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THE
OBJECT AND EFFECT
OF
THE OATH
IN THE
ROMAN CATHOLIC RELIEF BILL
CONSIDERED;
WITH
OBSERVATIONS UPON THE DOCTRINE OF CERTAIN IRISH
AUTHORITIES WITH RESPECT TO TITHES;
AND ON THE
POLICY OF A CONCORDAT WITH THE SEE OF ROME.
WITH AN
APPENDIX.

BY THE RIGHT HONOURABLE
SIR ROBERT WILMOT HORTON, BART., G.C.H.

LONDON:
JOHN MURRAY, ALBEMARLE STREET.

MDCCCXXXVIII.

OBJECT AND EFFECT

INTRODUCTION
THE STATE

LONDON :

Printed by WILLIAM CLOWES AND SONS,
Stamford Street.

I N T R O D U C T I O N.

IN the first section of this publication I have endeavoured to demonstrate that the securities suggested by me in the year 1829, for the protection of the Church against the possible danger of Roman Catholic legislation, did not deserve to be characterised *as impracticable*. In the second section, that no justifiable accusation or even imputation of perjury can attach to a Roman Catholic Member of Parliament from his voting for any resolution or measure which any body of Protestants may deem necessary for the preservation, or at least ultimate benefit of, any Church Establishment. In the third section, that if it can be proved that a Catholic Member of Parliament unequivocally proposes to subvert the present Church Establishment, according to the fair and equitable import of the term, such an attempt is not in accordance with the Oath which he has taken within the walls of Parliament. In the fourth section, that as Roman Catholics are now admitted into both houses of the Legislature, it is a most necessary act of state policy to negotiate with the head of the Catholic Church on Catholic matters,

and that from such negotiation good and not evil is to be anticipated, that any measures connected with Catholic interests should be considered *after* the establishment of a Concordat with the papal see, and that one of the principal measures that ought *then* to be considered should be the payment of the Roman Catholic clergy. It will be perceived that whatever conclusion may be come to by readers with respect to the first section, the reasoning in the three remaining sections is in no degree affected.

SECTION I.

BEFORE I quitted Ceylon, I observed that an im-
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SECTION I.

BEFORE I quitted Ceylon, I observed that an impression had got abroad that, in 1829, I had introduced a measure into the House of Commons, for the purpose of restricting Roman Catholics from voting on subjects vitally affecting the Protestant Church of the United Kingdom. In the 'Dublin Review,' No. 4, April, 1837,—in the conduct of which I have been given to understand that Mr. O'Connell, if not the Editor, has a very material direction,—there is an Article headed 'The Catholic Oath;' and in page 569 of that Review,—in support of the argument of the Reviewer, that the Roman Catholic Oath does not restrict a Roman Catholic Member from voting on subjects affecting the Protestant Church,—is the following passage:—“ We think that we
“ may safely call in aid the principle of law and

“ common sense, that the specific enumeration of
 “ exceptions is the exclusion of all other exceptions,
 “ and that the omission of any exclusion from the
 “ right of voting is conclusive; but may it not be
 “ that the omission was accidental? The proceed-
 “ ings in Parliament show that, on the contrary, the
 “ very question was raised, discussed, considered, and
 “ decided in favour of there being no exclusion.
 “ Sir William Horton moved for a clause imposing a
 “ restraint, and his motion was rejected.”

Now the fact is that I, Sir *William* Horton, as the Reviewer calls me, never made a *Motion* in the House of Commons upon the subject of the exclusion of any Roman Catholic from the right of voting upon any subject; nor did I ever even *mention the subject* of my proposed security within the walls of the House of Commons, except incidentally. The statement, therefore, that my Motion was “*raised*,” “*discussed*,” “*considered*,” and “*rejected*,” is necessarily incorrect.

The simple facts of the case stand thus:—For many years before the Emancipation Bill of 1829 passed into a law, I had, with all the zeal and energy of which I was capable, devoted myself to the subject, having been always of opinion that it was more than unjust not to remove those remaining shackles which still hung upon the Roman Catholic. I would specially refer to a speech addressed to the electors of Newcastle-under-Lyne in 1825; to a letter addressed by me to the Duke of Norfolk in

1826; to the application I made for a declaration on the part of the English Roman Catholics of their religious faith; to a most voluminous correspondence with influential persons on the question; to a visit which I paid to Rome in the winter of 1828 for the purpose of ascertaining whether any species of objection to my suggested security would emanate from the Papal See; and to my correspondence with the Bishop of Sigüenza, Dr. Baines, which was published at Rome, and which correspondence conclusively evinced that the security which I proposed was one to which the Papal See would have made no objection.

But before I proceed with any further allusion to this security, it may be better for me to explain that, for my own satisfaction, *I* required no security whatever to protect the Protestant Church from Catholic legislation, and, less than all, the objectionable security of an oath; the dangers and objections to which mode of security I scarcely thought it possible that any man of enlightened mind could fail to see in the strongest colours. But, bent as I was upon the accomplishment of this tardy act of justice to the Roman Catholics, I had convinced myself that it could not be effected, as matters then stood, without *some security or other* to tranquillise the minds of the members of the Legislature, who, as well as their constituents, apprehended injury to the Protestant Church from the legislation of Roman Catholics. I had formed this opinion from a most

careful investigation of the speeches delivered by the most influential Members of both Houses of Parliament opposed to the removal of Roman Catholic disabilities. I inserted extracts from fifty-one of these speeches in various publications in support of Emancipation,* and the tendency of the whole of them was to show that the objections to Emancipation on the part of those Members, rested upon an apprehension of allowing the Roman Catholics to legislate for the Established Church, which, says His Royal Highness the late Duke of York, in his speech on the 25th of April, 1825, “*must be the case if they should be admitted to seats in either House of Parliament.*”

Although, therefore, I myself wished the measure to be free from the enactment of any species of security, against the effects of legislation,—although my opinions for a series of years had tallied entirely with the opinion expressed by Sir Robert Peel in his opening speech, in 1829, on the Roman Catholic Bill,—namely, that there was more of real security in confidence than in avowed mistrust and suspicion,—although I equally entertained the opinion ex-

* The last of my publications on this subject, and which embodied the essential parts of previous publications, was intitled, “Protestant Safety compatible with the remission of the Civil Disabilities of Roman Catholics; being a Vindication of the Security suggested by the Right Hon. R. Wilmot Horton, M.P., for the settlement of the Catholic question, with an Introductory Statement, and a Dedication to the Bishops of Rochester, Lichfield and Coventry, and Llandaff. London, 1829.”

pressed by Sir Robert Peel in the same speech, that he was unwilling to deprive the Roman Catholic Member of either House of Parliament of any privilege of free discussion, and the free exercise of judgment, which belongs to other members of the Legislature,—yet still, having a practical object in view of the “deepest” importance, I attempted to frame a security which might allay the apprehensions of Protestants without trenching in the remotest degree upon the religious feelings and interests of the Roman Catholics. The security I suggested was not objected to by the See of Rome, and I conscientiously believe, if it had been brought forward in the House of Lords, it would not have been objected to by a large majority of the Protestant Prelates. I equally assert that it was not objected to by a most influential portion of the Roman Catholics, and that the Emancipation Bill might have been carried upon that principle to the satisfaction of all parties, AT THE PERIOD OF THE YEAR 1829.

But to revert to my motion which, according to the ‘Dublin Review,’ had been *raised, discussed, considered, and rejected*, and which statement I have shown to be a complete misrepresentation. The ‘Dublin Review’ is not the only place in which I have been misrepresented. On the 2nd March, 1838, the Honourable Mr. Langdale, a Roman Catholic Member, referred to a speech of the Bishop of Exeter, which speech had been delivered in the

House of Lords on the preceding day by that reverend prelate. The part of this speech to which Mr. Langdale refers I find thus given in the 'Times' * newspaper of the 2nd March:—"The Oath was, in fact, the only security given by the Roman Catholics when the boon which they had so long desired was granted to them. In looking to that security he thought that the words of the Oath ought to be interpreted according to the speech of His Majesty, in which he expressed his intention to maintain the rights of the Protestant Establishment, and to guard and secure it from all danger. That, however, did not seem to be considered by all men as the right mode of interpreting this Oath. A learned Member of the other House of Parliament had said, 'that he felt himself at liberty, as a Protestant, to deal with the whole of that Oath according to the construction put upon it by the House of Commons.' That arose from the failure of Mr. W. Horton's motion to prevent Roman Catholics from exercising the right of voting on matters affecting the church. That was resisted because it would lead to endless discussion as to what question was or was not connected with the interests of the church. It was also argued that such a provision was unnecessary, because the Oath

* The Report given in the 'Mirror of Parliament' is identical with the above.

“ was perfectly clear, and afforded the best security
 “ that could be obtained.”

I should be extremely unwilling to attribute words to any Member of either House of Parliament for which there was not the most ample authority; but reasoning upon the hypothesis that this Report is correct, I confess that it excites my *extreme astonishment* to find the Bishop of Exeter making such a representation. I shall advert to this in a future part of this publication. Mr. Langdale, in his speech, refers to a commentary made by Sir Robert Peel upon my proposed security, and he read that commentary to the House. That commentary, as given in the ‘Mirror of Parliament,’ is in the following words:—“ I have also considered, with great
 “ attention, a recent proposal of a Right Honourable
 “ Friend of mine, to limit the questions on which
 “ Roman Catholic Members are to vote; a proposal
 “ which has been elucidated by him elsewhere with
 “ a research and an ability which reflect upon him
 “ the highest honour; a proposal which was brought
 “ forward, originally, from the pure and noble mo-
 “ tive of conciliating the opponents of concession,
 “ rather than of satisfying his own mind, and which
 “ was devised for the great object of promoting peace
 “ and harmony between contending parties. But,
 “ with all the respect which I feel for my Right
 “ Honourable Friend, I must say that I should see
 “ with regret a Member of this House entering
 “ among us, and joining in our debates, and then

“ compelled to *absent himself from the discussion* of
 “ certain questions which are not in themselves of a
 “ very definite nature. Notwithstanding the inge-
 “ nious plan of my Right Honourable Friend, I
 “ think that it would be difficult to give us any effi-
 “ cient test by which we could decide on what ques-
 “ tions a Roman Catholic Member should be entitled
 “ to vote, and upon what he should not. It would
 “ be difficult to determine the questions which relate
 “ exclusively to the interests of the Established
 “ Church. It might be that questions which nomi-
 “ nally relate to the Established Church might not
 “ be those in which its interests were really involved,
 “ and yet the Roman Catholic Member would be
 “ obliged to withdraw during the discussion of them ;
 “ whilst, perhaps, from the discussion of some ques-
 “ tions that had nominally no relation to those inte-
 “ rests, but that really affected them very consider-
 “ ably, he would not be excluded. If the Roman
 “ Catholic Member were entitled to speak, but were
 “ precluded from voting, on such questions, injury
 “ might be inflicted as effectually by an able man so
 “ circumstanced with party ties and connexions,
 “ making an inflammatory speech and then leaving
 “ his party to support it by their votes,—yes, as
 “ much mischief might be inflicted by such a man,
 “ if he spoke, as if he were entitled to vote.* On

* I did not propose to compel Roman Catholic Members to absent themselves from any discussion ; but, on the contrary, that they should have full liberty to discuss questions directly affecting

“ the whole, I am of opinion that such a restriction
 “ would be a departure from the principle on which
 “ I have grounded this Bill, and on which I think
 “ myself qualified to demand the acquiescence of the
 “ Roman Catholics with respect to the other parts of
 “ it. It would be, I repeat, a departure from the
 “ great principle of abolishing all distinctions, and
 “ creating an equality of political rights.”

I should be the last man in this country to impute to Sir Robert Peel an intention to misrepresent anybody or anything. When I had the opportunity of reading the report of his speech, I perceived that an incorrect representation had been given to my security, and for a time I entertained the intention of correcting that representation. It was, however, suggested to me—and, as I conceive, with perfect reason—that, if I came forward to revive my suggestion of a security, it might prejudice the great measure which was in progress. I was reminded—(not that such remind was necessary)—that I myself had repeatedly declared that I wanted no security at all, and that I had only framed my security for the practical object of gaining the measure by allaying the apprehension of certain classes of the Protestants. It was observed that the measure proposed by Government was a measure unattended with any invidious se-

the interest of the Protestant Church ; although, on the ground of adverse interest, their votes, *if given upon them*, should be null and void *if challenged* afterwards, as in cases of private interest.

curity, as Sir Robert Peel, in his speech, had recorded his opinion, that any security infringing on the legislative functions of the Catholic, whether in discussion or in voting, *would be a departure from the great principle of abolishing all distinctions, and creating an equality of political rights.* I therefore refrained from entering upon the question, and should never have recurred to it, had not the statements which I have recorded made it, in my opinion, necessary for me to explain the real facts of the case, in vindication of my public character.

I now proceed, therefore, to establish the fact, that my proposed security, which the Government of 1829 and the Protestant public deliberately rejected, was a real and practicable security, unattended with any of the difficulties imputed to it by Sir Robert Peel.

My proposition, explained generally, was, that upon twelve heads of legislation, which I specified, affecting the Protestant Church, the Roman Catholic should not be allowed to vote, or, rather, that his vote should be liable to be challenged and cancelled if he did vote; such cancellation to be at the discretion of Protestant Members. It will be observed that the reasons assigned by Sir Robert Peel for the rejection, on the part of the Government, of the proposition of security suggested by me, may be reduced to the following heads:—

1st. That my proposition did not supply an efficient test by which it could be decided upon what ques-

tions a Roman Catholic should be entitled to vote : inasmuch as questions which nominally relate to the interests of the Established Church might not be those in which its interests were really involved.

2ndly. That the introduction of this proposition would be a departure from the grand principle of abolishing all religious distinctions, and creating an equality of political rights.

In disproof of the first proposition, I must here insert some queries which I put to Mr. James Humphreys, of Lincoln's Inn, the celebrated author of legal works which have drawn from the pages of the *Edinburgh* and *Quarterly Reviews* the testimonies which will be found in the note.* I presume,

* "Mr. Humphreys, a gentleman well known for his professional skill and experience—qualities which cannot fail to add weight to his theories and force to the confidence which we are disposed to place in his reasoning. . . . We trust that we have now presented to our readers an accurate view of this singular work, which is evidently the production of a gentleman not only thoroughly conversant with the English law and the modes of its transmission, but who has bestowed great thought and reflection on the principles of universal law. . . . We are not in the least afraid that those sound and enlightened precepts will be forgotten by those of our own time and country, with whom the great and enviable task of reforming our system of laws principally rests, and in whose hands we believe that the work we have been analyzing will prove a most valuable magazine of thought and suggestion."—*Quarterly Review*, vol. xxxv. pp. 543. 575. 577.

"This leads us at once to the work of Mr. Humphreys, as to which, though a minute and critical examination of it would far exceed our limits, we have no hesitation in declaring that we consider him entitled to the thanks and gratitude of his country. . . . We earnestly recommend, not to lawyers merel

therefore, that few people will be found to question the ability and knowledge of Mr. Humphreys upon the subject with respect to which I appealed to him.

Queries submitted to Mr. Humphreys.

Query 1.—Supposing it to be admitted, for the sake of argument, that the twelve heads of excepted legislation (included in the printed paper entitled ‘Sketch of Clauses’) comprise all possible legislation calculated vitally and substantially to affect the interests of the Protestant Church, do you think there would be any practical difficulty in drawing up a Bill, embodying, in technical language, the clauses suggested in the sketch?

Answer.—I do not think there would be any practical difficulty in drawing such a Bill.

Query 2.—Do you think the provisions of such a Bill would or would not supply “an efficient test by which it could be decided upon what questions a Roman Catholic should be entitled to vote, and upon what he should not?”

Answer.—I think an efficient test would be supplied with reference to the precise exceptions of the proposed Bill.

“but to all who have a share in the legislation of the country, the attentive consideration of this work. The task, we allow, is not inviting, but the object proposed is great. Mr. Humphreys has led the way, leaving all his contemporaries behind him at an immeasurable distance. It is not his fault if nobody is able to follow. The praise is with him—the shame will fall upon the country.”—*Edinburgh Review*.

Query 3.—Although a test might be efficient, it might also, at the same time, be difficult, tedious, and complicated; I am, therefore, desirous to know your opinion whether, with respect to the proposed Bill, there would be any material difficulty, delay, or complication, as compared with the ordinary course of Parliamentary proceedings, in applying such a test?

Answer.—I do not think there would be any material difficulty, delay, or complication, as compared with many proceedings of Parliament, although great care and attention would be necessary in its application, especially under the earlier operation of such a measure.

Query 4.—Supposing it were to be admitted, contrary to the hypothesis in the first query, that the twelve heads of excepted legislation did not secure all necessary prohibition, would the admission of additional heads of exception, or the substitution of others of more defined and protective character, destroy the force of your preceding answers?

Answer.—Certainly not, as far as the question of substitution goes; but, if “exceptions” were to be added, though equally or more definite, still, to their extent, they must increase the necessity for care and attention in applying them.

JAMES HUMPHREYS.

Old Square, Lincoln's Inn,

March 23, 1829.

I must observe, in reference to the fourth query,

that two heads of excepted legislation, instead of twelve, would have been perfectly sufficient to prevent a Roman Catholic Member of Parliament from having his *vote counted* on any of the Questions on which objections have been made to Roman Catholic votes; but, as I have already stated, I was anxious to allay the apprehensions of the most timid. At the same time, a reference to Page 31 of my pamphlet, entitled, ‘Protestant Safety,’ &c., will show that I had, even at that time, the intention of reducing the twelve to five or six. My expressions are these:—“ I cannot close this section
 “ without stating that, if the security which I suggest
 “ were to be adopted by Parliament, it would be convenient that a Select Committee should carry into
 “ effect that inquiry which I individually have carried
 “ into effect, but, of course, *only with the authority of an individual.* It appears to me that, upon the
 “ Report of that Committee, it would be extremely
 “ easy to reduce the number of exceptions to five or
 “ six vital points of legislation; and that, if Roman
 “ Catholics were prohibited from voting respecting
 “ those points, all the danger which could be contemplated from the effect of Roman Catholic legislation
 “ would be simply and substantially avoided. But I
 “ am entirely prepared to contend that the ‘data’
 “ herein furnished by me in this section, in the Appendix, would be sufficient to enable a clause to be
 “ framed which could be carried into practical effect
 “ *without the slightest real difficulty*; and, if I were

“permitted, I would call evidence to the bar of the
 “House of Commons to that point, which I think
 “would be conclusive upon the judgment of the
 “House.”

Before I applied to Mr. Humphreys, I had submitted queries, nearly similar, to Mr. S. F. T. Wilde, of Serjeant’s Inn, Fleet Street, a gentleman whom I understood to have been recently employed in drawing Parliamentary Bills of a complex and difficult character affecting property. The following are copies of those queries, and of Mr. Wilde’s answers :

Query 1.—With reference to the publication which I placed in your hands, entitled, ‘Vindication of a security, &c. &c.’ as well as specially to the enclosed ‘Sketch of the proposed clauses of a Relief ‘Bill,’ mainly founded upon that publication, are you of opinion that there would be the slightest difficulty in drawing a Bill embodying all the provisions therein contained ?

Answer.—I have very attentively considered the enclosed ‘Sketch of the proposed clauses of a Relief ‘Bill,’ and I am of opinion that there would not be any difficulty in drawing a Bill embodying all the provisions therein contained.

Query 2.—Supposing that the twelve excepted heads of legislation proposed to be enacted in such a Bill were to be increased or reduced in number, are you of opinion that the principle of the Bill would be affected by such change, or its practical operation rendered more intrinsically difficult ?

Answer.—I am of opinion that the principle of the Bill would not be in the slightest degree affected, or its practical operation rendered more intrinsically difficult, either by reducing the excepted heads of legislation or by extending them, *provided the additional exceptions were to be as clearly stated, and their purport as clearly defined as those already enumerated.*

Query 3.—Are you of opinion that such a Bill would or would not present an efficient test, by which an easy and certain decision could be formed as to the particular Bills upon which Roman Catholics, according to the intentions of the Statute, would be prohibited from legislating?

Answer.—I am of opinion that such a Bill would present an efficient test by which an easy and certain decision could be formed as to the particular Bills upon which Roman Catholics, according to the intentions of the Statute, would be prohibited from legislating.

SAM. F. T. WILDE.

Serjeant's Inn, March 17, 1829.

These are the persons whom, among others, I should have produced as witnesses to prove the practicability of the measure which Sir Robert Peel contended to be impracticable. I am not unprepared with other authority, should further evidence be required, but think that what I have already produced is sufficient to establish the prac-

ticability of the measure. I now also give the opinion (which I printed before, without the name, but as proceeding from an eminent person) of the present Chief Baron of the Exchequer in Ireland, Mr. Woulfe. He writes, before the introduction of the Bill,—

“ Before I had read Mr. Wilmot Horton’s detailed
 “ explanation I had heard the general outline of his
 “ plan mentioned ; and, although I considered it very
 “ good in theory, I looked upon it as impossible to
 “ be carried into effect. I am now satisfied that it
 “ is as capable of being carried into practical effect
 “ as it is unassailable in argument ; and measures
 “ are enacted every Session, of which the details are
 “ more perplexing and the actual execution more
 “ difficult. Indeed, I see no difficulty at all in it as
 “ a practical measure. All I apprehend is, that it
 “ is too feasible and too good to meet the support of
 “ those whom nothing will reconcile to the measure
 “ which it intended to facilitate. If it were more
 “ likely to embarrass and to be found impracticable
 “ when about to be realized, it would have more sup-
 “ porters, or, rather, it would be supported by some
 “ who will now oppose it. As far as the Catholics
 “ are concerned, I do not see how they can refuse
 “ their assent to it, if it be found conducive to the
 “ adjustment of their question. It has the special
 “ merit, above all other securities that have been re-
 “ quired, of not involving any change whatever, good
 “ or bad, in their ecclesiastical arrangements or the

“ civil franchises now enjoyed by them. It renders
 “ all the privileges they will gain by its means uncon-
 “ ditional and unpurchased acquisition, so far as
 “ regards any barter for civil or spiritual rights or
 “ powers. As far as it goes, it is unqualified eman-
 “ cipation.”

When the Bill was actually in progress, and the nature of the oath required known, Mr. Woulfe, in answer to a letter of mine addressed to him on the 1st of May, 1829, concluded in the following words:—

“ I am bound, therefore, to say that, according to
 “ my opinion, the Roman Catholics of Ireland have
 “ no objection to the oath they are now to take ;
 “ and, consequently, that they would prefer it, as
 “ the permanent law of the land, to the plan proposed
 “ by you. * * * * *
 “ * * * Give me leave, at the same time, to say,
 “ I found the Roman Catholic body deeply im-
 “ pressed with the value of your labours in their be-
 “ half, and that they do not underrate the expedient
 “ you devised for their relief with so much research,
 “ because unexpectedly, and, as it were, by a miracle,
 “ they have been relieved without it.”

Mr. Woulfe was as anxious for a measure *without* securities as I was myself; and can language more decidedly show that he did consider the oath in the Catholic Relief Bill as NOT limiting his legislative capacity? If he had not so considered it, he *must* have preferred my security, which at least had the

merit of being clear and unambiguous — and left nothing to be imagined or suspected—as the oath most unequivocally did.

With regard to the second objection to my security expressed by Sir Robert Peel, namely, that the introduction of this proposition would be a departure from the great principle of abolishing all religious distinctions, and creating an equality of political rights—I entirely admit that my security did *not* abolish all religious distinctions, and did *not* create an equality of political rights; and, as the opinion of Sir Robert Peel was in favour of such equality, *I think he judged most wisely in objecting to my security.* In short, how could I, in common sense, object to his resisting it, when there stands recorded in print against me my opinion, printed before the subject was opened by Sir Robert Peel in the House of Commons, in page 7 of ‘Protestant Safety,’ as follows:—“With respect to securities generally, I
 “ have frequently expressed and published my senti-
 “ ments, and have repeated them in the present
 “ publication, so as to make it unnecessary for me,
 “ in this place, to add anything upon the subject.
 “ But, as it is possible that this Preface may meet
 “ the eyes of some who may not read the argument,
 “ I will say *that, for myself, I require no securities,*
 “ and that I wish it were possible that the Protestant
 “ clergy and laity who are now opposed to the settle-
 “ ment of this question could be induced to concur
 “ with me and other supporters of it *in our view of*

*“ the solid and substantial security which the dis-
 “ continuance of religious disabilities, in itself, is
 “ calculated to afford.”*

I now come to the point, whether my proposed security was consistent with the British constitution? I shall limit myself on the present occasion to a reference to the opinion of the late Mr. Charles Butler on that part of the subject.

*Answer of the late Mr. Charles Butler to a Question
 addressed to him by Sir R. Wilnot Horton in
 February, 1828.*

Is it contrary to the forms or principles of the constitution of Parliament to deprive a particular class of members from a right to vote on questions of a particular description?

My answer is, that I know of no precedent for it, or any analogy that justifies it; and therefore consider it to be contrary to one of the most important forms of the constitution.

Thus it would be an anomaly: but our actual constitution is full of anomalies;—*and would not the allowance of this anomaly be a very cheap purchase for a happy and final settlement of a concern of such moment, magnitude, and extent?*

C. BUTLER.

An important point, however, remains: Would there have been any reclamation from Rome against such a security? I felt that, unless I brought proof

that no such reclamation could or would take place, a conclusive objection might have been raised against it. Before, therefore, I presented it to the public, I went to Rome, with a view of ascertaining what the opinion of the Papal See might be. It is notorious that no publication can take place at Rome without the consent of the Pope, and, consequently, the fact of a publication entitled ‘Corrispondenza fra S. E. R. Wilmot Horton, Membro del Parlamento e Consigliere Privato di sua Maestà Britannica, e Monsig. Pietro A. Baines, Vescovo di Siga, Coadj. Vic. Apost. nel Distretto Occidentale d’Inghilterra, Prelato Domestico di sua Santità, ed Assistente al Soglio Pontificio, Roma, 1829, presso F. Bourliè, Stampatore di Propaganda, con *Licenza de’ Superiori*’ having been printed at Rome, furnished direct proof that the opinions contained in it were consistent with those entertained by the Papal See. In Appendix A will be found the Dedication to this Pamphlet, which was published in *English* as well as in Italian, by Mr. Murray, of Albemarle Street.

I now flatter myself that I have shown that my security was not complicated and impracticable, but, on the contrary, simple and easy; that it was sanctioned by a Roman Catholic authority peculiarly conversant with constitutional law as not being contrary to the spirit of the British constitution. I assert that it was approved of by many highly influential Catholics. I equally assert that it was approved of by many highly influential Protestants; and when those assertions

are *denied* from quarters that merit consideration, it will be ample time for me to prove *the truth* of those assertions. I have shown also that no reclamation against that security would have emanated from the papal see. Yet, notwithstanding these claims upon public attention, that security was deliberately rejected, and the Roman Catholic Relief Bill was passed with the introduction of an Oath, which from its nature can be considered as no security at all against the legislation of Roman Catholics in Parliament.

I now proceed to explain why the speech of the Bishop of Exeter has excited my astonishment; and to enable me to do this with more clearness, I shall here repeat the passage from his speech which I have already quoted:—"The Oath was in fact the only security given by the Roman Catholics when the boon which they had so long desired was granted to them. In looking to that security he thought that the words of the Oath ought to be interpreted according to the speech of His Majesty, in which he expressed his intention to maintain the rights of the Protestant Establishment, and to guard and secure it from all danger. That, however, did not seem to be considered by all men as the right mode of interpreting this Oath. A learned Member of the other House of Parliament had said, that he felt himself at liberty as a Protestant to deal with the whole of that Oath according to the construction put upon it by the House of Commons."

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 “ nected with the interests of the church. It was
 “ also argued that such a provision was unnecessary
 “ because the Oath was perfectly clear, and afforded
 “ the best security that could be obtained.”

The Bishop of Exeter states that *my* motion was resisted because it would have “ led to endless discussion as to what question was or was not connected with the interests of the church.” Putting aside the fact that *I made no motion whatever*, I flatter myself that I have proved, beyond the power of the Bishop of Exeter to controvert, that no such difficulty was to be apprehended as “ endless discussion,” in reference to the real bearing of any particular question.

Lord Lyndhurst, when Attorney-General, in the House of Commons stated that the enactment of such a security as I had suggested would be to raise a question, nine times out of ten, whether Roman Catholics were or were not disqualified from voting on any particular measure. In a publication of mine, printed ten years ago, and one year before the passing of the Roman Catholic Relief Act,* I thus expressed myself:—“ I have shown, and am prepared still more

* Protestant Securities, page 35 ; published by Murray, 1828.

“ conclusively to show, that, under the operation of
 “ the machinery which I have suggested as necessary
 “ to carry such a proposition into effect, such a doubt
 “ would rarely or never arise. And I am ready to
 “ pledge my public character against that of His Ma-
 “ jesty’s Attorney-General, *as to the accuracy of our*
 “ *opposed statements ; and, as he was pleased to state*
 “ *that this great practical inconvenience would arise*
 “ *in nine cases out of ten, I on the contrary am*
 “ *prepared to assert that it could not arise in one*
 “ *case out of five hundred.*” On the other hand, I
 unhesitatingly admit that such a security as I pro-
 posed would have been incompatible with an *equality*
 of political rights, which it was the object of the Bill
 of 1829 to establish.

SECTION II.

HAVING shown in Section I. that if a security against legislation upon points affecting the Protestant Church Establishment on the part of Roman Catholic Members of either House of Parliament *had been* deemed necessary and desirable by the legislature, the security I offered was a simple and practicable security, I now propose to examine the Oath itself. It is unnecessary to transcribe the whole Oath. The part which raises the question or the suspicion of perjury is expressed in the following words:—" I do swear, that I will defend, to the
 " utmost of my power, the settlement of property
 " within this realm as established by the laws. And
 " I do hereby disclaim, disavow, and solemnly ab-
 " jure any intention to subvert the present Church
 " Establishment as settled by law within this realm.
 " And I do solemnly swear that I never will exer-
 " cise any privilege to which I am or may become
 " entitled, to disturb or weaken the Protestant re-
 " ligion or Protestant government in the United
 " Kingdom." It is notorious that the Protestant is not called upon to take the above oath; it is notorious that Sir Robert Peel, who introduced the Relief Act, objected to my test on the ground that it was an infraction of the great principle of abolishing

all distinctions, and creating an inequality of political rights among members of the same legislature. If, therefore, the *animus imponentis* is to be quoted as an authority in a case of this sort, nothing can be more clear than that it was *not* intended to prohibit legislation by the Oath. Putting aside, however, all construction of the *animus imponentis*, let us examine how the Oath appears to have been understood by the House of Commons. Immediately after Sir Robert Peel's declaration, that he was unwilling to deprive the Roman Catholic Members of either House of Parliament of any privilege of free discussion and free exercise of judgment which belonged to other Members of the Legislature, he proceeded to explain the nature of the Oath introduced into the Bill, and he described it as "the test of his civil worth, in the place of those Oaths and Declarations by which he (the Catholic) was at present excluded." After having recited the Oath, Sir Robert Peel proceeded thus:—"The Roman Catholic who will take the Oath surely gives us every security which an Oath can give, that the difference in his religious faith will not affect his allegiance to the King, or his capacity for civil services." Now take the Resolution which was moved by Lord John Russell:—"That the House do resolve itself into a Committee of the whole House, in order to consider the present state of the Church Establishment in Ireland, with a view of applying any surplus of its revenues not required for the general purposes of that Church,

“to the general moral and religious instruction of
 “His Majesty’s subjects in Ireland, without re-
 “ference to their religious distinction.”—Is the Pro-
 testant, who moves this Resolution or who votes
 for it, to be considered as deficient in his allegiance
 to the Sovereign, or deficient in his capacity for civil
 service? If not, why should the Roman Catholic
 be necessarily considered as deficient in those
 points? By giving his vote for this Resolution,
 he furnishes no proof of any intention to subvert
 the present Church Establishment as settled by
 law within this realm; he furnishes no proof of
 exercising a privilege (namely, the privilege of
 voting) to disturb or weaken the Protestant Religion
 or Protestant Government in the United Kingdom;
 he does not interfere with the settlement of pro-
 perty within the realm as established by the laws.
 It is true that A. or B. may *infer*, if such be the
 constitution of their minds, that the Protestant is
 desirous of disturbing or weakening the Protestant
 Religion, but grave and serious accusations are
 not to rest upon inference. If the ‘Mirror of
 Parliament’ be authority for what falls from a
 Member of either House of Parliament, let the
 following extract from the speech of the Earl of
 Shrewsbury, which occurred in the same debate, be
 deeply considered:—“I fully agree,” says the Earl
 of Shrewsbury, “with the Noble Viscount at the
 “head of Her Majesty’s Government, that no mea-
 “sure has been introduced into Parliament, since
 “the Emancipation Act, not having a tendency to

“ strengthen the Religious Establishments of the
 “ country ; so much so, my Lords, that if I have any
 “ scruple in lending my voice to Ministers in support
 “ of those measures of Church Reform which they
 “ think it necessary to propose, and to propose, too,
 “ in conjunction with the Crown, which is the head
 “ of the Church in these countries, it is that, by so
 “ doing, I am aiding and abetting the improvement
 “ and stability of institutions in the truth and utility
 “ of which I do not believe. My Lords, where each
 “ one is free to follow his own judgment, it is into-
 “ lerable for one party to impute evil intentions to the
 “ other, or to presume to interpret for them in the
 “ exercise of their constitutional rights.”

Who could venture to rest serious accusation upon
 a mere inference, after reading the explanation of
 the motives which operated on the mind of this
 Noble Earl? In arguing in this strain I am far
 from meaning to contend that the Oath introduced
 into the Relief Bill is without object altogether.
 What is its object I shall explain in the Third Part
 of this discussion. I am now employed in proving
 that it cannot in reason be considered as prohibiting
 Roman Catholics from legislating on Protestant
 subjects. The Bishop of Exeter, in his speech of
 the 1st March ult. states, “ that it was argued in
 “ reference to my security (*vide* ‘ Mirror of Parlia-
 ment,’ No. 24, page 2282), that such a provision as
 “ my security was unnecessary, because the Oath
 “ was perfectly clear, and afforded the best security
 “ that could be obtained.”

It is hardly necessary to explain that the recollection of the Right Reverend Prelate was most imperfect upon this point, *as no such argument or comparison ever took place.* If *my* security had been adopted, a Roman Catholic Member of Parliament could not, under that security, have voted “*either in person or by proxy upon any Bill, Resolution, or Order relating to Church property, glebe lands, tithes, or the commutation thereof, ecclesiastical dues, or church rates, or to any property or emolument by law secured to the clergy of either of the Established Churches of the United Kingdom.*” Such a prohibition might have been *unconstitutional* and *objectionable*, but to contend that the Oath introduced into the Relief Bill was a better security against Roman Catholic Legislation upon such points than the security suggested by me, is to attempt to maintain a most untenable proposition.

I would beg the reader to observe how utterly ambiguous the Oath must be. The Right Reverend Prelate the Bishop of Exeter had in a former debate accused some Roman Catholic Members of the House of Commons of perjury. He stated in his place in the House of Lords on the 1st March ult. “*that he did allude to some Roman Catholic Members, but not to all who voted on the same occasion.*” The accusation, therefore, rests not, as it ought to do, upon the fact that the votes referred to were *manifestly* such an improper exercise of privilege as was contemplated in the words of the Oath, but upon

inferences as to the intentions of the parties voting, drawn from "data" perhaps only known to the accusing party; which "data," if examined into, would be found to refer to an intention of *subversion* of the Protestant Church exhibited in OTHER PLACES, and not by any specific Act of Legislation. This leads me to the third part of my argument, viz., what *was* meant by the Oath if it was not intended to prohibit legislation affecting the Protestant Church? But before I enter upon that question, I would remark that if the word "*now*" had been introduced into the Oath, as it was into a certain Declaration, which the Right Reverend Prelate the Bishop of Exeter once suggested as a substitute for the old Declaration against Transubstantiation, a sort of plausible argument might have been sustained as to the effect of the word "*now*." The text of the Right Reverend Prelate was worded as follows:—

"I, A. B., do declare, in the presence of Almighty God, that I do not hold, nor believe, that it is necessary, in order to their eternal salvation, that his Majesty King George, or any of his liege people, being Protestants, be, or shall become in any way, subject to the Pope, or to any authority of the See of Rome; and I do declare that I do not hold or believe that the Protestant Church of England and Ireland, as by law established, is in such wise heretical, that any of the Members thereof are, on that account, excluded from the promises of the Gospel, or cut off from Christian salvation; and I

“ do faithfully promise and swear that I will not use
 “ any power, right, or privilege, which does or shall
 “ to me belong, for the purpose of destroying or in
 “ any way weakening the Protestant Church *and*
 “ *the Establishment thereof, as it is now by law*
 “ *maintained,—so help me, God.*” It will be seen
 that the word “ now ” is intentionally introduced here.
 Had the Catholic made that declaration,—which, by
 the way, he could not, or, at least, would not have
 done,—the word “ now ” might have been construed
 as binding him not to weaken the Establishment of the
 Protestant Church, as it was by law maintained at the
 period of his making the declaration. This appears
 to me to demonstrate that one of the most astute of
 the Protestant opponents of the Catholic claims was
 fully aware of the value of the introduction of the
 word “ *now* ” as a security against Roman Catholic
 legislation; and yet no such word is to be found in
 the oath.

If this oath had been intended to apply to all
 future Acts of Legislation, the word “ now ” would
 have been introduced,—“ as *now* settled by law
 within this realm;” in which case the Roman
 Catholic might have been construed to swear to
 maintain the Church Establishment as settled at the
 time of his taking the oath. The non-introduction
 of the word “ now ” assimilates the oath in the Act
 of 1829 to the Coronation Oath, in which the King
 swears that he will preserve to the Bishops and
 Clergy of this realm, “ and to the Church committed

“to their charge, *all such rights and privileges as by law do or shall appertain to them.*” If the framers of the Coronation Oath had intended to prevent the King’s consent from being given to any changes, instead of the words “or shall,” the word “*now*” would have been substituted.

To talk of the Oath in the Relief Act having been gravely discussed in Parliament, and that it was “perfectly clear,” and “afforded the best security that could be obtained,” can only make one smile. One fact, however, is “*perfectly clear,*” that if a comparison be made between the Oath taken by Roman Catholic Executive Officers under the 33rd Geo. III. c. xxi., 1793, and the Oath introduced into the Relief Act of 1829, they will be found all but identical:—

Extract from the Oath in Catholic Relief Act, 1829.

“I do swear, that I will defend, to the utmost of my power, the settlement of property within this realm as established by the laws. And I do hereby disclaim, disavow, and solemnly abjure any intention to subvert the present Church Establishment as settled by law within this realm. And I do solemnly swear that I never will exercise any privilege to which I am or may become entitled, to disturb or weaken the Protestant religion or Protestant government in the United Kingdom.”

Extract from Oath taken by Roman Catholic Executive Officers, in 33 Geo. III. c. xxi., 1793.

“AND I do swear that I will defend, to the utmost of my power, the settlement and arrangement of property in this country as established by the laws now in being. I do hereby disclaim, disavow, and solemnly abjure any intention to subvert the present Church Establishment for

the purpose of substituting a Catholic Establishment in its stead. And I do solemnly swear that I will not exercise any privilege to which I am or may become entitled, to disturb and weaken the Protestant religion and Protestant government in this kingdom.

“So help me, God.”

It will be perceived that the words “*now in being,*” inserted in the Irish Act of 1793, after the words “the settlement and arrangement of property as established by the laws,” are *omitted* in the Act of 1829, where the sentence ends “as established by the laws.” And who make the laws, unless it be King, Lords, and Commons? The Oath pledges the party taking it to defend the laws that are made by King, Lords, and Commons. As I have already stated, the Oath of 1829 so far repeats the Oath of 1793. What was the peculiar nature of the *privilege* that the Exciseman was *not* to use to prejudice the Protestant Church, might lead to some interesting speculation; but the Exciseman’s Oath being extracted from the Act of 1793, and inserted almost *totidem verbis* in the Bill of 1829, to be taken by the Roman Catholic Member, among the privileges granted to *him*, the privilege of speaking and voting must be included.

Although I am far from contending that, if the words of an Oath are of so stringent and unambiguous a character that their meaning cannot be misunderstood, any argument founded upon the “*animus imponentis*” ought to be allowed conclusively to prevail against the text of such Oath, yet when the words of an Oath

are in the highest degree ambiguous, the force of such collateral proof is indefinitely strengthened. I have shown that a prohibition of legislation by Roman Catholics on Protestant Church matters was incompatible with the principles directly laid down by Sir Robert Peel in the House of Commons. I now beg to call attention to an extract from a speech in the House of Lords of the Lord Chancellor, the present Lord Lyndhurst, which clearly demonstrates that the prohibition of such legislation *was not considered necessary by the Government of 1829*:—

“There was another argument against concession to which he should now advert, and which, he would confess, had some weight with him when first it was started, though it was one which he was now satisfied he should be able to demonstrate to be completely futile, and beside the question at issue. It was asked, ‘Will you suffer members of the Church of Rome to become members of the senate, which is expressly assembled and called together to consider the important affairs of the state and the interests of the Church?’ It certainly, at first sight, appeared something inconsistent to call to such an assembly persons professing the tenets of the Church of Rome. At the period of the Union with Scotland, the same argument was employed. Lord Nottingham pressed that argument strongly. He asked, ‘Will you receive among you these Presbyterian representatives from Scotland? Will you gather persons in communion with the kirk of Scotland into this House; and will you permit them to legislate regarding the affairs and interests of the Church of England? If such an union as this shall be effected with Scotland, and if men professing the doctrines, and imbued with the prejudices, of the kirk, are admitted into this House, then good bye to the laws and constitution of England.’ Such was the language used at that time by Lord Nottingham; and similar language was held on that occasion by a right reverend prelate, who prominently opposed the measure of the Union—he meant the Bishop of Bath

and Wells [hear, and a laugh]. That right reverend prelate took the same line of argument as Lord Nottingham, and he arrived at this conclusion—that it would be prudent and politic to exclude the Scotch representatives from the determination or discussion of any matters in which the interests of the Established Church were involved. *This was the remedy which that right reverend prelate suggested for the evils which he apprehended would result from the introduction of these Scotch members into parliament, and it was obviously the foundation of that beautiful theory which had been lately dwell upon in various pamphlets by a right hon. member of the other House of Parliament.* Now what was the result of the introduction of those Scotch members into the legislature? They had had now an experience of them for more than a century—those members had taken a part in various discussions on important questions, in which the interests of the Church of England were concerned—they had acted throughout these discussions like other members of Parliament; and there was a still stronger argument to prove their impartiality derived from the fact, that they were frequently to be found amongst the majority on the side of the Church of England, on many questions involving her interests and rights. At no time had those representatives from Scotland allowed their prejudices or partialities, in favour of their own church, to interfere with their public duties, or to enter into their character as representatives; nor could there be an instance, he believed, pointed out, in which they had displayed such a feeling, in the course of the discharge of their parliamentary functions. The members from Scotland had uniformly acted upon public principle—that principle alone they had made the basis of their public conduct. *Now, when he took these facts into consideration, he, for one, entertained no apprehensions that, if the professors of the Roman Catholic religion should be introduced into Parliament, they would exercise their influence to overthrow or injure the Protestant Established Church; and he entertained no apprehensions whatever, that, in the discussion of those questions which concerned the Church, her interests would be sacrificed.”*

Under the hypothesis that the Oath had been intended to prohibit legislation, what possible bearing

could this speech of the Lord Chancellor, the Guardian of the Royal conscience, have upon the question at that time under the most grave and serious discussion in the House of Lords? If his Lordship believes that measures really hostile to the Protestant Church have passed the legislature *by virtue of the votes of Roman Catholic Members*, he may possibly have more respect for the "beautiful theory" than he originally entertained for it; but if no such result has actually happened, the practical operation of the theory has not been required. I have now concluded this Section. Having shown what the Oath did *not* mean, I now proceed to the Third Section of this Argument, to show what it *did* mean, according to the common import of the English language.

SECTION III.

WHEN a Roman Catholic Member of Parliament solemnly swears "that he never will exercise any " privilege to which he is or may become entitled, to " disturb or weaken the Protestant religion or Pro- " testant government in the United Kingdom,"— without the power of reading the human heart it is impossible to *decide* whether, in any particular instance, he exercises the privileges of speaking and voting in Parliament with a view to disturb or weaken, &c., unless he explains himself in so *direct* a manner as to take his opinions out of the *range of mere inference*, and show that he does entertain such an intention. I shall here avail myself of some observations on promissory Oaths which I drew up in the year 1829, PRIOR to the passing of the Roman Catholic Relief Act.

" Promissory Oaths are in fact the very worst ex-
 " pedients of legislation, when they can by possibility
 " be avoided. An oath should never be applied in
 " a case where the act is necessarily one and the same,
 " whatever the *animus* of the party may be. Thus,
 " for example; if a Bill were brought into Parlia-
 " ment appropriating part of the proceeds of the
 " Church property in Ireland to other purposes,
 " and if a Roman Catholic were to vote in the

“ affirmative upon it, the *animus with which he*
 “ *gave that vote could never be made matter of*
 “ *proof.* He might have the most favourable inten-
 “ tions towards the Protestant establishment, or he
 “ might not; and yet the act would be one and the
 “ same, viz., a vote in favour of the proposal. When
 “ the Roman Catholic swears that he will defend the
 “ crown from all conspiracies and disclose all trea-
 “ sons,—when he abjures allegiance to other parties
 “ claiming or pretending a right to the crown of
 “ England,—when he swears that he does not believe
 “ that princes excommunicated may be deposed or
 “ murdered, or that the Pope of Rome, &c. &c., hath
 “ temporal or civil jurisdiction within the realm,—
 “ although some of these points are promissory, none
 “ of them are ambiguous.

“ I believe that the Roman Catholics generally, if
 “ they found that this oath was construed by the
 “ Legislature as binding them in their legislative
 “ capacity, would infinitely prefer a partial prohibi-
 “ tion of specific legislation to an exposure to the
 “ imputation of perjury, which, under this promissory
 “ oath, may attach to them upon any vote which is
 “ of a doubtful character with respect to its conse-
 “ quences to the Church. I believe that they would
 “ prefer such a specific prohibition to the hazard of
 “ exciting that eternal series of active jealousies,
 “ heartburnings, and suspicions, which would be the
 “ inevitable consequences of votes given by them, of
 “ which the *animus*, being inscrutable, must neces-
 “ sarily be doubtful.”

I have printed the above remarks VERBATIM as they were written in 1829.

Unless parties are disagreed on the meaning of the word "subversion," the following part of the oath now taken by Roman Catholic Members of Parliament appears to me quite as unambiguous as the instances alluded to by me in the preceding observations.

"I do hereby disclaim, disavow, and solemnly abjure any intention to subvert the present Church Establishment as settled by law within this Realm."

I am not aware of *any* vote given by a Roman Catholic Member, which, *quasi* vote, fairly exposes such Member to a charge of having violated his oath,—inasmuch as no proposition for subversion has ever been made. But if any Member of either House of Legislature had unequivocally shown elsewhere an anxiety and intention to subvert the present Church Establishment, of which intention no reasonable doubt could be entertained, *then* the inference, that his vote upon any given act of legislation was prompted by an anxiety and intention to subvert, would not be unreasonably or illogically drawn, although still the inference would fall short of *proof*. But if a Roman Catholic Member, who has sworn that he abjured all intention of subverting the present Church Establishment, can be proved to have employed language which *in common parlance* shows an *unequivocal intention to subvert*, in such case, to rescue himself from a charge of acting in opposition to his oath, he must *show* that his language does *not* mean what it is supposed to mean.

Now, for the sake of the argument, let it be supposed that a Roman Catholic Member of the Legislature, who had solemnly on oath "abjured any intention to subvert the present Church Establishment," were proved to have moved, at a public meeting, a resolution, under which he was pledged "to endeavour to obtain for Ireland the total extinction of tithes, whether called rent-charge, or by any other name, &c. &c., so that the Catholic and Presbyterian people of Ireland shall no longer be called upon to support an establishment for the comparatively small number of Episcopalian Protestants." Who will maintain that *the total extinction of tithes, whether called rent-charge or by any other name, is not a subversion of the present Church Establishment?* Those who may feel a difficulty in the solution of such a question may be interested in referring to Appendix B, where they will find observations upon the meaning and signification of the words "subversion" and "Church Establishment," which may assist in the formation of a correct opinion. Again, supposing that a Roman Catholic Member of Parliament, having abjured all intention to subvert, were to move a public resolution, the object of which was "*the attainment of an equalization of religious liberty by the abolition of all compulsory payments to a church to which the people of Ireland do not belong;*"—would the fact of moving such resolution be justly or unjustly considered as an infraction of his oath?

To me the very fact of the facility with which real controversies may be raised upon the meaning and import of words and phrases, presents in itself the strongest *objection* to the introduction of an oath as a defence against possible results. I am not prepared to pursue this subject further in this Section, but I am prepared to enter my strongest protest, as one of the Protestant public, against the “dictum” propounded in the first of these resolutions, viz., *that the Catholic and Presbyterian people of Ireland do support an establishment for the comparatively small number of Episcopalian Protestants.*

It appears to me, and I state it without reserve or qualification, that the *most consummate ignorance* is shown in this proposition, and that the doctrine is *as dangerous as it is false.* In the year 1829 I addressed a letter to Sir Francis Burdett, on the state of Ireland—its causes and remedies: for the purpose of thoroughly elucidating the subject of the presumed effect of church property, especially tithes, I arranged my argument in fourteen consecutive propositions, under the belief that the conclusions at which any rational mind would arrive, after a due perusal of these propositions, would be irresistible and unanswerable. I have never seen *an attempt* made to confute them *in print*, I shall therefore introduce them here “*verbatim*,” as they were originally published nine years ago; and until I see an attempt made *to confute* them, I will not run the hazard of weakening them by enlarging upon them. They are as follow:—

“1. My first proposition is, that the property of the Church, whether in glebe, tithes, composition, estate, church-lease, or in any other shape, is, with the exception of private advowsons, a great national trust property, to the possession of which certain specific duties are attached, for the presumed benefit of the nation; and that, even in the case of private advowsons, it is a qualified individual property, inasmuch as the parties presented by the possessors of those advowsons are required to have a strict clerical qualification, and are compelled to exercise the same class of specific public duties which attach to church property in cases where individuals have no private interest in it.

“2. That glebe, church-lands, and church-leases, differ little in their effects on society, from analogous property held by private individuals in strict entail, or let upon long leases; and that, in a country where the laws did not sanction any principle in the letting of land by private possessors, which was manifestly prejudicial to the interests of the community, if church property of this description were subjected to the same laws, no special prejudice would accrue from its nature and character. In cases where church-lands are let on leases with perpetual renewal, the lessee is the landlord; and the nominal lessor is virtually the proprietor only of a rent-charge upon the property.

“3. That the assertion, that tithes are an objectionable sort of property, is no *argument* upon which to found a proposal for their abolition without equivalent. Supposing such an objection to be conclusively made out, the inference would be, that an equivalent substitution should be made for them, by which the beneficial interest, to which the owners of tithes have the most incontestable legal claim, should be equally secured under a more convenient and unobjectionable form of property.

“4. An argument is constantly raised against tithes, that they operate as a tax upon capital, instead of being a tax upon land, as distinct from a tax upon capital. The fact is, that they are a tax upon rent, including, under that term, what should, in strictness, be called interest or profit upon money previously expended upon land. But, if tithes are a tax, upon whom does that tax fall? Some political economists maintain that it falls upon the general consumer; but no man, whose opinion is worth inquiring, ever contended that it fell specially upon the *cultivator*.

He offers so much less rent, in proportion to the claims for tithe. Does it fall unfairly upon the landlord? Nothing can be more clear than that the purchaser of land which is subjected to tithes pays a proportionably less price than he would have paid for it, had it not been subject to the prior charge in favour of the Church; precisely in the same manner as if land were subjected to a rent-charge, a mortgage, or any other incident. The depreciation of such property by that incident would be measured in the estimate of its value, and he would pay a proportionably less price for its acquisition. No proprietor has ever been unreasonable enough to claim the glebe-land which happened to be intermixed with his property; and yet, where the mode of remunerating the Church is effected by tithe instead of glebe, such proprietor has not, in reality, one particle more of real claim to the tithe than he has to the glebe.

“ 5. With respect to tithe, the inconvenience of incorrect expressions has not been slightly operative. The proprietor of land from which tithe is actually collected is rather a trustee of the Church property intermingled with his own than a proprietor *from whose property a deduction is made* for the support of the Church Establishment. He might justly have been designated a trustee, as he is a possessor of private property, having a national property mixed and intermingled with it, which, from its nature, could not be distinctly separated from the private property, and for which, consequently, he is under the necessity, *pro tanto*, of acting as a trustee.

“ 6. That, as a general rule, the land-occupier, that is, the tenant, pays to his landlord for a farm subject to tithe a rent less than he would pay if such farm were tithe-free; the actual difference is measured in the case of a substitution of composition for tithe. In particular cases, leases may destroy the effect of this general rule; that is, a tenant may be under a permanent rent to his landlord, and a new incumbent may raise the proportion of the levy of tithe, or the amount of the composition; but the possibility of such an exception in no degree militates against the general rule as a governing principle.

“ 7. That, in a well-constituted and equally-balanced state of society, the tenant, upon taking a farm, as I have already explained, calculates what is the probable amount of outgoings, of

every description, to which such farm will be subject, including the outgoings to the Church (in whatever manner payable, whether as tithe, composition, or church-rate, &c.), and adds to the total amount of such outgoings the average profits of stock on the capital (be it more or less) which he employs; and the amount of rent, which he offers to the owner of land for the use of it, is the difference between the total amount of outgoings and profits on stock, and the probable amount of the money-value to be derived from the sale of his produce.

“ 8. That, if an Act of Parliament were to pass, giving to the land-occupiers (that is, the tenants) of Ireland and England the whole of the Church Establishment, as far as it is dependent upon tithe, for their own private benefit, this gift, as soon as that inevitable adjustment could take place which the changed circumstances of society would inevitably produce, instead of being a gift to the land-occupiers, *would be a gift to the proprietors of land, whether Roman Catholic, Protestant, or of any other religious persuasion*; and those parties, who had paid so much the less for their property, because it was subject to tithe, would be thereby placed in the situation of persons having purchased property tithe-free, but without having paid, as in the case of such persons, an *additional price*, in consideration of an exemption from that charge. This proposition may be illustrated by the following hypothetical case:—A proprietor (whether Roman Catholic, or otherwise) purchases an estate, tithe-free, for 10,000*l.*, which *nets him* (to use a popular phrase) four per cent. per annum; that is, for which his tenants pay him a net rent of 400*l.* His neighbour purchases an estate, *not* tithe-free, of the same extent and quality of land, upon which a composition of 40*l.* per annum exists, and gives 9000*l.* for such estate, instead of 10,000*l.* It is clear that these parties possess themselves of land at the same rate of purchase, but that the one, in consideration of his acquiring property free from any deduction, willingly pays 10,000*l.* for it, receiving a net rent of 400*l.* a-year; whereas the other, acquiring a property subject to deduction, and which will, therefore, only yield him 360*l.* a-year rent, pays 1000*l.* less, and has that 1000*l.* to apply to *any other purpose of use or enjoyment*. Now, let it be supposed that an Act of Parliament put an end to the composition payable to the

Church, with a view of benefiting the tenant. If the state were insane enough to contemplate such an issue, it could not execute its own purpose; the practical proof of which may be found in tracing the circumstances of the repeal of the tithe of agistment, which repeal has been a clear gain to the landlords of Ireland, and to no other parties whatever. The competition of the applicants for the use of land would prevent the rent from falling below an amount compounded of the former rent to the landlord and the tithe or composition to the clergyman. The same class of tenants, who had agreed to give an annual rent of 360*l.* for a farm subject to the incident of 40*l.* composition, would give 400*l.* a-year for the use of the same property not subject to such an incident. The proof that they would do so rests on the admitted fact, that a tenant in the same class *had given* 400*l.* a-year for the use of a landed property of the same value, which was actually tithe-free. Consequently, unless a law were to be passed, prohibiting landlords from taking an increase of rent, competition would at once throw the benefit into the hands of the owners of land, instead of those of the cultivators.

