

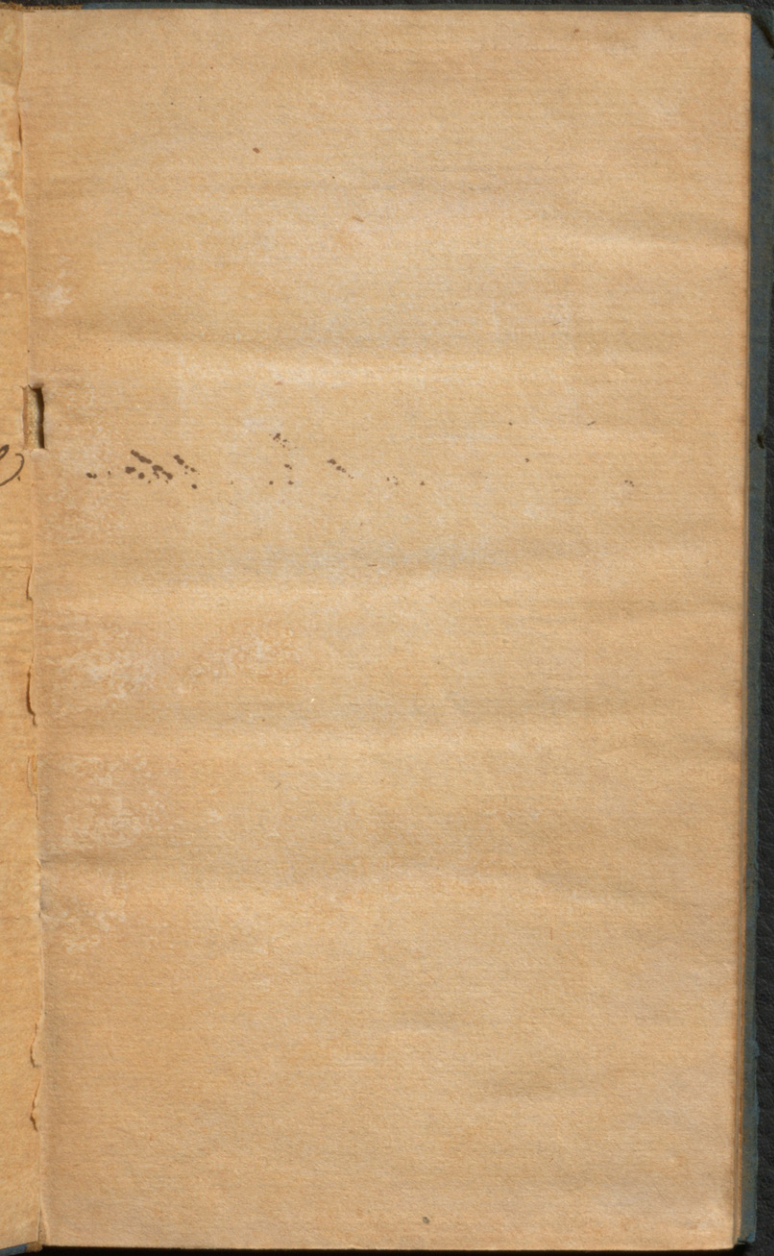
155. Constitution

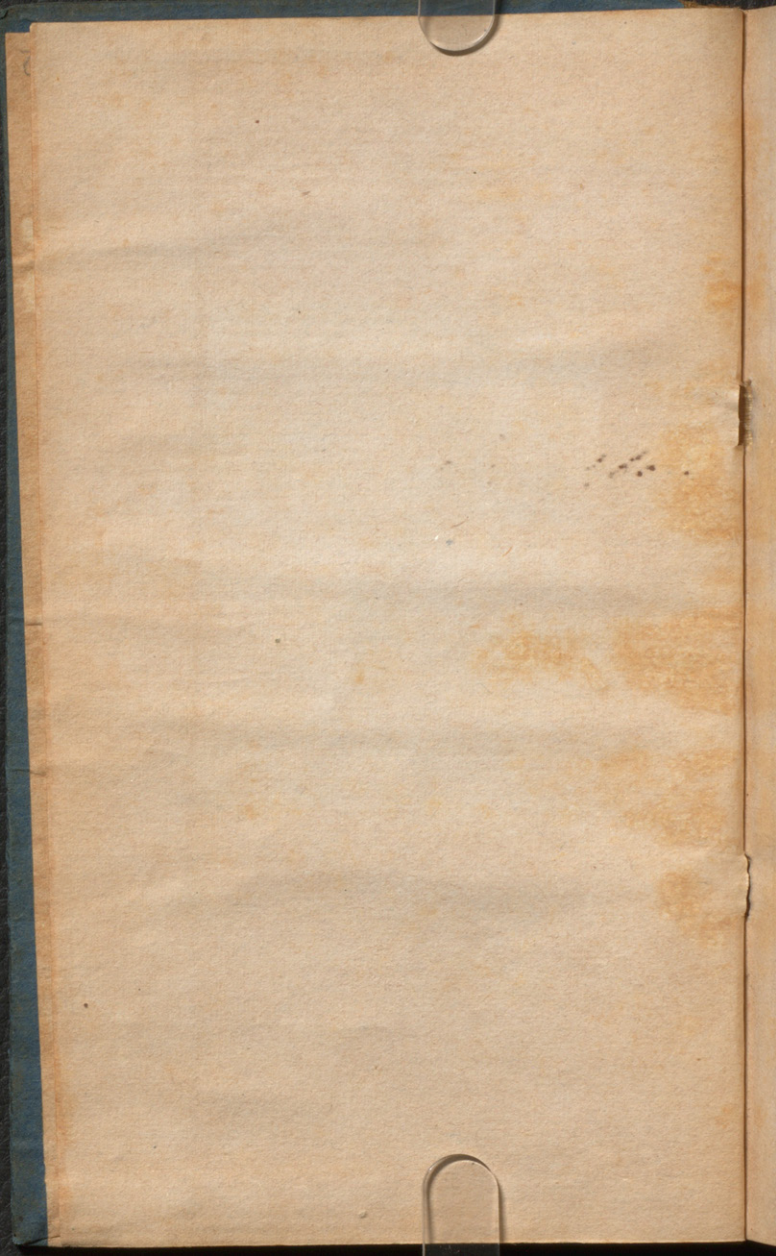
John Campbell

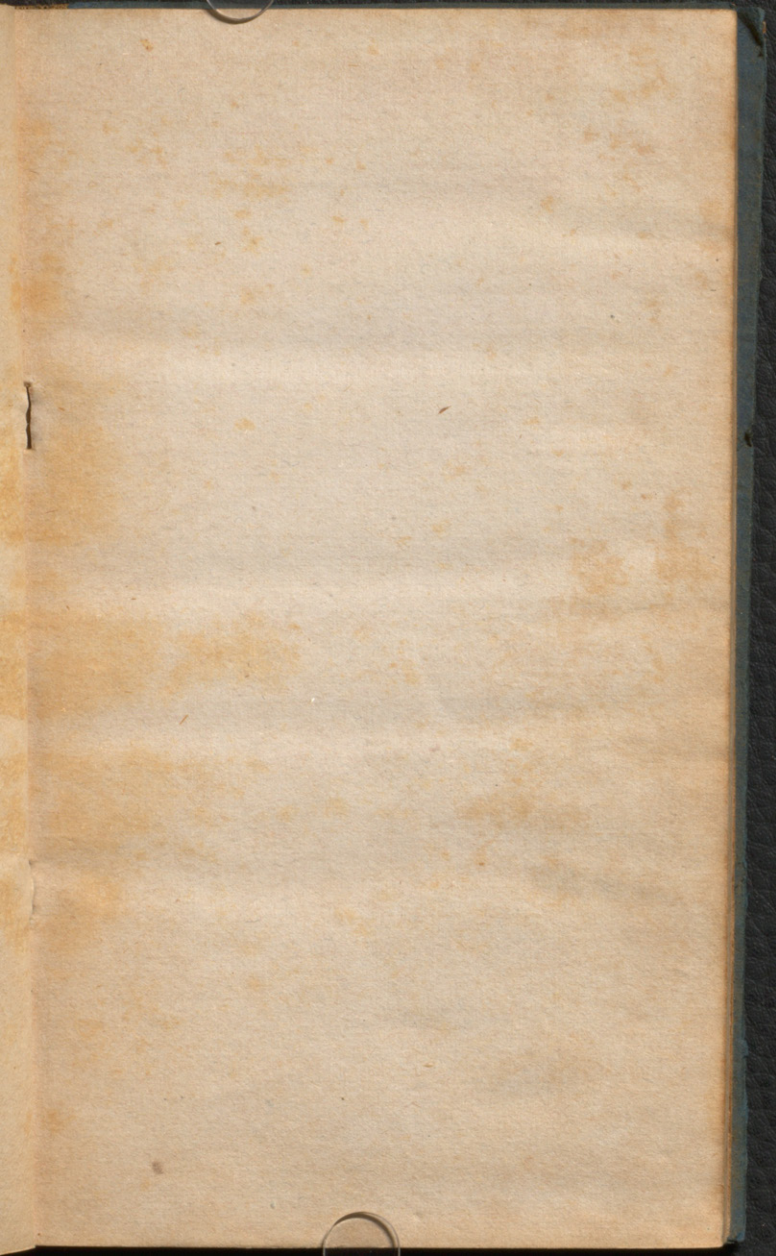
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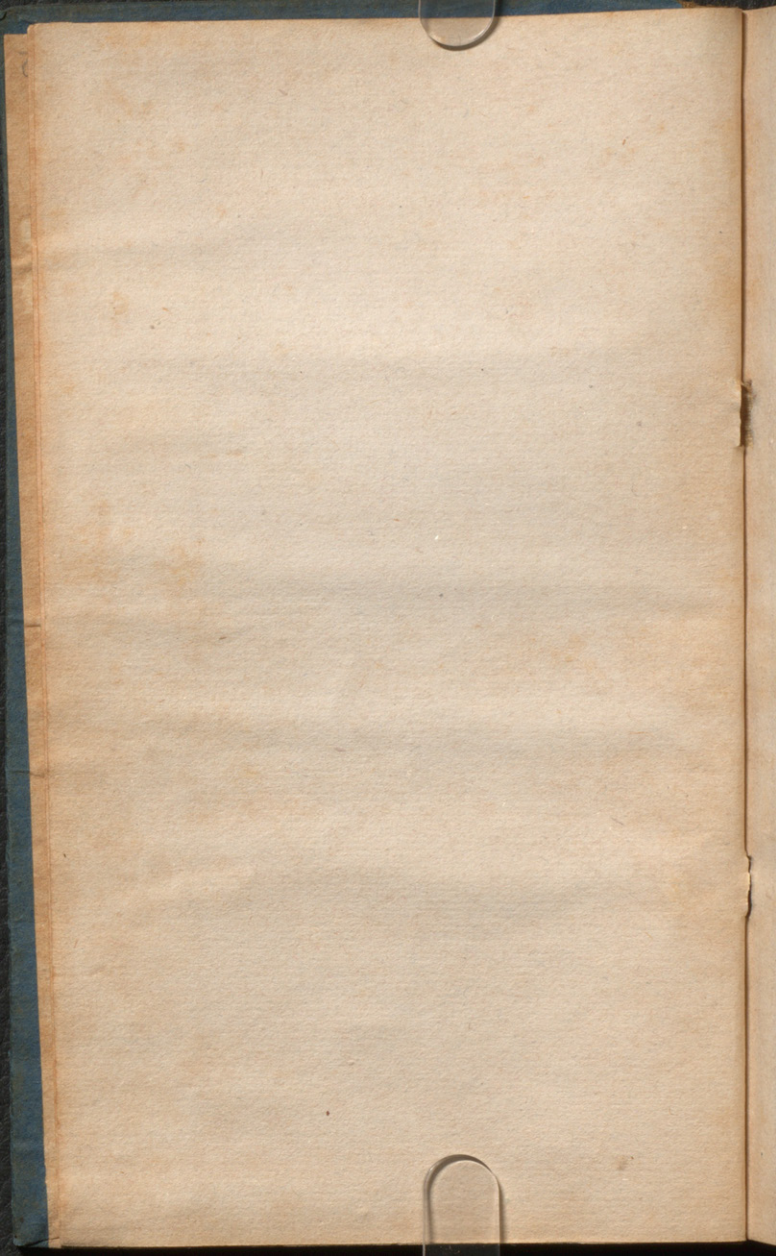


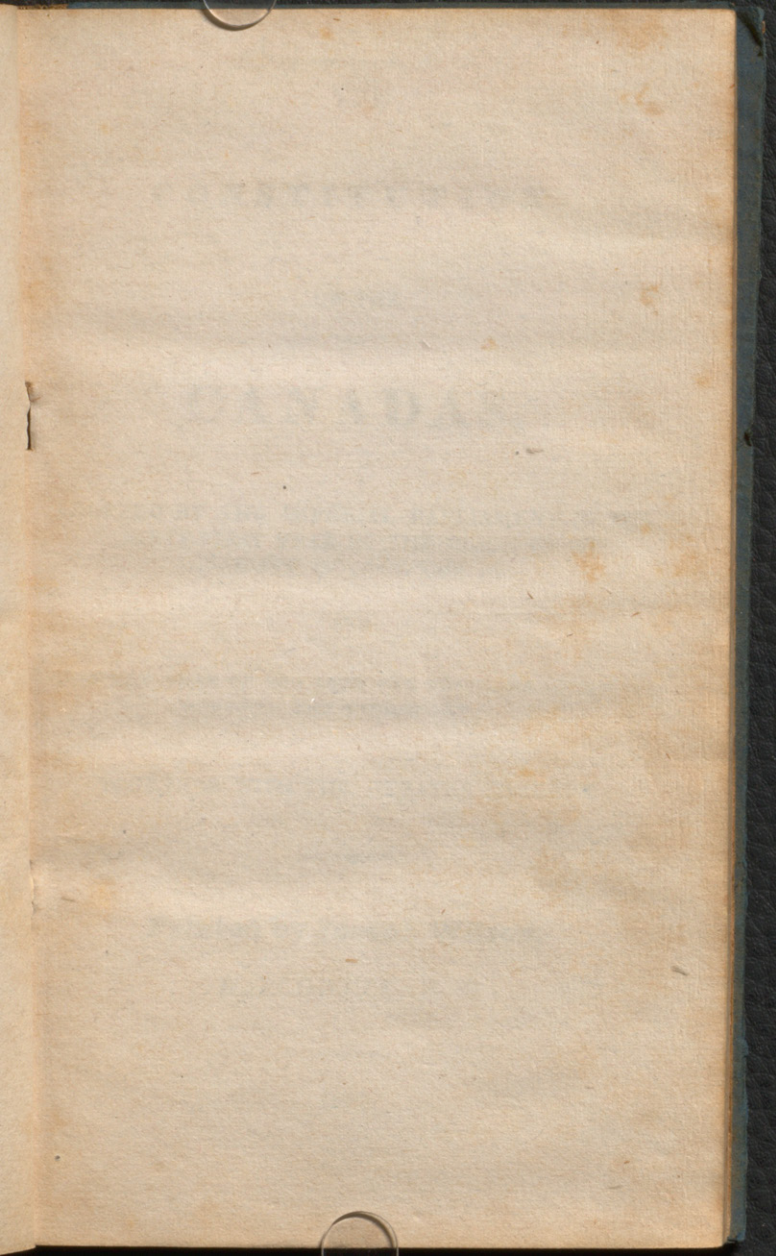
*Campbell,
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St. Heliers*

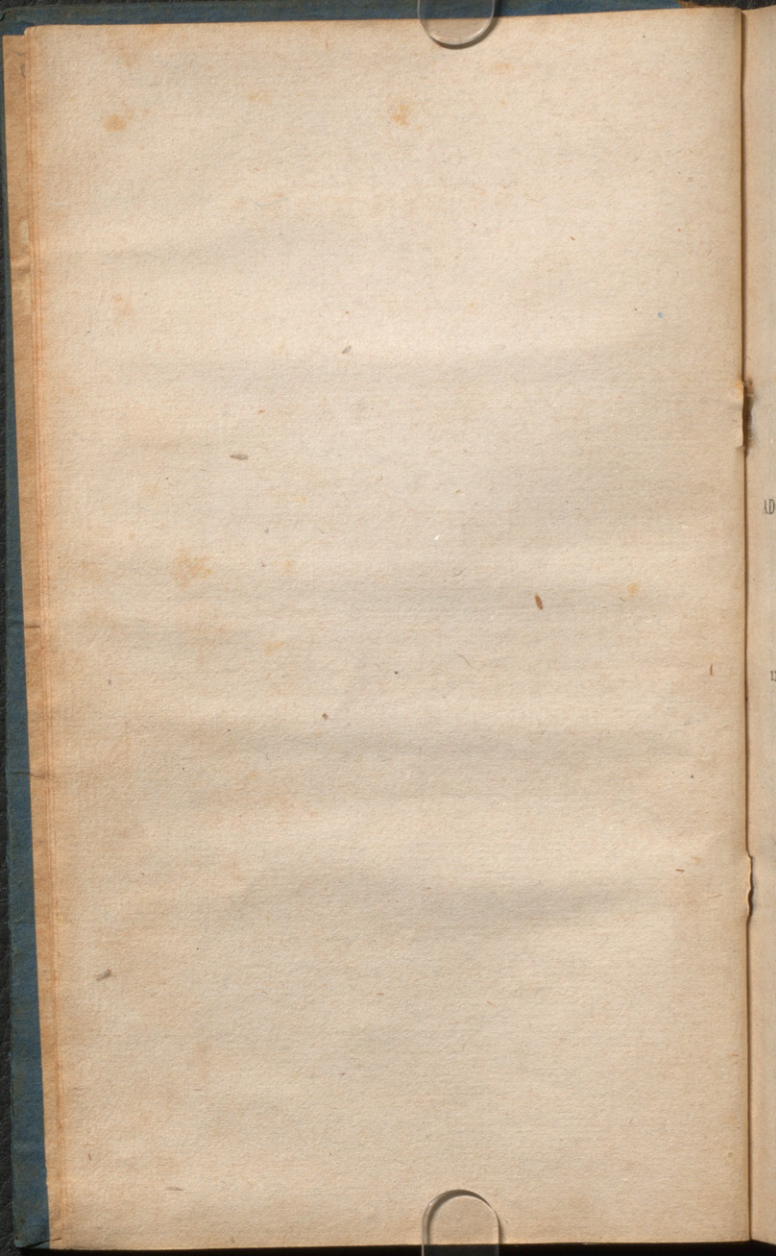












Thomas Stoughton
THE
CONSTITUTION

OF THE
CANADAS,

ADOPTED BY THE IMPERIAL PARLIAMENT IN THE
THIRTY-FIRST YEAR OF THE REIGN OF HIS
MAJESTY, GEORGE THE III.

AND

IN THE YEAR OF OUR LORD ONE THOUSAND SEVEN
HUNDRED AND NINETY-ONE;

TOGETHER WITH THE DEBATES THEREON.

Printed by Joseph Wilson,

HALLOWELL, U. C.

1833.

THE

CONSTITUTION

OF THE

CANADA.

AS PASSED BY THE IMPERIAL PARLIAMENT IN THE
THIRTY-FIRST YEAR OF THE REIGN OF THE
MAYESTY GEORGE THE THIRD

AND

AS AMENDED BY THE PARLIAMENTS OF GREAT BRITAIN
AND IRELAND SINCE THAT TIME

TOGETHER WITH THE DEBATES THEREON

Printed by Joseph Wilson,

WALTON, C. C.

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1833

PASSED IN THE THIRTY-FIRST YEAR OF
GEORGE III.

An act to repeal certain parts of an act, passed in the fourteenth year of his Majesty's reign, entitled, 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.

WHEREAS an act was passed in the fourteenth year of the reign of his present Majesty, entitled, An act for making more effectual provision for the government of the province of Quebec, in North America: and whereas the said act is in many respects inapplicable to the present condition and circumstances of the said province: and whereas it is expedient and necessary that further provision should now be made for the good government and prosperity thereof: may it therefore please your most excellent Majesty that it may be enacted; and be it 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 the said act as in any manner relates to the appointment of a council for the affairs of the said province of Quebec, or to the power given by the said act to the said council, or to the major part of them, to make ordinances for the peace, welfare, and good government of the said province, with the consent of his Majesty's governor, lieutenant governor, or commander in chief for the time being, shall be, and the same is hereby repealed.

II. And whereas his Majesty has been pleased to signify, by his message to both houses of parliament, his royal intention to divide his province of Quebec into two separate provinces, to be called the province of Upper Canada, and the province of Lower Canada; be it enacted by the authority aforesaid, That there shall be within each of the said provinces respectively a legislative council, and an as-

sembly, to be severally composed and constituted in the manner hereinafter described; and that in each of the said provinces respectively, his Majesty, his heirs or successors, shall have power, during the continuance of this act, by and with the advice and consent of the legislative council and assembly of such provinces respectively, to make laws for the peace, welfare, and good government thereof, such laws, not being repugnant to this act; and that all such laws being passed by the legislative council and assembly of either of the said provinces respectively, and assented to by his Majesty, his heirs or successors, or assented to in his Majesty's name, by such person as his Majesty, his heirs or successors, shall from time to time appoint to be the governor, or lieutenant governor of such province, or by such person as his Majesty, his heirs or successors, shall from time to time appoint to administer the government within the same, shall be, and the same are hereby declared to be, by virtue of and under the authority of this act, valid and binding to all intents and purposes whatever, with in the province in which the same shall have been so passed.

III. *And be it further enacted by the authority aforesaid,* That for the purpose of constituting such legislative council as aforesaid, in each of the said provinces respectively, it shall and may be lawful for his Majesty, his heirs or successors, by an instrument under his or their sign manual, to authorize and direct the governor or lieutenant governor, or persons administering the government in each of the said provinces respectively, within the time hereinafter mentioned, in his Majesty's name, and by an instrument under the great seal of such province, to summon to the said legislative council, to be established in each of the said provinces respectively, a sufficient number of discreet and proper persons, being not fewer than seven, to the legislative council for the province of Upper Canada, and not fewer than fifteen to the legislative council for the province of Lower Canada; 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 governor or lieutenant governor, or person administering the government in each of the said provinces

respectively, to summon to the legislative council of such province, in like manner, 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 legislative council of either of the said provinces respectively, shall thereby become a member of such legislative council to which he shall have been summoned.

IV. *Provided always, and be it enacted by the authority aforesaid,* That no person shall be summoned to the said legislative council, in either of the said provinces, who shall not be of the full age of twenty-one years, and a natural born subject of his Majesty, or a subject of his Majesty, naturalized by an act of the British parliament, or a subject of his Majesty, having become such by the conquest and session of the province of Canada.

V. *And be it further enacted by the authority aforesaid,* That every member of each of the said legislative councils shall hold his seat therein for the term of his life, but subject, nevertheless, to the provisions hereinafter contained for vacating the same, in the cases hereinafter specified.

VI. *And be it further enacted by the authority aforesaid,* That whenever his Majesty, his heirs or successors, shall think proper to confer upon any subject of the crown of Great Britain, by letters patent under the great seal of either of the said provinces, any hereditary title of honor, rank or dignity of such province, descendible according to any course of descent limited in such letters patent, it shall and may be lawful for his Majesty, his heirs or successors, to annex thereto, by the said letters patent, if his Majesty, his heirs or successors, shall so think fit, and hereditary right of being summoned to the legislative council of such province, descendible according to the course of descent so limited with respect to such title, rank, or dignity; and that every person on whom such right shall be so conferred, or to whom such right shall severally so descend, shall thereupon be entitled to demand from the governor, lieutenant governor, or person administering the government of such province, his writ of summons to such legislative council, at any time after he shall have attained the age of twenty-one

years, subject, nevertheless, to the provisions hereinafter contained.

VII. *Provided always, and be it further enacted by the authority aforesaid,* That when and so often as any person to whom such hereditary right shall have descended, shall, without the permission of his Majesty, his heirs or successors, signified to the Legislative Council of the province by the governor, lieutenant-governor, or person administering the government there, have been absent from the said province for the space of four years continually, at any time between the date of his succeeding to such right, and the time of his applying for such writ of summons, if he shall have been of the age of twenty-one years or upwards at the time of his so succeeding, or at any time between the date of his attaining the said age and the time of his so applying, if he shall not have been of the said age at the time of his so succeeding; and also when and so often as any such person shall at any time, before his applying for such writ of summons, have taken any oath of allegiance or obedience to any foreign prince or power, in every such case such person shall not be entitled to receive any writ of summons to the Legislative Council by virtue of such hereditary right unless his Majesty, his heirs or successors, shall at any time think fit, by instrument under his or their sign manual, to direct that such person shall be summoned to the said council; and the governor, lieutenant-governor, or person administering the government in the said provinces respectively, is hereby authorized and required, previous to granting such writ of summons to any person so applying for the same, to interrogate such person upon oath, touching the said several particulars, before such Executive Council as shall have been appointed by his Majesty, his heirs or successors, within such province, for the affairs thereof.

VIII. *Provided also, and be it further enacted by the authority aforesaid,* That if any member of the Legislative Councils of either of the said provinces respectively, shall leave such province, and shall reside out of the same for the space of four years continually, without the permission of his Majesty, his heirs or successors, signified to such Legislative

Council by the governor or lieutenant-governor, or person administering his Majesty's government there, or for the space of two years continually, without the like permission, or the permission of the governor, lieutenant-governor, or person administering the government of such province, signified to such Legislative Council in the manner aforesaid; or if any such member shall take any oath of allegiance or obedience to any foreign prince or power, his seat in such Council thereby become vacant.

