support of the said Civil Government of her Majesty, her heirs or

successors, in either of the said Provinces, it shall and may be lawful for the said United Legislative Council and Assembly either to grant a gross sum of money for the same, upon an estimate of the several and respective services and salaries or charges to be for that purpose submitted to the said United Legislative Council and Assembly by the Governor or person administering the government in chief of the said Provinces, or to grant a specific salary or supply for each respective service, office or charge, so submitted by the said estimate : provided always, that in such case as well the said Legislative Council as the said Assembly shall have a separate and distinct decision upon each such respective service, or office and salary or charge.

items, for each distinct salary or service ; but in the latter case the Legislative Council to have a separate and distinct decision upon each item.

XXIII. Provided also and be it further enacted, that after such provision for her Majesty's civil government in the said Lower Province shall have been so made as aforesaid, the commissions, or tenure of office, of the Judges of the Queen's Bench of the several districts of Lower Canada and of the Province of Upper Canada shall be made *quam diu se bene gesserint*, and their salaries ascertained and established independently of fees, but nevertheless upon the address of both the said Legislative Council and Assembly, or upon impeachment and conviction in the manner hereinbefore provided, it may be lawful to remove any of the said Judges.

After such civil list granted, the Judges to hold office for life.

XXIV And whereas it is expedient to make provision for the religious instruction and consolation of all classes of her Majesty's subjects in the said Provinces ; and whereas in and by the said hereinbefore first recited Act it was enacted, that it should and might be lawful for his Majesty, his heirs and successors, to authorise the Governor or Lieutenant-Governor of each of the said Provinces respectively, or the person administering the government therein, to make from and out of the lands of the Crown within such Provinces such allotment and appropriation of lands for the support and maintenance of a Protestant clergy within the same, as might bear a due proportion to the amount of such lands within the same as had at any time been granted by or under the authority of his Majesty, and that whenever any grants of

Clergy reserves. Preamble recites stat. 31 Geo. 3, c. 32, s. 36, 37, 38, by which one-seventh of the Crown lands was reserved for support of Protestant clergy.

lands within either of the said Provinces thereafter should be made by or under the authority of his Majesty, his heirs or successors, there should at the same time be made in respect of the same a proportionable allotment and appropriation of lands for the above-mentioned purpose within the township or parish to which such lands so to be granted should appertain or be annexed, or as nearly adjacent thereto as circumstances would admit, and that such lands so allotted and appropriated should be, as nearly as the same could be estimated at the time of making such grant, equal in value to the seventh part of the lands so granted; and it was further enacted in and by the said Act, that all and every the rents, profits and emoluments which might at any time arise from such lands so allotted and appropriated as aforesaid, should be applicable solely to the maintenance and support of a Protestant clergy within the Province in which the same should be situated, and to no other use or purpose whatever; and it was in and by the said Act further enacted, that it should and might be lawful for his Majesty, his heirs and successors, to authorise the Governor or Lieutenant-Governor of each of the said Provinces respectively, or the person administering the government therein, from time to time, with the advice of the Executive Council within such Province for the affairs thereof, to constitute and erect within every township or parish which then was or thereafter might be formed, constituted and erected within such Province, one or more parsonage or rectory, or parsonages or rectories, according to the establishment of the Church of England, and from time to time, by an instrument under the great seal of such Province, to endow every such parsonage or rectory with so much or such part of the lands so allotted and appropriated as aforesaid, as such Governor, Lieutenant-Governor or person administering the government, should, with the advice of the said Executive Council, judge to be expedient under the then existing circumstances of such township or parish: And whereas, owing to the great number and diversity of religious rites and persuasions within the said Provinces, all of the said provisions are not adequate to the propagation of piety and good morals among all classes of her Majesty's subjects within either of the said Provinces: Be it therefore enacted,

And government was empowered to endow rectories of the Church of England with any portion of such lands according to the circumstances of each township.

Great number and diversity of religious persuasions in the Provinces.

that so much of the said Act as enables her Majesty, her heirs and successors, to authorise the Governor or Lieutenant-Governor or person administering the government of each of the said Provinces, to endow any parsonage or rectory according to the establishment of the Church of England within any township or parish of each of the said Provinces, with so much or such part of the lands so allotted and appropriated in respect of the lands within such township or parish as aforesaid as such Governor, Lieutenant-Governor or person administering the government of each of the said Provinces shall, with the advice of the said Executive Council, judge to be expedient under the then existing circumstances of such township or parish; and so much of the said Act as provides that the said lands so allotted and appropriated, and the rents, profits and emoluments thereof, shall be applicable solely to the maintenance and support of a Protestant clergy, and to no other use or purpose whatever, be and the same are hereby repealed.

Enacts repeal of so much of sections 38 & 37 of 31 Geo. 3, c. 31, as authorises government to endow rectories so extensively, and appropriates such reserves for Protestant clergy exclusively.

XXV And be it further enacted, that it shall and may be lawful for her Majesty, her heirs and successors, to authorise the Governor, Lieutenant Governor, or person administering the government of each of the said Provinces, to sell, grant and convey, or to hold, retain and apply, the whole or any part of the said lands, and the proceeds, rents, profits and emoluments thereof so allotted and appropriated as aforesaid within the Province in which the same shall be situated, to and for the use, maintenance and support of all such clergy of all Christian denominations within each Province, as the said Governor, or Lieutenant Governor, or person administering the government of the same, shall with the advice of the Executive Council judge to be expedient under the then existing circumstances of the whole of each of the said Provinces respectively: Provided always, that of the said lands so allotted and appropriated, and of the proceeds, rents, profits and emoluments thereof, not less than one-fifth shall be applied for the endowment, use, maintenance and support of such parsonages, rectories, or clergy of the Church of England within the said Provinces respectively, and not more than one-fifth shall be applied for the use, maintenance and support of

Clergy reserves to be applicable to support of clergy of all denominations according to the circumstances of each Province.

Provided

Not less than one-fifth for the Church of England.

Not more than one-fifth to Church of Scotland.

One-fifth to the Methodist connexion.

And one-fifth to other Protestants.

Not more than one-fifth to the Roman Catholics.

Unless hereafter otherwise provided by the United Legislature.

Price of lands sold to be invested for the same purposes.

Commencement of the Act from its being proclaimed in the Colonies.

Powers, rights and restrictions of other Acts applied to the United Legislature hereby constituted.

such ministers or clergy of the Church of Scotland within the said Provinces respectively, and not more than one-fifth for the use, maintenance and support of such ministers or clergy of the Methodist connexion within the said Provinces respectively, and not more than one-fifth for the use, maintenance and support of such ministers or clergy of any other denomination of Protestants within the said Provinces respectively, and not more than one-fifth for the use, maintenance and support of such secular priests or ministers of the Roman Catholic Church within the said Provinces respectively, as the said Governor, Lieutenant Governor, or person administering the government within each of the said Provinces shall from time to time, with the advice of his Executive Council, endow or appoint to receive, have and enjoy the same ; unless it shall at any time hereafter be otherwise provided by any act or law to be passed by the said United Legislative Council and Assembly with the assent of her Majesty, her heirs and successors : Provided also, that the capital sums for which any such lands may be sold and aliened shall be invested for the purposes of this Act in such securities and in the name of such Commissioners as her Majesty, her heirs and successors, may be pleased for that purpose to appoint, and only the interest or dividends of such investments be applied for the objects and in the manner hereinbefore directed.

XXVI. And be it further enacted, that it shall and may be lawful for her Majesty to authorise the Governor, or person administering the government in chief of the said Provinces, therein to proclaim this Act, and to appoint and declare the day of the commencement of the same, and this Act shall commence to take effect from such day within the said Provinces.

XXVII. And be it further enacted, that all and singular the provisions, powers, rights, restrictions, limitations, and conditions in and by the said first mentioned Act passed in the thirty-first year of the reign of his late Majesty King George the Third, or by any of the herein-mentioned, or any other Act of Parliament enacted and provided, relative to the

authority of her said Majesty, her heirs and successors, or to the Governor or person administering the government of either of the said Provinces, or to the Legislative Councils and Assemblies by the said hereinbefore first recited Act constituted in each of the said Provinces, shall be and the same hereby are continued and applied to her Majesty, her heirs and successors, and to the Governor or person administering the government in chief, and to the United Legislative Council and Assembly hereby constituted for both the said Provinces, except so far as the same are repealed or altered by or are in any manner inconsistent with the provisions of this Act.

XXVIII. Provided always and be it further enacted by the authority aforesaid, that during such interval as may happen between the passing of this Act and the first meeting of the said hereby constituted United Legislative Council and Assembly after the commencement of this Act as hereinbefore provided, it shall and may be lawful for the Governor or person administering the government of the said Province of Lower Canada, with the advice and consent of the major part of such special councillors as shall be or have been appointed by her Majesty for the affairs of such province under and by virtue of the said hereinbefore secondly recited Act, and for her Majesty by and with the advice and consent of such Legislative Council and Assembly of the said Province of Upper Canada, as may be called and held under and by virtue of the said hereinbefore first recited Act, to make temporary laws and ordinances for the good government, peace and welfare of such provinces respectively, in the same manner and under the same restrictions as such laws and ordinances might have been made by virtue respectively of the above hereinbefore first mentioned act of the thirty-first year of the reign of his late Majesty King George the Third, and of the above hereinbefore secondly mentioned act passed in the last session of this present Parliament, and in the first year of her Majesty's reign, and that such temporary laws or ordinances shall be valid and binding within such provinces respectively until the expiration of six months after the United Legislative Council and Assembly of the

The present separate legislatures may make temporary laws until the commencement of this Act.

said provinces shall have been first assembled by virtue of and under the authority of this Act ; subject nevertheless to be sooner repealed or varied by any law or laws which may be made by her Majesty, her heirs or successors, by and with the advice and consent of the said United Legislative Council and Assembly.