“9. It is not unfrequently stated as an injustice, that, whereas a lessee, during the period of a long lease, pays one permanent rate of rent to the proprietor of the land, he is subjected to an increase of tithe in consequence of the capital which he employs in the improvement of that land. It appears to me that, if this point were submitted to any jury in the three kingdoms, there would not be a verdict in favour of a charge of injustice in this increase, if the principle of the relation between the parties were perfectly understood. Let the following case be stated in illustration:—A., an Irish proprietor, in the year 1770, executed a lease for sixty years to B. The land being in bad condition, the rent reserved was only 1000*l.* per annum: the tithe, at that period, was estimated at only 100*l.* per annum; consequently, all that B. had to pay was 1000*l.* a-year to A., the landlord, and 100*l.* a-year to C., the clergyman. B., however, has laid out a considerable sum of capital on this property. His *rent* necessarily remains the same as at the commencement of his term; but, with reference to the increased production of the estate, C. has progressively raised the tithe from 100*l.* to 200*l.* and 300*l.* a-year. B. complains of this as an injustice. Now, it appears

to me that there is not the slightest pretext for his complaint. When A. let his property, he had no interest, direct or indirect, in the prior claims which the Church had upon it. If B., at the time of making his contract with A., had also gone to C., the incumbent, and had made a composition for sixty years, (supposing such an arrangement to have been permitted by the law,) there would then have been a justifiable case for complaint of a breach of contract, if C. had attempted to increase the tithe. It is superfluous to remark, that the case is not affected by the *abstract policy or impolicy of that peculiar mode of raising a revenue which is involved in the tithe system*; the question is one of justice, and not of expediency. A case might be shown of a tithe-free property, which had been let for a long term of years, without any distinction between the rent reserved and tithe; but, in such a case, it is evident that there are not two separate interests in the property—it belongs absolutely to the proprietor, who has a right to exercise his own discretion as to the contract which he makes with a lessee. But if a lessor, in such a case, imprudently sacrifices his own interests by letting his land for an unnecessarily long term of years, it cannot be argued that his example should be binding in case where there are two distinct and independent interests—namely, that of the landed proprietor and that of the church incumbent. In further illustration, let it be supposed that a lease of a house and garden had been taken in the year 1770, subject to a public right of way across the garden; and that, from the low state of population in the neighbourhood, very little inconvenience was occasioned by that right at the commencement of the lease; but that, as population increased, the inconvenience increased in proportion. Would the lessee, in this case, have a claim against the public for this inconvenience, the possibility of which he ought to have foreseen at the time of his taking the lease? I presume that a negative answer must be given. Yet he would have as much right to complain as the lessee has, who, at the period of his contract with his landlord, made no contract with respect to tithe, and yet complains that tithe is not to follow the same conditions as rent.

“ 10. That tithes are an inconvenient form of property, few men will be prepared to deny. Much has already been effected by

legislation in the way of composition ; and the happiest moment for any country where tithes exist is that in which, under a sound and equitable principle of composition, the actual raising of tithes in kind ceases to be a part of the system of remunerating the church. Tithes, in Great Britain and Ireland, whether clerical or impropriate, ought not to be described as a tax on the property of those individuals with whose property they are mixed, but as the result of an appropriation of property to the Church, antecedent to the possession of land by those individuals ; such property having, at the time of its appropriation, belonged to the state—whether justly or unjustly, is foreign to the question in a pecuniary point of view. The subject is here considered solely with reference to the direct effect of tithe upon the *property* of a party *possessing* or *occupying* land subject to it. It is, however, to be hoped that there is a growing opinion among the clergy of the extreme desirableness of effecting composition of tithes for periods, upon principles which fairly preserve the interests of the Church ; and, at the end of those periods, nothing will be more easy than to supply the principle of a perpetual Composition Act, adjusting itself to all changes which may take place in the circumstances of property. Independent, however, of composition, many legislative improvements might take place with respect to tithe. For example, land which could advantageously be employed for the cultivation of hops, were it not exposed to the immediate incident of paying a tenth part of the produce, would be applied to that cultivation ; but, as the existing incumbent has no legal power of leasing, whereby he could, under proper authority of his diocesan, divest his successor of the power of claiming his full abstract right, the contingency of such a claim operates conclusively against the improvement of the land, *and the Church receives nothing* ; whereas, were it practicable to lease for a certain number of years, at a less rate than the full amount which the law sanctions, a minor tithe than the legal tithe would be paid without remonstrance, which now is altogether kept back, in consequence of the inevitable enforcement of the full claim. The result is, that the *land occupier suffers, the consumer suffers, and the Church suffers* ; and it is only after a lapse of a considerable period that land becomes available, subject to this deduction of a

tenth from the gross produce. It will at once be perceived that this system gives an undue advantage to tithe-free land, and militates against the cultivation of those products which are subject to tithe.

“11. Although the question, whether tithes operate as a tax on the consumer, is not a question bearing on the particular point of view in which I am now calling public attention to the subject, I will venture to offer a few observations which have been suggested to me, and which appear to me unanswerable. It is admitted, and is, in fact, a truism, that the price of corn is determined by the sum which will remunerate the cultivator of new land—in other words, will pay the expense of cultivating such land, and afford to the cultivator the usual profits of stock, without paying any rent. For example: if A. possesses 500 acres of land in fee-simple, which, at a given price of corn, would just repay him the expense of cultivation, with the average profits of stock, he will be induced to cultivate that land; but, if he is obliged to pay one-tenth part of the produce to a clergyman, or to any other party, he cannot venture on the cultivation of that land, until an increased price of corn, or a diminished expense of cultivation, compensates him for that inevitable outgoing. Consequently, it is said, the consumer pays a higher price for corn, inasmuch as tithes operate to prevent land being brought into cultivation.

“This proposition must be true in a country where tithe exists, and into which there is no importation of foreign corn. But if there is an unrestricted importation of foreign corn, or if there is a corn-law which, though partially restrictive, practically depresses the price below the point which would present a remunerating return to the cultivator of new land in the absence of tithe, the consumer does not pay a greater price for his corn,—the price of corn is not raised by the incident of tithe. Again, in the majority of new enclosures, a reservation of one-fifth is made to the clergyman, as glebe in lieu of tithe. In such a case, if A., the proprietor of 500 acres, can commute his tithe by the surrender of 100 acres of the uncultivated land to the church, he will no longer have any outgoing to pay on his gross produce, and consequently will be prepared to cultivate his 400 acres, whenever the price is such as to remunerate him by the sale of

the entire of his gross produce. It is quite clear that, where a substitution of glebe instead of tithe takes place, the period of cultivation cannot be accelerated or retarded. Finally, if the proprietor complains that this is a tax upon him, the answer is, that, when he or his ancestors became possessed of that land, he or they paid so much less for it, in consequence of this prior claim existing on the part of the Church.

“12. If the principles contained in the foregoing propositions be true, that tithes and rates fall ultimately on the land, that is, on the landlord; and if it be consequently true, that composition for tithe also falls on the landlord, it is much to be regretted that, for the purpose of simplification, it should not be the law of the land, that the landlord should pay all tithes, and all rates, county and others; the effect of which would be, that the tenant would increase his bidding for the land, in consideration of those outgoings no longer falling upon himself. In that case, taken on a period of years, the *bonâ fide* receipts of the landlord would be one and the same; but all that machinery which appears to impose upon the tenant that which, in point of fact, does not fall upon him, would be removed, and the farmer would take his farm, as a tenant takes a house, upon the terms of all repairs of every description falling on the landlord.

“13. An objection is sometimes offered with respect to the tithe-system, the fallacy of which must be perceived by every person who will take the pains to study the case;—it is, that the Roman Catholic or the Dissenter is not only burdened (as it is called) with tithe, but has to pay the separate expense of his own church. If the principles which are laid down in these propositions be true, it must be admitted that, if tithes were abolished, the effect would be, to raise proportionately the rent of proprietors of land. Consequently, after such abolition of tithe, the Catholic tenant, the Protestant Church tenant, the Dissenting tenant, would pay a greater rent to his landlord, in the same manner as the Catholic tenant, the Protestant tenant, and the Dissenting tenant now pays a less rent, in consequence of this outgoing to the Church, which outgoing, if it were paid to the state, would have precisely the same effect, as long as it was raised in the same manner. Undoubtedly, if tithes were abolished, and if no other mode of maintenance were provided by

the state for the clergy of the Established Church, the tenant, who is a member of that Church, would, notwithstanding the increased rent which he would pay to the landlord, have also to pay towards the maintenance of the ministers of his particular religion. But that contingency would have nothing to do with the nature of tithe. It raises a question affecting the British constitution. The principle, whether right or wrong, upon which the united church of England and Ireland rests, according to the letter and spirit of the constitution, as established at the period of 1688, and at the accession of the House of Brunswick, I conceive to be as follows. The framers of that constitution contemplated that the principles of civil and religious liberty would be secured by the endowment of the Protestant reformed religion, and, consequently, that it was desirable that a great national property should be appropriated to the support of spiritual teachers of that religion. This great national property (as explained in proposition 6) was not the property of individuals, but of the state. The doctrine of the constitution with respect to Dissenters of all classes was, that, if they did not choose to avail themselves of that religious instruction which the state had thus provided for them, they should have full liberty to procure for themselves such spiritual assistance as they might collectively and severally deem necessary. The penal laws, which were enforced against the Roman Catholics, for a considerable time trenched upon the generality of this principle, but at the present day, I conceive, it remains precisely the same as at the period of the Revolution.

“It may be said that it is extremely inconvenient that any national property should be devoted to the maintenance of a particular church; or, it may be said that a national property should be devoted to the maintenance of all churches. These may be *important* questions, but they do not bear on the popular complaint, that the private property of Roman Catholics and of Dissenters is taxed for the purpose of maintaining another religious establishment. As far as tithe is concerned, such is not the fact; their private property is not taxed; they are not specially aggrieved by the incident of tithe. They have not so strong a case against tithe as a Quaker would have against the maintenance of an army. He might say, ‘I protest against

war as an iniquitous practice; and therefore I am aggrieved, because, in the country in which I live, the state chooses to maintain a military establishment.' In that case, the Quaker would be able to show that he himself was called upon to contribute as a tax-payer to the maintenance of a military establishment; whereas, the Roman Catholic and the Dissenter, in the case of tithe, can only complain that a national property, on which they have no exclusive or individual claim, is applied to purposes which *they abstractedly disapprove*.

"14. The preceding propositions, with respect to the effects of tithe upon property, are wholly independent of the question of the abstract propriety of an endowed church, and they would be precisely as sound if all the church revenues were levied in their present form, and applied to the purposes of the state, whether for the payment of the army, of the navy, of the national debt, or of a Roman Catholic establishment, or if such revenue were made over to any corporate body in England. Under *any of these circumstances*, its incidents, as property, would not be disturbed by the transfer. Prejudice and misconception may tend to create impatience with respect to one class of possessors, while acquiescence might be given in the case of other classes.

"*With respect to the power of Parliament over the Church, the late Lord Kenyon laid it down, that 'either of the Houses of Parliament may, if they think proper, pass a Bill up to the extent of the most unreasonable requisition that can be made; and, provided sound policy and a sense of the duty they owe to the established religion of the country do not operate on their minds, so as to prevent their doing what is improper, there is no statute law to prevent their entertaining and passing such Bill, to abolish the supremacy and the whole of the government and discipline of the Church of England as by law established.'*—His doctrine, in continuation, was, that the Crown must, in such a case, exercise its discretion, whether its consent to any such Bill was a violation of the Coronation Oath.

It was most satisfactory to me, on my return to England, to find the opinions which I expressed in 1829 confirmed in a pamphlet of first-rate talent,

on National Property, &c. &c., published by B. Fellowes, Ludgate-street, of which the third edition now lies before me, printed in 1835.

Speaking of the Catholics, the writer says—"They declaim against the Protestant Establishment, as if its mere presence did them harm. As if the country would be better for the removal of the only body of educated men who can be forced by law, and by a law which has not even the appearance of hardship, to inhabit it. *As if tithes were not a mere deduction from rent, and as if they really belonged, not to the nation, but to the landlords.*"—p. 33.

Let this opinion be compared with my summing up, in 1829, of the fourteen propositions upon the subject of tithes which have just been quoted—

"The whole Protestant Church case, as far as its pecuniary effect is involved, appears to me to be capable of being summed up in a few words. *The complaint is, that, were it not for the existence of the tithe, the sum paid to the clergyman would remain in the pocket of the cultivator; whereas, the fact is, that it would not remain in the pocket of the cultivator, but would be paid to the proprietor of the land.* This proposition is not affected by the peculiar character of the tithe, the moment that such tithe is changed into composition. In a case, therefore, of composition, it appears to me susceptible of mathematical proof, that, if there were no payment to the clergyman, the identical sum which is now paid in composition would be paid in rent to the landlord, except where a landlord, under the operation of a long lease, has voluntarily abandoned his own just claims and interests."

I shall not now quote any other lay authorities in this country who have assented to my argument; and, if I quoted clerical authorities, their accordance

might be attributed to a professional bias ; but I am happy in the opportunity of quoting an opinion volunteered to me in January, 1831, by an eminent citizen of the United States, where it is unnecessary to record that tithe is not levied.

Extract of a letter from Dr. Mac Vickar, Professor of Political Economy at the University of Columbia, dated, College, New York, 5th January, 1831 :—
 “ A long passage gave me an opportunity of reading
 “ the various new works I had with me, and, among
 “ others, yours (Causes and Remedies of Pauperism),
 “ with great attention and equal pleasure. Upon the
 “ state of Ireland, its causes, and remedies, I know
 “ nothing so clear, *and your argument in relation to*
 “ *tithes is triumphant.*”

A crisis is fast arriving when the practical problem must be solved, whether Ireland is to be influenced by agitation and misstatement, or by truth and common sense. Any honest person, who is not destitute by nature of the latter quality, must perceive that my argument on the subject of tithes involves *no question of their appropriation* by the State. It is sufficient to establish that the individual possessing landed property, from which tithes are due, has paid, or that those from whom he inherits have paid, a less consideration for that property in consequence of the outgoing.

I do not intend to enter into the question *here*, whether, had tithes been preserved, the money proceeds accruing from them ought to have been applied

to the exclusive purpose of the Protestant Church; or whether a portion of those proceeds, if not wanted for fair Protestant purposes, ought to have been applied to other objects, such as education general or special. All I contend for in this publication is, that tithes, whether levied in kind, or by composition, or under the form of a substituted rent-charge, are either public or private property, and that, where they are public property, to invite parties to cease to pay them in any form, is little less than making war against the state. It is notorious that there is an office for the special purpose of managing the woods and forests belonging to the crown, in other words to the state, for the crown could not alienate that species of property without the consent of the state. Supposing a party to invite individuals whose own property might adjoin this territorial property of the crown, to call a meeting and move a resolution inviting the persons possessing the adjoining property to forcibly invade the crown property, and appropriate it in prescribed proportions to their own uses—what character would such a transaction bear?

I can suppose a Parsee despot, determined to bring his millions to compel the world to acknowledge and admit that the sun is a moving being, and that he rises in the east, pursues his diurnal course, and sinks into the west. To the eyes of uninstructed mankind, such would *appear* to be the fact—but does that “appearance” sanction the truth of the doctrine? I can equally conceive a doctrine held forth, and that with

the threat of millions of supporters, which should insist that, because the tenant pays the tithe to the clergyman, the burden exclusively falls upon such tenant—yet those who can look skin-deep into the mechanism of society know that such *is not the fact*. Tithes may be a most objectionable sort of public property, and I approve, as much as any man can approve, the commutation of them for an adequate charge or rent, into which they are ultimately resolvable; but when Resolutions are proposed, which contemplate the extinction of a substituted rent-charge, then I say that public property is attempted to be grossly invaded, and ought to be defended.

On this subject I would refer to the fourteenth letter of a series of letters on Parliamentary Reform, published in the *Globe* newspaper, from week to week, in the year 1831, during the discussion of the Reform question in the House of Commons.* The letter from which I quote is dated the 7th of June.

“That the House of Commons will pass the Reform Bill, is no longer a matter of doubt. The only real question remaining is, will the House of Lords confirm the legislation of the Commons?”

“Whenever this question is discussed, the all but unanimous opposition of the Bench of Bishops is confidently predicted by a certain class of politicians. Is there any real authority for such an anticipation? I can only answer that there ought not to be, and that I much doubt whether there is. Whatever differences of opinion may exist, as to particular provisions of the Bill now

* These letters were collected and republished by Ridgway, in the autumn of 1831, in a pamphlet dedicated to the Bishop of London.

before Parliament, I cannot believe that a body of men, who have so many opportunities of observation and reflection, can be bent upon opposing the measure itself.

“Of the gross and unblushing delusions which have been suffered to float like noxious vapours among the people, one of the most absurd is the notion, that, if the revenues of the clergy were to be confiscated, the tenants of land now subject to tithe, and the labourers, would at once find themselves in a very improved condition. The simple truth is, that tithe-free farms are set at rents proportionably higher than those of farms subject to tithe; and as to the notion, that on tithe-free farms the labourers are better off, it is too obviously absurd to receive serious contradiction. Yet, at this moment, the popular prejudice against tithes is mainly founded upon such trashy misconceptions. The Church question is never *fairly argued*. It is, when properly stated, simple, and easily resolvable. Apart from the consideration of improvements in the *mode* of raising the revenue, the question is twofold:— 1st. Is it expedient that property should be appropriated to the payment of a Church establishment? 2nd. If, not, to what purpose should it be applied? Who supposes that the State will make a gratuitous present of it to those particular landlords with whose property it may be mixed? And yet such must be the effect of its confiscation, without being re-appropriated; and if it be re-appropriated, what is the sum of benefit which will be enjoyed by the tithe payers, &c., in consequence of their contributing to the maintenance of individuals wearing red or blue clothes, instead of black?

“Absenteeism is complained of in Ireland as an evil. The Irish clergy form a body, prevented by law from becoming absentees. If their revenues be alienated, without re-appropriation, the benefit must accrue to the owner of the land, who *may* be an absentee; and this is a mode of relieving Irish *distress*! What is to become of those operatives tradesmen, and labourers, who now exchange their labour against the revenues of the Church, as applied under the average demand of the existing clergy of Ireland? Will they be *equally* employed by this new appropriation of revenue?”

The letter then proceeds to ask—
“What might not be done, if any Prelate, on the Right Reve-

rend Bench, would insist on the investigation of these points, instead of labouring to prevent Reform, as a presumed means of attacking the Church? Whenever prejudices are dispelled, not only will Reform cease to be dangerous; but even the weakest will be able to screw up their nerves to acquiescence in the measure. It is the asserted alliance between prejudice and Reform which alarms the timid, and counsels an ill-organised and ineffectual resistance, where confidence ought to be shown, resting upon the basis of truth. If in a reformed Parliament the Church be attacked, let the guardians of her interests meet the question fairly upon the merits; and should irrational objections prevail over common sense, and really aggressive measures be organised, let them resist, when resistance is to be vindicated on the ground of real danger, as contrasted with spurious and self-created alarm. But if the question be fairly discussed, the danger will no longer exist. Abuses may be rectified, as they ought to be; changes of an expedient character may be made; but there will be no dis-silvering of a great national interest from the British Constitution, under false and ignorant pretences, passing by the real question.

I have often inquired why the plain propositions respecting tithes which have been quoted in this section, were never put forward by the clergy, who admitted their soundness; and the answer which I have uniformly received, has been in substance the following:—that the Tithe Question was considered in those propositions as a *mere question* of property; and that, so far from its having been denied that their appropriation was a mere question of conscience and discretion, *that* proposition was unequivocally asserted.

Let it be supposed that the absurd laws which prohibit all communication from Rome were repealed—let it be supposed that a British negotiator had arranged the terms of a Concordat. If, under such circumstances, an appeal were made

to the Holy See whether a Roman Catholic Member of the British Legislature could on the one hand solemnly abjure any intention to subvert the present Church Establishment of Ireland, and on the other move a resolution to attempt the attainment of an equalisation of religious liberty in Ireland by the abolition of all compulsory payments to the Protestant Established Church, whether of tithe, or of a rent charge substituted in lieu of tithe,—would the See of Rome, were reference made to that authority, pronounce that the absolute proof of such a resolution having been moved by a Roman Catholic Member of the Legislature, who had made the abjuration in question on oath, involved no violation of that oath? In the debate in the House of Lords on the 8th May ult., the Earl of Shrewsbury quoted the statement made by the Secretary of State at Rome with respect to the Oath introduced into the Relief Act. He says, “That the Pope should approve a formula so loosely and incautiously worded, containing moreover insinuations grossly injurious to the Catholic religion and to the Holy See in particular, was impossible; but that his Holiness should condemn as unlawful an oath which, with his full knowledge and connivance, had been taken for so many years as a lawful oath by the whole body of the Catholic clergy and laity of these kingdoms was, as your Lordship well knows, equally out of the question.”

These sentiments on the part of Rome could not

have been offered if the Oath were considered to be mere waste paper. I have endeavoured to show what the Oath did not mean; I have endeavoured to show what was the plain import of the words contained in it; and I for one do not entertain a shadow of doubt as to the verdict which would be given by the Court of Rome, were an appeal made to it of the nature of which I have described. If I am asked, "Do you consider that any security would be gained to the Protestant Church by such a decision on the part of the Pope?" I answer, not the slightest; I should be happy to see the Oath expunged from the statute; but as long as it remains there, it must fairly expose to the charge of perjury the Roman Catholic member, who cannot be morally or religiously justified in abjuring any intention to subvert the Protestant Church, when not only his own conscience must tell him, but when his own acts undisguisedly prove, that he is making real attempts to subvert it. If the proof of those *real attempts* depended upon a mere inference which A, B, or C, might draw from the fact of a Roman Catholic having voted for a particular resolution or act of legislation for which Protestants had voted, in my judgment (as already explained) such inference would be *no proof* at all; but when the Roman Catholic Member, having made the abjuration, *furnishes himself proof of his own intention*, in his own words again and again, I am not ingenious enough to discover the fallacy of such proof, or to divine the nature of the disproof which he may be prepared to give.

SECTION IV.

UPON the subject of a Concordat, it was my opinion in 1829, that a negociation with Rome for such an object ought not to precede but to follow the settlement of the Roman Catholic Question. I was satisfied of the expediency and certainty of success of a negociation with the Pope *after* the civil question had been settled, and the inexpediency or impossibility of a negociation *before* that Act had passed. My opinions on that particular point were shared by high authorities, whose long residence at Rome in official positions were highly competent to form the most correct judgment upon the subject. I consider it to have been a great omission and real misfortune, that the negociation of a Concordat has been so long delayed. The abstinence from such a measure has the inevitable effect of throwing power into the hands of individuals who contemplate results which would never have been contemplated for one instant by the court of Rome itself. I think I have the means of producing unequivocal proof of the truth of the assertion I have just made. I have alluded in the first section to a correspondence which took place at Rome between Bishop Baines and myself, which correspondence was translated into Italian under the Bishop's auspices, and which, as already explained, was pub-

lished by Mr. Murray in 1829. The Protestants of this empire ought to have a real opportunity of judging whether they have most to dread from Maurise Capellari, elected Sovereign Pontiff by his brother cardinals in March, 1829, or from the fulminations that issue from the Corn Exchange in Dublin.

Bishop Baines was, and happily is, a prelate of no mean authority. When I addressed him in 1828 he was Bishop of Siga, Coadjutor to the Vicar Apostolic in the Western District, *Domestic Prelate to his Holiness the Pope*, and Assistant to the Pontifical Throne. It has not been my good fortune to see him, or hear from him, since my return to Europe. The cause of my addressing the Bishop is fully explained in the following letter to him, which I give in the original English, and which I guarantee to have been faithfully translated into Italian.

Rome, December 10th, 1828.

MY DEAR SIR,—I am persuaded that you will concur with me in opinion that, considering the agitated and irritable state of the public mind in Great Britain and Ireland, upon the subject of what is called “The Catholic Question,” it would be desirable that the exact truth should be stated upon any important point affecting that subject, whether such truth be conciliatory or otherwise. “*A fortiori*,” should the truth be conciliatory, and any misrepresentation, however accidental and unintentional, be exasperating, it is still more desirable that all ambiguity should be cleared away.

I offer these observations as preliminary to a question, which I shall take the liberty of putting to you at the close of this letter.

In *Galignani's Messenger* of Tuesday, the 25th November, and in the *Sun* newspaper of the 21st November, (extracted from

the *Dublin Morning Register*,) I find the following passage, identically the same in both newspapers, in the speech of Mr. O'Connell at a meeting of the Catholic Association—"I have now
 "to mention a fact" (says Mr. O'Connell), "of great importance
 "to the people of this country. Up to the 26th October, the
 "Government of England have made no less than three applica-
 "tions to the Pope for a Concordatum. The application was not
 "made directly, for the law of *præmunire* prevented it; but it
 "was done as effectually by the Hanoverian Ambassador resident
 "at Rome. Three successive applications were made to the Pope;
 "and I am now authorised to state the answer of his Holiness
 "It was couched in terms of kindness and friendship towards the
 "British Government, but it ended with an emphatic declaration,
 "that, until the Catholics of Ireland were emancipated, no treaty
 "on the subject would be received at Rome. (*Immense cheering*.)
 "The Catholics of Ireland will join with me in praying for the
 "blessing of Almighty God on his Holiness for this declaration.
 "He is the Father of the Catholic Church; he will not enter into
 "any arrangement regarding the government of the church in
 "this country, until the freedom of the Catholics is established."

I feel convinced, notwithstanding such a statement, that, if such an application (which I entirely doubt) has been made, no such answer can have been returned. The laws prohibiting all communication with the See of Rome expose, or at least are popularly presumed to expose, any British Minister to the penalties of a "*præmunire*," who should make the slightest application of an official nature to the See of Rome. I can easily conceive, that until those pernicious and disgraceful laws shall have been repealed, the See of Rome would be unwilling to enter into any question involving the consideration of a Concordat, or of any arrangement affecting the Roman Catholic religion in the United Kingdom. But, that objections should exist to any communication with the British Government, founded upon the *non-completion of the civil measure of Catholic Emancipation*, is what I will not and cannot credit, until I have better authority for my belief. I shall therefore abstain from any conditional commentary upon such a supposed answer, and limit myself to the question to which I have already adverted.

Do you believe it to be true that the Pope has ever declared in

an emphatic manner (to adopt the phrase of Mr. O'Connell) to any person, at any time, directly or indirectly, or ever made use of words which could, under any fair construction, imply, that "no treaty with the British Government on the subject of a Concordat would be received at Rome until the Catholics of Ireland were emancipated?"

I request, however, that before you give any answer to this letter, you will explicitly understand, that I am neither authorised nor advised by any person to put this question to you, and that I have acted upon this occasion, as on all others connected with the Catholic Question, upon my own sole and undivided responsibility.

I remain, my dear Sir,

With great regard,

Very faithfully yours,

The Right Rev. Dr. Baines,
&c. &c. &c.

R. W. HORTON.

On the 13th December Bishop Baines returned me an answer in English, which I equally give *in extenso*.

13th December, 1828.

MY DEAR SIR,—Before I proceed to answer the queries contained in your obliging communication of the 10th instant, allow me to remark, that as a member of the British Parliament, as a Privy Councillor of his Britannic Majesty, as a tried and talented supporter of the Catholic cause both within and without the walls of Parliament, I consider you fully entitled to any information which I have the right and power to communicate. On these accounts I shall not shrink from the task you impose upon me, though I clearly perceive that it is leading me upon delicate ground, and exposing me to a risk which I had never intended to run, of becoming a party amongst men of opposite opinions, and mixing in a subject, which, as belonging rather to politics than religion, I would rather have left to others. After this preamble, I will proceed to the subject of your letter.

I entirely agree with you, that in the present agitated and irritable state of the public mind in Great Britain and Ireland, on the

subject of Catholic Emancipation, it is highly desirable that the exact truth should be known on all points calculated to influence the decision of that momentous question. In fact, it could never have remained so long undecided, to the wonder of all Europe and the reproach of England, had it been better understood by the English public.

But anxious as I feel, in common, not only with every Catholic, but I will venture to add, with every real friend to the country, for the success of the Catholic Question, I would rather see it vanquished, as it has hitherto been, by the misstatements and disfigurements of its enemies, than consent to its triumph by a single wilful misrepresentation on the part of its friends. The same, I am persuaded, are the sentiments of Mr. O'Connell. I admire that gentleman, as every one must, for his powerful talents; I feel grateful to him, as I think every one ought, for the distinguished use he has made of them in the service of his unfortunate country; but I respect him chiefly, because I believe him to be a man of strict integrity, and incapable of a wilful misrepresentation, whatever purpose it might appear to him to answer.

On this account, when I read the statement in Galignani's paper, which makes Mr. O'Connell assert that the Pope had "emphatically declared" that he would not enter into any treaty with England, on the subject of a Concordat, "until the Catholics of Ireland were emancipated," I felt certain, either that the reporters had mistaken Mr. O'Connell's words, or that the latter had, in the hurry of the moment, given credit to some erroneous information, which a little more reflection would have convinced him could not be correct.

After these remarks it can hardly be necessary to answer your query. "Whether I believe it to be true that the Pope ever declared, in an emphatic manner, (to adopt the phrase of Mr. O'Connell,) to any person, at any time, directly or indirectly, or ever made use of words which could, under any fair construction, imply, that no treaty with the British Government, on the subject of a Concordat, would be received at Rome until the Catholics of Ireland were emancipated?"

Most certainly I do not think it true, that the Pope ever made such a declaration, emphatically or otherwise, or ever used words which could fairly be construed into such a meaning. In making,

however, this declaration, I beg it to be distinctly understood, that I am expressing only my own private conviction. I am not, as you are aware, authorised to make it, nor do I hold any office which entitles me, in an official sense, to be acquainted with the declarations of his Holiness, or with the communications which he may have with foreign states; and much less do I mean to assert, that there is a disposition in the Holy See to negotiate a Concordat, should such a proposition be made.

I merely speak to the matter of fact, and express it as my entire conviction, that if three, or three hundred applications, were made by the British Government for a Concordat, the answer would not be *that* attributed to the Holy See in the printed Report of Mr. O'Connell's Speech. Whilst the law exists which prohibits all correspondence on the part of Government with the Holy See, it is difficult to believe that an English Minister would make a proposal to that effect, and utterly incredible that the Holy See would, in that case, allege any other reason for declining a treaty than the existence of such a law.

What might be done in the event of a legal communication between the two Governments being established, I cannot pretend to predict; but I know sufficient of the principles of the Catholic Church, and have sufficient confidence in the wisdom of his Holiness, to be satisfied, that should any treaty hereafter be set on foot, he would be found as averse to invade the temporal rights of his Britannic Majesty, as to betray the spiritual interests of the Catholic Church in his Majesty's dominions.

I know not whether I have said sufficient to convince you that Mr. O'Connell has been led into mistakes respecting the declaration attributed to his Holiness; if not, I can only regret that my ignorance respecting the details of the law of "præmunire" will not allow me to run the risk of saying more; I am not, however, without hopes that Mr. O'Connell, upon examining his information, will discover the mistake into which he has been led, and himself correct it.

I remain, my dear Sir, &c. &c.

P. A. BAINES, *Bp. of Siga.*

The Right Hon. R. Wilmot Horton, M.P.

It would be observed that Mr. O'Connell quoted

the Pope as having made an emphatic declaration, that until the Catholics of Ireland were emancipated no treaty on the subject could be received at Rome. With respect to this presumed fact, upon which Mr. O'Connell had evidently been misinformed, Mr. O'Connell made the following observations:—"The Catholics of Ireland will join with me," said Mr. O'Connell, "in praying for the blessing of Almighty God on his Holiness for this declaration. *He is the father of the Catholic Church.* He will not enter into any arrangement regarding the government of the Church in this country (Ireland), until the freedom of the Catholics is established."

There is a most essential distinction between the annunciation of an opinion at one time and the revocation of that opinion at another, and the assertion of a fact at one time and the denial of that fact at another. Mr. O'Connell has admitted in this sentence that the Pope is the Father of the Catholic Church. I contend therefore that it is highly expedient and politic to negotiate with the Father of the Catholic Church respecting Catholic matters. It will be observed that the Bishop explains the possible cause of this incorrect statement on the part of Mr. O'Connell: he explains, "that he is merely speaking to the *matter of fact*, but does not hesitate to express his *entire conviction* that if three, or three hundred, applications were made by the British Government for a Concordat, the answer would not be *that* attributed to the Holy See in the printed

“report of Mr. O’Connell’s speech.” Encouraged by this satisfactory correction of a statement which, if *credited*, would, in my opinion, have prejudiced the carrying of Catholic Emancipation, to which I had devoted myself, I resolved to obtain an explanation upon another and a more vital point; and here again I should not be acting with fairness to myself, to Mr. O’Connell, or to Bishop Baines, if I did not give my second letter to Bishop Baines, and his answer, both *in extenso*. My letter was as follows:—

Rome, December 15th, 1828.

MY DEAR SIR,—I am extremely gratified to find that it has been in your power to afford so satisfactory a correction of the statement made by Mr. O’Connell, to which I called your attention in my Letter of the 10th inst. There is, however, another statement made by that Gentleman, or at least, an opinion very unequivocally expressed, which appears to me calculated, if not contradicted, to produce the most inconvenient consequences. This statement or opinion is evidently founded upon the entire misconception which pervaded his mind in the former instance. I am equally anxious that the exact truth should transpire in this second instance. The statement is as follows:—

In *Galignani’s Messenger* of the 15th of November, I find the record of a late meeting of the British Catholic Association, from whence it appears that the Duke of Norfolk had expressed himself in the following terms: “That he was favourable to firm language being made use of in the Petition of the British Catholics, but he trusted no language would be made use of which would imply that they rejected any measures which the Government might offer them, because accompanied with securities. Such was his opinion, and he had arrived at it after mature deliberation.” On that occasion, it appears, Mr. Eneas Macdonnell (whom Mr. O’Connell has subsequently described as the Agent of the Catholic Association in England) protested against this doctrine of the Duke of Norfolk in the following terms:—

“ One word as to Unconditional Emancipation. He would declare his sentiments on that subject succinctly and plainly, in justice to those by whom he had been sent, and whom he represented; and if they should be dissatisfied with his conduct, they might instantly get rid of him. He should, however, consider the Irish Catholics as traitors to their country, and acting dishonourably to themselves, if, after what had taken place, they would consent to receive any concession short of full and unconditional emancipation. He considered emancipation with any securities that had hitherto been mentioned, a greater calamity than their present condition; and he should feel it his duty, however painful, if such a measure were proposed, not only to abstain from being a party to it, but to get rid of emancipation, securities and all.”

With reference to these conflicting opinions, Mr. O’Connell is recorded to have expressed his sentiments in the following words, in his speech which appears in the *Galvani* of the 25th inst:—

“ IRELAND—CATHOLIC ASSOCIATION.

“ A very numerous meeting of the Society took place on Thursday, John O’Connell, Esq., in the Chair.

“ Mr. O’Connell, M.P., rose to propose the thanks of the Association to Mr. Eneas Macdonnell, for his fearless and unpromising conduct upon all occasions in which the interests of his country were at stake, and particularly for his conduct at the last meeting of the English Catholics. He also begged leave to express his total dissent from the Duke of Norfolk, and those of the Catholics who were favourable to securities.”

I do not wish to quote certain other expressions which Mr. O’Connell employed upon that occasion, in support of his opinion; nor should I have thought myself justified in referring to this difference of opinion between two persons, who each had a perfect right to maintain whatever opinion he chose, had not Mr. O’Connell availed himself, on that occasion, of the *authority of an opinion to which he appears to me not to have been in the slightest degree entitled.*

He says, in his speech already quoted in my first letter—
“ That the best reply and admonition which he can offer to the Duke of Norfolk and the security-men in England, is the

“ answer which the Pope had given to the British Government.” And he does not explain whether he has quoted the whole of that presumed answer, or only a part.

If there be a clear meaning, capable of being conveyed in language, it is here implied, that a certain answer made by the Pope, the father of the Catholic Church (as he is described by Mr. O’Connell), contained expressions of admonition against any Catholic, English or Irish, who might be prepared to receive emancipation, coupled with any security whatever. Now, if this assertion or implication of Mr. O’Connell remains unexplained, it will be believed, or at least it may be believed, that the Pope had pronounced an admonition, or at least was prepared to pronounce one, upon this declared opinion of the Duke of Norfolk. I do not doubt, nor have I ever doubted for a moment, that the Pope, in the event of any appeal being made to him, would be prepared to object to any civil measure of emancipation, which should be accompanied with securities trenching in the slightest degree upon the religious faith of a Roman Catholic. But that he should ever have pronounced an opinion against all propositions of emancipation, unless unconditional, that is, if accompanied by *any security* whatever—or against those who were prepared to entertain such propositions, is an assertion which I do not believe; on the contrary, I believe this assertion, or implication, by Mr. O’Connell, to have originated from that mistake which you have already corrected.

You are aware that I am personally interested in the elucidation of this point, as I have myself suggested a security, not trenching, in any respect, upon the faith of a Roman Catholic, or in any inconvenient degree upon the full sum of his civil rights; while, at the same time, it was calculated specifically to obviate the main apprehension entertained by Protestants, as the possible result of the removal of Roman Catholic disabilities. If this opinion, which Mr. O’Connell implies to be that of the Holy See, be really so, it is clear that every attempt of this nature to settle the question must be more than fruitless.

I had considered myself as safe in the suggestion of this security on Catholic grounds, under the authority of Mr. Grattan, whose name will ever be dear to Ireland, and who thus expressed himself in the Imperial Parliament, in May 1817:—

“ With respect to safeguards, I think it is clear that there is

“ no man, who, when he procures rights which he considers as in-
 “ estimable, but ought to give those securities which, *while they do*
 “ *not trench upon the Catholic Faith*, afford strength and security
 “ to the Protestant Religion.”

If Mr. Grattan had believed that these sentiments, so forcibly expressed by him, had been contrary, much less in opposition, to those of the See of Rome, he would have known that it was useless in any practical point of view to have pronounced them. I shall, therefore, repose with confidence upon these opinions of Mr. Grattan, until I have reason to believe that the Holy See (the only Catholic authority to whose commentary in disproof of such authority I should listen, as a Legislator) had ever declared against them.

I hope I have succeeded in distinctly bringing before you the points upon which I am desirous of information, so as to enable you not only to satisfy my mind upon the subject, which is of little importance, but also to satisfy the minds of millions, who are watching with awful anxiety the course of events which have an influence upon the Catholic question.

You will, however, be good enough to understand, that I request this information *solely* on account of the introduction by Mr. O'Connell of *the name and authority of the Pope*, in support of his own reprobation of the opinions of the Duke of Norfolk. For I should say, that I have rarely met with any sentiments upon the subject of securities more satisfactorily expressed, than those which Mr. O'Connell himself entertains, as appears from another part of the same speech. He says (*vide Galignani*, of the 25th November) :

“ If any tangible proposition be offered for quieting the apprehensions of the most susceptible of my Protestant countrymen,
 “ there is not one amongst them who will be more ready to argue
 “ the question with calmness and consideration than myself.”

I confess that there does not appear to me to be any other meaning capable of being attached to this phrase, than that of being ready to argue calmly and considerately any proposition in the way of “ security,” as it is popularly called, which does not trench on the religion of the Catholics.

I remain most faithfully yours,

R. W. HORTON.

The Right Rev. Dr. Baines,

&c. &c.

To this letter the Bishop returned the following answer :—

Rome, Dec. 17th, 1828.

MY DEAR SIR,—You seem to apprehend that the inference drawn by Mr. O'Connell, from the alleged answer of the Pope to the supposed application of the British Government, may create a belief in England, that the opinion expressed by the Duke of Norfolk in the British Catholic Association, on the 14th of November, had met with the disapprobation of his Holiness, and that a similar disapprobation awaits all those who may share the sentiments of his Grace upon what are very vaguely and indefinitely termed *Securities*.

With respect to the *point of fact*, I am perfectly convinced that his Holiness has not pronounced in any way upon the opinion of the Duke of Norfolk. Indeed, the supposition of his having so pronounced, seems to rest solely upon that of his having answered the British Government that he would not treat upon affairs of the Irish Catholic Church, “*until the Catholics of Ireland were emancipated* ;” a supposition which, I trust, I have satisfied you is wholly unfounded.

[I cannot persuade myself that Mr. O'Connell ever meant to insinuate that the disapprobation of the Pope was to be apprehended by any one who merely thought, with the Duke of Norfolk, that there was no obligation of rejecting any measures of Government, merely because accompanied with securities, before he knew what those securities were. It is true that the term *Securities* has hitherto almost invariably been employed, when speaking of the Catholic question, to designate certain plans of vexatious, if not mischievous, interference with the doctrines or discipline of the Catholic Church. Should the Duke of Norfolk pledge himself to accept of such securities, there is no doubt he would deserve the disapprobation of his Holiness ; but the term *Securities* surely does not naturally nor necessarily imply a violation of Catholic principle, and therefore does not necessarily involve the disapprobation of the Church. Could arrangements be made (I speak merely hypothetically), which, leaving the Catholic Church wholly untouched, went merely to allay the groundless apprehensions of

Protestants, and to secure to the Established Church of England the undisturbed possession of its rights and revenues, it would be a most injurious libel upon the Head of the Catholic Church, to insinuate that his disapprobation was to be apprehended by any one, who merely acquiesced in such arrangements.

If, therefore, Mr. O'Connell is persuaded, as I presume he is, that Catholic Emancipation can be carried without even such *securities*, he is certainly right to oppose them: for they are useless at best, and convey an imputation upon the Catholic body which it does not deserve; but, on the other hand, if the Duke of Norfolk is of opinion that such arrangements would forward Emancipation, and thereby abridge the perils of the country, he may, no doubt, be condemned by his fellow-subjects for an error in politics; but, as he is not guilty of any offence against religion, he may be well assured that the Pope will be the last person to arraign his opinions.

I shall only add, in reference to that part of your letter, in which you allude to a certain plan of *securities* proposed by yourself, in the publication which you were so obliging as to send me, that I have read that publication with great interest; and though I do not consider myself at liberty to decide how far your plan might be satisfactory to the British and Irish Catholics, in a political point of view; it can hardly be necessary for me to remark, that there is evidently nothing, in *its general outline*, which a Catholic could object to as incompatible with his religion.]

Further remarks on this subject I will reserve to a future occasion; and, in the mean time,

Beg to subscribe myself,

With great esteem,

Your very obedient and faithful Servant,

P. A. BAINES, *Bishop of Siga.*
The Right Hon. R. Wilmot Horton, M.P.

It will be observed that Mr. O'Connell begged leave in his speech "to express his total dissent from "the Duke of Norfolk, and those of the Catholics "who were favourable to securities." He had a per-

fect right to do so ; but he had *no right* to imply that the Pope shared his opinions. He observed in his speech, “ that the best admonition which he could offer to the Duke of Norfolk and the security men in England, was the answer which the Pope had given to the British Government.” Bishop Baines, in his reply to me, waives the question of inference and implication, as to whether Mr. O’Connell’s words implied that the Pope had given an unfavourable answer about securities ; but, with respect to the point of fact, he states *that he is perfectly convinced that his Holiness has not pronounced in any way upon the opinion of the Duke of Norfolk.* It will have been observed that the Bishop then proceeds to give an elaborate opinion upon securities in the abstract. The passage to which I allude has purposely been placed between brackets in Dr. Baines’s last letter.

That there has existed, that probably there does exist, in the minds of many sincere Protestants, a sort of religious horror of negotiation or communication with the Pope, the Father of the Catholic Church, few persons I think would be prepared to deny. But such prejudices I cannot but consider as not only unreasonable, but that perseverance in retaining them produces a very palpable sum of mischief. The Roman Catholics have been emancipated, and to enter into negotiations with the See of Rome for the purpose of framing a Concordat suited to the circumstances of the Roman Catholic population of the British empire is, in my judgment, an indispen-

sable measure of state policy. Unless the opinions of Gregory XVI. and his ministers be altogether changed from the mild councils of Leo X., no rational doubt can be entertained of the reasonableness with which such a negociation would be conducted on the part of the Roman See. With respect to the spirit with which the British Government should enter into such a negociation, I would refer to the speech of the late Earl of Liverpool in the year 1817. I quote from Vol. xxxvi. of the "Parliamentary Debates," page 647.

Lord Liverpool—"I beg to be allowed to make a few observations on the ecclesiastical part of the subject. I will not, however, enter into the concession of the Veto, or Domestic Nomination, or any proposal of that nature; for I am anxious, at the outset, to clear the discussion from all extraneous considerations. I have no hesitation in avowing, as my deliberate opinion, that if the great principle contended for be once admitted, the concession ought to be liberally bestowed, and *without any jealous interference in the internal ecclesiastical concerns of the Irish Catholic Church.* And here, my Lords, before I proceed to explain myself more particularly, I cannot refrain from expressing my unfeigned astonishment at the opinion, that there ought to be a similarity in respect to the possession of civil power, between the Catholics in foreign states and the Catholics of Ireland. There is no analogy between the two cases. Let us take,

“ for instance, the relation between Prussia and
 “ Silesia, or between Russia and her Polish provinces.
 “ These are territories annexed to great states, either
 “ by conquest or compact, but in which the popula-
 “ tion is Catholic, the property is Catholic, the
 “ church is Catholic, and in which the Roman Catho-
 “ lic is therefore the established religion. * * *
 “ But the case is altogether different in Ireland
 “ There the government is exclusively Protestant,
 “ the property nearly so, and the population chiefly
 “ Catholic. If the Catholic religion in Ireland were
 “ that of the state, so acknowledged either by con-
 “ quest or compact, then, indeed, some analogy might
 “ be made out between the cases of the Irish and the
 “ foreign Catholic; and I would admit that you had
 “ no right—I will not say ‘no right,’ for that is a
 “ harsh and unjustifiable term to use when speaking
 “ of the power of the Legislature; but I will say you
 “ ought not—to impose the conditions of the exercise
 “ of their religion on a people so placed. As it is,
 “ much has been said with regard to the Veto, and
 “ with regard to Domestic Nomination: *I attach no*
 “ *importance to regulations of that nature.* They
 “ might be judicious restraints if the object of jea-
 “ lousy were the character of individuals; but I am
 “ ready to declare that I renounce all invidious
 “ charges against the Catholic body;—I believe no
 “ men can be more respectable than the Irish Catho-
 “ lic bishops and gentry. I respect them indivi-
 “ dually. I believe the Catholic prelates *are as*

“ *fairly chosen at present as they could possibly be*
 “ *by any arrangements which your Lordships can*
 “ *provide.* My objection does not go against the
 “ mode of filling up the episcopal vacancies ; but to
 “ the influence necessarily exercised over the parties
 “ when they are elected into office. The source of
 “ my scruples and apprehensions is, that, however
 “ nominated, the Irish Catholic Bishops are neces-
 “ sarily subject to foreign influence ; they are the
 “ pastors of the Romish Church, and bound to pay
 “ obedience to a foreign ecclesiastical jurisdiction.
 “ So long, therefore, as this sort of system continues,
 “ I can see nothing in the shape of securities that
 “ would satisfy me. It is this feeling that banishes
 “ from my mind the idea of securities, and that in-
 “ duces me to concur with the Right Reverend Pre-
 “ late, that, if concessions are to be made, they ought
 “ not to be made in an ungracious manner ; they
 “ ought not to be embarrassed with conditions, which,
 “ if accepted, would confer no additional security,
 “ while the imposition of them might excite feelings
 “ that would be anything but conciliatory, and that
 “ might utterly defeat the object in view. The only
 “ question with me, therefore, is, are your Lordships
 “ prepared to make the required concession ? If I
 “ am answered in the affirmative, then I say, the
 “ more simply and openly you make it, the better.”

One important subject remains untouched, viz.,
 the payment of the Roman Catholic clergy. I ad-
 dressed a letter to the Duke of Norfolk in 1826,

from which I would beg leave to quote the following passage:—

“ Upon the subject of the payment of the Roman Catholic Clergy, I have also one material observation to offer. In voting for a sum of money to be applied for their maintenance, previous to any final and satisfactory arrangement being made, I should not be influenced by any desire of contributing *directly* towards their support. In Ireland, a great proportion of the population are of a religious persuasion, for the maintenance of the spiritual teachers of which no national provision is to be found; and I should contend that, as that religion was not the religion of the State, there was no necessity whatever that a national provision should be secured for them, or that they should be placed upon a different footing from any other class of Dissenters:—but as the population professing the tenets of that religion are for the most part poor, and under political circumstances of so peculiar and extraordinary a nature as to make their proportion of contribution for the necessary maintenance of the pastors of their own faith, *a severe and heavy tax upon them*, I am prepared to consider that it is, *in the highest degree, expedient* that the State should interpose, and assist them in the necessary maintenance of the teachers of that religion, whom their own poverty prevents them from supporting by individual contributions.”

I mainly adhere to the opinions thus expressed by me twelve years ago. I am aware that upon this subject Mr. O’Connell has given two opinions, in direct opposition to each other. On the first of March, 1825, he gave the following evidence before a Select Committee of the House of Commons—

“ *House of Commons, March 1, 1825.*

“ Daniel O’Connell, Esq., is called in and examined.—Does your mind suggest any other cause which would survive the carrying the Catholic question, that could give to the Catholic priesthood the power of influencing the electors?—No; I think it would be unwise in Government, if emancipation were carried (and until it was carried the Catholic clergy would not accept of a provision),

to leave them unprovided ; and I think it would be extremely wrong in the Government to give them any part of the revenue of the present church establishment, and that they would not accept of it ; but I think a wise government would preserve the fidelity and attachment of the Catholic clergy, by what I call the golden link, by pecuniary provision, so that the government should be as secure in all its movements towards foreign powers of the Catholic clergy as they now are of the Protestant clergy ; that they should be, in short, a portion of the subjects of the government and the state identified with them." Again, "What in our opinion, should be the stipend of the bishops?—That is a very delicate subject ; but I should think 800*l.* or 1000*l.* a year, and an archbishop 1400*l.* or 1500*l.*"

On the 11th March, 1825, he gave the following evidence before a Committee of the House of Lords, the President of the Council in the chair :—

" *House of Lords, March 11, 1825.*

" Daniel O'Connell, Esq., is called in and examined.—From your knowledge of the feelings of the Catholic clergy, are you convinced that, as accompanying emancipation, they would be generally ready and willing to receive state provision?—I have not the least doubt upon my mind that they would be quite ready, as accompanying emancipation."

It appears from an extract from the *Dublin Morning Register* of Friday January 13th, 1837, that, at a meeting of the General Association, Mr. O'Connell expressed himself as follows :—

" I speak here in the presence of many revered and estimable Catholic clergymen, and I think I only speak their sentiments when I say that we will never consent to the payment of the Roman Catholic clergy by the state ; no, never. (Loud cheers, and cries of ' never,' from all parts of the room.)"

A Roman Catholic parish priest here exclaimed,

" If we are not voluntarily supported by the flocks which belong to us, we would beg for our support sooner than be pen-

sioners of the state. (Loud cheering, which continued for several minutes.)”

Mr. O’Connell continued by saying—

“ I was not mistaken in the feelings which I know belong to the revered and estimable Catholic priesthood of Ireland. I see a revered prelate here, whom I have the honour to call my friend ; and I think I may say of him, that he would rather lose his venerable head on the scaffold than consent to the Catholic clergy receiving a salary out of the taxes of the country. (The right reverend gentleman, Dr. Browne, nodded assent.) I see that my right reverend friend nods assent ; he would never consent to such a measure. The whole Catholic priesthood are against it ; and, what is more, if they were even for it, the Catholic laity would not allow them to accept of it. (Cheers.)”

It is not my object in quoting these passages to frame a charge against Mr. O’Connell for inconsistency, which, in my judgment, operates very faintly in producing any good practical effect, but I quote his first opinion as being that opinion in which I concur. It would not, however, follow as a necessary consequence that the payment of the Catholic clergy would be the result of a negotiation with Rome, but I am intending to argue that if such a measure were ever to take place, it ought to take place after a negotiation with Rome.

With respect to the abstract propriety and policy of paying the Roman Catholic clergy, I must refer to a pamphlet on ‘ National Property,’ from which I have already quoted. The writer says, after describing the condition of the Roman Catholic clergy,

“ It is impossible that their disaffection should not be propagated among the people. We must recollect that the connexion between the Irish catholic priest and his parishioners is far more

intimate than that which exists between any other body of religious teachers and those committed to their care. The peasant depends on his priest for masses, for absolution, for extreme unction; in short, for a variety of wants which are not the less urgent for being, according to the belief of Protestants, founded on superstition. The priest is dependent on the peasant for the actual means of existence. Nor is the sympathy arising from this mutual dependence weakened by any considerable difference of birth, or early associations. The priest is often the son of a cottier, born in the same station, and reared with the same prejudices as his flock. If the present state of the Catholic clergy in Ireland were productive of no other consequence than its tendency to disseminate disloyalty and hatred of the English connexion, this alone would be more than a sufficient ground for its immediate change.

“But this is not the sole or even the principal ground on which we advocate a provision for the catholic clergy. In legislating for Ireland our first duty is to remove the evils which press on the Irish people; removing those which affect ourselves ought to be a secondary consideration. It has long been suspected that the dependence of the priests on the people has been the principal cause of the misery and crime of Ireland.”

He then quotes extensively from a pamphlet published by the Rev. Mr. Croly, the Roman Catholic priest of Ovens and Aglis, which he states has manifested by the most abundant evidence the truth of the above suspicion. The writer then asks whether any one, Protestant or Catholic, Orangeman or repealer, can contemplate the scene of rapacity, famine, and misery depicted in this extract from Mr. Croly's pamphlet, and then calmly and deliberately affirm that the system which has created it ought to be continued? He then proceeds as follows—

“A system which can turn religion into a poison, and the

priest into an accomplice of the incendiary and the murderer. It may be said, that the picture is exaggerated. In all probability it is so. Mr. Croly's book bears indeed the stamp of perfect sincerity and conviction, but there are few men, however sincere, who, when they have a strange and painful picture to represent, as affording the grounds for measures which they are anxious to promote, can avoid unconsciously heightening its features. But if only one half of what he relates be true, is not that half a sufficient motive for our interference? We are accustomed, and justly, to treat with contempt or indignation the grounds on which the repeal of the union is demanded: but if the imperial government refuses or neglects to inquire into the truth of these statements, or, supposing their truth to have been ascertained, to apply a remedy, that question will assume a very different aspect.

“But the Irish people, it may be answered, do not require a provision for their clergy; the clergy themselves would not accept one. Of course the agitators make no such requisition. *They* ask nothing which would weaken the power which is given to them by the crimes of their countrymen, or diminish the wealth which is extorted from their ignorance and folly. And it is only in the cries of the agitators, Catholic and Protestant, that for many years the voice of Ireland has been heard. To point out clearly the real cause of discontent, and to suggest an effectual remedy, would evidently be to spoil their trade. And to expect them to do this, either designedly, out of disinterested benevolence, or ignorantly, through want of sagacity, would be to attribute to them a very different character from any which they have hitherto manifested. It is possible that the fraud or violence of the real enemies of the country might for a time seduce or intimidate a portion of the priests into the rejection of a national provision; but there can be no doubt that by far the greater part of them would be eager to escape from their present precarious subserviency. Any other supposition imputes to them a mixture of wickedness and self-devotion which is scarcely conceivable. It supposes them willing to remain in insecurity and degradation, for the express purpose of continuing a system, the consequence of which must become more and more frightful every day. It supposes them willing to be martyrs to mischief; to suffer, in order that evil may come of it. Nor do we believe that they would practically have the power to refuse. The taxation which

they now impose has every quality which can render a tax oppressive. It is severe, arbitrary in amount, and irregular as to occurrence."

He then discusses the question of the exaction of dues on the part of the priests, whether in the event of a payment of the Roman Catholic clergy such exaction should be prevented. On this subject he says—

"But, whether the exaction be prohibited or not, we have no doubt that the parishioners will soon refuse to submit to it, if a government provision has left it without a pretext. On this point, as on all other questions, as to the probable conduct and feelings of the Catholics, both lay and clerical, in Ireland, when they shall have been placed in the same situation as they are in the rest of Europe, we refer to the feelings and conduct of the rest of the European Catholics. In every part of Europe, excepting in Ireland, a provision is made for the clergy, sometimes by endowment, but generally out of the public income; and none of the evils to which we have referred exist. The government does not complain of the disaffection of the clergy, nor the people of their exactions.

"Some persons, however, think that to make a public provision for the Roman Catholic church would be morally wrong, because it would encourage a religion which they believe to be tainted by dangerous errors. We have great respect for the conscientious feelings of those who make this objection; but we believe that they do not perceive its consequences. We must remind them that, although extreme cases may be put, such as that of a religious persecutor, in which a man may be morally guilty, though he act conscientiously, yet, as a general rule, it is morally right to follow the dictates of conscience, and morally wrong to oppose them. It follows that, if it be once admitted that it is morally wrong to contribute to the support of the teachers of an erroneous religion, the moral guilt of each individual contributor depends not on the question whether the religion in question be or be not erroneous, but on the *opinion* of the contributor that the religion is erroneous. What right, then, have we to force the Catholics to pay for the support of the Protestant, or the Presbyterians for

the support of the Episcopalian, Church? If *we* should incur moral guilt by making payments for the support of the Catholic Church, not because it is erroneous, for that is not the question, but because we believe it to be erroneous, they are compelled to incur equal guilt in supporting our Church, which *they* believe to be erroneous. Nay, we ourselves incur moral guilt by forcing their consciences. Such a doctrine strikes at the root of all establishments whatever. If we are to act on it, we must, in the first place, withdraw the annual grant from Maynooth, an institution founded, not merely for the maintenance of the existing Irish Catholic Priests, but for providing a perpetual succession of them. We must then put an end to the Roman Catholic establishment in Lower Canada; we must withdraw the *regium donum* from the Presbyterians; we must exempt the Catholics and Protestant dissenters from all contribution towards the support of the Established Church in England as well as in Ireland. In short, throughout the British Empire, we must adopt what has been called 'The voluntary system,' and abandon all provision out of the national property for any religion whatever.