IX. *Provided also, and be it further enacted by the authority aforesaid,* That in every case where a writ of summons to such Legislative Council shall have been lawfully withheld from any person to whom such hereditary right as aforesaid, shall have descended, by reason of such absence from the province as aforesaid, or of his having taken an oath of allegiance or obedience to any foreign prince or power, and also in every case where the seat in such Council of any member thereof, having such hereditary right as aforesaid, shall have been vacated by reason of any of the causes herein before specified, such hereditary right shall remain suspended during the life of such person, unless his Majesty, his heirs or successors, shall afterwards think fit to direct that he be summoned to such council; but that on the death of such person, such right, subject to the provisions herein contained, shall descend to the person who shall next be entitled thereto, according to the course of descent limited in the letters patent by which the same shall have been originally conferred.

X. *Provided also and be it further enacted by the authority aforesaid,* That if any member either of the said Legislative Councils shall be attainted for treason in any court of law within any of his Majesty's dominions, his seat in such Council shall thereby become vacant, and any such hereditary right as aforesaid then vested in such person, or to be derived to any other persons through him, shall be utterly forfeited and extinguished.

XI. *Provided also, and be it further enacted by the authority aforesaid,* That whenever any question shall arise respecting the right of any person to be summoned

to either of the said Legislative Councils respectively, or respecting the vacancy of the seat in such Legislative Council, of any person having been summoned thereto, every such question shall, by the governor, or lieutenant-governor of the province, or by the person administering the government there, be referred to such Legislative Council, to be by the said Council heard and determined; and that it shall and may be lawful either for the person desiring such writ of summons, or respecting whose seat such question shall have arisen, or for his Majesty's attorney-general of such province in his Majesty's name, to appeal from the determination of the said Council, in such case, to his Majesty in his parliament of Great Britain; and that the judgment thereon of his Majesty in his said parliament shall be final and conclusive to all intents and purposes whatever.

XII. *And be it further enacted by the authority aforesaid,* That the governor or lieutenant-governor of the said provinces respectively, or the person administering his Majesty's government therein respectively, shall have power and authority from time to time, by an instrument under the great seal of such province, to constitute, appoint and remove the speakers of the Legislative Councils, of such provinces respectively.

XIII. *And be it further enacted by the authority aforesaid,* That for the purpose of constituting such Assembly as aforesaid, in each of the said provinces respectively, it shall and may be lawful for his Majesty, his heirs or successors, by an instrument under his or their sign manual to authorize and direct the governor or lieutenant-governor, or person administering the government in each of the said provinces respectively, within the time hereinafter mentioned, and thereafter from time to time, as occasion shall require, in his Majesty's name, and by an instrument under the great seal of such province, to summon and call together an Assembly in and for such province.

XIV. *And be it further enacted by the authority aforesaid,* That, for the purpose of electing the members of such Assemblies respectively, it shall and may be lawful for his Majesty, his heirs or successors, by an instrument under his

or their sign manual, to authorize the governor or lieutenant-governor of each of the said provinces respectively, or the person administering the government therein, within the time hereinafter mentioned, to issue a proclamation dividing such province into districts, counties, or circles, and towns or townships, and appointing the limits thereof, and declaring and appointing the number of representatives to be chosen by each of such districts, or counties, or circles, and towns or townships respectively; and that it shall also be lawful for his Majesty, his heirs or successors, to authorize such governor or lieutenant-governor, or person administering the government, from time to time to nominate and appoint proper persons to execute the office of returning officer in each of the said districts, or counties, or circles, and towns or townships respectively; and that such division of the said provinces into districts, or counties, or circles, and towns or townships, and such declaration or appointment of the number of representatives to be chosen by each of the said districts, or counties, or circles, and towns or townships, respectively, and also such nomination and appointment of returning officers in the same, shall be valid and effectual to all the purposes of this Act, unless it shall at any time be otherwise provided by any Act of the Legislative Council and Assembly of the province, assented to by his Majesty, his heirs or successors.

XV. Provided nevertheless, and be it further enacted by the authority aforesaid, That the provision herein before contained, for empowering the governor, lieutenant-governor, or person administering the government of the said provinces respectively, under such authority as aforesaid from his Majesty, his heirs or successors, from time to time, to nominate and appoint proper persons to execute the office of returning officer in the said districts, counties, circles, and towns or townships, shall remain and continue in force in each of the said provinces respectively, for the term of two years, from and after the commencement of this Act, within such province, and no longer; but subject nevertheless to be sooner repealed or varied by an Act of the Legislative Council and Assembly of the province, assented to by his Majesty, his heirs or successors.

XVI. *Provided always, and be it further enacted by the authority aforesaid,* That no person shall be obliged to execute the said office of returning officer for any longer time than one year, or oftener than once, unless it shall at any other time be otherwise provided by an Act of the Legislative Council and Assembly of the province, assented to by his Majesty, his heirs or successors.

XVII. *Provided also, and be it further enacted by the authority aforesaid,* That the whole number of members to be chosen in the province of *Upper Canada* shall not be less than sixteen, and the whole number of members to be chosen in the province of *Lower Canada* shall not be less than fifty.

XVIII. *And be it further enacted by the authority aforesaid,* That writs for the election of members to serve in the said assemblies respectively, shall be issued by the governor, lieutenant governor, or person administering his Majesty's government within the said provinces respectively, within fourteen days after the sealing of such instrument as aforesaid, for summoning and calling together such assembly, and that such writs shall be directed to the respective returning officers of the said districts, or counties, or circles and towns or townships, and that such writs shall be made returnable within fifty days at farthest from the day on which they shall bear date, unless it shall at any time be otherwise provided by any act of the Legislative Council and Assembly of the province, assented to by his Majesty, his heirs or successors; and that writs shall in like manner and form be issued for the election of members in the case of any vacancy which shall happen by the death of the person chosen, or by his being summoned to the Legislative Council of either province, and that such writs shall be made returnable within fifty days at farthest from the day on which they shall bear date, unless it shall at any time be otherwise provided by any act of the legislative council and assembly of the province, assented to by his Majesty, his heirs or successors; and that in the case of any such vacancy which shall happen by the death of the person chosen, or by reason of his being so summoned as afore-

said, the writ for the election of a new member shall be issued within six days after the same shall be made known to the proper office for issuing such writs of election.

XIX. *And be it further enacted by the authority aforesaid,* That all and every the returning officers so appointed as aforesaid, to whom any such writs as aforesaid shall be directed, shall and they are hereby authorized and required duly to execute such writs.

XX. *And be it further enacted by the authority aforesaid,* That the members for the several districts, or counties, or circles, of the said provinces respectively, shall be chosen by the majority of votes of such persons as shall severally be possessed, for their own use and benefit, of lands or tenements within such district, or county, or circle, as the case shall be, such lands being by them held in freehold, or in fief, or in roture, or by certificate derived under the authority of the governor and council of the province of Quebec, and being of the yearly value of forty shillings sterling, or upwards, over and above all rents and charges payable out of or in respect of the same; and that the members for the several towns or townships within the said provinces respectively shall be chosen by the majority of votes of such persons as either shall severally be possessed, for their own use and benefit, of a dwelling house and lot of ground in such town or township, such dwelling house and lot of ground being by them held in like manner as aforesaid, and being of the yearly value of five pounds sterling or upwards, or, as having been resident within the said town or township for the space of twelve calendar months next before the date of the writ of summons for the election, shall *bona fide* have paid one year's rent for the dwelling house in which they shall have so resided, at the rate of ten pounds sterling per annum, or upwards.

XXI. *Provided always, and be it further enacted by the authority aforesaid,* That no person shall be capable of being elected a member to serve in either of the said Assemblies, or of sitting or voting therein, who shall be a member of either of the said Legislative Councils to be established as aforesaid in the said two provinces, or who

shall be a minister of the church of England, or a minister, priest, ecclesiastic, or teacher, either according to the rites of the church of Rome, or under any other form or profession of religious faith or worship.

XXII. *Provided also, and be it further enacted by the authority aforesaid,* That no person shall be capable of voting at any election of a member to serve in such Assembly, in either of the said provinces, or of being elected at any such election, who shall not be of the full age of twenty-one years, and a natural born subject of his Majesty, or a subject of his Majesty naturalized by act of the British parliament, or a subject of his Majesty, having become such by the conquest and cession of the province of Canada.

XXIII. *And be it also enacted by the authority aforesaid* That no person shall be capable of voting at any election of a member to serve in such Assembly, in either of the said provinces, or of being elected at any such election, who shall have been attained for treason or felony in any court of law within any of his Majesty's dominions, or who shall be within any description of persons disqualified by any act of the Legislative Council and Assembly of the province, assented to by his Majesty, his heirs or successors.

XXIV. *Provided also, and be it further enacted by the authority aforesaid,* That every voter, before he is admitted to give his vote at any such election, shall, if required by any of the candidates, or by the returning officer, take the following oath, which shall be administered in the English or French language, as the case may require :

I A. B. *do declare and testify, in the presence of Almighty God, that I am, to the best of my knowledge and belief, of the full age of twenty-one years, and that I have not voted before at this election.*

And that every such person also, if so required as aforesaid, make oath, previous to his being admitted to vote, that he is, to the best of his knowledge and belief, duly possessed of such lands and tenements, or of such a dwelling-house and lot of ground, or that he has *bona fide* been so resident, and paid such rent for his dwelling-house, as

entitles him, according to the provisions of this Act, to give his vote at such election for the county or district, or circle or for the town or township for which he shall offer the same.

XXV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for his Majesty, his heirs or successors, to authorize the governor or lieutenant governor, or person administering the government within each of the said provinces respectively, to fix the time and place of holding such elections, giving not less than eight days notice of such time, subject, nevertheless, to such provisions as may hereafter be made in these respects by any act of the legislative council and assembly of the province, assented to by his Majesty, his heirs or successors.

XXVI. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for his Majesty, his heirs or successors, to authorize the governor, or lieutenant governor of each of the said provinces respectively, or the person administering the government therein, to fix the places and times of holding the first and every other session of the Legislative Council and assembly of such province, giving due and sufficient notice thereof and to prorogue the same from time to time, and to dissolve the same, by proclamation or otherwise, whenever he shall judge it necessary or expedient.

XXVII. *Provided always, and be it enacted by the authority aforesaid*, That the said legislative council and assembly, in each of the said provinces, shall be called together once at the least in every twelve calendar months, and that every assembly shall continue for four years from the day of the return of the writs for choosing the same, and no longer, subject nevertheless to be sooner prorogued and dissolved by the governor or lieutenant governor of the province, or person administering his Majesty's government therein.

XXVIII. *And be it further enacted by the authority aforesaid*, That all questions which shall arise in the said legislative councils or assemblies respectively, shall be deci-

ded 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, as the case shall be, shall have a casting voice.

XXIX. *Provided always, and be it enacted by the authority aforesaid,* That no member either of the legislative council or assembly, in either of the said provinces, shall be permitted to sit or to vote therein, until he shall have taken and subscribed the following oath, either before the governor or lieutenant-governor of such province, or person administering the government therein, or before some person or persons authorized by the said governor or lieutenant-governor, or other person as aforesaid, to administer such oath, and that the same shall be administered in the English or French language, as the case may require:

I A. B. do sincerely promise and swear, That I will be faithful, and bear true allegiance to his Majesty, King George, as lawful Sovereign of the Kingdom of Great Britain, and of these provinces dependant on and belonging to the said kingdom; and that I will defend him to the utmost of my power against all traiterous conspiracies and attempts whatever which shall be made against his person, crown and dignity; and that I will do my utmost endeavour to disclose and make known to his Majesty, his heirs or successors, all treasons and traiterous conspiracies and attempts which I shall know to be against him, or any of them; and all this I do swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or power whatever to the contrary.—*So help me God.*

XXX. *And be it further enacted by the authority aforesaid,* That whenever any bill which has been passed by the legislative council, and by the house of assembly, in either of the said provinces respectively, shall be presented, for his Majesty's assent, to the governor or lieutenant-governor of such province, or to the person administering his Majesty's Government therein, such governor or lieutenant-governor, or person administering the government, shall, and he his hereby authorized and required to declare,

according to his discretion, but subject nevertheless to the provisions contained in this act, and to such instructions as may from time to time be given in that behalf by his Majesty, his heirs or successors, that he assents to such bill in his Majesty's name, or that he withholds his Majesty's assent from such bill, or that he reserves such bill for the signification of his Majesty's pleasure thereon.

XXXI. *Provided always, and be it further enacted by the authority aforesaid,* That whenever any bill, which shall have been so presented for his Majesty's assent to such governor, lieutenant-governor, or person administering the government, shall by such governor, lieutenant-governor or person administering the government, have been assented to in his Majesty's name, such governor, lieutenant-governor or person as aforesaid, shall, and he is hereby required, by the first convenient opportunity, to transmit to one of his Majesty's principal Secretaries of State, an authentic copy of such bill so assented to; and that it shall and may be lawful, at any time within two years after such bill shall have been so received by such Secretary of State, for his Majesty, his heirs or successors, by his or their order in Council, to declare his or their disallowance of such bill, and that such disallowance, together with a certificate, under the hand and seal of such Secretary of State, testifying the day on which such bill was received as aforesaid, being signified by such governor, lieutenant-governor or person administering the government, to the legislative council and assembly of such province, or by proclamation, shall make void and annul the same, from and after the date of such signification.

XXXII. *And be it further enacted by the authority aforesaid,* That no such bill, which shall be so reserved for the signification of his Majesty's pleasure thereon, shall have any force or authority within either of the said provinces respectively, until the Governor, or Lieutenant Governor, or person administering the government, shall signify, either by speech or message, to the Legislative Council and Assembly of such province, or by proclamation, that

such bill has been laid before his Majesty in Council, and that his Majesty has been pleased to assent to the same; and that an entry shall be made in the Journals of the said Legislative Council, of every such speech, message, or proclamation; and a duplicate thereof, duly attested, shall be delivered to the proper officer, to be kept amongst the public records of the province; and that no such bill, which shall be so reserved as aforesaid, shall have any force or authority within either of the said provinces respectively, unless his Majesty's assent thereto shall have been so signified as aforesaid, within the space of two years from the day on which such bill shall have been presented for his Majesty's assent to the Governor, Lieutenant Governor, or person administering the government of such province.

XXXIII. *And be it further enacted, by the authority aforesaid,* That all laws, statutes, and ordinances, which shall be in force on the day to be fixed in the manner hereinafter directed for the commencement of this Act, within the said provinces, or either of them, or in any part thereof respectively, shall remain and continue to be of the same force, authority, and effect, in each of the said provinces respectively, as if this act had not been made, and as if the said province of Quebec had not been divided; except in so far as the same are expressly repealed or varied by this act, or in so far as the same shall or may hereafter, by virtue of and under the authority of this act, be repealed or varied by his Majesty, his heirs or successors, by and with the advice and consent of the legislative councils and assemblies of the said provinces respectively, or in so far as the same may be repealed or varied by such temporary laws or ordinances as may be made in the manner hereinafter specified.

XXXIV. And whereas by an ordinance passed in the province of Quebec, the governor and council of the said province were constituted a court of civil jurisdiction, for hearing and determining appeals in certain cases therein specified, be it further enacted by the authority aforesaid, That the governor, or lieutenant governor, or person administering the government of each of the said provinces

respectively, together with such executive council as shall be appointed by his Majesty for the affairs of such province, shall be court of civil jurisdiction within each of the said provinces respectively, for hearing and determining appeals within the same, in the like cases, and in the like manner and form, and subject to such appeal therefrom, as such appeals might before the passing of this act have been heard and determined by the governor and council of the province of Quebec; but subject nevertheless to such further or other provisions as may be made in this behalf, by any act of the legislative council and assembly of either of the said provinces respectively, assented to by his Majesty, his heirs or successors.

XXXV. And whereas, by the above mentioned act, passed in the fourteenth year of the reign of his present Majesty, it was declared, That the clergy of the church of Rome, in the province of Quebec, might hold, receive, and enjoy, their accustomed dues and rights, with respect to such persons only as should profess the said religion; provided nevertheless, that it should be lawful for his Majesty, his heirs or successors, to make such provision out of the rest of the said accustomed dues and rights, for the encouragement of the protestant religion, and for the maintenance and support of a protestant clergy within the said province, as he or they should from time to time think necessary and expedient, and whereas by his Majesty's royal instructions, given under his Majesty's royal sign manual on the third day of January, in the year of our Lord one thousand seven hundred and seventy-five, to Guy Carleton, Esq. now lord Dorchester, at that time his Majesty's captain general and governor in chief in and over his Majesty's province of Quebec, his Majesty was pleased, amongst other things, to direct, "That no incumbent professing the religion of the church of Rome, appointed to any parish in the said province, should be entitled to receive any tythes for lands or possessions occupied by a protestant, but that such tythes should be received by such persons as the said Guy Carleton, esquire, his Majesty's captain general and governor in chief in and over his Majesty's said province of Quebec,

should appoint, and should be reserved in the hands of his Majesty's receiver general of the said province, for the support of a protestant clergy in his Majesty's said province, to be actually resident within the same, and not otherwise, according to such directions as the said Guy Carleton, esquire, his Majesty's captain general and governor in chief in and over his Majesty's said province, should receive from his Majesty in that behalf; and that in like manner all growing rents and profits of a vacant benefice should, during such vacancy, be reserved for and applied to the like uses;" and whereas his Majesty's pleasure has likewise been signified to the same effect in his Majesty's royal instructions, given in like manner to sir Frederick Haldimand, knight of the most honorable order of the Bath, late his Majesty's captain general and governor in chief in and over his Majesty's said province of Quebec; and also in his Majesty's royal instructions, given in like manner to the said right honorable Guy, lord Dorchester, now his Majesty's captain general and governor in chief in and over his Majesty's said province of Quebec, be it enacted by the authority aforesaid, That the said declaration and provision contained in the said above mentioned act, and also the said provision so made by his Majesty in consequence thereof, by his instructions above recited, shall remain and continue to be of full force and effect in each of the said two provinces of Upper Canada and Lower Canada respectively, or any part, thereof, shall be expressly varied or repealed by any act or acts which may be passed by the legislative council and assembly of the said provinces respectively, and assented to by his Majesty, his heirs or successors, under the restriction hereinafter provided.

XXXVI. *And whereas his Majesty has been graciously pleased, by message to both houses of parliament, to express his royal desire to be enabled to make a permanent appropriation of lands in the said provinces, for the support and maintenance of a protestant clergy within the same, in proportion to such lands as have been already granted within the same by his Majesty; and whereas his Majesty has been graciously pleased, by his said message, further to*

signify his royal desire that such provision may be made, with respect to all future grants of land within the said provinces respectively, as may best conduce to the due and sufficient support and maintenance of a protestant clergy within the said provinces, in proportion to such increase as may happen in the population and cultivation thereof; therefore, for the purpose of more effectually fulfilling his Majesty's gracious intentions as aforesaid, and of providing for the due execution of the same in all time to come, be it enacted by the authority aforesaid, That it shall and may be lawful for his Majesty, his heirs or successors, to authorize the governor or lieutenant governor of each of the said provinces respectively, or the person administering the government therein, to make, from and out of the lands of the crown within such provinces, such allotment and appropriation of lands, for the support and maintenance of a protestant clergy within the same, as may bear a due proportion to the amount of such lands within the same as have at any time been granted by or under the authority of his Majesty; and that whenever any grant of lands within either of the said provinces shall hereafter be made, by or under the authority of his Majesty, his heirs or successors, there shall at the same time be made in respect of the same, a proportionable allotment and appropriation of lands for the above mentioned purpose, within the township or parish to which such lands so to be granted shall appertain or be annexed, or as nearly adjacent thereto as circumstances will admit; and that no such grant shall be valid or effectual unless the same shall contain a specification of the lands, so allotted and appropriated, in respect of the lands to be thereby granted; and that such lands, so allotted and appropriated, shall be, as nearly as the circumstances and nature of the case will admit, of the like quality as the lands in respect of which the same are so allotted and appropriated, and shall be, as nearly as the same can be estimated at the time of making such grant equal in value to the seventh part of the lands so granted.

XXXVII. *And be it further enacted by the authority aforesaid,* That all and every the rents, profits, or emoluments, which may at any time arise from such lands so al-

lotted and appropriated as aforesaid, shall be applicable solely to the maintenance and support of a protestant clergy within the province in which the same shall be situated, and to no other use or purpose whatever.

XXXVIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for his Majesty, his heirs or successors, to authorize the governor or lieutenant governor of each of the said provinces respectively, or the person administering the government therein, from time to time, with the advice of such executive council as shall have been appointed by his Majesty, his heirs or successors, within such province, for the affairs thereof, to constitute and erect, within every township or parish which now is or hereafter may be formed, constituted, or erected within such province, one or more parsonage or rectory, or parsonages or rectories, according to the establishment of the church of England; and from time to time, by an instrument under the great seal of such province, to endow every such parsonage or rectory with so much or such part of the lands so allotted and appropriated as aforesaid, in respect of any lands within such township or parish, which shall have been granted subsequent to the commencement of this act, or of such lands as may have been allotted and appropriated for the same purpose, by or in virtue of any instruction which may be given by his Majesty, in respect of any lands granted by his Majesty before the commencement of this act, as such governor, lieutenant governor, or person administering the government, shall with the advice of the said executive council, judge to be expedient under the then existing circumstances of such township or parish.

XXXIX. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for his Majesty, his heirs or successors, to authorize the governor, lieutenant governor, or person administering the government of each of the said provinces respectively, to present to every such parsonage or rectory an incumbent or minister of the church of England, who shall have been duly ordained according to the rights of the said church, and to supply from time to

time such vacancies as may happen therein; and that every person so presented to any such parsonage or rectory shall hold and enjoy the same, and all rights, profits, and emoluments thereunto belonging or granted, as fully and amply, and in the same manner, and on the same terms and conditions, and liable to the performance of the same duties, as the incumbent of a parsonage or rectory in England.

XL. Provided always, and be it further enacted by the authority aforesaid, That every such presentation of an incumbent or minister to any such parsonage or rectory, and also the enjoyment of any such parsonage or rectory, and of the rights, profits, and emoluments thereof, by any such incumbent or minister, shall be subject and liable to all rights of institution, and all other spiritual and ecclesiastical jurisdiction and authority, which have been lawfully granted by his Majesty's royal letters patent to the Bishop of Nova Scotia, or which may hereafter, by his Majesty's royal authority, be lawfully granted or appointed to be administered and executed within the said provinces; or either of them respectively, by the said bisop of Nova Scotia, or by any other person or persons, according to the laws and canons of the church of England, which are lawfully made and received in Eugland.

XLI. Provided always, and be it further enacted by the authority aforesaid, That the several provisions herebefore contained, respecting the allotment and appropriation of lands for the support of a protestant clergy within the said provinces, and also respecting the constituting, erecting, and endowing parsonages or rectories within the said provinces, and also respecting the presentation of incumbents or ministers to the same, and also respecting the manner in which such incumbents or ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express provisions for that purpose, contained in any act or acts which may be passed by the legislative council and assembly of the said provinces respectively, and assented to by his Majesty, his heirs or successors, under the restriction hereinafter provided.

XLII. Provided nevertheless, and be it further enact-

ed by the authority aforesaid, That whenever any act or
 acts shall be passed by the legislative council and assembly
 of either of the said provinces, containing any provisions
 to vary or repeal the above recited declaration and pro-
 visions contained in the said act passed in the fourteenth
 year of the reign of his present Majesty; or to vary
 or repeal the above recited provision contained in his
 Majesty's royal instructions, given on the third day of
 January, in the year of our Lord one thousand seven-
 hundred and seventy-five, to the said Guy Carle-
 ton, Esquire, now Lord Dorchester; or to vary or
 repeal the provisions herein-before contained for continu-
 ing the force and effect of the said declaration and
 provisions; or to vary or repeal any of the several pro-
 visions hereinbefore contained respecting the allotment
 and appropriation of lands for the support of a Protestant
 clergy within the said provinces; or respecting the consti-
 tuting, erecting, or endowing parsonages or rectories with-
 in the said provinces; or respecting the presentation
 incumbents or ministers to the same; or respecting the
 manner in which such incumbents or ministers shall hold
 and enjoy the same: and also, that whenever any act
 shall be so passed, containing any provisions which
 shall in any manner relate to or affect the enjoyment
 exercise of any religious form or mode of worship or shall
 impose or create any penalties, burthens, disabilities,
 disqualifications in respect of the same; or shall in any
 manner relate to or affect the payment, recovery, or en-
 joyment of any of the accustomed dues or rights herein-
 before mentioned; or shall in any manner relate to the
 granting, imposing, or recovering any other dues, or stipen-
 dends, or emoluments whatever, to be paid to or for the
 use of any minister, priest, ecclesiastic, or teacher, ac-
 cording to any religious form or mode of worship, in re-
 spect of his said office or function; or shall in any manner
 relate to or affect the establishment or discipline of the
 church of England, amongst the ministers and members
 thereof within the said provinces; or shall in any manner
 relate to or affect the King's prerogative touching the

granting of waste lands of the crown within the said provinces; every such act or acts shall, previous to any declaration or signification of the King's assent thereto, be laid before both houses of parliament in Great Britain; and that it shall not be lawful for his Majesty, his heirs or successors, to signify his or their assent to any such act or acts, until thirty days after the same shall have been laid before the said houses, or to assent to any such act or acts, in case either house of parliament shall, within the said thirty days, address his Majesty, his heirs or successors, to withhold his or their assent from such act or acts; and that no such act shall be valid or effectual to any of the said purposes, within either of the said provinces, unless the legislative council and assembly of such province shall, in the session in which the same shall have been passed by them, have presented to the governor, lieutenant-governor, or person administering the government of such province, an address or addresses, specifying that such act contains provisions for some of the said purposes hereinbefore specially described, and desiring that, in order to give effect to the same, such act should be transmitted to England without delay, for the purpose of being laid before parliament previous to the signification of his Majesty's assent thereto.

XLIII. *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; 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 successors, by and with the advice and consent of the legislative council and assembly of the province.