Laws in either province at the commencement of this Act not to be thereby affected, except as herein expressed.

XXIX. And be it further enacted, that all laws, statutes and ordinances which shall be in force on the day to be fixed in the manner hereinbefore directed for the commencement of this Act, within the said provinces or either of them, or in any part thereof respectively, shall remain and continue to be of the same force, authority and effect in each of the said provinces respectively as if this Act had not been made, except in so far as the same are expressly repealed or varied by this Act, or in so far as the same shall or may hereafter by virtue of or under the authority of this or of any other Act, be repealed or varied by her Majesty, her heirs or successors, by and with the advice and consent of the said United Legislative Council and Assembly of the said provinces, or in so far as the same may be repealed or varied by such temporary laws or ordinances as may be made in the manner hereinbefore specified.

REMARKS UPON THE BILL.

SECTION I.

The Repeal of the existing Powers of separate Legislation in either Province.

THIS, being a necessary preliminary, requires no particular observation. The separate Legislatures are by this clause to cease from and after the commencement of the act, and till then are by a subsequent clause, the twenty-seventh, empowered to make temporary laws. By the twenty-fifth clause the act is to commence from the Governor's proclamation for that purpose.

SECTION II.

The Union of the Legislatures of Upper and Lower Canada.

Reasons for this measure—

1st. The whole country of Upper and Lower Canada, lying upon one vast river, and having no other communication with the ocean than the æstuary and gulph formed by the St. Lawrence from its numerous tributaries and immense basins, seems so necessarily to require the control of one

and the same government, that nature herself may be said to have almost prescribed the union of legislatures now introduced. It is difficult to consider the geographical relations of both Provinces without perceiving, that there can be no peace between the two, nor prosperity with either, unless the regulation of trade external as well as internal, and the necessary improvements of communication, (as canals, railroads, the post-office, harbours, and lighthouses), be made the joint concern of both Provinces, or the paramount care of the Imperial Government. By the constitution and policy of the British empire, the care of the Imperial Government is not equal to the whole of this exigency; which therefore can only be effectually answered by an union of these two Colonial Legislatures.

2nd. The foregoing reasons, conclusive as they are from the natural and political relations of the country, have been verified by experience. The gigantic improvements, undertaken by the Upper, though productive of benefit common also to the Lower, Province, have not only been left to the unequal and almost unaided efforts of the former, but rendered in a great measure nugatory, by the neglect or refusal of the latter to continue from its border such undertakings downward to the sea. An united legislature will be able to wield and direct the resources of both Provinces to these objects, of a magnitude indeed too great for either alone, but of an usefulness in which almost every

British subject there and numbers elsewhere will participate.

3rd.. A great portion of the Provincial revenues is, and for obvious reasons, must continue to be, raised by duties on articles imported by sea. These duties, as Upper Canada has no sea port, are all collected in the Lower Province; and the division of the proceeds between the two Colonies is at present a source of almost interminable contention. The expedient of an arbitration, enforced by the statute 3 Geo. 4, c. 119, does not nor can ever produce a very satisfactory settlement; while the provision of the same statute (see *ante*, p. 38) prohibiting the Legislature of the one Province from altering these duties without the consent of the other, is little more, than a parliamentary acknowledgment of the necessity for an union, without means however to accomplish the end, or measures to obviate the cause.

4th. The Canadas under an united government would be more powerful and defensible in military operations. The militia could then be marched to any quarter of either Province, and the whole would be immediately interested in repelling attacks in any part. This advantage is the more desirable as it seems the only way to countervail the superiority possessed in other respects by the contiguous territories of the United States. Their side of the frontier is far more populous, but being divided into six different States or Provinces

(Maine, New Hampshire, Vermont, New York, Ohio, and Michigan), and having a general government of limited authority, remote organs, and feeble resources,—the separate attempts of those States would be defied, and their united attacks better encountered, by our making up in extent and combination of territory what we want in population, and by endeavouring to present, along the entire frontier of these six separate republics, the singleness and energy of one great united colony; which, if not equal to the six combined, will at least be superior to any one alone, and which is more likely to measure its strength with some one single-handed, than with the whole together.

5th. The union of the Canadas with each other will tend to strengthen and perpetuate the connexion of both with Great Britain. Upper Canada is united by the Lower Province with the sea, and by the sea with the mother country. The distance between us will be, in a manner, abridged by this act, and one degree of separation, the interposition of another Province, of distinct government and different origin, will be removed. The colonists on Lake Huron will consider the gulph shore as their own, and its inhabitants as themselves. That feeling of wonder and interest towards the western states of America, so influential from their comparative wealth and neighbourhood, will be changed in the United Canadas by the contemplation of their own great-

ness, and diverted to the parent country by its more immediate propinquity and uninterrupted communication. At the same time the hope of independence in the French Canadians of the Lower Province will be annihilated, by the conviction that they can never expect, either to separate the two Provinces, or to govern both. The Upper Canadians will cease to apprehend the establishment of a French Republic between them and the sea; and the Lower will renounce the vain, foolish, and mischievous ambition of preserving what they call their nationality, or of invoking a reconquest by the country of their origin. The miserable policy of rendering Lower Canada inhospitable to emigrants, of retarding its improvement, and counteracting its resources, for fear British subjects should settle there, will give way to the general demand of all its inhabitants for commerce, and industry, and every amelioration.

6th. Though to constitute the government of a colony, with a view to its independence, would be an absurdity, and an inversion of means to counteract their end, yet it is but just, both to the parent state and the dependancy, to provide, that during their connexion no institution be adopted which may be injurious to either party in case of separation. The union of the two Canadas together will prevent both from falling into the power of the United States, should either be separated from Great Britain.

There is little doubt that such would be the destiny of those provinces, if severed from the British Empire, unless at the moment of separation from us an union could be accomplished between themselves. As that moment however would of all others be the least, so is the present the most, favourable for the measure. The whole power of the American Government would then be exerted to prevent it: now, they have neither the right, nor the interest, nor the disposition, nor the ability, to interfere.

7th. In the same view of the remote and ultimate consequences of this measure, may be added, that the proposal of combining the whole of our North American Colonies into one government, a proposal at present impracticable and premature, as shall hereinafter be shewn, would be best prepared for and promoted, and more likely to be successfully introduced at its proper occasion, by this previous union of Upper and Lower Canada. These two Provinces would form together the nucleus of a power whose magnitude might attract and attach the four lesser colonies within its sphere. This is the great advantage, of which the existence has alone preserved the integrity of the British Empire, and the absence so much endangers the American confederacy. And as the feeble coherence of the latter is not inaptly displayed in the stars which are pictured in its banner, and the position of which therein perplexes the taste and ingenuity of that nation,

and the comprehension of all others ; so were we disposed to exchange the devotion of a religious, for the vanity of a celestial, or the pedantry of an astronomical emblem, the solar system itself would in a measure represent the principle and policy of the British dominions : and as the satellites of Jupiter could not preserve their station in the universe without the attraction of their primary, so may the four Colonies, New Brunswick, Nova Scotia, Prince Edward's Island, and Newfoundland, in the event of independence, be held together by the influence of the great Canadian union, and that mightiest of planets with its four moons become the type and cognizance of the whole united Provinces : and till then also, as it is by the influence of those satellites that their primary keeps its present place in the solar system, no less may these four provinces, while separate, tend to retain Canada in closer dependance on Great Britain.

8th. The formation of this junction of the two Provinces, and the prospective accession of the other four, would produce a salutary influence on the intellect, the enterprise, and affection of the whole Northern Colonists. Something would be offered to satisfy their ambition of excellence, and desire of distinction : something to raise the standard of comparison, and the qualifications for eminence : something to repress its ill-founded pretensions, to expose spurious desert, enlighten prejudice, awaken talent, create a public opinion,

and elevate and instruct, and sanction its judgments. The spirit, the knowledge, and the manners of a people are always influenced by the importance of the society to which they immediately belong. The supremacy and protection of Great Britain has no doubt in this respect a most beneficial effect upon the colonial mind, gratifying in the highest degree that craving in the human heart for national pride, historical notice, and universal relations; that noble assertion, yet generous expansion, of one's self towards all countries of the present, and all ages of the past: still the narrowness of the immediate community in colonies may sometimes have an unfavourable influence upon their ideas, principles, and energies. Information may be supplanted by self-esteem, obscurity lower the standard of morality, and poverty cramp their enterprise. For want of those worthier objects, which are only to be found in grander scenes and on an ampler stage, all the zeal and invention of the community are in danger of being confined to two themes, religion and politics; the former of which is apt to degenerate to fanaticism, and the latter to local controversies, fictitious patriotism, discontent and disaffection. These are evils inseparable perhaps from early colonization, and by no means intolerable in infant Provinces; but in two grown to the magnitude of either Canada, an union of both would immediately lessen these evils by one-

half, and soon remedy their consequences, and eradicate their cause.

9th. The distinction and distribution of the inhabitants of Canada, with reference to descent and origin, afford another argument in favour of the proposed union. There exists in the Lower Province a large and turbulent majority of French extraction, together with a minority of British, most formidable for wealth, energy, and numbers. In the Upper Province this condition is inverted, to a British majority full of industry and enterprise, and a very inconsiderable yet peaceable French minority. The effect of the present Bill would bring together the deputies of both races into one and the same Assembly; where, though a decided preponderance would be given to the British, the French would still preserve so large and respectable a minority, as to be secure from any of that oppression or grievance or even neglect, to which the weaker class has been hitherto exposed in either Province, and which has befallen them so heavily in one. True, the Act of 1792 (31 Geo. 3, c. 31,) was founded on the contrary principle; and events have proved with what success. That, which was then foreseen by the opponents of the division of Canada, has been verified by experience, and may now be cited with twofold evidence by the advocates of reunion.