“ But the expense of a provision for the Catholic clergy will be complained of; and, in order to diminish it, it has been proposed to employ, in its aid, the surplus, whatever it may turn out to be, of the endowment now enjoyed by the Protestant Establishment. We will confess that formerly we were in favour of this plan, but subsequent events, and subsequent reflection, have changed our opinion. The violence of party, and the consequently low standard of public morality in Ireland are such, that every concession is, as a matter of course, attributed, in the first instance, to intimidation. The direct transfer of a portion of the revenue now belonging to one church, to support another, would not be treated as a mere measure of public policy, as merely the most convenient mode of effecting a desirable object, but as the triumph of one party, and the defeat of the other. As neither party would attribute it to justice, a word which does not seem to be understood in Ireland, it would excite among the Protestants a mixture of anger and terror; and among the Catholics, contempt and exultation, rather than gratitude, or even esteem. It might be considered as the beginning of the complete restoration to the Catholics of the whole Protestant endowment; and in the present state of society in Ireland, it is to be feared that means

might be taken to accelerate that restoration, by forcibly diminishing the number of Protestants. If every parish in Ireland in which the number of Protestants shall fall below one fourth of the whole population, were thereupon, on the death of the existing incumbent, to be given over to the Catholic church, we do not say that it would be setting a price on the heads of the Protestants, but we are sure that it would endanger their comfort and their property: and without inquiring more narrowly into the means that would be adopted, we are sure that the number of parishes so circumstanced would rapidly increase. And if this objection could be got over, a considerable time must elapse, unless even worse means than those to which we have alluded should be resorted to, before any large surplus can be available, even if a large surplus exists.

“But after all, would the expense be large, when compared with the object to be effected? The expense would be about 600,000*l.* a year, a sum not exceeding half the amount of the taxation which, under the late ministry, was every year remitted. The object is, the reconciliation of Ireland and England, and the spiritual and temporal welfare of six or seven millions of persons. The mere saving in the subsequent expense of governing Ireland, would be more than double the proposed expenditure. Troops are more expensive than priests. It must be added, that we are not proposing a new expenditure, an expenditure which is to divert the resources of the country from productive to what have been called, unproductive, purposes, as is the case when an increase is made in the army or navy, or in any other of our public establishments. The Catholic priests exist, and are paid. We propose that their payment should be borne by the whole nation, which would scarcely feel it, instead of falling exclusively on a portion, and that the very poorest portion, of the community, whom it demoralises and crushes.

“But we may be asked, would you then make a public provision for the Dissenters? It is not necessary to say whether we would or would not. The two cases stand on grounds perfectly distinct. The Dissenters either never had an endowment, or had one from which they have voluntarily seceded. The Irish Catholic Church had once an ample endowment, which has been taken from it, under circumstances which could not have occurred if the governments of England and Ireland had been separate. Every one

must perceive the difference between an act of liberality and an act of justice; between a gift and a restitution. But, waiving the question of right, we are content to rest the propriety of a provision for the Irish Catholic Church on the simple ground of its utility; as a remedy for a great and growing evil; as a remedy for a state of society of which the immediate effects are most mischievous, and the inevitable consequences destructive. Let it be shown that evils or dangers, equal, or even approaching to these, arise from the absence of a provision for the Dissenters, and we will advocate one, whatever be the sacrifice.

“It is possible, however, that we may be told that this measure, however right in itself, ought to be opposed, because it will be made the foundation of ulterior demands. Of all political sophisms this is the worst. It is the tyrant’s plea in its naked deformity. If such an argument were admissible, no abuse could ever be removed, or ever mitigated; for no concession can ever be made without giving rise to a hope of something more. On this ground Austria is justified in refusing any amelioration to Italy, or even Turkey to her Christian subjects. The continuance of every oppression is justifiable if mere fears of further claims are a justification. The only wise, the only moral conduct in an individual or in a government, is to do *all* that is right, and to resist *all* that is wrong.

“We have not the least hope that the Catholics, with their existent ignorance and exasperation, will be *immediately* satisfied by the measure which we propose. We do not believe that, in the present state of their opinions and passions, they would be satisfied by anything short of the full establishment of Catholic ascendancy, as a most grinding and vindictive system of tyranny. We propose to give to them not all that they ask, but all that they are entitled to; and we believe that, in time, they will acquiesce in an arrangement, which will have been made neither grudgingly nor timidly, but on intelligible principles of equity and utility. When these principles are the motives to a concession, they are also its limits, and are felt to be so. But the concessions to intimidation have no assignable limit except the absolute exhaustion of their subject-matter. This was the reason why all the Duke of Wellington’s concessions to the Catholics were utterly fruitless for the purposes for which they were intended. He has always practically given

them to understand that they are to hope *nothing* from his *justice*, but *every thing* from his *fear*. To such a statesman it might be said respecting Mr. O'Connell, as was said to the Athenians respecting Philip, 'If this one should die, your policy will soon raise another in his place.' "

R. WILMOT HORTON.

GENERAL APPENDIX.

APPENDIX A.

Being the Dedication to a Correspondence in Italian and English between the Rev. Dr. Baines and Sir R. W. Horton, published by Murray, 1829.

THIS "Correspondence" is respectfully dedicated to the Members of the House of Lords and of the House of Commons, under the conviction that it will be found to contain matter of no common interest, and in the confidence that, whatever violence may have been demonstrated by any parties in the Empire, who are placed in the attitude of mutual opposition upon the Roman Catholic Question, that vital subject will be considered in a temperate and conciliatory spirit within the walls of Parliament.

These Letters sufficiently explain themselves to make it unnecessary to accompany them with much commentary. They have been translated into Italian and published at Rome; a circumstance which must furnish a conclusive answer to any persons who might be disposed to assert that the Letters of Dr. Baines furnished no proof that his sentiments had been promulgated with the cognizance of the Papal See. It is notorious that all publications at Rome are subject to supervision, and that none, involving political or religious subjects, can take place without the knowledge of the Secretary of State, whose sanction, therefore is necessarily implied, whenever the opinions of the Papal See are made the subject of discussion. I am well aware that the high character which Dr. Baines has long enjoyed for distinguished abilities, combined with Christian moderation of feeling, would, in itself, have afforded a most satisfactory guarantee of the authority of his assertions; but the fact of the actual pub-

lication of these Letters at Rome confirms that guarantee beyond the reach of doubt.

I am willing to hope that these Letters will convince the mind of every unprejudiced person how easy it would be, *were but the slightest encouragement given by those in authority*, to settle the Roman Catholic Question upon principles which could not fail to satisfy the reasonable expectations of both parties, by combining Roman Catholic freedom with Protestant security. Can anything be more satisfactory than the distinction drawn by Dr. Baines between the temporal rights of the Sovereign and the spiritual jurisdiction of the Pope? Can anything be more satisfactory to those persons who are not satisfied with the solid and substantial security which the cessation of religious differences *is certain to give*, than the assurance that the Pope would be the last man in Europe to offer objections to any specific security which, without interfering with the Roman Catholic religion, was calculated "to secure to the Established Church the undisturbed possession of its rights and revenues?" If it be found practicable to continue to the Protestant the exclusive right of legislation respecting those rights and revenues, in what quarter can danger be supposed to exist?

The impossibility, as it appeared to me, of any valid answer being given to that question, induced me to suggest the protective security to which Dr. Baines refers in his second Letter. The principle of that security was, *a prohibition to Roman Catholics to legislate for the Protestant Church*; and to that principle Dr. Baines says "NO CATHOLIC COULD OBJECT, AS INCOMPATIBLE WITH HIS RELIGION."

The opposers of Catholic Emancipation, in the two Houses of Parliament, have, for many years, with remarkable unanimity, rested their resistance upon their apprehension of the consequences of legislation on the part of the Roman Catholic for the Protestant Church. It is now in proof that the highest Roman Catholic authority offers no protest against the enactment of a prohibition of such legislation. On the contrary, it is in proof that Rome is the last quarter in Europe from whence such a protest may be expected to proceed. To entertain apprehensions of the See of Rome, after such an admission, is, in my judgment, merely to say that six millions of our Roman Catholic fellow-

subjects shall be eternally excluded from their civil rights, whether the Protestant Church be endangered or not. If it be necessary to exact this prohibition, or any other special security, equally unobjectionable to the Roman Catholics, for the protection of the Protestant Church, simultaneously with measures for the removal of their disabilities, let such protective security be carried into effect by Parliament, without appeal and without negotiation with any party. When such protective security shall have been enacted, if regulations with respect to the practical exercise of the Roman Catholic religion within the realm (most improperly and inaccurately termed securities, and which, be it observed, were never adopted by Protestant states for the special object of protecting Protestant interests) be still wanted,—a subject which involves considerations of the most serious nature,—let such regulations be obtained, as other Protestant nations have obtained them, from Rome itself; at least, let them be obtained in conjunction with Rome as a friendly power, and not imposed upon the Roman Catholics by the force of Parliament, while Rome, to which they owe spiritual obedience, is compelled, under the pernicious effect of our present laws, to continue in the character of a proscribed enemy.

If, then, a prohibition of legislating for the Protestant Church cannot be reclaimed against by the Roman Catholic as a Catholic, can it be reclaimed against as too great an encroachment on the sum of his civil rights? This is a question for Parliament to decide,—as well as the general constitutionality and practicability of such an enactment: but, happily, the decision does not involve any considerations of a religious or theological character; and the question is thereby relieved from what has always been found to constitute its peculiar embarrassment. If it can be shown that such a prohibition is strictly in keeping with the Constitution of 1688, and with the principles which called the House of Brunswick to the throne, however superfluous it may be as a security, it cannot be considered as evasive in its restrictive character. The Constitution, as established in 1688, may or may not have been in the abstract a wise arrangement; but it is that under which we live, and which cannot be changed without the process of another Revolution. But, above all, this prohibition of legislation for the Protestant Church

presents, as it appears to me, the means of not only satisfying, but obliterating, any lingering scruples which might exist in the breasts of the Princes of the House of Brunswick, founded upon *their construction* of the conditions upon which their family were called to the throne of England. Their objections have always rested upon this particular point, of Catholic legislation for Protestant interests.

I have been reproached by some supporters of the Catholic Question in the House of Commons, for having endeavoured to facilitate the settlement of that question by the suggestion of any security. I trust that I shall be able to show, whenever a suitable opportunity occurs, that I am not justly obnoxious to such a reproach. Considering the opinions of the constituent body generally upon this subject,—considering the expressed opinions of those present Members of the House of Commons, and of the house of Lords, who are opposed to the question,—considering the expressed opinions of the present Lord Chancellor,—of the Bishops, the only Parliamentary Representatives of the Protestant Church,—and of the Clergy generally,—not to advert to opinions presumed to exist in other and higher quarters,—I have not been able to bring myself to concur with these enemies to all securities, who reproach me for having dealt in them, and who maintain that a final and conciliatory adjustment of this question can be effected at an early period, without any security whatever. Consequently, I have felt myself justified in suggesting a security, as I have stated in my letter to Dr. Baines, “not trenching, in any respect, upon the faith of a Roman Catholic, nor in any inconvenient degree upon the full sum of his civil rights; while at the same time it was calculated specifically to obviate the main apprehension entertained by Protestants, as to the possible result of the removal of Roman Catholic disabilities.” But this suggestion has not been made for my own satisfaction; because I consider that the Constitution furnishes many other conclusive safeguards for the stability of the Protestant Establishment; and, above all, that the true and best security is to be found in the discontinuance of religious disabilities, and the consequent cessation of religious differences.

If, then, no security be required; or (if security must be had), should any other be pointed out, more simple and more satis-

factory, let this security suggested by me be at once and for ever set aside; but let it not be discarded, as has been attempted, with a sneer, and without consideration, because it does not proceed from authority, but merely from an individual, who, *RE-LYING ON THE PROTECTION OF PUBLIC OPINION*, has dared to think and act for himself upon the Roman Catholic Question.

I trust that, through the medium of temperate discussion in Parliament, this subject will be better understood by the English public. That understanding is all that is wanting to bring this question to a settlement, the delay of which has been eloquently described by Dr. Baines, as constituting "the wonder of all Europe, and the reproach of England." If the letter of the Duke of Wellington to Dr. Curtis is merely intended to imply that an abandonment of extreme opinions on both sides is necessary to a settlement of the question, I can only express my entire concurrence in such a sentiment, as I have always maintained opinions strictly similar. I have thought, in common with others of no mean authority, that nothing was wanting to produce union, even among men of extreme opinions, but judicious interference from some quarter or other; that it was a case for mediation; that the pride, prejudices, and passions which had been awakened in both parties, had left no neutral ground where negociation could satisfactorily be carried on between them. I have thought, and still think, that, if those elements of repulsion and separation, which so unfortunately operate on these parties, could for a short time be held in abeyance, all sensible men on either side, who were not *too much committed*, would unite for the purpose of effecting a satisfactory settlement; and the King's Government (no matter of whom consisting) would be compelled, by the force of public opinion, either to assist in rendering this tardy sacrifice to justice and expediency, or to retire, and leave to others the execution of this indispensable act of public duty.

APPENDIX B.

Extracts illustrative of the use of the words "SUBVERSION" and "CHURCH ESTABLISHMENT;" for the compilation of which, in 1829, I was indebted to a very able friend of mine.

SUBVERSION.

(Definitions in Todd's edition of Johnson's Dictionary.)

Subversion, n. s.—[subversion, Fr., subversus, Lat.]—Overthrow; ruin; destruction.

These seek *subversion* of thy harmless life.—(*Shak. Hen. VI.*)

It is far more honourable to suffer, than to prosper in their ruin and *subversion*.—(*King Charles.*)

These things refer to the opening and shutting the abyss, with the dissolution or *subversion* of the earth.—(*Burnet.*)

Laws have been often abused, to the oppression and the *subversion* of that order they were intended to preserve.—(*Rogers.*)

To subvert, v. a.—[subvertir, Fr., subverto, Lat.] :—

1. To overthrow; to overturn; to destroy; to turn upside down.

God, by things deem'd weak,

Subverts the worldly strong and worldly wise.—(*Milton.*)

No proposition can be received for divine revelation, if contrary to our clear intuitive knowledge; because this would *subvert* the principles of all knowledge.—(*Locke.*)

Trees are *subverted* or broken by high winds.—(*Mortimer.*)

2. To corrupt; to confound.

Strive not about words to no purpose, but to the *subverting* of the hearers.—(*2 Tim. ii. 14.*)

Subverter, *n.s.* (from *subvert.*)—Overthrower ; destroyer.

O traitor! worse than Sinon was to Troy ;

O vile *subverter* of the Gallic reign,

More false than Gano was to Charlemagne.—(*Dryden.*)

They anathematize them as enemies to God and *subverters* of souls.—(*Waterland.*)

The Convention Parliament in 1688 resolved—“That King James the Second having *endeavoured to subvert the constitution* of the kingdom, by breaking the original contract between king and people, and by the advice of Jesuits and other wicked persons, having violated the fundamental laws, and having withdrawn himself out of the kingdom, has abdicated the government ; and that the throne is thereby vacant.”

The Scottish Convention resolved—“That James VII. being a professed Papist, had assumed the royal power and acted as king without ever taking the oath required by law ; and had, by the advice of evil and wicked counsellors, invaded the fundamental constitution of the kingdom, and altered it from a legal limited monarchy to an arbitrary despotic power ; and had exerted the same *to the subversion of the Protestant religion*, and the violation of the laws and liberties of the kingdom ; whereby he had forfeited [forfeited] his right to the crown, and the throne had become vacant.”

Blackstone, in commenting on the resolution of the English Convention (vol. i. c. 3), says—“In particular, it is worthy observation, that the Convention, in this their judgment, avoided with great wisdom the wild extremes into which the visionary theories of some zealous republicans would have led them. They held that this misconduct of King James amounted to *an endeavour to subvert the constitution, and not to an actual subversion, or total dissolution of the government*, according to the principles of Mr. Locke, *which would have reduced the society almost to a state of nature*—would have levelled all distinctions of honour, rank, offices, and property—would have annulled the sovereign power, and in consequence repealed all positive laws, and would have left the people at liberty to have erected a new system of state upon a new foundation of polity.”

Locke, in the argument to which *Blackstone* here alludes

(*Essay on Government*, part 2, c. 19), uses throughout the terms *dissolve* and *dissolution*, which Blackstone takes as synonymous with *subvert* and *subversion*. He uses “*subvert*” and “*overturn*” in the following manner—“Whoever introduces new laws, not being thereunto authorized by the fundamental appointment of the society, or *subverts* the old, disowns and *overturns* the power by which they were made, and so sets up a new legislative.” He also uses the term “*overturn*” in translating a quotation from Barclay, to prove the lawfulness of resistance in certain cases: “The first is—*If he endeavour to overturn the government, that is, if he have a purpose and design to ruin the kingdom and commonwealth; as it is recorded of Nero, that he resolved to cut off the senate and people of Rome, lay the city waste with fire and sword, and then remove to some other place.*” The original of this quotation is, “*Horum unus est, si regnum disperdat, quemadmodum de Nerone fertur, quod is [&c. &c.] decrevisset.*”

Blackstone again employs the term “*subvert*,” in B. i. c. 7, in speaking of the remedies of impeachment provided by the Constitution for ordinary cases of public oppression; and of the maxim that the king can do no wrong. “For as to such public oppressions as *tend to dissolve the constitution, and subvert the fundamentals of government*, they are cases which the law will not out of decency suppose,” &c.

The following quotations are from Hallam's Constitutional History of England:—

[Vol. i. p. .]—“But the main cause of the reverence with which our fathers cherished this king's (Henry VIII.) memory, was the share he had taken in the Reformation. They saw in him, not indeed the proselyte of their faith, but the *subverter of their enemies' power*,” &c. &c.

[Vol. i. pp. 607, 8; reasoning against the conduct of the Long Parliament in taking up arms, and thereby “*exposing the liberties for which they professedly were contending to a far greater risk than they could have incurred even from a peace with an insidious court*,” Mr. H. asks, what would have been the consequence if the king had defeated the parliament army at Edgehill?—“Would the Triennial Act itself, or those other statutes

“ which he had very reluctantly conceded, have stood secure? or, “ if we believe that the constitutional supporters of his throne, “ the Hertfords, the Falklands, the Southamptons, the Spencers, “ would still have had sufficient influence to shield from the “ violent hands that palladium which they had assisted to place in “ the building, can there be a stronger argument against the “ necessity of taking up arms for the defence of liberties which, “ even in the contingency of defeat, could not have been *sub-* “ *verted?* ”

[Vol. ii. p. 181, speaking of “ Bishop Usher’s Model ” of Church Government, which proposed the appointment of a suffragan bishop for each rural deanery, holding a monthly synod of the presbyters within his district; and secondly, an annual diocesan synod of suffragans and representatives of the presbyters, under the presidency of the bishop, and deciding on all matters before them by plurality of suffrages.]—“ But, though such a “ system was inconsistent with that purity which the rigid Presby- “ terians maintained to be indispensable, and those who espoused “ it are reckoned in a theological division among Episcopalians, it “ was, in the eyes of equally rigid churchmen, little better than a “ disguised presbytery, and a *real subversion of the Anglican* “ *hierarchy.* ”

CHURCH ESTABLISHMENT.

[Todd’s Dictionary.]

Establishment, n.s.—[from establish; etablissement, Fr.] :—

1. Settlement; fixed state.

All happy peace, and goodly government,

Is settled there in sure *establishment*.—(*Spenser, F. E.*)

2. Confirmation of something already done; ratification.

[A quotation from Bacon is here given.]

3. Settled regulation; form; model of a government or family.

Now come into that general reformation, and bring in that *establishment* by which all men should be contained in duty.—(*Spenser on Ireland.*)

4. Foundation ; fundamental principle ; settled law.

The sacred order to which you belong, and even the *establishment* on which it subsists, have often been struck at, but in vain.—(*Atterbury.*)

5. Allowance ; income ; salary.

His Excellency, who had the sole disposal of the emperour's revenue, might gradually lessen your *establishment*.—*Swift.*

6. Settled or final rest.

Hallam's Constitutional History of England :—

[Vol. ii. p. 178.]—" Charles, in his declaration from Breda, " promised to grant liberty of conscience, so that no man should be " disqualified or called in question for differences of opinion in " matters of religion, which do not disturb the peace of the king- " dom, and to consent to such Act of Parliament as should be " offered him for confirming that indulgence : *but he was silent " as to the Church Establishment ;* and the Presbyterian Ministers " who went over to present the congratulations of their body, met " with civil language, but no sort of encouragement to expect any " personal compliance on the king's part with their mode of " worship.

[Vol. ii. p. 726.]—" An ecclesiastical Establishment, that is, " the endowment and privileges of a particular religious society, " can have no advantages, relatively, at least, to the community, " where it exists, but its tendency to promote in that community " good order and virtue, religious knowledge and edification."

From the Author

SECOND EDITION.

EXPOSITION AND DEFENCE

OF

EARL BATHURST'S ADMINISTRATION

OF THE

AFFAIRS OF CANADA:

TO WHICH IS ADDED,

“THOUGHTS ON THE PRESENT CRISIS OF THE CANADAS,
AND ON THE POLICY OF A LEGISLATIVE UNION
BETWEEN THE TWO COLONIES.”

BY THE RIGHT HONOURABLE

SIR ROBERT WILMOT HORTON, BART., G. C. H.

LONDON :

JOHN MURRAY, ALBEMARLE-STREET.

MDCCCXXXIX.

EXPOSITION AND DEFENCE

SECOND EDITION

Thoughts upon the present Crisis of the Colonies
When the first Pamphlet was published, Lord Durham was in the Colonies, armed with full powers to settle the constitutional question. Under such circumstances I thought it would be equally premature and objectionable to hazard any special opinions upon the crisis, and that on the contrary it would be expedient to limit myself to the Exposition and Defence of Earl Bathurst's Administration, especially in 1825, but now circumstances are entirely changed, Lord Durham has returned to England, and resigned his trust, and the constitutional question remains as unsettled as ever. On the 21st of October, the following Article appeared in the 'Montreal Gazette':

"We have this day published an article from the 'Brighton Gazette' upon the subject of a pamphlet recently published in England by the Right Honourable Sir Robert Wilton Horton, late Under Secretary of State for the Colonial Department, in

P R E F A C E

TO THE

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WHEN the first Edition of this Pamphlet was published, Lord Durham was in the Canadas, armed with full powers to settle the constitutional question. Under such circumstances I thought it would be equally premature and objectionable to hazard any special opinions upon the crisis, and that on the contrary it would be expedient to limit myself to the Exposition and Defence of Earl Bathurst's Administration, especially in 1822. But now circumstances are entirely changed, Lord Durham has returned to England, and resigned his trust, and the constitutional question remains as unsettled as ever. On the 9th of October, the following Article appeared in the 'Montreal Gazette.'

"We have this day published an article from the 'Brighton Gazette,' upon the subject of a pamphlet recently published in England by the Right Honourable Sir Robert Wilmot Horton, late Under Secretary of State for the Colonial Department, in

'Defence of the Earl of Bathurst's Administration of the Affairs of Canada.' The only part of this pamphlet alluded to in the article in question, regards the measure of a legislative union of Upper and Lower Canada, which Sir Robert Wilmot Horton introduced into Parliament in 1822, with the view of terminating the intercolonial differences which, at that time arose between the two Provinces, and, by an identification of their interests, to render their inhabitants, as they ought always to have been, one and the same people. But, so far, the article is to us, at least, extremely satisfactory. To us, who, ever since 1822, have uniformly advocated the necessity of this measure, as the only means of adjusting the difficulties of both Provinces, and of perpetuating their connexion with the Mother Country, nothing could have been more gratifying than thus again to find Sir Robert Wilmot Horton at his old post, in respect to the proposed Union, and persisting in its policy, notwithstanding the opposition which it has experienced from prejudiced and ill-informed men. Nothing can be more honourable to the consistency, patriotism, and political wisdom and sagacity of Sir Robert Wilmot Horton, than a recurrence, on the present occasion, to the important question; especially at a time when efforts are made in high quarters to bring the policy of the Union into disrepute, and to substitute in its place a measure as crude anti-British, as it would inevitably lead to the most deplorable state of anarchy in which these Provinces and the Empire at large could possibly be involved. The opinions of an experienced statesman, like Sir Robert Wilmot Horton, ought not to be disregarded in a question of such infinite interest and importance as the Legislative Union of Upper and Lower Canada. That Right Honourable Gentleman has had much experience in colonial affairs; and, at the period at which he introduced the subject into Parliament, it is now well known, that not only did the imperial Government approve of it; but the opposition of the day, headed by Sir James Mackintosh, the first political apostle of the Canadians in the House of Commons, gave their assent to the general policy of the measure. Such being the case, in an anticipation of the evil consequences which must arise from the division of colonies which ought never to have been separated, and whose interests and prospects were identical, what ought to be our reflections

now, seeing that all parties are agreed that we cannot revert to the old system of things, and that some measures of a fundamental nature must be adopted, in order to secure the dependency of these Provinces upon the Mother Country. What, but that Upper and Lower Canada ought to be legislatively united? What, but that it is morally, physically, and politically impossible, to devise any other means by which to enforce sound principles of constitutional government into the popular counsels of Lower Canada; and that, by this means alone, Upper Canada can be saved from the disgrace and imposition of being practically and in effect legislated for and governed in all matters connected with her intercourse with the ocean, the highway to the Mother Country, by a Sister Province, admitted on all hands to be devoid of such authority. O! but say the democrats—for we can call them nothing else—we have another and a better plan in view, by which all difficulties can easily be obviated, and that is a Federal or General Union of all the British North American Provinces. This, however, is a plan to which we can never be persuaded to give our consent, either in principle or by any practical modification whatever. But we have discussed the subject so frequently, that it is totally unnecessary to reiterate any of our arguments; especially as they have never yet been attempted to be refuted, and as, with scarcely any exception, the whole of the periodical press, both at home and in the Colonies, has declared itself diametrically adverse to so incongruous and unconstitutional a scheme. At the Public Meeting held here on the 1st instant, the comparative merits of both Unions, as our readers know, were placed in the balance; and, as we had anticipated, the Federal scheme, if scheme it can be called which had neither ‘form nor pressure,’ was completely and entirely found wanting. There was not a member of the meeting who had one word to say in its favour. But even if the case were otherwise, the eloquent and argumentative speeches of the Hon. Mr. Moffatt, and Mr. Day, Queen’s Counsel, were sufficient to put the question to rest for ever. We regret that the arguments of the latter were not fully reported, for they were perfectly irrefragable on every point. All that had been stated on behalf of the views of his excellency the Earl of Durham, regarding this question, by our learned and ingenious friend Mr. Thom, were completely over-

borne by the reasoning of Mr. Day. But how could it be otherwise? The latter gentleman argued from the analogy and experience of the British Constitution; while the former was under the necessity of confining himself to a plan which had not been completely developed, and which was attended by the great and formidable disadvantage of never having been recognized as forming any part of British government, either Metropolitan or Colonial. Thus it is always with new theories and plans of government. Their authors, like the quacks and empirics of another science, imagine that there is a remedy for every disorder, but that their own nostrums are the only safe and effectual cure. Most certain we are, however, that a Federal or General Union of the North American Provinces would never effect the pacification of Lower Canada, nor place it in such a condition of social and political rectitude as would ensure the ultimate and permanent happiness of the inhabitants. Nature, reason, and experience, the three great pillars of our unparalleled constitution of government, are totally adverse to every idea of such a scheme; and its advocates and projectors, however sincere in the integrity of their purpose, and eloquent and ingenious in the expression of their views, may be assured that the plain common sense of the country will be sufficient, without any other aid, to set all their schemes at naught. To what hand then, can we turn for relief, but to the Legislative Union of Upper and Lower Canada, which has received the countenance and support of so many thousands of our fellow subjects on both sides of the Atlantic, and which has this great fundamental argument in its favour, that if carried into effect, it would accomplish the rectification of one of the greatest political errors that was ever committed in the supreme councils of the empire. But it has been objected to the Legislative Union for which we contend, that the majority of the members of the United Legislature and their constituents would be disloyal, and that, consequently, every effort would be made to separate the Colony from the Parent State. We do not believe this—quite the contrary. But, granting it to be the case, when, we would ask, has the constitution of any country been established on an arithmetical problem like this? Never. These are not the views by which enlightened statesmen and legislators are generally actuated, in establishing or modify-

ing any constitution of government, and if they were, it would be impossible ever to arrive at any sort of conclusion, except by counting heads. Nothing could be more unwise and unphilosophical. It is not the number of those who may be for you or against you, that ought to be antecedently considered, but the necessity and general compatibility of your laws with the prevailing difficulties of the times, and the leading and prospective features of the manners and habits of the people. However, it is perfectly plain and clear to us, that no measure is so well calculated to bring about a final adjustment of the difficulties of these unhappy Provinces, as a Legislative Union of Upper and Lower Canada; and, entertaining such an opinion, we sincerely rejoice that the subject has been taken up by so able and consistent an advocate of it as Sir Robert Wilmot Horton. We hope that he may be enabled to prosecute the subject, and place it in such a point of view, as will induce both Government and the country at large seriously to reflect upon it. The time has arrived, when some final and comprehensive measures must be adopted for bringing the difficulties of these Provinces to a close; and, to our view, it is obvious that no better plan can be devised than the Union which we have so long and so often discussed and supported. It is, we repeat, the only remedy for the evils by which we are surrounded; and if once fairly set about by the Imperial Parliament, we have no doubt whatever, but the difficulties which, at first sight, may be supposed to present themselves, would soon disappear in proportion to the progress that might be made in an inquiry into its policy and necessity. In the hope, therefore, that the subject will soon be brought before Parliament, we shall embrace an early opportunity to resume our historical sketch of the efforts which have been made to bring about so desirable a measure as a Legislative Union of Upper and Lower Canada."

This Article was prefaced by certain Resolutions which were moved on the 1st of October. On that day, when a meeting was held in Montreal, in reference to the expected retirement of Lord Durham, it was moved by the Hon. G. Moffatt:—

“ That this Meeting respectfully submits to his Excellency its settled conviction that, in the consideration of a comprehensive measure for the future government of the Provinces, the Legislative Union of the Canadas, and the establishment of an efficient Legislature therein, afford the only means of accomplishing their pacification and of perpetuating their connection with the Empire, and that any general confederation of the British North American Colonies would, in the opinion of this meeting, not only be inadequate for the attainment of these important ends, but multiplying the present subjects of discord. ”

No report is made in the ‘ Montreal Morning Courier ’ of the speech of Mr. Moffatt, but a partial report of the observations made by Mr. Day in support of that resolution.

“ Mr. C. Day commenced by stating, that the question of the union of the Canadas had been placed by its opponents in a false position, and that its advocates did not claim for it the character of perfection, but only as the best remedy for our evils that had yet been suggested. If a better does exist, where or what is it? He then exposed in a masterly manner the ridiculous absurdity of attempting, as had been done by one of the speakers, to settle a question like the present on abstract principles of arithmetic—a question which, more than any others, involved those innumerable influences which with unvarying constancy operate on human nature. In illustration he instanced the position of the exclusive French majority which had so unscrupulously lorded it over the British minority; they were bound together by the tie of nationality as well as party spirit. In the case of a union of the Canadas, the adverse majority, taking the worst possible view of the matter, would be composed partly of French and partly of natives of the British Isles, and would thus be deprived of one of the elements of permanency or cohesion, viz.: the strongest of all bonds—nationality. A majority so composed could not, on the ordinary principles of human nature, pursue any particular object with the same intensity, or to the same extent, as the French majority had done; cemented together as it was

by the ties, strong as 'triple brass,' of blood, language, habits, education, and party spirit. It was worthy of remark, that the arithmetical argument against the union was the only one that had been brought forward with any degree of plausibility. The question between those in favour of a union of the Canadas, and the advocates of the newly-broached opinions about a confederation of the British North American Provinces, may be viewed as one of degree. What in reality is the scheme of the latter? Mr. Thom has informed us that, if we were to refer to his Excellency the Earl of Durham himself for an explanation of his views, he would reply by asking, what were ours? But if we are to go to the current rumours on this subject, we find that we should still be cursed with the same local Legislature, the self-same French majority, and we should be represented by the same materials in the general Legislature. The subjects that would come under the local Legislature would be of the very kind that would affect us most, and come nearest our personal feelings and interests. From every view he had been able to take the unavoidable inference was, that this contemplated confederation would not relieve us from the evils we now suffered. It was, moreover, a useless piece of machinery; and that the Imperial Parliament was one confederated Legislature; and there was one more consideration which he could not urge with too much solemnity, that the confederation could not exist for ten years without a separation from the Parent State taking place."

This Resolution was opposed by Mr. Hart and Mr. Torrance on the grounds:—

"That as the third resolution contained considerations of a nature foreign to the object of the Meeting, as called for by advertisement, it be not put to the vote.

"Mr. Moffatt defended the propriety of passing a resolution of the kind, and stated that it was a matter of public notoriety that such would be proposed. Mr. Thom's letter had given it circulation, and at the preliminary Meeting it had been formally discussed.

"John Molson and John Fisher, Esqrs., followed, and contended that the union of the Canadas should be pressed upon his

Excellency's notice in the most public and solemn manner possible; and that no fitter occasion than the present was likely to occur soon again.

“As there appeared to be more than two gentlemen in favour of the amendment, Mr. Moffatt insisted upon a division taking place, when upon a careful scrutiny there appeared to be not more than ten of the whole assemblage that supported it. The original motion was then put and carried triumphantly.”

The Address agreed upon by the inhabitants of Toronto to Lord Durham, apparently points out the measure of union as one of indispensable importance. It finishes by saying, “We trust your Excellency, “undeterred by opposition or misrepresentation on “the part of those who are unacquainted with the “true interests of the country, would proceed to the “accomplishment of the great object of your mission, “the tranquillization of British North America, and “the advancement of her general prosperity.” How that tranquillization was to be effected, and how the advancement of her general prosperity was to be promoted are most clearly pointed out in the Resolutions and Speeches already quoted.

That the English Public should receive with entire apathy the speculations of the British Cabinet in 1822 is not to be wondered at, *but when those speculations coincide with the opinion of some of the best informed persons in the Canadas*, the subject becomes clothed with an importance which otherwise it could not assume, and deserves the closest attention of the British Public. Whatever may be the varied fortune of a petty warfare, nothing can be

more clear than that something must be done of a general and constitutional nature, and I cannot better express my own sentiments than by quoting the words of Mr. Day. "The question of the union of the Canadas," says Mr. Day, "has been placed by its opponents in a false position. Its advocates do not claim for it the character of perfection, but only as the best remedy for the evils of the Canadas that has as yet been suggested." He then puts this important Query, "If a better remedy does exist, where or what is it?"

The first edition of this Pamphlet, which is herewith reprinted, contains all that can be said upon the details of the Union question; and I will merely add my decided opinion, that even should the measure of a general federal union take place, it ought to be postponed until *after* a union has been effected between the provinces of Upper and Lower Canada. With respect to the merits of the Lower Canadians, I most unreservedly adopt the opinions of Sam Slick, who says in his "Bubbles of Canada," "I have shown you that the policy of every Government, whether Tory or Whig, has been conciliatory, (a fatal policy I admit, and one that naturally admits and invites demand,) and that every reasonable change required (with many very unreasonable ones) has been conceded to them; that they are a people exempt from taxes, in possession of their own laws, language, and religion, and of every blessing civil, political, and religious." I concur

in his opinion, " That everything has been done,
 " and everything conceded to conciliate them that
 " ingenuity could devise, or unbounded liberality
 " grant ; and no sacrifice has been considered too
 " great to purchase, short of yielding up the Colony
 " to their entire control ; and for all this forbear-
 " ance and liberality they (that is the Government)
 " have been met with *ingratitude, abuse, and*
 " *rebellion.*"

I consequently come to this important conclusion,
 that a just and well-devised Legislative Union is the
 most efficient remedy for the present crisis.

EXPOSITION,

&c.

FROM the report of the debates which took place in the House of Commons on the 6th and 7th of March, 1838, as recorded in the Mirror of Parliament, it appears that very severe reflections were made upon the colonial administration of the affairs of Canada for some years prior to the formation of the Select Committee of 1828; while, on the other hand, no explanation or defence were offered from any quarter upon any of the points impugned in that discussion, nor was *any* allusion made to certain substantive measures of improvement which were brought forward during the colonial administration of Lord Bathurst. Having held the situation of Under-Secretary of State for the Colonial Department for six years prior to the year 1828, I feel myself called upon to vindicate the acts complained of, and to point out those measures of improvement, founded upon the soundest views of policy, which were brought forward under the administration of Lord Bathurst.

I was examined by the Canada Committee in 1828, being myself a member of that Committee.

My examination will be found in Appendix B. Sixty-four Queries were put to me : my answers to those Queries (which, for the sake of convenience, I have numbered from 1 to 64) will be found to explain the various points which occupied the attention of that Committee. The points of complaint which were more specially noticed in the debates of March ult. were,

1st. "The taking of money belonging to the Colony by the Governor of Canada without the consent of the local legislature ; and, 2dly, the dismissal of certain militia officers by Lord Dalhousie upon a certain occasion." Upon the subject of the first complaint, one Query, and one only, was put to me ; vide Query 29. As the point is argued in the following pages, I shall not enter upon it in this place. With respect to the dismissal of the militia officers, which was characterized in the debate as an "unconstitutional act," one Query only was put to me,—vide Query 63, Appendix B. In my answer I explained the grounds upon which Lord Bathurst decided to sanction the act. He was informed by Lord Dalhousie, "That his Majesty's Attorney General in the Province of Lower Canada had given an opinion that the old ordinances of 1787 or 1789 had revived, and certain militia officers having impeached Lord Dalhousie's consequent judgment upon the occasion, founded, as it was, upon the opinion of the Attorney General, not only

“ refused to attend the summer musters, but other-
 “ wise exhibited a spirit of disobedience to orders ;
 “ in consequence of which Lord Dalhousie dismissed
 “ those persons the circumstances of whose conduct
 “ and situation made such an example (in Lord
 “ Dalhousie’s opinion) *necessary*.” Lord Bathurst
 had, on these grounds, sanctioned the dismissal of
 those officers. I cannot consider the act of the
 governor, as confirmed by the Secretary of State, as
 being an “ unconstitutional act ;” but, in any degree
 to attribute the late disturbances in Canada to this
 act of dismissal, is, in my judgment, to take a
 highly warped and prejudiced view of the case,
 diverting public attention from those main causes
 which have led to the late crisis in Canada, and
 which it must be the object of Government and
 Parliament to prevent for the future. But even
 supposing, for the sake of argument, that blame does
 attach to certain acts of Lord Bathurst’s administra-
 tion, was it *just* to waive all reference to certain
 measures of the highest discretion and policy,—as
 subsequent events have shown them to be ? For
 the purpose of such a reference it is necessary to
 call public attention to a document which appears
 to have been little adverted to in Parliament
 during the late discussions upon the Canadas, viz.,
 the Bill brought in by me into the House of Com-
 mons in the year 1822, “ to make more effectual
 provision for the government of the provinces of

Lower and Upper Canada, and to regulate the trade thereof," which Bill was subsequently divided and the union part of it withdrawn.

The history of this Bill was thus given in the Annual Register of the year 1822:—

“ A Bill was introduced by the ministers on the 20th of June to regulate the trade and government of Canada. It consisted of three parts: one applied to Canada those principles of free trade which, by an Act already mentioned, were this year extended to our West Indian colonies; a second class of provisions related to the distribution and appropriation of certain duties between the two provinces of Lower and Upper Canada; the third, and most important part of the Bill, new-modelled the constitution of the Canadas, as fixed by the Act of 1791, and was intended to bring the two provinces into a closer union by incorporating their Legislatures, to promote the general prosperity by the abolition of the feudal tenures, and to diffuse the English language and the spirit of the English constitution more uniformly among all the classes of the population. This part of the measure was keenly opposed by Sir James Mackintosh and other members of opposition. They founded their objections not on the intrinsic merits or demerits of the new arrangement, but on the period when it was brought forward, contending that time ought to be allowed to the people of the Canadas to

express their feelings and wishes upon the subject. All the merchants of London connected with the Canadas petitioned in favour of the Bill; and some of those who usually resisted the Government (Mr. Ellice, for example, and Sir Francis Burdett) thought that its provisions were marked by a spirit of liberality highly honourable to those who had brought it forward, and that it ought to receive the sanction of the legislature with the least possible delay. Still Sir James Mackintosh, and those who adopted his notions, persisted in their metaphysical objections: so that the ministers found that a measure which had been brought forward with the purest and most patriotic views could not be passed in the face of a most strenuous opposition, except under circumstances which might disturb or alienate the feelings of the Canadians. They were thus reduced to the necessity of separating the Bill into two parts. That which contained the enactments concerning trade and the apportionment of duties was passed: the other, which new-modelled the constitution, was postponed.

“ Sir Francis Burdett expressed very earnestly his regret, that the theoretical nicety of a few of his friends, should have succeeded in preventing or delaying the enjoyment of the great practical benefits, which could have resulted from a Union of Upper and Lower Canada under one provincial legislature.”

This statement is generally right, with one most important exception, viz., the distinct statement of

the fact, that *Sir James Mackintosh* opposed the measure of Union after he had given his most unqualified assent to its being introduced, coupled with the assurance that he would not oppose it.

I find in a letter which I addressed to Sir Charles Marshall, the late chief justice of Ceylon, and who drew up the Union Bill (being at that time Solicitor-General of Lower Canada), the following passage:—

“*Montagu Square, July 21, 1822.*”

“I assure you that no sort of apology is necessary for your remarks. You must, however, be aware that, if the fourteen gentlemen persevere in their determined opposition to our Bill at this late period of the session, it will be rather *physically* than morally impossible to carry it.

“The whole transaction is one which has hurt me extremely. You well know that the Government would never have contemplated the Union during the *present* session had they not *distinctly* understood that there would not be any *serious* opposition in Parliament to the measure. The whole transaction was based upon that distinct and unequivocal assurance.”

I was assured by an individual of the highest respectability, a member of what was then called the Opposition, that the measure was considered so valuable that no opposition would be offered by “the party” generally, or by any influential member of that party.

I became responsible to Lord Bathurst for such a result, and Lord Bathurst became himself responsible to the Government for the same.

The Union Bill was withdrawn. How could it have been otherwise? My letter was dated the 21st of July, and the catastrophe of the late Lord Londonderry took place on the 12th of August: but for the unfortunate state of the leader of the House of Commons, the Union Bill would have been fought to the last, notwithstanding the unexpected opposition raised against it; but, under the actual circumstances of the case, no such attempt could have been made. The favourable moment was lost. A colonial measure of first-rate importance, introduced by a Government and sanctioned by an Opposition, could not fail to carry with it a moral effect which *no contested measure of the Government could carry.*

To any member of the Opposition of that date who may inquire why this measure of the Union was not reproduced in ensuing Parliaments, I would, in return, ask the question, why did no suggestion *directly* proceed from some member of the Opposition that such re-introduction should take place?

Having expressed myself thus generally with respect to the measure of the Union, I would refer those readers who may be interested respecting the details of that measure as proposed in 1822, to Appendix A, which is a literal copy of the Bill, as amended by the Committee, for uniting the Legis-

latures of the Provinces of Lower and Upper Canada. If reference be made to the Queries and Answers in Appendix B, from Query 5 to 13 inclusive, my explanation of that Bill will be found in the minutest detail. It will be observed in my answer to Query 11, that I did not deny that improvements might be made in the Bill as proposed in 1822, especially after the lapse of six years, and the experience growing out of that period. I stated to the Committee, that in relation to the interests of the two Provinces, I did not myself see any alternative between the proposition of transferring to the Province of Upper Canada a port which should enable her to maintain her communication with the sea, and thereby effect her independence of the Lower Province with respect to revenue arising from duties on goods imported sea-wards, or, on the other hand, of carrying into effect the provisions of a Legislative Union. I was then asked, in Query 12, "Could a port be given to Upper Canada by any other means than by annexing Montreal to that Province?" To which I answered, "I am not aware of any other geographical facility of accomplishing that object."* I

* In reference to my answer to this question, I would refer my readers to a most valuable document, viz., a Report from the Select Committee of the Legislative Council of Upper Canada, signed the 13th day of February, 1838; in page 71 of which the Report is as follows:—"Another measure has been proposed, namely, the extending the limits of this Province, so as to include the Island of Montreal and certain parts of the adjacent territory. There can be no doubt that this would be of incalculable advantage to Upper Canada, by

was then asked, “ Do you think that the objections
 “ to the latter arrangement, on the part of the Lower
 “ Canadians, would not be almost as strong, as to an
 “ incorporating union of the two Provinces ?” My
 answer was, “ I entertain no doubt that very strong
 “ objections would be made by the Lower Canadians
 “ against such a proposal ; but, I repeat, that under
 “ the relative circumstances of the two Provinces, and
 “ the bounden duty of the mother country to act justly
 “ between them, I do not perceive any other than
 “ these alternatives. I cannot, however, avoid re-
 “ marking, that should considerations of mutual de-
 “ fence, and a sense of common interest, create a
 “ growing opinion in favour of a Legislative Union in
 “ the two Provinces, there does not appear to me to
 “ be any conclusive mode of adjusting their interests,
 “ with respect to the appropriation of their common
 “ revenue, other than by an identification of interests,

giving her a port accessible from the ocean, and thus enabling her to raise a revenue commensurate with her wants. It would take from under the government of Lower Canada that portion of the population which has taken the lead in the late rebellious movement, and would place them under the influence of other laws and feelings, much to their own advantage, and to the benefit of both these Colonies. The country which would then form the Province of Lower Canada would neither be so likely to place itself in an attitude hostile to the mother country, nor would its hostility be so formidable ; and, under this arrangement, Quebec might continue, as it ought to be, the residence of the Governor General. There are many advantages in favour of this plan, which, in the opinion of your Committee, should recommend it strongly to the notice of Her Majesty’s Government.”

“involved in the measure of union ; but, at the same
 “time, of a union which should guarantee to the
 “French population their laws and institutions in the
 “seigneuries, to the extent of preventing the combined
 “Legislature from voting away those laws and insti-
 “tutions, and at the same time should reserve space
 “enough in the unsettled part of the Province, so as
 “to allow the French population to spread itself within
 “the sphere of the operation of French law.”*

* In reference to this answer of mine, I would call the attention of my readers to a passage in the Report just quoted in my last note, page 26 :—“It is usual to condemn in strong terms the want of foresight of the British Government, in not having taken the most obvious measures for making the Province of Quebec, after its conquest, at once and decidedly a British Colony. What is meant by this is, that the English law, civil and criminal, should have been immediately established, and constantly maintained there ; that all proceedings in the Legislature, and in Courts of Justice, should have been conducted in the English language alone ; and that any peculiarities in the civil polity of the conquered people should have been wholly abolished. It is reasonable to suppose that such a course would, in progress of time, have made the Canadians more truly a British people ; and, though it would have done violence to national feelings and prejudices, which deserve to be treated with respect, yet it could not have been accounted unjust on the part of their conquerors ; and few persons, probably, would hesitate to acknowledge that their situation would have been greatly improved, by putting them perfectly on a footing with the other subjects of the British empire.

“Still it is not surprising that the Canadians were indulgently allowed to retain their peculiar laws, and the use of their language in official acts and in judicial proceedings. It arose, no doubt, from the circumstances of the time. At first, indeed, the English law, both civil and criminal, was introduced by Royal Proclamation, as a natural result of the conquest ; and things continued on this footing from 1763 to 1774, when it was thought expedient to restore to them, by Act of Parliament, the enjoyment of their peculiar code of laws

I now proceed to quote the evidence of two witnesses before the Committee of 1828, who also expressed their opinion respecting the Union.

I have given the answers of Mr. Ellice upon this subject in Appendix B. Mr. Ellice's opinion went to this point, that the ultimate effect of a Union, judiciously executed, would be, "That all
 " separate habits and interests might be nearly
 " lost sight of, and the present collision of feel-
 " ings and prejudices give way to a general de-
 " sire to consult only the common good and the
 " prosperity of the country in the united Legisla-
 " ture." And in another answer he says, "I am
 " perfectly satisfied, a governor of conciliatory dis-

'in all matters relating to property and civil rights.' This retracing of their steps by the British Ministry probably arose from observing that the French Canadians continued to be strongly attached to their former system, and from a conviction that it would be imprudent to leave them any strong ground for dissatisfaction, at the critical moment when the other Colonies in America were evidently on the point of revolting from the mother country. What might have been the conduct of the Canadians under other treatment we can only conjecture, but it is certain that the efforts, which were afterwards made by the revolted Colonies to allure them into their confederacy, were unsuccessful, and that, in general, the population of Lower Canada remained faithful to the Royal cause. The policy pursued by the Government was natural under the circumstances, and seems to afford no just cause of complaint, though its consequences at this day are, no doubt, to be regretted, as well on account of the Canadians themselves, as of their fellow subjects of British birth; for, unquestionably, their system of land tenures, and their civil code in general, is much less calculated to advance the prosperity of the country than the laws of England, which their prejudices have hitherto prevented the Legislature from adopting."

“ position, popular character, and good sound sense,
 “ acting upon instructions from this country, founded
 “ on liberal principles, would have no difficulty in
 “ balancing and conciliating the different parties in
 “ the Legislature, and procuring from them ample
 “ means of improving the institutions and promoting
 “ the general interests of both provinces.”

Mr. Ellice, however, gave his opinion, that if it were possible more to satisfy the Provinces of Lower and Upper Canada by any other arrangement than the whole measure of a Union, he should be satisfied to sacrifice a great deal for that object.

The opinion of Mr. James Stephen, now Under Secretary of State, as given before the Canada Committee, on the subject of a Legislative Union, is as follows:—

“ When thinking, as I have often thought, on the
 “ apparent fragility of our tenure of the Canadas,
 “ one, and only one, mode of strengthening it has
 “ occurred to me. I would bring the French and
 “ English representatives with an equality, or some
 “ approach to equality of numbers, into the same
 “ Legislature. I would appoint over them a go-
 “ vernor possessing temper and wisdom enough to
 “ moderate between the two parties. By maintain-
 “ ing a severe regard to justice, and to the constitu-
 “ tional rights of the King’s subjects of every class,
 “ he might acquire a large and legitimate influence.
 “ This, I know, is a task not to be committed to
 “ vulgar hands. But I am much mistaken if a great

“ and permanent accession of power to this country
 “ would not be derived from the mild, firm, and just
 “ management of the two great parties, equally
 “ balanced and counterpoised in the same assem-
 “ bly.”

So much for opinions expressed in 1828 with respect to the measure of the Union.

I now proceed to opinions expressed in 1837, fifteen years since the failure of the Union Bill in 1822, proposed under Lord Bathurst's Administration. In the Upper Canada Herald, on the 5th of December, 1837, will be found the following passage :—

“ We mentioned in our last number that we should continue our remarks on *the union of the Provinces*, and we intended to show that the differences between the Provinces could be easily set at rest by the authority of the Imperial Parliament. Recent events have so completely altered the state of affairs in the Lower Province, that we can no longer argue on that ground.

“ We would not disfranchise a man because he is a reformer or radical ; but when he becomes an actual *rebel*, he has thereby disfranchised himself.

“ One half of Lower Canada has been actively engaged in rebellion, or in making preparations for it ; and the *habitans* have thereby become obnoxious to

the highest punishment of the law, instead of being entitled to sit as legislators, either personally or by their representatives. In whatever way the Imperial Parliament may deal with the revolted districts, there can be no doubt that the elective franchise will either be withheld from them entirely, or be conceded under such regulations and restrictions, that the political power of the French Canadians, as a party, is overthrown for many years, and before those years shall have passed away, emigration will have raised the British part of the population to an equality, at least, with the Canadians in numbers.

“ We may safely assume, that the power of the French Canadians, as a political party, is entirely broken, and, therefore, *the Provinces may be united, with perfect safety to this Province, and with great advantage to both.* A unity of legislation and action, which can hardly be obtained but by one legislature, is essential to the proper adjustment of several important questions between the Provinces, as the disposition of the revenue, the improvement of the St. Lawrence navigation, identity of commercial regulations, and a combined action for all purposes of general improvement, in which the prosperity of one province so much promotes that of the other. And in order to make Lower Canada a British Province, the union will be, if not necessary, at least highly important.

“ N.B. The Montreal Gazette of the 14th December observes, that these are the views of ‘ every per-

son of political experience and integrity in *both Provinces* ;' and that ' upon the Union in question, the sovereignty of Great Britain over these Colonies solely depends.' ”

In the Montreal Gazette (Lower Canada), of the 19th of December, 1837, occurs the following passage :—

“ In all future legislation for this Province, the first questions that ought to present themselves to an intelligent member of parliament, ought to be the following :—What are the moral and intellectual capacities of ‘ the great majority of the people ?’ Is there any portion of the people better informed than another ? Is that portion likely to become more numerous, and the predominant one in course of time, and less liable to reject the true principles of the monarchical scheme of Government of Great Britain ? What are the fundamental causes of the late insurrection ? By whom was it instigated, promoted, and abetted ? What portion and denomination of her Majesty’s subjects flew to arms in order to suppress it, without previously considering the necessity of directing an address to the throne, expressive of their loyalty ? What are the true causes of the failure of the experiment of 1791, ‘ to assimilate the Canadians,’ as Mr. Pitt said he intended to do, ‘ to the *language*, the manners, the habits, and, above all, the laws and constitution of Great Britain ?’

“ With this short category of questions before him, no intelligent and patriotic member of parliament can be at a loss to apply himself to the important task of legislating for the Province.

“ But let the wreck of Mr. Pitt’s Constitution of ’91, to a people who could neither enjoy nor appreciate such a boon, be the constant beacon of his conduct.

“ The time has come, when a new foundation must be dug, and a new superstructure raised. The laws that are to be passed, in regard to Canada, must no longer be of a temporary, expedient, or negative character, but of a positive, decisive, and permanent nature. In contending for so long a period for their rights and privileges, as British subjects, it must be admitted that the loyal part of the community, which is entirely composed of persons of English and American birth and descent, cannot always be acting on the defensive. They must be assured that they live in a Province of the British Empire, enjoying British institutions and laws, and subject to no dominant legislation, except that of the Imperial Parliament, and their own free Representatives in Provincial Assembly. They must be put on the same footing, in this respect, with their fellow subjects in Upper Canada ; and we are fully and thoroughly convinced, that no measure, short of *the Legislative Union of both Provinces*, will ever be able to effect the lasting peace and prosperity of either Province.”

The following is an Extract from the Address of the Constitutional Association of the city of Montreal, to the inhabitants of the Sister Colonies :—

“ In the year 1791, the division of the Province of Quebec into the two separate Provinces of Lower Canada and Upper Canada, was carried into effect.

“ It was conceived that this measure, by which ‘ one division should consist, as much as possible, of those who were inclined to the English laws, and the other, of those who were attached to the French laws, was best adapted to put an end to all disputes of a legal sort, to reconcile the jarring interests and opposite views of the provincial inhabitants, to prevent a great degree of animosity and confusion, from their rooted opposition of interests, and to obviate dissatisfaction from a great ascendancy of one party over another in a united legislature.’

“ The experience of fifty years of *separation between the Provinces*, and the present insurrectionary and seditious spirit exhibited in Lower Canada, plainly show how far the advantageous results, anticipated from that *impolitic and undesired measure*, have been realized.”

The last document to which I shall refer upon the measure of the Union, is an extract from the Report of the Legislative Council of Upper Canada, from which I have already quoted in two notes. ;

The opinion respecting the Union is expressed in this Report with very great caution. The Report says, in page 68, "The British inhabitants of Lower Canada are strongly impressed with an opinion, that after all that has taken place, the removal of this difficulty respecting the Civil List would not alone be sufficient, and that the Province cannot prosper unless some material change is made in its Constitution. The French Canadians are not an enterprising people; they care little about commerce, and are not zealous promoters of public improvement; and besides this, it is said that their laws and customs have an unfavourable tendency, and that their ignorance and national prejudices forbid all hope of amendment through the agency of the Legislature.

"A Legislative Union of the Provinces is proposed, and very earnestly pressed as the most effectual remedy. It probably is desired by the British population of Lower Canada, with very few exceptions, and their desire is natural,—they may gain much, and can scarcely lose by the change. The people of Upper Canada, on the other hand, would be committing much to hazard by the trial; they are happily not in that state that should make them indifferent to any dangerous experiment. Hitherto a fear of ill consequences to themselves has prevented the inhabitants of Upper Canada from seconding the desires that have been expressed for a Legislative Union. The situation of Lower Canada is now

“ such as calls for some important change ; for it is,
 “ perhaps, not too much to say, that the laws no longer
 “ afford to the British population there sufficient se-
 “ curity for their lives and properties. Although a
 “ strong military force must probably, under any
 “ circumstances, be maintained in Lower Canada for
 “ some time to come, yet that is not the resource that
 “ should be principally looked to for the future tran-
 “ quillity of the Province ; and if it were certain that
 “ peace and safety can be no otherwise assured to our
 “ fellow subjects there than by the desired Legislative
 “ Union, then your Committee would not hesitate to
 “ say, that the people of Upper Canada should consent
 “ to that measure, as they should, indeed, to any other
 “ that, upon a deliberate consideration of the case,
 “ may appear to Parliament to be the most expedient.”