XLIV. *And be it further enacted by the authority aforesaid,* That if any person or persons holding any lands in the said province of Upper-Canada, by virtue of any certificate of occupation derived under the authority of the governor and council of the province of Quebec, and having power and authority to alienate the same, shall at any time, from and after the commencement of this act, surrender the same into the hands of his Majesty, his heirs or successors, by petition to the governor or lieutenant-governor, or person administering the government of the said province, setting forth that he, she or they, is or are desirous of holding the same in free and common soccage, such governor or lieutenant-governor, or person administering the government, shall thereupon cause a fresh grant to be made to such person or persons of such land, to be holden in free and common soccage.

XLV. *Provided nevertheless and be it further enacted by the authority aforesaid.* That such surrender and grant shall not avoid or bar any right or title to any such lands so surrendered, or any interest in the same, to which any person or persons, other than the person or persons surrendering the same, shall have been entitled, either in possession, remainder, or reversion, or otherwise, at the time of such surrender; but that every such surrender and grant shall be made subject to every such right, title and interest, and that every such right, title or interest, shall be as valid and effectual as if such surrender and grant had never been made.

XLVI. And whereas, by an act passed in the eighteenth year of the reign of his present Majesty, intituled, "An Act for removing all doubts and apprehensions concerning taxation by the parliament of Great Britain, in any of the colonies, provinces and plantations in North America and the West Indies; and for repealing so much of an act, made in the seventh year of the reign of his present Majesty, as imposes a duty on tea imported from great Britain into any colony or plantation in America, or relates thereto," it has been declared, "That the King and Parliament of Great Britain will not impose any duty,

tax or assessment whatever, payable in any of his Majesty's colonies, provinces and plantations in North America or the West Indies, except only such duties as it may be expedient to impose for the regulation of commerce, the net produce of such duties to be always paid and applied to and for the use of the colony, province or plantation in which the same shall be respectively levied in such manner as other duties collected by the authority of the respective General Courts or General Assemblies of such colonies, provinces or plantations, are ordinarily paid and applied:" And whereas it is necessary for the general benefit of the British Empire, that such power of regulation of commerce should continue to be exercised by his Majesty, his heirs or successors, and the Parliament of Great Britain, subject nevertheless to the condition herein-before recited, with respect to the application of any duties which may be imposed for that purpose: Be it therefore enacted by the authority aforesaid, 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 to 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 prevent or obstruct the execution thereof.

XLVII. *Provided always, and be it enacted by the authority aforesaid,* That the net produce of all duties which shall be so imposed, shall at all times hereafter be ap-

plied to and for the use of each of the said provinces respectively, and in such manner only 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.

XLVIII. And whereas, by reason of the distance of the said provinces from this country, and of the change to be made by this act in the government thereof, it may be necessary that there should be some interval of time between the notification of this Act to the said provinces respectively, and the day of its commencement within the said provinces respectively; Be it therefore enacted, by the authority aforesaid, That it shall and may be lawful for his Majesty, with the advice of his Privy Council, to fix and declare, or to authorize the Governor or Lieutenant-Governor of the province of Quebec, or the person administering the government there, to fix and declare the day of the commencement of this Act within the said provinces respectively, provided that such day shall not be later than the thirty-first day of December, in the year of our Lord one thousand seven hundred and ninety-one.

XLIX. *And be it further enacted by the authority aforesaid,* That the time to be fixed by his Majesty, his heirs or successors, or under his or their authority, by the governor, lieutenant governor, or person administering the government in each of the said provinces respectively, for issuing the writs of summons and election, and calling together the legislative councils and assemblies of each of the said provinces respectively, shall not be later than the thirty-first day of December, in the year of our Lord one thousand seven hundred and ninety-two.

L. *Provided always, and be it further enacted by the authority aforesaid,* That during such interval as may happen between the commencement of this act, within the said provinces respectively, and the first meeting of the legislative council and assembly of each of the said provinces respectively, it shall and may be lawful for the governor, or lieutenant governor of such province, or for the person administering the government therein, with the consent of the

major part of such executive council as shall be appointed by his Majesty for the affairs of such province, to make temporary laws and ordinances for the good government, peace, and welfare of such province, in the same manner, and under the same restrictions, as such laws or ordinances might have been made by the council for the affairs of the Province of Quebec, constituted by virtue of the above mentioned act of the fourteenth year of the reign of his present Majesty ; and that such temporary laws or ordinances shall be valid and binding within such province, until the expiration of six months after the legislative council and assembly of such province shall have been first assembled by virtue of and under the authority of this act ; subject nevertheless to be sooner repealed or varied by any law or laws which may be made by his Majesty, his heirs or successors, by and with the advice and consent of the said legislative council and assembly.

CONSTITUTION
OF
UPPER CANADA,

INTRODUCED, DEBATED AND SETTLED, IN THE BRITISH
HOUSE OF COMMONS, IN 1791.

Friday, 4th March.

MR. CHANCELLOR PITT moved, "That His Majesty's Message concerning the New Constitution for Quebec might be read." It was read accordingly.

"GEORGE R.

"His Majesty thinks it proper to acquaint the House of Commons, that it appears to his Majesty that it would be for the benefit of his Majesty's subjects in the Province of Quebec, that the same should be divided into two separate provinces, to be called the Province of Upper Canada and the Province of Lower Canada; and that it is accordingly his Majesty's intention to divide the same, whenever his Majesty shall be enabled by act of parliament to establish the necessary regulations for the government of the said provinces. His Majesty therefore recommends this object to the consideration of this House.

"His Majesty also recommends it to this House to consider of such provisions as may be necessary to enable his Majesty to make a permanent appropriation of lands in the said provinces, for the support and maintenance of a Protestant clergy within the same, in proportion to such lands as have been already granted within the same by his Majesty; and it is his Majesty's desire that such provision may be made, with respect to all future grants of land within the said provinces respectively, as may best conduce to the same object, in proportion to such increase as may happen in the population and cultivation of the said prov-

inces; and for this purpose his Majesty consents that such provisions or regulations may be made by this House, respecting all future grants of land to be made by his Majesty within the said provinces, as this House shall think fit."

Mr. Chancellor Pitt then moved, "That the act of the 14th of his Majesty, respecting the said province, be read;" and the title being read, *pro forma*, he observed that the purport of his motion was to repeal part of the above act, and to introduce new regulations for the future government of the province. Feeling the importance of the subject, he should have been desirous of stating fully to the House the grounds and the principles on which he meant to proceed in forming a constitution for a valuable appendage to the British dominion, which he trusted would contribute to its future prosperity; but as it was not likely that any opposition would arise against bringing in a bill for this purpose, and as explanation would come with more propriety when the bill was before the House, he should state only in a few words the outlines of a plan, unless questions were asked, or explanations demanded, in the first instance. The bill which he meant to propose was founded, in the first place, on the recommendation contained in his Majesty's message to divide the province into two governments. This division, it was hoped, would put an end to the competition between the old French inhabitants and the new settlers from Britain or British colonies, which had occasioned the disputes and uncertainty respecting law, and other disputes of less importance, by which the province had been so long distracted. This division, it was hoped, could be made in such a manner as to give each a great majority in their own particular part, although it could not be expected to draw a line of complete separation. Any inconveniences to be apprehended from ancient Canadians being included in the one, or British settlers in the other, would be cured by the establishment of a local legislator in each.

It was for this purpose that he should first propose, in imitation of the constitution of the mother-country, a Council and House of Assembly for each; the Assembly to be

constituted in the usual manner, and the members of the Council to be members for life, reserving power to his Majesty to annex to certain honours an hereditary right of sitting in the Council. All laws and ordinances of the province were to remain in force till altered by this new legislature. They would consequently retain as much of the law of England as they now had, and chose to keep; and they would possess the means of introducing as much more as they might think convenient. THE HABEUS CORPUS ACT WAS ALREADY A LAW, BY AN ORDINANCE OF THE PROVINCE, AND THIS INVALUABLE RIGHT WAS TO BE CONTINUED AS A FUNDAMENTAL PRINCIPLE OF THE CONSTITUTION.

These were the most important points; but there were others to which the attention of the House was called by his Majesty's Message. It was meant to make provision for a Protestant clergy in both divisions, by an allotment of lands in proportion to those already granted; and as in one of them the majority of the inhabitants would be Catholics, it was meant to provide that it shall not be lawful for his Majesty in future to assent to grants of lands for this purpose, under the sanction of the Council and Assembly of either division, without first submitting them to the consideration of the British parliament. The tenures which had been the subject of dispute, were to be settled in Lower Canada by the local legislature; in Upper Canada the settlers being mostly British, or British colonists, the tenures were to be soccage tenures; and in order to prevent any such dispute as had been the cause of separating the thirteen states from the mother country, it was provided that the British parliament should impose no taxes but such as were necessary for the regulation of trade and commerce; and to guard against the abuse of this power, such taxes were to be levied and to be disposed by the legislature of each division. As the constitution which he had thus briefly opened could not be in a state of activity for some time, his Majesty was to be empowered to make temporary regulations, to be in force for six months after the establishment of the new constitution.

Mr. Fox declared it impossible to express an entire approbation or disapprobation of a bill which the House had not yet seen; but he did not hesitate to say, that if a local legislature was liberally formed, that circumstances would incline him much to overlook defects in the other regulations, because he was convinced that the only means of retaining distant colonies with advantage, was to enable them to govern themselves.

ORDERED, that leave be given to bring in a bill to repeal certain provisions of the act of the 14th of his Majesty, respecting the government of Canada; and to make other provisions, &c.

Friday, 8th April.

The order of the day for taking the report of the Quebec bill into further consideration having been read,

Mr Hussey begged leave to inform the House that he had a petition to present, from a number of very respectable persons, against the bill in question. They had conceived that it was likely to prove prejudicial to their trade.

The petition was brought up and received. It contained the prayer of several merchants, warehousemen, and manufacturers of Quebec, that the bill might not pass into a law, inasmuch as after having duly weighed the consequences of it, they feared that it would be attended with great injury, particularly to their trade and commerce.

The petition was ordered to lie on the table. *The Speaker* then put the question, "That this report be now taken into further consideration."

Mr. Hussey moved, "That the bill be recommitted."

Mr. Fox remarked, that the bill contained a variety of clauses of the utmost importance, not only with respect to the country to which they immediately related, but to Great Britain. Many of these clauses appeared to be very exceptionable, and such as he could by no means subscribe to. The bill proposed to give two Assemblies to the two provinces, and thus far it met with his approbation; but the number of persons to whom these Assemblies were to consist deserved particular attention. Although

it might be perfectly true that a country three or four times as large as Great Britain ought to have representatives three or four times as numerous, yet it was not fit to say that a small country should have an Assembly proportionally small.—The great object in the institution of all popular Assemblies was that the people should be fully and freely represented; and that the representative body should have all the virtues and vices incident to such assemblies. But when they made an assembly to consist of 16 or 30 persons, they seemed to him to give a free constitution in appearance, when, in fact, they withheld it. In Great Britain we had a septennial bill; but the goodness of it had been considered doubtful, at least, even by many of those who took a lead in the present bill. The right honorable gentleman (Mr. Pitt) had himself supported a vote for the repeal of that act. He did not now mean to discuss its merits; but a main ground on which it had been thought defensible was, that a general election in this country was attended with a variety of inconveniences. That general elections in Great Britain were attended with several inconveniences could not be doubted; but when they came to a country so different in circumstances as Canada, and where elections, for many years at least, were not likely to be attended with the consequences which they dreaded, why they should make such assemblies, not annual or triennial, but septennial, was beyond his comprehension. A septennial bill did not apply to many of the most respectable persons in that country: they might be persons engaged in trade, and if chosen representatives for seven years, they might not be in a situation to attend during all that period: their affairs might call them to England, or many other circumstances might arise, effectually to prevent them from attending the service of their country. But although it might be inconvenient for such persons to attend such assembly for the term of seven years, they might be able to give their attendance for one, or even for three years, without any danger or inconvenience to their commercial concerns. By a septennial bill the country of Canada might be deprived of many of the few re-

presentatives that were allowed by the bill. If it should be said that this objection applied to Great Britain, he completely denied it; because, although there were persons engaged in trade in the British House of Commons, and many of them very worthy members, yet they were comparatively few, and therefore he should think that, from the situation of Canada, annual and triennial parliaments would be much preferable to septennial. Of the qualification of electors he felt it impossible to approve. In England a freehold of forty shillings was sufficient; five pounds were necessary in Canada. Perhaps it might be said, that when this was fairly considered, it would make no material difference, and this he suspected to be the case; but granting that it did not, when we were giving to the world by this bill our notions of the principles of election, we should not hold out that the qualifications in Great Britain were lower than they ought to be. The qualifications on a house were still higher, he believed ten pounds. He thought that the whole of this constitution was an attempt to undermine and contradict the professed purport of the bill,—the introduction of a popular government into Canada. But although this was the case with respect to the two Assemblies, although they were to consist of so inconsiderable a number of members, the Legislative Councils in both provinces were unlimited as to numbers. They might consist of any number whatever, at the will of the governor. Instead of being hereditary councils, or councils chosen by electors, as was the case in some of the colonies in the West Indies, or chosen by the King, they were compounded of the other two. As to the points of hereditary powers and hereditary honours, to say that they were good, or that they were not good, as a general proposition, was not easily maintained; but he saw nothing so good in hereditary powers and honours as to incline us to introduce them into a country where they were unknown, and by such means distinguish Canada from all the colonies in the West Indies. In countries where they made a part of the constitution, few he did not think it wise to destroy them; but to give birth

and life to such principles in countries where they did not exist appeared to him to be exceedingly unwise. He could not account for it, unless it was that Canada, having been formerly a French colony, there might be an opportunity of reviving those titles of honour, the extinction of which some gentlemen so much deplored, and to revive in the west that spirit of chivalry which had fallen into disgrace in a neighbouring country. He thought these powers and honours wholly unnecessary, and tending rather to make a new constitution worse than better. If the Council were wholly hereditary, he should equally object to it; it would only add to the power of the king and the governor; for a council so constituted would only be the tool of the governor, as the governor himself would only be the tool and engine of the king. He did not clearly comprehend the provision which the bill made for the Protestant clergy. By the Protestant clergy he supposed to be understood not only the clergy of the Church of England, but all descriptions of Protestants. He totally disapproved of the clause which enacts, "That whenever the King shall make grants of lands, one seventh part of those lands shall be appropriated to the Protestant clergy." He had two objections to these regulations, both of them in his opinion of great weight. In all grants of land made in that country to Catholics, and a majority of the inhabitants were of that persuasion, one-seventh part of those grants was to be appropriated to the Protestant clergy, although they might not have any cure of souls, or any congregations to instruct. One-tenth part of the produce of this country was assigned, and this, perhaps, was more than one-seventh of the land. He wished to deprive no clergyman of his just rights; but in settling a new constitution, and laying down new principles, to enact that the clergy should have one-seventh of all grants, he must confess appeared to him an absurd doctrine. If they were all of the Church of England, this would not reconcile him to the measure. It might be asked, why should they not have as much as the Church of England? In this country we had that

which some condemned, and others praised: we had a kind of shew, but still a proportion must be observed. The greatest part of these Protestant clergy were not of the Church of England; they were chiefly what are called Protestant dissenters in this country. They were, therefore, going to give to dissenters one-seventh part of all the lands in the province. Was this the proportion, either in Scotland or in any other country where those religious principles were professed? It was not the proportion either in Scotland, or in any other ecclesiastical country in Europe. We were therefore, by this bill, making a sort of provision for the Protestant clergy of Canada, which was unknown to them in every part of Europe; a provision, in his apprehension, which would rather tend to corrupt than to benefit them. The regulations were likewise in part obscure; because, after it had stated that one-seventh of the land should always be set aside for the Protestant clergy, it did not state how it should be applied. The bill was likewise exceptionable, as far as it related to the regulation of appeals. Suitors, were, in the first instance, to carry their complaints before the courts of common law in Canada: if dissatisfied with the decisions of those courts, they might appeal to the governor and council: if dissatisfied with their judgment, they might then appeal to the king in council; and next to the House of Lords. Now, if the House of Lords was a better court, which he believed it to be, than the king in council, why compel them to appeal to the king in council before they could come to the House of Lords? Why not apply to the House of Lords at once? This could answer no possible purpose, but to render lawsuits exceedingly expensive, and exceedingly vexatious. Those were the principal objections he had to this bill. There had not yet been a word said in explanation of it, with all its variety of clauses and regulations. It went through the House silently, without one observation; it also went through the Committee only in form, but not in substance. Of all the points of the bill, that which struck him the most forcibly was, the division of the province of Cana-

da. It had been urged, that by such means we could separate the English and French inhabitants of the province; that we could distinguish who were originally French, from those of English origin. But was this to be desired? Was it not rather to be avoided? Was it agreeable to general political expediency? The most desirable circumstance was, that the French and English inhabitants of Canada should unite and coalesce, as it were into one body; and that the different distinctions of the people might be extinguished for ever. If this had been the object in view, the English laws might soon have prevailed universally throughout Canada; not from force, but from choice, and conviction of their superiority. He had no doubt that, on a fair trial, they would be found free from all objection. The inhabitants of Canada had not the laws of France. The commercial code was never established there: they stood upon the exceedingly inconvenient *custom of Paris*. He wished the people of that country to adopt the English laws from choice, and not from force; and he did not think the division of the province the most likely means to bring about this desirable end. In his opinion, this bill was also objectionable as far as it related to the trial by jury, and the habeas corpus act, which the Canadians were said to enjoy by an ordinance of the province. It was stated by one of the counsel at the bar, that either the ordinance, which gave the inhabitants the trial by jury, or that which afforded them the benefit of the habeas corpus, would expire before this bill could pass into a law. If this were true it was an objection to the bill, and ought to be remedied. He trusted that the House would also seriously consider the particular situation of Canada. It was not to be compared to the West Indies: it was a country of a different nature: it did not consist of a few white inhabitants and a number of slaves; but it was a country of great growing population, which had increased very much, and which he hoped would increase much more. It was a country capable of enjoying as much political freedom, in its utmost extent, as any other country on the face of the

globe. This country was situated near the colonies of North America: all their animosity and bitterness on the quarrel between them and Great Britain was now over; and he believed that there were very few people among those colonies who would not be ready to admit every person belonging to this country into a participation of all their privileges, and would receive them with open arms. The governments now established in North America were, in his opinion, the best adapted to the situation of the people who lived under them of any of the governments of the ancient or modern world; and when we had a colony like this, capable of freedom; and capable of a great increase of people, it was material that the inhabitants should have nothing to look to among their neighbours to excite their envy. Canada must be preserved in its adherence to Great Britain by the choice of its inhabitants, and it could not possibly be kept by any other means. But it must be felt by the inhabitants that their situation was not worse than that of their neighbours. He wished them to be in such a situation as to have nothing to envy in any part of the king's dominions. But this would never prove the case under a bill which held out to them something like the shadow of the British constitution, but denied them the substance.— Where the principles of liberty were gaining ground, which would increase in consequence of the general diffusion of literature and knowledge in the world, they should have a government as agreeable to the genuine principles of freedom as was consistent with the nature of circumstances. He did not think that the government intended to be established by the bill would prove such a government; and this was his principal motive for opposing it. The Legislative Councils ought to be totally free, and repeatedly chosen, in a manner as much independent of the governor as the nature of a colony would admit. Those, he conceived, would be the best; but if not, they should have their seats for life; be appointed by the King; consist of a limited number; and possess no hereditary honours. Those honours might be very proper, and of great utility, in countries where they had existed by long custom; but, in his

opinion, they were not fit to be introduced where they had no original existence; where there was no particular reason for introducing them, arising from the nature of the country, its extent, its state of improvement, or its peculiar customs; where instead of attracting respect, they might excite envy; and as but few could enjoy them, those who did not might be induced to form an unfavorable comparison between their own situation and that of their neighbors, among whom no such distinctions were known.— Even whilst he felt himself perfectly desirous of establishing a permanent provision for the clergy, he could not think of making for them a provision so considerable as was unknown in any country of Europe, where the species of religion to be provided for prevailed. It was upon these grounds which he had stated, that he felt himself justified in seconding the motion of his honourable friend (Mr. Hussey.)

Mr. Chancellor Pitt said that, although he did not feel himself inclined to oppose the motion, he could not avoid expressing his regret, that the clauses which were objected against had not attracted the attention of gentlemen on an earlier day: at any rate, it was not owing to any fault of his that the bill had not been fully discussed in the former stages of it; but considering it, as he did, to be of very great importance to form a system for the government of a colony, which both in point of duty and interest they were bound to do, he professed himself to be extremely anxious to court all opportunity of receiving every species of observation and information which could be obtained upon the subject; and therefore he acquiesced in the recommitment of the bill. As to the first objection of the right honourable gentleman against the manner of forming the Assemblies, he must confess it was certainly his wish, that the Assemblies in both provinces might prove numerous enough to answer all the purposes of a popular assembly, as far as the circumstances of the two provinces were properly qualified for that situation. But he doubted very much, according to the present state of the colony, and the population in that province, whether the assemblies could

be rendered more numerous than was proposed. The House would however have the goodness to consider, that there was not the smallest idea that the assemblies should not be increased, when the population of the province increased. The assemblies, undoubtedly, ought to be extended with the growing population of Canada. He believed that a very numerous representative body was in no respect desirable; and they ought always to bear some proportion to the circumstances of the country. With regard to the duration of the assemblies, a House of assembly for seven years would surely prove better than for a shorter period. In the other colonies, the Council and assembly were constituted in such a manner, as to invest the governor with more influence than would be given to him by the present bill. If the assembly was not properly constituted at first, it must be recollected that it was subject to revision, and that it might easily afterwards be altered. *There was nothing to hinder the parliament of Great Britain from correcting any point which might hereafter appear to want correction.* As to the Legislative Council, he totally and entirely differed from the right honourable gentleman, who thought it would be better if it were to be an elective council, in the manner which had been lately established in America. He did not think it was the business of that House to discuss what was the best constitution of government for France, for America, or for any foreign country: and this had been a reason why he had always declined making any remarks concerning the affairs of France. Whether France had chosen well for itself, or whether America had chosen well for itself, he had no difficulty in declaring that the English constitution which we had chosen was in its principle the best for us; better than any of those republican principles. He said he did not mean to use the word republican as an obnoxious term, but none of those republican principles which the right honourable gentleman had described as the consequence of a greater extension of learning and light, and which, he said, shone in the constitution of France and America, could improve the constitution of Britain. They did not appear to be such as, if adopted

by us or any of our colonies, would be any improvement of our constitution, but the reverse. An aristocratical principle being one part of our mixed Government, he thought it proper there should be such a council in Canada as was provided for by the bill, and which might answer to that part of the British constitution which composed the other House of Parliament. With respect to the Protestant clergy, he wished to make an adequate provision for them, so that they might be supported in as respectable a situation as possible. The giving them a certain portion of land was the most eligible mode of supporting the clergy which had occurred to his mind; and as to the proportion of one-seventh, whether it was or was not too much, if it turned out to be too much in future, *the state of the land appropriated to the clergy, like every thing else provided by the bill, was subject to revision.* At present he imagined that no man could think that one-seventh part was unreasonable: and it was to be recollected that one-seventh had almost grown into an established custom where land had been given in commutation for tithes. One-tenth of the produce which took place in England must be confessed to be far greater provision than one-seventh of land. As to the division of the province, it was in a great measure the fundamental part of the bill; and he had no scruple to declare, that he considered it as the most material and essential part of it. He agreed with the right honourable gentleman in thinking it extremely desirable that the inhabitants of Canada should be united, and led universally to prefer the English constitution and the English laws. Dividing the province he considered to be the most likely means to effect this purpose, since by so doing, the French subjects would be sensible that the British government had no intention of forcing the English laws upon them, and therefore they would, with more facility, look at the operation and effect of those laws, compare them with the operation and effect of their own, and probably in time adopt them from conviction. This he thought was more likely to prove the case, than if the

British government were all at once to subject the whole inhabitants to the constitution and laws of this country. Experience would teach them that the English laws were best; and he admitted that they ought to be governed to their satisfaction. If the province had not been divided, there would have been only one House of Assembly; and there being two parties, if those parties had been equal, or nearly equal, in the Assembly, it would have been the source of perpetual faction: if one of the parties had been much stronger than the other, the other might justly have complained that they were oppressed. It was on that persuasion that the division of the province was conceived to be the most likely way of attaining every desirable end.—The bill re-committed.

Friday, 6th May,

The House resolved itself into a Committee on the Quebec Bill, Mr. Hobart in the chair.

When the chairman put the question, that the clauses of the bill be read paragraph by paragraph.

Mr Burke said, it might be a question whether the chairman should be directed to leave the chair, or whether the bill should be debated clause by clause. He should therefore speak to the general principle. The House, by the bill, was going to do a high and important act; to appoint a legislature for a distant people, and to affirm a legal authority in itself to exercise this high power. The first consideration, then, was, the competency or incompetency of the House to do such an act; for if it was not competent, the beneficence of the intention, or the goodness of the constitution they were about to give, would avail nothing. A body of rights, commonly called the rights of man, imported from a neighbouring country, was lately set up by some persons in this, as paramount to all other rights. This new code was, "That all men are by nature free, equal in respect of rights, and continue so in society." If this code were admitted, then the power of the House could extend no further than to call together all the inhabitants of Canada, and recom-

mend to them the free choice of a constitution for themselves. On what then was the House to found its competence? There was another code, on which men of all ages had acted, viz. the law of nations; and on this code he thought the competence of the House must rest. This country had acquired the power of legislating for Canada, by right of conquest; and in virtue of that right, all the rights and duties of the old government had devolved on us. In the second place, came the right by the cession of the old government; and in the third, the right of possession, which we had held for about thirty years. All these, according to the law of nations, enabled us to legislate for the people of Canada, bound us to afford them an equitable government, and them to allegiance. Setting aside, then, the doctrine of the rights of man, which was never preached any where without mischief, the House was bound to give to the people of Canada the best government that their local situation, and their connexion with this country, would admit. How was this to be done? He could not refer to the experience of old governments, for that was exploded by the academies of Paris, and the clubs of London; who saw too much by the light of their new lantern, to have recourse to any other. The great examples to be considered were the constitutions of America, of France and of Great Britain. To that of America great attention, no doubt, was due, because it was of importance, that the people of Canada should have nothing to envy in the constitution of a country so near to their own. Situation and circumstances were first to be considered:—*non michi res sed rebus me submittere conor*. They were not to imitate the examples of countries that had disregarded circumstances, torn asunder the bonds of society, and even the ties of nature. In the local situation, was there any thing to give a preference to the American constitution, or in the habits of the people? Part of the province was inhabited chiefly by persons who had migrated from the United States. These men had fled from the blessings of American government, and there was no danger of their going back.