10th. The feelings of the British inhabitants of

both Provinces are generally favourable to this measure. In Lower Canada, the expression of such a sentiment has been loud, earnest, and almost universal, among that class. In the Upper Province, a resolution to this effect was moved and carried through the House of Assembly in its last session, and though opposed by a majority of the Legislative Council, and many others in that Colony, still their opposition is not of a nature to render doubtful their ultimate acquiescence and willing obedience, to what will assume a far higher authority when sanctioned by the Imperial Government, and what may also be expected to win by its own merits when in fair operation.

11th. The last, and most cogent reason to be offered, is founded on the exigency and necessity of the case. The object in view is the good government of both Provinces, by a free and efficient British constitution. To establish this in the Lower Province separately is now impracticable. Parliament has declared it so; events have proved it; no discreet person can doubt it. The former constitution, though approved by the experience, and cherished by the affections, of every other British Colony, and of the minority of Lower Canada, was so little suited to the majority of that Province, that having long perverted the power granted by that constitution, they ended by refusing any longer to administer its functions. The

leaders of that party having demanded a change, which Parliament decided could not be granted, raised, and several counties joined, the standard of rebellion, to establish an independent republic. The loyal minority took arms for the Crown, and with its powerful assistance the insurrection has been twice defeated. The loyalists now invoke the Constitution, but acknowledge its impracticability, except by an union with the Upper Province. They do not desire an arbitrary government. Their name of distinction is *Constitutionalists*. They demand the British Colonial constitution. How is the British Colonial constitution to be administered in Lower Canada without an union with the Upper Province ?

12th. Such a measure would make the least possible change adequate to the evil and its cure. The powers of the government, their distribution, and exercise will remain the same under this Bill as under the Act of 1792, and as under the constitution of every other Colony having a legislative assembly. The alterations proposed, whether relative to the union of the two legislatures, or to the composition of its different branches, are principally such as are well known, or substantially analogous, to British usages and examples, as well in the United Kingdom, as in its distant dependancies. The union of England and Scotland, or Great Britain and Ireland, may indeed be thought less pertinent to the question,—but

the two Canadas themselves formed originally but one Province, till divided by the Crown;—Labrador has also been severed from the Lower Province, and re-annexed to it again; and Nova Scotia and the Island of Cape Breton, having been divided and separately governed by distinct legislative councils and assemblies, similarly to Upper and Lower Canada, for a very considerable period, have recently been re-united, and are now administered under one legislature.

SECTION III.

The Composition of the United Legislative Council.

The two main principles of the Bill are: 1st, The union of the two Provinces; and 2dly, The establishment of a British Majority in the United Legislative Assembly. The former has already been, the latter is hereinafter to be discussed. The present section relates to details, upon which there can probably be no great difference of opinion. The question of an elective Council has been decided in the negative. The question of no Legislative Council whatever has indeed been moved, but was never even seconded. A council nominated by the Crown, for life, or during pleasure, exists in every British colony having a legislative assembly. Such a body is strictly analogous, as nearly as circumstances permit, to our own House of Lords, not only in form, authority, and creation,

but in usefulness also, and even in respectability, and of course the analogy admits of no exception in point of occasional odium and censure, which, in both instances, are at times greatest when that usefulness and respectability are the highest. By continuing all the legislative councillors of Upper Canada, and preserving to them the same functions in the united legislature, an important body, the majority of which has been hitherto opposed to the union, may find some of their objections removed. And it has been a principle of the Bill throughout, to make as little change as possible, particularly in Upper Canada. The reasons are sufficiently obvious for preferring the present special, to the late legislative, councillors of Lower Canada. The power of the Crown to add further appointments, will supply all omissions. A further modification, introducing an important element in the composition of this body, will be found and discussed under section ninth.

SECTION IV.

Composition of the United House of Assembly on the part of Upper Canada.

The same Number of Members, and for the same Places, as ought, by the existing Laws of that Province, to be returned to its present Assembly.

This provision is founded on the same reasons as the last, viz., to recommend the measure to the

present Legislature of Upper Canada, and make in that Province the least possible change adequate to the objects of the Bill. The existing House would expire so soon after, if not before, the probable commencement of the Act, that a new election was indispensable.

SECTION V

Composition of the United Assembly on the part of Lower Canada.

The object of this clause and the three following should be explicitly avowed to be nothing less, than to transfer the legislative power of the House of Assembly from the French to the British class of inhabitants, and permanently place both classes on a footing of nearly perfect equality with respect to the representation of the Lower Province, that they may be so in all other rights. This is conceived to be both just and necessary, for the following reasons.

1st. The French majority in the Lower Province, after having long abused their power given by the constitution, in withholding supplies not for the purpose of removing any grievance against the constitution, but for the purpose of abolishing the constitution itself, the purpose of extorting from the Crown new institutions contrary to the Act of Parliament by which the Assembly was created, and by which any legislation of that na-

ture was expressly prohibited :—after having endeavoured for such a purpose to paralyse the executive government, usurp its functions, deny its undoubted rights and authority, dispute even the title to property held by royal grants, arrest the administration of justice, and thus dissolve the very bond of order and society in the colony:—the French majority in that Assembly, notwithstanding the frequent appeal vainly made by the Crown to their constituents, solemnly and repeatedly refused any further to administer the constitution established by the Act of 1792, 31 Geo. 3, c. 31, and declared that they never would proceed to the consideration or dispatch of the legislative affairs of the Province, unless their demands were complied with for such new institutions, as were contrary to that statute, and as both Houses of Parliament had agreed in advising the Crown ought not to be conceded.

2nd. The leaders of the French majority, with many others of its members and constituents, have thus excited such discontent and disaffection among the French inhabitants, and so far alienated and depraved their principles and duties, that in the course of the last two years rebellions have been raised and open war levied against the Crown, for the avowed object of introducing a republican form of government, and establishing the independence of Lower Canada.

3rd. Though, therefore, the whole French ma-

majority have thus abdicated, and rendered impracticable by their means the constitution of 1792, and a great number of that majority have forfeited not only that but every other law; yet the British inhabitants, who have ever supported and now gallantly fought for that constitution, ought not to be deprived of its privileges; nor even should the innocent of the French inhabitants be excluded from its protection.

4th. The only way to meet this exigency is, to invite the British population to administer those legislative powers, which they desire, and have ever cherished, and will usefully apply, and which the French have abandoned and betrayed. Yet this measure should be a moderate and even a generous one. The French should still have a share and an ample one in the representation. Though they long oppressed the British minority, the British minority should not have the power, as indeed they cannot have the interest or desire, to become in their turn the oppressors of the French. Let the two races be put upon a permanent equality, but with a temporary superiority in favour of the British, in the representation of Lower Canada. The French will still by their large minority in the United Assembly have ample power to defend themselves from any wrong or even from any contumely; which also the royal prerogative will have the means to forbid, and no disposition to allow. That class

will only forego the power of disturbing the country and preventing its settlement; a power, which ministered but to the idle vanity of their leaders, and was most pernicious to every one else.

Such being the object—what are the means proposed? The whole number of members in Upper Canada is sixty-two. The Lower Province at present has about ninety. Assume that each Province should return either an equal number, or a number proportionate to the population of each, and it will be necessary, in Lower Canada, to recast the electoral districts at present established. This may be so done that those settled by British inhabitants shall return a number of members equal to the French, and at the same time without altering any boundary of either county or town, and without disfranchising any, leaving the unfairness of the existing division of counties, so extremely unfavourable to the British population, to be remedied in another way by a subsequent provision in the seventh section. The Bill, therefore, re-enacts the 14th section of the act of 31 Geo. 3, c. 31, but with numerous restrictions. The electoral districts are to be composed of the existing counties and towns, or circles of the same. No county to return more members than at present—no town less—no town more than two, except Quebec and Montreal, which are to return the same number as now. Every county to have at least one member, or to belong

to a circle of counties returning more than one. No circle of counties to return more than such counties do at present. No town or circle of towns to return a member unless the number of votes there exceed two hundred.

A House thus constituted and elected would be perfectly free, and would more nearly resemble our own Commons in point of constituency and franchise, than does the existing Assembly of the Province. The influence of the Crown in colonial elections is nothing. And an equal distribution of members according to population has been ever less regarded in British institutions, than the selection of well-informed and well-affected constituencies.

SECTION VI.

The Qualification of Electors.

The changes here introduced are not very extensive, in their operation, and are principally borrowed from the English Reform Act. The suffrage for counties is given to the 40s. freeholders and holders by certificate, the 10l. tenants in fief and in roture, the 10l. holders for the residue of a term of twenty years, and the 20l. yearly renters. By this two new classes, the two last, are added to the constituency, and the qualification of the tenants in fief and in roture is raised from 40s. to 10l. This, as far as regards tenants

in fief, will be wholly inoperative, and as respects tenants in roture they will be placed on the same footing as copyholders in England, to whose tenure they bear most resemblance. Still the great objects of this change are far higher in interest and policy, first, to diminish the French and add to the English voters in the constituencies; and, secondly, at the same time impose some disadvantage on a tenure which more than any thing prevents the settlement of the country by British emigrants; and as that tenure may at any time be converted into free and common socage, that disadvantage will in some measure be voluntary. Whenever the French are induced from such or any other consideration to resort to that conversion, the British will lose less in political power this way, than they will gain or compensate by having the whole province thrown open to their settlement.