Again, in page 71 :—“ So far as we may be
 “ permitted to determine the question, upon a view of
 “ the interests of Upper Canada merely, our inclination
 “ is against the change ; but if without an Union the
 “ British population in Lower Canada cannot be se-
 “ cured in the enjoyment of British institutions, then,
 “ of course, it must follow, that the only question for
 “ consideration would be the terms of the measure and
 “ the fittest time for proposing it.” This alternative
 proposition expressed in the Report is hardly in
 keeping with the sentence which immediately suc-
 ceeds it. “ Your Committee forbear to enter upon
 “ a particular discussion of these points, because they

“ cannot convince themselves that an union with
 “ Lower Canada alone would be safe or desirable for
 “ the inhabitants of this Province. If a mature con-
 “ sideration of the present and probable future state
 “ of Lower Canada should seem to compel the Im-
 “ perial Parliament to favour that project, there can
 “ be no doubt that ample opportunity will be afforded
 “ to the people of both Provinces for offering any
 “ suggestions.”

Lastly, upon this subject I would call the particular attention of my readers to two letters signed “M.,” published in the Morning Chronicle on the 2d of January and on the 23d of June, 1838. Those letters are, within my own knowledge, written by a person whose local experience, as well as general capacity, entitle his opinions to *the utmost respect*. Those persons who are really and deeply interested in the question of Canadian policy, will do well to give those letters the most attentive perusal; for my own part, it is not my object to offer an opinion as to the future, I am only seeking to justify the past, and, in vindication of Lord Bathurst’s government, to demonstrate that if the measure of the Union had been adopted in 1822 it would have prevented the possibility of the occurrence of such scenes as have been lately witnessed in the Canadas. The Earl of Durham, in his Proclamation to the people of Upper and Lower Canada upon his landing, says, “If you (the people of British America) on your side will

abjure all party and sectarian animosities, and unite with me in the blessed work of peace and harmony, I feel assured that I can lay the foundations of such a system of government as will protect the rights and interests of all classes, allay all dissensions, and permanently establish, under Divine Providence, that wealth, greatness, and prosperity of which such inexhaustible elements are to be found in these fertile countries." I will only observe, in reference to this passage, that the object of those who originally contemplated the Union was strictly to frame a measure that would "*protect the rights and interests of all classes, allay all dissensions, and permanently establish, under Divine Providence, that wealth, greatness, and prosperity of which* (as his Lordship justly remarks) *such inexhaustible elements are to be found in those fertile countries.*"

I now proceed to the charge made AGAINST Lord Bathurst for having directed necessary payments to be made from the provincial revenue without the sanction of any Act of the Legislature. On this subject, the Committee of the Legislative Council of Upper Canada, after severely commenting upon the impolicy of having placed the Civil List within the annual control of the Assembly (a measure subsequent to Lord Bathurst's administration), proceed thus: "Even so early as the time of Lord Bathurst, "the government of Lower Canada was in a state of "such embarrassment and confusion, *from the total*

“ *failure of the Assembly to provide for the Civil List,*
 “ that Lord Dalhousie, then Governor-General, was
 “ directed to cause the necessary payments to be made
 “ from the provincial revenue without the sanction of
 “ any Act of the Legislature. We do not say that
 “ this direct violation of the law of the Province was,
 “ or could be, justified by any necessity. On the
 “ contrary, it would have been better, in our opinion,
 “ even to have repealed the Constitutional Charter
 “ by the unquestionable authority of Parliament than
 “ to suffer it to remain in full force and at the same
 “ time to sanction its direct infringement by an Act
 “ of the Executive Government.

“ But the fact, that the difficulties arising from a
 “ want of a settled provision for the ordinary expenses
 “ of the Civil List did lead the Government to adopt
 “ a measure so certain to be injurious to their cha-
 “ racter and to the future peace of the Colony, and to
 “ preclude all amicable intercourse between the Go-
 “ vernment and the Legislature, is of itself an un-
 “ answerable proof that it ought never to have been
 “ thought possible to leave the affairs of the Colony
 “ upon such a footing.”

In respect to this measure, it was in the highest
 degree incorrect on the part of the Legislative
 Council to state that Lord Dalhousie was *directed*
 to cause certain payments to be made. The truth
 of the case will be found in the 29th query put to me,
 when the same mistake was made by Mr. Ellice.—

Mr. Ellice stated "that the Governor of Lower Canada has been *instructed* to remedy the difficulty arising from the Assembly not voting supplies by his own warrants on the receiver, to whom the taxes are paid, under the provisions of the Canada Trade Act; have you any information to give the Committee upon that point?"—Answer: "The Governor did not receive instructions to appropriate any duties received under the Canada Trade Act, but, under the *emergency* in which he has been not unfrequently placed from the total cessation of all supplies to carry on the government of the Colony, he (the Governor) has drawn upon the unappropriated revenue, and such a proceeding is necessarily to be justified only from the extreme difficulty and embarrassment of his situation. *The discretion which he has been compelled to exercise on such occasions has received the sanction of the Secretaries of State.*"

Every person of common fairness must admit that there is a substantive distinction between a Secretary of State giving directions for the commission of an act abstractedly unconstitutional and his sanctioning such a proceeding on the part of a Governor *compelled, by the force of circumstances, to resort to such an alternative.* But if the censure of the House of Commons is to be passed upon Lord Bathurst for having sanctioned such a measure, let us examine if no similar measure has occurred since that period. It is no apology of one measure to

show that it can be paralleled by another, but where necessity in one instance has prompted a measure, and necessity in another instance has suggested one similar in principle, it appears hardly just to extend censure to the first and to exempt the latter from equal censure. The Report of the Legislative Council of Upper Canada, vide page 54, upon this subject, is expressed in the following words: “ The Govern-
 “ ment having left itself without resource has been
 “ left by the Assembly wholly destitute ; and after
 “ four or five years of unmitigated insult and violence,
 “ without a single grateful return or respectful ex-
 “ pression, the Government has at length been com-
 “ pelled to pay its judges and other officers their large
 “ arrears of salaries out of the military chest of Eng-
 “ land, while a large amount of unappropriated monies
 “ is lying in the Provincial Treasury ; and when the
 “ remedy which it is proposed to adopt for this in-
 “ convenience and injustice is considered, it will be
 “ seen at once how strongly inconsiderate has been
 “ the policy of the Government in this very delicate
 “ and important matter.

“ The measure proposed by Lord John Russell’s
 “ resolutions of 1837 is to take from the Provincial
 “ Treasury the money which the Assembly has de-
 “ clined to grant. The provincial statutes, by which
 “ this money was raised, *reserve the right of appro-*
 “ *priating it expressly to the Legislature*, and the
 “ taking it by any other authority is a direct violation
 “ of the law and a plain infringement of the Consti-

“ tution. How much better would it have been to
 “ have exerted the firmness necessary to preserve
 “ what by law and justice belonged to the Crown
 “ than by tamely surrendering it, to incur the ne-
 “ cessity of dishonouring the Crown, and furnishing
 “ the Assembly in the midst of their factious vio-
 “ lence with a ground of complaint infinitely more
 “ substantial than all the grievances they had been
 “ inventing for years !

“ Far from being improved in temper and de-
 “ meanour by the unlimited confidence that had been
 “ so incautiously placed in them, the Assembly became
 “ more rudely violent than ever, and, instead of em-
 “ ploying themselves in anything useful to the Colony,
 “ they proceeded from one intemperate act to another,
 “ till at last they impeached the Governor-General,
 “ the Legislative Council, and the King’s Ministers in
 “ ninety-two outrageous resolutions ; such, in matter
 “ and manner, as it might have been supposed would
 “ have discouraged any further attempts to cure the
 “ evils of Lower Canada by conciliating the Assembly.
 “ In one sense, the course taken by the Assembly was
 “ honest ; for in these resolutions they plainly an-
 “ nounced to the King’s Ministers that they would do
 “ nothing that had been expected of them ; that what
 “ they wanted was a Republican Government, which
 “ his Majesty might grant them if he pleased, but
 “ which they were resolved at all events to have, and,
 “ if necessary, by rebellion, in which they doubted
 “ not they would be assisted by the United States.”

The inference that I draw from these parallel acts is, that there is something defective in the extreme in the Constitution of those Provinces, and that such a defect requires an early and efficient remedy. *If I do not deceive myself, I have now succeeded in showing that under Lord Bathurst's administration a real and adequate remedy was suggested for the inherent difficulties growing out of the Act of 1791, which established the Constitution of the Canadas as it now exists.* For the reasons given by me in the fullest detail in answer to Queries submitted to me,—vide Question and Answers, Nos. 1, 2, 3, and 4,—I do not hesitate to say, that it would have been *impossible* that such misconstruction could have been put forth and acted upon by *an united Legislature*. The evils, consequently, which have grown out of such misconstruction, in the case of a single Legislature, would have been avoided. It was *no fault* on the part of Lord Bathurst that the two Legislatures were not united, and that the reign of common sense did not prevail, in contrast with that of spurious complaint and unreasonable demand. I have shown that the failure of that measure was no fault on the part of Lord Bathurst.

I have now to advert to measures that took place under the administration of Lord Bathurst, which, had they been followed up during the years subsequent to 1825, would have opposed a most efficient prevention, though of a different character, of those disgraceful scenes which have lately been acted in

the Canadas. I allude to that system of colonization which was effected in the years 1823 and 1825. In 1823 and 1825, a body of more than 2000 Irish emigrants left the shores of their native country, under the protection of the Government of that day, to escape the misery and destitution beyond human endurance which formed the rule, and not the exception, of their existence at home. They were removed to Upper Canada, and most liberally treated. Their colonization, notwithstanding it was effected at a high rate of expense under the incident of a first experiment, so far from being an unprofitable expenditure, involved a material national saving, and was, in every sense, an economical measure. These colonists now form a wealthy body of yeomanry; and what their feelings are and have been under kind treatment will best be appreciated by the perusal of the following letters, which have passed between Sir Francis Head, the late Governor of Upper Canada, and myself:—

“ *Cavendish Square, May 21, 1838.*

“ MY DEAR SIR,

“ Will you allow me to call your attention to
 “ page 355 of Minutes of Evidence taken before a
 “ Select Committee on Emigration in 1827,* in

* Colonizations of a similar character might now be effected at a LESS rate of expenditure. The subject is too important to be discussed incidentally; but the proof as to the economy of a measure for colonizing Irish pauper agricultural labourers, for whose labour there

“ which, among other documents, you will find ad-

is *no* demand in Ireland or Great Britain, and, secondly, for whose labour there is also no adequate demand in a British colony like Upper Canada, is the plainest imaginable. *If such demand did exist*, there would be no necessity for colonization, which is an expedient *only to be resorted to* when the labour market in a colony is drugged and can for the moment absorb no more. I am preparing a publication specially on this subject; but I may here mention that the test of the economy of such a measure was pointed out in the clearest manner in the eighth resolution of the select class of the members of the London Mechanics' Institution. After having summed up the whole subject in the previous resolutions, the eighth resolution records that, “ in reference to national wealth, if the expense of emigration be less than the expense of home maintenance there would be a decided economy instead of an apparent expense in the application of national capital to the purposes of regulated and assisted emigration.”

The strongest objection which has been preferred against the policy of colonization, as a national measure, is *the presumed expense* involved in it. It is remarked that it is very true that an Irish pauper is much happier in Canada than he would be in his own country; but then it is asked what expense is necessary to remove him. It is admitted that he is *not* wanted in Ireland—it is admitted that he *is* wanted in Canada—but still comes the question, who is to pay the money for his removal? If, for the sake of argument, it be admitted that there are a thousand married labourers in Ireland, with a wife and three children each on an average, forming a body consequently of five thousand persons, and if it be also admitted that there is no demand for the labour of those thousand labourers in Ireland, and that they have no species of property, it is self-evident that, *unless they are supported in some manner, they must perish*. Let it be supposed that they *are* supported at the miserable rate of 2*d.* per head per diem, this 2*d.* per head must either be the gift of charity or the result of spoliation. The annual expense, therefore, of maintaining these labourers and their families in their own country amounts to 15,208*l.*; but, according to the evidence of Lieutenant Rubridge, which I am about to publish, and who has been 19 years a settler in Canada, supported by the strongest previous evidence, these one thousand labourers might be located as Colonists in Upper Canada at the expense of 60*l.* per family, or 12*l.* per head, equal to 60,000*l.* A perpetual annuity therefore (I employ this by way of illustration) of 2000*l.*, the funds being at 96, would enable a loan of 60,000*l.* to be raised; whereas, independent of the increase of these parties in

“ dresses to Earl Bathurst from the Irish emigrants
 “ of 1823-25.”

Ireland, supposing them to be charity-fed, their maintenance at 10*d.* per day per family constitutes a perpetual annuity of 15,208*l.*, which represents a capital sum (*cæteris paribus*) of 456,240*l.* instead of 60,000*l.*, the sum necessary for their colonization. Of course I am arguing on the hypothesis, that there neither *is* nor is likely to be a real demand for their labour *in* Ireland, or Great Britain.

Surely *common sense* points out to any person willing to think, that a perpetual annuity of 15,208*l.* per annum is precisely as much a tax *in principle* upon Ireland as a tax of 2000*l.* per annum, under which they might be colonized. The policy, therefore, of effecting the colonization of such parties, and converting them into happy and wealthy yeomanry in Canada, as compared with the policy of keeping them in Ireland as miserable paupers and beggars at 2*d.* per diem, is in the exact ratio that a perpetual annuity of 2000*l.* per annum bears to a perpetual annuity of 15,208*l.*, or that a capital sum of 60,000*l.* bears to a capital sum of 456,240*l.*

An emigration of labourers who expatriate themselves with the view of being absorbed as labourers in the first instance in a colony, necessarily has its limits, which are measured by the real demand in the labour market; but their colonization with due assistance, supposing an indefinite supply of fertile land, has no definite limitation. I trust that the day may soon arrive when truths like these, which have slumbered in the *unread* Reports of the Emigration Committees of 1826 and 1827, only to be revived in the resolutions of a select class of London mechanics, may find *some favour* in the houses of Parliament, and be matured into measures of substantive relief for Ireland. The Irish Poor Law Act will have the effect of an optical instrument, and make certain truths *apparent*, which happily can *now* no longer be concealed. I will not be tempted to add *more* in *this* note on this momentous subject, on the due comprehension of which the prosperity of Ireland, and the repose of England depends. I addressed a letter to Mr. O'Connell in November, 1830, now nearly eight years ago. This letter was published in the “Times.” I then told him, “that I was prepared to show that, as far as the emigrant was concerned, emigration, when duly assisted by capital (in other words, judicious colonization), had produced the greatest change from human misery to human happiness that had ever been recorded in the history of mankind;”—and I alluded specially to the experimental emigrations of 1823 and 1825. The publication in which I am now engaged will, I think, convince the most sceptical of the truth of that assertion.

“ I need scarcely remind you that these emigrants,
 “ while in Ireland, were in a state of the utmost
 “ destitution. Had they remained there they would
 “ probably have perished under the combined infliction
 “ of physical want and mental despair.

“ As far back as the year 1826, their gratitude
 “ for the favours conferred upon them in removing
 “ them from Ireland to Canada was unbounded.
 “ Even at that now distant period they thus express
 “ themselves :—

“ ‘ For the liberality of a humane and benevolent
 “ sovereign no language can express our gratitude,
 “ in having removed us from misery and want to a
 “ fine and fertile country, where we have the certain
 “ prospect of obtaining, by industry, a comfortable
 “ competence ; and we trust, my Lord, the report of
 “ the progress we have already made on our lands
 “ will not fall short of your Lordship’s expectations,
 “ taking into consideration that we have had to contend,
 “ in addition to inexperience, with the enemy
 “ of all new comers, the fever and ague, to a very great
 “ extent ; notwithstanding which, we have been able
 “ to provide ample provision to support our families
 “ comfortably until we harvest our next crop.

“ ‘ We have reason to be thankful for the wisdom
 “ and discretion which appointed over us so honourable,
 “ kind, and indefatigable a superintendent, who
 “ has used every exertion and care in providing for
 “ our every want.

“ ‘ Above all we rejoice that, in this happy coun-

“ try, we are still under the government of our
 “ illustrious Sovereign, to whose sacred present go-
 “ vernment we beg to express the most unfeigned
 “ loyalty and attachment. We beg most respect-
 “ fully to add that we cherish the hope that more of
 “ our unfortunate and suffering countrymen, at no
 “ distant period, may, by means of the same generous
 “ feeling, be brought to share the blessings we enjoy.’

“ Again they say:—

“ ‘ Having now resided about a twelvemonth on
 “ our lands we have every reason to be thankful for
 “ the excellent locations assigned us; and we trust,
 “ notwithstanding the difficulties our inexperience
 “ has had naturally to contend with, that the inves-
 “ tigation our worthy superintendent has caused to
 “ be made of our actual improvements, will not be
 “ uninteresting to his Majesty’s Government, par-
 “ ticularly to your Lordship, whose zeal in further-
 “ ing emigration to this Province is so eminently
 “ conspicuous.

“ ‘ We take this opportunity of expressing to your
 “ Lordship how much of gratitude we owe to the
 “ Honourable Peter Robinson, our leader, our ad-
 “ viser, our friend, since we have been under his
 “ direction, particularly for his exertions in ad-
 “ ministering to our comforts during a season of
 “ sickness and privation.

“ ‘ We beg to assure your Lordship of our loyalty
 “ and attachment to our gracious Sovereign’s most
 “ sacred person and Government.’

“ Again :—

“ ‘ We have been brought from a country where
 “ we had many difficulties to contend with, and sup-
 “ ported here to this time at the expense of Govern-
 “ ment; our every want has been anticipated and
 “ provided for, and independence not only brought
 “ within our reach, but actually bestowed upon us.’

“ And again :—

“ ‘ We trust our orderly conduct as members of
 “ society, and steady loyalty as subjects of the Bri-
 “ tish Crown, will evince the gratitude we feel for
 “ the many favours we have received.

“ ‘ That the blessings of a grateful people may
 “ surround the throne of his Majesty is the sincere
 “ prayer of

“ ‘ Your Lordship’s

“ ‘ Most respectful humble Servants.’

“ When I endeavoured to point out to parties ad-
 “ verse to emigration these passages so redolent of
 “ gratitude and loyalty, I was told they were ad-
 “ dresses hatched up by persons not really represent-
 “ ing the emigrants; that the project of converting
 “ miserable and destitute paupers in Ireland was a
 “ senseless and dangerous project; and that if the
 “ day should arrive when, either from a rupture with
 “ America or a conflict with the French Canadians,
 “ their loyalty and gratitude would be put to the
 “ test, they would be found miserably wanting.

“ I now beg to know whether the emigrants
 “ known in Canada as Robinson’s Emigrants were

“ or were not at the period of the late crisis in Canada in 1838 in the exercise of that loyalty which they professed in the year 1826 ?

“ I remain, my dear Sir,

“ Your faithful humble servant,

“ R. WILMOT HORTON.

“ Sir Francis Head, Bart.”

“ 62, Park Street, Grosvenor Square,

“ May 21, 1838.

“ MY DEAR SIR,

“ I have just received your letter of this day, in which you inquire whether certain emigrants to whom you have alluded ‘ were or were not at the period of the late crisis in Canada, in 1838, in the exercise of that loyalty which they professed in the year 1826 ?’

“ My reply to your question is in the affirmative. On receiving intelligence that Toronto had been attacked by a band of rebels, the settlers to whom you have alluded were among those who at once marched from the Newcastle district, in the depth of winter, nearly 100 miles to support the Government.

“ On finding a body of the Honourable Peter Robinson’s settlers self-assembled in line before Government-house, I went out and thanked them ; to which they replied that they were doing well in the world, that they felt grateful to the British

“ Government, and that they had come to fight for
 “ the British constitution.*

“ I remain, my dear Sir,

“ Your faithful humble servant,

“ F. B. HEAD.

“ The Right Hon. Sir R. W. Horton, Bart.”

Such is the Irish character when good feelings engendered by kind treatment are allowed to predominate. May this practical lesson not be thrown away! and may so easy, and as I contend so economical, a process be no longer despised of converting Irish disaffection into Canadian loyalty.

On this subject it may be instructive to read the following observations in the Report so often alluded to in page 10 :—

“ But there is nothing connected with this remarkable crisis (referring to the crisis of the late

* Mr. Mackenzie, of Canadian notoriety, was, in 1825, the editor of the *Colonial Advocate*; and on the 8th of December in that year an article appeared headed “ *Mr. Robinson’s Irish Settlers*,” of which the following is a copy :—“ We have information which may be depended on, stating that these people have an ardent desire to go to the United States, and that they frequently desert. No less than *thirty* of them decamped lately in one night. To how much more useful a purpose might 30,000*l.* have been expended than in recruiting in Ireland for United States soldiers by Canadian councillors !”

The first part of this mis-statement was contradicted in the *Weekly Register* of the 26th of December, 1825, by a Mr. Fitzgibbon; with respect to the second part, the paragraph respecting the 30,000*l.* shows the *futile* hopes which were entertained by the disloyal themselves of the disloyalty of these praiseworthy settlers.

“ attempt at rebellion) upon which it is so satisfactory
“ and pleasing to reflect as the very striking proof it
“ has afforded of the loyal and patriotic feeling of the
“ great body of the people of Upper Canada. The
“ instant it was known that the Government was
“ threatened with violence, all distinctions of religion
“ and country were laid aside, and, with a noble
“ ardour which can never be forgotten by those who
“ witnessed it, the people rushed forward by thousands
“ to put down rebellion and to preserve the supremacy
“ of the laws. While neither wealth nor station was
“ felt to place the possessor above the common duty
“ of opposing with arms this unnatural rebellion, the
“ humblest inhabitant of the country gave also his
“ services with cheerfulness, and none more so than
“ the coloured population, whose brave, faithful, and
“ steady conduct have entitled them to great credit.
“ In the course of this service, and of the more ardu-
“ ous and protracted exertion which it has become ne-
“ cessary to make on our frontier from causes to which
“ we shall presently advert, it has been made most
“ evident that Upper Canada possesses an inestimable
“ advantage in the hardy, intelligent, and brave popu-
“ lation which for many years past has been flowing to
“ us from the United Kingdom. The loyalty of our
“ native Canadians, which was conspicuous in the last
“ war, is now aided by a host of spirited and zealous
“ officers of all ranks who have acquired great ex-
“ perience in the army and navy of Great Britain, and

“ by thousands of brave soldiers who have become
 “ settlers among us, and whose glory it is to devote
 “ their lives to the service of their Sovereign. With
 “ hands and hearts like these a militia is soon rendered
 “ efficient and formidable ; and it may be doubted
 “ whether any country of equal population has better
 “ materials for self-defence than the Province of
 “ Upper Canada. It is at least certain that no
 “ Colony of Great Britain can ever have given a
 “ more decided proof of attachment to the Crown and
 “ of a determination to support the Constitution and
 “ laws.”

Without the successful stimulus given to emigration generally by those successful colonizations of 1823 and 1825, it may be doubted whether the aid derived from the “ hardy, intelligent, and brave population” referred to in the Report would have been forthcoming ; and when the additional aid be considered that would have been afforded if the system of colonization, carried into effect under Lord Bathurst’s administration in 1823 and 1825, had been carried on, as recommended by the Report of the Emigration Committee of 1827, that measure of colonial policy should not be set aside when the merits and demerits of Lord Bathurst’s administration are under review, still less when they are *under* *censure*.

Such then is my exposition and defence of Lord

Bathurst's administration of the affairs of Canada when Colonial Secretary during the year 1822 to 1827 inclusive. I must finally be permitted to add a few words foreign to the especial subject of this publication, but due to the memory of one of the most sensible and honourable men. The character of Lord Bathurst, as an efficient public servant at the head of an important political department, is very imperfectly appreciated by the English public. Undoubtedly his general politics did not respond to the movement of the latter days in which he lived; but in all cases where first-rate practical good sense, and a rapid yet discreet view of intricate subjects was essentially required, Lord Bathurst possessed a mind far more able to grapple with difficulties than many of those persons who have underrated his political efficiency.

Lord Bathurst had no affection for political economy *by name*, but to the results of a wise combination of Colonial measures, which in their character might more or less belong to the science of political economy, no man was more alive.

I served under him as Under Secretary of State for the years 1822-23-24-25-26, and part of 1827. My opinions on several points were different from his, more especially on the Catholic question; but such difference never *for one instant* affected the friendly and confidential relations that subsisted between us, and, like his friend the late Duke of York, he was too *liberal* to allow political differences to

disturb relations which were valuable from a variety of causes independent of mere speculative political opinions.

It was under Lord Bathurst's Colonial administration that those investigating Commissions were first established, from whose labours, whatever minor errors they may have fallen into, much Colonial advantage and improvement has unquestionably proceeded. He first introduced the preparation of what were called the "Blue Books," which name is now even adopted in Parliamentary documents; and when in my evidence before the Canada Committee in 1828 I stated my opinion "that it was expedient that the most unqualified publicity should be given both in the Colonies and the mother country to all pecuniary accounts, appropriations, and matters of finance," I only stated the opinion which had led to the adoption of the Blue Book system, which system, as far as I have been able to ascertain, has been approved by the most rigid economists.

Above all, for a daily sedulous discharge of the peculiar duties of his office as Colonial Secretary, no public man who has ever filled that situation has been more remarkable. These may be facts unknown to the English public, but they *are* known to those persons who had opportunities of communication with the late Lord Bathurst; and, as his friend, I am happy to record them without fear of contradiction from any quarter.

APPENDIX (A.)

A BILL (as amended by the Committee) for uniting the Legislatures of the Provinces of *Lower* and *Upper Canada*.

WHEREAS in the present situation of the Provinces of *Lower* and *Upper Canada*, as much with relation to *Great Britain* as to each other, a joint Legislature for both the said Provinces would be more likely to promote their general security and prosperity than a separate Legislature for each of the said Provinces, as at present by law established ;

Be it therefore enacted by the King'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 so much of an Act passed in the thirty-first year of the reign of his late 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," as provides for the composing and constituting within each of the said Provinces respectively, a Legislative Council and Assembly, and for the passing of laws by the Legislative Council and Assembly of each Province, shall be and the same is hereby repealed, except in so far as the same or any of the provisions thereof, may by this present Act be continued or applied to the purposes of the joint Legislature to be constituted in manner hereinafter mentioned: Provided also, that so much of an Act passed in the fourteenth year of the reign of his said late Majesty, intituled, "An Act for making more effectual provision for the Government of the Province of *Quebec* in *North America*," as is repealed by the said Act passed in the thirty-

Preamble.
So much of 31 Geo. 3, c. 31, as provides a Legislature for each of the Provinces of Lower and Upper Canada, repealed.

first year aforesaid, shall be deemed and taken to be, and shall remain repealed.

Henceforth to be one joint Legislative Council, and one joint Assembly for both Provinces.

And be it further Enacted, That from and after the passing of this Act, there shall be within the said two Provinces, and for the same jointly, one Legislative Council and one Assembly, to be composed and constituted in manner hereinafter described, and which shall be called "The Legislative Council and Assembly of the *Canadas*;" and that within the said Provinces, or either of them, His Majesty, His Heirs or Successors, shall have power, during the continuance of this Act, by and with the advice and consent of the said Legislative Council and Assembly of the *Canadas*, to make laws for the peace, welfare, and good government of the said Provinces, or either of them, such laws not being repugnant to this Act, nor to such parts of the said Act passed in the thirty-first year aforesaid, as are not hereby repealed; and that all such laws being passed by the said Legislative Council and Assembly, and assented to by His Majesty, His Heirs or Successors, reassented to in His Majesty's name by the Governor in Chief in and over the said provinces of *Lower* and *Upper Canada*, or in case of the death or absence of such Governor-in-Chief, by the Lieutenant-Governor of the Province of *Upper Canada* for the time being, or in case of the death or absence of such Lieutenant Governor, then by the Lieutenant-Governor of *Lower Canada* for the time being, or in case there shall be no Lieutenant-Governor at such time resident in the Province of *Lower Canada*, then by the person administering the government thereof for the time being, 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 the said two Provinces.

Joint Legislative Council to consist of the present Members of both Councils.

And be it further Enacted, That the present members of the Legislative Councils of *Lower* and *Upper Canada* shall, by virtue of this Act, and without any new or other commissions for that purpose, constitute together the Legislative Council of the *Canadas*, which said members shall take precedence in the joint Legislative Council according to the date of the instruments by which they were originally summoned to the Legislative Councils of the two Provinces respectively; and that it shall also

be lawful for His Majesty, His Heirs or Successors, from time to time, by an instrument under his or their sign manual, to authorize and direct the said Governor-in-Chief, or in case of his death or absence, such other person, and in such order respectively as is hereinbefore directed, to summon to the said Legislative Council, by an instrument, under a seal to be transmitted by His Majesty to the Governor-in-Chief, or under any other seal which the said Governor-in-Chief shall be by His Majesty directed to use, for the purposes of this Act, and which shall be called the Great Seal of the *Canadas*, and shall be applied only to the purposes directed by this Act, such other person or persons as His Majesty, His Heirs or Successors, shall think fit; and that every person who shall be so summoned to the said Legislative Council shall thereby become a member thereof.

Other Persons may be summoned.

And be it further Enacted, That such persons only shall be summoned to the said Legislative Council, as by the said above-mentioned Act, passed in the thirty-first year aforesaid, are directed to be summoned to the Legislative Council of the said two Provinces respectively; and that every member of the said Legislative Council shall hold his seat for the same term, and with the same rights, titles, honours, ranks, dignities, privileges and immunities, and subject to the same provisions, conditions, restrictions, limitations and forfeitures, and to the same mode of proceeding, for hearing and determining by the said Legislative Council all questions which shall arise touching the same, as are in the said Act, passed in the thirty-first year aforesaid, mentioned and contained, with respect to the members thereby directed to be summoned to the Legislative Council of the two Provinces respectively.

Such Persons only shall be summoned as directed by 31 G. 3.

And be it further Enacted, That the Governor-in-Chief, or in case of his death or absence, such other person, and in such order respectively as is hereinbefore directed, shall have power and authority from time to time, by an instrument under the Great Seal of the *Canadas*, to constitute, appoint and remove the Speaker of the said Legislative Council.

Governor to appoint and remove the Speaker of the Legislative Council.

And be it further Enacted, That the members at present composing the Assemblies of the said two Provinces shall, together with such new members as shall or may be returned for either

Joint Assembly to consist of the present Members of both, and to

continue until 1 July 1825, unless sooner dissolved.

of the said Provinces respectively in manner hereinafter mentioned, form and constitute the Assembly of the *Canadas*, and shall be and continue until the first day of July one thousand eight hundred and twenty-five, unless sooner dissolved; and that in case of a dissolution of the said Assembly, or of vacancies occurring therein, members shall be returned from the same counties and places, and in the same manner, and in the same numbers, except as hereinafter otherwise provided, as now by law they are returned within the two Provinces respectively.

Act of Upper Canada, 60 G. 3, to continue in force.

And whereas an Act was passed by the Provincial Legislature of *Upper Canada*, in the sixtieth year of the reign of his said late Majesty, intituled, "An Act for increasing the Representation of the Commons of this Province in the House of Assembly;" Be it therefore further Enacted, That the said Act, and all the provisions therein contained, except as hereinafter otherwise provided, shall remain in full force and effect, and shall be applied to the representation of the said Province of *Upper Canada* in the joint Assembly, in like manner as the same were applicable to the representation thereof in the Assembly of the said Province of *Upper Canada* before this Act was passed.

Governor of Lower Canada may erect new Counties, out of the Townships to be represented in the Assembly.

And be it further Enacted, That it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the government of the said Province of *Lower Canada* for the time being, from time to time as he shall judge expedient, from and out of that part of the said Province of *Lower Canada* which has been erected into townships since the number of representatives for the said Province was settled by proclamation, to form and erect new counties, by instrument or instruments under the Great Seal of the said Province, each such new county to consist of not less than six townships; and that when and so often as any such new county shall be formed and erected as aforesaid, the Governor, Lieutenant-Governor, or person administering the government of the said Province of *Lower Canada*, shall issue a writ for the election of one member to serve for the same in the Assembly; and that whensoever the said Governor, Lieutenant-Governor, or person administering the government as aforesaid, shall deem it expedient that any such new county, or

any county heretofore erected within the said Province of *Lower Canada*, and at present represented by only one member, shall be represented by two members, he shall in like manner issue writs for that purpose: Provided always, that no subdivision of any counties now erected or to be hereafter erected within either of the said Provinces, except as hereinbefore provided with respect to the said townships, shall extend or be construed to extend to increase the number of representatives for such counties: Provided also, that the number of representatives for each Province shall not exceed sixty.

And be it further Enacted, That no act by which the number of representatives of either Province shall be altered, shall hereafter be passed by His Majesty, by and with the advice and consent of the said Legislative Council and Assembly, unless the same shall have been passed by two-thirds at least of the members present at the question for the second and third reading of the same in the said Legislative Council and Assembly respectively.

No Act to alter the number of Representatives to be passed, unless by Two-thirds of both Houses.

And be it further Enacted, That all and every the provisions and regulations respecting the appointment and nomination, duties, privileges and liabilities of returning officers for either of the said Provinces respectively, and respecting the eligibility, qualification and disability of persons to sit as members in the said Assembly, or to vote on the election of such members, and respecting any oath to be taken by candidates or voters at such elections, and respecting all other proceedings at such elections, and respecting the times and places of holding such elections, as are contained in the said above-mentioned Act, passed in the thirty-first year aforesaid, except in so far as the said provisions and regulations are hereby in anywise altered, shall remain and continue in force in both of the said Provinces; and that all and every the provisions and regulations respecting the objects above enumerated, or any of them, which are contained in any Act or Acts of the provincial Legislatures, which are now in force in either of the said Provinces respectively, shall remain and continue in force within such Province, except as the same are hereby in anywise altered, until otherwise provided for by the joint Legislature.

Provisions of 31 G. 3, respecting Elections, to remain in force.

And be it further Enacted, That when and so often hereafter Governor

may summon
a new As-
sembly.

as it may be necessary to summon and call together a new Assembly for the said two Provinces, it shall and may be lawful for the said Governor-in-Chief, or in case of his death or absence, then for such other person, and in such order respectively as is hereinbefore directed, by an instrument under the said Great Seal of the *Canadas*, to summon and call together the said Assembly as hereinafter expressed and provided.

And shall
issue Writs
for the elec-
tion of Mem-
bers, as
directed by
31 Geo. 3.

And be it further Enacted, That Writs for the election of members to serve in the said Assembly shall be issued by the Governor, Lieutenant-Governor, or person administering the government of the Province within which such members shall be chosen respectively, in the same manner and directed to the same officers and returnable within the same period, as in and by the said Act, made and passed in the thirty-first year aforesaid, is directed and provided.

Qualification
in future to
be real Pro-
perty, to the
value of
£500 ster-
ling.

And be it further Enacted, That on the first general election of members for the said Assembly, which shall take place from and after the passing of this Act, and on all subsequent elections, whether general or for particular places, in cases of vacancy, which shall be holden in either of the said Provinces, no person shall be capable of being elected, who shall not be legally possessed, to his own use and benefit, of lands and tenements within one or other of the said Provinces, of the value of Five hundred pounds sterling over and above all rents, charges and incumbrances which may affect the same, such lands and tenements being by him held in freehold, in fief, or in roture; and that every candidate at such election, before he shall be capable of being elected, shall, if required by any other candidate, or by the returning officer, take an Oath in the following form, or to the following effect:—

Oath to that
effect.

“ I, A. B., do Swear, That I am legally and *bonâ fide* pos-
 “ sessed to my own use and benefit, of lands and tene-
 “ ments within the Province of *Canada*, of
 “ the value of _____ sterling, over and
 “ above all rents, charges and incumbrances which may
 “ affect the same; and that the said lands and tenements
 “ are by me held in freehold, in fief, or in roture [*as the*
 “ *case may be*]; and that I have not obtained the same

“ fraudulently, for the purpose of enabling me to be re-
 “ turned Member to the Assembly of the *Canadas* ; and
 “ also that I am otherwise qualified, according to the
 “ provisions of law, to be elected and returned to serve as
 “ a Member thereof.”

Provided always, That nothing in this Act contained shall be construed to affect any Act now in force in either of the said Provinces respectively relating to the qualification (other than as respects property) of any candidate or voter at elections.

And be it further Enacted, That if any person shall knowingly and wilfully take a false oath respecting his qualification, either as candidate or voter at any election as aforesaid, and shall thereof be lawfully convicted, such person shall be liable to the pains and penalties by law inflicted on persons guilty of wilful and corrupt perjury in the Province in which such false oaths shall have been taken.

Persons swearing falsely guilty of perjury.

And be it further Enacted, That whenever hereafter any question shall arise touching the validity of the election or return of any person in either Province to serve in the Assembly, such question shall be tried in the Joint Assembly, according to the mode of proceeding now established by law in that Province in which the disputed election or return shall have been made, until a uniform course of proceeding shall be duly established for both Provinces.

Trials of contested Elections.

And be it further Enacted, That it shall and may be lawful for the said Governor-in-Chief, or in case of his death or absence, then for such other person, and in such order respectively as is hereinbefore directed, if at any time he shall deem it expedient, to summon and authorize, by an instrument under his hand and seal, two members of the executive Council of each Province to sit in every Assembly, with power of debating therein, and with all other powers, privileges, and immunities of the members thereof, except that of voting.

Governor may summon Two Members of the Executive Council of each Province to the Assembly.

And be it further Enacted, That the said Legislative Council and Assembly shall be called together for the first time at some period not later than the first day of September, one thousand eight hundred and twenty-four, and once afterwards in every twelve calendar months; and that the said Governor-in-Chief, or

Joint Legislature to be summoned not later than 1st September 1824, and once every twelve Months afterwards.

in case of his death or absence, such other person, and in such order respectively as is hereinbefore directed, shall and may convene the first and every other session of the said Legislative Council and Assembly, at such places within either Province, and at such times, under the restrictions aforesaid, as he shall judge most conducive to the general convenience, giving due and sufficient notice thereof, and shall have power to prorogue the same from time to time, and to dissolve the same by proclamation or otherwise, whenever he shall deem it necessary or expedient.

Every future Assembly to continue five Years.

And be it further Enacted, That every Assembly hereafter to be summoned and chosen, shall continue for five years, from the day of the return of the writs for choosing the same, and no longer; subject, nevertheless, to be sooner prorogued or dissolved by the said Governor-in-Chief, or in case of his death or absence, by such other person, and in such order respectively as is hereinbefore directed.

Majority of Votes to decide.

And be it further Enacted, That all questions which shall arise in the said Legislative Council or Assembly, except in the cases herein otherwise provided, shall be decided by the majority of voices of such members as shall be present; and that in all cases where the voices shall be equal, the Speaker of such Council or Assembly shall have a casting voice.

Oath prescribed by 31 G. 3, to be taken.

Provided always, and be it further Enacted, That no member either of the Legislative Council or Assembly shall be permitted to sit or vote therein, until he shall have taken and subscribed the oath prescribed for that purpose by the said Act passed in the thirty-first year aforesaid, before a person duly authorised to administer the same, as in and by the said Act is directed.

Royal Assent to be declared or withheld as prescribed by 31 G. 3.

And be it further Enacted, That any Bill which shall be passed by the Legislative Council and Assembly shall be presented for His Majesty's assent to the said Governor-in-Chief, or in case of his death or absence, to such other person, and in such order respectively, as is hereinbefore directed, who shall, according to his discretion, declare or withhold His Majesty's assent to such Bill, or reserve such Bill for the signification of His Majesty's pleasure thereon, subject always to the same provisions and regulations with respect to Bills which may either be

assented to, or from which His Majesty's assent may be withholden, or which may be reserved as aforesaid, as the case may be, as in and by the said Act, passed in the thirty-first year aforesaid, are contained and enacted with regard to such Bills respectively.

And be it further Enacted, That all laws, statutes, or ordinances which are in force at the time of passing 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 as far as the same are repealed or varied by this Act, or in so far as the same shall or may be hereafter by virtue of and under the authority of this Act repealed or varied by His Majesty, his Heirs or Successors, by and with the advice and consent of the said Legislative Council and Assembly.

All Laws now in force to continue, except as hereby repealed or altered.

And be it further Enacted, That all rights, privileges, immunities, and advantages which are at present legally exercised and enjoyed by the members of the Assemblies of *Lower* and *Upper Canada* respectively, shall continue to be exercised and enjoyed by them as members of the said Assembly of the *Canadas*, in as full and as ample a manner as heretofore: Provided always, That no privilege of the said Legislative Council or of the said Assembly, shall extend or be construed to extend to authorise the imprisonment of any of His Majesty's subjects not being members of the said Legislative Council or of the said Assembly, or officers or servants of the said bodies respectively, until an Act be passed declaratory of the rights and privileges of the said bodies in this respect.

Privileges of Members to continue.

And be it further Enacted, That from and after the passing of this Act, all written proceedings of what nature soever of the said Legislative Council and Assembly, or either of them, shall be in the *English* language and none other; and that at the end of the space of fifteen years from and after the passing of this Act, all debates in the said Legislative Council or in the said Assembly, shall be carried on in the *English* language and none other.

Henceforth all written Proceedings, and after 15 Years, all Debates to be in English alone.

And whereas by the said Act of the Imperial Parliament of Persons pro-

professing the Religion of the Church of Rome, not to be affected.

Great Britain, made and passed in the fourteenth year aforesaid, intituled, "An Act for making more effectual provision for the government of the province of *Quebec*, in *North America*," it was, amongst other things, declared, That His Majesty's subjects, professing the religion of the church of *Rome*, of and in the said Province of *Quebec*, might have, hold and enjoy the free exercise of the said religion, subject to the King's supremacy as in the said Act mentioned, and that the clergy of the said church might hold, receive, and enjoy their accustomed dues and rights with respect to such persons only as should profess the said religion; Be it therefore further Enacted and Declared, that nothing in this Act contained, nor any Act to be passed by the said joint Legislature, nor any resolution or other proceeding of the said Legislative Council or Assembly, shall in anywise affect or be construed to affect the free exercise of the religion of the Church of *Rome* by His Majesty's subjects professing the same, within either of the said Provinces, but the same may continue to be exercised, and the clergy of the said church and the several curates of each respective parish of the said Province of *Lower Canada*, now performing the clerical duties thereof, or who shall hereafter, with the approbation and consent of His Majesty, expressed in writing by the Governor or Lieutenant-Governor, or persons administering the government of the said Province of *Lower Canada* for the time being, be thereto duly collated, appointed, or inducted, may continue to hold, receive, and enjoy their accustomed dues and rights in as full and ample manner, to all intents and purposes, as heretofore, and as is provided and declared by the said last-mentioned Act.

Certain provisions of 31 G. 3, to extend to Acts to be passed by the joint Legislature.

And be it further Enacted, That all the provisions, regulations, and restrictions made and imposed in and by the said Act, passed in the thirty-first year aforesaid, with respect to any Act or Acts containing any provisions of the nature therein particularly mentioned and specified, shall and the same are hereby declared to extend and apply to each and every Act which shall be passed by the said Legislative Council and Assembly, and which shall contain any provisions of the nature in and by the said last-mentioned Acts set forth and specified.

Accounts, &c.

And be it further Enacted, That all and every the accounts,

returns, papers, and documents, which by any Act now in force in either Province are directed to be laid before the Legislature thereof respectively, shall, under the penalties therein provided, be in like manner transmitted and laid before the Legislature of the *Canadas*, during the continuance of such Acts.

to be laid before the Legislature.

And be it further Enacted, That the officers and other persons receiving salaries or allowances in respect of services rendered by them in the Legislatures of their respective Provinces, shall continue to receive such salaries and allowances as heretofore, until otherwise provided for by any Act which shall be passed by His Majesty, His Heirs or Successors, with the advice and consent of the Legislative Council and Assembly of the *Canadas*.

Salaries of Officers of the Legislature to continue till otherwise provided for.

And be it further Enacted, That all the provisions, regulations, and restrictions made and imposed in and by the said Act passed in the thirty-first year aforesaid, with respect to any Act or Acts containing any provisions of the nature therein particularly mentioned and specified, shall and the same are hereby declared to extend and apply to each and every Act which shall be passed by the said Legislative Council and Assembly, and which shall contain any provisions of the nature in and by the said last-mentioned Act set forth and specified.

And be it further Enacted, That all and every the accounts

Certain provisions in section 31 of Act to be passed by the next Legislature.

APPENDIX (B.)

Examination of the Right Hon. ROBERT JOHN WILMOT HORTON,
a Member of the Committee.

Query 1.—Are you of opinion that under the Act of 31 Geo. 3, c. 31, the Assembly of Lower Canada were legally entitled to appropriate the duties collected under the 14 Geo. 3, c. 88?—I am of opinion that they were not legally entitled, for the following reasons: first, there were two Acts passed in the year 1774, relating to the Góvernment of Canada, the one the 14 Geo. 3, c. 83; the other the 14 Geo. 3, c. 88; the Act of the 31 Geo. 3, c. 31, commonly called the Quebec Act, specifically repeals *so much* of the Act of 14 Geo. 3, c. 83, as in any manner relates to the appointment of the Council for the affairs of the said Province of Quebec, &c.: it appears to me to be conclusive that that partial repeal involved the continuance in full force of the *remainder* of those Acts, the latter of which imposed the duties in question.

Secondly, the 46th clause of the 31 Geo. 3, c. 31, which is mainly founded on the 18 Geo. 3, c. 12, commonly called the Declaratory Act, enacts, “That nothing in this Act contained shall extend or be construed to extend to prevent or affect the execution of any law which *hath been* or shall at any time be made by His Majesty, his heirs or successors, and the Parliament of Great Britain, for establishing regulations or prohibitions, or for imposing, levying, or collecting duties for the regulation of navigation, or *for the regulation of the commerce* to be carried on between the said two provinces, or between either of the said provinces and any other part of His Majesty’s dominions, or between either of the said provinces and any foreign country or state, or for appointing and directing the payment of drawbacks of such duties so imposed, or to give His Majesty, his heirs or successors,

any power or authority, by and with the advice and consent of such Legislative Councils and Assemblies respectively, to vary or repeal any such law or laws, or any part thereof, or in any manner to obstruct the execution thereof.”—A reference to the rates contained in the 14 Geo. 3, c. 88, will show that they *regulate the commerce* to be carried on between the colony and other parts of the world, according to the phrase employed in the 46th clause: they impose a duty of 3*d.* on every gallon of brandy and other spirits, of the manufacture of Great Britain; 6*d.* for every gallon of rum or spirits imported from any of His Majesty’s sugar colonies in the West Indies; 9*d.* for every gallon of rum imported from other colonies in America; 1*s.* for every gallon of foreign brandy or other spirits, of foreign manufacture, imported or brought from Great Britain, and so on; thus presenting a graduated scale of duty, having a reference to the commercial interests of the country. If the Committee will then refer to s. 47, I think they will be convinced that it was intended to maintain this Act in force, and not to repeal it; the section runs thus—“Provided always and be it enacted by the authority aforesaid, that the net produce of all duties which shall be so imposed” (making no allusion whatever to the duties *which have been* so imposed) “shall at all times *hereafter* be applied to and for the use of each of the said provinces respectively, and in such manner only as shall be directed by any law or laws which may be made by His Majesty, his heirs or successors, by and with the advice and consent of the Legislative Council and Assembly of such province.”

Thirdly, because if reference be made to the case of other colonies which possessed Legislatures at the period of passing the Declaratory Act, it is perfectly notorious that not a single year has elapsed since that Declaratory Act was passed, in which duties have not been levied, and even remitted to this country, and deposited in the Exchequer, *which have been raised under British Acts passed prior to the Declaratory Act*. I beg leave to call the attention of the Committee to the case of Jamaica. The Commissioners of Customs in Jamaica have annually remitted to this country, duties levied under the following Acts; I take the schedule as it appears in the year 1822: duties per Act 25 Ch. 2, 31*l.* 18*s.* 6*d.*;

ditto, 6 Geo. 2, and 4 Geo. 3, 3252*l.* 8*s.* 1 $\frac{3}{4}$ *d.*; if the construction contended for by the Assembly of Lower Canada be legal, it is quite clear that all these duties have been illegally transmitted from the period of the Declaratory Act.

Fourthly, because Colonial Acts which were in force prior to the Declaratory Act, and which directed the appropriation of monies other than by the Legislature, *have still continued in force*, notwithstanding the Declaratory Act; this fact appears to me to afford by analogy a proof in defence of the construction for which I contend. I would call the attention of the Committee to the Bahama Act, passed in the 8 Geo. 2, for levying divers sums of money for the payment of officers' salaries, defraying the expense of holding Assemblies, and other contingent charges of Government; not only has this Act been in force since the period of the Declaratory Act, but the law officers of the Crown gave an opinion in February 1821, that as certain suspending Acts had terminated, under which this Act had been repealed, it must be considered to have revived, and that His Majesty might apply the monies levied under it, without the intervention of the House of Assembly, and without any other specific appropriation by the Legislature of the Bahamas. For these reasons I am decidedly of opinion, that the construction contended for by the Colonial Assembly of Canada, namely, that they have a legal right to the appropriation of the revenue raised under the 14 Geo. 3, is a construction not to be maintained.

I would now beg further to explain to the Committee, that the disputes arising between the Executive Government and the Assembly, have mainly arisen out of this construction. From the year 1818 up to the year 1825, difficulties constantly occurred in consequence of the maintenance of that opinion by the Assembly; but in 1825 an Act was passed during the administration of Sir Francis Burton, (5 Geo. 3, c. 27.) in which is the following passage:—"Whereas, by the message of his Excellency the Lieutenant-Governor, bearing date the 18th of February 1825, laid before both Houses of the Legislature, it appears *that the funds already appropriated by law* are not adequate to defray the whole of the expenses of your Majesty's Civil Government in this province, and of the administration of justice and other expenses

mentioned in the said message: and whereas it is expedient to make *further provision* towards defraying the same," &c. It is evident here, that the validity of the 14 Geo. 3 is admitted under the phraseology of this Act, it is admitted that the funds raised under it are *legally appropriated*; and under this Act of the local government no difficulty whatever existed, except that they practically reduced the estimate of the charges placed by the Executive Government upon the Crown revenue, by diminishing the proposed grant of 65,002*l.* 1*s.* 8*d.*, to a sum not exceeding 61,611*l.* 7*s.* 11*d.*, thereby leaving a deficiency of 3390*l.* 13*s.* 9*d.*; this sum of 3390*l.* 13*s.* 9*d.* had reference to certain items specifically objected to by the Assembly, which items had been specially charged upon the Crown revenue; but as the Assembly voted this sum collectively, and not by items, it was necessarily left to the discretion of the Lieutenant-Governor to deal with that deficiency as he might think best. The simple fact being, that under that Act 3390*l.* 13*s.* 9*d.*, deemed to be necessary for the public service, as would appear by the Lieutenant-Governor's estimate, was not voted by the Assembly. With respect to the manner in which that deficiency was practically met, the Secretary of State (Lord Bathurst) abolished some of the offices included in this 3390*l.*, and transferred others to the territorial revenues of the Crown, over which the Assembly did not so directly, at least, claim to have any jurisdiction; it is perfectly true that, in the first instance, Lord Bathurst remonstrated against the conduct of the Lieutenant-Governor in having sanctioned this Act; but it was under the impression that the words of the Act *did not* maintain the integrity of the Crown revenue, and consequently that it was contrary to the Royal instructions. In the succeeding year 1826, the Assembly, with a view of obviating the construction of the Act of 1825, as sanctioning the integrity of the Crown revenue, passed the following resolutions before they commenced the vote of supply for that year:—"Resolved, first, That the appropriation of any sums of money already levied, or which hereafter may be levied on His Majesty's subjects in this province, otherwise than such application is or may be directed to be made by the express provisions of law, is a breach of the privileges of this House, and subversive of the government of this province as

established by law. Second, That no law imposing duties or taxes on His Majesty's subjects in this province, providing funds for the defraying the expenses of His Majesty's Civil Government, and those of the administration of justice, or of the Legislature in this province, can be held to confer upon any person a power or right of applying the monies thence arising, or making a special appropriation and distribution thereof, without the consent and authority of the Legislature. Third, That the sums granted and appropriated for any special service should be applied by the executive power only to defray the expenses of that service, and that the application of any surplus of funds to uses for which they were not appropriated is a misapplication of the public money, a breach of public trust, a violation of the rights and privileges of this House, and subversive of the government of this province as established by law. Fourth, that this House will hold personally responsible His Majesty's receiver-general of this province, and every other person or persons concerned, for all monies levied on His Majesty's subjects in this province, which may have legally come into his or their hands, and been paid over by him or them, under any authority whatsoever, unless such payments be or shall be authorized by an express provision of law." I am not enabled to state to the Committee whether the bill of 1826 was *verbatim* the same as the Act of 1825, because the bills are not sent over to this country; but that bill was amended by the Legislative Council for the purpose of unequivocally maintaining in its terms the integrity of the Crown revenue raised under the 14 Geo. 3; the consequence of that amendment was, that the Assembly refused to proceed with it upon its return from the Upper House, and the supplies were in consequence not voted. I must not omit to represent most distinctly to the Committee, first, that the manner in which the proceeds of the 14 Geo. 3 were disposed of, were uniformly laid before the Assembly, who had consequently the power to remonstrate against any of the items included therein, or, by diminishing the general supply, practically to affect the appropriation of that revenue; but the Assembly were determined to do nothing less than contend for the legality of the appropriation of that revenue by themselves, and that construction was considered as one to which His Majesty's Government, con-

sistently with the maintenance of the interests of the Crown, could not consent.

I have thus endeavoured to afford accurate information to the Committee upon this point, and beg to remind them that there never was an indisposition to give the Assembly the absolute appropriation of this revenue, provided they would consent to vote the existing Civil List for a term of years, or for the period of the King's life ; and it was considered in the state of collision of feeling between the Assembly, as those representing the French interest, and the Legislative Council as representing the English interest, that if the Civil Government was dependent annually upon a vote of the Legislature for its support, there was little chance of the public service being carried on in that colony. It appears to me impossible for any person to form a just view of the case in dispute between the Colony and the Executive Government, without ascertaining whether the charges which were made by the Executive Government upon the Crown revenue, were such as ought, or ought not, in fairness to have received the sanction and approbation of the Colonial Assembly.

Query 2.—On what ground is it stated that in the 11 years that elapsed between 1773 and 1784 the English law prevailed in the townships of Lower Canada?—A Royal Proclamation was issued in 1763, of which the preamble was in the following words :—“ Whereas We have taken into Our royal consideration the extensive and valuable acquisitions in America, secured to our Crown by the late definitive treaty of peace, concluded at Paris the 10th day of February last ; and being desirous that all our loving subjects, as well of our kingdoms as of our colonies in America, may avail themselves with all convenient speed of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation, we have thought fit to issue this our royal proclamation.” In the body of the proclamation there is the following passage :—“ And whereas it will greatly contribute to the speedy settling our said new governments, that our loving subjects should be informed of our paternal care for the security of the liberty and properties of those who are and shall become inhabitants thereof, we have thought fit to publish and declare by this our proclamation, that we

have in the letters patent under our great seal of Great Britain, by which the said governments are constituted, given express power and direction to our governors of our said colonies respectively, that so soon as the state and circumstances of the said colonies will admit thereof, they shall, with the advice and consent of the members of our Council, summon and call general assemblies within the said governments respectively, in such manner and form as is used and directed in those colonies and provinces in America which are under our immediate government; and we have also given power to the said governors, with the consent of our said Councils and the Representatives of the people so to be summoned as aforesaid, to make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare, and good government of our said colonies, and of the people and inhabitants thereof, *as near as may be agreeable to the laws of England, and under such regulations and restrictions as are used in other colonies*; and in the mean time, and until such assemblies can be called as aforesaid, all persons inhabiting in, or resorting to, our said colonies, may confide in our royal protection *for the enjoyment of the benefit of the laws of our realm of England*; for which purpose we have given power under our great seal to the governors of our said colonies respectively, to erect and constitute, with the advice of our said Councils respectively, courts of judicature and public justice within our said colonies, for the hearing and determining *all causes as well criminal as civil*, according to law and equity, and as near as may be agreeable to the laws of England, with liberty to all persons who may think themselves aggrieved by the sentence of such courts, in all civil cases, to appeal, under the usual limitations and restrictions, to us in our Privy Council."