There might be many causes of emigration not connected with government, such as a more fertile soil, and more genial climate; but they had forsaken all the advantages of a more fertile soil, and more southern latitude, for the bleak and barren regions of Canada*. There was no danger of there being so much shocked by the introduction of the British constitution, as to return. The people of America had, he believed, formed a constitution as well adapted to their circumstances as they could. But, compared with the French, they had a certain quality of phlegm, of old English good nature, that fitted them better for a republican government. They had also a republican education: their former internal government was republican, and the principles and vices of it were restrained by the beneficence of an over-ruling monarchy in this country. The formation of their constitution was preceded by a long war; in the course of which, by military discipline, they learned order, submission to command, and a regard for great men. They learned what, if it was allowable in so enlightened an age as the present to allude to antiquity, a king of Sparta had said was the great wisdom to be learned in his country—to command, and to obey. They were trained to government by war, not by plots, murders and assassinations. In the next place, they had not the materials of monarchy or aristocracy among them. They did not however set up the absurdity, that the nation should govern the nation: that Prince Prettyman should govern Prince Prettyman; but formed their government, as near as they could, according to the model of the British constitution. Yet he did not say, give this constitution to a British colony; because, if the imitation of the British constitution was so good, why not give them the thing itself? as he who professed to sing like a nightingale was told, by the person to whom he offered his talents, that he could hear the nightingale herself. Hence, he thought the greater number of inhabitants of that description would have no ob-

* Here was a very great mistake.

jection to the British constitution; and the British inhabitants were probably not so much corrupted by the clubs of London, and the academies of Paris, as to think any form of government preferable to an old one. The ancient Canadians were next to be considered, and being the most numerous, they were entitled to the greatest attention. Were we to give them the French constitution—a constitution, founded on principles diametrically opposite to our's, that could not assimilate with it in a single point, as different from it as wisdom from folly, as vice from virtue, as the most opposite extremes in nature—a constitution founded on what was called the rights of man? But let this constitution be examined by its practical effects in the French West India colonies. These, notwithstanding three disastrous wars, were most happy and flourishing till they heard of the rights of men. As soon as this system arrived among them, Pandora's box, replete with every mortal evil, seemed to fly open, hell itself to yawn, and every demon of mischief to overspread the face of the earth. Blacks rose against whites, whites against blacks, and each against one another, in murderous hostility; subordination was destroyed, the bonds of society torn asunder, and each man seemed to thirst for the blood of his neighbour.—

“ Black spirits and white,
 “ Blue spirits and grey,
 “ Mingle, mingle, mingle.”

All was toil and trouble, discord and blood, from the moment that this doctrine was promulgated among them; and he varily believed, that wherever the rights of men were preached up, such ever had been, and ever would be, the consequences. France, who had generously sent them the precious gift of the rights of men, did not like this image of herself reflected in her child, and sent out a body of troops, well seasoned too with the rights of men, to restore order and obedience. These troops, as soon as they arrived, instructed as they were in the principle of government, felt themselves bound to become

parties in the general rebellion, and like most of their brethren at home, began asserting their rights by cutting off the head of their general. Mr. Burke read the late accounts from St. Domingo, delivered to the National Assembly, and added, that by way of equivalent for this information, M. Barnave announced the return of the members of the late Colonial Assembly, to the true principles of the constitution. The members of an assembly no longer in existence, had bequeathed their return to the principles of the constitution, as their last act and deed as a body, and this was an equivalent for all the horrors occasioned by troops joining in a rebellion, which they were sent to quell! Ought this example to induce us to send to our colonies a cargo of the rights of men? As soon would he send them a bale of infected cotton from Marseilles. If we had so little regard for any of our colonies, as to give them that, for the sake of an experiment, which we would not take to ourselves—if we were for *periculum in corpore vili*, let us think how it would operate at home. Let us consider the effects of the French constitution on France, a constitution on which he looked not with approbation, but with horror, as involving every principle to be detested, and pregnant with every consequence to be dreaded and abominated, and the use which they proposed to make of it. They had told us themselves; and their partisans in this country, the Revolution and Unitarian societies, had told us that they had erected a great monument for the instruction of mankind. This was certainly done not without a view to imitation. Let us see what we were called on to imitate; what were the last acts of the contrivers of this glorious form of government. There were here no doubts of the facts, for they were related by the authors; and there were cases in which the falsest of men might be believed, namely, when they gave a true character of themselves. When they had got a constitution moulded according to the newest pattern of the rights of man; when they had got a king, who was every thing in name, and nothing in reality, over whom as a state prisoner the Marquis de la Fayette, the

chief jailor of Paris, mounted guard: he was desirous of taking a little fresh air, and a little recreation in the country, and they granted him a day rule to go five miles from Paris. But then recollecting, as it is the quality of the rights of men never to be secure, that this temporary release from imprisonment might afford the means of escape, they surrounded his carriage, commanded him to stop, and one of the grenadiers of his faithful and loyal body guard presented his bayonet to the breast of the fore-horse.—

M. Baker here called *Mr. Burke* to order. He said he had sat many years in parliament, and no man entertained a higher opinion of the integrity and abilities of the right honourable gentleman than he did. His eloquence was great, and his powers on many occasions had been irresistible. His abilities might enable him to involve the House in unnecessary altercation: this, perhaps, the right honourable gentleman might do unwittingly for others, and not to serve any purpose of his own: he himself perhaps might be the unwilling instrument, and might involve the country itself in a contest with another nation: he could not, therefore, sit any longer without calling him to order; and he should insist upon every person adhering to the question, and that the chairman state what the question before the Committee was. He said that he had no objection, on any occasion, when questions of this sort came properly before the House, fairly and fully, openly and explicitly, to state his opinion. He had called the right honourable gentleman to order, merely for the sake of the House, and for the peace of the country, and he had a right to say, that the right honourable gentleman's conduct was inconsistent with the order of the debate, and the regularity of the proceedings of that House.

The Chairman stated that the question before the Committee was, whether the clauses of the Quebec bill should be read paragraph by paragraph.

Mr. Fox now rose and said that he conceived his right honourable friend could hardly be said to be out of order. It seemed that this was a day of privilege, when any body might stand up, select his mark, and abuse any government

he pleased, whether it had any reference or not to the point in question. Although nobody had said a word on the subject of the French revolution, his right honourable friend had gotten up and abused that event. He might have treated the Gentoo government, or that of China, or the government of Turkey, or the laws of Confucius, precisely in the same manner, and with equal appositeness to the question before the House. Every gentleman had a right that day to abuse the government of every country as much as he pleased and in as gross terms as he thought proper, or any government, either ancient or modern, with his right honourable friend.

Mr. Burke replied, that the honourable gentleman's conclusion was very ill drawn from his premises. If he was disorderly, he was sorry for it. His right honourable friend had also accused him of abusing governments in very gross terms. He conceived his right honourable friend meant to abuse him in unqualified terms. He had called him to an account for the decency and propriety of his expressions.—*Mr. Burke* said he had been accused of creating dissension among nations. He never thought the National Assembly was imitated so well as in the debate then going on.—*M. Gazales* could never utter a single sentence in that assembly without a roar.

Mr. M. A. Taylor spoke to order. He thought the discussion was carried forward to no good purpose. He said he revered and respected the character of his friend. They came to argue the question of the Quebec Bill: they were not discussing the English constitution, but whether, in fact they ought to give the British constitution to Canada; and if they ought to give it, whether the present bill gave it. When he should be permitted to give his opinion, he should endeavour to shew that the bill did not give our constitution to that country. He said he must insist on the rule of order. They were then discussing whether it would be right to give Canada our own constitution; and, secondly, if it were right to give it, whether that bill had given it.

Mr. Burke submitted to the Committee whether he was

or was not in order. The question was whether the bill was then to be read paragraph by paragraph. It was in a fair way in reasoning to see what experiments had been made on other countries. His right honourable friend had said that nobody had the least idea of borrowing any thing of the French revolution in the bill. Mr. Burke asked how his right honourable friend knew that? For any thing he knew, he (Mr. Burke) himself, might mean to insert some clause. If he were to be stopped, he asked why was it not in the beginning, and before he had fully declared the French revolution to be the work of folly and not of wisdom? It was the work of vice, and not of virtue. If the Committee would permit him to go on, he should endeavour to meet the most captious ideas of order. He declared he would not suffer friend nor foe to come between his assertion and his argument, and thereby to make him a railer. His honourable friend had said that although he did not do it himself, he was probably, though unwittingly, the instrument of some other people's folly. He declared he had not brought forward this business from any views of his own. If they did not suffer the affair to be discussed; if they shewed a reluctance to it—

Here *Mr. St. John* called Mr. Burke to order, and said the discussion could not be brought forward with any regard to order. He really asked it as a favour of his right honourable friend, that he would fix a day on which he would bring on the discussion of the French constitution. He said he knew the English constitution; he admired it; he daily felt the blessings of it. He should be extremely sorry if any person in England should endeavour to persuade any man or body of men to alter the constitution of the country. If his right honourable friend had made the French revolution the subject of a distinct discussion, that would be bringing it on in a fair way. If his friend felt the mischiefs of the French constitution applicable to the English constitution, let him appoint a day for that discussion. This he requested of his right honourable friend as a particular favour.

Mr. Martin was of opinion that the right honourable

gentleman (Mr. Burke) was not irregular in speaking of the French constitution. He had formerly heard a right honourable gentleman say that the public had a right to the sentiments of public men on public measures, and therefore he hoped the right honourable gentleman would be permitted to go on.

Mr. Burke in reply said, he meant to take the sense of the Committee whether or not he was in order. He declared, he had not made any reflection, nor did he mean any on any one gentleman whatever. He was as fully convinced as he could be that no one gentleman in that House wanted to alter the constitution of England. The reason why, on the first regular opportunity that presented itself, he was anxious to make his reflections on the subject was, because it was a matter of great public concern, and occasion called for his observations. As long as they held to the constitution, he should think it his duty to act with them; but he would not be the slave of any whim that might arise. On the contrary, he thought it his duty not to give any countenance to certain doctrines which were supposed to exist in this country, and which were intended fundamentally to subvert the constitution. They ought to consider well what they were doing.

Here there was a loud call of "Order!—Order!" and "Go on!—Go on!"

Mr. Burke said, there was such an enthusiasm for order that it was not easy to go on, but he was going to state what the result of the French constitution perfected was, and to shew that we ought not to adopt the principles of it. He might be asked, why state it, when no man meant to alter the English constitution? Why raise animosities where none existed? and why endeavour to stir up passions where all was quiet before? He confessed a thing might be orderly, and yet that it might be very improper to discuss it. Was there any reason for doing this, or did they think the country was in danger? He declared he was ready to answer that question. He was perfectly convinced that there was no immediate danger. He believed the body of the country was perfectly sound, although at-

tempts were made to take the constitution from their heads by absurd theories. He firmly believed the English constitution was enthroned in the affections of their bosoms; that they cherished it as part of their nature; and that it was as inseparable from Englishmen as their souls and their bodies. Some ministers and others had, at times, apprehended danger even from a minority; and history had shewn that in this way a constitution had been overturned. The question, he said, would be, what had they to do with the French constitution? They had no right to have recourse to the proceedings of the National Assembly, because the Government of this country had not yet recognised it. If they had, they would silence him. If the French revolutionists were to mind their own affairs, and had shewn no inclination to go abroad and to make proselytes in other countries, Mr. Burke declared, that neither he for one should have thought, nor any other member of the House had any right to meddle with them. If they were not as much disposed to gain proselytes as Lewis XIV. had been to make conquests, he should have thought it very improper and indiscreet to have touched on the subject. He would quote the National Assembly itself, and a correspondent of his at Paris, who declared that he appeared as the ambassador of the whole human race—

Mr. Anstruther, interrupting Mr. Burke, here spoke to order. He said his right honourable friend had transgressed something of what he looked upon to be the bounds of order in that House. It was a rule of order for members to confine themselves to the question in debate. When he stated this, he begged it to be understood, that if any minority in the country had any intentions to alter the constitution, there was no man more ready to take strong and decided measures to check that minority, and to crush that spirit than he should be—

Here *Colonel Phipps* called Mr. Anstruther to order, and said that a declaration of his attachment to the constitution, or of his gallantry in defence of it, was as much out of order as the right honourable gentleman, whom he was calling to order.

Mr. Anstruther replied, that if the honourable gentleman had condescended to hear him out, before he had called him to order, he would have saved himself some trouble. The honourable gentleman would recollect that he had said he had heard of a design in this country to overturn the constitution. If such a design really existed, it was the duty of the right honourable gentleman, who had stated it, to bring forward some specific measure on the subject. It was disorderly in the right honourable gentleman to thrust that into a debate on the Quebec bill. If such a design really existed, it could not be debated on that day consistently with regularity. The question before the Committee was, whether the bill should be read, paragraph by paragraph. The right honourable gentleman had said, how did gentlemen know but that somebody, perhaps that right honourable gentleman himself, meant to propose something of the French revolution in the bill. ~~Let them stop then~~ till a clause or clauses of that sort were proposed; let them be silent till something like the principles of the French constitution appeared in the bill; and then any gentleman would have a right to argue the subject; but till then all the debate was foreign to the question. He should say nothing to the danger, how far it was proper, how far it was decent, how far it was prudent, and how far it was wise. Gentlemen were discussing the French constitution, without any question before them. The question was the Quebec constitution. The principle of the Quebec bill, if it had any principle, was something like the English constitution. The French constitution, for any thing we knew, might be good for them, and might be bad for us. It was neither fit nor prudent that that should be made a question of discussion in parliament. If any intention existed in any part of the country, to introduce the constitution of France, it should not be considered under the Quebec bill, but they should appoint a day for taking the subject into consideration, to stop, crush, and quell any machination of that sort, if any such existed in any minority.

Mr. Burke said, an objection had been taken against arguing the business, on the ground, that although it might

be in order, yet the discussion might be attended with mischievous consequences. If some good were not to be obtained by it, he admitted, that it might be censurable to argue it, and prudence, he owned, was a very useful quality, and a part of every man's duty to his country. He said he had formerly observed, in the course of this most irregular debate, that the body of the country was yet untainted with this French malady. The House smiled at the expression, and Mr. Burke observed, that there might be some allusion, which might not be so proper. He hoped there was a very little minority indeed out of doors, who were disaffected with the English constitution, and who wished to put the country out of love with it, by endeavouring to fill them with admiration for another. He was asked why he did not come forward with this business as a distinct subject? He said before he did that it would be proper first to know what support he was likely to have. He must know how Government stood affected to the business, and also how the other side of the House liked it. He had sat six-and-twenty years in that House, and had never called any man to order in his life. This being a question of prudence, he thought it was the part of a wise man, and good citizen, rather to discountenance the measure, and to admonish those who might entertain those designs, of their danger, than to come immediately to the knife. He knew there was a levity natural to mankind; but when they were alarmed, they might recollect themselves, and correct those things which he should be sorry if the law were to correct for them.

(Here there was a loud cry of "Chair! chair!" and of "Hear! hear!")

Mr. Anstruther interrupted Mr. Burke, and spoke again to order.

Colonel Phipps immediately called Mr. Anstruther to order, conceiving that the right honourable gentleman was not out of order, inasmuch as he had a right to introduce into the debate every topic that was at all applicable to the question.

Mr. Fox said, he still entertained the opinion that he

had stated originally, and he had before spoken seriously, and not ironically. He thought his right honourable friend had a right to enter into the constitution of France, because he had a right to enter into the constitution of Turkey, or that of the Gentoo government, upon just the same principle. But it had been usual, when persons had gone into a question, to state which side of a question they meant to maintain. He confessed he did not know to what side of the question to apply what had been said. He did not know whether his right honourable friend was for or against reading the clauses, paragraph by paragraph. He wished he would favour the Committee with the reasons which induced him to think the bill should be read paragraph by paragraph, or not.

Mr. Grey said it was perfectly true that when a government was to be provided, strictly speaking, he understood that any member had a right to support any form of government, or to shew the evil tendency of another system which had been recommended by others. Yet he thought his right honourable friend had precluded himself from that by stating the view and purpose for which he brought forward that measure. He had said that he did not believe there was a man in that House who wished to alter the constitution; and *Mr. Grey* believed his right honourable friend was perfectly sincere in that idea: upon what ground then, and upon what principles, was it necessary to go into the French constitution? Because the right honourable gentleman knew a design existed somewhere to overturn the fundamental principles of our constitution. The right honourable gentleman had repeatedly declared that he knew such a design existed. Now if this was his ground, *Mr. Grey* wished to appeal to the right honourable gentleman himself, and to the Committee, whether that business ought to be discussed on the Canada bill; and whether that was a fit moment for such a discussion? It was a duty which that right honourable gentleman owed to his country to discover that design; and if any person was more called upon than another to wish that the discussion should be seriously taken up, it was the right

honourable gentleman opposite to him (Mr. Pitt,) who was bound to watch over the interests of the country, and to take care that no such design should be carried into effect, and therefore Mr. Grey hoped that the right honourable gentlemen would unite with him in requesting his right honourable friend to drop this business on the Canada bill, and to make a direct charge with all that gravity which the most serious mode of form would allow, for bringing it with due solemnity before the House.

Mr. Chancellor Pitt hoped the honourable gentleman would not call on him to give him an answer, till he could do it consistently with order. He doubted whether what had just been delivered by the honourable gentleman was a speech in order; and unless some question had been moved, or order made to stop the right honourable gentleman, he said he could give no answer without being guilty of an irregularity.

Mr. Grey said, it was not his custom to call for an answer from the right honourable gentleman, when he was precluded from giving that answer. He repeated it, that if any member knew of a design existing to overturn the constitution of the country, it was the duty of that member to bring it forward; and he requested the right honourable gentleman to unite with him in entreating his right honourable friend to put an end to a discussion which could not then, with propriety, come before the House. He therefore again called on the right honourable gentleman to adopt the mode of naming a day when he might bring forward the subject properly, and have it regularly discussed.

Mr. Sheridan made the same application to the right honourable gentleman opposite to him (Mr. Pitt.) He was extremely glad, he said, to find that right honourable gentleman had professed himself an advocate for order.

Mr. Chancellor Pitt called Mr. Sheridan to order. He submitted it to the Committee, whether, when the question was with respect to the order or disorder of the right honourable gentleman, the honourable gentleman (Mr. Sheridan) had a right to digress from that question?

Mr. Sheridan said, the right honourable gentleman who

was out of order, spoke to order. He said, if there were any design to overturn the constitution, it was the duty of that House, and particularly of that right honourable gentleman, to endeavour to follow up the idea, and to prepare, in a fair manly way, for the discussion. (Mr. Sheridan was going on, when he was called to order by Mr. Orde.)

Mr. Sheridan thought it his duty to interrupt the right honourable gentleman whenever he spoke on that question. He had been stating matters which he thought required a separate discussion.

Colonel Phipps called Mr. Sheridan to order.

Mr. Chancellor Pitt said, whenever any body conceived the right honourable gentleman was out of order, they got up and interrupted him. The only way to bring this to a point would be to move, that it was disorderly for him to advert to the French constitution in the present debate. He said he himself could not interrupt him, unless he was convinced he was out of order.

Mr. Burke again submitted to the committee whether he was orderly or not. He desired to proceed no further without taking the sense of the House upon it. When he spoke of a design that was formed in this country against the constitution, he said, he spoke with all the simplicity of a member of parliament. He did not imagine there were any plots, but he had a knowledge or conviction of them. *Mr. Burke* complained that his friends had not used him with candour. He said, if they reluctantly forced him to take a regular day, he should certainly do it, provided they gave him a regular parliamentary call to do it.

Mr. Grey said, he certainly did not mean to shrink from any thing he had before stated. He did not know he could call upon the right honourable gentleman to bring forward the measure, but if the right honourable gentleman knew of any design, it certainly was his duty to mention it.

Mr. Burke asserted that there was such a design, so far as could be collected from the conduct of certain persons in the country, to put us out of love with our constitution. If he was called on regularly, he should certainly make good his charge.

Mr. St. John called *Mr. Burke* to order a second time. He should think it necessary to take the opinion of the House on his conduct.

Mr. Burke said an attempt was now made, by one who had been formerly his friend, to bring down upon him the censure of the House: it was unfortunate, he said, for him sometimes to be hunted by one party, and sometimes by another. He considered himself to be unfairly treated by those gentlemen with whom he had been accustomed to act, but from whom he now received extreme violence. He should, he said, if the tumult of order abated, proceed in the account he was going to give of the horrible and nefarious consequences flowing from the French idea of the rights of men.

Lord Sheffield spoke to order. Whatever might be said by gentlemen on the other side of the House to the contrary, his lordship declared he was convinced that the right honourable gentleman was disorderly, and would move, "That dissertations on the French constitution, and to read a narrative of the transactions in France, are not regular or orderly on the question, that the clauses of the Quebec Bill be read a second time, paragraph by paragraph."

Mr. Fox seconded the motion.

Mr. Chancellor Pitt was glad of the motion, as it reduced the debate to something like order. He said he considered the introduction of a discussion on the French constitution to rest on discretion and order, which were two distinct things: he explained their difference, and said, for his own part, he would use no vehement language, nor any word that might give umbrage: not conceiving, however, that the right honourable gentleman was disorderly, he should certainly give his negative to the motion.

Mr. Fox said, he was sincerely sorry to feel that he must support the motion, and the more so, as his right honourable friend had made it necessary by bringing on, in so irregular a manner, a discussion of a matter by no means connected with the Quebec Bill, in a manner which he could not help thinking extremely unfair, but which he

must consider as a direct injustice to him. If the right honourable gentleman's argument over the way with regard to order was to obtain order, it was a mode of order that would go to stop every proceeding of that House, especially in committees. It was proper to debate the principle of a bill in the second reading of it; and referring to matter that might be analogous, much latitude would be required. The Quebec Bill had been read a second time, and was decided. If gentlemen, therefore, when a bill was in a committee, would come down and state in long speeches, general answers to all possible objections, to clauses that might be proposed, but were never meant to be proposed, debates might be drawn to any imaginable length, and the business of the House suspended at the pleasure of any one of its members. The argument which some gentlemen might possibly move, that the chairman leave the chair, was applicable to every clause, and to every stage of the bill in the Committee; and if on that account every species of volunteer argument was to be held in order, it would be impossible for business to proceed. His right honourable friend instead of debating the principle of the bill, in any stage, which was usual, had come down, not to debate the clauses, but to fortify misrepresentations of what he had said in a former debate, which his right honourable friend did not even hear. Order and discretion in debate had been said to be distinct; with him, Mr. Fox declared, they never should be separate. Where the distinction lay he could not see, for he always conceived that order was founded on discretion. He was not in the habit of interrupting any gentleman on the point of order, because, unless the deviation from it was strong indeed, more time was often lost by calling to order, than by suffering gentlemen to proceed: but if he saw any discussion attempted to be introduced in a way not merely irregular, but unfair, he felt himself obliged to endeavour to stop it. Much had been said on the present occasion, of the danger of theory and the safety of practice. Now, what had been the conduct of the gentleman who looked on theory with abhorance? Not to enter into a practical discussion

of the bill, clause by clause, and to examine whether it gave, what it professed to give, the British constitution to Canada; but, having neglected to have done his duty, and attended the proper stage of debating the principle, to enter into a theoretical inquiry of what the principle, to be and a discussion of the constitution of another country, respecting which it was possible that he might differ from him. If this were not manifest eagerness to seek a difference of opinion, and anxiety to discover a cause of dispute, he knew not what was; since, if they came to the clauses of the bill, he did not think there would be any difference of opinion, or at most but a very trifling one. If the right honourable gentleman's object had been to debate the Quebec Bill, he would have debated it clause by clause, according to the established practice of the House. If his object had been to prevent danger apprehended to the British constitution, from the opinions of any man, or any set of men, he would have given notice of a particular purpose, or taken any other occasion of doing it, rather than that which his nearest and dearest friend had been grossly misrepresented and traduced. That at least would have been the course which he himself should have taken, and therefore what he naturally expected from another. The course which his right honourable friend had chosen to take, was that which seemed to confirm the insinuation urged against him, that of having maintained republican principles as applicable to the British constitution, in a former debate on the Bill. No such argument had ever been urged against him, or any from which such inference was fairly deduced. On the French revolution he did indeed differ from his right honourable friend. Their opinions, he had no opportunity to say, were wide as the poles asunder; but he had a difference of opinion on that, which, to the House was only matter of theoretical contemplation, to do with the discussion of a practical point, on which no difference existed? On that revolution he adhered to his opinion, and never would retract one syllable of what he had said. He repeated, that he thought it on the whole, one of the most glorious events in the history of mankind. But w

