

DIGEST  
OF THE  
BRITISH CONSTITUTION

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# DIGEST

OF THE

## BRITISH CONSTITUTION:

COMPILED BY DR. BRIDGES,

AND DELIVERED BY HIM AS A LECTURE AT MANY OF THE PRINCIPAL  
TOWNS IN UPPER CANADA.

### INTRODUCTION.

DURING a residence of seven years in Upper Canada, I have been led to believe, that the Constitution of Great Britain,—so admirably and equitably balanced, in all its relations between the three estates of Sovereign, Lords and Commons,—is but imperfectly understood by a great majority of Her Majesty's Canadian subjects. Consequently, it is apparent, an opening has been left for interested misrepresentation to the venomous tongue and sinister cunning of political speculators; to which is chiefly attributable the estrangement of loyal feeling that has accomplished the ruin of hundreds of our fellow-subjects, by the past unholy rebellions. My present humble offering is but a "gathering of other men's wares," beneath criticism, assuming no merit, except for *intent* to do good, by an endeavour to direct the unprejudiced mind to a just appreciation of the glorious Constitution of the "little sea-girt Isle," which has "braved a thousand years the battle and the breeze," and now presents a towering pillar, based with adamantine solidity,—a proud and enviable example to the world,—a manifest and incontestible proof of the superiority of her institutions. Long, very long, may she remain so, uninjured by factions at home or abroad. Great Britain displays the perfect model of a free Constitution, adapted, not to an exaggerated theory, but to a practical acquaintance with the wants of the different grades of society, affording equal protection to the rich and the poor. How beautiful and energetic is Shakspeare's eulogy of our country:—

" This royal throne of Kings, this sceptred Isle,  
This earth of majesty, this seat of Mars,  
This other Eden, demi-Paradisé;  
This fortress, built by nature for herself  
Against infection, and the hand of war;  
This happy breed of men, this little world,

From Ac 2249

This precious stone, set in the silver sea,  
 Which serves it in the office of a wall,  
 Or as a moat defensive to a house,\*  
 Against the envy of less happy lands;  
 England, bound in with the triumphant sea,  
 Whose rocky shore beats back the envious siege  
 Of watery Neptune.  
 O, England! model to thy inward greatness,  
 Like little body with a mighty heart,  
 What might'st thou do that honour would thee do  
 Were all thy children kind and natural."

The protecting power of Great Britain in favor of her subjects, was equally displayed when mighty wars have waged against her as in the quietude of general peace. How does it swell the patriotic breast with honest pride when we compare the purity and stability of the British Constitution, and superior privileges of the British subjects, around which a sacred halo of preservation is drawn, with those of other nations. These have stood the test of ages, whilst empires have been groaning in the whirlwind of contending factions. I do not assert perfectability, or uphold that we have no evils in our Provincial or Imperial legislation, for abuses ever have, and ever will, creep into the best regulated institutions; but I am prepared to maintain, that to remedy those evils, were it possible to destroy the grand fabric of the British Constitution, the *united legislative wisdom of the WHOLE WORLD could never upon its ruin build a better.*

Let us take a retrospective view of some fifty years, and observe what troubles were wrought in France by the same kind of reformations, which have for some time past restrained and borne down the energies of the Provinces like an incubus. What mischief it produced throughout the civilised world? France deluged in blood, and war and devastation carried to the remotest regions. Our modern destructives held out to their deluded followers the same sort of inducements to enable them to accomplish their ends, and liberty and reform were the clap-trap expressions; satisfied to pull down and destroy, and leave to others the labour of building up and regulating, for they knew their own incompetence to effect it. If they could but succeed in overturning the existing form of government, and of annihilating the rights of property, they hoped, that in the general scramble which they expected would ensue, they might be enabled to seize upon a larger share of worldly riches and power than they are likely to gain by the practice of morality, whose rules they despise, or of virtuous in-

\* "According to the Welsh Triads," says Southey, "the earliest name by which Britain was known was *Clas Merddin*, the sea-defended spot. Such an appellation may seem to have been prophetic."

dustry, whose restraints they abhor. The flimsy texture of the veil with which they would have covered their designs, has been easily seen through, and self-aggrandizement, glaringly prominent, stands confessed, the true intent of the pseudo patriots—their all absorbing object of attainment. *Such friends of the people* seek their own exclusive benefit and gratification, reckless of the overwhelming vortex that swallows up the interest of the many, sacrificed to their mercenary and cold-blooded policy, which they pursue with avidity, regardless how they trample on the rights or outrage the feelings of others. Thank God! a very great majority of Her Majesty's Canadian subjects entertain a just appreciation of liberty, and consider that every man has enough liberty in being permitted to do what the laws, affecting equally the high and low, have not proscribed, resting satisfied that such restraints are necessarily placed for the well regulating of society. How beautifully has Addison apostrophized liberty:—

“ O Liberty, thou goddess, heavenly bright,  
 Profuse of bliss, and pregnant with delight ;  
 Eternal pleasures in thy presence reign,  
 And smiling plenty leads thy wanton train,  
 Eas'd of her load, subjection grows more light,  
 And poverty looks cheerful in thy sight ;  
 Thou mak'st the gloomy face of nature gay,  
 Giv'st beauty to the sun, and pleasure to the day.  
 Thee, goddess, thee, Britannia's Isle adores ;  
 How has she oft exhausted all her stores,  
 How oft in fields of death thy presence sought,  
 Nor thinks the mighty prize too dearly bought.”