Query 3.—In what respect do succeeding Acts of Parliament affect the proclamation of 1763?—The Act of the 14 Geo. 3, c. 83, was intituled, "An Act for the making more effectual provision for the Government of the Province of Quebec in North America." Under the 4th clause of that Act all former provisions made for that province were to be null and void after the 1st of May, 1775; and with reference to the proclamation of 1763, that clause proceeds as follows:—"And whereas the provisions made

by the said proclamation in respect to the civil government of the said province of Quebec, &c. &c., have been found upon experience to be inapplicable to the state and circumstances of the said province, &c. &c.; Be it Enacted, That the said proclamation, so far as the same relates to the said province of Quebec, and the commission under the authority whereof the government of the said province is at present administered, and all ordinance and ordinances, &c. &c., and all commissions, &c. &c., be hereby revoked, annulled, and made void.” The clauses of the Act, from four to nine, contain provisions affecting the French Canadians; and then the ninth clause is as follows:—“ Provided always, that nothing in this Act contained shall extend or be construed to extend to any lands that have been granted by His Majesty or shall hereafter be granted by His Majesty, his heirs and successors, to be holden in free and common soccage.” It appears to me, therefore, that as far as affects the English population resident in the townships, the proclamation of 1763 was to be in full force as respected them. In the Act of the 31 Geo. 3, c. 31, commonly called the Quebec Act, the Act of the 14 Geo. 3, c. 83, just quoted, was only repealed as far as relates to the appointment of a council for Quebec, consequently the rest of its provisions must be considered to remain in force; and the 43rd clause of that Act is as follows:—“ And be it further enacted by the authority aforesaid, that all lands which shall be hereafter granted within the said province of Upper Canada shall be granted in free and common soccage in like manner as lands are now holden in free and common soccage in that part of Great Britain called England; and that in every case where lands shall be hereafter granted within the said province of Lower Canada, and where the grantee thereof shall desire the same to be granted in free and common soccage, the same shall be so granted.” The concluding part of this clause provides for any alteration to be made by local laws in the Canadas, and proceeds as follows:—“ But subject nevertheless to such alterations with respect to the nature and consequences of such tenure of free and common soccage as may be established by any law or laws which may be made by His Majesty, his heirs or suc-

cessors, by and with the advice and consent of the Legislative Council and Assembly of the Province." The next reference to this subject which appears in legislation is in the eighth clause of the 6 Geo. 4, c. 69, commonly called the Canada Tenures Act, which declares that lands holden in free and common soccage in Lower Canada are to be subject to the laws of England, as it appears to me in the strictest accordance with the 43rd clause of the 31st of the late King, when that clause is taken with reference to preceding legislation; which clause as already cited provides absolutely that grants in Upper Canada shall be made in free and common soccage; but with respect to Lower Canada, there was a power to the Local Legislature to modify that enactment if it should be deemed expedient by the Legislature and by the Crown.

Query 4.—What is the substance of the Act which has provided for an increase in the number of representatives in the Legislative Assembly of Upper Canada?—The preamble of this Act, passed 7th of March, 1820, is to the following effect:—"Whereas from the rapid increase of the population of this province, the representation thereof in the Commons House of Assembly is deemed too limited, so much of the several laws now in force as regulate the number of representatives to serve in the Provincial Parliament are repealed." It then proceeds to enact that counties containing 1000 inhabitants should be represented by one member; when they contained 4000 inhabitants, by two members; that certain towns, when they contained 1000 souls, should be represented by one member; that the population should be ascertained by the returns of the several town-clerks; that whenever a university should be established in the province, it should be represented by one member. The Governor to issue writs of election, as provided by the 31st of the late King. The Act not to lessen the number of any members now returned for any county, nor to make it necessary to issue any new writs of election on account of any increase of inhabitants since the last election. Counties containing less than 1000 souls to be attached to the next adjoining county, having the smallest number of inhabitants. No person qualified to vote in a town to be allowed

to vote for a county in respect of the same property. Inhabitants of towns sending a member not to be included among the inhabitants of counties, for the purposes of this Act.

Query 5.—What was the substance of the bill for uniting the Legislatures of the provinces of Upper and Lower Canada, which was brought in and withdrawn in the session of 1822?—So much of the 31 Geo. 3, c. 31, was repealed, as provides a Legislature for each of the provinces of Upper and Lower Canada, henceforth to be one joint legislative Council, and one joint Assembly for both provinces. The joint Legislative Council was to consist of the existing members of both Councils, with a power for His Majesty from time to time to summon such other persons or person as His Majesty, his heirs and successors, should think fit. Such summons to be carried into effect under the enactment of the 31 Geo. 3. The Governor was to have the power of appointing and removing the speaker of the Legislative Council; the joint Assembly was to consist of the present members of the assemblies of Upper and Lower Canada, and to continue till the 1st of July, 1824, unless sooner dissolved. The Act of Upper Canada of the 6 Geo. 4 was to continue in force, and to be applied, subject to any alteration in the Union Bill, to the representation of the said province of Upper Canada in the joint Assembly, in like manner as it had been applicable to the special representation of Upper Canada prior to the passing of the Act. The Governor of Lower Canada was authorized to erect new counties out of the townships, such counties to be represented in the Assembly, or any old county now returning one member to be represented by two members. It was provided at the same time that no subdivision of any counties now erected, or to be hereafter erected within either of the said provinces, except as hereinbefore provided with respect to the townships, shall extend or be construed to extend to increase the number of representatives for such counties. It was also provided that the number of representatives for each province should not exceed 60. No Act to alter the number of representatives was to be passed unless sanctioned by a majority of two-thirds of the Legislative Assembly, as well as the Legislative Council. The provisions of the 31 Geo. 3, respecting elections, were to remain in force.

The qualification for a member was to be of the value of 500*l.* sterling of real property, and an oath was prescribed to ensure that qualification, and persons swearing falsely to be guilty of perjury. The trials of contested elections were to be the same as under the 31st of the King. The Governor was to have the power of summoning two members of the Executive Council in each province to the Assembly, who were to sit with power of debating therein, and with all other powers and privileges and immunities, except that of voting. The united Legislature was to meet once in every twelve months, and to continue for five years, till the period of a general election: majority of votes to decide. The oaths prescribed by the 31 Geo. 3, for the members of the Council and Assembly, to be taken; the declaration of the Royal Assent to be regulated by the enactments of the 31 Geo. 3; all laws in force at the time of the passing of the Act within the said provinces, or either of them, or any part thereof, to be unchanged, and the privileges of members to continue precisely the same. It was further enacted, that from the period of the passing of this Act all written proceedings whatever should be in the English language, and at the end of 15 years after the passing of the Act, all debates in either House to be carried on in English, and in no other language; that nothing in this Act, nor any act to be passed by the joint Legislature, nor any resolution or other proceeding of the Legislative Council or Assembly, was to affect or be construed to affect the free exercise of the religion of the Church of Rome, or to prejudice such accustomed dues and rights as the clergy of the said church might hold, receive, and enjoy, subject to the King's supremacy as recognised in the Act of the 31 Geo. 3, and the clergy and curates now performing clerical duties, or who hereafter, with the approbation and consent of His Majesty, expressed in writing by the Governor, &c., should be duly collated, appointed, or inducted to any parish, were to continue to hold, receive, and enjoy their accustomed fees and rights as fully as they were entitled to do under the Act of the 31st of the King. All the remaining provisions of the Act of the 31st of the King were to be in force.

Query 6.—Were the objections that were made to that bill

chiefly to the principles of the bill, or to any part of the details?—There were objections made from both the Canadas, but more especially from Lower Canada, against the principles of the bill; there were also objections made to some of the details.

Query 7.—Will you have the goodness to point out to the Committee what parts were objected to?—It was objected that the principle prescribed for the representation would necessarily give a greater proportion of representatives to Upper Canada, inasmuch as the Act for increasing the representation of the commons of that province, according to the scale of population, was to be still in force; whereas no Act existed in Lower Canada to the same effect; consequently the enactment of any legislation to that effect in Lower Canada would depend upon the united sanction of the two Assemblies after the period of union. There was an objection also made to the qualifications, and to the introduction of two members of the Executive Council, as debaters and not as voters; but the enactment which prescribed that all written proceedings were immediately to be in the English language, and that after 15 years all debates were to be in English, was considered as affording a pretty conclusive indication that it was intended progressively to render the united province English as to its institutions.

Query 8.—Have you any observation to make upon that provision of the bill?—It is impossible to deny that the intention of that bill was to realize the expression employed by Mr. Pitt in 1791, namely to assimilate the Canadians to the language, manners, habits, and above all the laws and institutions of Great Britain.

Query 9.—Did not Mr. Pitt accompany that declaration by saying that he only looked forward to such an assimilation taking place, if it could take place with the free will of the French Canadians, and was not the very ground on which he separated the colony into two provinces in order to ensure the French Canadians from the possibility of the Government attempting to produce such an assimilation without their entire assent and concurrence?—The Union Bill was considered to be necessary in consequence of the inherent defects in the bill of 1791, which placed the two provinces in a state of perpetual collision, from which no escape was anticipated at that time, except through the medium of a legisla-

tive union, and consequently, whatever abstract objections there might have been to that measure, it was considered as one of permanent public necessity.

Query 10.—But the Committee are not to understand that you represent Mr. Pitt as having desired to assimilate the laws and habits of the two populations in Canada upon any other ground than the entire concurrence of the French population in such assimilation?—I only mean to imply that Mr. Pitt contemplated from the legislation of 1791 that such assimilation would take place. I think the Union Bill of 1822 was defective in not more explicitly securing the rights, privileges, immunities and advantages enjoyed by the French population under their own laws, and making such laws so far permanent as to be incapable of repeal by the operation of this united Legislature.

Query 11.—Do you think that any bill could now be framed, the object of which should be uniting the two provinces, which could be made free from objection by the inhabitants of both provinces?—I am satisfied that no bill could be made which would be free from objection, but I am convinced that that bill of 1822 might be so materially improved as to remove a great part of the objections which were not unjustly preferred against it, and I do not myself see any alternative between the proposition of transferring to the province of Upper Canada a port which shall enable her to maintain her communication with the sea, and thereby effect her independence of the Lower Province, with respect to revenue arising from duties on goods imported seawards, or, on the other hand, the carrying into effect the provisions of a legislative union.

Query 12.—Could a port be given to Upper Canada by any other means than by annexing Montreal to that province?—I am not aware of any other geographical facility of accomplishing that object.

Query 13.—Do you think that the objections to the latter arrangement on the part of the Lower Canadians would not be almost as strong as to an incorporating union of the two provinces?—I entertain no doubt that very strong objections would be made by the Lower Canadians against such a proposal, but I repeat, that under the relative circumstances of the two provinces, and the bounden duty of the mother country to act justly between them,

I do not myself perceive any other than these alternatives. I cannot, however, avoid remarking, that should considerations of mutual defence, and a sense of common interest, create a growing opinion in favour of a legislative union in the two provinces, there does not appear to me to be any conclusive mode of adjusting their interests, with respect to the appropriation of their common revenue, other than by an identification of interests, involved in the measure of union ; but, at the same time, of a union which should guarantee to the French population their laws and institutions in the seigneuries, to the extent of preventing the combined Legislature from voting away those laws and institutions, and at the same time should reserve space enough in the unsettled part of the province, so as to allow the French population to spread itself within the sphere of the operation of French law.

Query 14.—Can the difficulty which arises in adjusting, collecting, and distributing the customs revenue of goods imported into the St. Lawrence, in your opinion, be better provided for than by the provisions which are contained in the Canada Trade Act?—I do not imagine that, under the present circumstances of the two provinces, any mode can be suggested more likely to accomplish this object than that which is prescribed under the provisions of that Act.

Query 15.—Several witnesses have stated to the Committee that, in their opinion, a system of duty and drawback might be adopted, and that a system of warehousing, in Lower Canada, goods which should be afterwards imported into Upper Canada and pay duty there might be adopted, and that either of them would be preferable to the course which has been enacted by law ; were those modes under the consideration of the Colonial Department at the time that that measure was decided upon?—A variety of suggestions were made to the Colonial Department at that period, and it was found then, as I believe it will be found now, that the Lower Canadians were disposed to think that those facilities might exist, and that the Upper Canadians were almost unanimously of a contrary opinion.

Query 16.—Mr. Ellice in his evidence alludes to certain obstructions which prevented the provisions of the Act called the Canada Tenures Act from being carried into effect, and he refers

to instructions which were sent to the local government to carry into effect the provisions of the Act of 1822; can you inform the Committee of the nature of those instructions?—The Executive Council considered the question only in the abstract, and simply with reference to an equitable valuation of the rights of the Crown, which the seigneurs might wish to redeem; but the great object of the clause was, not only to relieve the seigneurs from the feudal dues payable to the Crown, but also to enable them to free their censitaires, or sub-tenants, and thereby to introduce generally a system of tenure more favourable to agriculture and to the general improvement of the province. Lord Dalhousie was therefore instructed to give every encouragement to the seigneurs to free those who hold under them, and to make it known that in the event of any seigneur distinctly engaging to free his censitaire on a principle of equitable composition whenever any of them may demand it, the Crown will in that instance free the seigneur at the rate of five per cent., or in other words, one-twentieth instead of one-fifth of the value.

Query 17.—The Committee have been informed that a large portion of the land in Lower Canada has been granted in such large masses to persons who are not resident, and can hardly be found; have the goodness to state what, in your opinion, would be the best mode of removing the difficulties which now retard the cultivation of those lands?—I should be prepared to concur with Mr. Ellice in opinion, that if a taxation of the waste lands could be carried into effect, it might be as convenient a mode of remedying that defect as the remedy of escheats; but, at the same time, I do not at all concur with Mr. Ellice in his opinion of the practical difficulties of carrying a practical system of escheat into effect. It has been practically carried into effect in New Brunswick to the extent of a million of acres; and I see no reason why, under proper regulations, it might not be equally carried into effect in Lower Canada. It would be necessary for this purpose that time should be given to enable parties to execute those stipulations of settlement duty, which hitherto they have omitted to execute; as it would be unfair to visit upon them suddenly the consequences of that omission which has been tacitly submitted to by the Executive Government. There is one mode by which

this principle of escheat may be carried into effect, which is, the forfeiting a certain portion of the land itself to the Government as a penalty for non-improvement, such forfeiture to take place periodically until the whole would be forfeited, supposing the party not to carry the stipulated improvements into effect. Instructions were sent out from Lord Bathurst, of the date of

1826, for the purpose of forming a commission of escheat, and of considering the best practical remedy of applying the principle; but nothing is more certain than that, unless some practical remedy be supplied, either of taxation or of escheat, the granted lands, which are now in a state of waste in Lower Canada, must effectually prevent all improvements upon an extended scale in that province.

Query 18.—Would the operation of a tax on land remaining waste conflict in any way with the system of escheat that is directed to be carried into operation?—I should think the principle of escheat might be carried into effect by the Crown simultaneously with any tax which the Legislature might impose upon uncultivated land. Lord Dalhousie states, in a letter addressed to Lord Bathurst, of the 5th of April 1825, that with respect to escheat and forfeiture of grants of land for non-performance of conditions of settlement stipulated in the letters patent, he has to observe, that of two and a half millions of acres granted in this manner in Lower Canada, not less than seven-eighths remain uncultivated, and therefore liable to resumption by the Crown. It is supposed that six millions of acres held under seigneurial tenure are under similar predicament, but with respect to this description of lands it is doubtful how far the Crown will have a right to resume them if the proposed conversion of tenure should take place to any extent. Lord Dalhousie adverts to the expediency as well as the right of recovering such immense tracts of land for the settlement of emigrants. He adds, the obsolete course of proceeding which the ancient law of Canada points out for the resumption, both of soccage and seigneurial lands, is so incumbered with difficulties, and so inapplicable to the present state of the province, particularly with regard to grants in the townships, that it is next to impossible for the Crown to resume its just rights. In consequence of this suggestion of Lord Dalhousie, that clause was

introduced into the Canada Tenures Act which provides for the formation of courts of escheat.

Query 19.—What steps have been taken by the Colonial Office to remedy this evil?—In the 6th Geo. IV. c. 56, commonly called the Canada Tenures Act, the 10th clause provides, that courts of escheat shall be constituted in the province of Lower Canada to try forfeitures of uncultivated lands liable to escheat to the Crown. In the year 1826, Lord Bathurst sent instructions to Lord Dalhousie to appoint one of the inferior judges to act as commissioner of the court of escheats under the clause of the Act of Parliament. Lord Dalhousie replied, that the judge had not time to execute the duties, and that some other person must be appointed, upon which Mr. Huskisson wrote out instructions to him, authorizing him to appoint a person competent to perform the duty. It is to be recollected that no fund whatever exists, unless voted by Parliament, for carrying into effect this principle of escheat. The difficulties attached to carrying into effect a satisfactory principle of escheat were considered so great, that when Colonel Cockburn was sent out inspector and commissioner, he received separate instructions to communicate with the governors of all our North American Colonies, and especially with Lord Dalhousie, for the purpose of reporting to the Government at home the best practical method of carrying the system of escheat into effect at the earliest possible period. I beg to express my opinion, that unless a system of escheat be carried completely into effect, there can be no possible improvement for those colonies, and that I have every reason to believe that the information in the hands of Government is such as will enable them at an early period to execute such a system.

Query 20.—Is the system upon which land is now granted in Canada such as to prevent the probability of a recurrence of this inconvenience?—Entirely; but a statement of the system upon which it is granted may be given in to the Committee. The system upon which it is now granted is, it is granted precisely in proportion to the capital which the individual has to lay out upon it.

Query 21.—Is adequate security insisted upon for the expenditure of capital upon the land?—I consider that such security is involved in the prescribed regulations.

Query 22.—The Committee were informed by Mr. Ellice, that he had found great difficulty in effecting a commutation of the tenure of his land from seignery into free and common soccage, under the provisions of the Act for that purpose; will you state in what mode the difficulties may be removed?—The first arrangement that was made by Government, with respect to the change of the tenure from the feudal tenure to free and common soccage only, provided for the release of the immediate tenant under the Crown. The consequence was, that the purposes of that change of tenure were not carried into effect. The seigneur became released from his engagement to the Crown, but was not compellable to release his sub-tenant from similar engagements. The Canada Tenures Act provided, that in cases where the Crown thought fit to remit its rights to the seigneur for a consideration of five per cent. on the estimated value, that the seigneur on his part should be compelled by law to submit to arbitration as between himself and his sub-tenant, so that the sub-tenant could claim from him the same change which he had effected in his own case with the Crown.

Query 23.—What are the difficulties which prevent that arrangement being carried into effect?—I consider the difficulties that interpose upon that point are the entire indisposition of the French population to avail themselves of this permission, and in point of fact it is a permission which is only available on the part of the English.

But Mr. Ellice, who was very anxious to avail himself of it, found so many difficulties in his way, that he was obliged to give it up; and one of the difficulties that he states is, the very large fine of one-fifth of the value demanded by the Crown;—The original claim of the Crown was one-fifth, but the Crown, in consideration of the advantage which was expected to accrue from a change of tenure, remitted that one-fifth or 20 per cent. for five per cent.

Query 24.—Do you think it advisable, seeing the difficulties that still exists, for the Crown to contract its demands still more?—If the seigneur would contract his demands upon his sub-tenant at the same time that the Crown contract its demands with respect to himself, I might be disposed to answer that I think it would be very desirable; but I do not understand upon what principle of

fairness it is, that while the Crown on the one hand is to release the seigneur, the seigneur is to maintain his full rights with respect to his sub-tenant. It was considered at the time, by all the information which could be obtained by Government, that a much greater sacrifice was made by the Crown to the seigneur than the seigneur made to his sub-tenant; and it did not follow, that supposing the Crown had remitted altogether its demand, that that would have facilitated in any degree the conversion of the tenure on the part of the seigneur with respect to his sub-tenant.

Query 25.—Do you think it advisable for the Crown still to contract its demands in order to facilitate the improvement of the colony by the change of tenure?—If it were proved by presumptive evidence that the effect of a contraction of the demands of the Crown would be practically to effect the release of this sort of property, in that case I should say that it would be worth while for the Crown to make a sacrifice; but it was considered that the arrangement was as fair and equitable, and as likely to produce the effect, as any arrangement could be: it is impossible not to perceive that if this change of tenure were to take place extensively in the seigneuries, and the consequence of it were to be to introduce the English law into those lands of which the tenure was commuted, it would produce a great deal of confusion in having property intermixed alternately as it were, and having a different law applied to it.

Query 26.—Do you think that any instructions could be given to make this change of tenure more practicable?—I certainly am not aware that instructions could be given to make it more practicable.

Query 27.—Could the Act be so amended as to facilitate the exchange?—I have only to repeat, that I consider that the advantage of this permission will only be taken by the English possessors of property within the seigneuries; and I do not imagine that any greater facilities can be given than what are now given under the instructions, as combined with the provisions of the Act.

Query 28.—Mr. Ellice mentioned that an English receiver is appointed for the province, insufficient security being taken in England; what regulations do you think may be applied to remedy this for the future?—The appointment of the receiver rests exclusively with the Treasury, and consequently I have no

detailed knowledge upon the subject, which would enable me to give any specific suggestions upon it. At the same time, I would observe that, in my opinion, it is expedient that the most unqualified publicity should be given, both in the colonies and in the mother country, to all pecuniary accounts, appropriations, and matters of finance. If this principle be fairly acted upon, it will, in my judgment, effectually prevent for the future all serious difficulty upon such subjects.

Query 29.—Mr. Ellice stated that the Governor of Lower Canada has been instructed to remedy the difficulty arising from the Assembly not voting supplies by his own warrants on the receiver, to whom the taxes are paid, under the provisions of the Canada Trade Act; have you any information to give the Committee upon that point?—The Governor did not receive instructions to appropriate any duties received under the Canada Trade Act; but under the emergency in which he has been not unfrequently placed, from the total cessation of all supplies, to carry on the government of the colony, he has drawn upon the unappropriated revenue, and such a proceeding is necessarily to be justified only from the extreme difficulty and embarrassment of his situation; the discretion which he has been compelled to exercise on such occasions has received the sanction of the Secretaries of State.

Query 30.—Will you have the goodness to state to the Committee, the circumstances that attended the introduction of the Alien Bill?—The object of the Upper Province, in desiring that the Alien Bill should be passed, was for the purpose of enabling aliens (in the strict sense of the term) to sit in the Legislature, and of quieting titles; no person could be legally entitled to the possession of land who was not a natural born subject, or who had not taken the oath of allegiance, and there were a great many persons who were not qualified under those restrictions.

Query 31.—Are you aware what proportion of the population of Upper Canada were so situated? A very considerable proportion of the population of Upper Canada were subject to this restriction; and it was necessary to have an Act passed in this country, in the first instance, to give effect to any local Act that might be passed in the province for remedying this inconvenience respecting elections.

With respect to the provisions of the local Act, which the Lieutenant-Governor in Upper Canada was directed to have introduced into the Assembly, its provisions were framed with the anxious desire to produce a measure of entire conciliation; and with respect to the conduct of the Colonial Department, it is necessary to mention that these instructions, which Lord Bathurst sent out to the colony for the passing of a local Bill, and which excited dissatisfaction, were regulations which *had received* the approbation of a member of the Legislature, who was over in this country more or less in the character of an agent for the province, with respect to certain grievances complained of. When those objections which were unexpectedly found to exist in the Legislature were made known to the Colonial Department, Lord Goderich sent out for instructions, upon which a bill was brought in, which has finally settled the question.

Query 32.—Were there any essential differences between the bill as proposed by Lord Bathurst, and that which was proposed by Lord Goderich, and accepted in Canada?—Undoubtedly; the principal distinction was this, that by the bill suggested by Lord Bathurst, all parties, however long they might have been resident, were required to resort to the same means of establishing their titles as those who were comparatively late residents; and the distinction taken by Lord Goderich was to put a limitation to the time for which this was necessary, and to consider possession prior to the year 1820 as itself constituting a title; but I repeat that it was not expected that any reclamation would have been made by the province against the absence of such limitation, or against the appointment of a registry, which was also made a subject of complaint.

Query 33.—Do not you consider the Colonial Office as responsible for any line of policy long continued by any Governor of a colony?—Undoubtedly; in cases which can be characterized as involving a line of policy.

Query 34.—With a view to judge what measures should be adopted by the Government, is it not necessary that the Colonial Office should be well aware of everything which passes between the Assembly of the province and the Governor?—It certainly is; and for that purpose the Journals of the Assembly are transmitted, accompanied by such comments as the Governor may think right

to add ; but it does not follow that bills rejected by the Legislative Council should necessarily be made matter of observation.

Query 35.—Are the measures that have been taken for disposing of the crown reserves such as in your opinion are likely to effect the object that is desired?—I differ very much in opinion from Mr. Ellice with respect to the course that has been taken by the Government for disposing of the crown and clergy reserves to the Canada Company ; he states that “ an attempt was made by the Government to dispose of all this property to the Canada Company, but the church, always careful of their interest, did not approve of the price awarded by the commissioners, and which was in fact greatly exceeding its present value, and that chance of removing part of that nuisance has passed away, and it is impossible to avoid observing on the vacillating policy of the Colonial Office, which did not insist upon the arrangement being carried through.” The principle upon which those lands were disposed of to the commissioners was a principle of general average, and the church, who were bound to consult their own legal rights, complained, as I consider justly, that whereas the clergy reserves were the more valuable lands, the average that was taken upon their lands necessarily gave per acre a less amount to them than they would have done if the clergy reserves had been taken specially.

Query 36.—Is there any reason to believe that the clergy reserves are more valuable per acre than the crown reserves?—All the reports that have been made to the Colonial Department go to prove that the clergy reserves, which always have been most carefully selected, are in fact more valuable than the crown lands.

Query 37.—In the laying out of a township who has the selection of the clergy reserves?—The Governor and Council. It is necessary to observe, that the seventh appropriated to the clergy is appropriated by a statute ; the seventh appropriated to the Crown is merely at the discretion of the Crown.

Query 38.—In your opinion will the steps that have been taken to provide for the alienation of the clergy reserves be sufficient for that purpose?—The Committee are aware that a bill has passed enabling the Governor and Council in Upper Canada to sell 100,000 acres of clergy reserves every year, in my opinion that bill

is insufficient to effect the remedy which is so imperiously called for, because I think it would be extremely expedient to allow portions of the clergy reserves to be sold for the purpose of giving value to the remainder for the purpose of making roads, and performing settlement duties, and preparing them for cultivation, and I am of opinion that if those duties were done, and the clergy reserves improved to a certain extent, there would be no difficulty in leasing them on long leases, so as to make them productive at a much earlier period than might be expected. The proceeds of the sale of those reserves, as directed by statute, are to be impounded, and the rents and profits applied to such purposes as the Act of the 31st Geo. 3 directed, whatever those directions may be ; but I am alluding to an absolute alienation of part of those reserves, for the purpose of applying the money for which those reserves are sold towards the improvement of the remainder, thereby making that remainder more valuable than the whole was prior to such alienation.

Query 39.—Is there anything in the Act of 1791 that appears to contemplate the expenditure of a sum of money upon those reserves for the purpose of improving them?—There does not appear to be the slightest allusion to the necessity of capital being laid out upon them before they could be made productive. It is evident that the object of those who framed the Act of 1791, as well as the regulation respecting the crown reserves, was founded upon the expectation that civilization would surround those waste lands, and give value to them in consequence of that circumstance, whereas the actual effect has been, that the existence of those reserves has prevented that very civilization from taking place.

Query 40.—It appears that out of the crown lands granted to the Canada Company, a reservation of 750*l.* a-year has been awarded for the Scotch Church, with what view was that award made?—It was considered highly expedient that the Scotch Church should have a provision, and whatever might be the adjudication with respect to the clergy reserves, it was quite evident that even if the principle of dividing the profits of those reserves between the two churches had been adopted, it would have yielded only 200*l.* per annum to the Scotch Church, which would be insufficient to meet the demands for their pastors, and consequently the Secretary of State recom-

mended the appropriation of a part of the proceeds of the payments of the Canada Company to the payment of the Scotch clergy.

Query 41.—How long is that 750*l.* to be continued to the Presbyterian Church?—The 750*l.* is necessarily at pleasure; but it is to continue as long as the payments are made from the Canada Company, which involved a period of 15 years absolutely, and a probability of a much longer period. Mr. Ellice observes, that “the clergy reserves are either kept in a state of wilderness, no person being liable for road duties through them, and the industrious settler being exposed to all the inconvenience of large tracts of forest intervening between his settlement and a market, or persons have occupied the more improved and accessible parts of them without title.” I am of opinion that much of this inconvenience, if not all, would be removed by the principle of alienating a portion of the clergy reserves, for the purpose of applying the proceeds of them for the formation of roads; and in the general execution of what are called settlement duties; and that the effect of this would be, not only to improve the general condition of the province, but to make, as I have already observed, the remaining part of those reserves immeasurably more valuable than they are in their present state.

Query 42.—What has been the method of disposing of the crown reserves in all those districts?—It is perhaps unnecessary to remark that the Crown, having the undisputed appropriation of the six-sevenths, after the subtraction of one-seventh for the purposes of the clergy, there could be no motive in separating one-seventh from the remainder, except a motive founded upon the expectation already adverted to, that some peculiar value was to attach to this reservation. In consequence of the settlement of the surrounding country, and the quantity of ungranted land in Upper Canada having been so great, it has never been necessary for the purpose of satisfying the demands of settlers to appropriate those crown reserves; and therefore they have remained upon the same principle as the clergy reserves, practical nuisances in the province.

Query 43.—Has the attention you have paid to this subject led you to doubt of the policy of providing for the religious wants of the community in such a country as Canada, by a permanent revenue

derived from the appropriation of any portion of the soil?—In answering that question, I would beg to draw a distinction between glebe appropriated for the actual use of a clergyman and large masses of land set aside to provide a revenue for the church; I think the first is in the highest degree expedient; I think the other necessarily presents practical difficulties, which it would be very desirable to remove; and it appears to me that the practical remedy in the present instance is to appropriate glebe land, when circumstances require it, for the use of clergymen of the Church of England; and with respect to the general revenues of the church, to apply the proceeds of the sale of those revenues as they are progressively released from mortmain. I would wish to explain, that when I allude to appropriating glebe specifically to a clergyman of the Church of England, I do not mean necessarily out of any lands reserved by the Act of 1791, but out of lands at the disposal of the Crown, if such were more conveniently situated, which could be exchanged for lands so reserved.

Query 44.—From the opportunities you have had of ascertaining the feelings and opinions of the people of Canada on this subject, should you not be disposed to say that Government and the Legislature of England should be very cautious of doing any thing which could give rise to the slightest suspicion that there was any intention of establishing a dominant church in that country?—The Act of 31 Geo. 3, c. 31, clause 36, established the clergy reserves, that is, directed that one-seventh part of the grants of land should be allotted and appropriated for the support and maintenance of a Protestant clergy within the colonies; and it is stated that this is done for the purpose of making the best arrangement, with a view to the due and sufficient support and maintenance of a Protestant clergy within the said provinces. The 37th clause enacts, “that all and every the rents, profits, or emoluments which may at any time arise from such land so allotted and appropriated shall be applicable solely to the maintenance and support of a Protestant clergy, and to no other use and purpose.” Up to this point therefore no reference is made to an endowed church; but the 38th clause proceeds to enact, “that it should be lawful for His Majesty, &c. &c. to constitute and direct within every township or parish which now is or hereafter may be

formed, constituted or erected within either of the provinces of Lower or Upper Canada, 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," &c. meaning the clergy reserves, as it might be judged to be expedient under the then existing circumstances of such township or parish then to appropriate. The next clause attaches the same terms and conditions to those parsonages or rectories, and the same performance of duties, as are incident to a parsonage or rectory in England. The next clause places them under the jurisdiction of the bishop. The 41st clause gives a power, and a most important one, to the local legislature, of varying or repealing several provisions there recited in any Act or Acts which, being passed by the two Assemblies, should receive the consent of the Crown. In answer therefore to the inquiry, whether I should not be disposed to recommend caution, lest any suspicion should arise that there was an intention of establishing a dominant church in that colony, I beg leave to be permitted to make the following observations: It is perfectly clear to me, that the framers of that Act entertained the erroneous impression that this system of reserved lands would, in a short time, comparatively speaking, produce a fund which might be generally applicable for the purposes of furnishing income to the clergy of the Established Church, whether of England or of Scotland, as I conceive the words "Protestant Clergy" to refer to clergy of the two recognized establishments; and it appears to me, from the construction of those clauses, that a special endowment of land, in cases where there was a demand, for the Church of England was provided for, whereas there was no such provision made for the Scotch Church; I consequently consider that I am justified in inferring that the Church of England was intended to be so far a dominant church as to have the advantage of lands specifically appropriated for its maintenance, as contradistinguished from the Scotch Church, which was to have such proportion of the profits, rents and emoluments of those reserves as, under the discretion of the Executive Government, it might be expedient to allot to them.

But it appears to me quite conclusive, that there was no intention of necessarily establishing the Church of England as a dominant church, inasmuch as the 41st clause gives a power to the local legislatures, with the consent of the Crown, of altering all the provisions which are contained in the 36th, 37th, 38th, 39th, and 40th clauses.

Query 45.—Would the measures you have suggested go to affect the appropriation of the clergy lands when they become improved, according to your plan?—If the Committee will allow me to restate my suggestion, it is this: that for the purpose of relieving the province from the practical inconvenience of those portions of reserves which impede the general cultivation and civilization of the province, I propose that part of them should be alienated for the purpose of making roads, in preparing them for cultivation, and for settlement. At present there is no power under any Act of effecting this purpose, inasmuch as the law only allows of their being sold, and the proceeds of such sale being impounded for future appropriation. If those reserves were to be retained for any very extended period, there can be no doubt that ultimately, after the lapse perhaps almost of centuries, they would acquire very great value; but if they are sold at an early period, it appears to me that the money for which they may sell may legitimately be applied for the purposes contemplated under the Canada Act, namely, the support of a Protestant clergy, including under that term the clergy of the Established Church; and I do not perceive what detriment can possibly accrue to the colony (provided those lands are progressively released from mortmain) in consequence of the interest of the money for which they may be sold being applied for that purpose. I should propose that all the better portion of the clergy reserves, which have already acquired a value from their proximity to cultivated lands, should be first subjected to sale, and so on till the whole are disposed of. Mr. Ellice states, in his evidence with regard to these reserves, that there is no hope of their being sold to the extent of 100,000 acres annually, or even of 25,000 acres being so sold. He adds, “They do nothing to encourage settlers; they neither make roads, build mills, nor lay out one shilling of capital.” Now I propose to remedy those defects, by allowing the absolute aliena-

tion of part of those very reserves for the purpose of making those very improvements.

Query 46.—What has been the object of limiting the quantity of clergy reserves that can be sold in one year?—From the supposition that there would be no demand for their sale beyond that amount, considering the quantity of land that the Canada Company has to dispose of, and the mass of land that is ungranted.

Query 47.—Would not that state of things make the limitation unnecessary?—The reason is this : if it were not limited, 500,000 acres might be brought into the market and sold for nothing, and therefore it was to prevent the reserves being hastily and improvidently brought into the market that limitation was made ; but if there was any chance of effecting a sale of those reserves at an earlier period, I should consider the limitation as most impolitic.

Query 48.—The Committee have been informed that the establishment of the University of Upper Canada, from the government of which all denominations of Protestants, except those that belong to the Church of England, have been excluded, has materially tended to increase the jealousy that already existed in Upper Canada with regard to the Church of England ; can you inform the Committee under what instructions that University was so founded?—It was founded by a charter under the Great Seal, and it relieved the students from an obligation to subscribe to the Thirty-nine Articles, which had been an obligation imposed by the constitution of the other North American provinces.

Query 49.—In what way is it endowed?—It is endowed with land, and an appropriation made to it from the proceeds of the Crown reserves sold to the Canada Company.

Query 50.—Has not the Council the appointment of the professors?—Undoubtedly.

Query 51.—Are not all the members of the Council required to be members of the Church of England?—Yes.

Query 52.—Have the Crown reserves been effectually disposed of, so as to prevent the inconvenience continuing which has arisen from them?—All the Crown reserves in Upper Canada have been disposed of to the Canada Company, with the exception of those in new townships which have been laid out since the 1st of March, 1824.

Query 53.—On what footing do they stand in Lower Canada?—They still remain unsettled; in fact, the quantity of land that is settled is so much less in the Lower than in the Upper Province, that there is a much smaller proportion of Crown reserves in the one than in the other. But nothing in my opinion can be more impolitic than to make any distinction in the six-sevenths that belong to the Crown. I consider the principle of reservation of a seventh for the Crown to be an erroneous one, as the first object should be the entire settlement of particular districts, rather than a partial and general settlement.

Query 54.—Will you inform the Committee of the sums that have been paid by the Canada Company, and their appropriation?—The sum which the Canada Land Company is actually bound to pay in sixteen years in annual instalments amounts to 301,367*l.* sterling. They are compelled to lay out on the improvement of a block of a million of acres, given in lieu of the clergy reserves, a sum amounting to 43,000*l.* On the 1st of July, 1826, the first payment commenced of 20,000*l.*; that payment exceeded some of the subsequent years, in order to cover the expenses of the arrangement. In 1827, 15,000*l.*; in 1828, 15,000*l.*; in 1829, 15,000*l.*; in 1830, 16,000*l.*; in 1831, 17,000*l.*; in 1832, 18,000*l.*; in 1833, 19,000*l.*; in 1834, 20,000*l.*; and 20,000*l.* every succeeding year to the end of the term, it being at the option of the Company to increase the annuity payment as it may seem fit, it being provided, that in the last year the account shall be completely settled, that is on the 1st of June, 1834. The appropriation which the Secretary of State recommended to the Lords of the Treasury is as follows: first, the sum of 8500*l.* per annum for the civil establishment of Upper Canada, which till that year had formed an item in the estimate annually voted by Parliament; secondly, 1000*l.* as an annual grant towards the building of a college for the province; thirdly, the sum of 400*l.* as an annual salary to the Roman Catholic Bishop resident in that colony; fourthly, the sum of 750*l.* as an annual provision for the Roman Catholic Priests in that province; fifthly, the sum of 750*l.* as an annual provision for the Presbyterian Ministers in connexion with the Church of Scotland, having stated congregations in the province; sixthly, the sum of 400*l.* as a pension to

Colonel Talbot, as a reward for the services of that officer, and the sacrifices he had made in settling the London and Western districts; the sum of 2566*l.* as an annual compensation for the period of seven years to those officers of the land-granting department in Upper Canada, who by the adoption of the new regulations for granting lands are deprived of their emoluments. The sum total of those appropriations amounts to 14,766*l.*, which leaves an unappropriated balance of 733*l.* per annum.

Query 55.—Mr. Ellice has stated that there was no occasion for the Government applying this money to the payment of the civil list in Upper Canada, as the ordinary revenue received on the trade of Canada is perfectly adequate, or might be made perfectly adequate, to the discharge of the civil lists of both provinces; do you concur in that opinion?—I am at a loss to understand upon what data Mr. Ellice gives that opinion. I believe nothing can exceed the economy with which the Legislature of Upper Canada dispenses the finances under their control; and I know no fund from which the payment of the 8000*l.* annually voted by Parliament could be forthcoming.

Query 56.—How is the clergy corporation appointed?—The clergy corporation was established at the recommendation of the Governor and Executive Council, and appointed by instructions sent out to the Governor of Canada to appoint a Committee of the clergy, of which the bishop should be at the head, for the purpose of considering the most productive mode of dealing with the lands set apart for the clergy, under the 31st of the King, such disposition being necessarily limited to leasing, as there is no power of alienation under the Act.

Query 57.—By what instrument has that corporation been appointed?—Such an appointment would be made under the great seal of the province, under instructions from the Government at home.

Query 58.—Is there a copy of that instrument in the Colonial Office?—I believe not, the instrument having been prepared in the colony.

Query 59.—Is there in the Colonial Office any copy of the instructions which directed the Governor to issue such an instrument?—There is.

Query 60.—You are aware that Mr. Ellice has stated his

opinion that blame ought not to be imputed to any persons connected with the Executive Government in either province, but that the dissensions in Canada were the inevitable consequences of a determination on the part of the Government at home to persevere in a wrong system?—I find great difficulty in reconciling Mr. Ellice's evidence on this point. He states that the great object of the Assembly of Lower Canada is to retain their separate institutions, their laws, their church, and their condition as distinct from the people of America, and that though much may be done by mutual concession, all their objects can only be effected at the expense of the interests of the English population, and by the retardment of all improvement in the country. The Committee are aware that this is precisely the language which is maintained in the petitions from the townships, which have been presented to Parliament, and especially in those which are laid before this Committee, from the townships to the Governor-General in the year subsequent to the proposition of the Union. Those petitions distinctly express the gratitude of the petitioners to the Legislative Council, for having resisted the attempt of the Assembly to prejudice the English population and to retard improvement. Whereas the Legislative Council is complained of, on the part of the French Canadians, as being the main source of all the dissensions existing in the province. Mr. Neilson employs these words: "The laws that are conceived by the people to be necessary for the common welfare are rejected by the Legislative Council, that being chiefly composed of persons who are dependent on the Executive Government of the province." The object of the opposition of the Legislative Council to the measures of the Assembly, if Mr. Ellice's view of the purposes of that Assembly be correct, is to maintain the interest of the English population, and to prevent that retardation of the improvement of the country which Mr. Ellice states the French Canadians to contemplate. I would wish to show that the opinion of the English population is such as I describe, by reference to the following paragraph, which appears in the petition to the House of Commons from the townships:—"That while your petitioners waited patiently the effect of their repeated solicitations for redress of grievances, to be administered by the Provincial Legislature, the Legislative Council, in the session of the year 1825,

by recommendation of his Excellency the Governor-in-Chief, passed a bill of the most salutary description, introducing into those townships the English law of dower and conveyance, and making incumbrances special, establishing also public offices therein for the enregistration of all mutations of real property, and of all mortgages on the same; that though this bill, carefully abstaining from every unnecessary innovation, neither disturbed the routine nor touched the customs of the French Canadians in the seigneuries, the House of Assembly, evincing its characteristic disregard for the claims of your petitioners, neglected to proceed upon the same bill when sent down for concurrence," &c. And Mr. Robert Gillespie, one of the witnesses before this Committee, being asked in what manner the dissensions between the different branches of the Legislature obstructed the operation of commerce and the improvement of the Canadas, answers in these words: "By preventing the enactment of laws necessary for the security of trade, there is no such thing as knowing at present when real property is mortgaged or not;" and so on. On the other hand, Mr. Neilson states, "that no change which will be for the general good of the country will be resisted by the Assembly, for the Assembly are the true representatives of the people, and must do what will be for the good of the people; if they do not, they had better go home and mind their own business." The Committee cannot fail to observe that the question turns upon, whether the good of the people is to be promoted by approximating their institutions towards the English system, or by not only maintaining the French institutions in their present integrity, but by extending it over all that portion of the Lower Province which is inhabited by an English population. This is the real key to the dissensions which have existed in that province, and which I consider to have grown out of the short-sighted legislation of 1791; in proof of this I would remind the Committee that Mr. Viger adverts in his evidence to the improved condition of Lower Canada, which would have taken place if a proper system of conduct had been followed with regard to the Canadians. This question is then put to him: "When you say a proper system, do you mean if the French system and the French law had not been obstructed in its operations?" He

answers: "So far as this, that they should have continued to let the French law prevail all over the country." In point of fact, nothing can be more discrepant than the views which are entertained by the agents for the French population of Lower Canada with respect to the functions and duties of this Legislative Council, which one party supposes to be the source, and the other the prevention of all mischief. Mr. Neilson says, "that an independent Legislative Council would give to Canada something like a British Constitution, in that case there would be a body that would have a weight in the opinion of the country when the Governor and the Assembly were at variance, and on whichever side they declared they would incline the balance;" whereas Mr. Viger is asked, "Is it not the wish of the Canadians to change the structure of the Legislative Council, and to take measures for ensuring its formation in such a way as to make it likely that it would agree with the Legislative Assembly?" He answers, "I am sure we must wish that the Legislative Council should be composed of men who would side with the mass of the people."

Query 61.—Mr. Neilson states that in Nova Scotia, where things go on very well, the revenue depends upon an annual vote of the Legislature, so that not only the appropriation of the money, but the very collecting of the money is dependent upon an annual vote of the Legislature, and there the Government and the Assembly go on very well in concert; can you inform the Committee whether that is correctly stated?—Mr. Neilson totally omits to state that the civil list is voted by the British Parliament, and that consequently the same cause of collision does not exist there which exists in Lower Canada. It is unnecessary for me to explain to the Committee that this is the case in all our North American provinces, with the exception of Upper Canada, the expenses of whose civil list however are defrayed from proceeds of funds belonging to the Crown, and are not dependent on a vote of the local Legislature.

Query 62.—You have heard much observation from the witnesses respecting the constitution of the Legislative Council; have you any remarks to offer to the Committee on that subject?—Here again I would call the attention of the Committee to the different evidence which is received on such points; Mr. M'Gillivray states,

that those who are opposed to the measures of Government complain of the Legislative Council, who generally have sided with the Governor when there has been any question in difference between them; but he adds, "I have not heard of any complaint of the composition of the Council; where there are parties, however, there will always be complaints." I have no hesitation in expressing my concurrence in the abstract opinions respecting the composition of the Legislative Council which have transpired during this inquiry, but I doubt extremely whether, under the circumstances of Lower Canada, it is possible to bring this Legislative Council to that state of theoretical perfection which is looked for by some members of the Committee; at the same time, with respect to this Council, as well as to all other points where an improved system can be applied, it is necessarily the duty of Government so to apply it.

Query 63.—You are aware that Mr. Neilson has given evidence respecting the dismissal of militia officers by Lord Dalhousie; have you any information to give to the Committee on that point?—The following general orders, which were issued at two different periods by Lord Dalhousie's directions, will explain the grounds which his Lordship assigned for the measure in question. The Committee will perceive, from the general tenor of those orders, that it was for conduct connected with their duty as militia officers that his Lordship was mainly induced to dismiss the individuals in question. "Office of the Adjutant-General of Quebec.—Quebec, 12th of September 1827.—General Order of Militia.—His Excellency the Governor and Commander-in-Chief takes an early opportunity to express to the battalions of militia in Lower Canada his sentiments on certain recent proceedings which nearly concern their loyalty and honour. It is well known that the laws under which the militia force has been regulated for many years have been enacted for short periods, and have been repeatedly renewed as a substitute for the permanent laws passed in 1787 and 1789. Those temporary Acts, however, not having been renewed in the last session of the Provincial Parliament, expired on the 1st of May; and it was immediately notified to the militia by His Excellency's directions, that under the existing circumstances the old permanent ordinances came into force. Evil dis-

posed persons were not wanting to spread doubts on the subject, and to those were added gross misrepresentations and calumnies regarding the intentions of the Executive Government, all tending to create discontent and dissatisfaction in the province, but more particularly to induce the militia to object against and disobey the orders issued under those ordinances for the usual musters in summer. The Governor-in-Chief has seen with great satisfaction that the utmost exertions of the ill-disposed have totally failed to disturb the national disposition of the people to order and obedience, with very few exceptions, and those chiefly of officers holding commissions. The musters of July and August have been unusually numerous and well attended. It is therefore an important and a most agreeable duty to his Excellency to offer his warmest acknowledgments in approbation of that conduct by which the battalions of militia have shown their loyalty and proper sense of duty; but while the Governor-in-Chief thus gives the reward of praise where it is so well merited, he feels that his duty imperiously calls upon him at this time to deprive of the distinction of holding commissions in the militia all such persons as have neglected to attend at the musters required by law, or who by their conduct or language at public meetings have failed in that respect which is due to the representative of their Sovereign. This however, is a work of time and investigation, which, though necessarily attended with some delay, will not fail to receive his Excellency's serious and deliberate consideration. By order of His Excellency the Governor-General and Commander-in-Chief, F. Vassel de Monoel, Adjutant General M. F."

The other order is as follows: "Office of Adjutant General of Militia, 12th December 1827.—General Order of Militia.—The Governor-in-Chief having for some time past occupied himself in considering reports of reviews by officers commanding battalions of militia, has great satisfaction in again expressing his approbation of the general disposition and orderly conduct of this great national force. The reviews have been fully attended, and there are but few instances in which the Governor-in-Chief would think it at all necessary to express censure; his Excellency therefore conveys to all, and to each battalion, his thanks for their conduct, trusting that the next summer he shall find no cause to repeat the

only disagreeable part of duty which remains for him to perform, that is, to publish the names of those officers who can offer no sufficient apology for their neglect of duty and absence from muster."

I have only further to explain that Lord Dalhousie states that His Majesty's Attorney-General in the province of Lower Canada gave an opinion that the old ordinances of 1787 or 1789 had revived, and certain militia officers having impeached Lord Dalhousie's consequent judgment upon this occasion, founded, as it was, upon the opinion of the Attorney-General, not only refused to attend the summer musters, but otherwise exhibited a spirit of disobedience to orders; in consequence of which Lord Dalhousie dismissed those persons, the circumstances of whose conduct and situation made such an example necessary; and on the grounds stated his lordship's conduct received the sanction of the Secretary of State.

Query 64.—Mr. Cuvillier in his evidence states, that Lord Dorchester, in his Message to the Legislature in 1794, in the name of the King, gave the casual and territorial revenues to the province of Lower Canada, towards the support of its civil government; hence, he says, the control which the Assembly has over those revenues. It is in consequence of this gift on the part of His Majesty to the province, for the public uses thereof, that the Legislature has a right to appropriate them. He is then asked, "In what form was that gift made?" and he answers, "By message." Again he is asked, "Did that message of Lord Dorchester say that the King would appropriate those revenues for the use of the province, or that he made them over to the Legislature, to be appropriated by them for the use of the province?" he answers, "That he does not recollect the precise words of the message, but that he does recollect that the casual and territorial revenue was given to the province in aid of its civil government." Can you supply the Committee with any decided information upon this point?—It appears in the Journals of the House of Assembly of the 29th of April, 1794, that "a message from his Excellency the Governor, signed by his Excellency, was presented to Mr. Speaker, which message was read in English and repeated in French, all the members of the House being uncovered, and the same is as fol-

loweth :—Dorchester, Governor.—The Governor has given directions for laying before the House of Assembly an account of the provincial revenue of the Crown, from the commencement of the new constitution to the 10th of January, 1794 : first, the casual and territorial revenue, as established prior to the conquest, which *His Majesty has been most graciously pleased to order to be applied towards defraying the civil expenses of the province.*” The Committee will not hesitate to admit that an expression, on the part of the Crown, that orders have been graciously given to apply the territorial revenue towards defraying the civil expenses of the province, cannot, in reason or in justice, be considered to be a gift to the Legislature, by which the Legislature obtains the right of appropriation. I would beg leave to lay before the Committee, in illustration of this distinction between applying the local revenues at the discretion and under the sanction of His Majesty’s Government for the benefit of the Colonies, and the surrendering them to the colonies for their absolute appropriation, by the following letter, which was addressed by Lord Bathurst, as a circular letter to the colonies having local legislatures, on the 8th of October, 1825, and which appears to me to express most clearly the reasons why an annual vote of the Civil List is less preferable to a more permanent arrangement. “Downing-street, 8th October, 1825.—Sir,—You are aware that in all discussions which of late years have taken place in Parliament on the subject of the Colonial Estimates, it has been objected that the North American colonies ought to take upon themselves those permanent and necessary expenses of their civil government which have hitherto been charged upon the revenues of this country. I have always felt unwilling to enter upon this subject until the period should arrive when, from the growing prosperity of those colonies, and from the condition which they had, in fact, attained with respect to their population and resources, I could press it with the conviction that the proposition was not only one which ought to be entertained by the Legislature, but one which would be met by a most anxious disposition to comply with the wishes of Government. I also deferred pressing this point until Parliament has actually removed those restrictions to which the commerce of the colonies had hitherto been subject ; because, though it might

not have appeared unreasonable to have made the extension of a policy so liberal towards the colonists, in some measure dependent upon their assuming upon a just footing the charges of their own Government, yet I felt it a more pleasing course (and one which I trusted would be found not less effectual,) to rely rather upon the disposition of His Majesty's subjects in the colonies to evince a just sense of these advantages after they should have been conferred upon them, than to have attempted to induce them to a compliance with the proposition by any promise of consequent concession and advantage. By the measures which Parliament has recently adopted the restrictions I have referred to are removed, and the colonies now enjoy, under the protection of His Majesty, the same freedom of trade with the parent state and with foreign countries as if they constituted, in fact, integral parts of the United Kingdoms. Such a state of things, it is confidently hoped, cannot fail to produce an increase of prosperity that will either enable the colonists to bear the charge of the Civil Government without necessity for imposing additional taxes, or will make the increased taxes, which it may be necessary for a time to provide, less burdensome than those which they are now obliged to sustain. I have had frequent occasion to regret the inconvenient consequences which have arisen in some of His Majesty's colonies, from the practice of providing by an annual vote for those charges of the Civil Government which are in their nature permanent, and which therefore ought not, consistently with those principles of the constitution common both to the United Kingdom and to the colonies, to be classed with those contingencies of the public service which, being necessarily fluctuating, may be fitly provided for as the occasion appears to demand. In point of fact, the necessity of an annual vote for the maintenance of a fixed and permanent establishment is only calculated to embarrass the public service, and to disturb the harmony which ought to exist among the different branches of the Legislature; it even tends to impair that confidence between the Government and the inhabitants of a colony, which is equally necessary to the just support of the former and to the happiness and prosperity of the latter. In the practical execution of this proposition, it cannot fail to be satisfactory to the Legislature to

observe, that it is not intended that the provincial revenues should be charged with any excess beyond the long-established and ordinary charges, unless a further increase should by them be deemed expedient. The charges of which the present estimate consists being all strictly of a permanent description, I should propose that the Act, which will be necessary to make provision for their assumption by the colony, should continue in operation for the space of ten years. The cordial adoption of this proposition on the part of the Legislature cannot fail to draw still closer the ties which so happily subsist between the mother country and her dependencies, and to induce a favourable disposition on her part to apply her capital for colonial purposes. And when it is considered how heavy an expenditure is necessarily incurred by Great Britain in the military defences of her colonies, it would seem unreasonable, under present circumstances, to question the readiness of the latter to provide in a proper manner for the necessary charge of their civil government. You will explain in the fullest manner to the Legislature, in the course of the next session, the expectations of His Majesty's Government upon this subject, and you will at the same time inform them, that whatever funds may be raised or received within the province, such funds not being under the control of the Legislature, will be appropriated for the benefit of the province, at the discretion and under the sanction of His Majesty's Government."

APPENDIX (C.)

EXTRACTS from the EVIDENCE of EDWARD ELLICE, Esq.,
before the Select Committee on the Civil Government of
Canada.

WERE not the boundaries of Upper and Lower Canada settled in consequence of the provisions of the Act of 1791?—They were.

In your opinion, has the boundary line between the two provinces been drawn conveniently for the two provinces; or is the division so arranged as to give rise to very conflicting interests and separate feelings between them?—The division altogether was most unfortunate, and has completely verified the predictions of its consequences, made at the time by the agent of Canada, and by all the witnesses examined at the bar of the House. The result, so far, of maintaining distinctions between two classes of subjects, has produced no proof of its policy. As to the particular boundary or division of territory, that is very immaterial, and I do not believe you could satisfy either party in the general questions now under discussion by any alteration in that respect.

In point of fact, has not a very strong collision of feeling, and a sense of difference of interest arisen between the inhabitants of the two provinces?—The greatest possible collision of interest has arisen on the subject of the revenue; and unfortunately there is every reason to apprehend it is only now at its beginning.

Will you be so good as to state the principal grounds of difference that exist between the two provinces?—The principal ground is, the pretension set up by the French Legislature at Quebec to regulate the trade of the St. Lawrence, and to levy all duties upon the exportation or importation of commodities either going from or to every part of Canada, without consulting the Upper Province on this point of deep and vital importance to its

inhabitants. This grievance will of course be more deeply felt as the hitherto rapid settlement of Upper Canada, encouraged by more liberal institutions, and a better state of law, progressively advances. The French population of the Lower Province have not increased or improved their condition in any respect in proportion to that of the English population either in Upper or in Lower Canada, nor is there any reason to believe that their numbers or their interest in the country will in future increase in proportion to the increase that must take place in both colonies in British inhabitants and British capital. As the British interest increases in either province, a community of feeling will necessarily lead to their closer connection together; and I am afraid, if even it was the determination of Parliament to maintain the ascendancy of one class of the population of Lower Canada, and their exclusive powers over the taxation and commerce of the country, the British inhabitants of both Provinces would, at no distant time, look to some other means of relieving themselves from so intolerable a grievance. * * *

If one rate of customs' duties must be collected in the revenue, and one mass of revenue is collected, and no fair or equitable division is made between the two provinces, does it not necessarily follow that there must be one expenditure?—That I take to be one of the most difficult points of this case. Supposing any idea to be entertained of re-uniting those provinces, I have always thought the more prudent course to adopt, and one which the paramount object of preventing at first any collision in the united Legislature on the heretofore separate interests of the parties would justify, would be to fix the present revenue, and apply such part of it, for a certain number of years, as would be necessary to defray the charges of the existing civil lists in both provinces.

How could that object be effected?—By adequate provisions in a bill for uniting the Legislatures, specifying in the schedule to the bill, in minute detail, the different charges to be defrayed, in such manner so that there should be no ground for suspicion that it was intended either to increase the charge or to give the executive authority any discretion in the payments. I think this arrangement might not be objected to, on the ground I have

stated, for a limited period of from five to fifteen years. Any surplus of revenue, or monies raised for the improvement of the country, or for the increase of the establishments in proportion to the gradual increase of the population and the wants of the administration, would be still under the control of the Legislature, and at the termination of the limited period the full power of regulating the taxation and expenditure would revert to them. Before that time, it is to be hoped, all separate habits and interests might be nearly lost sight of, and the present collision of feelings and prejudices give way to a general desire to consult only the common good and the prosperity of the country in the united Legislature.

Has the House of Assembly of Upper Canada ever expressed any wish for a union of the two provinces?—I have not heard so, nor do I conceive the fact either way to be of much importance. The people and the Legislature are only desirous to participate in the exercise of the undoubted right of the whole people to raise the revenue and regulate the commerce of the country.