he had on a former occasion mentioned France, he had
 mentioned the revolution only, and not the constitution;
 the latter remained to be improved by experience, and ac-
 commodated to circumstances. The arbitrary system of
 government was done away; the new one had the good of
 the people for its object, and this was the point on which
 he rested. This opinion, Mr. Fox said, he wished the
 name might come to debate, if opinions of his were again to
 be made the subject of Parliamentary discussion. He had
 no concealment of his opinions, but if any thing could make
 him shy of such a discussion, it would be the fixing a day
 to catechize him respecting his political creed, and respect-
 ing opinions on which the House was neither going to act,
 nor called upon to act at all. He had been thus catechized
 in 1782, when a right honourable gentleman (Mr. Dun-
 ston,) in the last stage of the then administration, had said,
 "Admitting this administration to be bad, where are you
 to find a better? Will you admit men into power who
 will say, that the representation of the people is inadequate, and
 whose principles would overturn the constitution?" On
 that occasion he had found an able defender in a right hon-
 ourable gentleman, whom he could not expect to be his
 defender that day; but who had, in 1782, demanded in
 manly and energetic tones, "If the House would bear to
 be told that the country was incapable of furnishing an ad-
 ministration more worthy of trust than that whose miscon-
 duct was admitted even by its advocates?" He might
 have looked for a defender to another quarter, to the
 name on which he sat, and been as much disappointed.
 But the catechizer on that occasion had soon after joined
 another ministry, and supported that very reform of the
 representation which he had depreciated as more danger-
 ous to the constitution. Were he to differ from his right
 honourable friend on points of history, on the constitutions
 of Athens and of Rome, was it necessary that the differ-
 ence should be discussed in that House? Were he to
 censure the conduct of the elder Brutus, and to say that the
 expulsion of the Tarquins was a noble and patriotic act,
 would it thence be fair to argue that he meditated the es-

tablishment of a consular government in this country? Were he to repeat the eloquent eulogium of Cicero on the taking off of Cæsar, would it thence be deducible that he went with a knife about him, for the purpose of killing some great man or orator? Let those who said, that to admire was to wish to imitate, shew that there was some similarity of circumstances. It lay on his right honourable friend to shew that this country was in the precise situation of France at the time of the French revolution, before he had a right to meet his argument; and then with all the obloquy that might be heaped on the declaration, he should be ready to say, that the French revolution was an object of imitation for this country. Instead of seeking for differences of opinion on topics, happily for the country, entirely topics of speculation, let them come to the matter of fact, and of practical application: let them come to the discussion of the bill before them, and see whether his objections to it were republican, and on what he should differ with his right honourable friend? He had been warned by high and most respectable authorities, that minute discussion of great events, without information, did no honour to the pen that wrote, or the tongue that spoke the words. If the Committee should decide that his right honourable friend should pursue his argument on the French constitution, he would leave the House: and if some friend would send him word when the clauses of the Quebec Bill were to be discussed, he would return and debate them. And when he said this, he said it from no unwillingness to listen to his right honourable friend: he always had heard him with pleasure, but not where no practical use could result from his argument. When the proper period for discussion came, feeble as his powers were, compared with those of his right honourable friend, whom he must call his master, for he had taught him every thing he knew in politics (as he had declared on a former occasion, and he meant no compliment when he said so,) yet feeble as his powers comparatively were, he should be ready to maintain the principles he had asserted, even against his right honourable friend's superior eloquence, and maintain that the

rights of man, which his right honourable friend had ridiculed as chimerical and visionary, were, in fact, the basis and foundation of every rational constitution, and even of the British constitution itself, as our statute book proved: since, if he knew any thing of the original compact between the people of England and its government, as stated in that volume, it was a recognition of the original inherent rights of the people as men, which no prescription could supercede, no accident remove or obliterate. If such were principles dangerous to the constitution, they were the principles of his right honourable friend, from whom he had learned them. During the American war they had together rejoiced at the success of Washington, and sympathized almost to tears for the fall of a Montgomery. From his right honourable friend he had learned, that the revolt of a whole people could never be countenanced and encouraged but must have been provoked. Such had at that time been the doctrine of his right honourable friend, who had said, with equal energy and emphasis, that he could not draw a bill of indictment against a whole people. Mr. Fox declared he was sorry to find that his right honourable friend had since learned to draw such a bill of indictment, and to crowd it with all the technical epithets which disgraced our statute book, of false, malicious, wicked, by the instigation of the devil, not having the fear of God before our eyes, &c. Having been taught by his right honourable friend that no revolt of a nation was caused without provocation, he could not help feeling a joy ever since the constitution of France became founded on the rights of man, on which the British constitution itself was founded. To deny it, was neither more or less than to libel the British constitution; and no book his right honourable friend could cite, no words he might deliver in debate, however ingenious, eloquent, and able, as all his writings and all his speeches undoubtedly were, could induce him to change or abandon that opinion; he differed upon that subject from his honourable friend *toto caelo*. Having proceeded thus far, M. Fox declared he had said more than he intended, possibly much more than was either wise or proper; but it was a common error, arising from his

earnestness to be clearly understood ; but if his sentiments could serve the other side of the House, which had countenanced the discussion of that day, apparently in order to get at them, they had acted unnecessarily. They might be sure of him and his sentiments on every subject without forcing on any thing like a difference between him and his right honourable friend, and having once heard them, they might act upon them as they thought proper.

Mr. Burke said, that though he had been called to order so many times, he had sat with perfect composure, and had heard the most disorderly speeche that was perhaps ever delivered in that House. He had not pursued the conduct of which an example had been set to him, but had heard, without the least interruption, that speech out to the end, irregular and disorderly as it had been : his words and his conduct throughout had been mis-represented, and a personal attack had been made upon him from a quarter he never could have expected after a friendship and an intimacy of more than twenty-two years ; and not only his public conduct, words, and writings, had been alluded to in the severest terms, but confidential conversation and private opinions had been brought forward with a view of proving that he acted inconsistently ; and now a motion was introduced which hindered him in a great measure from having an opportunity to ascertain by facts what he had stated as opinions. He could not help thinking that on the subject of the French revolution he had met with great unfairness from the right honourable gentleman, who had said as much as that he had acted and spoken rashly, without information, and unsupported by facts to bear out his deductions, and this had been treated in a manner that did little justice to his feelings, and had little appearance of decency on the part of the right honourable gentleman. However, when and as often as this subject came to be discussed fairly, and facts that he was possessed of allowed to be brought forward, he was ready to meet the right honourable gentleman hand to hand and foot to foot upon it. Much was said against proceeding without good information. He was ready to state his proofs for all the facts he had al-

leged to which public proof was at all applicable: that indeed there were a few particulars on which he did not choose to take issue; because, in the present state of things in the happy country of France, he might subject his relations to the fashionable summary justice of the *lanterne*. Under a very few reserves of that kind he was ready to enter into the discussion concerning the facts in that book whenever he pleased. He might possibly fall into minute and trivial mistakes, but he was sure he was substantially right in every substantial matter of fact. To the few matters on which he declined offering proof, he pledged himself, upon his honour, that he had sufficient to satisfy a sober and considerate judgment. But this it seemed was not the cause of quarrel: it was not because this authority, or that example were mentioned, but he was accused of misrepresentating what the right honourable gentleman had said on a former day, when he owned he was not present, and which he disavowed in the most positive terms. He denied any allusion to that, or any other speech of the right honourable gentleman, and contended that he had argued on this, as he wished to do on every other occasion, in a candid, plain, and simple manner. With regard to the subject which he meant to introduce in the Committee of the Quebec Bill, the right honourable gentleman was no stranger to the grounds he meant to go upon. He opened to him very particularly the plan of his speech: how far he meant to go, and what limits he proposed to put upon himself. His reasons for forming those opinions he had mentioned in the fullest and most particular manner to him, at his own house, and walked from thence to that House with him, conversing all the time on that subject. The right honourable gentleman had then entirely disagreed with him upon it, but they had no quarrel upon it, and what the right honourable gentleman had said upon the subject he did not now wish to state. He would not, however, be persuaded, from what the right honourable gentleman said, to give up his purpose of stating to the House, upon this occasion, his mind with regard to the French constitution and the facts which led him to think as he did; and certainly in

this he thought there could be nothing disorderly, especially when so much had already been introduced, not about the constitution of Quebec, but about the American constitution. He had asserted that dangerous doctrines were encouraged in this country, and that dreadful consequences might ensue from them, which it was his sole wish and ambition to avert, by strenuously supporting the constitution of Great Britain as it is, which, in his mind, could better be done by preventing impending danger than by any remedy that could afterwards be applied; and he thought himself justified in saying this, because he did know that there were people in this country avowedly endeavouring to disorder its constitution and government, and that in a very bold manner. The practice now was, upon all occasions, to praise, in the highest strain, the French constitution: some indeed qualified their argument so far by praising only the French revolution; but in that he could see no difference, as the French constitution, if they had any, was the consequence and effect of that revolution. So fond were gentlemen of this favourite topic, that whoever disapproved of the anarchy and confusion that had taken place in France, or could not foresee the benefits that were to arise out of it, were stigmatized as enemies to liberty and to the British constitution; charges that were false, unfounded, misapplied, and every way unfair. Doctrines of this kind, he thought, were extremely dangerous at all times, and much more so, if they were to be sanctioned by so great a name as that of the right honourable gentleman, who always put whatever he said in the strongest and most forcible view that it could appear. Thus it had become common to set the French constitution up against the English constitution upon all occasions, when the comparison could be introduced; and then he insisted if the former was praised the latter must be proportionally depreciated. Here again he reverted to what he had been told had passed on a former day, when he said the right honourable gentleman had taken fire when the French constitution was mentioned, and had termed it the most glorious and stupendous fabric that ever was reared by human wisdom. He

still insisted, that the discussion of the Quebec Bill was a proper opportunity, after what had been said, for entering upon a true and minute comparison of the French constitution with that of England, though the disorderly rage for order that prevailed that day seemed to be adopted for the purpose of precluding every fair and proper discussion. He had that day been accused, among other breaches of friendship towards the right honourable gentleman, of having provoked this discussion, to give an advantage to the right honourable gentleman's enemies, a principle that he utterly disclaimed, and never thought that any fair or candid man could have brought; however, if any could have said so before, what they had heard from the opposite side of the House this day must convince them of the contrary. In what he had repeatedly said and written concerning the French revolution, he had been accused of stating his opinions rashly and without foundation; a charge which he was certainly anxious and able to refute, if he had been allowed; and at the very time when he was going to produce facts in support of what he asserted, blended partly with private information and respectable authorities, though he perhaps might have gone greater lengths than he wished, by disclosing communications which he ought to conceal, yet being so particularly called upon, he would have done it; at this very moment he was stopped in the most unfair, and, notwithstanding, as he had already said, the rage for order, the most disorderly manner; and but for this extraordinary conduct, he would have proved that the issue of the French constitution, or revolution, which they liked to call it, was not intended for, and never could be, for the cause of liberty; but on the contrary, and ever was and ever would be, for the cause of tyranny, oppression, injustice, anarchy, and confusion.

After what had been said, nobody could impute to him interested and personal motives for his conduct; those with whom he had been constantly in habits of friendship and agreement, were all against him; and from the other side of the House he was not likely to have much support; yet all he did was no more than his duty. It was a struggle

not to support any man, or set of men, but a struggle to support the British constitution, in doing which he had incurred the displeasure of all about him, and those opposite to him; and what was worst of all, he had induced the right honourable gentleman to rip up the whole course and tenure of his life, public and private, and that not without a considerable degree of asperity. His failings and imperfections had been keenly exposed, and in short, without the chance of gaining one new friend, he had made enemies, it appeared malignant enemies of his old friends. But after all he esteemed his duty far beyond any friendship, any fame, or any other consideration whatever. He had stated the danger which the British constitution was daily in from the doctrines and conduct of particular persons; however, as neither side of the House supported him in this, but as both sides thought otherwise, he would not press that point upon them now in any stonger way than he had done; but he would still aver, that no assistance which could either be given or refused to him, would ever bias him against the excellence of the British constitution; nor lead him to think well of the French revolution, or the constitution, as it was named, that was formed in its place. The right honourable gentleman, in the speech he had made, treated him in every sentence with uncommon harshness. In the first place, after being fatigued with skirmishes, of order, which were wonderfully managed by his light troops, he then brought down the whole strength and heavy artillery of his own judgment, eloquence, and abilities upon him, to crush him at once, by declaring a censure upon his whole life, conduct, and opinions. Notwithstanding this great and serious, thought, on his part, unmerited attack and attempt to crush him, he would not be dismayed; he was not yet afraid to state his sentiments in that House, or any where else, and he would tell all the world that the constitution was in danger. And here he must in the most solemn manner express his disapprobation of what was notorious in the country and to the world. Are there not clubs in every quarter, who meet and vote resolutions, the contents of which was it necessary for him

to enumerate? Do they not correspond all over the country, and with other countries? Do they not preach in their pulpits doctrines that are dangerous, and celebrate at their anniversary meetings, proceedings incompetent with the spirit of the British constitution? Admitting these, and he believed nobody would say his observations were ill-founded, would they hesitate a moment to pronounce such transactions dangerous to the constitution, and extremely mischievous in their nature; when added to this, infamous libels against the constitution were circulated every where. The malignity with which the right honourable gentleman had spoken his sentiments, with regard to government, and the charge of inconsistency in his political life and opinions, were neither fair nor true; for he denied that he ever had any different idea of government from what he now entertained, and had upon many occasions stated: he laid it down as a maxim, that monarchy was the basis of all good government, and that the nearer to monarchy that any government approached, the more perfect it was, and *vice versa*; and he certainly, in his widest moments, never had so far forgotten the nature of government, as to argue that we ought to wish for a constitution, that we could alter at pleasure, and change like a dirty shirt. He was by no means anxious for a monarchy, with a dash of a republicanism to correct it. But the French constitution was the exact opposite of the English in every thing, and nothing could be so dangerous as to set it up to the view of the English, to mislead and deceive their minds. In carrying on this attack against him, the right honourable gentleman had been supported by a corps of well disciplined troops, expert in their manœuvres, and obedient to the word of their commander.—

[*Mr. Grey* here called *Mr. Burke* to order, conceiving, that it was disorderly to mention gentlemen in that way, and to ascribe improper motives to them.]

Mr. Burke explained, and went on. He said he had formerly stated that he believed those who fomented what was dreaded as dangerous to the constitution, to be a very small number indeed: it was not from their numbers now;

but if the spirit was suffered to ferment, who could tell what might happen? Let it be remmbered there were 300,000 men in arms in France, who at the proper moment might assist that spirit; and though there might be no immediate danger threatening the British constitution, yet a time of scarcity or tumult might come, and in such a case it was certainly safer and wiser to prevent the consequences, than to remedy the evil. He recurred to 1780, and mentioned the dreadful consequences of the riots occasioned by Lord George Gordon. Had he at that time cautioned the House to beware of the Protestant association, and other caballing meetings, he supposed his cautions would have been treated in the same way as those he offered now; but he trusted no person would wish again to see such destruction and disorder: the houses of some of the best men that ever adorned the country, the Marquis of Rockingham, and Sir George Saville, beset by the mob, and obliged to be defended by armed forces; they surely could not desire again to behold camps in all our squares, and garrisons in our palaces. As to the present state of this country, he described the king as in full power in all his functions, that his ministers were responsible for all their conduct; that the country was blessed with an opposition of strong force, and that the common people were united with the gentlemen in a column of prudence. From all which he argued that the present was the moment for crushing this diabolical spirit, and every trivial attempt to subvert the principles of the constitution ought to be watched with the greatest jealousy and circumspection; when he spoke of our constitution as valuable, he spoke of the whole complete, and not of any particular or predominant part; and therefore thought it wiser to be prepared for any attack that might be made upon it, than to trust that we could preserve it, even after the attack was made. Having dwelt for some time on this point, he next began to recapitulate the political questions upon which he had differed with the right honourable gentleman upon former occasions, particularly the several attempts that had been made for a parliamentary reform, the Dissenter's Bill, and

the Royal Marriage Act : perhaps, too, in other instances ; but in all these, in the course of their acquaintance and intimacy, no one difference of political opinion had ever for a moment interrupted or affected their friendship. It certainly was indiscretion, at any period, but much greater at his time of life, to provoke enemies, or give his friends cause to desert him; yet if that was to be the case, by adhering to the British constitution, he would risk all, and, as public duty and public prudence taught him, in his last words exclaim, "Fly from the French constitution." (It was whispered by Mr. Fox, there was no loss of friends.) Mr. Burke said yes, there was a loss of friends, he knew the price of his conduct: he had done his duty at the price of his friend: their friendship was at an end. He had been told, that it was much better to defend the English constitution, by praising its own excellence, than by abusing other constitution, and certainly the task of praising was much more pleasant than that of abusing; but he contended that the only fair way of arguing the merits of any constitution, was by comparing it with others; and he could not speak with propriety of the excellence of the English constitution, without comparing it with the deformity and injustice of the French, which was the shade that brought its colours forward in the brightest point of view; and omitting to do it, would be like presenting a picture without a shade. He would warn the right honourable gentlemen, who were the great rivals in that House, that whether they should in future move in the political hemisphere, as two flaming meteors, or walk together as brethren, that they should preserve and cherish the British constitution; that they should guard against innovation, and save it from the danger of these new theories. In a rapturous apostrophe to the infinite and unspeakable power of the Deity, who with his arm, hurled a comet like a projectile out of its course, who enabled it to endure the sun's heat, and the pitchy darkness of the chilly night; he said that to the Deity must be left the task of infinite perfection, while to us poor, weak, incapable mortals, there was no rule of conduct so safe as experience. He concluded, with moving an amendment,

that all the words of the motion, after "Dissertation on the French constitution," should be omitted, and the following be inserted in their room, "tending to shew that examples may be drawn therefrom; and to prove that they are insufficient for any good purposes, and that they lead to anarchy and confusion, and are consequently unfit to be introduced into schemes of government, are improper to be referred to on a motion for reading the Quebec Bill paragraph by paragraph."

In the course of the preceding speech, Mr. Burke having said that Mr. Fox had of late years forborne that friendly intercourse with him by visits, &c. which he had formerly preserved, the latter in reply, said, that the omission complained of was purely accidental; that men at different periods fell into different habits; and without any intentional neglect, it frequently happened that they did not see their friends so often as they might have done in preceding years; but at the same time, that their friendship was as warm and as sincere as ever.

Mr. Burke likewise, while in one of the parts of it, where he was reasoning with great warmth, checked himself, and addressing himself to the Chair, said, "I am not mad, most noble Festus, but speak the words of truth and soberness."

Mr. Fox rose to reply, but his mind was so much agitated, and his heart so much affected, by what had fallen from Mr. Burke, that it was some minutes before he could proceed. Tears trickled down his cheeks, and he strove in vain to give utterance to feelings that dignified and exalted his nature. In justice to the House it must be said, that the sensibility of every one present seemed to be uncommonly excited upon the occasion. Being at length recovered from the depression under which he had risen, Mr. Fox proceeded to answer the assertions which had caused it. He said, however events might have altered the mind of his right honourable friend, for so he must call him, notwithstanding what had passed, because, grating as it was to any man to be unkindly treated by those who were under obligations to him, it was still more grating and

painful to be unkindly treated by those to whom they felt the greatest obligations, and whom, notwithstanding their harshness and severity, they found they must still love and esteem. He could not forget, that when a boy almost, he had been in the habit of receiving favours from his right honourable friend; that their friendship had grown with their years, and that it had continued for upwards of twenty five years, for the last twenty of which they had acted together, and lived on terms of the most familiar intimacy. He hoped, therefore, that notwithstanding what had happened that day, the right honourable gentleman would think on past times, and, however any imprudent words or intemperance of his might have offended him, it would show that it had not been, at least intentionally, his fault. The right honourable gentleman had said, and said truly, that they had differed formerly on many subjects, and yet it did not interrupt their friendship. Let the right honourable gentleman speak fairly, and say, whether they could not differ, without an interruption of their friendship, on the subject of the French revolution, as well as any of their former subjects of difference. He enumerated severally what those differences of opinions had been, and appealed to his right honourable friend, whether their friendship had been interrupted on any one of those occasions. In particular, he said, on the subject of the French revolution, the right honourable gentleman well knew that his sentiments differed widely from his own; he knew also, that as soon as his book on the subject was published, he condemned that book both in public and private, and every one of the doctrines it contained. Mr. Fox again explained, that Mr. Burke's conduct appeared as if it sprung from an intention to injure him, at least it produced the same effect, because the right honourable gentleman opposite to him had chosen to talk of republican principles, as principles which he wished to be introduced into the new constitution of Canada, whereas his principles were very far from republican in any degree. If, therefore, his right honourable friend had thought it necessary to state to the House his sentiments on the French revolution, he might have done it on any

other occasion, with less injury to him, than on the Quebec bill, because his doing it then confirmed and gave weight to the misrepresentations of the right honourable gentleman opposite to him, and not only that, but put it out of his power to answer him properly. Besides, he had, as every other man must have, a natural antipathy and dislike to being catechized as to his political principles. It was, he said, the first time that ever he heard a philosopher state, that the way to do justice to the excellence of the British constitution, was never to mention it without, at the same time, abusing every other constitution in the world. For his part, he had ever thought that the British constitution, in theory, was imperfect and defective, but that in practice it was excellently adapted to this country. He had often publicly said this; but because he admired the British constitution, was it to be concluded that there was no part of the constitution of other countries worth praising, or that the British constitution was not still capable of improvement? He therefore could neither consent to abuse every other constitution, nor to extol our own so extravagantly as the right honourable gentleman seemed to think it merited. As a proof that it had not been thought quite perfect, let the two only reformers of it be recollected that had been attempted of late years; the reform relative to the representation in parliament of the right honourable gentleman opposite to him; and the reform of the civil list by his right honourable friend. Was it expected that he should declare the constitution would have been more perfect, or better, without either of these two reforms? To both had he given his support, because he approved both; and yet they were both tests, one to retrench the influence of the crown, the other to enlarge the representation of that House; and would the right honourable gentleman say he was a bad man for having voted for both? He was, Mr. Fox said, an enemy to all tests whatever, as he had hitherto thought the right honourable gentleman was, and therefore he objected to every man's being expected to have his political principles put to the test, by his being obliged to abjure every other constitution but our own. Such a

mode of approving one's zeal for the latter reminded him of the man who signed the thirty-nine articles, and said he wished there were a hundred and thirty-nine more, that he might have signed them too, to prove his orthodoxy. Nothing but the ignominious terms which his right honourable friend had heaped on him (Mr. Burke said, loud enough to be heard, that he did not recollect he had used any.) My right honourable friend, said Mr. Fox, does not recollect the epithets: they are out of his mind: then they are completely and for ever out of mine. I cannot cherish a recollection so painful, and from this moment they are obliterated and forgotten. Mr. Fox then pursued his argument, and expressed his surprise that his right honourable friend had talked of the friends who sat near him as phalanx, and as disciplined troops; if by that he meant that any improper influence had been exercised, or attempted to be exercised, on their minds, he disclaimed the idea; and indeed his right honourable friend best knew, so long as he had acted with them, when any such influence had been exercised over his own mind. He declared he could not but be sorry that such a character of a party linked together on the most honourable principles should come from one of their own corps. He had imagined that his right honourable friend knew more of them than to impute such conduct to men of their description. The fact was, Mr. Fox said, that upon his honour no one of the honourable gentlemen near him, who had risen that day, and called his honourable friend to order, had been desired by him to do so; on the contrary, wherever he was likely to have his application complied with, he had earnestly entreated his friends not to interrupt the right honourable gentleman. He admitted that no friendship should exist in the way of public duty; and if his right honourable friend thought he did service to the country by blasting the French revolution, he must do so, but at the same time he must allow others, who thought differently, to act in a different manner. Mr. Fox alluded to what Mr. Burke had quoted from Montesquieu, and declared he agreed with Montesquieu in his observation on the British constitution;

but could not admit that Montesquieu meant to say that it was a model for all other countries. If he referred to what had passed in 1780, the right honourable gentleman would say that he raked into all the transactions of his life. Mr. Fox declared he would not, unless it redounded to his honourable friend's honour, and to the glory of his character, and where could he find the incident that did not? In the year 1780, it had been the opinion of that House, "that the influence of the crown had increased, was increasing, and ought to be diminished. His right honourable friend had agreed to that resolution, and thereby declared that the constitution was not perfect without such reduction. Would he not grant to the French the same right that he had himself exercised? If the influence of the British crown, which consisted in the civil list, in the army, navy, and the power of giving places and honours, was so great as to be thought dangerous, what, in the eyes of reflecting Frenchmen, must have been the extravagant influence of the crown of France? With a civil list ten times as large as our's; with a navy almost as large; an army tenfold; a church more than tenfold; must they not, as we had done, pursue the course of diminishing its power? When, in addition to this, they had to deplore the degree of corruption and despotism into which the whole of their government had fallen, was it not right that they should endeavour to better their condition, and to extricate themselves from their misery and slavery? His right honourable friend had said that they must not hear of the French constitution, because it was diametrically opposite to our's: how that could be he could not easily comprehend. His right honourable friend had also asserted, that evil must not be done, that good might come out of it: that must be left to God alone; what, Mr. Fox asked, did his right honourable friend think of the occasion of the war? War, in itself, was certainly an evil; civil war a moral evil; and yet war was often commenced that good might come out of it. If original rights were totally to be disregarded, Mr. Fox said, he should contend that the resistance of the parliament to Charles the first, and the resistance of 1688,

had been very justifiable ; but the original rights of men were, in his opinion, the foundation of all governments and all constitutions, which were a compact between the governors and the governed, binding on both sides. He would not say that the government of France was good ; it was undoubtedly capable of improvement, and would be amended by degrees. How, he asked, did we make our own government ? By sending to Greece or Rome for a pattern for our constitution ? No ; but by gradually improving our government, which was bad at first, and which grew better in proportion as experience suggested alteration. The French would in time experience the defects of their government, and would have the same opportunities of correcting it.