For the same reasons, in the qualification of voters for towns, instead of continuing the franchise in the proprietors of houses in whatever tenure of the value of 5*l.* yearly, and tenants at the rent of 10*l.* as at present, the freeholders of land as well as houses of the value of 5*l.* a year, tenants in fief and roture of the value of 10*l.*, termors of a residue of twenty years, in whatever tenure, of the value of 10*l.*, and yearly renters of houses as well as land together of the value of 10*l.*, are endowed with the right of voting, and as

many partners in such terms are to be electors as there may be multiples of 10% in the value. The last provision is in abrogation of a provincial law carried by the French to defeat the British constituents in Quebec and Montreal, for each of which, in one division at least, British members would else have been returned.

SECTION VII.

Power to give one Member to the Freeholders, and one to the Censitaires, separately, in any County having above 200 Voters of each class.

By the existing division of counties in Lower Canada, the freeholders or British voters have been so united to or included within districts having a majority of censitaires or French voters, that the influence of the former has in several instances been entirely annihilated. For remedy of this a new division of counties has been elsewhere suggested, but as the only object of that would be to give more members to the British population, the object had perhaps be better effected directly than by an obliquity, which would also involve much inconvenience in other respects. It will of course be objected, that this is a new institution, and unfair to the French voters; but, be it ever remembered, the circumstances are extraordinary, and the exigency most urgent; and the avowed principle of the Bill being to place both classes

of the Colony on an equal footing in the representation, if the end be admitted the means ought not to be rejected for their novelty, and cannot be accused of unfairness. The immediate operation of the measure would apply only to three or four counties. British constituencies must be found for British members, and why should it be more objectionable to select them thus as a class out of counties, than take them collectively in towns? This clause also will prove a further inducement for the French seigniors and censitaires to agree in converting their tenures.

SECTION VIII.

Power to suspend Writs for Elections in the District of Montreal, and issue such Writs to any other County or Town in the Province having 200 Voters.

If in England a place may be deprived of the franchise for bribery and corruption, why may not the franchise be suspended in Canada for treason and rebellion? It is a less violent measure than to diminish the number of representatives for the French population, and rests for expediency and justice upon the same reasons hereinbefore given for the principle of the Bill. The result of this, coupled with the following, fifteenth, clause may indeed be to give to the British colonists a tem-

porary majority in the representation of Lower Canada for five years, or during two parliaments ; a period, which cannot be accounted long, considering that for several years past the French have done their utmost to destroy, and the British to preserve, her Majesty's government and the constitution of the Colony.

The Governor can select no town or township, nor compose any circle of them, containing 200 electors, in which his personal and official influence combined, or all the power of the crown added, could determine the election of a single member. Wherever made, the choice of the people will be perfectly free from the influence of government. The only power given it by this Bill will be to decide, for a time, in a single district, between a disaffected and a loyal constituency. Has the peace and good government of the Colony any thing to fear from such a power? It may not be necessary to exercise it, but in launching a new constitution like the present, it seems essential for its self-preservation that it should contain within itself the means of withstanding a scarcely yet extinguished insurrection. The restoring an insurgent population, that has scarcely yet laid down arms, to a share in the representation proportionate to numbers, would be neither just to the loyal inhabitants, nor safe for the peace and welfare of the Colony, nor even compatible

with the administration of a government thus constituted.

SECTION IX.

Two Members of the Legislative Council, and Two Members of the Assembly, to be in the Executive Council; and Five Members of the Assembly to be transferred to the Legislative Council for each Session.

The former of these provisions is certainly a limitation of the prerogative, but of a nature alike useful to the government and the governed, as the experience of all Colonial administrations may attest, and as the recent practice of the Colonial department seems to evince. It would perhaps be better, if this were understood in usage, as at home, rather than declared by any statute;—but on the occasion of settling the constitution of a great Colony, this would appear forgotten, if passed without notice; and as the advantages of the measure are so many and obvious, that its adoption in practice can scarce be avoided, such an insertion in the Bill would be no great restriction upon the Crown, and far more satisfactory to the Colonists. The measure would not then be more necessary by law, than now by circumstances. Besides it may thus be accepted as an act of concession or conciliation to the many

complaints made by almost all parties against the present composition of Executive Councils; and further, as something in the nature of an equivalent for the provision following in this and the two next sections.

The power, to be vested in the Governor, of transferring as many as five members of the Assembly to the Legislative Council for each session, presents many and important considerations.

1st. It places in the hands of the executive a check, long desiderated in every popular assembly, upon the overweening influence of their favourites or leaders; who may be thus transferred from the place where their authority is dangerous, and added to a body in which this infusion may be not only innoxious, but even salutary.

2nd. It meets, to a certain extent, and conciliates the wishes of those who desire that the Legislative Council should be elective; while at the same time the power of nomination by the Crown is nothing impaired. Both principles are reconciled; the objects of both attained; and there results from the combination, a third consequence, more important than either.

3rd. In conjunction with the former provision in this section, and the provisions in the two sections succeeding, this measure will effect that communication and interchange of influences and mutual checks among the three branches of the

Legislature, so generally received in the theory, and so necessarily, though often indirectly, admitted in the practice of every mixed government. The aristocratic branch will be made more popular; the popular more monarchical; and the monarchical more aristocratic and more popular.

4th. In most governments, whether democratical or mixed, ancient or modern, examples may be found, either of the existence of such an executive control, or of attempts to supply its absence, or of fatal consequences from its want. Though it would be most interesting and instructive to investigate such instances further, two only need be here referred to. The compulsory "*absorption*" of the French Constitution in 1799, rejected indeed by that people in the commencement, but welcomed at the close, of its republican experiments; and, secondly, the voluntary operation of a similar device, in this country, by the peerage; which perhaps has by no means been the least advantageous to the public and government in those cases, where the individual thus elevated has dashed the patent to the floor, or inquired vainly at the Herald's College for the means of renouncing an empty honour, which short-sighted ambition had acquired by the sacrifice of real power.

5th. The expedient here proposed will be far more moderate in degree, and more adequate in

effect, than any elsewhere used, for an evil every where felt. The peerage with us is strictly analogous, except in respects where its operation is, for this purpose, less convenient, viz. the permanency of the rights and privileges thereby received, and the consent required of the receiver.

6th. Neither the interest, nor the authority, nor even the vanity of the people, are to be gratified by the overweening influence of a demagogue, whose dupes they are sure to become without, or whose victims with, a revolution. Yet the creation of such an influence is a necessary evil of popular and elective assemblies. Some provision, however, may be made for mitigating or remedying what can never be prevented. The present suggestion, besides effecting that, has collateral advantages. It gives the people a new influence in the Upper Chamber of the Legislature; infringes no right; and lessens no authority, but that of demagogues alone; nor theirs, but where dangerous to society, and even injurious to themselves, unless they love their own power better than their country's safety and improvement.

SECTION X.

Two Law Officers of the Crown, viz. the Attorney and Solicitor General, of Upper or Lower Canada, or Two Members of the Executive Council, to be appointed by the Governor, to have Seats and vote as members of the United Assembly.

No evil in the present colonial constitution is of greater inconvenience, than the want of an organ for the executive to be heard in the House of Assembly. The Attorney and Solicitor General commonly are, and always should be, persons of character for talent, acquirements, and integrity, the first in the colony. Their presence in the Assembly will be of no less advantage to the public, than assistance to the executive. The increase to the power of the crown by placing two ex officio members among 124 or 135, elected without a shade of any such influence, though of course an objection, scarce needs an answer, when compared with such countervailing advantages, and the more than equivalent compensation of the preceding section. The authority of these law officers however might become too great, but for the provision of substituting in their stead any two executive councillors. When the power of publicly debating was taken from the legislative body in France and vested in the tribunate and the executive, a most refined analysis of the authority of government was exhibited, which, had

not the personal rather than the legal influence of that executive deprived the tribunate of the means of sustaining itself, might have proved better suited to that country than has any other constitution. But accidents only, in a manner unforeseen, and by consequences never considered, have deprived the colonial executive of this authority; which is peculiarly suited to British institutions, feelings, and habits; and which it is the object of the present Bill to restore.

SECTION XI.

Two Members of the Legislative Council to be appointed by that Body to have Seats and vote as Members of the United Assembly.

The intention of this and the preceding section is not to constitute a colonial ministry in the Assembly, but to create therein for the other two branches of the legislative the means of communication, an organ of explanation, and that moderate influence and check, so far at least as can be effected by the opinions and abilities of these four members. The effect of their votes may probably be unimportant, but their voices may have a most useful impression upon the deliberations of the Assembly, or on the public opinion of its constituents. The influence of debating, great by its own nature, has been vastly increased and extended by education and the press. Of this source of influence the executive may by the pre-

sent colonial constitution be entirely deprived ; and the legislative council is reduced to defend itself and its measures, in one place, against complaints made in another ; and the people judge of parties, one of whom is unheard, the other unanswered. This and the preceding section will bestow on these two branches of the legislature an opportunity of being heard, where they are sure to be arraigned, in the third, the Assembly. The opponents of government, who will always be found there, will be met and answered in their own arena, and with their own weapons, the power of debate, and the influence of the press. The public will be enlightened, and truth and reason prevail.

SECTION XII.

The Legislative Council to consist of not less than Thirty Members, of whom Ten to form a Quorum. The Assembly to consist of not more than 135 Members, of whom Twenty to form a Quorum. Neither body to adjourn itself for longer than Two Days at a time during any Session.