In what way, in the case of the union, would you provide for the more general services, and the rest of the revenue remaining after the disposal of the civil list?—I would leave it at the free disposal of the united Legislature. I am perfectly satisfied, a governor of conciliatory disposition, popular character, and good sound sense, acting upon instructions from this country, founded on liberal principles, would have no difficulty in balancing and conciliating the different parties in the Legislature, and procuring from them ample means of improving the institutions, and promoting the general interests of both provinces.

When the union of the two provinces was proposed in Parliament, did not a feeling arise in Lower Canada extremely hostile to that measure?—An adverse feeling certainly was expressed by the French population in Lower Canada, but not to a greater degree than was anticipated.

Was not one of the grounds upon which that feeling was founded an apprehension, that under the circumstances of the Union the provision for the maintenance of the Roman Catholic clergy might be endangered?—There were several ill advised clauses in the Bill. It was suggested by the original proposers

of the measure that some clause should be inserted protecting the Catholic church and the rights of the clergy from all encroachment by any Act of the new Legislature. This intention was not accomplished by the clause in the Act, which was construed by the clergy as direct hostility against their establishment. Nothing could have been so contrary to the feeling with which any mention of the Church was suggested, and it would be consistent equally with justice and policy to provide distinctly in any measure for uniting the Colonies, against all dangers the clergy may apprehend in this respect.

Each of those provinces having now a representative assembly, would it in your opinion be possible or desirable to leave to those assemblies the regulation of such matters connected with each province as might be considered as local and particular, and to assemble a Congress, consisting of certain members of both bodies, to which might be given the charge of such concerns as should be general to the two provinces; among which may be enumerated the collection of the revenue, great institutions for the purpose of defence, and the general application of the revenue, appointing to each of them a fixed civil list?—If it were possible to satisfy the parties by any arrangement more than by the whole measure of a union, I should be much inclined to sacrifice a great deal for that object. But a Congress would in fact be only a union with more complex machinery; and I doubt whether the objection of one individual in Lower Canada to any measure of this description would be removed by it. The same difficulty would occur in apportioning the influence of the two parties in the Congress, as in a Legislature common to both, and you must make some alteration in the constitution of the Assembly of the Lower Province by the admission of representatives from the townships. The great desideratum is to infuse into the legislative body, under whatever regulations it may be placed, persons of liberal education, who may be able to counteract the influence of narrow habits and old prejudices in retarding the prosperity of the country.

Would not the same objection exist if a legislative union took place; would not the effect necessarily be, upon similar principles, to extend the influence of the French Canadians to Upper

Canada?—Certainly not, if you were to unite the two Legislatures, adding to them a fair proportion of representatives from the unrepresented townships in Lower Canada. * * * * *

What would be the effect of including the Island of Montreal in Upper Canada?—I do not think that any new division of the boundaries would improve the condition of Upper Canada, and the separation of Montreal from the Lower Province would produce more dissatisfaction than a more efficient measure. * * *

Can you state any other grounds of objection which have been urged to the union of the two provinces besides those which you have alluded to?—I have heard of no other grounds; but it is quite impossible there should not be a great difference of opinion on a subject affecting in so many ways the particular interests, both of individuals and parties. For instance, persons residing at Quebec, and at York in Upper Canada, may neither approve of the removal of the Legislature to Montreal, supposing that to be the proper place, if a union should be decided upon. * * *

APPENDIX (D.)

THE FRENCH CANADIANS.

To the Editor of the Morning Chronicle.

SIR,

At this moment, when all British subjects, to whom our colonial prosperity, or, indeed, the real welfare and genuine liberty of their fellow-subjects in general, are objects of any value, must be watching with deep anxiety the result of the disastrous outbreak which recently occurred in Lower Canada, a few observations on the subject of that colony, from one who has had some years' experience of it, may not be wholly without interest. Not that those observations will contain much, if any, of novelty. But it sometimes happens that truths, though "familiar as household words" to those whose duties or interests bring them in constant contact with the subject of them, are forgotten or lost sight of by the generality, whose attention is distracted among a variety of objects, and is only casually called to the subject in question. And such must ever be more peculiarly the case with respect to any one of the numerous offsets from the parent stem of this vast empire.

Let me guard myself, however, against being understood as upholding or defending, by anything I am about to say, any abuses really existing and requiring reform in the province. If it should be considered right, upon constitutional grounds and after mature consideration, that the Legislative Council should be elected, as well as the House of Assembly, by the people—if it should be decided that the judges and magistrates, and her Majesty's law officers ought to receive their nomination from the latter body instead of from the Queen—let these reformati-

all others which may legally and constitutionally be resolved upon, be carried into execution in proper time and proper manner; though I should scarcely suppose that, after these two measures had been carried, and I know that the last of them has long been the real object of the democratic party in Lower Canada, her Majesty would be advised to continue the expensive establishments now existing on the banks of the St. Lawrence, for the very empty honour of still numbering Lower Canada, nominally, among her colonial possessions. But the point on which I wish your readers to satisfy themselves is, whether, supposing these changes in the constitution to be called for; admitting for the sake of argument, that a thousand abuses are still crying out for reform—whether, I say, there be anything in the actual condition of the Canadians, any suffering or privation on their part, resulting from such supposed maladministration as can afford the slightest shadow of justification of the means now attempted to be resorted to, for the alleged object of obtaining redress. If, indeed, I were addressing these observations only to those who content themselves with reading the more moderate portions of the press, I should consider it a very unnecessary waste of time to combat the idea that open rebellion is, in the present instance, if ever, to be vindicated. But when one sees it boldly asserted, in speeches and in newspapers, French as well as English, that the Canadians are suffering and writhing under the tyranny of their governors, to a degree that almost challenges a comparison with the Poles or the Irish, it becomes a natural and very necessary question what the real condition is, and what the feelings of this people, who are thus supposed to be ground and persecuted into rebellion.

Now, I believe it would be impossible to find any one single spot in any one quarter of the globe, the population of which is, on the one hand, in such perfect enjoyment of all that conduces to happiness and comfort, and, on the other hand, so exempt from all those restraints, vexations, and contributions which usually in societies form the price paid by the community for government and protection. The curse of taxation is there scarcely felt. Liberty, whether as regards their religion, action, speech, or writing, is enjoyed as fully and amply as in our own England. Independence, as respects property, exists to such an extent, or,

I ought rather to say, approaches so nearly to universal proprietorship, as would, I fear, excite no small feeling of envy among our less favoured peasantry, acquainted only with our more civilized and more unequal distribution of property. The word "labourer," in the European acceptation of the term, is almost without application in Lower Canada, unless, indeed, in the persons of some of the poorer emigrants of the mother country. The word "paysan," again, appears to have been rejected, as if the usual acceptation of it in the old world had rendered it unworthy of a race of landowners; and "habitant" is the word universally used to designate them, as if to point out *the occupants, par excellence,* of the country, as distinguished from those who dwell in the towns. By the operation of the law of inheritance, every French Canadian succeeds to his father's freehold, or to a portion of it; and, unless he loses it by his own folly or misconduct, lives and dies on it. Accordingly each Canadian has his own house, warm, substantial, and commodious; fuel for little more than his trouble of cutting it; his land and garden (in which the tobacco, free from duty or excise, makes a conspicuous and luxuriant appearance,) rarely failing to yield a good crop, in spite of bad farming, which is adhered to with all the obstinacy of independence; cattle, according to the extent of his land and his own taste, with a certain market, easy of access for his surplus produce; and, with rarely an exception, one or more stout handsome little horses of the old Norman breed, with his two carriages, a cariole on sledges for winter, and the old-fashioned calash for summer. And I wish that those who cry out against the oppressed state and discontented spirits of the French Canadians could witness, as I have often done, the assemblage at one of the *paroisses*, or parish churches, on a Sunday. Scores, I believe I may say hundreds, of these carriages, waiting, without coachmen or footmen, it is true, but in perfect security, till the service is over; and then a pouring forth of cheerful and respectable-looking men, with their wives and children, all well and warmly clad, chiefly in clothes of their own manufacture, preparing to drive back to their respective homes; but not till they have made their respectful and affectionate farewell to their curé, and interchanged kindly expressions or looks with their neighbours. Follow the course of

the St. Lawrence, from its gulf up to the confines of the upper province (for Lower Canada is in truth little more than a belt of villages running along each bank of the river), and say whether this picture be partial or overdrawn. All those who know the country will pronounce it to be universally and strictly true.

And these are the men who, it is hoped—most erroneously I trust—will be persuaded to leave their comfortable homes, for the prospect of falling, either in an unequal and unholy conflict with their fellow-citizens, or by the ruthless hand of a Canadian winter! And for the redress, too, of grievances which, even supposing them to be anything but imaginary, are subjects of the most profound indifference to the French Canadians. I have often been amused at the difficulty experienced in warming them, even during the almost universal excitement of a general election, to anything like the fever heat required for common party purposes. A would-be popular leader may of course always find a few followers among his own friends and relations. But the mass of the population have always appeared to me to be deaf to the history of their own unfelt wrongs. They form an entertaining illustration of Mr. Canning's "weary knife-grinder;" and are equally proof against the patriotic and disinterested attempts of the transatlantic "Friends of Humanity," to persuade them that they ought to feel very miserable. The "spiritless outcasts" are unreasonable enough to feel that their lot is a happy one, and to be contented with it. So notorious indeed must be the happy state and happy disposition of the Canadians in general, that I never imagined M. Papineau would venture beyond a war against budgets and salaries. The natural idea was that he was playing a game of brag, and trying how far he could go towards the attainment of his favourite object of paralyzing the government by dint of factious opposition to all its measures in the House of Assembly, and of threats and intimidation out of it. Late events, however, have shown that he had prescribed to himself no such limits; and the question now is, or in all probability is before this time decided, how far he may hope for support from his Canadian brethren in the field. My confident hope and expectation is that, though he seems to have succeeded in exciting a considerable number of infatuated or desperate persons to rebellion, he will

look in vain for anything like general co-operation from the mass of the population.

I know it may be said that the stupid contentment of a people, and their blind indifference to oppression, can neither excuse the commencement of the wrong, nor justify the continuance of it. To that proposition I give my cordial assent. Again I repeat, let all existing abuses and grievances be redressed. All I wish to impress upon those who have patience to read this letter through is, that they must not mistake a few hundreds of desperate outcasts, headed by lawyers without clients, and doctors without patients, for "the people of Lower Canada;" nor must they implicitly believe in the existence of the grievances put forth by these desperadoes, even though supported by the confident statements of a small section of violent Radicals in London, or the spiteful but obviously ignorant generalities of some of the Parisian journals.

I am, Sir,

Your faithful and obedient servant,

M.

London, December 26th, 1837.

[Extracted from the Morning Chronicle of Monday January 1st, 1838.]

THE TWO CANADAS.

(Second Letter.)*

To the Editor of the Morning Chronicle.

SIR,

In a letter which I addressed to you nearly six months since, when the public mind was full of anxiety and apprehension respecting the result of a mad attempt to overthrow the British supremacy in Canada, I ventured to express a pretty strong opinion that the rebels would meet with but faint sympathy from the general mass of the population. The events which have since occurred go far, I think, to show that that opinion was not ill-founded. And the state of tranquillity to which both pro-

* Extracted from the Morning Chronicle of Saturday 23d of June, 1838.

vinces, it is hoped, are now restored, leave her Majesty's Government to the equally important, and infinitely more arduous undertaking, of introducing those reforms and improvements, the want, or fancied want of which has been made the stalking horse of those whose object was confusion, not reform; not improved government, but anarchy and plunder.

It is not my intention, at least at present, to enter into a regular discussion of any one of the numerous objects of dispute or agitation at present existing. Indeed, I scarcely know one of them, whether relating to the two provinces connectedly, or to either of them individually, which is not of far too great importance to be treated of thus summarily. And the doubts so becomingly expressed by Lord Durham, as to the success of his undertaking, and the difference of opinion existing in the Imperial Legislature as to the best mode by which the Governor-General may be able to obtain the necessary information on these various topics, are sufficiently indicative of the difficulties with which the path to any adjustment which shall be satisfactory to all parties is strewn. My object in now addressing you is merely to point out to those on whom the heavy and awful responsibility must devolve of ultimately deciding on the measures to be finally carried, the danger of adopting any general system, whether relating to legislative, judicial, or financial subjects, or indeed to any other matter, without not only being satisfied that such system is applicable in point of principle, but also well and maturely examining whether its details are well adapted to the new sphere into which it is proposed to introduce it.

Such a caution may probably appear at first sight wholly superfluous; nor indeed should I now presume to offer it, did not past experience justify and imperatively call for it—experience, too, derived from those very acts of the British Parliament which conferred upon the Canadas some of those institutions of the mother country most valued for the elements of liberty and good government contained in them, and most strongly, therefore, evincing the maternal anxiety of Great Britain that her newly-acquired colonies might, in every constitutional way, be gainers by the transfer of their allegiance. And I cannot help observing, while adverting to this epoch of the history of Lower

Canada, on the barefaced injustice with which a portion of the French press reproaches us with tyranny and oppression towards that Colony. Surely it is a sufficient answer to such calumnies from that quarter to ask, and it is a question which I am surprised has never occurred to these flippant writers—what would be the present situation of Lower Canada, as regards free and liberal institutions, if she had continued under French rule? How many steps would she have advanced towards the attainment of that high degree of civil liberty, from the exercise or rather abuse of which have sprung the very disorders over which the section of the press alluded to so ungenerously exults? Would she not rather, judging from the other French colonies, be as nearly as possible in the same state in which we found her at the cession of Quebec?

But to return to the more immediate object of this letter. Proud as we justly are of our institutions, which, with all their imperfections, I am old fashioned enough to consider better adapted than any others for our home use, we still are somewhat too apt to suppose that they must be equally well contrived for other communities, no matter what their habits, religion, colour, or climate, or what the nature of the laws by which they may have hitherto been governed. It seems to have been considered sufficient that the abstract principle was unobjectionable, without its being judged necessary to inquire how the practical details of the system might work. Of this fondness for the adaptation of the machinery, without sufficiently considering the fitness of the materials to compose it, or of the subject matter on which it is to act, a striking exemplification presents itself in one of the principal causes of the late unhappy differences. The nicely-adjusted balance of King, Lords, and Commons, so beautiful in theory, so efficient in practice (though, by the way, the practice is in truth anything but a faithful reflection of the theory), could not but succeed, it was thought, when represented on the miniature stage of the Colonies, into most of which, accordingly, it has been introduced. But in the ardour of admiration of the prototype, the total absence in the copies of materials to form the second or intermediate body between the Crown and the people (I am speaking more especially of Lower Canada, but

the defect must necessarily exist, more or less, in all the Colonies in which "*the constitution*" has been introduced), was overlooked, or at least insufficiently provided for. And accordingly the Legislative Council, the Colonial House of Lords, consists of members, not merely nominated by the Crown, and possessing, therefore, no hereditary or independent claim to sit as legislators, nor, generally speaking, any landed or permanent interest in the Colony, but, for the most part, holding office under government. It is useless and impossible to deny that this forms a most material and almost fatal variance between the original and the copy. It, in truth, renders the Legislative Council little more than a second edition of the Executive Council; in other words, the executive government and the Legislative Council, the Crown and the House of Lords, that is to say, are nearly identical. But would the other horn of the dilemma, on which the ultra-popular party are desirous of fixing the government, make the matter better? "Make the Legislative Council elective," say that party. But every one who knows anything of Lower Canada, and of the division of property which exists there, would agree that no increase of qualification, or of the elective franchise, which could be adopted, would render an elected Legislative Council anything more, in reality, than a counterpart of the House of Assembly. And if this latter body be, as it has proved itself to be, more than a match for the Government and Legislative Council united, what chance would the Government have against the two popular bodies, identical as they would then be in origin, principles, and interest? It would be far honest, and equally beneficial, to abolish the Legislative Council altogether, and let the Government act, if it could, with the House of Assembly alone.

This difficulty, arising as it did and does out of the different organization of society in the Colonies, compared with that of the mother country, could not, perhaps, have been prevented or remedied consistently with the determination of adhering to the model of the British Constitution. But I will now call the attention of your readers, if, indeed, I have not already exhausted their patience, to another instance of root and branch transplantation, where the simple process of a little previous pruning

would have rendered the tree much fitter for the new soil in which it was intended to flourish. By statute 14th George III., ch. 83, commonly called the Quebec Act, it is enacted, that "the criminal law of England shall be administered and observed as law in the province of Quebec, as well in the description and quality of the offence as in the method of prosecution and trial, and the punishment and forfeiture thereby inflicted; to the exclusion of every other rule of criminal law or mode of proceeding thereon, which prevailed in the province before 1764." And the same system was continued to Upper and Lower Canada by 31 Geo. III., c. 33, when the province of Quebec was divided into those two provinces. Now, that the introduction of the English criminal code and mode of procedure was, generally speaking, a real inestimable benefit to the French Canadians will scarcely be disputed by any one who values the trial by jury, or who considers our humane and temperate rules of evidence preferable to the entrapping and self-criminating mode of inquiry (I speak doubtfully as to the use of the rack), which was tolerated by the French law much later than 1760. And yet, with all my partiality for these admirable institutions, I doubt whether even in them improvements might not have been made, so as to have rendered them better adapted to the new scene of their exercise. I incline to think, for instance, that instead of insisting in criminal trials on absolute unanimity in the verdict of the jury, a majority—not a bare casting vote, but of not less than nine to three—would have been more suited to the materials of which juries are commonly composed in Lower Canada, by making allowance for one or two wrong-headed persons. With regard to *ex-officio* informations by the Crown officers, again, though I sincerely believe that this power, extensive and arbitrary as it is, has never been abused in that province, and though I feel morally certain that the late exercise of it by the Attorney-General, from my knowledge of that gentleman's character, was sound in point of judgment, as well as honest in intention, still I am by no means prepared to say, considering the necessary irresponsibility of the officers of government to the local legislature, that this power ought not to have been at least put under certain restrictions.

But it is in the body of the laws themselves, still more than in the mode of administering them, that I think alterations and modifications should have been made before they were thus sweepingly introduced. The great improvements which the last few years have brought about, in tempering the sanguinary severity of the law of England, form the best proof that, in the opinion of the public, that law was in many instances needlessly and therefore perniciously harsh, even in the highly luxurious and vicious state of society for which it was originally framed. How infinitely worse adapted, then, must it be considered for the mere prevention of crime among a people of such comparatively simple habits as the Lower Canadians. It may be said that it was open to the Colonial Legislature to temper the undue severity of the English enactments by its own local provisions: and this is true; but this power was certainly exercised but in few instances, at least up to the year 1822; and I recollect myself an instance of a man being hanged for horse-stealing somewhere about the year 1820. Now neither of the usual reasons for visiting this offence, or that of cattle stealing, with the extreme penalty—neither facility of perpetration, difficulty of detection, or a highly improved state of rural economy, requiring special protection—existed in Lower Canada.

It would be unnecessary, though not difficult, to multiply instances in which institutions, highly salutary in their general objects, have been productive of partial evil through the inapplicability of some of their details to the state of these Colonies. But it might be far from useless to consider this subject, with reference to the all-important point of the union of the two Canadas, more especially as regards fiscal regulations. A law respecting the revenue, or the mode of its collection, is introduced from the mother country, perhaps by mere implication, as part of an entire system, and takes effect in both Colonies. Some inconvenience or injustice is discovered, as affecting one of the provinces, which naturally seeks the removal of the evil. The other, a gainer probably by the unequal action of the regulation to the same extent that the sister province is a loser, resists all alteration, or at all events will lend no aid from its own Legislature, without which all the efforts of the sufferer are inoperative.

A united Legislature, based on fair principles of equality, would not suffer such a grievance to remain unabated a single session. And if my memory does not greatly deceive me, that was one of the arguments used in 1822 in support of the union of the two provinces when that measure was all but carried by the colonial administration, of which Lord Bathurst was then the head, and the present Sir Wilmot Horton the representative in the House of Commons.

I am, sir, your obedient servant,

M.

H. Murray

IRELAND AND CANADA;

SUPPORTED BY

LOCAL EVIDENCE.

BY THE RIGHT HONOURABLE

SIR ROBERT WILMOT HORTON, BART., G.C.H.

DEDICATED, BY PERMISSION,

TO HER MAJESTY THE QUEEN.

LONDON :

JOHN MURRAY, ALBEMARLE STREET.

—
MDCCCXXXIX.

*The following pages were printed previously to the
appearance of Lord Durham's Report.*

TO THE QUEEN.

CONVINCED of the deep interest which your Majesty feels in the happiness of all your Majesty's subjects, I feel grateful for the permission granted to me to inscribe to your Majesty a publication intended to prove the facility with which suffering in Ireland may be converted into comfort and prosperity in the British North American possessions, by the application of principles consistent with the soundest maxims of political science.

The difficulties which appear in the minds of some inquirers to impede a system of colonization carried on upon a scale worthy of the British empire, have originated in misconception, and have been greatly exaggerated.

But were those difficulties still greater, the real question to be considered is the proportion which they bear to the national advantages to be obtained and to the national duties to be performed.

It undoubtedly behoves practical statesmen to ascertain the obstacles which impede their policy: but it is the glory of a great state to overcome such obstacles, where national interests are involved.

In submitting a proposal for improvement to Cromwell, a man of practical science asked, "Can anything of this nature seem difficult to a state resolved to do good to its

“ people? Difficulties are the bonds of narrow minds, but “ such is not the heart of a state.” Successive Governments, and successive Parliaments, have considered this subject, but have shrunk from the performance of the great practical duties which their investigations ought to have enforced.

For many years I have endeavoured to urge these arguments on the Government, the Legislature, and on the Public. Reflection and experience, as well as the authority of some of the most enlightened philosophers and statesmen, have confirmed the principles which I ventured to lay down.

If I again bring the subject before the public—if I have presumed to solicit the honour of inscribing my publication to your Majesty—it is because I am convinced of the necessity of adopting an enlarged and generous system of colonization, for the purpose of promoting the best interests of your Majesty’s subjects, and of strengthening the connexion between your Majesty’s European and North American dominions.

I have the honour to be, Madam,

With dutiful respect,

Your Majesty’s

Devoted and most humble subject and servant,

R. WILMOT HORTON.

Sudbrook Park, January, 1839.

P R E F A C E.

IN a publication of mine, in the present year, the following opinions are expressed upon the state of Canada:—

Colonization of a similar character might now be effected at a LESS rate of expenditure. The subject is too important to be discussed incidentally; but the proof, as to the economy of a measure for colonising Irish pauper agricultural labourers, for whose labour there is *no* demand in Ireland or Great Britain—and, secondly, for whose labour there is also no adequate demand in a British colony like Upper Canada—is the plainest imaginable. *If such demand did exist* there would be no necessity for colonization, which is an expedient *only to be resorted to* when the labour-market in a colony is drugged and can for the moment absorb no more. I am preparing a publication specially on this subject; but I may here mention that the test of the economy of such a measure was pointed out in the clearest manner in the eighth resolution of the select class of the members of the London Mechanics' Institution. After having summed up the whole subject in the previous resolutions, the eighth resolution records that 'in reference to national wealth, if the expense of emigration be less than the expense of home maintenance there would be a decided economy instead of an apparent expense in the application of national capital to the purposes of regulated and assisted emigration.

The strongest objection which has been preferred against the policy of colonization, as a national measure, is *the presumed expense* involved in it. It is remarked that it is very true that an

Irish pauper is much happier in Canada than he would be in his own country ; but then it is asked, what expense is necessary to remove him ? It is admitted that he is *not* wanted in Ireland—it is admitted that he *is* wanted in Canada—but still comes the question, who is to pay the money for his removal ? If, for the sake of argument, it be admitted that there are a thousand married labourers in Ireland, with a wife and three children each on an average, forming a body consequently of five thousand persons, and if it be also admitted that there is no demand for the labour of those thousand labourers in Ireland, and that they have no species of property, it is self-evident, that *unless they are supported in some manner they must perish*. Let it be supposed that they *are* supported at the miserable rate of 2*d.* per head per diem^s; this 2*d.* per head must either be the gift of charity or the result of spoliation. The annual expense, therefore, of maintaining these labourers and their families in their own country amounts to 15,208*l.*; but, according to the evidence of Lieutenant Rubidge, which I am about to publish, and who has been nineteen years a settler in Canada, supported by the strongest previous evidence, these one thousand labourers might be located as colonists in Upper Canada, at the expense of 60*l.* per family, or 12*l.* per head, equal to 60,000*l.* A perpetual annuity, therefore (I employ this by way of illustration), of 2000*l.*, the funds being at 90, would enable a loan of 60,000*l.* to be raised ; whereas, independent of the increase of these parties in Ireland, supposing them to be charity-fed, their maintenance at 10*d.* per day per family constitutes a perpetual annuity of 15,208*l.*, which represents a capital sum (*cæteris paribus*) of 456,240*l.* instead of 60,000*l.*, the sum necessary for their colonization. Of course I am arguing on the hypothesis that there neither *is* nor is likely to be a real demand for their labour *in* Ireland or Great Britain.

Surely *common sense* points out to any person willing to think, that a perpetual annuity of 15,208*l.* per annum is precisely as much a tax *in principle* upon Ireland as a tax of 2000*l.* per annum, under which they might be colonized. The policy, there-

fore, of effecting the colonization of such parties, and converting them into happy and wealthy yeomanry in Canada, as compared with the policy of keeping them in Ireland as miserable paupers and beggars at 2*d.* per diem, is in the exact ratio that a perpetual annuity of 2000*l.* per annum bears to a perpetual annuity of 15,208*l.*, or that a capital sum of 60,000*l.* bears to a capital sum of 456,240*l.*

An emigration of labourers who expatriate themselves with the view of being absorbed as labourers in the first instance in a colony necessarily has its limits, which are measured by the real demand in the labour-market; but their colonization with due assistance, supposing an indefinite supply of fertile land, has no definite limitation. I trust that the day may soon arrive when truths like these, which have slumbered in the *unread* reports of the emigration committees of 1826 and 1827, only to be revived in the resolutions of a select class of London mechanics, may find *some favour* in the Houses of Parliament, and be matured into measures of substantive relief for Ireland. The Irish Poor-law Act will have the effect of an optical instrument, and make certain truths *apparent*, which happily can *now* no longer be concealed. I will not be tempted to add *more* in *this* note on this momentous subject, on the due comprehension of which the prosperity of Ireland and the repose of England depend. I addressed a letter to Mr. O'Connell in November 1830, now eight years ago. This letter was published in *The Times*.* I then told him, 'that I was prepared to show that, as far as the emigrant was concerned, emigration, when duly assisted by capital (in other words, judicious colonization), had produced the greatest change from human misery to human happiness that had ever been recorded in the history of mankind;' and I alluded especially to the experimental emigrations of 1823 and 1825. The publication in which I am now engaged will, I think, convince the most sceptical of the truth of that assertion.

I hope that I have satisfactorily redeemed the pledge which I gave upon this occasion.

* Republished in the Text of this publication.

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IRELAND AND CANADA.

Is there any person competent to form an opinion upon the present state of Ireland who can conscientiously declare that he is perfectly satisfied with its condition, and thinks that there is no occasion to make a national effort to promote the true interest of that distracted country ?

‘To let well alone’ may be a safe, practical adage ; but ‘to let ill alone’ is a maxim as dangerous in principle as it is cowardly in conception. It is true that difficulties and embarrassments hem in every great question in a country like England. The interests of the few and the prejudices of the many must be vigorously contended with ; it is the business of statesmen to secure victory on the side of reason. I care not for agitation and misrepresentation, the casual incidents of the moment, which blaze like a meteor and dazzle the beholders. Wise measures founded in reason—which is science,—may not attract current admiration, but the light which they diffuse will be equable and unremitting, as

‘The eternal lights that live along the sky.’

The problem to be solved is the regeneration and

happiness of Ireland. The main evil to be corrected, and that which is now all but universally admitted, arises from *temporary* redundancy of population. Party feelings ought to be sacrificed for one common effort to raise the condition of Ireland, and to direct the energies of her gallant, generous, yet irritable people, towards good, and not towards evil.

More than eight years have elapsed since I addressed the following Letter

To Daniel O'Connell, Esq., M.P., printed in the Times newspaper, November, 1830.

SIR,—We are arrived at a crisis in which the forms of ordinary proceeding ought not too strictly to regulate the conduct of public men.

If, in your late speeches and proceedings in Ireland, your sole object be to secure to your suffering countrymen, by the repeal of the Union, an effectual relief for the unendurable evils of pauperism,—if it be your sincere belief that a real remedy cannot be afforded, without the national convulsion which must be the inevitable consequence of such a measure; so strongly do I feel the reality of those evils, that, were I satisfied of your intentions, I should limit myself to entering the strongest protest against your proposed mode of effecting your purpose, and should merely pledge to show its utter inaptitude for the object, and to demonstrate that it is calculated to aggravate, rather than to diminish, the disease.

On some points I agree with you. For example, in one of my letters to Sir Francis Burdett, on the state of Ireland, I expressed my decided opinion, 'that, unless provision be made for those parties who may be ejected under the operation of the Subletting Act, and of the Disfranchisement Act, they will become the most disgraceful and barbarous acts that ever stained the legislation of a free country.'

I now proceed to explain to you the frame of mind which has induced me to address this letter to you.

On entering into public life, I soon became the most unqualified partisan on the side of Catholic Emancipation. I never pretended to believe that that measure of tardy justice would relieve the physical evils of Ireland. In my letter to the Duke of Norfolk, in 1826, I said, ' I should be the last person to imply that the evils of Ireland are exclusively, or even mainly, derived from the delay of what I conceive to be a necessary measure of pacification and justice; but it is impossible to approach any political melioration of the state of Ireland, without the intervention of the Catholic Question. It requires a final settlement, as a necessary preliminary to measures of every other class which may be devised for her benefit.' That question was happily carried; and, in the consciousness of the overwhelming benefits which were capable of accruing to Ireland herself, and to the empire, from that measure well followed up, was to be sought that compensation for friendships weakened, party ties broken, and personal advancement rejected. That man stands self-confessed an unworthy being, who did not rejoice, although the triumph fell into other hands than those which had fought the battle.

In July, 1828, when, from my disinclination to connect myself with any Government which was not prepared to propose the settlement of the Catholic Question, I refused office, I well remember a friend saying that I should find, when it was too late, that my philanthropy had fallen on the way-side, and that the sacrifice of those who had devoted themselves to the cause would be rewarded by treason, anarchy, and dismemberment.

I laughed at the prediction. I argued that, even if it were true that there were individuals who only sought the measure as a stepping-stone to their ambition, to their projects of revolution, separation, and self-aggrandizement, Ireland—gallant, generous Ireland—would never respond to their call. I now ask, when I reflect on past and present events, will she respond, should such a call be made to her from any quarter?

One moment you tell your countrymen, in a letter addressed to the Irish nation, "that the anti-Union cause would be annihilated if there was an attempt made to achieve it by force." Upon this point you say, "I desire to be most emphatic. Irishmen, no man but a bitter enemy of Ireland will think of using force or violence. Any effort of that kind would disgust all good men. No man of honour or conscience could countenance so absurd and wicked an effort." The next moment you remind them that the problem has now been solved in France and Belgium, "that an undisciplined multitude, without order and arrangement, can beat down disciplined organized soldiers." —*Times, Oct. 28.*

How is it possible that you could have suffered such indirect encouragement to bloodshed to escape your lips? You, of all men, who told the members of that Legislature in which you now sit, that you shrank from the appeal to the sword, inasmuch as "the stain of blood was on your hand," and you had "a vow registered in Heaven!" When the trumpeter was taken prisoner, he supplicated for his life, on the plea that he did not fight. "You do worse," said the indignant captor, "you encourage others to fight; therefore you shall not escape your fate."

I have no right to impute bad intentions to you or to any man. If your expressions are capable of any other construction, I would be the first to accept the explanation; but, in the meantime, the word, whether intentional or otherwise, has gone forth. I therefore solemnly call upon the Catholic priesthood of Ireland (for they, too, have "vows registered in Heaven") to interpose between the hint and the deed, between the tempter and the victim. I call upon the Catholic gentry to come forward, to tell us explicitly, whether they feel their allegiance to be due to William the Fourth, or to the first sovereign of any new dynasty. This is no time for tampering; let us know the truth. A dissolution of the Union is a dissolution of English connexion.

I know not what measures the Government may be prepared to propose, or whether they have any to propose, for the relief of the unemployed part of the population. Whatever may be their

merits or demerits, they at least have the faculty of keeping their own secrets. But, whatever may be their views, I am at once prepared to maintain that the physical evils of Ireland, as well as of England, are mainly, if not exclusively, occasioned by want of employment, arising from superabundant population. It is that cause which affects prejudicially the whole manual-labour class, as well those labourers who are naturally employed as those who subsist upon forced employment, charity, or spoliation. "The disease of Ireland arises from an excess of people beyond the capital for giving employment to them."

By what means, then, can capital be adequately and rapidly increased, so as to cure the evil? By a repeal of the Union? Certainly not. By any other means? I equally am at a loss to point them out. I have never seen the slightest approximation to such an attempt. If then capital cannot be thus increased, how are the evils of a population too numerous for employment to be remedied? How is their condition to be raised, occasioned, as it is, by the deteriorated price of the only commodity which they have to bring to market, namely, their labour? I contend that a mode presents itself of effecting that object, and of producing a remedy, at once cheap, humane, and certain, which the distressed peasantry, if not made frantic by unfounded representations, would willingly and gratefully adopt. Men are not indisposed to adopt a remedy, when those who have taken advantage of it are unanimous in counselling its adoption.—Part of that remedy consists in regulated emigration, assisted by capital, but not in that unassisted emigration (to which I shall soon have to call the attention of the public) which, it is true, gets rid of the Irish paupers, and so far accomplishes the views of the Irish gentry by relieving them from an incumbrance, but exposes the parties removed to worse evils than those from which they had been tempted to escape.

The Emigration Committee protested, in the most unmeasured terms, against the cruelty and selfishness of such an experiment. There are persons both in Ireland and England who may find that

they have incurred no trifling responsibility in having disregarded that protest.

I am prepared to show that, as far as the emigrant is concerned, emigration, when duly assisted by capital, has produced the greatest change from human misery to human happiness that has ever been recorded in the history of mankind; and I am equally ready to stake my public character on the demonstration, that, under a due system of employment, combined with emigration, Ireland may at once be raised from the condition of a miserable and despairing country into that of a prosperous and happy nation; and this with a diminution instead of an increase of national expenditure.

I have remarked elsewhere, that, if the House of Commons were to sanction interlocutory arguments between two men, who would stake their public credit on the maintenance of their respective opinions, as far as they depended upon matters of fact, much habitual sophistry would be at once detected, and, if detected, spurned and despised. Long declamatory speeches may be well suited to the first opening of a new and extensive subject; but, in cases where, in order to give effect to a final inference, it is necessary to establish every link in a chain of mathematical, or even logical, reasoning,—they are the natural guardians of sophistry and misrepresentation. Interlocutory argument, on the contrary, allows no important point to remain unexplained, and enables the hearer or reader to form a decided opinion on the merits of any proposition. If there was a disposition on the part of any influential portion of your countrymen to have my views thoroughly sifted and examined, there is nothing of a political nature which would give me so much satisfaction as to be catechised by you on all points of opinion bearing on the state of Ireland, and to have the privilege of catechising you in return. If I were defeated I should retire into private life with perfect satisfaction, and be the first to admit that I was not qualified to meddle with such high matter. If I were successful it would be ample compensation for ten years of laborious inquiry.

At all events the publication of such a controversy, carried on in plain question and answer, man to man, might assist in enabling Ireland to form a fair and unbiassed judgment, how far separation from England would tend to remedy the poverty which now oppresses her.—Were it possible that public opinion would sanction such a controversy, I am persuaded, that, as an accomplished disputant, you would be the last man in Europe to shrink from such an appeal. Were you to evince a readiness to “show cause” for your opinions, not in declamatory harangues, which leave all real points of difficulty unsettled, if not untouched, but in close interlocutory argument, I should at once believe that your violence, however apparently unjustifiable, had been prompted by mistaken notions, and despair of better days. It is painful to be compelled to doubt whether your object be truth and justice, or power, to be obtained by desperate and unhallowed means. What commentary, then, will the people of Ireland furnish upon this subject? Should they prefer to hug their poverty to their bosoms—should they reject the capital, credit, and assistance of England, if it be offered to them, which it ought to be—should they shrink from combined exertions and proportionate contributions—should they insist upon attempting the cure by confiscation and change, and, as the first step in that change, should they echo your call for the repeal of the Union—if such should be the deliberate conduct of the people of Ireland, and, above all, the judgment of her property and her intelligence, England may, perhaps, be more disposed to acquiesce in such a decision than you may be prepared to expect. At least I can answer for one Englishman, whose acquiescence, under such circumstances, would not be withholden.

I have the honour to remain

Your obedient humble servant,

R. W. HORTON.

Sudbrook-park, Petersham, Nov. 1, 1830.

On my return to England, after an absence of seven years, I mainly adhere to the principles and opinions contained in this Letter. I still believe that the great source of Irish misery is a population too large for the capital of the country; I still believe that that misery would be enormously increased by a rejection of the English connexion; I still believe that its cures are internal tranquillity and a well-regulated emigration. The one would inevitably occasion the introduction into Ireland of the superabundant capital of England, the other would diminish the redundant population; and the balance between capital and number (a balance on which the welfare of every community depends by the laws of Nature) would be restored and preserved.

Have the evils which existed in Ireland, when my Letter was written to Mr. O'Connell, now ceased to exist? *Sublatâ causâ tollitur effectus* is the most trite and true of adages. Yet the neglect of that adage is the key, and will be the key, to the perpetuation of the physical evils of Ireland. The evil is a labouring population too large for the capital of the country; that evil can only be corrected by an increase of capital, *or* by a diminution of the hands dependent upon labour for support. We cannot suddenly increase capital sufficiently to remove the evil, and the country has hitherto rejected the *other*, and equally efficient remedy,—the diminution of the supply of labour. It is vain, in a remedial point of view, to look to the Church or the Tithe

Question, or even to Poor-Laws, unaccompanied by an extensive system of Emigration. Their futility, as remedies for this special evil, will one day be admitted by the whole world.

Devoted as I was to the cause of Emancipation, I never for one instant imagined that that great measure for the *moral* evils of Ireland would be of real practical advantage unless followed up by adequate remedies for her *physical* evils.

So far back as 1819, the first year of my entrance into the House of Commons, I predicted the character of the remedies which would give real relief to the country. In the debate which occurred on the 1st of July, 1819, on Sir Francis Burdett's motion for Reform in Parliament, now nearly nineteen years ago, I expressed myself as follows :*—‘ That all the
 ‘ evils of our population would cease if the motion
 ‘ of the Honourable Baronet were acceded to, he
 ‘ (Mr. Wilmot) positively denied. The deduction
 ‘ of the Honourable Baronet, in this respect, was
 ‘ totally unphilosophical and unwarranted. With
 ‘ respect to the sufferings of the people, remedies
 ‘ might be found for them ; and probably the wisdom
 ‘ of that House would provide suitable remedies, but
 ‘ he did not connect them with Reform. The first
 ‘ remedy, in his view, was a radical alteration of our
 ‘ system of Poor-Laws,—the next was a due encouragement of a system of emigration to our own

* Hansard's Parl. Debates, vol. xl. pp. 1479-80.

‘ colonies. As far as sound political economy, as far as the progress of political science, could afford relief to the poor, none could be more zealous than he was to afford relief.’

In 1823 and 1825, in 1826 and in 1827, I took every pains in assisting to lay the foundation of a system of emigration. In 1826 and in 1827 the Reports of the Committee of Emigration, of which I had the honour of being the Chairman, were produced. In respect to the Report of 1827, Mons. Duchâtel, late President, thus expresses himself in his correspondence with me, published in the ‘ Causes and Remedies of Pauperism :’—‘ This report, where a knowledge of facts in detail is found blended with the wisest theories, appears to me to be one of the most remarkable documents of the age in relation to the science of political economy, and it furnishes a happy illustration of that mode of Parliamentary inquiry from which you derive so much advantage in England, and which is an indispensable accessory to representative institutions ;’—*yet I will venture to say that no public document has ever been worse treated or more misrepresented than that Report.*

In 1827 I addressed the following letter to Mr. Malthus, in favour of Poor-Laws for Ireland :—

*Extract from a Letter addressed by Sir R. W. Horton to Mr. Malthus, in 1827.**

I HAVE heard it observed that it is a very singular fact that, in England, the existence of the Poor-laws is presumed to have led to a redundancy of population, and that in Ireland, although the non-existence of Poor-laws may not have led to the same result, yet the same result has been produced in the absence of Poor-laws ; and it is inquired, and not unreasonably, how this anomaly can be explained. The explanation appears to me to be of no great difficulty.

The administration of the Poor-laws in England has taught the pauper to believe that his right to support from the land is equal to the right of the proprietor. Consequently he has not been deterred from marriage, by the apprehension of the utter destitution of the children who might be the result of that marriage. In Ireland, the extraordinary facility with which land has been obtained by the poorest class of individuals, under circumstances which are too diffusely explained in the Report and Evidence to make it necessary to repeat them here, has produced the same recklessness on the part of the poor, with respect to the interests of their children, which exists in the mind of the English labourer ; for, although the Irish peasant could not consider that his children had a legal right of maintenance from the soil, yet the facility with which succeeding generations were enabled to sustain life by the occupation of a cabin and a potato-garden, checked all moral apprehension as to the condition of children ; and custom, in this respect, had the force of law, in destroying that moral sentiment which ought to be the basis of society, namely, that it is criminal to be accessory to the bringing of children into the world without the power of maintaining them.

The effect of the Poor-laws in England, in encouraging population, mainly arises from the pernicious custom which has existed

* Published in the "Introductory Series of the Causes and Remedies of Pauperism," p. 90.

of relieving able-bodied paupers. On this subject the Report and Evidence are so diffuse as to make it unnecessary that I should re-argue it in this letter.

On the other hand, the cognizance of the state of the poor, which the Poor-laws produce, has a tendency to repress any redundancy of population; and I entertain no doubt, that, if a real vent were given by emigration to the redundant population of Ireland, and if Ireland then adopted a system of Poor-laws, which should mainly resemble those of England, with the important exception of not giving relief to able-bodied persons (which, unless under special circumstances of casualty, should never be done in a single instance), the effect of the introduction of such Poor-laws would be most beneficially to check any future tendency of population to increase beyond the legitimate wants of the country,—in other words, to check any increase of population which was likely to be redundant. I trust you will agree with me that these are the great and important points to which the attention of our statesmen should be turned with respect to home legislation, viz., first, the correction of the mischievous effects of our own Poor-laws, by bringing about a state of things under which it will be practicable to discontinue relief to able-bodied paupers; and, secondly, the introduction of Poor-laws into Ireland, free from the taint which has vitiated our own system, and attended with all practical improvements of which such a system would, on due inquiry, be found to be susceptible. For example, let it be supposed that every able-bodied labourer, who was in the constant habit of being employed by a landlord or farmer, should be recommended to lay by a portion of his wages, for the purpose of forming a fund, as in the case of a benefit society, for providing against casualty or old age; and let it be supposed that any labourer assenting to this suggestion should be employed in preference to any labourer who resisted it, and who contended that he had a right to do what he chose with his own, and that it would be for the parish to provide for him under any contingency—if such a system were to be acted upon for half a century, can there be any doubt of

the change which would be produced in the condition and character of the labouring population? It must be observed, that this system is practically acted upon by higher classes of society who are dependent on their own exertions from year to year for their income. They feel that it is an act of prudence to economize a certain portion of their annual resources, for the purpose of providing against the future; and it is only the introduction of this principle into the lower classes of society which is necessary to work a most important change in their condition.

In 1829 I expressed myself more in detail in a letter I addressed to Mr. Senior (published in the Appendix to the Fourth Series of the 'Causes and Remedies of Pauperism'), and which I here reprint:—

Extract of a Letter addressed by Sir R. W. Horton to N. W. Senior, Esq., 1829.

THAT, if the redundant labour of Ireland, for example, were removed, and if those parishes in England, which are burdened with a superabundant population, were also relieved, the relief would be general in all parts of the country, although an actual abstraction of labour only took place in particular districts: That it is clear, and established on the most irrefragable evidence, that, if the state were to exert a very small portion of the energy which it has so often devoted to one single year of a long war, means might be employed, under which, in a short series of years, all necessary proportion of the extra labour of the United Kingdom might be transferred to our North American provinces, with an absolute certainty of individually benefiting the parties removed, the colonies, and the mother-country, in an almost inconceivable degree: That the means of accomplishing such an object would be completely within the reach of the country without additional taxation; inasmuch as, if there were a *bonâ fide* surplus of income over expenditure, of 2,000,000*l.* instead of 3,000,000*l.*, that surplus of sinking fund would present the most easy and palpable means of effecting this object, to any extent to which it might be expedient to carry it.

That it would be perfectly correct to state, that colonization could not supply a very early remedy, inasmuch as the principle upon which it must be carried on, if properly regulated, is the introduction, in the first instance, of comparatively few settlers, and the subsequent increase of the number in each successive year, in the proportion of one-half addition upon the number of the preceding year. Thus, for example, it was calculated, in the Report of the Emigration Committee, that, 20,000 persons being sent in the first year, 30,000 might be sent in the second; 45,000 in the third; 67,500 in the fourth; 101,250 in the fifth; 151,875 in the sixth; 227,810 in the seventh; and 341,615 in the eighth; making a total of 985,050 persons. The emigration of nearly 1,000,000 persons would thus be accomplished in eight years; but if, in the first year, 25,000 were sent out, the process would only require, at the same rate of increase, six years for its entire accomplishment.

That, if local improvements on a large scale were made to go hand-in-hand with emigration, the period of relief would arrive at a much earlier date. If, for example, there were reason to believe, from the evidence of the best authorities, that the bogs of Ireland could be reclaimed with profit, provided the legal impediments to their cultivation were removed, and that these bogs, when manufactured (as it were) to a certain point, would sell for a price sufficient to repay the capital applied to their reclamation, *with interest*, there would be no occasion for the state to continue that part of the experiment, inasmuch as, those legal impediments being removed, and the certainty of that return being established, private capital would immediately apply itself in this new and unforeseen direction. This principle would partially apply in the case of canals to be dug, or harbours to be cleared, or any other work of magnitude beyond the reach of individuals or of corporate bodies, which, upon the strictest inquiry, *bade fair to make a return greater than the return made under the present management of individuals out of employment, though below the rate of average profits*. Consequently, for the purpose of relief to the labour-market, not

only might emigration be carried on upon the scale recommended by the Emigration Committee, but early employment might be given by applying labour to these works of national improvement, the undertaking of which was justified under the contingency above specified. Whenever the works thus undertaken were completed, the parties employed upon them, if no other demand existed for their services, might be progressively drained off by emigration.

That it would be an object worthy of this great and energetic nation, by a national effort of this description, to anticipate the slow correction of time, which could only bring relief to the labouring classes by the ordeal of misery and difficulty, through which, for many years, they would have to pass, before the proportions between capital and labour were adjusted;—it being the peculiar object of such a national effort to adjust those proportions by forced means, and such laws and habits being simultaneously introduced, as would remove all those artificial *stimuli* to population, to the operation of which much of the existing redundancy must, in justice, be attributed.

That, when we speak of the population of a country being in abundance or deficiency, if we speak correctly, we must speak with reference to these proportions; and that, provided these proportions were once adjusted, it would be difficult to imagine any increase in the population which would not be desirable, as long as *it was attended with an increase of capital sufficient to prevent its falling into superfluity.*

With respect to the remedies which I should propose to be applied, for securing an improved system in future, I cannot look to any which do not involve, more or less, the *practical* assimilation of the laws affecting the poor in all the three kingdoms; although the means whereby such practical assimilation might be attained might be extremely different in all the three countries, but undoubtedly so in the cases of England and Ireland. The basis, however, of any such system must be, in my judgment, the absolute separation of labourers, whose labour is of sufficient value to individuals, to induce those individuals to employ them

altogether for their own benefit, from those labourers who may be found in a state of redundancy; that is, who may be found able and willing to work, but whom no person is prepared to employ. For that particular class, I can conceive no arrangement to be satisfactory which does not at once separate them, as a distinct class, from those who are entirely employed, and which does not regulate their position, not only by principles of charity, *but also, in certain respects, by principles of police.*

Whenever the actual restoration of the supply of labour to the demand shall have made it practicable to alter the law in England respecting the employment of able-bodied paupers, the period will have arrived when this proposed change can form part of the law and system of the country. To enter into any more minute details of the manner in which, either in England or in Ireland, such a system could be practically brought to work, would be utterly foreign from the object of a person who is interested in having certain principles recognised, rather than details explained. It may, however, be convenient to describe the effect of such a state of law, rather than the nature of the law itself. It would be this,—that any able-bodied man, who, for a certain number of months, should be unemployed in the particular district where he was, should not be entitled by law to claim relief, other than such relief as might be given by his joining that class of unemployed labourers which might, under the new system, be brought together, for the purpose of their labour being employed for some local or general object; such local or general object being, as already observed, for the purpose of positively securing the labour of these parties, and of also securing that they should receive as low a rate of remuneration as would be consistent with the conservation of their health. Such a *status* should be one which presented so little attraction to the party compelled to enter into it, that he should have every moral influence operating upon his mind, to avoid the necessity of belonging to it. Such a system would necessarily operate as a *bonus* upon good conduct; because the able-bodied labourers (and to no other class am I adverting) who would be retained under

individual employers, would naturally be those whose services would be the most advantageous. The class of able-bodied unemployed paupers would at all times measure the real redundancy of labour in the country. I would here repeat, that unless this class were subjected to severe labour and a low rate of maintenance, it might be a bonus upon population and upon mendicancy ; but (as one is not called upon to reason upon a possible abuse) if it were conducted upon sound principles, while, on the one hand, it prevented the disgrace of allowing any able-bodied man to starve in the United Kingdom, it would, on the other hand, afford the strongest moral check to improvident marriages, by deterring the poor from exposing themselves to the severe penalty which must, under such data, be the result of population increasing beyond the rate of capital.

But if this moral influence extended to the poor, it must, on the other hand, be the duty of the state to abstain from all measures, in time of peace, which were likely to disturb the true proportions, between labour and capital, supposed, under the terms of the proposition, to be restored ; and if, in time of war, it were absolutely necessary to resort to measures which would, in their effects, tend to destroy those proportions, it should only be with a solemn pledge of repairing the mischief so occasioned, by a recurrence to the same remedies which had been previously found to be successful.

In 1831 I left England for Ceylon, after having given Lectures on the subject of Emigration. In 1837 the Irish Poor-Law Inquiry Commissioners produced their third Report, the first signature to which is that of Dr. Whateley, Archbishop of Dublin, *which appears to me to be all but identical with the recommendations contained in my letter to Mr. Senior.*

Extract from the Globe newspaper, 7th April, 1838.

The Commissioners of Poor Law Inquiry for Ireland have

taken their stand on a firm and sound principle ; which, like every other such principle which has worked its way to a slow recognition, has had to struggle through years of misconstruction and obloquy. When, ten years back, Sir ROBERT (then Mr.) WILMOT HORTON, and the Emigration Committee, in successive Reports, propounded precisely similar doctrines, derived from precisely similar evidence,—evidence hardly less voluminous than that collected by the recent commission—the practical men scoffed at their labours ; and certain blasphemous hypocrites denounced them, in garbled citations from Scripture, as enemies to God and man. This is the constant reception of all useful truths on their first announcement. It is well that hypocrisy and cant can now only employ the broad-sheet as the medium of their malice against the authors of truths which concern humanity. The power of words over ignorance is greatly filtered when used through the press ; hemlock and fagots are not in these times read ‘ to order ’ exactly when wanted to stop the mouth of unwelcome philosophy ; and philosophers in the present day need only live long enough to see what, on its first utterance, passed for paradox—pass for truism.

What a clamour, ten years back, would have been raised—*was* raised—by such an announcement as the following of the Irish Commissioners ! Assuredly, at that period, Royal Commissioners would have fenced their position with much expense of very circumspect circumlocution before they introduced such a sentence :—

‘ While we feel that relief should be provided for the impotent, we consider it due to the whole community, and to the labouring class in particular, that such of the *able-bodied* as may still be unable to find *free and profitable* employment in Ireland, should be secured support *only through emigration*, or as a preliminary to it.’

It is the great merit of this Report that it has set forth clearly and strongly, and in a manner which pseudo-philanthropists may nibble at, but never can shake, that universal maxim of a sound policy, which had been almost altogether lost sight of, namely,

that a mass of labour neither *should*, nor in fact *can*, be maintained in any locality *where there is not a free and effective demand for it*.

In the printed answer of Mr. O'Connell, to the letter of Mr. Walter Savage Landor, he thus addresses that gentleman:—

‘ There is much matter for serious thought and
 ‘ statesman-like counsel in your plan of emigration,
 ‘ and in your notion of the distribution of the crown
 ‘ lands. But, it has been deemed more flippant to cut
 ‘ short all wiser schemes, in order to fling upon us a
 ‘ Poor-Law ; to sink our property in workhouses, and
 ‘ to make us rich by causing us to support with money
 ‘ masses of our poor at the expense of an establish-
 ‘ ment, the cost of which would produce most valu-
 ‘ able results if employed in the manner you sug-
 ‘ gest—in canals, in railroads, and in other useful
 ‘ works. You are, however, mistaken in supposing
 ‘ that the rent of land is higher in Ireland than in
 ‘ England. It is a mistake in which so many concur
 ‘ with you as to be quite blameless.

‘ I do confess you have made me melancholy.
 ‘ There are in some of your suggestions materials of
 ‘ incalculable utility to Ireland. But how are they
 ‘ to be worked out? What chance is there of ob-
 ‘ taining a patient and thorough investigation of the
 ‘ discordant elements which belong to our political
 ‘ economy? Our absentee Landlords—our hostile
 ‘ resident Proprietors—our impoverished Agricultur-
 ‘ ists — our extinguished or expiring Manufactures

‘ —how is a remedy to be found for these, and one
 ‘ thousand other evils with which the social state in
 ‘ Ireland is filled? I will tell you. By a DOMESTIC
 ‘ LEGISLATURE, and by a DOMESTIC LEGISLATURE
 ‘ ALONE.’

Mr. O’Connell’s solution for the adoption of what is good in legislation, is the establishment of a domestic legislature, and of a domestic legislature alone. He seems to have utterly forgotten, that an united legislature is just as competent to frame improvement for Ireland as a domestic legislature, and that all which is wanted is to convince the united legislature of the necessity of so acting. Personally I have extremely to regret, that when more than ten years ago I put forward a plan of emigration, which he now appears to approve, and when I suggested that it would be wise to accompany it with the formation of canals, roads, and other public works, *he never took the slightest notice of the subject.* Now, after that lapse of time he has discovered, that in those suggestions there are materials of incalculable utility to Ireland; but he inquires how they are to be worked out, and asks ‘ What chances there are of obtaining a patient
 ‘ and thorough investigation of the discordant elements
 ‘ which belong to the political economy of Ireland?’ Allow me to remark, that those discordant elements are exclusively to be found in his own imagination, they do not exist in reality. In 1831 the select class of the Mechanics’ Institution laid down the principles upon which emigration ought to be carried

into effect, in the clearest terms in which opinion could be conveyed. A copy of part of those Resolutions I herewith introduce.

That commodities in excess, as compared with the demand for them, are inevitably depreciated in value, if they are brought into the market for sale: and that *labour*, when brought into the market, so far partakes of the nature of commodities, that it is inevitably depreciated in value whenever it is in excess as compared with the demand.

That there is an excess of the supply of labour, as compared with the demand for it, amongst many of the operative and labouring classes in the United Kingdom; and that pauperism, degradation, and suffering are the consequences of that state of things.

That, to remedy such evils, either *more labour* must be demanded, or *less labour* supplied; and that, unless one or other of these conditions can be satisfied, the evil is without remedy.

That there do not appear to be any *natural and unforced* means of profitably increasing the demand for labour in the United Kingdom to *such an extent* as to absorb the existing redundancy of the supply of labour, and thereby afford an effectual remedy for the evil by the first of the alternatives proposed, viz. an increase of demand for labour.

That, for the purpose of remedying the evil by the second of those alternatives, viz. the diminution of the supply of labour, EMIGRATION, upon an extended scale, to our colonial possessions, if *regulated and assisted*, and conducted upon those sound principles *already acted upon*, presents an immediate, certain, humane, and specific remedy for the evil in question, so far as those who are specially suffering under it are concerned: with the certainty that the removal of the redundant labourers could occasion no injury to the labouring classes remaining at home, and the probability that the latter might be materially benefited by the measure.

That the *humanity* of the proposed measure is unquestionable, because the voluntary location of industrious and able-bodied labourers on a fertile soil, and in a healthy climate, in any of the

colonies, is infinitely preferable to the involuntary idleness, poverty, and degradation of the pauperized labourers of the United Kingdom; and presents, in a striking point of view, the contrast between competence, independence, and happiness on the one hand, and destitution, dependence, and misery on the other. And further, that, although local attachments may induce some to prefer hopeless wretchedness, for themselves and their posterity, on the spot where they happen to exist, to the enjoyment of comfort and security in another country, this preference affords no reason for withholding from others the opportunity of availing themselves of the more beneficial alternative.