With regard to his honourable friend's enthusiastic attachment to our constitution, in preference to all others, did he remember, when his Majesty's speech was made in 1783, on the loss of America, in which his Majesty lamented the loss the provinces had sustained in being deprived of the advantages resulting from a monarchy ; how he had ridiculed it, and compared it to a man's opening the door, after he had left a room, and saying, "At our parting pray let me recommend a monarchy to you." In that ridicule, Mr. Fox said, he had joined heartily at the time. The French, he observed, had made their new government on the best of all principles of a government, viz. the happiness of the people who were to live under it. The French, it should be considered, were a great nation ; they were inferior to England only in arts, arms, the powers of reasoning, &c. Was it not joyful, then, that she should have cast off the tyranny of the most horrid despotism, and become free ? Surely we did not wish that liberty should be engrossed by ourselves. If his right honourable friend talked of light and shade, Mr. Fox said, there was no shade so proper for the people of this country as the departed despotism of France ; of which, though no more in existence, we seemed still to be afraid ; and the French themselves, from a dread of the return of the spectre, did many things which appeared extravagant and ab-

surd to us, who were cool observers of the scene passing in France. A ludicrous image of this was given by the first of our dramatic poets, who makes Falstaff say, "I fear this gunpowder Percy, though he be dead." The right honourable gentleman has said that he shall lose my friendship, continued Mr. Fox, but this I assure him he shall not lose. He has also said, he should lose that of the friends about him, because he stands up for the constitution of this country. I, however, hope that my friends are as fond of that constitution as the right honourable gentleman is, and that the example of France will make them cautious not to run into the same errors, and give the same provocation to the people. With regard to tests, Mr. Fox said he would not believe his honourable friend had altered his sentiments on that head, till he saw him voting for one. France had established a complete unequivocal toleration, and he heartily wished that a complete toleration was also established in England. Because troubles had happened at the time the French were changing their constitution, should we say that they would also happen in England, were any alteration made in our constitution? He must contend for the contrary; and as he thought that the British constitution was capable of improvements, so did he think the greatest improvements might be engrafted on it by degrees, with success, and without any violation of the public tranquility.

Mr. Fox said, he lamented the difference that had happened, but he hoped, that when his right honourable friend came to turn in his mind all the circumstances that had occasioned it, he would forget what was past. His right honourable friend had said, that if he were to quote some of his expressions on particular occasions, he could prove his inconsistency. Mr. Fox acknowledged that no member of that House was more apt to let expressions fall which, perhaps, were rash and imprudent, than he was. He knew he had done so: but his right honourable friend never let any thing fall but what did him honour, and might be remembered to his credit. Mr. Fox now proceeded to speak of the reasons which had induced the right honourable

gentleman and himself to enter into a systematic opposition to the present administration: this was not, he said, for the purpose of obtaining power and emolument by the means of a faction; but he had ever understood they and their friends had formed a party for supporting the true principles of the British constitution, and watching the prerogative. After expatiating on this, Mr. Fox said, "let the right honourable gentleman maintain his opinions, but let him not blame me for having mine." He then noticed the cruel and hard manner in which his right honourable friend had used him, and spoke feelingly of the pain he had given him. The course he should pursue, he said, would be to keep out of his right honourable friend's way till time and reflection had fitted him (Mr. Burke) to think differently upon the subject, and then, if their friends did not contrive to unite them, he should think their friends did not act as they had a right to expect at their hands. If his right honourable friend wished to bring forward the question of the French revolution on a future day, in that case he would discuss it with him as temperately as he could. At present he had said all that he thought necessary, and let his right honourable friend say what he would more upon the subject, he would make him no further reply.

Mr. Burke said, that the tenderness which had been displayed in the beginning and conclusion of the speech had been completely done away by what had occurred in the middle part. Under the mask of kindness for him, an attempt had been made to injure his character, and attack the whole of his public conduct. The event of this night's debate, in which he had been interrupted, without being suffered to explain, in which he had been accused and had not been heard, made him at a loss now to understand what was party or friendship. He had indeed, as had been alleged, proposed a reduction of the power of the crown: but he had proposed it only so far as he considered it necessary; and though his views had not been complied with, no bad consequence had followed. In 1784 an attack had been made, not upon the form, but upon the spirit of the constitution. His opposition to this attack had not been

single and unsupported. He had not, indeed, succeeded in procuring a remedy. He knew not, indeed, where the remedy was to be found. The evil arose from the people; and till they should be made sensible of the disease, how was it possible to apply the means of cure? He did not expect that his jests, that hasty or careless expressions, should have been recorded against him, and mustered up in the form of accusations: and yet all this was done under the mask of friendship! He had been charged with inconsistency, but he desired that there should be shewn one word, one expression, one act or occasion, in which he had discovered the smallest inconsistency. It had been said that the British constitution might in some points be amended. But had he ever affirmed that it or any other human constitution might not? It had been charged upon him, that he thought it necessary to abuse every other constitution in order to praise the British; but had he ever displayed any such spirit? On the contrary, he should never have thought it necessary to bring forward the French constitution as the subject of animadversion, had not attempts been made to introduce the monster into this country. He had heard the right honourable gentleman, who now appeared as so violent an advocate of the French constitution, say, that the King of France was the best intentioned sovereign in Europe. This king might now be said to be in jail. In consequence of his good nature, indeed, he had been ruined. He had gone on from concession to concession, from the grant of one indulgence to another, till at last he found himself deprived by his subjects of his own rights, thus holding out a memorable lesson to all monarchs, to be watchful in preserving their privileges, and cautious in guarding against the encroachments of their subjects. Political truth, it had been said, gains by discussion; but it was surely not that sort of discussion which had taken place that evening, in which his facts had not been allowed to be produced, and his arguments had not been heard. A serious danger, as he had stated before, and would now repeat, was to be apprehended from the introduction of the principles of the new constitution into this

country. If there should be formed in this country a party, however small, who might join with those abroad, what evils might not ensue? However small might be the party inimical to the constitution in this country, yet they were not less to be dreaded: they would not want the support of numbers. The constitution of this country leans to monarchy: it was necessary that all parts of it should be defended together. All the parts of the constitution had now been attacked. Libels were circulated against the constitution by societies who assumed the name of constitutional. Nay, libels were circulated through the country in the name of the crown, and under the pretended sanction of his Majesty's ministers, and from that authority recommended to the perusal and attention of the people. Such libels, issued in the name of the crown, and eagerly devoured by the ignorant and hot-headed multitude, had been in a great measure the source of the evils in France, and their progress was to be guarded against in this country. The new constitution in France had been called a stupendous fabric of wisdom. He had thought that the right honourable gentleman had possessed a better taste in architecture than to bestow this magnificent epithet on a building composed of untempered mortar. For his own part, when he saw the new temple, he wept. He considered it as the work of Goths and Vandals, where every thing was out of place, disjointed, and inverted. It had been said, that he did not love tests; yet if his intimacy should be renewed with the right honourable gentleman, he might explain to him that it was necessary that some evil should be suffered, in order to obtain a greater good.

In France, it had been asserted by the right honourable gentleman, prevailed the largest religious toleration. It would be judged of what nature was that toleration, when it was understood that there the most cruel tests were imposed. Nay, tests were imposed for the most inhuman of all purposes, in order to deprive those, of whom they were exacted, of their bread. The treatment of the nuns was almost too shocking to be mentioned. These wretched girls, who could only be animated by the most exalted re-

ligious enthusiasm, were engaged in the most painful office of humanity, in the most sacred duty of piety, visiting and attending the hospitals. Yet these had been dragged into the streets: these had been scourged by the sovereigns of the French nation, because the priest, from whom they had received the sacrament, had not submitted to the test. This proceeding had passed not only unpunished but uncensured. Yet in the country in which such proceedings had happened, had been said to subsist the largest religious toleration. The present state of France was ten times worse than tyranny. The new constitution was said to be an experiment; but it was not true. It had already been tried and been found to be only productive of evils. They would go on from tyranny to tyranny, from oppression to oppression, till at last the whole system would terminate in the ruin and destruction of that miserable and deluded people. He stated that his opinion of the revolution in America did not at all militate with his opinion of the revolution of France. In that instance he conceived that the people had had some reason for the conduct which they had pursued. There was an expression of his which had been taken exception at, "well disciplined troops." He only meant that every body of men who acted upon a method and in concert were well disciplined. He was sorry for the present occasion. Sufficient to the day was the evil thereof. Yet, let the evil be to him if the good was to many. He hoped that they would not barter the constitution of this country, the eternal jewel of their souls, for a wild and visionary system, which could only lead to confusion and disorder. With regard to pretences of friendship, he must own that he did not like them, where his character and public conduct, as in that instance, had been so materially attacked and injured. The French principles in this country, he had been told, would come to some head. It would then be perceived what were their consequences. Several of the gentlemen were young enough to see a change. They would be enterprising enough to act a part. It would then be seen whether they would be borne on the top, or encumbered in the gravel. In going along with the current,

they would most certainly be forced to execute and approve many things very contrary to their own nature and character.

Mr. Chancellor Pitt said he rose to take notice of the very extraordinary situation in which the House stood, but would say only a very few words: and indeed the only subject to which, as the question then stood, he could speak, was one which excluded him from going into any debate upon it. They had been engaged for some hours in an unfinished debate on a question of order moved in the middle of the right honourable gentleman's speech on the question of reading the clauses in the Quebec bill, paragraph by paragraph; and the question of order was, whether the right honourable gentleman should be permitted to go on in an argument on the subject of the French revolution which he had begun, but had been frequently interrupted by having been called to order by different gentlemen on the other side of the House. The right honourable gentleman opposite to him (*Mr. Fox*,) had spoken early in the debate on the question of order, and had given it as his opinion that it was disorderly for the other right honourable gentleman to enter into a discussion respecting the late revolution in France; and yet the right honourable gentleman himself had, in his own speech, gone directly to that discussion, and the Committee had since heard two speeches from each of the right honourable gentlemen immediately upon the subject of the French revolution. For his own part he had all along been of opinion that the right honourable gentleman who opened the first debate had been strictly in order in introducing his opinions on the French revolution, when speaking on a subject of a constitution to be provided for Quebec, although he could not but think that every asperity and censure on that event had, for various reasons, better be avoided; circumstanced as the Committee then stood, he said he felt a considerable degree of embarrassment: he did not think it consistent with decorum to move any amendment to the question of order, nor that any advantage was likely to result from taking the sense of the House upon it. The only advisable thing to be done was to withdraw it; but to that there

was clearly an obstacle, though he hoped not altogether an insuperable one. It was usual, he believed, to obtain the consent of the mover of any question previous to its being withdrawn, but in the present case the noble lord who had proposed the question had withdrawn himself. His having left the House, however, might be presumed to be a pretty strong implied consent on the part of the noble mover to its being withdrawn, and therefore he should suggest that measure.

Mr. Pitt then recurred to the first debate, and said, that upon the question whether the clauses of the bill be read paragraph by paragraph, any gentleman who thought the general principle of the bill and the principles of the clauses so objectionable that they could not be so modelled and matured by correction in a Committee as to be made fit to pass, was undoubtedly entitled to state his objections to the bill; and therefore he had thought the right honourable gentleman perfectly in order in the mode he had adopted; but it had been supposed that he had given an opinion that the right honourable gentleman's arguments and doctrines were not to be supported either by him or any of those honourable friends who generally voted for him. Now, it was to be recollected that he had declined giving any opinion whatever on the subject, and had carefully avoided doing so, declaring that he did not think it proper for him, in the situation in which he stood, to enter into discussion of an opinion on the constitution then forming in a neighbouring country. With regard to what the honourable gentleman had said of a misrepresentation by him of that right honourable gentleman's words in a former debate on the Quebec Bill, if he had given any misrepresentation of the right honourable gentleman's speech, he had given it in the right honourable gentleman's own words, and in his presence; if, therefore, he had mistaken or mis-stated any thing the right honourable gentleman had said, it had been in his own power to set him right at the instant, and not let a wrong impression of his words go abroad. The fact was, that in discussing the subject of the new constitution for Canada, he had suggested his intention to propose, as the

bill, in fact, did provide, an hereditary council, in imitation of our House of Lords ; whereas the right honourable gentleman had suggested that, in his opinion, an elective council would be preferable ; and as the right honourable gentleman had just been talking of the governments of the Independent and United States of America, which were republics, he (Mr. Pitt) had conceived that the right honourable gentleman was inclined to think that a greater infusion of republican principles into the new government of Canada would be better adapted to that province than a constitution more exactly similar to our own, and therefore, in his reply, he had given his sentiments against any greater infusion of republicanism into the new constitution of Canada, than at present subsisted in the British constitution. That was precisely what he had said, and that he conceived was no misrepresentation of the right honourable gentleman's speech. As to the publications which the other right honourable gentleman had stated to have been disseminating throughout this country, with a view to extol the French revolution and its consequences, and to induce the people to look into the principles of their own constitution, he did not venture to think that there might be no danger arising from them ; but when he had said that he saw no cause for immediate alarm from them, it was because he was of opinion that they were the less dangerous at that time, since he could not think the French revolution or any of the new constitutions could be deemed an objection fit for imitation in this country by any set of men, or that such an attempt should ever be made. There was such a fund of good sense in that House, and such a love for the constitution implanted in the minds of the people in general, that he saw no reason to apprehend any one revolution in this country. But although he was not desirous of going with the right honourable gentleman in his comments on the French revolution, and little apprehensive as he was of a similar revolution taking place in this country, yet he agreed with that right honourable gentleman that our own constitution was inestimable ; and that not only no other constitution was preferable, but that

no other whatever, as adapted to the genius of the people and the security of popular freedom, would bear a moment's comparison with it. The right honourable gentleman, he observed, had intimated that he was to receive no support from him, nor from any near him, in his arguments that day. The fact was, he said, that they had not got so far into the debate that it was possible for the right honourable gentleman to have heard from him, or from any of his friends, whether they meant to support him or not. He had already declared that, for various reasons, he did not wish to enter into any discussion on the subject of the French revolution; and if, hereafter, there should appear more serious ground of apprehension that there was any design to subvert our constitution, and that ground should be stated by the right honourable gentleman, he should not only receive his warmest and most effectual support, but no gentleman, who thought as he did, he was persuaded, would refuse his support to the right honourable gentleman. He thought the right honourable gentleman entitled to the gratitude of his country, for having that day in so able and eloquent a manner stated his sense of the degree of danger to the constitution that already existed, and did assure him, that although he was of opinion that our constitution was capable of gradual and temperate melioration and amendment in some few of its principles, yet so fully and perfectly was he persuaded of its being preferable to that of any other constitution in the world, that he would cordially co operate with the right honourable gentleman in taking every possible means to preserve it, and deliver it down to posterity, as the best security for the prosperity, freedom, and happiness of the British people. In the course of his speech, Mr. Pitt hinted that it would be impossible for them, at that late hour, to go into the discussion of the clauses of the bill.

Mr. Fox immediately rising, acknowledged that the right honourable gentleman had given a pretty fair account of what had passed the other day upon the Quebec bill, and he was obliged to him for having explained his meaning. In the proposition of having the Council

elective, rather than hereditary, he declared he did not think there was any thing like instilling republican principles into the new constitution for Canada; of which, he was satisfied, he should be able to convince the right honourable gentleman who had just sat down, as well as the right honourable gentleman near him, when they went into the debate on the clauses of the bill. When that day came, Mr. Fox said, he hoped the right honourable gentleman near him would come down to the House and join in the debate, as he was anxious to get to practice from theory; and whatever the right honourable gentleman himself might think, all his arguments that day had been mere theories, and nothing else. Mr. Fox declared he was not to be imposed on by sounds, so as to be startled at the name of republican principles: there was in our constitution something of those principles, inasmuch as that House was elective; but it was on account of the bad use of the word "republican," and the purpose to which it might be converted, that he had been anxious to have his former arguments explained. They all knew that the word "republican" was a watch-word, always unfairly applied to any man, when the object was to run him down, and exasperate the country against him. He should therefore be glad when they came into the clauses of the bill; because professions of principles were at all times odious to him; and indeed every body might know his principles from his political life, having never attempted or wished to disguise them. When, however, they came into the debate on the clauses, he should state his reasons why he preferred an elective to an hereditary Council for Canada, and he flattered himself not altogether without success.

It was then moved, "That the Chairman leave the chair, and ask leave to sit again."

Mr. Chancellor Pitt wished to know what day would be agreeable for the Committee to be resumed, and at length Wednesday next was agreed on.

The House adjourned.

Wednesday, 11th May.

The House having resolved itself into a Committee on the Quebec Bill, Mr. Hobart in the Chair,

Mr. Chancellor Pitt moved, "That the Bill be read clause by clause." He said, that he trusted it was not now necessary to read over the whole clauses, and that any gentleman would state his objections to any particular clause.

Mr. Hussey objected to the division of the provinces, stated in the bill, a measure which he considered as not suited to the purposes of legislation. He thought they all would become British subjects sooner if this division did not take place. He considered it, instead of tending to heal their differences, as calculated to preserve and inflame their animosities. Commerce was the chief point of view in which Quebec was of importance to this country. It behoved the House, therefore, to provide for that most essential object, the security of property. We ought to introduce the English commercial law, and leave the House of Assembly to make such alterations as they should find rendered expedient by their own peculiar circumstances.

Mr. Powys said that the reason of this division was stated to be to prevent feuds and divisions. But he very much doubted that the method of division, whether or not it came in the form of a declaration of his Majesty's intention, would be but ill calculated for this purpose.

Mr. Fox wished to be informed of one point, which had never been explained, and that was, whether his Majesty had a power to divide the province as was then proposed.

Upon consulting the 14th George III., it appeared that the king had that authority.

Mr. Chancellor Pitt said, the point being settled that his Majesty had an authority to divide the province, the question would be whether it was fit for parliament to agree with his Majesty to establish two legislatures; and if they did not agree, they might negative the whole of the clauses, and might dispose of the whole of the bill; because it proceeded all through its various clauses on the fundamental supposition of two legislatures. It appeared to his Majes-

ty's ministers, first, that the only way of consulting the interest of the internal situation of Quebec, and of rendering it profitable to this country, was to give it a legislature as near as circumstances would admit, according to the principles of the British constitution. In the next place it appeared to them that there was no probability of reconciling the jarring interests and opposite views of the inhabitants, but by giving them two legislatures. It was conceived this form of government was best adapted to put an end to all the difficulties of a legal sort, and to render the regulations more useful to the subjects of that country. He believed that there was such a rooted opposition of interests of the one description and the other, that if there was a constitution consisting of a House of Assembly, in which the parties might be nearly balanced, the consequence, at least for a long series of years, would be a great degree of animosity, and a great degree of confusion. If one of the parties had a great ascendancy over the other, the party having the superiority was very unlikely to give satisfaction to the other party. It seemed to his Majesty's servants the most desirable thing if they could not give satisfaction to all descriptions of men, to divide the province, and to contrive that one division should consist, as much as possible, of those who were well inclined towards the English laws, and that the other party should consist of a decided preponderancy of the ancient inhabitants, who were attached to the French laws. It was perfectly true, Mr. Pitt said, that in Lower Canada there still remained a certain number of English subjects, but these would hold a much smaller proportion than if there was one form of government for every part of the province. It was in Upper Canada particularly that they were to expect a great addition of English inhabitants. The consequence was that if it was not divided from the rest, the Canadians forming a majority of five to one, the grievance would be every year increasing in proportion as the population increased. He was ready to admit, on the other hand, that it was impossible to adopt any measure that was perfectly free from inconvenience. The division of the province

might be liable to some objections, but, on the whole, it was subject to fewer objections than any other measure, and would tend more to promote their connexion with this country, or to produce good effects.

Mr. Powys owned that he was not convinced by the right honourable gentleman's reasoning. He had allowed that in this instance the interests of one part of the inhabitants of Canada were sacrificed to those of the other. He could not give up his Majesty's declaration, of which he read some part, promising to the inhabitants of Canada the British constitution.

Mr. Burke said it was evidently the intention of his Majesty's declaration, that the laws adopted in Canada should be as nearly as possible similar to those of England. Indeed it was usual in every colony to form the government as nearly upon the model of the mother country as consistent with the difference of local circumstances. It was proper that every corporation should adopt for its own use the regulations of the community from which it held. To ascertain the propriety of dividing the provinces required a degree of local knowledge, which he did not possess; but he should take it that the measure was convenient. An attempt to join people dissimilar in law, language, and manners, appeared to him highly absurd; to join too the conquerors and the conquered must give rise to much unpleasant feeling, and many invidious distinctions. Such a measure would appear to him to sow what must be most fatal to the establishment of a new government, the seeds of discord. This geographical distribution then was in his opinion highly convenient. The upper colony was chiefly inhabited by emigrants from America: these then were desirous of the English constitution. Let the Canadians have a constitution formed upon the principles of Canadians, and Englishmen upon the principles of Englishmen. Let them be governed upon the nature of men, the only wise foundation of all governments; and let there not be adopted any wild theories, more unknown than the north-west coast of America. In this point of view he approved of the division, as accommodated to the circumstances

of the country, and the natural prejudices of the inhabitants. He recommended that system of government which tends to promote the union of the good of the individual and of the public, in opposition to that which attempted to methodize anarchy. He admired the division; no, he did not possess sufficient local knowledge to admire it: but he could at least say that he did not disapprove of it. Situated as he was, in a state supported by no party, there was a voice which cried to him, beware. In the short time during which he remained in parliament, and it would be but a very short time, he would, however, support those principles of government which were founded upon the wisdom of antiquity, and sanctioned by the experience of time. On the present bill, necessary as it was for him to be careful of what he should say, he would state the arguments that occurred to him, as they should arise, upon every clause.

Mr. Chancellor Pitt said, that there were none who from their attention to every clause were more qualified, on the present bill, to communicate information from the source of their knowledge, or draw illustration from their powers of eloquence, than the right honourable gentleman; yet he was desirous, that in considering particular clauses, regard should likewise be had to their connexion with the general tenor of the bill. It was intended to give a free constitution to Canada, according to British ideas of freedom. This could not be done without a division of the provinces, to prevent that clashing of opposite interests which must otherwise necessarily ensue. Yet even this measure, he had owned, was not free from local inconvenience, though by no means equal to the inconvenience of either not giving them a new system of government, or not providing in that system for this division of the provinces. Could it be inferred, from his Majesty's proclamation, that he was to give Canada the whole of the English laws? This proclamation was made in 1763; and by an act of parliament in 1773, all English laws had been abolished except the criminal laws. From this fact it

would be judged how far it was binding on his Majesty to give to this colony the whole of the English laws.

Lord Sheffield said, that in addition to the objections which had been made to the division of the province, he thought it not justifiable, on any principle of policy or colonization, to encourage settlements in the interior parts of America, which the division certainly tended to do. It had been much doubted whether colonies were advantageous to the mother country. Certainly those which furnished only the same products were not; but those which assisted our fisheries, and above all the West India plantations, were highly advantageous; the latter produced what we could not; we supplied them with every thing we carried for them. They do not build ships, or vie with us in any thing, and never could manufacture for themselves. He noticed the design of building the seat of the new government on the most distant part of Lake Ontario, between which place and the mother country the communication must ever be difficult. He observed that it could not be the interest of Great Britain to form a settlement of farmers in a country which grows the same articles as our own. The expense would be great, as it must be a long time before it could maintain its own government. At the same time it would not be possible to retain the supply of such settlements, as it would not be practicable to prevent the smuggling of manufactures from the adjoining United States. He concluded by saying that it would be advisable to maintain a few posts to promote a trade with the Indians; but to encourage migration from the coast to the interior parts of that great continent, he conceived to be a system extremely unwise.

Mr. Fox asserted, that it was a mistaken inference of the right honourable gentleman, that those who disapproved of the division of the colony rejected the whole clause. They wished only to amend it, by leaving out the first part. That clause contained the whole Plan of Government, the Governor, the Legislative Council, the Assembly, to which no one had stated any objections. With regard to the different opinions of the division of the colony,

there was certainly difficulties on both sides. If the division should take place, the French laws would be established as general in one province, and the English laws in another. Many had gone to settle in the colony, on the faith of his Majesty's proclamation, that the British constitution would be established. Could this division be attended with a complete separation of the old and new inhabitants, its views would then be answered. But several of those who had come on the faith of his Majesty's proclamation resided, not in the upper, but in the lower province; and several of those who might be deemed to be hardly used, resided in the upper. But it might be answered, that the act made seventeen years since did away the proclamation. That act had given great dissatisfaction at the time, and since it had frequently been thought that it ought to be repealed. If the question of right was insisted upon, it was certainly done away legally; but in forming this new constitution, it would be more desirable to act upon the principles of good faith. Was it necessary, asked Mr. Fox, to adhere to the proclamation, that all the English laws should be introduced into the colony? None wished it, and that was a reason why they should not do it. With regard to the French laws, they might be allowed to have constitutional and municipal laws, if they were desirous that these laws should not be taken away. But, in fact, these were not the French laws at the conquest of Canada. They had sent only a part of their laws to their colony; they formed merely what was called the *custom of Paris*; but that had been long since abrogated. Hence arose the utmost difficulty in appeals to the Privy Council; the law to which they referred no longer existed; it was necessary to consult, not the French lawyer, but the antiquarian. If any middle way could be found, he owned it would be the best. He would suggest one expedient, and that was to adopt the French laws in the upper, and compel the government to alter them till they should have accommodated them to the local circumstances of the country. But as for the division, he owned that he regarded it as attended with the utmost possible inconvenience.

The commerce of the upper part, in order to be carried on, must pass through the lower; and might in its passage be fettered, by the Legislature there, with whatever duties or obstructions they might choose to impose. All English merchants had complained of the loss which they had sustained from the French laws; and affirmed that, in consequence of their uncertainty and defective regulations, whatever flourishing appearance their trade might have exhibited, they had ultimately been sufferers in every connexion with that colony. So that the result of their experience had been to abandon trade, from which the uncertainty of law had shut up every avenue of advantage.

Mr. W. Grant said that, in general, commercial laws differed but little from one another. The commercial laws of England and of France were nearly the same. All commercial laws were founded on the principle of contracts, either expressed or implied. He begged leave to correct a mistake, on a subject of which he was enabled to speak from his local knowledge. The *custom of Paris* had no reference to the regulations of commerce, but of real property. The merchants were aggrieved, not in consequence of commercial decision, but of insolvency. The relief granted to creditors was very different in different countries. It was granted in France, according to the nature of the debts. The merchants thought that they had reason to complain, when they found the whole of the bankrupt estate run away with by French deeds, of which they knew nothing. The uncertainty of laws was, in every colony, necessarily a subject of complaint. They brought with them, only that part of the laws of the mother country which was applicable to their new situation. In Canada, the uncertainty, from the mixture of French, was still greater. Another disagreeable circumstance was, a dispute whether a collection of commercial laws, made by Lewis the XIVth, called the "*Code Marchand*," had ever been really introduced into the colony, or ought to form part of the system. Instead of framing a new bankrupt law, would it not be better to allow any sort of an assembly to enter into the detail of regulations, which, in the

local circumstances of the country, they should find most convenient? It was not to be wondered at, that appeals should be a source of litigation, as those to whom they were made could not be supposed perfectly acquitted with the French laws.