The limitations as to the whole number of members in the two branches, and the quorum of each, are such as seem requisite, no less for the convenient dispatch of business, than for the proper restriction and balance of powers in a mixed legislature. In a body exceeding thirty, and

which will probably amount to forty or fifty members, appointed for their lives, the personal influence of the executive would soon cease to be unduly felt, while their authority over public opinion would proportionately increase. On the other hand a popular assembly is generally found to be turbulent, precipitate and unreasonable, accordingly as its numbers exceed a certain amount. The specification of the quorum in each body is to ensure the protection of the minority, the due attendance of members, and their attention to business. The prohibition of adjournment for longer than two days has the same effect. The late Assembly of Lower Canada having fixed its own quorum at so high a number as forty, equal to the quorum of the House of Commons of 625 members, was enabled to effect its fatal resolution of transacting no public business, and even to insult the government with threats of permitting no session to be held.

SECTION XIII.

*Qualification required for Members of the Legislative Council and Assembly, viz. for the former, an Estate for not less than Twenty Years in 1000 Acres of Land, free from Incumbrance, or Real and Personal Property together worth 4000*l.* ; for the latter the like Estate in 500 acres of Land or 2000*l.**

As legislative councillors have their seats for

life, their qualification is required to exist only at the time of their appointment. The crown may be trusted with the care of guarding against a fictitious qualification, and where that has once existed, the permanence of the tenure ought not to be affected by the instability of fortune. In the Assembly, the members are chosen for four years only, and therefore the continuance of their qualification may be required less inconveniently, in order so far to prevent its fictitious commencement.

SECTION XIV.

Power to hold Sessions of the United Legislature in either Province, or in each alternately.

This is designed to propitiate the local prejudices or preference of the people of Upper Canada, who, it is to be hoped, will soon acknowledge the inconvenience of a shifting seat of the legislative government, and agree to fix the capital of both Provinces permanently at Montreal.

SECTION XV.

Limits to Five Years the Power given by Section Eighth to the Governor of suspending Writs in the District of Montreal.

This has been already commented upon in the note to section 8.

SECTION XVI.

During the continuance of the Power to suspend Writs in the District of Montreal, a negative is given to the Members from Upper Canada in the United Assembly, upon any Act relating to that Province exclusively, or imposing or altering any Tax, or Duty levied therein on Inland Imports from a Foreign Country, or Repealing or Altering any Law of that Colony.

Another guarantee for the safety of Upper Canada; and after the miserable state to which the French majority have brought the Lower Province, too many securities can scarce be required that an union with the Upper shall in no manner compromise its peace and prosperity. The continuance of this negative is made to depend upon the power of suspending writs, because the duration of that too depends upon the United Legislature, and will not probably be discontinued till the tranquillity of the disturbed districts, and the consolidation of the union, shall have rendered this negative also no longer requisite.

 SECTION XVII.
Powers of Impeachment.

A defect, acknowledged by all parties, and all persons in colonial institutions hitherto, has been the want of a more defined and expressly regu-

lated power of impeaching the public officers of the Colony, for the illegal administration of their duties. The consequence has been, that sometimes the accused have found entire impunity, at other times the accusers have usurped also the power of judges, and the innocent have been sacrificed through the weakness of the executive. The Colonial Department has nearly lost or abandoned the power of defending the guiltless, and should never possess means of screening the guilty. For the sake of public servants therefore in the Colonies, no less than for the purity of their employments, an independent tribunal should be established, to which all such causes of complaint may be referred, where crime may meet with justice, and integrity with protection. For this purpose it is here suggested, that the Assembly may impeach any officer subordinate to and appointed by the Governor, for any high crime or misdemeanor relating to the duties of such office ; but as such impeachment may originate or be carried from party intemperance, a majority of twelve is required, upon analogy to the common law principle of grand juries, the other votes being here considered as neutralized by their equality ; and the accused is first to be heard if he desire it. The articles of impeachment are to be presented at the bar of the Legislative Council, who will nominate a High Committee of twenty-two members, from which five

are to be struck off by the accused, and five by the Assembly, and the remaining twelve, together with a President, to be appointed by the Governor, are to try, record, and report upon the charge, to the Governor, for her Majesty in Council. The whole proceedings are then to be transmitted, and referred to the judicial committee of the Privy Council, according to the statute 3 & 4 Will. 4, c. 41, to be finally examined and determined by that body. This course combines the advantage of a trial in the colony, with the right of appeal to the Crown in Council, a right allowed where property of any considerable amount is concerned, and in proceedings of this character more peculiarly requisite, for the satisfaction of both accusers and the accused. A provision follows, copied from the Bill of Rights, that no pardon shall be pleadable in bar of such an impeachment.

SECT. XVIII.

The Revenues of both Provinces united and subjected to the Debts of either.

The debt incurred by Upper Canada for its canals and other improvements of communication, seems scarcely less for the common benefit of Lower Canada, than of any part of the Upper beyond the immediate neighbourhood of these improvements; some of the most expensive of

which are on the confines of the two Provinces, and nearer a larger population of the Lower than of the Upper. Besides, the main object of the Bill being an union, all causes likely to disturb or embarrass it should be carefully provided for, and none would be more likely than separate debts and distinct revenues. Indeed the difficulties resulting from the latter have proved one of the chief reasons that render an union necessary. The interest on the debt of Upper Canada now amounts to about 40,000*l.* per annum; but as the capital has been chiefly expended upon objects, which, it is believed, will eventually not only repay both principal and interest, but produce a considerable revenue besides, the burthen upon the revenues of Lower Canada will be temporary, and may result in ultimate advantage, in point of finance, as the outlay immediately and certainly will in promoting industry and commerce.

SECTION XIX.

Provisions for the Settlement of the Civil List of Lower Canada.

The immediate instrument of the French majority, in destroying the late constitution of Lower Canada, was the refusal to provide for the Provincial Civil Government. By practice no less than in theory also, an essential part of the Bri

tish constitution is, that such a provision as is necessary for the keeping up the bond of society, by the civil administration of its laws, should be placed beyond the reach of differences between the several branches of the legislature. Indeed, without such a provision, a mixed government of several branches were an impracticable chimaera. In the United Kingdom, certain perpetual and hereditary revenues have immemorially been assigned to the Crown for that purpose, and are now always surrendered at the commencement of each reign, in exchange for a parliamentary grant of a civil list during the monarch's life. In the Colonies also certain revenues in a similar manner belong to the Crown, some by the Common Law, and others by Act of Parliament, the appropriation of which revenues is exclusively a prerogative right. These ought therefore, by the justest analogy, to be surrendered on every change of succession, and commuted for a Colonial Civil List during the reign. In this the constitutional point of view, little importance belongs to the question, whether the amount of these prerogative revenues be greater or less than that of the Civil List to be granted. In some of our Colonies it is greater, as in New Brunswick; yet the Crown has not therefore either refused to make such a commutation, or demanded a larger supply, than the fair support of its necessary officers justly required. In the

case of Lower Canada, the prerogative revenues are undoubtedly at the moment less than the Civil List would demand. But these may not improbably be much increased, when the mineral sources of productiveness come to be explored ; and even at the present, the difference is not so great, as to merit on either part any thing like standing out for a bargain.

But the present Bill does nothing to enforce the settlement of the Civil List question. Only the way is opened, impediments are removed, and the principle is declared. The adoption is confided to the united legislature. For inducements to their consent, every source of revenue, either in the Crown by prerogative and by property, or created by pre-existing statutes, all of which are enumerated in the preamble, is offered to the Assembly, on condition of granting an adequate supply for the civil government, either permanently, or during each successive reign. Of course the surrender is to continue in operation so long only as the grant for the Civil List shall continue. Though that term may by the Bill be either perpetual, or for the life of each sovereign successively, and though her Majesty's Government have in other Colonies proposed as a third alternative, a period of ten years certain, there are some urgent reasons for preferring a grant for the sovereign's life to either of the other two.

1st. A permanent Civil List must necessarily become ill adapted to the condition of a Colony, whose population is doubled every twenty years, and whose circumstances in other respects are changed no less within even shorter periods. Some offices would in time become useless, and others of a different nature be required. The former might be turned into sinecures, the latter be either unprovided for, or made dependant on the uncertainty of an annual vote.

2nd. A Civil List for a term of ten years would indeed avoid these objections, but would be liable to others no less inconvenient. The period being shorter than the average duration of a reign, less certainty and security would be afforded to the establishment and support of the Government. The question of the principle and details of the grant would be a recurring theme of discussion, after too short an interval. Every other House of Assembly elected for four years only would be called to decide upon this supply: and the time of that decision being exactly foreseen, would be anticipated by the intrigues and cabals of a faction, which must always exist in the Colonies, as well as in the United Kingdom, being the necessary consequence of a representative Assembly; a faction, whose duty is to watch and check the executive, but whose employment will ever be abused to assail the

power, embarrass the administration, and inveigh against the officers, of the crown.

3rd. The life of the sovereign seems, therefore, the most advisable period for the grant of a Civil List. The uncertain duration of that term gives it the effect of a permanence beyond the average length of reigns. The termination not being foreseen cannot be anticipated by intrigue or cabal. The accession of a new monarch is an epoch most favourable for renewing the grant. The demise of one sovereign, and the succession of another, and commonly a younger and more popular prince, renews and reinvigorates in the people a feeling of loyalty and duty, by some of the profoundest principles and sympathies, as well as the most interesting events and pageants, belonging to the social system; the impersonation of which in a single individual, never perhaps excites more the attachment of the whole community, nor combines more vividly the abstractions of allegiance with the existence of their representative. Besides, as there belongs to the prerogative revenues surrendered, no less than to all other rights of the crown, something of a personal as well as a political character, it is perhaps rather preferable that no monarch should bind his successor by any arrangement for commutation.

4th. And lastly, a Civil List for the sovereign's life is more consistent with the constitution and

usage of the mother country, whose institutions would ever be most imperfectly copied, and often most perversely applied, unless also the manner and spirit with which they are administered be at the same time transferred and maintained.