That, looking at the proposed remedy simply as a measure of *national policy*, it would be objectional, unless it could be satisfactorily proved, that the total expense of removing the redundant labourers by Emigration would be *less* than the expense which must inevitably be incurred for maintaining them at home at the cheapest possible rate.

That, were not this the case, the funds for the employment of labour, upon which the prosperity of the labouring classes so much depends, would be diminished by the application of the proposed remedy. In reference, therefore, to national wealth, if the expense of emigration be less than the expense of home-maintenance, there would be a decided economy, instead of an apparent expense, in the application of national capital to the purposes of regulated and assisted emigration.

That permanent redundancy of labouring population, producing such evils, could not exist in any country where there was an unlimited supply of *unoccupied fertile land*, within the reach of parties beginning to suffer from such redundancy. Consequently, of that unlimited supply of fertile land is to be found in the colonies, there need be no redundancy for the future in the United Kingdom, if the difficulty of the intervention of the sea can be overcome.

That, in the first instance, a national effort ought to be made to remove the present *accumulation*, which is too large to be absorbed in the colonies as *mere labour* (which it would have been

had the emigrants been gradually poured in), but requires to be disposed of in actual *location* and *settlement*. In the second instance, if means be adopted by which, for the future, the colonies may themselves pay (for the purpose of supplying themselves with labour) the expense of the passage of emigrants from the mother-country, the only impediment to that natural and spontaneous spread of labour which would take place of itself but for the intervention of the sea, will be effectually and permanently removed.

That there are two different sorts of prejudicial consequences attributed to emigration by its opponents, which are *utterly incompatible* the one with the other:—one party contending that the *vacuum* (as it is called) will be filled up, and all the evils of pauperism re-introduced; while the other maintains that there will be no labour forthcoming, and that the rise of wages will extinguish profits.

That, in reply to the first class of objectors, it may be stated that, if the debt incurred by the removal of paupers be paid off before fresh pauperism can, by the laws of nature, be reproduced as the direct or indirect consequence of emigration, the possibility of its ultimate reproduction is no argument against the measure, because *that* reproduction will neither diminish the sum of actual happiness which will be created by the measure in the first instance, nor the actual saving effected by it. And, again, that, if reproduced at all, pauperism will not be reproduced in *masses*, but *slowly* and *progressively*; when it may be drained off without the possibility of accumulation, instead of its remaining, as it has done, a dead weight and expense to the country.

That it may be urged, in answer to the second class of objectors, that *machinery* will always supply the want of any portion of emigrated labour, should such an inconvenience (which is very improbable) ever occur; and that, in point of fact, at this moment, owing to the redundancy and consequent cheapness of labour, machinery is absolutely kept back, both in manufactures and agriculture.

That, for the preceding reasons, EMIGRATION, upon the principles laid down in the reports and evidence of the Emigra-

tion Committees, and in the Right Hon. R. Wilmot Horton's work, entitled 'Causes and Remedies of Pauperism,' as a national measure of relief for able-bodied pauperism, deserves the support of Parliament and the country.

Mr. McCulloch, in a publication entitled 'A Discourse on the Rise, Progress, Peculiar Objects, and Importance, of Political Economy,' published in 1824, has the following passage :—

' A few words only will be required to satisfy the most sceptical, that the well-being and happiness of society must ever necessarily depend on the degree in which the principle of increase is subjected to prudential control and regulation. Those who are least conversant with the principles of the science are aware that the market-rate of wages is exclusively dependent on the proportion which the capital of the country, or the means of employing labour, bears to the number of labourers. There is plainly, therefore, only one way of really improving the condition of the great majority of the community, or of the labouring class, and that is, *by increasing the ratio of capital to population*. If this be done, the rate of wages will be proportionally augmented, and the labourers will rise in the scale of society ; whereas, if the ratio of capital to population be diminished, wages will be proportionally reduced, and the condition of the labourers changed for the worse. Unfortunately, the labourers have very little power over the increase or diminution of the national capital, but they are all-powerful in

' respect to the increase or diminution of the supply
 ' of labour. And if they had only good sense and
 ' intelligence sufficient to avail themselves of this
 ' power, they might, by understocking the market
 ' with labour, render the wages high, notwithstanding
 ' the demand for their services should happen to be
 ' diminished; while, if they do not avail themselves
 ' of this power, but allow the principle of population
 ' to exert its natural tendency to overstock the market
 ' with labour, wages will be low, to whatever extent
 ' the demand for labour may be increased. It ap-
 ' pears, therefore, that the lower classes are in a very
 ' great degree the arbiters of their own fortune.
 ' What others can do for them is really, to use Mr.
 ' Malthus's words, but *as the dust of the balance*
 ' *compared* with what they can do for themselves.
 ' Nor is there any very great reason to think that
 ' their condition will ever be materially improved,
 ' until they are made acquainted with the circum-
 ' stances which govern the rate of wages, and are im-
 ' pressed with an intimate conviction of the im-
 ' portant and unquestionable truth, that they are
 ' themselves the masters of the only means by which
 ' their command of the necessaries and comforts of
 ' life can be materially extended.'

The question is, how is this grand problem of increasing the ratio of capital to population suggested by Mr. McCulloch to be effected?

Mr. Ricardo argues the case precisely in the same manner as Mr. McCulloch in the following passage

in the Article Taxation in the Supplement to the Encyclopedia Britannica.

‘ It is impossible suddenly to diminish the number
 ‘ of the labourers when wages fall. Such a diminu-
 ‘ tion cannot, as we have already stated, be effected
 ‘ otherwise than by the operation of increased mor-
 ‘ tality, or by a decrease in the number of births.
 ‘ But unless the fall were very sudden and extensive,
 ‘ it would require a considerable number of years to
 ‘ render the effects of increased mortality very appa-
 ‘ rent; and it is so difficult to change the habits of a
 ‘ people, that, though the demand for labour were
 ‘ to decline, it would, notwithstanding, continue for a
 ‘ while to flow into the market with nearly the same
 ‘ rapidity as before. Nor would the ratio of the in-
 ‘ crease of population be sufficiently diminished, until
 ‘ the misery occasioned by the restricted demand on
 ‘ the one hand, and the undiminished supply on the
 ‘ other, had been very generally and widely felt.’

I quoted this passage in my Lectures in 1831, and stated my opinion, as opposed to those entertained by Mr. Ricardo and Mr. McCulloch, in the following words:—

‘ I take the liberty of affirming, that *it is possible*
 ‘ to effect speedily that adjustment of the supply of
 ‘ labour to a diminished demand, which the author of
 ‘ this article argues to be impossible, except by the
 ‘ labouring classes passing through many years of
 ‘ privation and misery. I contend that that severe
 ‘ ordeal may be avoided, by enabling those supera-

'bundant labourers (who may prefer to parochial
 'relief the possession of a fee-simple property in
 'another part of the empire) to remove to a colony,
 'where the circumstances which prevented their ob-
 'taining adequate remuneration in the mother-country
 'do not exist, and where they and their posterity may
 'enjoy a state of permanent comfort and independ-
 'ence. I cannot conceive the frame of mind in
 'which that man must be, who calls it cruelty and
 'insult to offer the means of happiness and independ-
 'ence to one who is suffering misery and degrada-
 'tion, merely because he must cross the sea to obtain
 'the benefit. What is the case in countries where
 'there is access to unoccupied fertile land, without
 'the necessity of crossing the sea? In the United
 'States, the evils of a redundant population are
 'avoided by a continual natural emigration towards
 'the fertile and unpeopled territories of the Union.
 'Why, then, should it not be the policy of an Euro-
 'pean nation, possessing territories equally fertile and
 'in want of population, to overcome, by its capital
 'and credit, the difficulty opposed by the intervention
 'of the sea, and to give to those who may desire them
 'facilities of exchanging a state of wretchedness and
 'degradation for one of independence and prosperity?'

One of the Resolutions assented to by the Me-
 chanics' Institution, points out that the same object
 which Mr. McCulloch and Mr. Ricardo contem-
 plated, by increasing the ratio of capital to popula-

tion, may be effected by reducing the ratio of population to capital. The Resolution stands thus:—

‘ That to remedy such evils, either more labour
‘ must be demanded, *or less labour supplied*, and that,
‘ unless one or other of these conditions can be satis-
‘ fied, the evil is without remedy.’ Why not have
recourse, then, to the second and practical alter-
native ?

But as the whole question is one of practice and not of theory, one of the principal objects of the present publication is to give to the public the examination of Mr. Rubidge, who has been a settler in Canada for the space of nearly twenty years. I have elicited the information from Mr. Rubidge, by proposing to him that course of ordinary questions which I conceive would be put to him in a Committee of the House of Commons, by a Member anxious to examine him in chief; that examination will be found to comprehend the whole subject.

Statement by Lieutenant Rubidge, R.N., in answer to Questions proposed by the Right Honourable Sir Robert Wilmot Horton, Bart.

1. You originally went out to the Canadas as a settler?—Yes; I went out in the year 1819, with a wife and three children, to settle in Upper Canada. I took my grant of land as an officer in the township of Otonabee, a new township, just laid out in the forest.

2. Have you been in England since that period?—I came to England last November, after an absence of eighteen years, or rather more.

3. Have you found the experiment of colonization a successful one?—Very much so, as far as relates to my own case; for I went out there with very small means, and I have contrived now to establish myself in a very comfortable way.

4. Has the locality of your settlement given you opportunities of knowing any minute particulars respecting what have been called the Government Emigrations of the years 1823 and 1825?—Yes; it has given me great opportunities of watching the progress of emigration. In short, I was partly concerned in the emigration of 1825. The emigration of 1823 is far removed from where I reside; therefore I cannot speak so positively about it. I can merely go from hearsay, with respect to 1823; but the settlement of 1825 I am well acquainted with, and competent to speak to. In point of fact, the township in which I reside was given up by Mr. Robinson altogether to me to locate, and whenever any stranger came there Mr. Robinson allowed me to locate them there without any kind of application to the government at all.

5. In March, 1831, prior to my leaving England for Ceylon, I had the satisfaction of receiving the following letter from Mr. Richards, who, as you are aware, had been sent out as a commissioner to inquire into the circumstances of the emigrants who went out in 1823 and 1825, and also to be able to form some judgment upon the practicability of colonization generally:—

“*London, 1st March, 1831.*”

“MY DEAR SIR,—I have this morning received your favour of yesterday, and in reply to your question, Whether the Irish emigrants located under the superintendence of Mr. Peter Robinson in 1825 had to complain of increased misery, privation and discomfort, and what reply I should suppose they would make to such a question, if put to them, I have no hesitation in stating distinctly that they would repel it with indignation, as ridiculous and unfounded, and show, with exultation, the small farms they have made, and which enable them to live in independence. I understood that the emigrants of 1823 were equally well off, but I did not visit their settlement. I was two or three days at Peterborough, during which time, perhaps, thirty or forty settlers, and some with their families, came in to see Mr. Robinson; and the manner in which they met him was quite affecting; it was more to bless him as a benefactor than to receive him as a visitor.

“I remain, my dear Sir,

“Very faithfully yours,

(Signed)

“JOHN RICHARDS.”

I now beg to ask you whether, in 1838, you are enabled to confirm the statement made by Mr. Richards in 1831?—Most unquestionably, I can confirm it. They are not only living in independence, as stated by Mr. Richards, but many of them are now keeping their horses; and I might go on further to state that many of these people have their sons grown up, and they have been able to buy farms, and are settled all about the country. They are not only independent themselves, but their children are independent also, and some of them even more so than their parents.

6. Have you any means of giving a definite answer to the inquiry as to the increase in the numbers of the settlers of 1825, since their location in Canada?—I cannot answer that question definitively; but I should not be surprised to find that their numbers are doubled. Of course, however, that information can be obtained from other sources.

7. I presume that numbers of marriages have taken place among the younger part of those settlers since their arrival there?—Yes.

8. I mean boys and girls, who have grown into men and women?—Yes; I should state, that, with very few exceptions, both boys and girls have married.

9. You are probably aware that there are persons in this country who have attached particular value to the principle of sending out young married couples?—Yes; I have heard of it.

10. Do you, or do you not, consider that the marriages that have taken place among the young settlers of 1825 have produced just the same effect as if they had been sent out as young couples?—I consider that they have produced a much better effect, and for this reason, that these young people, when they have married out there, have had sufficient experience to go on to land, and to work it with advantage. I consider that the young people brought up in the country are much better than persons having been sent out as young couples; because they have acquired sufficient knowledge to go on to land with great advantage to themselves. Young couples, by being industrious, might provide for themselves in this country. Where parents go out and take a family with them, it is an equal relief, I consider, to the mother country; and if grown-up, those children can always get employment as labourers or farm-servants. I think giving encouragement to young couples is giving support to those classes of persons who are least in want of it, and least entitled to it.

11. Do you, as a practical colonist, consider that the sending out children with their fathers and mothers is a better principle of colonization than that of sending out young couples.—I mean with reference to the influence the head of the family would have?—Yes, most unquestionably.

12. The colonizations of 1823 and 1825, taken together, give a result of 22% per head, men, women, and children. Are you not of opinion that, with all the advantages which a practical experience has pointed out, a colonization upon the largest scale, precisely similar in principle to the colonization of 1825, might be

carried on at a much less rate of expense?—Yes, I am certain it may.

13. Before I put any further question to you I would wish to record, as shortly as I can, my views as to the distinction between colonization and emigration—a distinction not necessarily growing out of the import of the terms, but as marking two modes of progress. The Emigration Committee of 1827 pointed out the distinction in the clearest manner, and I have repeated the argument in various publications. Emigration, I consider, as the term to be applied in the case of labouring emigrants going out to a colony with a view of finding employment as labourers, and with the ultimate intention of becoming settlers on land whenever they have the means of effecting that object. To attempt an introduction of labourers beyond the real existing demand for labour in any particular colony, would, as again and again explained to the public, inflict upon that colony the very evils from which they were attempting to escape in their own country; I have never, therefore, for one moment, denied that the full demands for labour should be met by a proportionate supply, but I have said, that when the point of saturation is attained you must either have colonization as distinct from emigration, and plant the settler on his land, whereby he himself will progressively find the necessity of a supply of labour to cultivate his land, or you must expose the colony to the greatest misfortunes. With respect to emigration, in the sense in which I employ it, it acts for itself. Little is demanded on the part of Government except the giving of unperceived facilities to enable men to reach the points where labour is demanded. But in the case of colonization, if an expense is not to be incurred, the experiment cannot in my opinion be tried with success; and in the case of colonization, provided food enough is prepared for the maintenance of emigrants during their first year, the experiment goes on by its own impulse, and under the circumstances of the indefinite extent of fertile land in our North American possessions, there does not appear to me to be a limit to which, if necessary, it might not be carried. I now beg to ask you, do you admit the distinction between colonization and

emigration which I have pointed out?—Certainly. I am aware of the distinction between colonization and emigration in the sense employed by you, and I admit that emigration may be carried to a dangerous extent, but I think that colonization, if discreetly managed, can have no limit*.

14. In the year 1829 or 1830 I addressed certain queries upon this subject to Mr. Fairbanks, the representative for Halifax, in the General Assembly of Nova Scotia, and I asked him whether he did not think that a colonization might be effected successfully at the rate of 16*l.* per head, or 80*l.* per family of man, woman, and three children, whereas the colonization of Mr. Robinson cost 22*l.* per head under the incident of a new experiment. Mr. Fairbanks's answer was in these words:—"In my judgment systematic colonization of English paupers, carried on by the Government upon the principles detailed in the queries to Mr. Senior (which principles involve effectual precautions against the colonies being subjected to the receiving infirm or destitute paupers), would be a measure perfectly easy in execution and certain in success, as far as respects the colonial part of the experiment, even if it were limited to the lower provinces of Nova Scotia, New Brunswick, and Prince Edward's Island (with which provinces I am best acquainted); and even supposing that it were not intended to send any emigrants to the Canadas, I have no doubt 80*l.* per family would be found to be more than sufficient." You will observe, that Mr. Fairbanks adjusts his answer, in reference to the other British provinces, independent of the Canadas. I now beg to put this query distinctly to you—Do you think that the expense of 16*l.* per head would now be necessary to effect a colonization precisely similar in principle to the colonization of 1825; I mean, by similar in principle, a colonization supported during the first year, to enable the parties to be independent afterwards?—I would state, that by making preparation for the reception of the colonists previous to their being sent out, and by modifying or altering the

* 'The subject proposed,' p. 217 of Horton's Lectures, to words 'his native land,' p. 219.

scale of provisions, and other things allowed them in Mr. Robinson's emigration, or in the emigration of 1825, a less sum even than 16*l.* would be sufficient.

15. Could you name the sum per head, such sum including the expense of previous preparation?—I should say from practical experience in the location of a very large number of emigrants in 1831, that I consider 12*l.* a-head, or 60*l.* for a family of five, would be sufficient. I have prepared a detailed estimate in currency which is as follows:—

	£	s.	d.
Expense of passage to Quebec or Montreal, and of transport to their location, of one man, one woman, and three children.....	20	0	0
Clearing and fencing two acres of wood-land at £3. 10s. per acre. Fence to be seven rails high.....	7	0	0
20 bushels of seed-potatoes, at 2s. 6d. per bushel....	2	10	0
Expense of planting the above	2	10	0
5 barrels of flour, at £1. 10s. per barrel of 196 lbs...	7	10	0
2 barrels of pork, at 80s. per barrel of 200 lbs	8	0	0
300 lbs of meal, at 10s. per 100 lbs.....	1	10	0
To build a shanty, 15 × 10	2	10	0
Quota of expense to construct roads and bridges	1	0	0
Ditto ditto for surveyors and guides	1	0	0
Ditto ditto medical attendance	1	10	0
Ditto ditto contingent expenses	2	0	0
2 good axes	1	0	0
3 hoes	0	9	0
2 blankets	0	11	0
1 bake-kettle	0	4	0
1 saw 4s., 1 screw auger, 1 inch, 2s	0	6	0
2 bushels seed-wheat, 5s. per bushel	0	10	0
	<hr/>		
	£60	0	0
	<hr/>		

The above sum of £60 is in currency, leaving the difference between that and £60 sterling to pay for superintendence, &c.

I beg to add, also, that 100 acres per family of five were given in the case of Mr. Robinson's emigration of 1825; whereas I should suggest, in the case of persons sent out at Government expense, that a less quantity of land than 100 acres—say 50—might be given, as it would greatly facilitate their location and reduce the expense.

16. You have had an opportunity of reading the reports of the Emigration Committees of 1826 and 1827?—I have, portions of them.

17. You, perhaps, are not aware that your estimate of 60*l.* tallies precisely with the evidence of certain witnesses who were examined upon that particular point before the Emigration Committee of 1827?—No, I am not aware of it.

18. I will place the reports of the Emigration Committee in your hands, and in them you will see the high authority of the witnesses who have given this opinion as well as yourself. The proposition of the Emigration Committee in 1827 was, that this 60*l.* should be given to the head of every emigrant family of five persons for seven years, without requiring from him any repayment of the money lent during the period. It was calculated that this 60*l.* debt, interest being calculated at four per cent., would at the end of seven years amount to the sum of 80*l.*, the settler not being called on to pay any interest during that period. Upon this hypothesis the witnesses were asked this very important question—“Do you consider that the settler, if not called on to pay any interest for the space of seven years, would have any difficulty whatever in affording to pay 4*l.* per annum at the expiration of that period in money or money's worth—that is, in grain and pork of a merchantable quality, estimated on a given principle of arbitration—such emigrant having always a power at his own option of paying off the principal of 80*l.* in instalments of 20*l.* each, in money, until the whole of the original loan be discharged?” I am not asking you any opinion as to the policy of such a scheme; but I am asking you your opinion whether, if the proposition had been adequately explained to the pauper colonist, and if he had been made conclusively to understand that it was not

a rent for his land, but a payment of interest upon a loan of money lent to him at his own request, which loan had been advanced to him in kind, and not in money, he would have been in any degree disposed to resist the payment of such interest, it being thoroughly explained to him, that at any time he had the power of gaining a fee-simple in his location, by the completion of the payment of the sum of 80*l.*—No; he certainly would not be disposed to resist the payment, and I do not know that he would have the power. Those that were idle, though they might be able to live, would not have the means of paying 4*l.* a-year, either in kind or in money, but there are many that would. Those that were industrious would have the means; and to secure the payment of this, I would in all cases reserve, say one-half or one-third, of this land. It should be held as the property of the government. There are many reasons why it would be well to give these people a deed for a part of the land, for they then become freeholders and vote at the elections, and it may be a very great object that they should be able to do so. I do not think that that would prevent their having a desire to acquire the other part of this land as soon as possible, and I think the very circumstance of the land being retained would be rather a stimulus to them to do so. If they were industrious it would make this portion that was reserved of such value to them, that they would be always desirous of getting it. Then, as to the idle one, though he would not be turned off his land, the government would always have something as a consideration for what they had expended upon him.

19. Are you of opinion that the majority of such settlers, if decently well chosen, would be industrious?—Certainly; the majority of them, unquestionably.

20. You have stated that, in your opinion, none of these emigrants would resist the payment; but I beg to ask you, do you consider that the majority, say three-fourths of such emigrants, would be in a condition to pay the 4*l.* at the end of seven years?—I am most decidedly of opinion that three-fourths would be both able and willing to pay 4*l.* at the end of seven years.

21. In the case of the remaining fourth part, who, under your

hypothesis, would be unable to pay, do you think that if a settler were ejected, and his farm put up to public auction on the part of the government, there would be persons found willing to take it upon the same terms?—Generally speaking, I should say there would; but that would depend very much on the progress that the country had made.

22. As you have expressed your opinion, I may as well inform you that of the ten witnesses examined before the Colonial Committee, in 1827, the whole of them expressed their opinion, that there would be no disposition on the part of the emigrant colonist to resist the payment; and their opinion elicited the following query from the committee. “In case of the death of the colonist at any period during the seven years, do you think there would be any doubt as to the security of the improved land being an adequate value for the loan advanced upon it?” Of the ten witnesses one had no doubt when the value of the improvements amounted to the sum lent; eight thought that the improvements would be sufficient security, and one doubted the value of the security till the end of four years, when he thought it would be sufficient?—I can give it as my opinion that it would, if they had 100 acres of land.

23. I now ask you, are you of opinion, that if this system of repayment had been sanctioned, there would have been found any practical difficulty in the levy of this interest, supposing such levy to be made under the directions of the governor of the colony?—I should state, that I think there might have been some difficulty in some of the remote townships where these people were a considerable distance from market, but of those that were settled near the town of Peterborough there would have been none whatever.

24. Of the ten witnesses to whom this question was put, one answered that, when aided by legislative provisions, he thought there would be no difficulty; eight answered, generally, that there would, in their opinion, be no difficulty; and one answered, that he was not sufficiently informed on the subject to give an answer. I now ask you, are you of opinion that there would have been any sort of indisposition on the part of the colonial legislature of Upper

Canada to give every facility to the levy of this interest, in consideration of the very great advantages which would arise to the colony from the introduction of such colonists?—I am convinced that the legislature would very readily do so, and that there would be no indisposition on their part to pass such an act.

25. I have to inform you that all the ten witnesses to whom that question was put,—more generally than I have put it, for it applied to the legislature of Lower as well as to the legislature of Upper Canada, and indeed to all the British colonies,—gave one unanimous answer, that there would be no difficulty. When you read the Emigration Reports of 1827, you will find the following opinion of the Committee with respect to this principle of repayment:—

“ Your Committee beg most distinctly to be understood that they rest their case entirely upon the presumed co-operation and assistance of the colonial legislatures. Unless this can be obtained, they feel that repayment would be impracticable; if it be obtained, they entertain confident hopes that it may be reduced to a regular and effective system; and though they could not go so far as to require a guarantee upon the part of the colonial legislatures, they should expect them to make such provisions as should tend to enforce and secure the validity of the engagements made. Nor, upon a very mature examination of the subject, can your Committee be induced to conceive that the local legislatures can have any disinclination to enter into such arrangements. The intelligent inhabitants of those colonies cannot fail to be aware that when those emigrants repay the loan, which is proposed to be lent to each head of a family, they will only repay a very small part of the wealth which they possess, and which has been created by their emigration. They will be aware also that the projected emigration will consist exclusively of able-bodied, healthy persons, selected upon system in the mother-country, and introduced upon system into the colony, and that it is not to be a casual, desultory, and unprovided emigration. Under such circumstances, your

Committee cannot doubt the disposition of the local legislatures of the colonies to encourage the measure, and to facilitate the process of repayment, an opinion which is expressed *unanimously* by the colonial witnesses examined before your Committee.

“ In fact, your Committee are at a loss to conceive what could be more advantageous to the interests of the colonies than an accession of population under such terms. Their wealth and power will be increased infinitely more by such an accession, coupled with a principle of repayment practically carried into effect, than it would be, supposing that no emigration of that *character*, that is, of selected emigrants, were to take place in consequence of such repayment being deemed impracticable. The colonies will have the advantage of being able to supply by colonial laws any measures of police, or of any other nature which may assist in the satisfactory location of emigrants thus proposed to be introduced. In case of the sum of 1,140,000*l.*, it can only be considered in the light of a *loan made to the emigrants*, to be applied in the most advantageous manner for the benefit of the colony. If English capitalists were prepared to employ a sum of equal amount in some speculation in the colonies which they anticipated would be productive, in the formation of a canal, the working of a mine, or the establishment of a fishery, or in any other mode, and if those English capitalists expected to derive ten per cent. for this speculation, which annual profit was to be remitted to England, is it possible to suppose that the colonies would object to such a remittance—that they would consider themselves aggrieved by it—that they would not feel themselves benefited by that portion of *the real returns* of this enterprise which would be created and retained within the colony over and above the interest remitted to the parties in England ?

“ Your Committee think that it is only necessary to have these views fully and clearly understood, and the evidence examined which has been taken, in order to induce the colonies

to accept with gratitude an arrangement of this nature. Nor do your Committee found their opinion upon mere speculative data. They would specially refer to the letter addressed to Earl Bathurst by the magistrates and others resident in the district of Newcastle, in the province of Upper Canada, which is to be found in the evidence between the questions 3701 and 3702, in which they explain their view of the advantages to be derived from a regulated system of colonisation. In the same place will also be found the expressions of gratitude on the part of the Irish emigrants of 1825, for the change effected in their situation."

The testimony of the magistrates and other residents in the district of Newcastle, is of such vital importance that I wish to place it on record in these queries addressed to you:—

"To the Right Honourable the Earl Bathurst, K.G., &c. &c. &c., his Majesty's principal Secretary of State for the Colonies.

"The undersigned, his Majesty's dutiful and loyal subjects, magistrates and others, residents in the district of Newcastle, in the province of Upper Canada, beg leave to express to your lordship our firm attachment to his Majesty, and the mother-country, and the unfeigned gratitude which we owe for the sedulous attention exercised for the prosperity and welfare of this colony. Among other important benefits, we wish more particularly to express our sense of the obligations we lie under to his Majesty's government, for directing an experimental emigration, under the superintendence of the Honourable Peter Robinson, to this district.

"We feel more strongly induced to do this, because unfavourable reports affecting the character of that emigration have gone abroad, and which, although erroneous, have received weight from being mentioned in one of the legislative bodies of this province. It would be an act of injustice, not only to the promoters of this measure, and those to whom its execution was intrusted, but also to the emigrants themselves, did we refrain from contradicting those injurious

reports, and expressing our opinion of the general excellence of the measure itself, as well as of the individual good character of the mass of persons composing that emigration.

“ Whatever conflicting opinions may have heretofore existed on the question, whether persons translated from the British islands into the forests of Canada, would succeed as settlers or not, there cannot now be any doubt on the subject. The Irish settlers placed in the midst of the woods have already acquired sufficient of the habits of the country to enable them to meet all their wants by their own labour, and, having successfully combated the difficulties incident to a first settlement, have before them a fair prospect of comfort and independence.

“ Much of this is owing to the indefatigable exertions and unwearied diligence of their superintendent, the Honourable Peter Robinson—his judicious location of the emigrants in an interesting part of this fertile district, his attention to their wants, his perseverance in overcoming obstacles, and his humanity to them generally, have raised his character high in the estimation of those who have now the honour of addressing your lordship, and have endeared his name as a friend and protector with all the emigrants.

“ We feel much pleasure also in expressing our sense of the judicious and liberal aid afforded by the Provincial Executive in the establishment of public schools, and in the erection of a large and valuable mill in the very midst of the new settlement. By this the greatest, indeed almost only difficulty which the settlers themselves could not have surmounted, is overcome; and they cannot do otherwise than entertain a grateful feeling for the government which has so generously aided them.

“ In conclusion, we would beg leave to represent to your lordship, that there are still extensive tracts of fertile land unoccupied in the vicinity of the late settlement; and that, if the success of the present experiment should induce his

Majesty's Government to continue the system, the arrival of other settlers from the British islands under their protection will be hailed by us with joy, as a further proof of their beneficent designs for the well-being of Upper Canada.

"We have, &c."

(Signed by sixty individuals.)

This letter was written in 1827; Have you any reason to believe that the sentiments of those parties would be now changed if an appeal were made to them?—Most assuredly not; I do not hesitate to pledge myself to that fact. In short, I could say positively, that we date the great prosperity of our district over all others, almost, to the introduction of emigrants in 1825. It was till that time in a languishing state, and from that time it has got on in a most surprising way.

26. I would call your attention to pages 30 and 31 of the Emigration Report of 1827, in which the Committee sum up the success of the emigrations of 1823 and 1825, as bearing upon the probability of repayment. I shall not enter into the question of the emigration of 1823, because you are not practically acquainted with it. With respect to the emigration of 1825, with which you are so minutely acquainted, you will find that the Committee record that it consisted of 2024 persons, among whom there were 415 heads of families, able-bodied and capable of labour. They then go into the Irish questions, with which I am not going to trouble you; and then they proceed to record, that these 2024 persons were removed in the year 1825 to Canada, and that the expense of their removal amounted to 43,145*l.*, including their location and sustenance up to the period at which their first crops enabled them to provide for themselves. Their removal, therefore, taken at per head, amounted to 21*l.* 6*s.* 4*d.*, being a decrease of 15*s.* 2*d.* over the expense of the first emigration of 1823, which was effected at the expense of 22*l.* 1*s.* 6*d.* per head. Mr. Peter Robinson, the superintendent, was called on by the Committee to give a conjectural estimate of the value of the produce of their

first year's labour, and he gave it as amounting to 11,272*l.* 8*s.*, being a calculation made upon the then current price of articles in the colony. Mr. Robinson did not mean to say that these colonists had a produce to dispose of to the amount of 11,272*l.* 8*s.*, but that the production which they had created amounted to that sum. The Committee then proceeded to reason in the following manner:—"The 415 heads of families were located upon 41,500 acres. At the time that the emigrants were placed upon this land, these 41,500 acres were utterly unproductive, yielding no annual value."

The Committee then enter into a very elaborate calculation, at the end of which they sum up the case in these words:—"A pauper in the south of Ireland, for whose labour no demand existed, and consequently whose presence in Ireland added nothing to the general wealth of the country, but, on the contrary, whose subsistence was a deduction from that wealth, was removed to a district in Upper Canada. He received from the Government, for himself, his wife, and three children, the sum of 100*l.* sterling, in kind, and not in money. This 100*l.* sterling has enabled him to cultivate a proportion of 100 acres of land, and at the end of seven years he will be in the possession of a surplus income of 15*l.* per annum."

Such was the reasoning of the Committee; and the following queries, which were put to Mr. Peter Robinson, the superintendent, and his answers, will show that it was perfectly just to take the expense at 20*l.* per head:—

"What has been the actual average expense per head of the emigrations of 1823 and 1825?—The total expense of the emigration of 1823 was 22*l.* 1*s.* 6*d.* per head; the total expense of the emigration of 1825 was 21*l.* 5*s.* 4*d.*

"Ought not a deduction to be made from the expense of this latter emigration, in consequence of certain stores having been delivered to the commissariat, which will be an item of account in diminution of the general expense?—I think not less than 2000*l.* The settlers were provisioned for sixty days; and as they were

landed at from thirty to forty days, nearly half the provisions must have been landed at Quebec, for which, I believe, there has been as yet no credit given.

“That would reduce the expense to about 20*l.* per head?—It would.”

It was then reasoned, that as the settler would not be called on to pay any return whatever for the money lent to him till after seven years, he would have a surplus income of 15*l.* to meet a debt of 4*l.* I do not in the slightest degree expect you to offer me an extempore opinion as to the accuracy of this statement, but you may study it at your leisure, and convey that opinion to me. But I would here observe, that the Committee in this calculation only argued upon the hypothesis, that the settlers had brought into cultivation 8300 acres; and consequently, under that hypothesis, at the end of these seven years, 33,200 would still have remained uncultivated. I need not observe that thirteen years, instead of seven, have elapsed since these settlers were thus placed on their land. I trust, therefore, that it will be in your power, after due consideration, to supply me at least with an approximating estimate of the value of the property of these colonists of 1825 at the present period?—I should wish to have time to make this calculation.

Lieutenant Rubidge subsequently gave in the following answer:—

“The farms of the emigrants sent out in 1825 by the Government have greatly increased in value, particularly those near the town of Peterborough. I believe, taking them on an average, that every farm of one hundred acres is now worth 150*l.* Many of these settlers, as well as their sons, have bought crown and clergy reserves from the Government. I have sold as much as four or five hundred acres of land to one family; and I conscientiously believe that the freehold property owned by these colonists collectively would not fall short of 80,000*l.*; in fact, many of them possess *considerable* property in the town of Peterborough.”

27. I am now going to enter on a subject which is not necessarily mixed up with the particular purport of the inquiries which I

am making of you, but it is convenient to introduce it here in reference to any general reader who may read these queries and answers. With respect to the condition of these 2024 persons removed in 1825, reams of paper might be filled with a description of the horrible position in which parties in that situation were placed—utterly without employment, utterly destitute of property, dispossessed of their farms, and therefore entirely subsisting either upon charity or spoliation. Here are 2024 persons who, in round numbers, at the expense of 20*l.* each person (40,480*l.*), have been removed to a state of high prosperity in a British colony. The country from which they are taken has not in the slightest degree suffered by the abstraction of their labour. Admitting, that if they had remained in their own country there would have been no demand for their labour (an admission which must be made if Irish evidence is to be believed), let us suppose that these people had remained in Ireland, and that they had been kept in existence by charity at the rate of 2*d.* per head per diem, the simplest arithmetical calculation shows that the annual expense of maintaining these people in Ireland would have been 6156*l.* 6*s.* 8*d.*; whereas, a perpetual annuity, at 20*l.* per head, Consols being at 90, taking them in round numbers, to pay the interest of a debt of 40,480*l.*, would be 1349*l.* 6*s.* 8*d.* per annum. Now, up to the present hour notwithstanding an infinite variety of publications, notwithstanding the lectures which I gave publicly at the Mechanics' Institution, I have never been able to gain an assent to the proposition that the payment of 6156*l.* 6*s.* 8*d.*, supposing Ireland to have maintained by charity these wretched persons at the lowest rate of existence, would have been a far greater tax than to pay 1436*l.* for a perpetual annuity for the sum advanced. But to have paid the interest of the sum advanced would have been to have paid a debt to Government which must have been advanced from the taxation of Ireland; but to keep these people in charity would have been a tax upon the individuals from whom that charity proceeded, and those who were not disposed to be charitable would be exempt from the tax. But that distinction, which I admit to be a substantive one, does not affect the point of its being as genuine a tax upon Ireland, that is to say, upon some

persons in Ireland, though unequally levied, as if the amount of that charity had been paid into the Exchequer. That charity must have proceeded from the current annual revenue of Ireland, and therefore it would be precisely as severe a tax as if it had been paid to Government. Here, then, you have, on the one hand, 2024 persons, beggared paupers, trailing on a miserable existence, under an annual tax upon Ireland of 6156*l.* 6*s.* 8*d.*, as compared with 2024 persons enjoying independence and prosperity in a British colony; and (a point not to be forgotten) instead of living upon the charity of their own country, increasing its prosperity by their exertions and industry, and not only benefiting their own country, but benefiting the mother-country by the demand for the manufactures of that mother-country, which a state of prosperity induces. This proposition has been placed by me, as I have already said, again and again, before the public; but except from scientific persons, with whom I have placed myself in close communication, I have never been able to obtain either from government, from parliament, from the reviews, or from the public in general, anything like a satisfactory assent to a proposition which appears to me incapable of being denied. I have already stated that, as far as the superabundant population of a country can be relieved by emigration, in the sense in which I have employed the term, I am for having that emigration carried into effect; but if the question be of a greater magnitude, such as that of clearing off the redundant population of Ireland, I say, in defiance of the opposition which I know I shall receive, that colonisation on an extended scale is your only expedient, and that that expedient cannot and will not fail you if you choose to resort to it. I have shown that even without repayment the measure is one of economy as affecting general revenue instead of expenditure; I have shown that had the principle of repayment been carried into effect, there was every probability that it would have proved successful. I am ready to prove this before any committee that government might appoint to investigate the question; but it is so difficult for a man standing alone to find a fair tribunal to investigate his opinions, that I cannot expect, unless I meet with

more co-operation than I have yet done, that any such opportunity will be afforded me. Do you see any fallacy in that reasoning?—Not any whatever.

28. To sum up this particular part of the subject, 40,480*l.* Consols, being at 90, would require an annuity of 1436*l.* to pay the interest of such a loan. The maintenance of these paupers in Ireland would be a tax upon the current revenue in Ireland, at the rate of 10*d.* a day for a family of five persons, of 6156*l.* 6*s.* 8*d.* So much for the actual comparison; but when you take into consideration the increase of the body of population which, considering the recklessness with which marriage is carried on in Ireland, would have added very materially to the number of 2024, say to the extent of increasing the numbers to 3000, the expense of that current charity would of course be so far increased and misery so far multiplied; whereas, by the increase taking place in Canada, wealth is proportionably increased by the access of that population, and prosperity so far augmented. Taking the calculation on a more general scale, and putting out of sight the augmentation of numbers, then Ireland, to have maintained these people in this miserable manner, would require a perpetual annuity of 6156*l.* 6*s.* 8*d.*, whereas, the perpetual annuity for the payment of their location in Canada, amounts only to 1436*l.*; but let us suppose that, according to your calculation, these people were located for 60*l.* per family of five, that would amount to a perpetual annuity of 881*l.* 10*s.*?—Yes.

29. You have stated that you have been a resident in Upper Canada for nineteen years, and that you went out in 1819 with your family, then consisting of a wife and three children. Did you purchase land partially cleared, or did you go on to wild land removed from any settlement?—I went nineteen miles back from Lake Ontario, in the midst of the woods; the township of Otonabee, where I reside, was surveyed after my arrival in the province, and I took my grant of 800 acres of land, as a lieutenant in the navy, in that township.

30. What were your prospects of success as a settler at that time?—At that time I thought them good, as there was a great

run to the township when I settled, and as many as 100 persons took up their grants there.

31. From the time you became a settler up to 1825, did the part of the country where you live, that is, in the township of Otonabee, prosper, or otherwise?—The emigration to the country north of the Rice Lake, prior to the time you name, was by voluntary settlers, and officers of the army and navy, unaided by any government encouragement; none had the means to build mills, bridges, or make roads, and from having no market town nearer than Cobourg on Lake Ontario, nineteen miles off, and having a lake three miles wide to cross in order to get there, the settlers became disheartened, and many left in despair of seeing a change; the number of heads of families were in 1825 reduced from about seventy, the number that were originally settled there, to thirty-five.

32. In your opinion, what would have been the consequence had things remained in this state?—I am convinced that nearly every settler would have abandoned the country; for, although we had good farms, and built barns, and other useful offices, and had greatly improved our estates, still we were shut up for want of mills, roads, bridges, or steam-boats, and often with our barns full of wheat could not get a pound of flour to eat, and this continued till the emigration of 1825.

33. In what way did the emigration of 1825, under the superintendence of the Honourable P. Robinson, affect your township, as well as all others on the north side of the Rice Lake?—We all felt highly indebted to the English government, who, by planting these colonists amongst us, encouraged us to cast aside our dependency, and ensured to us brighter prospects; upwards of 2000 souls were added to our population, an excellent mill was built at the expense of the government, since bought by a private individual; leading roads were cut out in all directions, and a steam-boat in operation. Where at that time one old house stood, the town of Peterborough grew up as if by magic, and it now contains two churches, two meeting-houses, upwards of 400 houses, and 2000 inhabitants. Speculators flocked to the neighbouring

townships in all directions—mills were built—stores opened—and life, bustle, and civilisation, went on with spirit; had it not been for this fortuitous accession of population, we must have dragged on a lethargic existence with doubtful prospects of improvement.

34. Have you any idea of the population in all the townships north of the Rice Lake and River Trent, in the Newcastle District, in the year 1825, prior to the government emigration?—Yes, about 500 souls.

35. Do you know what their numbers are now?—I can give them within a few of the truth, as I have with me a census, of the year 1834, of the inhabitants in the townships, as follows, viz. :—Ops, 796; Mariposa, 346; Eldon, 560; Emily, 1356; Otonabee, 1327; Monaghan, 1116; Asphodel, 397; Douro, 976; Dummer, 635; Ennismore, 280; Smith, 976. Total, 8523. No return has been made of the inhabitants of the townships of Fenelon, Verulam, Harvey, Methuen, Belmont, or Burleigh, but I can state them to have been at that time about 2000; in the whole, at this moment, I have no hesitation in stating, that the population amount to at least 15,000 or 16,000, which gives an increase of 14,500 since the emigration sent out at the expense of government in 1825.

36. What do you suppose was the amount of British manufactured goods disposed of in this portion of the province in 1825, prior to the emigration?—It must have been very small, for the settlers made all their own wearing apparel from flax grown on their farms, and from the wool of their sheep; and every person with incomes, except the Honourable Mr. Stewart, of Douro, and myself, had left this part of the country,—consequently, I should say the whole amount would not exceed 1000*l*.

37. Can you state, with reasonable accuracy, the amount of British manufactured goods now consumed in the same portion of the country?—I will endeavour to do so. In the town of Peterborough there are now twenty-four stores or shops; at Keene, in Otonabee, there are three; and scattered about the country there are at least ten more; there are fifteen grist-mills and forty saw-

mills, besides distilleries, tanneries, and all other businesses carried on, and all in some way consuming British goods ; so that allowing only three pounds a-head for the total population of 15,000, it will amount to 45,000*l.* The growth of flax has ceased, and the farmers use their wool for making blankets, stockings, &c.

38. Will you inform me, if, during the time you resided in Canada, you have held any public situations?—In 1820 I was placed on the commission of the peace ; in 1825 I assisted Mr. Robinson, gratuitously, in settling the emigrants sent out by the Right Honourable Sir Wilmot Horton—the township of Otonabee, where I resided, was given up entirely to me to locate. In the year 1831 Sir John Colborne was pleased to appoint me to conduct an emigration on a very extensive scale, and I continued to act in the capacity of an emigrant agent for nearly two years. I also hold the situation of a commissioner to administer the oath of allegiance ; a commissioner of the Court of Requests ; and a trustee for the lands belonging to the Rice Lake Indians : in a word, everything in the country has grown about me, which enables me to speak confidently on most local matters.

39. What is the present condition of the emigrants sent out in 1825?—They are generally perfectly independent, having fine farms well stocked with cattle, sheep, pigs, &c. ; and many of them keep their horses, with conveyances both for summer and winter. Their families are all settled about them on farms purchased by their own industry. There is no one instance of any member of one of these families asking charity from any one ; if any of them were addicted to crimes at home, in Ireland, they are now free from them, and placed above necessity, and are as moral, peaceful, and loyal a body of people, as we have in the province.

40. How were the provisions obtained for the settlers taken out by Mr. Robinson in 1825?—They had all to be conveyed from Cobourg to Peterborough, a distance of thirty-two miles ; and a great portion of that supply came from different parts of the province, and from the United States.

41. In the event of government again undertaking the colonisation of any number of emigrants, would the same expenses have to be incurred, or might the supply be obtained from the townships settled by Mr. Robinson?—Any quantity required can now be obtained to supply the demand for an emigration to any extent, as the surplus wheat sent from this section of the country in 1837 amounted to upwards of 200,000 bushels, pork and beef in the same proportion.

42. You have stated that you conducted the settlement of emigrants in 1831; what description of persons were they, or by whom sent out?—They consisted of about 150 persons sent out by the Marquis of Bath, and placed under my superintendence by Sir John Colborne; also of 100 commuted pensioners and their families, and 1700 emigrants who had come to the province at their own charge.

43. Had any preparation been made to receive so large a body of persons, or did they come out unexpectedly?—No preparation had been made, and some delay and expense took place in consequence, as I had, after their arrival, to get a road cut, cleaned out, and bridged, to convey them to the township of Dummer, fifteen or twenty miles off; to erect temporary huts or shanties to shelter the people in Peterborough; to build shanties on their lots in the forest, and to procure supplies of provisions, teams, guides, &c.

44. Then it is your opinion that, by making preparations the year previous to any number of settlers being sent out, that great expense might be saved the Government, and much valuable time gained?—Of this I am quite sure, and I would beg leave, in answer to this question, to supply a copy of my communication on the subject to Sir John Colborne, in 1832:—

“ In compliance with the request of his excellency Sir John Colborne, that I would furnish such information respecting emigration to Upper Canada, and more particularly of that in the year 1831, as my personal experience and practical knowledge enabled me to communicate, I have endeavoured to suggest some changes

that will certainly save much expense in future to the Government, and ameliorate the condition of the emigrant.

“ In the first place a more regular system ought to be adopted, and emigrants from the first should distinctly understand what they are to receive, be it much or little. In providing food for settlers in new townships, to establish them on their land, it should always be regular, for most of them arrive at a season when it is extremely difficult, and sometimes impossible for them to get work or provisions in newly-settled townships. Whenever an emigrant presents himself to an agent or superintendent, to be taken under his charge for rations and location, I would by all means have a printed bond or agreement, signed and sealed, before they receive provisions or anything else whatever; this will effectually prevent any unreasonable expectation on the part of the latter, and save the agent much trouble and vexation. When new townships are to be peopled I beg to point out the propriety of having a large log-house put up for a depôt in the most central or eligible situation; and the winter previous to any intended settlement a stock of provisions, &c., to be lodged therein by contract; the concession lines fresh blazed, posts put up at the corners of the lots, leading roads cut out for an ox-sleigh, and a remark made of each lot fit for location. If a few log-huts were put up in different spots in a township, to form temporary accommodation for the poor settlers, to prevent their families and luggage from suffering by wet and dew, till they can get them conveyed to their shanties, it would prevent much sickness.

“ Generally speaking, emigrants sent out to Canada have been too well fed. Pork and flour for persons accustomed to live mostly on potatoes are very injurious to their health; and were it possible to get some hundred bushels of potatoes in store as soon as out of danger from frost, the settlers might be allowed to purchase to cover the expense of them. This would save them from great imposition, give them seed, if out in time to plant, and keep them in better health, if used for food. But a more saving plan, probably, would be, to have from thirty to forty acres of land

cleared off the year previous to settlement, in four or six different sections of the township, and nearest to the greatest quantity of land or lots fit for location: these fields to be planted with potatoes, and, on emigrants arriving, sold, or given by patches or gardens to each family. If they arrive sufficiently early in the season to plant, the women and younger members of the family might be usefully employed, whilst the men were going on with their chopping, or building their log dwellings. By this plan much expense would be saved in transport, always a very heavy item in an emigration account.

“ I consider that fifty acres of land are quite sufficient for a poor emigrant, and by giving no more he can be much cheaper and more easily settled; and by their being nearer each other, they may render mutual assistance when they have heavy work to perform. By all means the lots or portions of land should be previously marked off by blazed lines, to prevent quarrels and trespasses on each other. Young medical men or surgeons of the army or navy might be induced to settle amongst them, near the depôt, by holding out an encouragement of receiving a grant of land, and a small addition to their half-pay or income.

“ The conduct of the emigrants located by me in 1831 was in general most exemplary; and I never observed a stronger desire to take advantage, by their industry, of the kind encouragement afforded them by the Government: they invariably vied with each other in their exertions, and this will always be the case where provisions are not lavishly or improperly supplied, and the population well mixed, as it was in that year; for then, the sluggard, who would not be shamed by greater energy on the part of a countryman, is roused from his indolence by a national feeling of pride to keep pace with his English, Irish, or Scotch neighbour.

“ The arrangements in 1831, for feeding the emigrant, I do think, cannot be much improved upon, unless a small quantity of oatmeal were given in addition to the flour. They are as follows: every individual, except children under five years of age, have daily one pound of flour; a man half a pound of pork, and a

woman a quarter of a pound, with a proportionate quantity of oat-meal: the children under age half a pound of flour.

“ In new townships, removed from a settlement, oxen and sleighs might be purchased by Government, to assist the emigrants moving to their locations, and be sold when no longer wanted, as the great advantage of placing the settler on land at once ought never to be lost sight of; for it saves them from sickness and acquiring slothful habits; besides, when persons of this class first arrive, they are so enervated from change of food, climate, and habits, together with exposure in Durham-boats, that long walks in the forest to hunt for land, or to put up shanties, bring on sickness, and often death, which may be averted, if placed at once on their locations. They then have the society of their families, who help, console, and encourage them; and I am sure the settlers put into Dummer, Douro, Ops, Emily, Otonabee, and Asphodel, by me, will be successful, although they had to contend with unlooked for difficulties and privations. Both in the emigration of 1825, under the Hon. Peter Robinson, and that of 1831, which I had the honour to conduct, no attention had previously been given to ascertain what lands were fit for settlement, no roads cut, or any preparation whatever made; the consequence was, and always will be, that great delay unavoidably took place; the expenses, from hurry and imposition, were much increased, and the emigrants subjected to unnecessary fatigue in the forest, whilst their families lay too long huddled together in small camps or shanties in Peterborough, occasioning much sickness.

“ If arrangements cannot be made to send these people to their locations at once, with a depôt formed in the township to supply them with food, then I strongly deprecate any forced encouragement to particular points, as they congregate in helpless and filthy masses, and their state becomes heart-rending; sickness, despondency, and mortality follow.

“ It is rather difficult to devise a proper and equal plan for victualling emigrants, because almost every family presents a different case; but those with many and young children deserve the greatest

indulgence and consideration. The agreement should oblige all female children twelve or fourteen years of age, and the grown-up sons, to go out into service; widows or infirm men to be allowed to keep their eldest or most able son at home. On giving a careful consideration to the suggestion of his Excellency that the sum of 14*l.* would probably be sufficient to maintain a family of five persons for a year, I fear to recommend anything less than 25*l.*, particularly if they are to be settled in new townships.

“ The system of obliging the emigrant to clear off land in proportion to the quantity of provisions he is to get, is liable to be encountered by many difficulties; first, it rarely happens that the settler gets out under a month, and generally some sickness or lassitude prevails; his first object is to get his shantie up, and his family out to it, to enable him to devote his undivided time to chopping his acre. This he begins to do like all who came to the country before him, by slashing down the trees in almost inextricable confusion, cutting all high alike, the timber down in this way; he cannot get the brush to burn; and he would starve if he had to depend on getting his acre cleared; whereas, were he instructed and compelled by an overseer to go about it in a workman-like manner, it would wonderfully help him to get his four acres cleared in the prescribed time of one year.

“ Men without their families should not be located at any charge to the Government, or indeed at all—let them work and purchase. It is to be considered that where the head of a family is compelled by a stoppage of rations to suspend his endeavours to make a home for them, and to leave them in a forlorn state in search for work, that it breaks down his spirit, he fears the worst from the undertaking he has engaged in, and if he can he will remove his family altogether; whereas, if his rations are continued on the proposed scale till the end of July of the following year, he will then, having used common industry, have a good crop of potatoes, at least, for their support, whilst he takes advantage to work out through the harvest to get a cow, and in the winter takes a job in threshing to supply them with bread. From this time, if he is a steady man, all will go well with him, and if he escape

sickness, he will soon become independent in his circumstances, and in time a consumer of British manufacture, thereby adding strength and respectability to the province, and to the wealth of the mother country.

“Very few settlers will arrive at the point from whence they are to be located before the months of June or July, and the bulk of them come after that time, so that no hope can be reasonably held out that many may be able to get a return crop from the earth that season; certainly a few of the first settlers sent to Peterborough in the spring of 1831, from unusual quick passages, and being sent out immediately by me to their location, did raise some potatoes and turnips, and had the preparations as herein recommended been previously attended to, more might have been done.

“CHARLES RUBIDGE.”

45. Do you think that a more regular system can be adopted for facilitating colonisation?—I am certain of it; and in the first place, a set of regulations should be drawn up for the guidance of the superintendent, and for the information of all persons admitted to the great privilege of being located as colonists in Upper Canada; these regulations should state exactly what conditions both the Government and emigrants were to fulfil, the quantity of land each person of a certain age was to have assigned him, the quantity of provisions he should receive for himself and the different members of his family, as well as any other indulgence to be afforded him. On his part he must understand before he is accepted, that his children of a certain age must go out into service, and not be any burden to the Government; everything, in short, should be specified. No kind of claim by the sons of emigrants for land should ever be encouraged or permitted, for it is quite enough that the Government establish the heads of a family with their helpless little ones, without having to provide for hearty young men and women who can always get employment as servants. By this arrangement both colonisation and emigration can be carried on at the same time, and the mother-country and the province are benefited and relieved.

46. Then you would have a bond or agreement drawn out before any person was admitted to be taken under the charge of the superintendent as a settler?—Certainly; for this will prevent unreasonable expectation on the part of the settler on the one hand, and will save the superintendent great trouble and vexation on the other.

47. What are the preparations that you particularly recommend to be made prior to any number of persons being sent out by the Government?—First, to make selection of a township, or land in different townships, to receive any number of emigrants that the Government may name, and having prepared every separate lot of 50 or 100 acres, both by inspection and having the division lines run by a surveyor, a shanty erected on each lot, roads and bridges constructed, and depôts of provisions laid in on the spot by contract during the previous winter.

48. Some persons have advised to wait for the arrival of the emigrants, as they might assist in doing much of this work themselves?—I differ from such persons; it is work with which they are wholly unacquainted and cannot perform; and, besides, it must be remembered that even if they could assist to do a little, that their families are to be supported and lodged in a town, where they acquire bad habits, and put the Government to double the expense from various casualties, sickness, &c. : as they have to make provision for their own maintenance the following year, the sooner they are out on their land in the forest the better.

49. You probably are not aware that the Emigration Committee of 1827 was quite alive to the advantages of the system recommended by you, as will be shown by reference to query 3608 put to Mr. Peter Robinson, and the answer returned by him:—

“ Do you not conceive, if emigration were to be carried on upon a system, that all that inspection and location would take place before, which would in some degree diminish the expense of each successive emigration?—If it was known the year before the number of emigrants that would be settled in any one district, a great expense might be saved by exploring the land and opening the roads beforehand; and getting the provisions and stores for-

warded in the winter season would save half the expense of transport."

No, I was not aware of it; but I am certain it will be the opinion of every practical man.

50. Have you ever known instances in which the emigrants of 1825 sent money to Ireland for the purpose of inducing their friends to join them?—I have known numerous instances of the kind; and there is a person in Peterborough, Mr. Hickson, who is generally employed as their agent to remit the money to Ireland.

51. Supposing, for the mere sake of hypothesis, that the removal of unemployed paupers in Ireland to our North American provinces were to be contemplated as a constitutional measure, do you, after nineteen years' experience, think that with discreet management there would be any difficulty in disposing of any number of such persons?—In my opinion, not the least. I have already described in the minutest detail the effect of colonization upon the interests of the district of Newcastle, and no reason presents itself to my mind why the same process could not take place in other districts. If I am right in that reasoning, the limitations to the reception of colonists or emigrants must be, generally, the quantity of land capable of receiving them and the demand for their labour.

52. What are the number of colonists which, allowing sufficient space of time, you think could be received in Upper Canada?—That is a very difficult question for me to answer; but from my general knowledge of the country, I should imagine that about two hundred thousand heads of families could be located, if it were necessary to locate them, on property belonging to the Crown.

53. I have used the phrase "allowing sufficient space of time;" from your local knowledge, what length of time do you think would be sufficient? The Emigration Committee, in their Report in 1827, have made a calculation upon the progressive principles, that the superfluity of one year would admit of an increased number of emigrants for the succeeding year, as long as you had the means of conveying them.—If colonisation were carried on at one and

the same time in both provinces, Lower and Upper Canada, I should think that two hundred thousand heads of families might be located in the space of six years: indeed I have no doubt of that.

54. But supposing that two hundred thousand heads of families—involving a population of two hundred thousand men, two hundred thousand women, and six hundred thousand children—were located, under which supposition the general face of the country would be colonised, do you consider that, if surveys were made, land could be found at the confines of such colonisation, not now considered to form part of the province of Upper Canada, which, upon examination, would be found perfectly fit to receive colonists of a similar character, to an almost indefinite extent?—Undoubtedly; but I would remark, that it is in that direction of country that Canada would extend itself naturally, in the same manner as the United States have done.*

55. Under the influence of such forced or natural extension, would there be any difficulty on the part of the Indian tribes?—I imagine not; for the present tribes of Indians possess hunting-grounds far beyond the present settlements of the country, and they are never indisposed to dispose of land to Government.