Mr. Fox, after paying a compliment to the abilities of the honourable and learned gentleman that had spoken last, thanked him for having corrected his mistake. He had had, he said, his information from those merchants who had been themselves sufferers. But notwithstanding what had been urged, he was still in as much doubt as ever about the unintelligibility of the laws. It had been admitted by the honourable gentleman, though he had ascribed it less to the laws themselves; than to the situation of the country. If the laws were English, and they were bad, their defects would be easily perceived, and might quickly be remedied.

Mr. Burke said, the question was whether the English laws were or were not better than the French laws. He repeated what he had formerly said, that the English in Canada were attached to the English constitution and to the English laws, and that the French, from their prejudices, were equally attached to the Canadian laws. He then made some observations on the difference between debtors and creditors who were landholders, and those who stood in that relation merely from commerce. He perfectly concurred, *Mr. Burke* said, in opinion with what had been advanced with so much propriety by *Mr. Grant*: the English ought to enjoy the English constitution and the French the old Canadian constitution. Those colonies ought to be considered both with regard to commerce and also with regard to their own internal happiness.

Mr. Alderman Watson observed, that the English were attached to the constitution and laws of their country, and sought protection under them. The French were certainly attached to the Canadian laws. He complimented *Mr. Grant* on his abilities and knowledge, and said, no man in that House was better qualified, from his experience and good understanding, to give them information on the

subject than the honourable gentleman. All that he asked for the inhabitants of Canada, he said, was that they should enjoy the security of British laws on commercial principles. With regard to the division of the province, he saw no other mode of securing the quiet of the colony.

The Attorney General desired to make a few observations on what had fallen from the worthy alderman, respecting the state of the mercantile law in Canada, and the uncertain manner in which it was administered. He said it had fallen within his official duty, some years ago, to examine that subject very fully, and he rose from that examination confirmed in the opinion of his honourable and learned friend, that the fundamental principles upon which a merchant could recover his debt from a solvent man were not very different from those which prevailed in this country, and he believed almost every other country; and that excepting upon the subject of the law of insolvency there was a reasonable degree of uniformity in the decision of the judges. The doubt arising from the law of insolvency arose from its being a question whether the *code marchand* of Louis the XIVth, was ever adopted in that country. It was contended on the one hand that it did not appear ever to have been registered by the Supreme Council. On the other hand, it was insisted that it had been sufficiently acted upon to shew that it might have been registered, or in some other manner adopted. In this consisted the great complaint of uncertainty; that subject, however, was in a course of decision, and consequently it would be ascertained that an insolvent law did exist, and that a law must be made suitable to the local circumstances of that country. But if it were true that the mercantile law of Canada was imperfect, the remedy of overturning it and putting a law different in its forms and all its detail, although similar in principles, would be attended with the utmost inconvenience. It must be considered, he said, how mercantile law had been established in this country: it was by pursuing the practice of merchants in this country, which local experiment had shewn to be best adapted to their profession, and as such adopted and confirmed by our courts of law.

He observed, that if, in all its minute detail, that system were carried in the lump to any other country, the utmost embarrassment might follow. In the most minute instances that detail might be found inapplicable; who could say with certainty that the same diligence which was required in this country, with respect to unaccepted or unpaid bills of exchange, would be practicable in that country? Who would say that where a certain number of days were admitted in this country, as days of grace, it would be convenient in that country? The forms of actions which would be now and then, would be suddenly introduced, require the sudden introduction of pleaders and advocates to conduct them. Mercantile law, though almost universally similar in its leading principles, was in its detail perhaps the most local of any other subject of law. He observed, that what had fallen from the worthy alderman and others shewed that when they spoke of the introduction of the mercantile law of England to supersede the present law, it was forgot that it would go far beyond the great exporter and importer (who seemed only to be in gentleman's contemplation, and they were chiefly English;) but it should be considered that it would pervade the traders of every description in the whole country.

Having reasoned upon this, the Attorney General proceeded to state that he had himself conversed with several Canada merchants, and upon representing to them the great extent of their wishes to adopt the whole mercantile law of England, they unanimously exclaimed against particular parts, especially the bankrupt law. It would therefore become necessary to reflect before any mode was adopted. He thought that such a selection could only be made by a legislature on the spot, who would gradually, and as particular exigencies called for it, adopt so much of the English law as should be necessary. He observed, that the idea of ascribing losses to the imperfection of the subsisting law in Canada, prevailed so much in the minds of English merchants, that he had heard it mentioned as a grievance, that a great cargo of goods sent to Montreal had been sold, the money laid out in land, and settled by a

family settlement, on a marriage, which by the law of Canada could not be reclaimed by the merchants. He observed that the law of England would have said the same, and he conceived that it would be so in most other countries: he therefore concluded with observing, that as far as leaving it to the wisdom of the local legislature to assimilate their mercantile law to that of England, instead of overturning the present law, was an object to the division of the province, he thought it wise and proper to give to the one part the law of England, which they were acquainted with, and leave the law of the other, subject to temperate and gradual alteration.

Mr. *Francis* asked Mr. Chancellor Pitt if it was his intention, by the division of the province, to assimilate the Canadians to the language, the manners, the habits, and, above all, to the laws and constitution of Great Britain?

Mr. *Chancellor Pitt* replied, that he certainly did mean to do so, and that he was clearly of opinion, in the present case, that an attempt to force on them those laws to which their own prejudices were averse, was not the way ever to reconcile them to the British laws and constitution. He said a great part of the commercial law of this country was already in Canada, and he intended to leave it to the legislature of Canada to adopt such laws as they thought were suited for their situation.

Mr. *Fox* said, that it was not his wish to introduce all the English laws into Canada: but he thought that the system which was now pursued with regard to the government had a tendency to prevent even the probability of adopting English regulations. By being mixed, they would certainly be more liable to coalesce: and it was not recollected that while they were consulting the prejudice of the inhabitants of Lower Canada they were leaving unprovided those of Upper Canada, who were really desirous of English laws.

Mr. *Hussey* wished to make some inquiry about a circumstance which he believed it might be as proper to mention now as at any future stage of the bill. He had in his pocket an attested copy of a memorial to Lord Dorchester,

signed by many respectable inhabitants of the province of Canada, complaining that their agent, Mr. Limeburner, upon an application to the then secretary of state (Lord Grenville) for a copy of the proposed bill, which was meant to frame a constitution for Canada, had been refused. In his opinion it would have been better that the persons who were principally interested in this bill, should have had an opportunity of knowing its contents, that we might be certain, when we were framing a law for their government, that we were doing it in a way which was likely to give them satisfaction.

Mr. Chancellor Pitt thought, that if it was deemed necessary to consult the province of Canada, further than they knew of their sentiments already upon the necessity for some new constitution, which his Majesty's Ministers had pledged themselves to bring forward, it would have been much better that the honourable gentleman, or any person who had any information upon the subject, had mentioned that circumstance before this time. As to the application made to his Majesty's Secretary of State, he recollected hearing something of it; but at the time it was made he believed the Secretary of State thought it improper to give information to the person who applied, without any particular authority; because he considered that while he was taking every step to obtain information upon the subject, he could not give any copy of what was likely to be brought before Parliament.

Mr. Powys wished to ask one question, and he thought not an unfair one. It was, whether the Minister knew that this bill would be agreeable to that province for whose benefit it was intended? He thought it could not be so; as one set of petitioners had prayed that they might have no assembly, and for them an assembly was provided. Another had wished for an assembly, and their wishes this bill would not satisfy, because it gave them no assembly; from which he thought it was not probable that the bill was likely to be agreeable to those whose relief and advantage it was intended for.

Mr. Chancellor Pitt contended, as formerly, that Mi-

nisters were pledged to bring forward some proposition for the government of Canada, and that it was their duty to consider what was the most agreeable mode of doing it.

Mr. Sheridan said, he meant to have moved, and he hoped that some person of greater weight would yet move, that the bill should be sent over to Canada, since it would be extremely desirable to know whether the plan was likely to meet the wishes of the people, even though they waited till next session for the answer.

Sir John Sinclair proposed an amendment to the clause, the effect of which was, to prevent the division of the province.

The Chairman put the question on this amendment, which was negatived without a division.

The Chairman having read the next clause of the bill, viz. : that for the constitution of the Legislative Council.

Mr. Fox rose to oppose the clause, and object to the mode of appointing the Council. He said, that he would throw out generally his ideas as to the means of substituting what he could not but conceive to be a better mode of appointing a Council than the mode adopted in the clause as it stood. First, he laid it down as a principle never to be departed from, that every part of the British dominions ought to possess a government, in the constitution of which, monarchy, aristocracy, and democracy, were mutually blended and united ; nor could any government be a fit one for British subjects to live under, which did not contain its due weight of aristocracy, because that he considered to be the proper poise of the constitution, the balance that equalized and meliorated the powers of the two other extreme branches and gave stability and firmness to the whole (a loud cry of hear ! hear !.) It became necessary to look to what were the principles on which aristocracy was founded, and he believed it would be admitted to him that they were twofold ; namely, rank and property, or both united. In this country the House of Lords formed the aristocracy, and that consisted of hereditary titles, in noble families of ancient origin, or possessed by peers newly created, on account of their extended landed property. *Mr. Fox* said,

that prejudice for ancient families, and that sort of pride which belonged to nobility, was right to be encouraged in a country like this, or one great incentive to virtue would be abolished, and the national dignity, as well as its domestic interest, would be diminished and weakened. There was also a thing to be remembered, which gave additional honour to our House of Lords, as long as established respect for the persons and families of those who, in consequence either of their own superior talents and eminent services, or of one or both in their ancestors, constituted the peerage. Aristocracy, he observed, was by no means peculiar to pure aristocracies, such as Venice and Genoa, and even to despotic or to mixed governments. They were to be found in democracies, and were there considered as an essential part of the constitution, affection to those whose families had best served the public being always entertained with the warmest sincerity and gratitude. Thus, in the ancient republics of Athens and of Rome, they all knew the respect paid to those who had distinguished themselves by their services for the commonwealth. Upon every ground of consideration, therefore, it would be wise, and what was more, indispensably necessary, that an aristocracy should make a branch of the constitution for Canada: it was undoubtedly equally important with either the popular or the monarchical. But then the nature of the case must be considered, and he should therefore not advise the giving Canada a servile imitation of our aristocracy, because we could not give them a House of Lords like our own. The right honourable gentleman over the way appeared to be aware of this, and therefore he had recourse to a substitute for hereditary nobility. It was, however, he must contend, a very inadequate substitute; it was a semblance, but not a substance. Lords, indeed, we might give them, but there was no such thing as creating that reverence and respect for them on which their dignity and weight in the view of both the popular and monarchical part of the constitution depended, and which alone could give them that power of controul and support that were the objects of their institution. If Canada should grow in-

to a great and flourishing colony (and he trusted that it would,) as it was removed at such a distance from the principal seat of parliament, it was the more necessary to make the Council, in a considerable degree, independent of the Governor and the people; because the province being so far off, the power of controul could not be properly exercised by that House with a view to the calling upon the responsibility of ministers, and punishing them for any abuse of the prerogative, by giving wrong advice to the Council, through the medium of the Governor. This was, he said, a clear argument why the Council ought not to be appointed by the crown.

Property, Mr. Fox said, was, and had ever been held to be, the true foundation of aristocracy; and when he used the word aristocracy, he did not mean it in the odious sense of aristocrat, as it had been lately called: with that he had nothing to do. He meant it in its true sense, as an indispensibly necessary part of a mixed government, under a free constitution. Instead, therefore, of the King's naming the Council, at that distance, (in which case they had no security that persons of property and persons fit to be named would be chosen) wishing, as he did, to put the freedom and stability of the constitution of Canada on the strongest basis, he proposed that the Council should be elective. But how elective? Not as the members of the House of Assembly were intended to be, but upon another footing. He proposed that the members of the Council should not be eligible to be elected, unless they possessed qualifications infinitely higher than those who were eligible to be chosen members of the House of Assembly; and in like manner, the electors of the members of Council must possess qualifications also proportionally higher than those of the electors to representatives in the House of Assembly. By this means, Mr. Fox said, they would have a real aristocracy, chosen by persons of property from among persons of the highest property, and would thence necessarily possess the weight, influence, and independency from which alone could be derived a power of guarding against any innovations that might be made, either by the

people on the one part, or the crown on the other. In answer to this proposition, Mr. Fox observed, it might possibly be said to him, if you are decidedly in favour of an elective aristocracy, why do you not follow up your own principle, and abolish the House of Lords, and make them elective? For this plain reason, because the British House of Lords stood on the hereditary, known, and acknowledged respect of the country for particular institutions; and it was impossible to put an infant constitution upon the same footing. It would be as ridiculous to say, you shall have a House of Lords like that in England, as for a person in his closet to make, and say what degree of reverence and respect should belong to them. From what he said, Mr. Fox remarked that he might possibly be deemed an advocate for aristocracy singly: he might, undoubtedly, with as much reason as he had been called a republican. Those who pretended that he was a favourer of democratical principles had surely read very little, and little understood the subjects. He mentioned the American governments, and said he thought they had acted wisely, when, upon finding themselves reduced to the melancholy and unfortunate situation of being obliged to change their governments, they had preserved as much as they possibly could of the old form of their governments, and thus made that form of government which was best for themselves: most of which consisted of the powers of monarchy, aristocracy, and democracy, blended, though under a different name.

In order to show that his idea of an elective Council was not a new one, he said that, before the revolution, more of the Councils in our colonies were elected by the people than the king. Mr. Fox said, he had thus generally stated the outline of his proposition, upon which he did not mean to take the sense of the Committee, unless it should be the general opinion that it ought to be adopted: if he did take the sense of the Committee, and their sense should be against him, he should then propose that the Council should either be all at the nomination of the king, or all hereditary. He believed that any Council, chosen in any manner, would be better than none: to have them elected,

as he stated, he seriously thought would be best; but it would be more detrimental than even the not having an elective Council, that the Governor should be left to himself to decide alone. He remembered it had been once said, when talking of representation, that any five hundred and fifty eight gentlemen, who could be first stopped at Hyde Park turnpike, and assembled in that House, would be of as much service to the people as they were. Mr. Fox said he by no means agreed with the proposition, or any one equally extravagant, but many were always a check to one, and a Governor might decide in his closet upon a measure so foolish and so wicked, that he would not have the face to state it to any number of persons. The very circumstance of a Governor's being obliged to have his opinion canvassed by many, was a positive advantage; and discussion, he was satisfied, always produced good. After putting this pointedly, he said, if there were to be hereditary members of the Council, they ought all to be so. The check upon making peers here, he said, he had ever considered as attended with this advantage, that when the king made a peer, he recollected that he entailed an hereditary legislature on the country. A doubt existed, Mr. Fox said, whether the king had a right to make a peer for life, without his title being hereditary, and, at this time, he understood there was such a juridical question collaterally existing in the House of Lords, which was a clear proof that the practice was unknown. If the crown had such a power, the life-peers might overwhelm the hereditary peerage, and thus destroy the constitutional control of the aristocracy, in case they attempted to resist the crown. Thus, under pretence of aristocracy, lords might be introduced as mere tools of the minister, and give government an opportunity to destroy the constitution, and exercise despotic power in the most open shape. If however, such an use of the prerogative should be exerted, he had no doubt, he said, that it would be soon remedied.

In the province of Canada, Mr. Fox continued to observe, the introduction of nobility was peculiarly improper, for a variety of reasons; in fact there was a sort of nobili-

ty there already, viz. the seigneurs, who were utterly unfit, and were not respected enough to be made hereditary nobles, and yet would ministers, he asked, pass by the real nobility of the country, and create a set of people over them, whom the world called nobility, and invest them with hereditary honours? By the bye, the sort of titles meant to be given were named in the bill; he presumed the reason was, that they could not be named without creating laughter. Having thus gone through his proposition, Mr. Fox generally remarked, that so necessary was aristocracy to all governments, that, in his opinion, the destruction of all that had been destroyed could be proved to have arisen from the neglect of the true aristocracy, upon which it depended whether a constitution should be great, energetic, and powerful. He explained that he was so far a republican, that he approved all governments where the *res publica* was the universal principle, and the people, as under our constitution, had considerable weight in the government. Mr. Fox concluded with declaring emphatically, that true aristocracy gave a country that sort of energy, that sort of spirit, and that sort of enterprise, which always made a country great and happy.

Mr. Burke and Mr. Chancellor Pitt rose at the same time, but the latter persisting, Mr. Burke sat down.

Mr. Pitt then said, that it was with great reluctance he had opposed the right honourable gentleman's being first heard, but as he had brought in the bill, and as the subject to which the right honourable gentleman who had just sat down applied, was extremely important, he felt himself peculiarly anxious to explain his sentiments upon it, immediately, while the opinion of the right honourable gentleman was fresh in the minds of the Committee. It was, he declared, with great satisfaction that he had heard a considerable part of the speech which the right honourable gentleman had just stated. He said he rejoiced at it with the utmost sincerity, since doubts had been maintained of the right honourable gentleman's regard to our happy and excellent constitution, which the cordial, and he entertained not the least hesitation to say, the sincere testimony of

the attachment which the right honourable gentleman bore to the principles of our ancestors had completely removed. He was thence proud of the advantage that he should derive from the support of the right honourable gentleman to resist any attempt that might be made contrary to our constitution. He rejoiced, he said, to have a basis for the infusion of those principles, a mixture of the democratical, the aristocratical, and the monarchical, on which had depended the safety of our constitution in preserving pure and entire the power given to the king, the people, and the country, on the maintenance of which depended our happiness and our future prospects. Aristocracy was, he contended, the true poise, as the right honourable gentleman had emphatically stated it, of the constitution: it was the essential link that held the branches together, and gave stability and strength to the whole. Aristocracy reflected lustre on the crown, and lent support and effect to the democracy, while the democracy gave vigour and energy to both, and the sovereignty crowned the constitution with authority and dignity. He joined therefore, as far as that went, with the right honourable gentleman, and agreed with him, that as much as possible of a constitution, deservedly the glory and happiness of those who lived under it, and the model and envy of the world, should be extended to all our dependencies, as far as the local situation of the colony, and the nature and circumstances of the case would admit.

Where he differed with the right honourable gentleman was, with respect to the aristocracy proposed to be infused into the constitution, which he thought might be brought much nearer to our own by other means than by those the right honourable gentleman had proposed. Our aristocracy, Mr. Pitt said, was not merely respectable on account of its property, though that undoubtedly was no small consideration in the scale of its respectability; but it was essentially respectable for its hereditary distinctions flowing from the crown as the fountain of honour. It was on that account not less the poise of the constitution than of our aristocracy were elective; on the contrary, it was more so,

because, according to the known genius and spirit of our constitution, monarchy was the source from whence the other parts arose, and therefore the more near the aristocracy was to the crown, consequently the more immediately congenial was it to the constitution itself, as originally adopted and planned by our ancestors. In that happy form, and constructed and preserved upon that wise principle, we felt the blessing of monarchy, aristocracy, and democracy all united. He should lament therefore to create an aristocracy by a selection from property alone, or by making it elective, as in either case it would render the poise nearer to the people than it was to the crown, in the British constitution. He agreed, he said, with the right honourable gentleman, that we could not give all the respect to a new nobility that belonged to an hereditary line of nobles traceable to antiquity, but we could give the same degree of respect to it as had accompanied the origin of our nobility, and succeeding ages would bestow all the rest. Mr. Pitt had laid great stress on the circumstances of the hereditary honours being derived immediately from the imperial crown of Great Britain, which he considered as a matter of peculiar value (Mr. M. A. Taylor having laughed out, while Mr. Pitt was expressing his satisfaction at finding that Mr. Fox's principles were constitutional, the Chancellor of the Exchequer took the present opportunity of saying, that he could not believe, even in the infancy of such honours, there was any thing that ought to provoke a smile.) With regard to the object of hereditary nobility, he conceived it could only be gradual; but he so far differed from the right honourable gentleman, that he thought there was something in the habits, customs, and manners of Canada, that peculiarly fitted it for the reception of hereditary honours; and in respect to seignories, he said, he imagined that some of the seignors were to be found of sufficient property and respect to make it fit that they should be among others named to those honours. The extension of commerce and of wealth in the province, which there was every reason to imagine would follow the introduction of the new constitution, would make them hold a fair weight in that constitu-

tion, and imperceptibly clothe them with that respect and influence that ought to belong to the aristocratical branch of a free government; and he was firmly persuaded, that the aristocracy flowing from the imperial crown of Great Britain, would tend materially to strengthen the system of connexion between the colony and the mother country. The want of those honours, Mr. Pitt said, had tended to accelerate the separation of the former colonies. He declared he neither wished the aristocracy to be dependent on the crown, nor on the people, and therefore he was desirous of bringing it as near to the model of the British aristocracy as possible. He feared there was not enough at present to form an hereditary peerage, and therefore we could only expect, it being an infant aristocracy, to bring it as near as circumstances would admit to our own, but they would gradually increase, till all became hereditary. He took notice of the definition which Mr. Fox had given of his republican principles, and said, as far as a regard for all governments that had the good of the commonwealth for their basis, there was scarcely a government in Europe that was not in some degree republican.

Mr. M. A. Taylor got the start of *Mr. Burke*, though the latter gentleman was on his legs. *Mr. Taylor* said, as the right honourable gentleman had called him to order for an accidental laugh, he was anxious to say that it escaped him at hearing the right honourable gentleman express his satisfaction on finding his right honourable friend (*Mr. Fox*) was not so republican in his principles as he had imagined. *Mr. Taylor* contended that his right honourable friend had not manifested more constitutional principles that day, than he had uniformly supported throughout his political life. He instanced a proof of it, afforded on a day when the army was voted in the last parliament, and mentioned other corroborative examples.

Mr. Burke began with observing, on *Mr. Taylor's* having interrupted him, but had apologized for so doing with great good humour on the subject. The honourable gentleman, he said, had laughed first, and communicated the laughter to others; he hoped therefore that as the House

had possibly had their laugh out, they would indulge him with a patient hearing. Mr. Burke said, he had served the House and the country in one capacity or other, twenty-six years, five-and-twenty of which he had spent within these walls. He had wasted so much of his life to a precious purpose, if that House would, at last, countenance a most insidious design to ruin him in reputation, and crown his age with infamy. For the best part of the time, he said, he had been a very laborious and assiduous, though a very unimportant servant of the public. He had not, he declared, been used with friendship; but if he was separated from his party, and left alone by them, he hoped to meet a fair open hostility, to which he would oppose himself in a firm manly way, for the very short period that he should continue a member of that House. He had felt deeply wounded, but *jam certus eundi, carpebat somnus*. With regard to the friendly censures that a right honourable gentleman had cast on him, he felt the difficulty that he had experienced the other night in a peculiar degree at that moment, because if he should reply to what he had heard from the right honourable gentleman near him, on his idea of a legislative council for Canada, and should say that his sentiments were too democratical, he should then be liable to be pointed out as invidiously desining to prevent the right honourable gentleman's preferment, by describing him as unworthy of his monarch's favour; and if, on the other hand, in observing upon the different suggestions of the right honourable gentleman over the way, he should state that they appeared to him to be too favourable to monarchy, then he might be said to have charged that right honourable gentleman with holding principles of despotism, which would render the right honourable gentleman liable to the disfavour of that House and of the crown, both of whom he ought to honour and respect. Mr. Burke said further, that in consequence of the turn the conversation between a right honourable gentleman and himself had taken the other night, he had heard that there was an intention to make or take an occasion of imputing whatever he might say, to a base premeditated artifice, on

his part, to make the right honourable gentleman pass for a republican, in order that he might sooner get into power himself. He had found this design conveyed to him as a secret, but the very next day, a plot! a plot! was cried out in one of the common newspapers, which was wholly ascribed to him. (Mr. Burke here read, from a daily paper, an intimation that an account of such a plot had been received by the editor, but that for prudential reasons he did not choose to print it.)

[*Mr. M. A. Taylor* rose to call Mr. Burke to order, but was frustrated by the gentleman who sat next him.]

Mr. Burke resumed his argument, contending that he had a right to be heard, while he endeavoured to clear himself from the foul conduct that had been imputed to him. Would the House, he asked, think he was a fit man to sit there while under the imputation that he had described? If he had wished to attack the right honourable gentleman for his opinion respecting what had happened in France, he was free to do it any day he chose: as the right honourable gentleman had sufficiently often avowed those opinions in that House. Finding himself, without any cause, separated and excluded from his party, it was a loss which he severely felt, but while he felt like a man, he would bear it like a man. He denied that he had ever imputed democratic principles to the right honourable gentleman with a view to hurt him in the mind of his sovereign, and if he had pushed him to a declaration of his principles, the speech of the right honourable gentleman that day would prove whether he was likely to have obtained his end, if he had wished to draw from him a declaration of democratic principles. In the conversation the other evening the right honourable gentleman had said, he had written a book which he had thought it seasonable and proper for him to go about, and reprobate, in the whole and in all its essential parts and principles (a call of no! no! from the opposition benches.) He rose therefore to justify himself in the face of that House and of his country, and in the face of an adversary the most able, eloquent, and powerful, that ever was encountered; and he was sorry to perceive, the

most willing to rake up the whole of his opinions and conduct, in order to prove that they were abandoned by him with the most shameless inconsistency. He avowed the book and all it contained: when he wrote it he did it to counteract the machination of one of the most desperate and most malignant factions that ever existed in any age or country. He would still oppose the mischievous principles of such a faction, though he was unfortunate enough to stand alone, unprotected, supported with no great connexions, with no great abilities, and with no great fortune; and thus was he delivered over to infamy at the end of a long life, just like the Dervise in the fable, who, after living till ninety in the supposed practice of every virtue, was tempted at last to the commission of a single error, when the devil spit in his face as a reward for all his actions. Had he, in order to support monarchy, said the other evening that it was right to abuse every republican government that ever existed? Had he abused America, or Athens, or Rome, or Sparta? But every thing had been remembered that he had ever said or written, in order to render it the ground of censure and of abuse. He declared he could not caution the House too much against what had passed in France, but he had not called that a republic; no, it was an anomaly in government, he knew not by what name to call it, nor in what terms to describe it.