The latter part of this section repeals so much of the statute 3 Geo. IV. c. 116, as prevents the legislature of the Lower Province from repealing or altering any of the duties mentioned in that act, or imposing any that may affect the Upper Province. A provision made necessary by the division, but superseded by the re-union, of the two Canadas.

SECTION XX.

Makes Provision for a similar Civil List, on the expiration of the present in Upper Canada.

SECTION XXI.

Merely expresses, that on the Expiration of such Civil List, the Crown is to revert to all its former Rights, and the Revenues so surrendered are to be appropriated as heretofore,

SECTION XXII.

The Grant for the Civil List may be, either in a gross Sum, or by distinct Items of Appropriation for each separate Salary or Service; but in the latter case the Legislative Council to have a separate and distinct decision on each Item.

This is a provision for the settlement of a constitutional question long agitated in Lower Canada, and in other colonies, and here placed upon a basis of conciliation, reasonable in itself, and consistent with parliamentary principles and practice. By the 1 Will. IV c. 25, the Civil List, so far as granted to support the personal dignity and household of the sovereign, is voted in one gross sum; but so far as made for the support of the civil officers of government, the grants by the 2 & 3 Will. IV c. 116, are distinctly appropriated by distinct items for separate salaries and services. There exists no reason why the Civil List in the Colonies should not be granted in a similar manner. Its permanent nature will admit little influence from personal feeling for or against any officer of the crown; motives, which render an annual grant so objectionable. And the negative of the Legislative Council, being preserved according to Colonial usage, to be exercised distinctly upon each item of the grant, no control by the legislature over the expenditure of the

executive can be more effectual, or ought to be more satisfactory to all parties.

SECTION XXIII:

That after such a Settlement of the Civil List the Judges shall hold Office for Life.

Another provision taken from the Bill of Rights. This also will be an additional inducement for passing the Civil List, and will be a most satisfactory one to the Colonies, whose rights and liberties need but this security to be established on the same foundation as in the mother country. There are, however, undoubtedly some evils resulting from the independence of the judges, which are already felt in this country also, but which are at present unacknowledged, and whenever discussed will probably be found more tolerable than those of the other alternative. Perhaps the French system of making their judicature irresponsible, indeed, to the government, but responsible to every suitor of the community, by giving each an action against the judge for any wrong decision, might, with certain limitations of costs, and indemnity against vexatious or unsuccessful suits, be made the most efficient means of deterring incompetent persons from accepting or continuing in that office, and of enforcing care, patience, study, and equanimity upon such as are competent. But

this latter speculation is somewhat foreign to the immediate purpose.

SECTION XXIV.

Of the Clergy Reserves.

Here is a question so full of difficulties, that perhaps no one has considered it without wishing heartily there were no such property to cause them. And truly, if the number and importance of the perplexities besetting a subject were sufficient reasons to decline legislating upon it, not only this clause, but the whole Bill would be left to the consequences its abandonment may produce. But of what use then is a government, or why do ministers or parliament take upon themselves the destinies of a great empire, if they want either the courage to grapple with, or the ability to compose, the embarrassments of a single colony ?

In a light purely political, and abstracted from any theological views, few persons can consider the question, whether, in a well regulated society, any provision should be made for religious instruction ?—and resolve to exclude from their system, or abandon to accident, one of the most profound, agitating, and universal, principles of human conduct. Neither the duty nor the policy of a government can leave religion to voluntary guidance and support. Nor is there any example

of such institutions, except perhaps in some portion of the United States, where the experiment has been too brief, and the success too ambiguous, for discrediting the test of all other history, and the conclusions deducible from the character of mankind.

The next step is, no doubt, to desire, and if possible to effect, the entire singleness of religious opinions and observances; because, by this, a strict bond of political union is substituted for the most implacable, bitter, and general cause of dissension; and the religious and moral instruction of the people may also thus be more effectually and economically conducted. This object, however, as all history informs us, is either unattainable, or to be approached only by means infinitely more objectionable than their end is desirable. The force of circumstances and events has, indeed, exhibited in our own country the experiment of a middle course of policy,—the establishment of a Protestant Church with the toleration of dissent. This system must necessarily be ever in danger of failing, for want of the means of self-preservation; means, which indeed were once supplied by the exclusion of all adversaries from political power, but which, even in that mitigated form, were too severe a penalty for either the temper of the church they established, or the character of the people they concerned. The permanence, therefore, of such an

establishment must now depend entirely upon the voluntary adherence of its members: and as long as they continue most numerous, its wealth also contributes to uphold it; but wherever numbers shall have turned against it, its wealth too appears changeable to spoil, exciting invasion, and accelerating dissolution.

There remains but one resource. To retreat from the attempted union of religious opinions and observances, attempted hitherto too minutely to be attainable, and retire upon some abstraction, which shall embrace the whole variety of sects, and making the establishment consist of a paramount principle, leave its combination with rites and less important doctrines to the voluntary adoption of the community; taking care only so to enlighten their teachers by education, and attach them to the government by protection and provision, that there shall be the least possible danger of society's being corrupted in its morals, or embarrassed in the administration of its affairs. This principle must of course be the Christian faith, of which, upon all points essential in a political view at least, all sects are agreed. Let government then, instead of vainly endeavouring to impose its favorite modes of worship on the people, take those of the people on itself. Let the ministers of all persuasions come within the pale and provision of the colonial establishment. Their office is so useful to the community, and

their influence so general, that neither ought the former to be left unremunerated, nor the latter unregarded, by the government.

These considerations are, of course, here suggested with reference only to the Canadas, and form the preliminary reasons for the present clause. The 36th, 37th, and 38th sections of the Constitutional Act of 1791, 31 Geo. 3, c. 31, so far recognized and acted upon such principles, that not only the clergy of the Church of England, but of the Church of Scotland also, as has been decided, and, as is contended with scarce less reason, the clergy of other Protestant denominations, are admissible to the profits of the reserves in question. The Catholic clergy, however, were clearly excluded. For that exclusion there existed reasons then, which now do not apply. The Catholic Church in Lower Canada was amply endowed, having, besides other resources, above two millions of acres of land. In Upper Canada few Catholics then resided, and their increase was either not foreseen, or not to be anticipated and invited by any such provision. At present they are numerous, powerful, and well affected, and for their services in the late piratical invasions, have added to every other claim, that of gratitude, upon the government and the empire. That clause of exclusion, therefore, is proposed to be repealed.

There are in Upper Canada fifty-six rectories

of the Church of England, twenty-five clergymen of the Church of Scotland, twelve of the United Synod of that Province, thirty of the Roman Catholic Church, and perhaps as many, if not more, of the Methodist connexion, and scarcely fewer of the Baptists.

The division of the Clergy Reserves, as proposed by the present Bill, among all these denominations is, not less than one-fifth to the Church of England; not more than one-fifth to the Church of Scotland; not more than one-fifth to the Methodists; not more than one-fifth to all other denominations of Protestants; and not more than one-fifth to the secular clergy of the Roman Catholic Church. This may not be exactly according to the relative numbers, but the inequality, if very objectionable, is less important; as the measure is not enforced upon, but left to the future deliberation and decision of, the united legislature. The main object of the clause is to declare the constitutional principle, leaving its application to the Provincial Parliament. Yet, in any future apportionment of this division, the example of the present statute would, no doubt, have great authority. The designation of the individual clergyman in any of these denominations, who is to enjoy the endowment, must of course rest in the hands of government. Such appointments, however, should be made for life, because thus their influence is sufficient for the government,

most honourable for the individual, and salutary for society. Of all ties, none is so effectual, permanent, and universal, as gratitude.

SECTION XXV.

The Act to commence from after being proclaimed by the Governor in Canada.

SECTION XXVI.

All Powers, Rights, Restrictions, Limitations, and Conditions of all other Acts relative to the Separate Legislatures applied to the United hereby constituted.

SECTION XXVII.

The present separate Legislatures may make temporary Laws until the Meeting of the first United Legislature after the Commencement of this Act.

SECTION XXVIII.

Laws of either Province in Force at the Commencement of this Act to continue except repealed.

ON
THE FUTURE UNION AND DESTINY
OF
ALL THE B. N. A. COLONIES.

A RUMOUR has been for some time circulated, by what authority indeed is unknown, and with what favour or countenance is equally uncertain, but the report is too frequently repeated not to have some foundation and deserve remark, that a plan is in preparation for the union of all the North American colonies in what is termed a federal system of government. The meaning of which is presumed to be, to leave to each colony its legislature, and give the whole together another superior convention, composed of deputies from each Province. Of this we look in vain for any example in our own dominions, and the nearest precedent in foreign countries is one of no favourable omen to British colonial power, the Congress of the United States of North America. Without any intention therefore to pass a censure on the institutions of that country, or to make an offensive comparison with our own, but solely because theirs are now and often on other occasions held up as a model for our imitation, it becomes necessary to examine the nature of the American system with views to its fitness for colonial dominions,