With regard to real, or imaginary grievances, which are said to affect us in the Provinces, so much has been written or said, that I shall merely, *en passant*, observe, (metaphorically,) it were folly to cut the head off to cure its aching; equally unwise to endeavour to bring about separation from the parent country, to effect any salutary changes that may be desirable in our provincial legislation. It is a question I shall not enter into, determining to steer clear of *party* in this little offering; but on the remedy by separation, I would observe, it must be apparent to, and be admitted by all but the ambitious and unprincipled demagogue, who, with cormorant rapacity, seeks self-aggrandizement alone, amid the general wreck he would create, that it is morally impossible any good can result therefrom. We possess not the great essentials, population and wealth, in a sufficient degree to enable us to maintain an independent position in the scale of nations. In the absence of internal resources, if once cut adrift from the parent stem, from whence we have derived all our past and present good, if brought about by revolt, we may naturally conclude, that the very

great advantages we derive in our commercial relations with Great Britain will not then, in an equal degree, be available to us. I am not permitted within the circumscribed limits of this little work to enter at large into the question; but I fervently hope, that when the day of separation shall arrive, (and no one can doubt but it is destined at some time,) that it may be like a child leaving its parental hearth, starting into life on its own responsibility, the parting in peace—both determining on reciprocity of good acts. But situated as we are at present—in ceasing to be a bright gem in the British diadem, we are compelled to become a contemned and humiliated cypher, appended to the star-spangled banner of the United States' Republic. I am convinced it would not be for *our* good, and I pray Heaven that we may escape the vulture fangs, and sordid and corroding ambition, that would prompt to such suicidal folly.

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#### AN OUTLINE OF THE BEAUTIES AND BENEFITS OF THE BRITISH CONSTITUTION.

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“It is the *duty of every expounder of our Laws*, to lay this Constitution before the student, in its *true and genuine light*, it is the duty of every good subject to *understand, to revere, and to defend it.*”—*Hale*.

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THE Constitution of Great Britain is divided into three estates. The regal, or first estate,—the aristocratical, or second estate,—the democratical, or third estate.

By the first, or regal estate, is meant the King or Queen, “for it matters not to which the crown descends, but the person entitled to it, whether male or female, is immediately invested with all the ensigns, rights, and prerogatives of sovereign power,” as is declared by statute—(1st *Mary*, *stat.* 3, *c.* 1.)—who is more properly the King *of*, than a King *over*, the people, united to them, one of them, and contained in them; at the same time that he is acknowledged the head of their body, he is their principal minister, being the depute of their executive power.

He is called to govern the people, according to the laws by which they themselves had consented to be governed, to cause justice and mercy to be dispensed throughout the realm, and to his utmost to execute, protect, and maintain the laws of the Gospel of God, and the rights and liberties of the people, without distinc-

tion. And this he is sworn to observe. And thus, as *all* others owe allegiance to the King, the King himself oweth allegiance to the Constitution.

The existence of a King, as one of the three estates, is immutable, indispensable, and indefeasible. The Constitution cannot subsist without a King. But then his personal claim of possession, and of hereditary succession to the throne, is, in several instances, defeasible. As in case of any natural incapacity to govern, or in case of any attempt to sap, or overthrow, a fundamental part of that system which he was constituted and sworn to maintain. Though the claim of a King to the throne of Great Britain, is a limited claim, *yet the world can afford no rival, in power or glory, to the Constitutional Sovereign of England.*

His are not the mere ensigns or external show of regency, but he is invested with powers much more real than if they were absolute.

There are three *capital prerogatives*, with which the King is entrusted, which, at first sight, appear of dangerous tendency, and which must infallibly end in arbitrary dominion, if they were not counterpoised and counteracted.

His principal prerogative is to make war or peace, as also treaties, leagues, and alliances with foreign potentates—

His second prerogative is to nominate and appoint all ministers and servants of state, all judges, and administrators of justice, and all officers, civil and military, throughout the realm—

His third capital prerogative, is, that he has the whole executive power of the government of the nation, by his said ministers and officers, both civil and military.