56. I appeal to you, as an evidence *practically cognisant* of the experiment of 1825, whether I have exaggerated the benefits of the change in the case of these Irish colonists in my letter to Mr. O'Connell, of the date of Nov. 1830? You must have heard, again and again, from those colonists, the condition from which they were *rescued* by the government emigration of 1825, and therefore you must be competent to express a decided opinion upon the subject?—I have repeatedly heard these people speak of their deplorable situation in Ireland, and of the difficulty at times of getting work, even at the very lowest wages. So far from your having exaggerated the present condition of those colonists,

* It happens singularly that, though Mr. Rubidge had no recollection of the Report of the Emigration Committee in 1827, the calculation given by the Committee in detail tallies precisely with Mr. Rubidge's calculation, provided five thousand heads of families are sent out the first year.

it is my opinion, that if their present state of comparative wealth and comfort were more generally known, *it would convert the whole nation to your way of thinking.*

57. In June, 1828, more than ten years ago, the following questions were put at my request to the heads of 180 families, who formed part of the emigrations of 1823 and 1825. I have added a summary of their answers; and my question to you is, whether, after a lapse of ten years, they would return answers of a similar nature?—

1. From whence did you emigrate to Upper Canada, and when?

2. What was your trade or occupation at home? and what were your circumstances when you embarked?

3. Did you come out independently of any public assistance?

4. If you were assisted by the public, what assistance was given you, and under whose superintendence were you?

5. Had you any money when you came out, and how much?

6. What are your present circumstances, as to house and other buildings, lands cleared and fenced, and farming stock?

7. What family had you with you when you embarked?

8. Did any of your family die on the passage to Quebec; and, if so, how many?

9. What have you now?

10. Have any died since you landed at Quebec; and, if so, how many?

11. What state of health were they in during the last year?

12. To what value had you produce or live stock to dispose of in the last year, above what you required for your family?

13. On what kind of provisions does your family usually subsist?

14. Are you pleased with your situation in Upper Canada?

15. Have your comfort and happiness been increased by coming to Upper Canada?

16. Would you advise any of your friends in the country you left, whose situation there is the same as yours was, to come out to Upper Canada upon the same terms as you did?

17. Suppose the government had furnished you and your family with a passage out, paid your expenses to your lands, given you 100 acres free of expense, provisions for a year, and the necessary farming utensils, and that this was done upon the condition that you should repay the sum advanced by annual instalments, beginning to pay at the end of years after you had been settled, and paying pounds in each year after, until the whole was paid up, would it have been in your power to make those payments?

18. Knowing Upper Canada as you do now, would you think it advisable for a head of a family in Ireland, who is now poor, and without employment, to accept of such terms?

19. Would it be better for him to receive from government, after landing in Quebec, 60*l.*, or whatever may be necessary for taking himself and his family to his land, finding him provisions for a year, and farming utensils, upon the conditions of his repaying to the government the amount so advanced to him, either in money or the produce of his land, or to be merely landed at Quebec, and afterwards to depend upon his own exertions for establishing himself and family?

The answers given to several of these questions, of course, vary considerably in the cases of the different settlers. Nearly all of them state their circumstances in Ireland to have been very bad; and the greater number had absolutely no money at the time of their embarkation. With respect to their present situation, their satisfaction is in general expressed very decidedly, and in several instances with a remarkable appearance of cordial and grateful feeling. Their answers to Questions 12 are very various, some having disposed, during the preceding year, of produce to the value of 3*l.*, 4*l.*, 5*l.*, 6*l.*, and in one case 12*l.*, while others had raised only what was required for the consumption of their families. Some of this latter class assign, as reasons for their not having disposed of any surplus produce, the unfavourable season of the preceding year, the distance of markets, or some peculiarity in their own circumstances. The answers to Question 13 are equally various, depending probably on the previous habits of the parties, the produce and stock which they had raised, &c. The

articles of food most frequently mentioned are pork (sometimes beef), flour, Indian meal, potatoes, milk, and butter. One settler answers, "variety and plenty;" and another, "the best that Upper Canada can afford." Only one man complains that the produce of his farm was not enough to supply the wants (including clothing) of his family, which consisted of nine children; but even he concurs with the other settlers, in stating that his "comfort and happiness have been increased by coming to Upper Canada;" and to Question 16 (whether he would advise poor persons in Ireland to accept of such assistance as had been given to him, and to emigrate to Upper Canada?) his answer is—"I would indeed." *The answers to this question are without exception in the affirmative*, and some of the settlers add, that they have already by letter given such advice to their friends. I wish particularly, however, to call the attention of those who may read this statement, to the three concluding questions, which relate to the repayment, on the part of the settlers, of the expense incurred by government in their location. In one instance those three questions are returned unanswered, and in two or three others they appear to have been misunderstood, and the answers are consequently unintelligible. The one complaining individual already mentioned, having filled up the first blank in Question 17 with the figure 5, answers that question in the negative; and to Question 18 he replies,—“I would; but if he had a large family, I think he would not be able to pay much at the expiration of five years.” Another would postpone the commencement of repayment until *ten* years after the location of the settler. Three others think that repayment would be practicable after *five* years, if not prevented by casualties. All the other settlers express a positive opinion, that progressive repayment, *in produce*, could be effected; the majority fixing five years as the period of commencement and the others leaving the period in blank. Their opinions vary with respect to the amount of instalment which should be fixed, with a view to the convenience of the settler. *The answers to the two last questions are unanimous in favour of the acceptance by an emigrant of assistance from government, upon condition of progressive repayment in produce, in preference to a reliance*

on his own unassisted exertions. In several instances an opinion is added, as to the comparative value of a loan in money, or an equivalent supply of necessary articles.

I have thus stated at length the general results of the answers returned to these questions, with the view of conveying, as fairly as possible, the impressions which would be produced by an examination in detail of these 180 documents. The variety of the answers, both in substance and language, sufficiently show that they are the free expression of the judgment and feeling of the parties. All of these settlers had been resident in the colony three years, and many of them five years.*—You have asked me the question, whether in my opinion those 180 Irish settlers would, after the lapse of ten years, which has now taken place, return answers of the same tenor as those they returned in 1828? To that question I answer, that in my judgment they unquestionably would return the same answers, or answers equally satisfactory. I should mention that I have had an opportunity of seeing those 180 answers in detail, by which I am more confirmed in my opinion.

The above Queries were put to Mr. Rubidge in the month of June last; the following were proposed in the month of December, 1838:—

58. You have naturally followed the history of events which have lately occurred in the Canadas?—I have.

59. In your opinion has anything occurred which would make it inexpedient to carry emigration on a great scale from Ireland to Canada into effect?—In my opinion quite the contrary. I consider, from the state in which Lower Canada is, that the introduction of a British population will be highly advantageous; and the testimony in favour of the loyalty of the emigrants is so satisfactory that nothing need be said about that: they have proved themselves to be loyal to a man.

* If a reasonable scepticism were to be expressed from any parties deserving attention, as to the accuracy of the general results of the answers returned to the questions which have been put to the emigrants, I should not feel the slightest objection to giving, in the minutest detail, the 180 documents to which reference has been made.

60. What do you think would be the sentiment of the majority of the inhabitants of Upper Canada with respect to the introduction of colonists on the principle described in the queries which have been proposed?—That it would be highly favourable to it; I think they would second any rational measure of colonisation carried on by the Government of this country by every means in their power.

61. You have stated that, admitting that 25,000 heads of families were produced to be colonised in the first year, allowing for that ratio of increase laid down by the Emigration Committee, and which is in fact your own ratio, you are of opinion that a million of persons might be satisfactorily located in the space of six years; do you consider that a colonisation of that nature would be followed by a very extensive emigration, in which the expense would be incurred by the colonists themselves?—I have no doubt of that—that such emigration would equal the number of persons sent out by Government, if it did not exceed it, for we have always found that to be the case.

62. You are aware that the proposition involves 200,000 heads of families, 200,000 wives, and 600,000 children; are you still of opinion that, independent of those numbers, there would be an extensive emigration?—Unquestionably that there would be a very extensive voluntary emigration, which I am satisfied would equal that of the Government; I think it would exceed it, because we have always found that, whenever the Government gave encouragement to an emigrant, a great number of persons have gone out on their own means. After the emigration of 1831 we had for several years upwards of 50,000 persons per annum landed at Quebec.

63. Are you or are you not of opinion that if a colonisation of this nature took place, parties from a satisfactory community would find their way there, and dovetail into the rude population, as is found to be the case in the United States?—Yes, I have no doubt they would, and it would require no exertion or expense on the part of Government to produce that result.

Such are the opinions of Mr. Rubidge.* The practical good sense and *valuable experience* of this gentleman, I consider as the firmest support which the theory I have so long endeavoured to impress upon *all* classes has ever received. It, indeed, appears scarcely necessary to add to the facts elicited in this examination; but if any Member of Parliament entertains a doubt as to the accuracy of Mr. Rubidge's answers, let the matter be further investigated. I am happy to say, that Mr. Rubidge will be found in London, ready to undergo any examination to which he may be submitted. Let such Member of Parliament inform himself of the condition of the emigrants of 1823 and 1825 in Ireland, *before they were removed* to that 'Nova Hibernia,' where their wretchedness has been transmuted into prosperity—let him move, in his place in Parliament, for a return of the value of the present property of these *once wretched paupers*—and then pronounce whether I exaggerated the case in my Letter to Mr. O'Connell, in the year 1830, in asserting that a greater change from human misery to human happiness has never been recorded in the history of mankind.

Nothing but the conviction I feel of the impera-

* Very useful information may be obtained upon the subject of voluntary emigration, from a pamphlet, entitled, A Plain Statement of the advantages attending Emigration to Upper Canada, written by Mr. Rubidge, and published by Simpkin, Marshall, and Co., Stationers' Court, Ludgate Hill.

tive necessity at this moment for the adoption of vigorous measures, could induce me again to brave the indifference, to use the mildest term, with which the subject has been hitherto received. The certainty with which I look forward to the change which must sooner or later take place in public opinion, and of which there have been already some symptoms, also encourages me to attempt, under the high auspices of which I have been permitted to avail myself, again to urge the immediate adoption of the only means by which not only immediate relief can be obtained, but the only means by which we may be enabled *afterwards* to carry into effect benefits not yet dreamed of in either hemisphere.*

* The letters which have lately passed between me and Sir Francis Head will be found in the Appendix.

R. WILMOT HORTON.

APPENDIX .

I beg to subjoin, as a final document, the letters which passed between Sir Francis Head and myself, on the subject of Irish Colonisation.

COPY OF A LETTER FROM SIR R. W. HORTON TO SIR
FRANCIS HEAD, BART.

Cavendish-square, May 21, 1838.

My dear Sir,—Will you allow me to call your attention to page 355 on Minutes of Evidence, taken before a Select Committee on Emigration in 1827, in which, among other documents, you will find addresses to Earl Bathurst from the Irish emigrants of 1823–25?

I need scarcely remind you that these emigrants, while in Ireland, were in a state of the utmost destitution. Had they remained there they would probably have perished under the combined infliction of physical want and mental despair.

As far back as the year 1826, their gratitude for the favours conferred upon them in removing them from Ireland to Canada was unbounded. Even at that now distant period they thus express themselves:—

‘ For the liberality of a humane and benevolent sovereign no language can express our gratitude, in having removed us from misery and want to a fine and fertile country, where we have the certain prospect of obtaining, by industry, a comfortable competence: and we trust, my lord, the report of the progress we have already made on our lands will not fall short of your lordship’s expectations, taking into consideration that we have had to contend, in addition to inexperience, with the enemy of all new comers, the fever and ague, to a very great extent; notwithstanding which, we have been able to provide ample provisions to support our families comfortably until we harvest our next crop.

‘ We have reason to be thankful for the wisdom and discretion which appointed over us so honourable, kind, and indefatigable a superintendent, who has used every exertion and care in providing for our every want.

‘ Above all, we rejoice that, in this happy country, we are still

under the government of our illustrious sovereign, to whose sacred present government we beg to express the most unfeigned loyalty and attachment. We beg most respectfully to add, that we cherish the hope that more of our unfortunate and suffering countrymen, at no distant period, may, by means of the same generous feeling, be brought to share the blessing we enjoy.'

Again they say:—

'Having now resided about a twelvemonth on our lands, we have every reason to be thankful for the excellent locations assigned us; and we trust, notwithstanding the difficulties our inexperience has had naturally to contend with, that the investigation our worthy superintendent has caused to be made of our actual improvements will not be uninteresting to his Majesty's government, particularly to your lordship, whose zeal in furthering emigration to this province is so eminently conspicuous.

'We take this opportunity of expressing to your lordship how much of gratitude we owe to the Honourable Peter Robinson, our leader, our adviser, our friend, since we have been under his direction, particularly for his exertions in administering to our comforts during a season of sickness and privation.

'We beg to assure your lordship of our loyalty and attachment to our gracious sovereign's most sacred person and government.'

Again:—

'We have been brought from a country where we had many difficulties to contend with, and supported here to this time at the expense of government; our every want has been anticipated and provided for, and independence not only brought within our reach, but actually bestowed upon us.' And again:—

'We trust our orderly conduct as members of society, and steady loyalty as subjects of the British Crown, will evince the gratitude we feel for the many favours we have received.

'That the blessings of a grateful people may surround the throne of his Majesty is the sincere prayer of

'Your lordship's most respectful, humble servants.'

When I endeavoured to point out to parties adverse to emigration these passages so redolent of gratitude and loyalty, I was told they were addresses hatched up by persons not really representing the emigrants; that the project of converting miserable and destitute paupers in Ireland was a senseless and dangerous project; and that if the day should arrive when, either from a rupture with America or a conflict with the French Canadians, their loyalty and gratitude would be put to the test, they would be found miserably wanting.

I now beg to know whether the emigrants known in Canada as Robinson's emigrants, were or were not at the period of the late crisis in Canada, in 1838, in the exercise of that loyalty which they professed in the year 1826?*

I remain, my dear Sir,

Your faithful, humble servant,

R. WILMOT HORTON.

Sir Francis Head, Bart.

62, Park-street, Grosvenor-square,

May 21, 1838.

My dear Sir,—I have just received your letter of this day, in which you inquire whether certain emigrants, to whom you have alluded, 'were or were not at the period of the late crisis in

* Mr. Mackenzie, of Canadian notoriety, was, in 1825, the editor of the *Colonial Advocate*; and, on the 8th of December in that year, an article appeared headed '*Mr. Robinson's Irish Settlers*,' of which the following is a copy:—'We have information which may be depended on, stating that these people have an ardent desire to go to the United States, and that they frequently desert. No less than *thirty* of them decamped lately in one night. To how much more useful a purpose might 30,000*l.* have been expended than in recruiting in Ireland for the United States, soldiers by Canadian councillors!'

The first part of this misstatement was contradicted in the *Weekly Register* of the 26th of December, 1825, by a Mr. Fitzgibbon; with respect to the second part, the paragraph respecting the 30,000*l.* shows the *futile* hopes which were entertained by the disloyal themselves of the disloyalty of these praiseworthy settlers.

Canada, in 1838, in the exercise of that loyalty which they professed in the year 1826 ?'

My reply to your question is in the affirmative. On receiving intelligence that Toronto had been attacked by a band of rebels, the settlers to whom you have alluded were among those who at once marched from the Newcastle district, in the depth of winter, nearly 100 miles to support the government.

On finding a body of the Honourable Peter Robinson's settlers self-assembled in line before Government-house, I went out and thanked them; to which they replied that they were doing well in the world; that they felt grateful to the British government; and that they had come to fight for the British constitution.

I remain, my dear Sir,

Your faithful, humble servant,

FRANCIS B. HEAD.

The Right Hon. Sir R. W. Horton, Bart.

CORRESPONDENCE

BETWEEN

THE RIGHT HONOURABLE

SIR ROBERT WILMOT HORTON, BART.,

AND

J. B. ROBINSON, Esq.,

CHIEF JUSTICE OF UPPER CANADA,

UPON THE

SUBJECT OF A PAMPHLET LATELY PUBLISHED,

ENTITLED

“ IRELAND AND CANADA.”

LONDON:

JOHN MURRAY, ALBEMARLE STREET.

1839.

CORRESPONDENCE

DEDICATION

THE RIGHT HONOURABLE

To the Members of the Legislature of Upper Canada

GENTLEMEN

I TAKE the liberty of dedicating to you this Correspondence, which relates to my late Pamphlet upon "Ireland and Canada;" I am the more induced to do this as

since it was concluded, I had the opportunity of reading a Report from the Select Committee of the House of

LONDON: Printed by WILLIAM CLOWES and Sons, Stamford Street.

Assembly appointed to report upon the state of the Province of Upper Canada. I perceive that I have the authority of this Report to the following most important point—

"That if there be one matter more than another, which the original settlers in Upper Canada feel a deep interest in, and desire to promote, it is Emigration from the British Islands."

After this avowal, I doubt not that you will read this correspondence with interest, and not allow me to remain in doubt as to your opinion upon the details of the proposition which is developed in the following pages

I have the honour to remain

Your most obedient humble servant

JAMES WILSON

DEDICATION.

To the Members of the Legislature of Upper Canada.

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I have the honour to remain,

Your most obedient humble Servant,

R. WILMOT HORTON.

13, Cavendish Square,
5th June, 1839.

CORRESPONDENCE, &c.

To the Members of the Legislature of Upper Canada
Spring Gardens Hotel, 24th Feb. 1839

MY DEAR SIR,

Your pamphlet entitled "Ireland and Canada" has been read by me with attention and with much pleasure. I am happy to find you returning with such perseverance to the important question of Colonization; and I hope you may be at length successful in attracting public attention to it. It may very reasonably be stated, I think, that if adopting your suggestions when they were first submitted to the public the Government had entered upon the measure on a liberal scale, and had thrown a loyal hardy population into the unoccupied parts of Lower Canada, it is most probable that the late rebellious movements in that province would never have taken place; and that, to say nothing of other advantages, an immense military expenditure would have been saved to the empire, greater perhaps than would have sufficed to meet the whole charge of settling the emigrants. I have read Mr. Rudidge's evidence twice, carefully; it seems to me to be sensible, and so far as I can judge, correct. You could not, I believe, have derived your information from a person more worthy of confidence in every respect. When he speaks of conducting settlers to their lands, locating them on their lots, and supplying them with necessary comforts—and when he describes what they will have to encounter, and what they may reasonably expect in their new situation, he speaks of what he thoroughly understands and knows from experience, and from a long course of ob-

CORRESPONDENCE, &c.

Spring Gardens Hotel, 24th Feb. 1839.

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ervation. I have been acquainted with Mr. Rubidge since he first became a settler in Canada, and I know no one in whose candour, integrity, and practical good sense I could place greater confidence. Every one who knows him will tell you the same thing, and it is fortunate that circumstances have thrown him in your way.

If you can gain the favourable attention of the public, after all your labour, and if colonization shall really be undertaken in the spirit and for the purposes recommended in your pamphlet, I hope that great care will be taken to prepare beforehand for the reception of the settlers—that the number to be sent in any year will be known—their place of settlement appointed beforehand, and suitable preparation made for them—and, moreover, that they will be sent over in the proper season of the year. The health, comfort, and contentment of the settlers, and the economy of the measure, will be greatly promoted by observing these points, all of which are adverted to by Mr. Rubidge.

I hope also that the settlers will not be all of one class or country, placed apart from others, but that they will be mixed, so that there will be less chance of unhappy jealousies and distinctions being perpetuated. The settlers sent out in 1823 and 1825 were placed upon lots that happened to be vacant, many of them in townships partly settled, so that, by intermarriage and the general offices of good neighbourhood, they have gradually mixed in the mass of society, and are forming one people, which is favourable to their own happiness, and to the well-being of the colony.

I trust also that some provision can be made which will insure their enjoying religious instruction, according to their respective creeds, by ministers of approved character.

The plan of reserving a portion of the lot to be sold to the settler at the end of a certain time, I have always thought judicious, and I lament that it was not constantly pursued. If the settler had been given a free grant of

seventy acres, after he had resided a certain time upon the land; and if the rear thirty acres of the lot had been kept in reserve for him, to be offered at the end of ten years, at a certain fixed price, the consequences would have been good in every way. On such a plan the settler would get an adequate grant for nothing; and if, from his idleness, or even from misfortune, he should prove unable to avail himself of the right of pre-emption of the thirty acres when the time expired, he would suffer no positive injury; he would only not attain a possible good. In most cases the purchase would be made by the proper person; it could be done with certainty and ease by those who were careful and industrious, except in case of inevitable misfortune, by sickness or other casualty. To fail in making the purchase from improvidence, would incur the reproach of the neighbourhood; and whenever the thirty acres were disposed of, the charge of settling the family, or at least a great proportion of it, would be reimbursed.

You may be assured that you have not expressed yourself too strongly respecting the favourable change in the condition of the poor Irish who were taken to Upper Canada in 1823 and 1825, in consequence of your benevolent exertions. Disposed, as you naturally are, to believe what has been said on this subject to the full extent, yet I am persuaded, if you could visit some of these persons now living on their farms, you would find that you had in fact not formed an adequate idea of the degree to which they had been raised in the scale of comfort and independence, by their being made the subjects of your experiments in colonization. You would find the former tenant of a wretched hovel, without object in life, and almost without power to do anything but mischief, become the absolute proprietor of a hundred acres of land, equal in quality of soil to the park that surrounds your residence, and probably superior, with the advantage in many cases of a living

stream of water, and an abundance of wood of the very best description for fuel; and this he enjoys, paying no rent, and, it may almost be said with truth, paying no taxes; for one bushel of wheat, or at most two, will pay the whole amount of his assessment. It is true that to the poor settler the first two or three years are years of hardship; but not perhaps as compared with his former lot, and certainly not if that assistance is to be given to him which your plan proposes. When these early difficulties are surmounted, and the settler is master of a well-stocked farm, in great part cleared, in a healthy country, and under a mild and just government, is it not evident that his condition is changed from the most miserable perhaps that existed in a civilized country, to one as happy as human life can offer? For who is happier than an independent farmer, lord of the soil, and reaping the undiminished fruit of his labour? And it is not merely the greater comfort that is to be regarded, the plenty of wholesome food, the fuel, and warm clothing; but it is the moral improvement that must accompany the change of circumstances. The head of a family so situated has something in his power, and soon feels that he has duties to discharge; he is surrounded by many who, with no greater advantages than he possesses, have risen to affluence. There is, in short, much to check him in the indulgence of degrading vices, and everything to encourage in him an honest ambition and pride of character. The results which are witnessed in Canada are most satisfactory. So long as the Irish emigrants remain congregated as labourers on canals, or as dependent paupers in the large towns, crimes are too common among them; and they are subject to be acted upon by the impulses which it is so easy to give to thoughtless, ignorant multitudes under such circumstances. It is when they become owners of property, with their families living on their farms, and their days occupied in labouring for their own immediate benefit, that the change

in their character takes place ; and though among those who are thus circumstanced crimes are committed, and sometimes of the worst description, yet the same may be said of all communities, and, taken as a whole, the resident Irish agricultural population in Upper Canada are a most valuable class of settlers, and have done credit to the country they came from.

I am glad that it occurred to you to inquire of Sir Francis Head what had been the conduct of the Irish settlers during the late unhappy tumults in Upper Canada, for I am sure it must have given him sincere pleasure to bear testimony in their favour, as he has done. Their conduct was excellent ; and I have often regretted that it did not seem to attract, in this country, such particular notice as it certainly deserved. There was something remarkable, and most honourable, in the whole bearing of the Irish population throughout these troubles ; and I have no doubt it continues to this hour, when the danger that threatens Upper Canada is of another and more formidable description. In the winter of 1837-8 the population generally behaved well ; there were numerous examples of men of every origin—English, Scotch, and natives of the province, and some who had come from the United States of America—doing everything that could be done by them in defence of their country ; but I think it was universally felt throughout the province that the conduct of the Irish, as a body, was pre-eminently good. They seemed not only to acknowledge promptly their obligation to support their government and the laws, but they discharged their duty with an eager forwardness, and a fine hearty warmth of feeling, that it was really quite affecting to witness. Hundreds of these poor fellows came at the first summons, from remote settlements, in the depth of winter, half clothed, without other arms than hoes, pitchforks, axes, or clubs ; and, in order to reach the seat of government, which they heard was attacked, they had to pass through the rich old settlements

of the very persons who, under the influence of a feeling hardly to be credited or accounted for, had abandoned their homes and taken up arms against their Sovereign. These people had lived in one of the very finest parts of Upper Canada, and had enjoyed, for thirty years, the protection of good laws and a mild government; compared with the rugged wilderness these poor Irishmen came from, the land they inhabited is like the Garden of Eden: and to see these faithful emigrants pouring in from the woods to support the government against the wicked attempts of the others, was a spectacle really affecting. It did honour to Ireland, and it showed that, whatever may be the vices and errors inherent in the Irish peasantry, hatred of their Sovereign, and ingratitude to their government, are not among the number.

It makes us feel powerfully that they must, in Ireland, owe their misery and their misconduct (when they do act amiss) to some peculiarly unfortunate circumstances, springing from the past history of their country, or in some way attributable to their condition *there*; and, if their government and their fellow-subjects could, by any exertion, rescue them from their present state of destitution, they are worthy of the effort it would cost, and would be found grateful.

Pray, in your details, do not be tempted to assume too low an estimate of the expense attending the sending out and settling of a family. The good economy of the measure, as one of relief to the country from whence they are to be sent, is so unquestionable, that it would be a pity to starve the measure and make the poor people less comfortable, by trying to avoid any necessary expense.

I am, my dear Sir,

Yours, most faithfully,

The Right Hon.

J. B. ROBINSON.

Sir R. W. Horton, Bart.

&c. &c. &c.

Sudbrook Park, Petersham,

MY DEAR SIR,

25th May, 1839.

IN your most valuable practical letter of the 24th Feb. you tell me "that you hope I may at length successfully attract public attention to the subject of Emigration more decidedly than I have hitherto been able to do;" I cannot share that hope in the *smallest degree*. I have given the most ample challenge to the Legislature that if there is *any* one individual who questions the *accuracy* of Mr. Rubidge's statement, he has only to move for a Select Committee, and to examine him on those points that appear to him as doubtful. If, on the contrary, the evidence of Mr. Rubidge is unimpeachable as to the state of the pauper colonists of 1823 and 1825, what are the truths that are no longer *to be denied*? Why this truth is clear that this great country, which advanced twenty millions of money to wipe away the stain of slavery from its Statute Books, has it in its power to remove utterly pauper and penniless agricultural Irish to the shores of our North American dominions, and to plant there those persons for whose labour a fair and voluntary market is *not* at once offered, for an infinitely less sum than is required as the fixed capital for the mere *support* and sustenance, at the lowest rate of human food, of these destitute Irish in their own country. After reflecting upon the moral experiments which have so successfully been made, is not this an inquiry *worthy* of the British Parliament? Is it not worth while to inquire whether if supposing 200,000 Irishmen, 200,000 Irish women, and 600,000 children were to be successfully located in British North America for the sum of twelve millions sterling, the consequence of such a well-conducted Government location would not be the voluntary and comparatively unexpensive following of three times as many individuals who would be wanted as labourers by these located colonists? Is it not

worth while to analyze the means which exist for transmuted the horrible and unendurable poverty of Ireland into the vigour and prosperity of our North American territorial possessions? Is it possible to suppose that the Legislature would *answer* that it is far better that Irishmen and their wives and families should die in hopeless destitution in their own ditches, than that the trouble and nausea of a serious inquiry should be undertaken. I enclose you the following article which has just appeared in the 'Dublin Evening Post':—

“COLONIZATION.

“IRELAND AND CANADA.—SIR R. W. HORTON.

“We are one, amongst his many friends, who welcomed the return of Sir Wilmot Horton from his government of Ceylon, in health and honour, not only on account of the many estimable and amiable qualities of the Right Honourable Gentleman—but publicly, inasmuch as his great talents, directed by an indomitable and enduring zeal in the cause of Colonization, are at this crisis especially required for the promotion of the great object with which his name is identified. Long before the Catholic Relief Bill—of which, it need not be said, Sir Wilmot Horton was a strenuous advocate—long before Reform—the discussion upon which, happily for himself, perhaps, the Right Honourable Gentleman escaped—and long before the introduction of Poor Laws into Ireland—a measure, the immediate working of which will, we think, render Emigration indispensable, we hope inevitable—he had rendered himself the conspicuous assessor of the policy, the humanity, and the necessity of the measure. Nearly ten years have passed since he challenged attention to the subject, by his writings and his public addresses, as well in Parliament as before the mixed audiences of London assemblies. He had many difficulties to struggle with, much ignorance to dissipate, and, what was more discouraging, he had to contend against the apathy of public men, and the indifference of the public masses. But he never swerved, he never tired, he never surrendered his doctrine in despair. He brought with him to India his convictions

in unabated strength, and has brought them home to England in a vigour reinforced by study and experience.

“ Ten years, we say, have elapsed since he set about the honest and useful work to which he has devoted his best faculties ; and, although the public, since that time, have fully, we imagine, come round to his doctrines, yet little has been done, until within the few last years, to carry the principle into operation—and that little, with an exception to which we may hereafter refer, has been very wretchedly done, indeed. It is impossible, after reading Lord Durham’s report, to deny that not only the officers of the Government—a matter likely to occur under the best devised schemes—but the Government itself have been guilty of the grossest and most cruel mismanagement in the transmission, treatment, and location of the Emigrants. Read, for instance, the melancholy, the harrowing history of the poor old soldiers, who were induced to commute their pensions for certain acres of forest in the wilderness. Read the statement made by that noble lord—a statement which no one will venture to impugn—of the miserable and perishing Irish Emigrants thrown in thousands on the banks of the St. Lawrence, without any previous arrangement whatever having been made for their reception, their sustenance, or their distribution. But if the reader have no time or opportunity to wade, as we have done, through the bulky folios in which the official statements are to be found, let him take up the light and agreeable volumes of Mrs. Jameson, the latest writer, we believe, on the subject, and he will find enough to excite his surprize at the blindness of those who ought to know better, and his indignation at their apparent heartlessness.

“ But the period from 1830 to 1839 has been one of fierce domestic struggle. Emancipation was carried—but then came the French Revolution of July—the Insurrection in Belgium—the Revolt of the Poles—the Resignation of Wellington—Lord Grey and Reform—Revolution in the English Poor Laws—the Repeal Agitation in Ireland—the Tory Interregnum—Tithes and the Irish Church—the Defeat of Sir Robert Peel—the return of the Whigs to Office—the Irish Poor Law and the Irish Corporations—the constant and balanced struggle, still going on—the close divisions in the Commons—the anti-Government majority in

the Lords—the death of two successive Sovereigns, differing from each other in principle, as well as in disposition—and the accession of a third. These events have kept, and are still keeping the public mind in a state of excitement, and were more than sufficient to occupy the successive Governments for the last ten years on domestic as well as upon European questions.

“The time has come, however, *the time is now*, when the attention not only of the Government, but the people, must be called imperatively to the subject of Emigration, or—for we prefer the word—to Colonization. Though England have greater and more wealthy Colonies than any other nation—though she may be justly described as almost the only Colonizing Nation in the world—it is a fact, that no nation, until within the last *very* few years, has bestowed less attention on the principles of Colonial Policy. We cannot afford space or time to proceed to an induction of particulars with a view to corroborate and prove this proposition. She is now, however, happily, we think, for the interests of her own people—nay, of the human race—compelled to turn her attention to the subject. The condition of her greatest Continental Colony—greatest, at least, in respect to comparative proximity and population, Lower Canada—the condition of the Upper Province, also, stretching along the active and energetic State of New York, imperiously require her to change her system, if she would retain her dominions. But the state of the rural population of Ireland, and of the manufacturing population of England, not to mention the field labourers of the latter, who are sinking fast into the condition of the Irish serf, should supply, if possible, a more stringent motive to her exertions—to the *immediate* commencement of a scheme of imperial and enlightened policy, by which the Colonies may be secured in comfort and loyalty—and the Mother Country, and the people thereof, relieved from a population for whom there can be neither sufficient work, nor a sufficiency of food found at home.

“The necessity of securing Canada by Colonization on a great scale, has been amply demonstrated in Lord Durham’s report, and it is not a little honourable to Sir Wilmot Horton, that his pamphlet, written before the publication of his Lordship’s volume, and without any communication with him whatever, supplies an

a priori demonstration of the political truths in the late Governor-General's report. With regard to the Mother Country—the working of the Corn Laws in England and of the Poor Laws in Ireland have rendered an immediate remedy for evils—the advent of which may be distinctly described even by the most obtuse vision—absolutely, imperatively indispensable. It is under an urgent conviction of the necessity of applying these remedies that Sir Wilmot Horton has published the *brochure* to which we have referred at the commencement of these observations.

“ We shall hereafter lay some extracts from this publication before the reader—observing, by the way, that with whatever indifference, as Sir Wilmot Horton observes, his theories and his facts were received nine years ago—the sentiment has totally changed. People's eyes are now open to the advantages—or, as we contend—to the *necessity* of such measures as are recommended in the writings of this gentleman.”

I feel personally most obliged to the Editor for the justice which he has done me. I can only hope that *he is right*, and that the eyes of the public are now open to the advantages, he adds, necessity, of such measures as those to which I have called the attention of the public; and which call he has most impressively supported. Mr. Senior has recorded the opinion in his most valuable article in the ‘Encyclopædia Metropolitana:’—

“ If any European nation could hope to make Emigration a complete substitute for prudence, that hope might be entertained by the inhabitants of the British Islands.

“ We have the command of unoccupied Continents in each hemisphere—the largest Navy that the world ever saw to convey us to them—the largest Capital that ever has been accumulated to defray the expense—and a Population remarkable, not merely for enterprize, but for enterprize of this particular description.

“ These advantages we have enjoyed for centuries; almost from the times of the Tudors we have possessed a large outskirts of Empire far exceeding in extent our European possessions. And yet, during this long period, how little effect has emigration pro-

duced on our numbers! The swarms which we have sent out, and which we now send out, seem to be instantaneously replaced.

“ We have founded one Empire, and probably shall found many; but, after once a Colony has been planted, its principal increase arises, not from the comparatively scanty recruits whom it receives from home, but from the unrepressed force of human fecundity.”

Let us look for a moment at the miserable state of pauperized Ireland, and contrast the condition of many of her sons with that of the prosperous and happy colonists of 1823 and 1825, located in Upper Canada, as described by the faithful testimony of Lieutenant Rubidge, confirmed as it has been by yourself. Let us consider the value of these colonists as adding to the strength and riches of the province of Upper Canada, and then let me enquire if it is beneath the dignity of the Legislature to take the pains of inquiring into such subjects, and to stamp the seal of parliamentary authority upon such inquiry as it may deserve? Why, such is the apathy of the Legislature, that no Member of either House thinks it worth while to *take the trouble* of moving for a return of the estimated present property of these emigrants of 1823 and 1825!

Possessed since the year 1825 of ample and economical means of placing the surplus population of Ireland in great prosperity,—means, be it remembered, not founded upon theoretical speculation, but upon practical experiment, this nation has wilfully neglected all those means, and Ireland has in consequence remained in a state of misery and anarchy. Knowing, as I well do, that whatever may be the advantages to be obtained by Ireland on the one hand, and by the British North American provinces on the other, by the most judiciously contrived scheme of emigration, the people of this country would be indisposed to entertain the subject *for a moment*, if they thought it was to be attended by any sort of permanent expense, I submit

a plan for your consideration, minutely pointing out in what manner I think such an experiment could be realized without permanent expense. In that plan the conduct of the local Legislatures of the British North American provinces, more especially that of the Legislature of Upper Canada, is necessarily involved.

If the calculation of Mr. Rubidge be correct, of which I do not entertain the smallest doubt, a million of persons may be colonized in the British North American provinces for the sum of twelve millions sterling, at the rate of twelve pounds per head, taking the proportions as one man, one woman, and three children, for each family of five individuals, for which number 60*l.* must be paid.

Taking the funds at their present price, this sum of twelve millions may be raised by a long annuity for 40 years, at the rate of 2*l.* 13*s.* 9*d.* for each 60*l.* advanced by the lenders; consequently, the whole twelve millions may be raised for a long annuity of 537,480*l.*

How then is this long annuity to be re-imbursed to the British Government, so as, in point of fact, to impose no fresh expense upon the British public? My answer is, that the landowners, clearing their estates of surreptitious population, (as it has been called,) are to be required to pay the *whole annuity* of 537,480*l.* for the first seven years, at the rate of 2*l.* 13*s.* 9*d.* for every family of five, as above explained. The colonists, after the expiration of this payment, and having their land gratis for this interval of the period of seven years, are to be called upon to pay the same interest charge of 2*l.* 13*s.* 9*d.* for every family of five persons who may be colonized, for the remaining 33 years; this debt, which is to be chargeable upon their respective properties, may at any time be paid off upon an equitable principle of purchase to be laid down, and such payment will at once give them the fee-simple of their separate lots

of land, which, until that purchase, will be charged with an annuity of 2*l.* 13*s.* 9*d.* for a period of 33 years after the same payment has ceased from being made in Ireland, as already explained.

If this annuity interest be received from the colonists, *not* as rent of land, but as *interest* on capital borrowed to make land more early productive, the whole annuity can be paid into the King's chest, and from thence can be transferred to the treasury in England.

Under these circumstances the following most important questions present themselves, which I beg to put directly to you as an individual unequivocally competent to give most satisfactory answers.

First. Are you of opinion that there would be any important practical difficulty in obtaining this annuity interest from the colonists proposed to be located, and who are to possess their land gratis for the term of seven years from the period of their colonization?

Secondly. Are you of opinion that the local Legislatures, especially the Legislature of Upper Canada, feeling the inestimable benefit of this increase of duly colonized population, would give all the assistance in *their power*, in receiving this annuity from the located parties, and in transferring it to the mother country?

I remain,

Yours, very faithfully,

R. WILMOT HORTON.

To Chief-Justice Robinson,

&c. &c. &c.

29, *Half-Moon Street, Piccadilly,*

MY DEAR SIR, 28 May, 1839.

I have carefully perused your letter of the 25th instant, in which you explain the means by which you think emigration from Ireland to Canada might be promoted upon a very extensive scale, to the great advantage of the Mother Country and of the Colony.

Your proposition is, that the expense of removing and locating the emigrants, which you estimate after the rate of £60 for a family, consisting of one man, one woman, and three children, shall be defrayed, in the first instance, by the British Government—that the funds shall be obtained by a loan upon Government security, which you conceive may be raised upon such terms that an annuity of £2 13s. 9d. for 40 years, will pay off the £60 borrowed for the removal and settlement of the family as above estimated; and you propose that this Annuity shall, for the first seven years, be paid by the proprietors whose estates are to be relieved by the removal of the emigrant, and for the remaining 33 years by the emigrant himself, unless he shall, within the period, redeem the Annuity by paying its fair value.

This being your proposition, I am asked by you, 1st,—Whether I am of opinion that there will be any important practical difficulty in obtaining this Annuity from the Colonists, who are to receive their lands gratis, and to hold them free of any payment, for the term of seven years from the period of their Colonization?

2d.—Whether I am of opinion that the local Legislatures, especially the Legislature of Upper Canada, feeling the inestimable benefit of this increase of population, would give all the assistance in their power, in receiving this annuity from the located parties, and in transferring it to the Mother Country?

As to the first question, there is no doubt in my mind that the settler would willingly undertake to pay the annuity as the condition of his being removed to Upper Canada, and receiving a gratuitous grant of land there, together with such other assistance as it is proposed by you to give him. I have no doubt either that he would be able to make the payment with ease, commencing at the end of seven years from the time of his settlement. It is prudent, however, to consider that although the emigrant may be willing to undertake the annual payment, and quite able to continue it till the whole debt is liquidated, yet it is not certain that he will not become impatient of what he may, however erroneously, regard as a tax. I rather apprehend, indeed, that the settler or his descendants might indulge the hope that the Crown would not rigidly exact the payment, and they might neglect to make it, under the impression that harsh measures of compulsion would not be resorted to. It has been generally found that the most trifling quit-rents reserved by the Crown in the colonies are paid with reluctance, and are apt to give rise to unkindly feelings towards the government. Of course, it will be strictly necessary to explain to the colonist, before he decides upon leaving his own country, that this annuity repayment must be considered by him as the repayment of money personally lent to him for his individual interest. And if care be taken to state this explicitly in writing, and to obtain the assent of the settler to the condition, under his hand, the probability of such objections being made, as I have stated, would be much lessened; and if they should be made, it would be most apparent that there could be no justice in them. Any individual settler going to Canada, without the assistance of government, would find it necessary under the existing regulations to pay a valuable consideration for his land before he could obtain a grant of it, and

the instalments would not be arranged in a manner that would leave them to be so lightly felt as they would be under the proposed plan.

Secondly. Upon the other question I have to state that it would be rather rash in any person to pretend to foretell precisely, and with absolute certainty, what the Legislature of the province would do upon this or any other subject; since all Legislative bodies are occasionally actuated by motives and circumstances which are not within the range of ordinary calculation. But while I say this, I do not feel the slightest doubt that your plan would receive from the Legislature every countenance and support which it may be in their power to bestow. Whatever facilities could be given by any reasonable application of their authority, I fully believe would be most readily and gladly extended, whether you should require their aid for ensuring the more certain and regular payment of the annuity, or for transmitting the money to this country. You may safely entertain the persuasion that there is no one public object which the people of Upper Canada and the Legislature feel a stronger desire to promote than an extensive emigration from the mother country. It adds at once to the value of property in the province, furnishes employment to mechanics, provides labourers for the farmers, and infuses life and activity into every department.

The years of 1830-1-2-3 and 4, were years of unexampled prosperity in Upper Canada, because in those years the number of emigrants resorting to the province was very great. The cessation of late years has been universally regretted, and you may be assured that if you can succeed in making the current again flow, you will restore public confidence and prosperity, and will give not merely an apparent but real security to the colony, at a time when it is especially required.

In looking to co-operation on the part of the Legislature of Upper Canada, it will not be forgotten that any legal provisions which may be thought desirable should be suggested to them in time, in order that their enactments may be all prospective, and, in that respect, free from any ground of exception on the part of the settler. And it is also necessary to bear in mind that the first step in the execution of any extensive plan of settlement, intended to be applied to Upper Canada, must be the ascertaining precisely where the emigrants can be located, and in what numbers, so that everything may be arranged and understood before they leave their own country.

I remain, my dear Sir Robert,

Yours, very faithfully,

J. B. ROBINSON.

The Right Hon.

Sir R. W. Horton, Bart.

13, Cavendish Square, 3rd June, 1839.

My dear Sir,

If reference be made to the Report of the Emigration Committee for 1827, it will be perceived that eleven colonial witnesses of competent authority entirely concurred with you, that a settler located upon the principles of the Emigrations of 1823 and 1825, could and would undertake to pay annuity interest for the capital sum advanced to him, such annuity interest being then estimated very considerably higher than what is now proposed. If the legislature and the public had at that time chosen to give credit to the witnesses examined before the committee, there need not have been a single able-bodied permanent pauper throughout the United Kingdom at the present moment. Perfect scepticism as to

matters of fact is a cheap and easy mode of argument, but it is not a principle under which new nations are likely to prosper. But what is even worse than scepticism, is absolute and entire apathy. I was not content with the opinions of colonial witnesses alone, however valuable, but I sent printed questions to the settlers themselves, all of whom answered in the affirmative as to the disposition and competency of settlers duly colonized to repay the capital advanced for their colonization. The most minute particulars are to be found on this point in the pamphlet lately published by me, entitled "Ireland and Canada," &c. This pamphlet, I need not inform you, contains the valuable evidence of Mr. Rubidge, a practical settler, to whose competency and fidelity you yourself have paid the most just and forcible tribute. I was so convinced that the testimony of Mr. Rubidge must produce an impression upon the public mind, and that it deserved to possess the sanction of Parliamentary authenticity, that I resolved to address a letter to Lord Wharncliffe, as Chairman of the Irish Crime Committee, which letter was expressed in the following words.

(COPY.)

Sudbrook Park, Petersham,

29th March, 1839.

MY LORD,

I presume to address your Lordship as Chairman of the Lords' Committee on the state of Ireland. In the first instance I beg you to do me the favour of accepting a pamphlet lately published by me, entitled "Ireland and Canada."

I send you this specially to call your Lordship's attention to the evidence of Mr. Rubidge, which you will find contained from pages 37 to 72 inclusive.

This examination was carried on by me precisely upon

the same principles which Parliamentary Committees employ in the examinations in chief of witnesses.

If your Lordship will do me the favour of referring to pages 73 and 74, you will find a sort of appeal which I have made to Members of both Houses of Parliament—which appeal has, I regret to say, been utterly fruitless; and your Lordship would not have been troubled by me upon this occasion, were it not for the fact that Mr. Rubidge has informed me of the probability of his early return to Canada, unless he should be detained by the prospect of an examination before a Committee of one of the Houses of Parliament.

I am most unwilling that Mr. Rubidge should leave this country without having the accuracy and truth of his opinions sifted by the process of a Parliamentary Committee.

With respect to the value of Mr. Rubidge as an evidence, I beg to refer your Lordship to the enclosed letter which I received from Chief Justice Robinson, of Upper Canada. It is my ultimate intention to publish this letter, together with my answer to it.

The main object of their Lordships' Committee, I understand to be to inquire into the state of crime in Ireland; and when the Committee find, in the course of their inquiry, as I am persuaded they will, that one principal cause of the frequency of crime in Ireland is the destitution occasioned by a superabundance of population, and when they reflect that this evil admits of a certain remedy, by means of a judicious system of colonization, which would at the same time confer incalculable benefit upon our colonies,—then I cannot but think that the subject will appear to the Committee to possess sufficient interest to command their attention.

If, then, it should be your Lordship's intention, as Chairman of the Irish Committee, to favour the examination of Mr. Rubidge before the Committee, I shall feel much gra-

tified if you will condescend to inform me upon the subject, that I may communicate with Mr. Rubidge himself before I leave England for France, which I do on Wednesday night next, the 3d of April.

A letter, addressed to me by the 3rd inst. post, so as to reach me at Sudbrook Park, Petersham, by Tuesday evening, will be in time.

I have the honour to remain,

Your Lordship's

Most obedient humble servant,

(Signed) R. WILMOT HORTON.

The Lord Wharncliffe,

&c. &c. &c.

I addressed a subsequent letter to Lord Wharncliffe, which it is not worth while to record. To these letters I received the following answer:—

Curzon Street, 29th May, 1839.

MY DEAR SIR ROBERT,

I have consulted with other Members of the Committee of the House of Lords, appointed to inquire into the state of Ireland in respect of crime, upon the subject referred to in your letters of the 29th March and 24th May, 1839, and they entirely agree with me in thinking that that subject does not come within the scope of the reference under which we are prosecuting our inquiries, although there can be no doubt of its importance in every point of view.

I am, my dear Sir Robert,

Ever yours faithfully,

WHARNCLIFFE.

Sir Robert Wilmot Horton, Bart.

It is not for me to presume to offer any protest against the decision of the Committee; but I beg leave to return my personal and public thanks to Lord Wharncliffe for an admission which, as far as I know, has not been made lately by any Member of either House of Parliament, namely, that "THERE CAN BE NO DOUBT OF ITS IMPORTANCE IN EVERY POINT OF VIEW."

Finding that my publisher, Mr. Murray, with all his zeal and kindness, had not been enabled to sell more than 38 copies of the history of the prosperous destiny of the Irish Government Emigrants of 1823 and 1825, contained in "Ireland and Canada," and supported by the evidence of Mr. Rubidge, I have withdrawn all copies of that pamphlet from him, that they might no longer encumber his table, and I herewith beg to place them in your hands for dissemination in Canada, where a real interest will prevail upon the subject. With respect to the fact of that interest, I should not have doubted it before, but it was more than confirmed by your letter of the 28th ultimo.

The Emigration Committee of 1827 has the following passage:—"The class of emigrants which your Committee contemplate as those which shall have a prior claim to Government assistance are—1st. Irish tenants, who have been ejected from small farms under the operation of clearing the property, which is now taking place as part of the national system in Ireland. 2ndly. Those tenants who are upon the point of being ejected, but whose ejection has not actually taken place. 3rdly. A class which, perhaps, can hardly be included under the name of tenant—the cottiers, who occupy a cabin with an extremely small portion of land, and who, unless they can obtain employment, have no means of paying their rent. 4thly. Cases in England and Scotland, which must be made matter of special reference to whatever authorities may direct the course of emigration."

I think that no fair man, who reads their correspondence, can doubt that the miserable victims of this inevitable process of ejection, who have suffered untold misfortunes since the year 1827, might have been, one and all, removed to a state of prosperity in Canada, and that without the permanent loss of a single farthing to the country. This effect would have been produced had the legislature condescended to divert a few hours from the consideration of political amelioration to that of practical improvement and the direct augmentation of human happiness.

Were recommendations wanting to this effect springing from Irish bosoms? Certainly not. Read the following passage, which is to be found in the Parliamentary documents of this country for the year 1827, written by Irish Government emigrants of the years 1823 and 1825 :—

“ Above all, we rejoice that, in this happy country, we
 “ are still under the Government of our illustrious Sovereign,
 “ to whose sacred present Government we beg to express
 “ the most unfeigned loyalty and attachment. We beg most
 “ respectfully to add, that we cherish the hope that more of
 “ our unfortunate and suffering countrymen, at no distant
 “ period, may, by means of the same generous feeling, be
 “ brought to share the blessing we enjoy.”

Contrast this passage with the following description of the state of similar persons in their own country, by the late Bishop of Limerick :—

“ They were in the most deplorable state, *without house,*
 “ *without food,* without money, starving and almost dying in
 “ the ditches. I saw an affecting memorial on their part,
 “ praying that the proprietor, on whose estate they had been,
 “ would procure for them the privilege and means of emi-
 “ gration. They had, to my knowledge, been exemplary
 “ in peaceableness amidst surrounding disturbances; but

“ from want perhaps of power rather than will, their petition
 “ was not granted. I ventured to predict, that if they were
 “ not in some way relieved, the consequences in winter would
 “ be dreadful—and so they were—BLOOD FOLLOWED, *after-*
 “ *wards prosecutions, convictions, executions.*”

Is it possible to suppose that any Irishman, whose heart is not entirely seared, can read these contrasted statements without some feeling approaching to sympathy? Why, with such a cheap remedy as the Irish emigrants propose, has this wretched system been allowed to go on from the year 1827 to the present moment? I well know the cause, and if I had a seat in Parliament I would state it. Being anxious to know whether the loyalty of the Irish emigrants in Canada, quoted above, had continued to the present time, I had a correspondence with Sir Francis Head directly upon the subject.* Sir Francis Head answered me in the affirmative: he informed me that the settlers to whom I had alluded were among those who, upon a late occasion, marched at once from the Newcastle district, in the depth of winter, nearly 100 miles, to support the Government. For this patriotic gallantry Sir Francis Head thanked them; to which expression of thanks they replied, “ THAT THEY WERE DOING WELL IN THE WORLD—THAT
 “ THEY FELT GRATEFUL TO THE BRITISH GOVERNMENT—AND
 “ THAT THEY HAD COME TO FIGHT FOR THE BRITISH CONSTI-
 “ TUTION!”

Now, let me turn to the Irish view of the question, properly so called. If an Irish landlord has upon his estate 50 men, 50 women, and 150 children, being either surreptitious tenantry, or able-bodied men incapable of finding work, these parties cannot be maintained for less than 2*d.*

* This correspondence was published “in extenso,” both in my pamphlet “On the Irish Catholic Oath,” as well as that of “Ireland and Canada.”

per day each, and that under extreme circumstances of misery and degradation.

The annual expense, therefore, of the maintenance at home of these unemployed parties at the above rate would be 760*l.* 8*s.* 4*d.* Now let us see what the annual expense would be for the colonization of these parties, according to the principles laid down in this correspondence, and assented to by you. It is as follows: these same 250 persons might be colonized, and themselves and families made happy and independent, by the payment of an annuity, on the part of the Irish landlord, of 134*l.* 7*s.* 6*d.*, instead of 760*l.* 8*s.* 4*d.*, being an annual difference of 626*l.* 0*s.* 10*d.*

It will be remembered that I only proposed that the Irish landlord should pay this annuity for the space of the first seven years. My reason for this limitation is simply this, that my own judgment is satisfied that the Irish colonist himself, for whose more immediate benefit a capital of 60*l.* has been borrowed, would be both willing and able to pay this annuity for the remaining period required to liquidate the entire debt.

It would be satisfactory to all persons interested in this subject to know that Mr. Rubidge, who has had no opportunity of recording his evidence before Parliament, is now practically employed in conducting across the Atlantic a body of emigrants, Irish settlers, with the intention of ultimately planting them in Canada: he is enabled to do this by the munificent and discreet generosity of Colonel Windham, of Petworth, who is following up, in the happiest manner, the conduct of the late Earl of Egremont, upon the subject of Emigration—to whose memory be eternal honour.*

* Any person desirous to know the details of what may be called Lord Egremont's Emigration has only to apply to Messrs. Longman and Co., for a Letter addressed by the Rev. T. Socket to a Member of Parliament, and which most amply deserves to be read by every Member of either House.

Mr. Socket, to whom my note below refers, explains that the object which the Petworth Committee have had in view, and which they have laboured hard to promote, is, “to remove from the minds of persons of all classes, the notion that emigration to Canada is a banishment; and to cherish the idea, that it is only a *removal* from a part of the British empire, where there are more workmen than there is work to be performed, to another—a fertile, healthy, and every way delightful portion of the same empire—where the contrary is the case.”

Would that there was not a parish in Great Britain or Ireland, but where the same doctrines were inculcated! Doctrines of a precisely opposite nature are inculcated with great zeal,—for example, the author of “An Outline of a System of Colonization,” in his anxiety to raise his own views, and to depress mine, has thought fit to assert, in reference to the Government emigrants of 1823 and 1825, and by way of proving that they were experiments which failed, and that it was impossible to colonize prosperously paupers in masses, that “The poor ignorant, imprudent land-owner had sunk under his troubles; his land has passed away to the dealer in rum; and the wages of labour near him being very high, he has returned to his proper condition of a labourer for hire.”

Let those who read Mr. Rubidge’s evidence and this correspondence pronounce whether the above allegation be true or false—let them pronounce whether, in their opinion, it be politically or pecuniarily desirable to themselves that the emigrant settlers of 1823 and 1825 should return to the condition of “a labourer for hire?” But above all I appeal to the honour of the legislature of Upper Canada for the public refutation of this charge, which has been so industriously disseminated.

The late Mr. Malthus, one of the most able and en-

lightened, but most misrepresented, men, shared my opinions entirely upon the subject of Emigration,—unequivocally so with respect to the advantage to be received by the colonies. With respect to the home advantage, he always appeared to me to entertain a dread of the vacuum being filled up—a dread which I could never share, for reasons which it would be extraneous to introduce here.

On the 9th of June, 1830, he writes to me, “Could you indeed accomplish emigration in an entirely unobjectionable manner (that is, without any danger of the vacuum being filled up), you would, in my opinion, be the greatest benefactor to the human race that has yet appeared.” The opinion of such a man as Mr. Malthus ought certainly to repay me for twenty years of continued labour, and for the contemptuous apathy of Parliament and the public. For myself, I would not wish another epitaph to be placed on my tomb than the opinion expressed of my exertions in the cause of humanity, in a letter addressed to me in 1831 by Dr. Birkbeck, the able and benevolent President of the London Mechanics’ Institution.

“With respect to emigration and colonization, so ably and systematically advocated by you, I have indeed for some time held opinions similar to your own. These opinions, however, have been much strengthened and enlarged by the privilege, which I have lately enjoyed, of partaking privately, and along with my fellow-members of the Mechanics’ Institution, of your more ample and matured knowledge of these ill-appreciated measures. For many years I had been accustomed to look upon remission of taxation, or diminished expenditure, and a reform of the representation, as infallible means for producing national amelioration: I now know, that if these improvements should be effected in the most effectual manner, they will not obviate the pressing, urgent wants, which have consti-

“ tuted, and at this moment do constitute, our most severe
 “ difficulties. Excess of population, absolute and relative,
 “ is the occasion of our recent and immediate oppression :
 “ an excess the result of peace, and the improvement of the
 “ arts (of the arts of medicine particularly) and of machinery,
 “ the noblest gifts of genius to man. Of its occurrence, pro-
 “ ceeding in a great measure, as I believe, from the opera-
 “ tion of natural laws, and therefore inevitable, I do not pre-
 “ sume to complain ; especially as I see a remedy provided,
 “ at once natural and delightful ; relieving the country in
 “ which even civilized, instructed man becomes a burden,
 “ and transferring him to regions, prepared by their salu-
 “ brity, fertility, and want of inhabitants,—and to such re-
 “ gions alone should the excess be kindly and carefully
 “ transferred,—for receiving the labour and skill which may
 “ happen to be redundant : thus converting them at once
 “ into blessings of permanent and immeasurable value.”

Believe me,

My dear Chief Justice,

Yours, very truly,

R. W. HORTON.

Chief Justice Robinson,

&c. &c. &c.

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