It is in this country a common mistake, to suppose that the admiration, which some among us here profess for American institutions, must be felt stronger, in proportion to the neighbourhood, among our colonies adjoining that republic. But it is often with communities as with individuals, where there is a motive of difference so exciting to the passions as national and political distinctions, juxtaposition is a cause of antipathy and repugnance more frequently and more powerfully than of conciliation or imitation. And it was observed during the late rebellion and piratical invasions, that no persons seemed to have turned out to war for the Crown more readily, cheerfully, or effectually, than the immediate settlers on the very confines of the States and colonies. And as far as regards the predilections of the great majority of our loyal fellow-subjects in those Provinces, no one acquainted with them can doubt, that a constitution could not come to them recommended by a pattern less to their liking, than one borrowed from their immediate neighbours. Why should they desire an imitation of a government, from the original of which the fathers of many of them formerly sought asylum, some in the grave of the battle-field, and others in the still remaining colonies; and which the descendants of such parents, together with all other the colonists, have repeatedly driven from them with arms? No; the Americans have mocking birds that will imitate their national hymn; their slaves may copy and scarcely

burlesque their social fashions; but the old loyalists and their children, and the emigrants who have joined them, have too much pride and fidelity, too bitter recollections of the past, and too high a resolve for the future, to take their politics from such a source. What they see to covet in the United States is the thrift, industry, and enterprise of the people, their abundant capital, and the facility with which they can increase it by credit from this country to an almost illimitable extent. To attribute to the form of government the result of these advantages in a genial soil and climate, may suit the designs of faction or errors of party spirit in remote countries, but closer observation, whether of the theory of American federalism or of its practical operation, must find the former but an absurdity and the latter an accident: an absurdity, which nothing but their excessive admiration of themselves could applaud; and an accident, which the caprice of any district may interrupt. A people of one order with a government of three—a democracy with three distinct bodies to represent it, two collective chambers and a single executive—each of the three delegated by the same whole—checking itself—neutralizing its own will—exhibit in each Provincial Legislature inconsistencies only intelligible from the history of a nation, whose invention seemingly was constrained to imitate the very system they had superseded. A reproduction of the

same constitution forms the federal union ; a sovereignty of sovereignties ; of which the powers are liable to constant dispute, and when disputed are without sanction ; with a judicature superior to the legislatures of each State and even of the whole combined ; with another latent organization still more paramount, called a convention ; and another principle equally incoherent, called nullification ; and a third power without principle or organization, but alone more paramount than either, called mob ;—one chamber representing the sovereign people, another the sovereign States which that people form ; and what gives indeed the semblance of a reason, but in its queerest and rarest shape, one chamber representing the sovereign people numerically, the other according to the number of the sovereign States consisting of the same people unequally so divided ;—a chief who, at once both officer and servant, unites in his own hands the whole power and patronage of the executive and administrative functions, without a council, without ministers of any authority, without influence in either chamber, but co-ordinate with both as the people's representative, and often at variance with each ; communicating with them by pamphlets ; responsible in name, but placed with his ministers beyond the scene of interrogation :—these, and the like contradictions and inconsequences, which it would be long to pursue, are sufficient to evince, that if such an instrument of government has existed

through a single generation, the extraordinary permanence has been owing less to the vaunted wisdom of the institution, than its good fortune in being almost isolated from the contiguity of any but the orderly and industrious colonies of that just and peaceable nation, whose constitution has been so travestied. Little has the prosperity of the Americans arisen from the inherent merit of their political system. It is their personal qualities and habits, their energy, frugality, activity, and labour, in almost all, and in some places their simplicity of manners and singular decency of morals, it is to these that they are indebted for that continuance of wealth and happiness in which they were left by their colonial connexion. But in politics they have been great imitators, and of a single model. Such was their poverty of invention and servility of repetition, that having established the simplest of all governments in principle, the will of a majority, they assigned it organs so complex and separate as only to obscure its expression, and gave it a machinery the most inconsistent and counteracting; they reproduced and reduplicated the same anomalies in their federal government; copying throughout the exact forms of the British colonial constitution, even to its dependance on the mother country. The misapplication of some parts, and substitutions for others, have made the whole illogical, incoherent, and contradictory.

But if the organization of the American State Governments be wholly irreconcilable with its principle, and their general government no less inconsistent with both; the application of such a federalism to the North American Colonies would be still more incomprehensible and incompatible. As far as practicable and intelligible, such a federation already exists, in their dependance on the imperial authority; a bad imitation of which is hardly to be substituted for the reality, or superinduced, to embarrass its operation. The Colonies have always possessed the substance of what the Americans have created a shadow and semblance, a mixed Legislature of three orders for local purposes, and a paramount Government of similar composition for general and national supremacy. Here is the constitution of an empire, the theory of which will stand criticism, as the practice has stood the test of centuries; a constitution, which in either respect may well challenge comparison with the example of pure democracy aping the three orders of a mixed monarchy, and sovereign States counterfeiting Colonial dependance. Singular as is the paralogy of those politicians, who, reasoning after the event, mistake its cause for whatever best suits their own opinions, that the rapid improvement of the United States has ever been imputed to their institutions of Government, or that its every form has not been acknowledged an act of homage to the very system they discarded, and the empire

from which they sprung : yet the paralogy would be still stronger to prefer or annex to the older, the more philosophical, and practicable constitution, the copy of its infant, illogical, self-repugnant and incompatible counterfeit.

And what would be the powers, what the object, of a federative Legislature in these Colonies? There is no vacant or unoccupied ground for their sphere of action. The whole authority of the social system has there been long since divided, and the limits of the distribution are well known. The federal Legislature, therefore, to have any powers, must take them, either from those of the Imperial Parliament, or those of the Provincial Assembly. Which of the two is prepared to give them up? If the former, dependance is sacrificed : if the latter, local legislation.

Do the Colonists themselves desire it? Has any class or party there proposed it? The suggestion did not originate on that side of the water. Yet it has been made to them, been considered, and been rejected by the most unanimous expressions of public opinion. The proposal has no friends or supporters in any quarter of the Colonies. On the contrary, it is deprecated as an utter mistake, at variance with their wants and wishes, inconsistent with their relations to each other, and to the parent Kingdom, and involving repugnancies and embarrassments fatal to any practical purpose.

Were the measure less objectionable in its na-

ture, the time is unfavourable for its application. The quiet, sober, and contented people of New Brunswick, Nova Scotia, and Prince Edward's Island would be extremely averse to be involved and mixed up with the political disputes of Lower Canada, and by endeavouring to accomplish its tranquillity, compromise their own. Even the inhabitants of Upper Canada require for inducements to that danger, nothing less than the imperative necessity already explained. As far as the other Provinces are concerned, there could not be perpetrated a more signal violation of the axiom "*leave well alone.*"

Nor would it at present be advisable for either the Imperial Government or for those three its nether and nearer Provinces, if their existing dependance be valued on either part, as it is on both, to consent to such a scheme of federation. Whatever may be our hold upon Canada, the Colonies of New Brunswick, Nova Scotia, and Prince Edward's Island, are in every way, in situation, affection, interest, and condition, bound to this country by far stronger and closer ties of attachment, which, without a union with Canada, may long survive its connexion with us, and would render that separation more difficult, and that independence less injurious. A glance at the map of North America will explain the reasons; and it is necessary but to add, that the shores of those Provinces only of the whole American coast cover inexhaustible mines of the best bitumenous coal,

and the consequence of their becoming the seat of naval arsenals for France or the United States, instead of Great Britain, will seem sufficiently important, without reference to the fish and oil of those waters, or the tall forests of the land.

But then it may be urged, the North American Colonies cannot always be dependant on this country, whose policy therefore should be betimes to combine them together, that they may not merge in a republic already too extensive. No doubt, such a separation should be anticipated by some combination : but that the separation is probably so near as to require immediately any preparatory measure, or that a federative union would be the wisest mode of combination, is doubted—is denied. Recent events in those Provinces have proved any thing but the probability of their severance from us. A more prompt, gallant, and devoted spirit of loyalty and attachment to the Crown and mother country was never witnessed throughout all her dominions, or recorded in all her annals, than has been exhibited during the last two years in those Colonies. And shame and utter confusion should cover the false prophets, who have so long reiterated their calumnious prediction of the contrary ! as scorn and execration should pursue the false lips, and remorse gnaw their foul hearts, whose counsels and efforts have ever tended to verify what their ignorance foretold !—who at first exulted over the calamities, and now mourn at the suffering instruments of a

rebellion, the guilt of which could have no truer cause, nor the punishment a juster object, than their heads, whose folly instigated a conflict their prudence declined to share. But the loyalty of the Colonies has confounded the assertions, and spurned the advice and assistance, of such their false friends. Why then should we now legislate with a view to that separation, which seems more than ever remote, and which nothing apparently but such legislation could tend to produce ?

Whenever the epoch of such a separation shall be at hand, that is, whenever the North American Colonies shall have the disposition to dissociate themselves from the British Empire, and the power to maintain a place among the nations as an independent sovereignty ; whenever the wealth and revenues of the whole shall render this practicable, and the wishes of a decided majority shall have pronounced it desirable ; then, no doubt, it will be the endeavour of both the mother Country and those Provinces, as it will assuredly be the interest of both, to prepare for that event by combining the whole of those dominions into one community and government. But it by no means follows as of course, that even then a federal union should be the mode of combination. Instead of a mere imitation of the American constitution and federation, which contain within themselves so many seeds of dissolution, and so little of the philosophy of politics in the adaptation of the machinery to the principles of

their government; an imitation, which has proved so disastrous to other republics of that continent, the United Provinces of Canada and Acadia may probably discover a worthier preference for the institutions of their parent country, and a profounder comprehension of political science, by still adhering to the essential as well as the formal parts of the British constitution, and by adopting a legislative union. The eminent success of that measure with England, Scotland and Ireland, will deserve all the attention which a brilliant, fortunate and kindred example never fails to inspire; and the modern improvements in communication and instruction, necessarily preceding and already contemplated throughout the whole of those dominions, will have made their remotest extremes less apart from and unknown to each other, than those now are in the smallest of the Provinces. Thus, the advantage of local legislation will not be compromised, the evil of excessive legislation will be avoided, the superior intelligence of assemblies from an enlarged multifarious and single sovereignty will be gained, together with the only means of compensating and countervailing the riches and population of the most turbulent, quarrelsome and covetous neighbours to which ever country was exposed, the means of a single, combined, united power, the whole energies and resources of which may be exerted, to their utmost, by one will, for self-defence, along any point of their borders.