It was

“ _____ a shape,
 If shape it might be called, that shape had none
 Distinguishable in member, joint, or limb;
 Or substance might be called, that shadow seemed,
 For each seemed either; black it stood as night,
 Fierce as ten furies, terrible as hell,
 And shook a dreadful dart: what seemed his head
 The likeness of a kingly crown had on;
 With wide Cerberian mouths full loud, and rung
 A hideous peal.”

It was, he added,

“ A shapeless monster, born of hell and chaos.”

After having repeated these emphatical lines, Mr. Burke observed, that the right honourable gentleman's words had

gone deep to his heart, when he had told him, "he knew how to draw a bill of indictment against a whole people." He knew not how to draw any such indictment; but he would tell the House who could, viz.: the National Assembly of France, who had drawn a bill of indictment against the people of St. Domingo. He could draw a bill of indictment against murder, against treason, against felony, or he could draw such a bill against oppression, tyranny, and corruption but not a bill of indictment against a whole people. After a great deal of remark and complaint on the ground of matter personal to himself, Mr. Burke at length came to consider the subject of the clause before the House, and declared that the right honourable gentleman opposite to him (Mr. Pitt) had spoken his sentiments much better and more eloquently than he could have done himself on that subject. In a monarchy he declared the aristocracy must ever be nearer to the crown than to the democracy, because it originated in the crown as the fountain of honour; but in those governments which partook not of any thing monarchical, the aristocracy there necessarily sprang out of the democracy. In our own constitution, undoubtedly, as the right honourable gentleman had well defined it, continued he, our aristocracy was nearer to the crown than the people, because it reflected the honours of the sovereign. He must agree that a King of England was the root of the constitution; whereas in France, he was only, as he had been made to state himself the first minister. A King of England might, if he chose it, select any person, however improper objects for honours; but he did not do so, because it would, as he well knew, bring his crown into contempt; and therefore he exercised his prerogative in that respect cautiously and prudently. But could the King of France create nobility? He could not, because he was himself degraded and a prisoner: his orders therefore would not be respected, which ought ever to be the first attendant on nobility. Mr. Burke went much at large into the constitution of the House of Lords, declaring that the honour of a Duke, a Marquis, an Earl, or a Viscount, were severally familiar to us: we knew the nature

and origin of those honours. With us the crown was the fountain of honour: in other constitutions the people said that they themselves were. He spoke of the power of the crown to create a new order, as it had done in Ireland; and he said, let the title given to the hereditary nobility in Canada be what it might, there could be no manner of doubt that those whom the King designed to honour would have more or less respect. Mr. Burke took notice of the suggestion of Mr. Fox, of having the Council elective, which he owned he had put forcibly, because that right honourable gentleman never said any thing that was foolish; but he had gone beyond this point. It was true we could not have in Canada ancient hereditary nobility, as we had here, because we could not make that one hundred years old that was made but yesterday; but an elective council would clearly be a democratic council.

He next spoke much at length of the various sorts of governments that had obtained in different colonies. In some there were councils, others again had been a government by charter, consisting of a governor and a company, in which case the settlement was governed by the governor and freemen. He mentioned in particular the Mississippi scheme, which had been of that nature, and quoted Douglas's remarks upon it. He spoke of mere wealth alone as not a good ground for aristocracy, though wealth, he admitted, was a material thing in it. Undoubtedly, he said, there might be titles, and baronetage, he thought, not an unfit one, as it was a species of hereditary honour, though not a peerage; but in all those things, Mr. Burke said, they must resort to experience. He spoke of the various constitutions that had prevailed in our own colonies before we lost them: that which approached nearest perfection, he said, had been that of Massachusetts, and yet the province rebelled; and so did the others, where different forms of government prevailed. He did not, therefore, attribute the loss of our colonies to any one form of constitution for them: that form was undoubtedly the best under which they were the most flourishing and happy. He pointedly condemned what he called a close aristocracy,

which, he said, would prove a dead weight on any government, counteracting and ultimately clogging its action: he recommended, above all things, an open aristocracy, and said he had always thought the crown having in its power to make an admiral who had distinguished himself a peer, and decorate the old nobility by the infusion of new ones, occasionally, upon account of their merit and their talents, one of the first and most excellent principles of the British constitution. Having much at large spoke to the clause before, he turned to a consideration of himself, he said, left alone as he was, he hoped the House would not consider him as a bad man, though he was excommunicated by his party, and was too old to seek another. If his book stood an object of odium, he might possibly belong to a faction, but not to a party; and consequently could be of less use to his country. He defined the distinction between a party and a faction. A party, he said, he had ever understood to mean a set of men bound and united by principles to act together in watching over the conduct of ministers, and taking care that nothing should be done that was likely to prove injurious to the constitution; whereas, a faction did not draw together upon any known principles, but was devoid of all principle of union and common interest. He said his mentioning disciplined troops had been deemed uncivil, when he meant no uncivility. Discipline he had ever considered as one necessary quality of party, and he trusted he had ever shewn himself reasonably a friend to discipline, which was that sort of connexion which made men act together as a compact body, having one common object, and professing to feel it in common with their leader. In that sense he had meant the word discipline the other evening, and he trusted the gentlemen of the party, that had excluded him, would, with their usual fairness, continue to act against their common adversaries, on the common principles of public good, and not direct their weapons against a poor unfortunate man, who had been twenty-six years exerting his best endeavours to serve his country.

He gave an account of his first entering into parliament;

declaring, that he remembered that the first question he ever brought forward, he lost: the next he attempted was to oppose taking off the duty of one shilling for the land-tax, being of opinion, perhaps weakly, that it was necessary to keep up the taxes although it was peace, in order the sooner to reduce the debt of the country, and nothing could prevail on him to abandon his purpose. He had mentioned at the time that he had laid his political principles very low, in order that they might stick by him, and he by them, all his life. He had done so, and he had seen, on one occasion, two great parties join against him, who had never acted together before, viz. Mr. Grenville's party, and the late Lord Rockingham's. He had then persisted, with the same pertinacity as he had supported his unfortunate opinions on the French revolution. He complained of being obliged to stand upon his defence by that honourable gentleman, who when a young man, in the vigour of his abilities, at the age of fourteen years, had been brought to him, and evinced the most promising talents, which he had used his best endeavours to cultivate; and this man, who had arrived at the maturity of being the most brilliant and powerful debator that ever existed, had described him as having deserted and abandoned every one of his principles.

He said, at a time when there was not a plot indeed, but open and avowed attempts made by clubs and others to circulate pamphlets, and disseminate doctrines subversive of the prerogative, and therefore dangerous to the constitution, it was unwarrantable for any good subject to be day after day holding out a parade of democracy, in order to set a mob raging against the crown. It should not, and it ought not to be. The perpetually making violent and flaming panegyrics on the subject of what happened in France, he condemned as dangerous; and he said he now supported the monarchy, not that he thought it better than the aristocracy, or the democracy, but because it was attacked and endeavoured to be run down. In like manner, when Lord George Gordon acted as a fire-brand, and caused the proud city of London and Westminster to bow

its head to its very base. if they had joined in the cry against popery, was it not clear that they would have done infinite mischief? And yet he believed neither of the two right honourable gentlemen, nor himself, were suspected of a violent attachment to popery. But was that the hour to stand up for protestantism? If they had been rash enough to do so, they must know that they would have clapped a fire-brand to the pile, and not only the metropolis, but all England would have blazed. Let them take warning by that event. Let them recollect that the mere suggestion that forty thousand persons could not assemble in a room, for none was large enough to hold them, which appeared ridiculous and contemptible at first, had produced in one day such dire terror and alarm, that all ranks of people felt indescribable apprehension, and knew not whether to fly for safety. Just so there was at present a run against monarchy, which was said to be the child of his wild ungoverned imagination: let them not rest securely on such a conception, but take care in time to prevent the possible effects. In what he said upon the subject, he was conscious he had done his duty, and he hoped he had averted what unnoticed might have tumbled the British constitution in ruins. That being the case, separate and unsupported as he was, let not the party that had excommunicated him imagine that he stood deprived of every comfort, though all was solitude without, there was sunshine and company enough within.

Mr. Fox said in reply, that however the right honourable gentleman might be unkind enough to impute democratical or republican sentiments to him, he could assure him that his sentiments, whether about religion or any other topic, always made a due impression on his mind. He said that he did not like bestowing fulsome and unnecessary praises on the English constitution: they reminded him of a passage in one of our best poet's plays: he meant, he said, *King Lear*, who asks his three daughters how much they love him? *Goneril* and *Regan* answer him in terms of the most extravagant and studied panegyric; but when he puts the same question to *Cordelia*, she answers

just as he would answer the same sort of question if it were put to him respecting the constitution, when he should say, he loved the constitution of Great Britain just as much as a subject of Great Britain ought to love a government under which he enjoys such blessings. They were all, Mr. Fox said, bound to love a constitution under which they lived happily; and whenever it should really be attacked, all he should say was, that he would not be found the most inactive in its defence. With regard to the right honourable gentleman's declaration that he was separated from the party, if he was so separated, it must be his own choice; and if he should repent that separation, he might be assured his friends would ever be ready to receive him, to respect him, and to love him as heretofore. With regard to the situation of the seigniories in Canada, the right honourable gentleman had shewn himself weak in that part of his argument, and had evaded an answer; and the right honourable gentleman, on the same bench with him, was utterly and completely ignorant of the fact; he did not mean ignorant in an invidious sense of the word. Let the two right honourable gentlemen inquire further, and they would find that he was right in his declaration, because there was no stuff to engraft hereditary honours upon, no rank of persons at all qualified to receive those honours. The right honourable gentleman near him, Mr. Fox observed, had said he preferred an open aristocracy to a close one. He would shew that the sort of aristocracy that he had recommended could not be a close aristocracy, which he disapproved as much as the right honourable gentleman himself. With regard to the declaration of the right honourable gentleman near him, that the whole must be governed by experience, experience was undoubtedly a very good general guide in most matters, but it was rather a strange argument to resort to in the present instance, for which there never had existed a precedent. There was no colony, ancient or modern, that ever had precisely the same constitution. It resembled that of some of the American states; but that of Massachusetts the most nearly of any. Mr. Fox then took notice of Mr. Pitt's having

said, that his principles were so far republican as he had described. Mr. Fox declared he had no difficulty to admit that his principles were so far republican, that he wished rather to give the crown less power, and the people more, where it could be done with safety, in every government, old or new; and from that principle it was, that whenever any bills for that purpose had been introduced, he had given them his support, and the right honourable gentleman opposite to him, he observed, had maintained republican principles, according to his own mode of defining the word republican; for he had made several propositions of that kind to the House, and it was well known that the right honourable gentleman near him had done the same: they were equally chargeable, therefore, with republican principles, and to the extent that he had described, Mr. Fox said, he was extremely willing, nay desirous, to remain chargeable. With regard to foreign colonies, he was of opinion that the power of the crown ought to be kept low. It was impossible to foresee what would be the fate of distant colonies at a distant period of time; but in giving them a constitution, his idea was, that it was our interest, as well as our duty, to give them as much liberty as we could to render them happy, flourishing, and as little dependent as possible. We should make the free spirit of our own constitution applicable, wherever we could render it so; and if there was any risk or danger in so doing, he was persuaded the danger was not greater on one side than on the other; indeed he thought the more despotic the constitution we gave a colony, the more we made it the interest of that colony to get rid of such a constitution; and it was evident the American states had revolted, because they did not think themselves sufficiently free.

Mr. Fox summed up this part of his argument by declaring that he was decidedly of opinion, that the constitution of this country was more liable to be ruined by an increase of the power of the crown, than by an increase of the power of the people. He next took notice of what Mr. Burke had said of inflammatory publications; if any dangerous doctrines were disseminated in pamphlets, he

said, it behoved the government to look to them, and in case the law officers of the crown failed in doing so, it was then the duty of that House to remind the ministers of their neglect. He owned, however, that for his part, he was of opinion that free discussions of the principles of the constitution ought to be suffered: if the constitution had opposers, it would also have advocates, and the more it was discussed the better. He hinted that it was misusing the functions and privileges of that House, for any member to come down, and by holding long discourses, personal to himself, and relative to imaginary plots, which he (Mr. Fox,) really believed had no foundation in fact, prevent a committee from doing its duty, and examining the clauses of a bill of great importance. It was their duty also to look to the conduct of the executive government, to watch and examine the measures of ministers, and to guard, check, and controul the public expenditure. For any gentleman to suppose, that by the authority of discussions on personal topics in that House, what he said there would have any effect on public opinion, respecting a matter to which they had made up their mind, he believed it would be found a vain and fruitless expectation.

Mr. Burke rose in reply, and began with retorting on *Mr. Fox* for what he had said respecting the eulogies on the constitution. He said they were at least as useful as that right honourable gentleman's almost daily professions of admiration for the revolution of France. As the right honourable gentleman had thought proper to appeal to a passage from one poet in praise of the constitution, he would take the liberty of remembering another line from another poet.

———— Qui non defendit, alio culpante.

Mr. Burke also told a story of a Lacedemonian, who observing a man for ever praising Hercules, asked who blamed him? since he thought he was going to be put to the distaff, or something worse than all his labours. He referred to the books that were in circulation, and said there was serious cause for alarm, when associations publicly

avowed doctrines tending to alineate the minds of all who read them, from the constitution of their country, especially at a time when it was notorious that it was systematically run down abroad, and declaimed against as the worst in existence. He again reminded the Committee from how trivial a commencement Lord George Gordon's riots began, in consequence of which London had bowed its head so low. Mr. Burke said, he had never desired any books to be prosecuted, but the right honourable gentleman near him had more than once. He took notice of what had been said, that if he would repent, he would be received. He stood, he said, a man publicly disgraced by his party, and therefore the right honourable gentleman ought not to receive him. He declared he had gone through his youth without encountering any party disgrace; and though he had then in his age been so unfortunate as to meet it, he did not solicit the right honourable gentleman's friendship, nor that of any man either on one side of the house or the other.

Mr. Martin expressed his surprise at Mr. Burke's having said that certain societies had circulated doctrines and pamphlets relative to the constitution, the doctrines of which he reprobated as foolish and adulatory. The right honourable gentleman in particular had mentioned by name the Constitutional Society, the Revolution Society, and, what was rather strange, the Unitarian Society. *Mr. Martin* said, so far from thinking he had any cause to be ashamed of belonging to the Constitutional Society, it was his pride to be a member of it; persuaded as he was that they acted upon motives too pure to merit reprehension; and surely no gentleman would think a society, instituted to commemorate the revolution, illaudable. He said, that the other day he had taken up a volume of Locke on the Human Understanding, from which he would read a short extract, which appeared to him to be opposite to the present times. This extract he read, the object of which was to state that innovation was not the less founded on truth because it was new.

Mr. Martin added, that Mr. Burke's Reflections had

called forth many comments, and among them an excellent pamphlet, from a gentleman formerly a member of that House: he said, he meant Mr. Rouse, who proved himself to entertain sound constitutional principles.

Mr. Wilberforce complimented the Constitutional Society, declaring that he believed them more likely to repress than to excite clamour or commotion. Having said this, he desired to know from Mr. Fox whether he intended his elective Council to be for life or for a term of years?

Mr. Fox said, he had not decided upon that point, but he rather inclined to constituting for life.

Mr. Wilberforce, objecting to this, said, that let the elective Council be for life, or for a term of years, in the one case they would clog the prerogative, and deprive the subject of its protection; in the other point of view, it would be a democracy under another name, and give the popular branch of Government too much power: whereas, if they adopted an hereditary Council, they would form an open aristocracy, and though, at first, produce only saplings, in the course of years they would become forests, capable of bearing up against any innovation either of the crown or people.

A few words more passed between Mr. Fox and Mr. Pitt, after which the question was put, and the clause passed.

The House adjourned.

Thursday, 12th May.

The order of the day having been moved by Mr. Chancellor Pitt, for resuming the Committee on the Quebec Bill, and the same having been read accordingly, the Speaker left the chair, and Mr. Hobart took his seat at the table.

The Committee then proceeded to fill up the several blanks in the clauses, beginning with page 7 of the printed bill. As the conversation was for the most part loose and desultory, we shall only give an account of the manner in which the blanks were filled up, without entering into a de-

tail of the observations that were made, except where they require notice.

Mr. Chancellor Pitt having proposed that the number of members to be chosen for the House of Assembly in Upper Canada should not be less than sixteen—

Mr. Fox rose, and objected to the number. He contended, that after so much had been said about obtaining a proper aristocracy for that colony, on the preceding days, they were not now to lose sight of giving it a proper share of democracy likewise, which was allowed on all hands to be requisite. Sure he was that sixteen was a good number for an aristocracy, but by no means for a democracy. He was perfectly aware that it was idle to expect or to maintain that in a representative House the number of the elected ought to bear a strict analogy to the number of the electors. He knew there was no necessity for it; and that 558 members of that House were just as good a representative of the people of England, amounting to eight millions, as any larger number whatever; but if they were legislating for a much more populous country (France, for instance,) he did not believe he should be told that 558 members were fit representatives for the people of France. *Mr. Fox* thought sixteen by no means enough to form any thing that could bear the name of a popular assembly; he should rather have imagined that one hundred would have been the number, if one hundred fit members of assembly could have been obtained in Upper Canada.

Mr. Pitt said, as there were not above ten thousand individuals in Upper Canada (including men, women, and children,) he thought sixteen, in the present state of the province, was about a reasonable proportion of those who were fit persons to be chosen members of the House of Assembly, and could spare enough time for due attendance. The blank was filled up with the word sixteen. It was here observed by *Mr. Pitt*, that the bill did not limit the number of members to sixteen, but only shewed that it ought not to be less than sixteen.

The number of the members of the House of Assembly in Lower Canada was moved to be filled up with the word thirty.

Mr. Fox condemned such a nomination, as infinitely too small. To transmit the British constitution to all the colonies of Great Britain, *Mr. Fox* said, he well knew was impossible; but to pretend to do any thing like it, and to name 30 persons as a popular assembly representing 100,000, was so gross a fallacy, that he hoped it would be no longer attempted to be said that we gave Canada even a sketch of the British constitution, or any thing like it.

Mr. Powys said, the number of inhabitants he understood amounted to 150,000.

Mr. Barnard, in answer to *Mr. Powys*, said, that was supposed to have been the number of inhabitants in the whole province of Canada, before it was attempted to be divided.

Mr. Dundas said, they could not pretend to give Canada the same constitution as they themselves lived under: all they could do was to lay the foundation for the same constitution, when increased population and time should have made the Canadians ripe to receive it, and to enjoy the same blessings.

Mr. Fox insisted on it, that an Assembly consisting of 30, as the representatives of 100,000, might be an excellent Assembly, a wise Assembly, a virtuous Assembly, or an enterprising Assembly, but it could not be called a popular Assembly.

Mr. Martin wondered that *Mr. Dundas* should argue that the constitution would be ruined by a more equal representation. Did he wish the Assembly in Canada, *Mr. Martin* asked, to resemble some representative bodies in other countries, where there were sham elections, and footmen dressed up in their masters' clothes, and sent to parliament.

Colonel Simcoe read an extract from an American paper, to prove that the Congress thought a very small number sufficient for the members forming the House of Assembly for a western province, and that two or four would be enough to represent Montreal and Quebec.

The qualifications of electors were moved and agreed to

at forty shillings for freeholders, in whom the choice of members for districts, counties, or circles lay.

Electors of members of towns or townships to possess a dwelling-house, or lot of ground, of the value of five pounds yearly, or, if resident within the said town or township, for the six months before the date of writ of summons for the election, to have paid ten pounds rent.

The duration of the House of Assembly was fixed for four years, instead of seven, as originally proposed; and the right of appeal, instead of being first to the Privy Council, and then to the House of Lords, was restricted to the Privy Council only.

When they came to the clauses respecting the clergy, *Mr. Fox* begged an explanation of both the clauses, page 13, 14, 15.

Mr. Chancellor Pitt said that he first gave the Governor and Council a power, under the instructions of his Majesty, to distribute out of a sum arising from the tithes for lands or possessions, and set apart for the maintenance and support of Protestant Clergy, in order to give them a competent income, and the second clause, he said, provided for the permanent support of the Protestant clergy, a seventh proportion of the lands to be granted in future. He declared that the meaning of the act was to enable the Governor to endow, and present the Protestant clergy of the established church to such parsonage or rectory as might be constituted or erected within every township or parish, which now was or might be formed, and to give to such Protestant clergyman of the established church a part, or the whole, as the Governor thought proper, of the lands appropriated by the act. He further explained, that this was done to encourage the established church, and that possibly hereafter it might be proposed to send a bishop of the established church to sit in the Legislative Council.

Mr. Fox disagreed with the whole of this plan. He said he thought the Roman Catholic religion ought to be the established church of the colony, or the Presbyterian (that of the kirk of Scotland.) He conceived setting aside a seventh part of the lands granted for the mainten-

ance of the Protestant clergy, was too great an allotment, and that the idea of sending a bishop of the established church of England to sit in the Legislative Council, was in every point of view unjustifiable.

Mr. Duncombe was of opinion that setting aside a seventh of the lands granted for the maintenance of the clergy, was too much.

Mr. Ryaer, by way of explanation, said, that the meaning was, when his Majesty granted six acres in any of the new townships, an acre was to be set aside for the clergyman presented by the Governor to the parsonage or rectory; for the first year or two, as the clergyman would have the ground to clear and cultivate, he probably would be greatly underpaid.

Mr. Fox still censured the whole plan, and reminded the House that *Mr. Dundas* had two evenings since boasted that the security of the kirk of Scotland was its being erected on the rock of poverty: according to the professions of the bill, *Mr. Fox* said, even the clergy of the kirk would have larger incomes in Canada than in Scotland.

Mr. Dundas gave an historical detail of the mode of proceeding, by which the clergy in Scotland were supported. The fund out of which they were paid, he said, was created in the last century; when the whole tithes of Scotland, as they then stood, were sold, and the money they produced vested for the purpose. There were, he said, about 900 parishes in Scotland, and their clergy had, he believed, one with another, between eighty and ninety pounds a year; and when their income, from circumstances, was too small, it was made up to a certain amount to such individuals whose pittance was too scanty, by the Assembly of the Kirk, who managed the fund. He lamented, that in consequence of an error in the original proceeding, viz. : the vesting the sum which the sale of the tithes had produced in a fund, instead of laying it out in the purchase of land, and dividing that land so purchased into allotments for the clergy, the latter was not sufficiently provided for. Had the plan he had stated been adopted, the land would have risen in value in proportion to its im-

provement as other land had, and the incumbents would consequently have had the benefit of its increased production.

Mr. Pulteney, Lord Carysfort, and other gentlemen, took part in the conversation; and at length, the blanks being all filled up, the House adjourned at twelve o'clock.

Monday, 16th May.

Mr. Hobart having brought up the report of the Quebec Bill,

Mr. Fox said, that after the discussion which the clauses had received, he did not again mean to trouble the House: there were only two points on which he intended to divide the House, and they were those which related to hereditary nobility, and the number of the Assembly in Lower Canada.

Mr. Powys remarked, that with regard to hereditary nobility, he had only one objection: it was at present customary in Canada to give only one moiety of property to the eldest son. This certainly would much tend to scatter the property. But as we were now to make a constitution not for the present moment, but for posterity, he thought it desirable that there should be something similar to our House of Peers, and therefore he would vote with the right honourable gentleman who brought in the bill.

Colonel Simcoe spoke in favour of the bill, and having pronounced a panegyric on the British constitution, wished it to be adopted in the present instance, as far as circumstances would admit.

Mr. Fox said, that the hereditary nobility, as proposed to be established in Canada, could never be upon the footing of the British House of Peers. By this bill the power of the King was not limited in conferring hereditary nobility, or only nobility for life.

The House then divided upon the amendment of leaving out the clause of hereditary nobility.

Ayes 39: Noes 88.—Majority 49.

On the clause fixing the number of the Assembly of

Lower Canada at thirty; *Mr. Chancellor Pitt* proposed, as an amendment, that the word fifty should be substituted in the place of thirty; but afterwards withdrew it to make room for the amendment of *Mr. Fox*, who proposed to enlarge the number to one hundred.

Divided upon the amendment of *Mr. Fox*.

Ayes 40 : Noes 91.—Majority 51.

The amendment of the Chancellor of the Exchequer was then put and carried.

Mr. Sheridan made some objections to the power that assumed, after the government had been divided into two separate, independent legislatures, of regulating their commerce and internal intercourse. He, at the same time, intimated his intention to bring the subject into consideration on a future stage of the bill.

The bill was ordered to be engrossed, and read a third time on Wednesday.

The House adjourned.

Wednesday, 18th May.

The Quebec Bill having been read a third time, *Lord Sheffield* presented a petition against it from *Mr. Limeburner*, agent for the province of Canada, stating that the people there had been refused, upon application, a copy of that bill by which their government was to be regulated, and praying that it might not pass.

Mr. Chancellor Pitt said, that the principles of the bill had been so long under consideration, and the impossibility that its regulations should meet the sentiments of all was so evident, that it was now the business of the House to consider whether the objections that had been stated were sufficient grounds for delaying the bill.

Mr. Alderman Watson moved, "That the debate should be adjourned till to-morrow."

The motion was negatived, and the Bill passed.