It would here be premature to speculate far upon what modification of the British Constitution might be required for those Colonies by the change to be made on their separation from us. Until then, the present constitutional act would be no less applicable to uniting the rest of their legislatures, whenever hereafter that measure may be expedient for, and desired by, the Provinces of New Brunswick, Nova Scotia, Prince Edward's Island, and Newfoundland. But after the question of separation and independence shall have arisen and been adopted, little ingenuity will be required to constitute the three branches of an united legislature on principles purely British. Those principles of our government, like those also of our laws, are but the more perfect exhibition of the same, which the experience of the Roman commonwealth and the philosophy of its sages taught the human race ; though in both instances the identity is more apparent in an abstracted resemblance, than in either the mode of combination or the vestiges of tradition. Nor can we better seek assistance for whatever modification those principles may require in being applied to new circumstances, than by resorting to the fount and origin of primitive derivation. The three orders of monarchy, aristocracy, and democracy, in some shape more or less distinct, are in their nature inherent in every civilized society ; where an executive power must exist, and can

not be exercised by many, and where the distribution of wealth, wisdom, and virtue can never long be equal. To form a legislature of those three estates, analysing the powers of the first, and carefully adjusting the control of the two others, has been the common boast of British and of Roman institutions; and never was there a system of government more successful than either. But though few nations may be able to adopt it in the same phase or image, all may develop its essence or principle, for that is innate in all, and unless developed in some direct and ostensible organ is sure to be felt in some covert and oblique operations destructive of its exclusion. What is aristocracy but the influence of property? and what difficulty can there be in having a lower house representing the people according to their number, and an upper house representing them according to their property? Any amount, however small, might be taken as an unit, and by giving each person as many votes as he possesses multiples of that amount, the result would return a council of proprietors, very nearly representing the wealth of the community, and probably exhibiting the education, conduct, and feelings with which wealth is generally attended. This would indeed be but applying the modern improvement of representation to something like a combination of the ancient *Comitia Centuriata* and *Comitia Tributa* of the Roman Commonwealth, in which

those different classifications of the people presented a mode of tempering the democratical by the aristocratical power, scarcely less efficiently than by the senate itself. But though elections may be very well employed in the aristocratical principle, they are by no means essential there as in the democratical. Other modes of constituting a chamber of proprietors may probably be preferred. The means of appointment are of far less consequence than the tenure and term. Provided these be for life, such a body, however nominated, will possess independence, and answer the purpose. The British peerage and Roman senate were designated in very different modes, yet agreed nearly in this, that during life or good behaviour each member was irremovable; a principle, which has lately received also the adhesion of France, in politics the most philosophical and the most experienced nation of any in the present age. A much more difficult task would be to designate the person who is to exercise the powers, and sustain the impersonation, of the executive authority. And here it is curious to remark the different expedients adopted for this purpose by the Roman institutions and the American. The former after the expulsion of kings analysed the power of their office, and distributing its divisions to several persons, guarded against abuse by the minuteness of the division as well as by the frequent change in the depositories of authority. But as the

American revolution had its true origin in no abuse of the royal office, so their substitution for its exercise was marked by no anxiety to guard against its future perversion, but with a shallow and vulgar abhorrence of the name, and a strange inconsideration that the substance must exist somewhere, and the only security depended upon the analysis, distribution, and term of these powers,—the United States expressly accumulated the whole administrative and executive authority with its undivided patronage in a single individual, contenting themselves with only an abridgement of his term of office. Thus, they trusted entirely to what in no history has long proved a barrier to ambition or protection to liberty, and utterly overlooked that division of the monarchical authority, which all antiquity had approved, and of which so signal an instance existed in the parent country. A more refined and successful mode, than with us, has never been witnessed of separating, distributing, and limiting the monarchical power ;—investing in one chief, to be designated by descent, which alone could exclude competition, all the dignity of impersonated sovereignty, and placing him beyond responsibility, and thus securing his inviolability, deprive him of all positive power, except by the instrumentality of his ministers ; who being dependant on him for appointment and continuance in office, and responsible for its exercise to the two other

estates, divide among themselves the administration and patronage, and unite the councils, of the executive.

There does not, nor probably can there for many years exist, in any new country, a person or family capable of attaching or uniting to itself the opinions and suffrages of the people, sufficiently for elevation to the supreme rank, and its hereditary descent. The designation, therefore, of the chief of the state must, till then, devolve upon the other two orders, or the two chambers representing them or their principles. But, as the frequent recurrence of such a designation has undoubted evils, and as the only advantage that offers in checking the abuse of power may be better attained by its analysis and limitation, according to the British constitution, the success of that example may, perhaps, be sufficient to induce the Colonies, at such an epoch, to make less of the abridgment of the term, than of those other securities, of a sage and just administration, viz. the inviolability of their chief, the limitation of his power to the choice of ministers, their division of his authority, and responsibility for its exercise. With such provisions, the designation of his person might be wisely left to the Lower House, out of several to be selected and presented by the Upper; and the term of his office might be safely made coextensive with his life. The unity and steadiness, the permanence and

energy, of such a government would prove the powerful means of sustaining the United Provinces against the encroachments and seductions of their nearest neighbours; whose attempts, however, would undoubtedly require the additional barrier of a guarantee by Great Britain against further aggrandisement of those neighbours, at least in the north.

But, as before observed, such speculations are altogether premature, and have beguiled pursuit too far. The minds of the Colonists are utterly unprepared to enter upon any such discussions, as they are equally undesirous of the preliminary implied, a separation from Great Britain. The idea of independence, before having the wealth and population necessary to support it, is too absurd for any but the shallow and hot-headed revolutionists, who attempted to extort without power, what they would have administered without talent, and lost without courage. The idea of transferring those Provinces to the United States, has as yet been avowed by no party, and is undoubtedly most repugnant to the feelings and interests of almost the whole population; and, still more, is an event which Great Britain would put forth the whole strength of the empire to forbid.

Such a resolution must long since have been taken by the government of this country, and by men of all parties, who are not too much en-

grossed with the intrigues of their own faction to elevate and expand their minds adequately to the magnitude and policy of the immense empire transmitted to their charge. But the moment has come when that resolution ought to be declared. Some demonstration should be made to show that such a position has been irrevocably assumed. The Americans cannot too soon be convinced, that whomever Canada belong to, it can never be theirs. The balance of power in the new world has become of no less moment than in the old. Nay, the latter, instead of being redressed, may be destroyed by inattention to the former. A barrier, on the north at least, must be kept up for ever against the aggrandisement of that republic. Let them be assured that they can get nothing further from us, without a struggle; and if they think of that, let them prepare to cover the land with their armies, and with their navies the sea; for every heart in these dominions is fired with the words of their great captain, that “*Great Britain will have no little war.*” No;—the power that arms 50,000 men in the west for the sake of peace, and marches 100,000 in the east to prevent hostility; the power, which found in one of its smallest islands room enough for the mighty empire of Napoleon; the power, which discomfited the world in warfare, when to the confederated attack of every nation in Europe, the Americans chose the oppor-

tunity to add their enmity,—and if then they never entered Canada but to fatten it with their blood, even more than they impoverished by their pillage; the power which has seldom failed to dictate peace to Europe, and which, alas, though dictating has been duped in every treaty with America; the power, in fine, which wants nothing in her means, no, not even a master mind to direct them,—or wants but one thing, which, if Heaven has not all forsaken us, she cannot want long, that master's mind in her councils,—will enter upon the third American war in a manner equal to her might, and worthy her renown. If the United States prefer this to peace, they must have it; but if, as is hoped and believed, they think peace more desirable, they must fulfil its obligations. It is too much for the Americans to expect the advantages, and forego the duties, of amity; and leave us to the danger and expense of hostility without the chance of its acquisitions, or even hope of its cessation. Our Colonies must be let alone. Though Florida was gained by bullying, and Texas is attempted by piracy; if Spain in its decrepitude thought it cheaper to cede Colonies than to protect them; and Mexico in its infancy has imitated the constitution of the United States till fit only to become their prey; Great Britain is still herself; and neither has dissension so depraved her councils, nor economy so debased her spirit, nor fidelity to engagements so impaired her re-

sources, but when she rouses in such a cause, arms, men, and money enough will be found, to convince her enemies she knows her own power, and can make her provinces respected.

But to return from this digression to the principal subject, and conclude it—a glance at the future destinies of the North American Provinces was requisite only to show, that the institutions here suggested would be beneficial both to the Colonies and the mother country, in every event which prudence could foresee. The legislative union of Upper and Lower Canada, under such a constitution, promises the two-fold advantage of maintaining their dependance on this country as long as desirable, and their independence of all countries ever after.

Such a settlement may reasonably be expected to prove the harbinger of peace and prosperity to both those vast, rich, and beautiful Provinces. The United Assembly will instantly engage in developing the resources, perfecting the communications, emancipating the industry, and enfranchising the property, of the country. Even the French population, convinced at last that they cannot govern, and guided by their faithful and contented clergy, will abandon the idea of nationality, and prefer in future the real improvement of the Colony, to the vanity or flattery of its demagogues. The tide of emigration will return to the St. Lawrence. The 50,000 emigrants

that have been received there in one year, may be doubled annually. British capital will accompany a British population. The wealth and industry, the energy and intelligence, of the United Kingdom will, by rapid degrees, cover those territories with the arts of peace, and all the conveniences and enjoyments of civilization; until every parish, and almost every family, at home, will count some of their members among the Colonial population. The distance between will be half annihilated by steam navigation. The Colonies will become thoroughly British. Private and personal interests, feelings, and recollections will be added to those that are historical and political. And our Provinces in North America will be regarded, both here and there as no less the integral and essential members of the British empire, than the Western Province of Ireland, the Northern districts of Scotland, or even the Midland counties of England.

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