I might also have added a fourth prerogative—a power of granting pardon to criminals. Had this power, however, been unrestrained, all obligation to justice might be absolved at the King's pleasure. He is restricted in protecting his ministers, when they have effected, or even attempted any thing militating against the Constitution. He is also limited in appeals brought by the subject for robbery or murder. But on indictments in his own name for offences against his proper person and government, he is at liberty to extend the arm of mercy, "forasmuch, as there are many cases so circumstanced, so admissible of pitiable or palliating circumstances, that *summum jus*, or strict justice, might prove *summa injuria*, or extreme injustice." All pardonable offences are distinguished by the title of "*crimina læsæ majestatis*," *sins against the King*. All unpardonable offences are distinguished by the title of "*crimina læsæ libertatis*," *sins against the Constitution*. In the first case the injury is presumed to extend no further than to one or a few individuals, in the second it is charged

as a sin against the public, against the collective body of the whole people. Of the latter kind are "attempts to change the nature or form of any one of the three estates, or tending to vest the government, or the administration thereof, in any one, or any two of the said estates, independent of the other, or tending to raise armies, or to continue them in time of peace, without the consent of Parliament, or tending to give any foreign estate an advantage over Great Britain, by sea or by land."

The King hath also annexed to his dignity many further very important powers and prerogatives. He is first considered as the original proprietor of all the lands in the British dominions, and he founds this claim as well on the conquest by William the Norman, as by the Kings or leaders of our Gothic ancestors. Hence it comes to pass, that all lands, to which no subject can prove a title, are supposed to be in their original owner, and are therefore by the Constitution vested in the Crown.

On the same principle also, the King is entitled to the lands of all persons convicted of crimes subversive of the Constitution. His person is constitutionally sacred, and exempted from all acts of violence or constraint. As one of the estates, also, he is constituted a corporation, and his written testimony amounts to a matter of record. He also exercises the independent province of supplying members to the second estate by a new creation, a very large accession to his original powers. Bishops are appointed and nominated by the King. His is the sole prerogative to coin or impress money, and to specify, change, or determine the current value thereof, and for this purpose he is supposed to have reserved from his original grants of land, a property in mines of gold and silver, which are therefore called royalties.

"But though mines of gold and silver belong to the King, yet mines of copper and tin belong to the subject, and herein in older times has been a great question, namely, whether, if the mine of copper or tin contained gold or silver, as they often do, whose it should be, the King's or the subject's, and the judges made a very extended construction, and held, that gold and silver, being the nobler and more valuable metals, should attract the less valuable, and belong to the King; as likewise for the following reasons—that the King's property cannot be held in jointure with the subject, and that precedence and priority of claim belong to the Sovereign.—(*Vide Bacon's Abridgment of Statutes.*) But by the 1st of Will. & Mary, stat. 1, chap. 30, sect. 4, it is enacted, "that no mine of copper, tin, iron, or lead, shall be adjudged a royal mine, although gold or silver may be extracted out of the same. But the crown has the privilege of possessing the ore extracted, by paying for it within thirty days after it shall be raised, at a price fixed by statute."

The King hath also the right of issuing patents for special and personal purposes. He is also entrusted with the guardianship of the persons and possessions of idiots and lunatics.

The King hath also the prerogative of a negative voice in the legislature, as also the right to call the other two estates to Parliament, and duly to continue, prorogue and dissolve the same.

Privy Councillors are made by the King's nomination, without either patent, or grant, and on taking the necessary oaths, they become immediately Privy Councillors during the life of the King that chooses them, but subject to removal at his discretion. The duty of a Privy Councillor appears from the oath of office, which consists of seven articles, as follow:—

1—To advise the King according to the best of his cunning and discretion.

2—To advise for the King's honor and good of the public, without partiality, through affection, love, meed, doubt or dread.

3—To keep the King's counsel secret.

4—To avoid corruption.

5—To help and strengthen the execution of what shall be there resolved.

6—To withstand all persons who would attempt the contrary, and lastly, in general,

7—To observe, keep, and do all that a good and true Counsellor ought to do for his Sovereign.

Next to the Lord President of the Council, the Lord Privy Seal sits in Council, the Secretaries of State, and many other Lords and Gentlemen, and in all debates of the Council, the lowest delivers his opinion first, and the King declares his judgment last, and thereby the matter of debate is determined.—(4 *Inst.* 55.)

The King, with the advice of his Council, publishes proclamations binding to the subject, but then they are to be consonant to, and in execution of, the laws of the land.

Here then we find that a Sovereign of Great Britain is constitutionally invested with every power that can possibly be exerted in acts of beneficence and public good.

In treating of the second and third estates, I come naturally to consider what those restraints are, which, while they are preserved inviolate, have so happy a tendency to the mutual prosperity of King and people.

#### THE ARISTOCRATICAL, OR SECOND ESTATE.

The nobility, or second estate, in the Constitution of Great Britain, was originally representative. The members were enobled by *tenure*, and not by *writ* or *patent*, and they were holden in service to the crown and kingdom for the respective provinces,



counties, or baronies, whose name they bore, and which they represented.

A title to be a member of this second estate, was from the beginning hereditary. The King could not anciently either create or defeat a title to nobility. Their titles were not forfeitable, except by the judgment of their peers, upon legal trial.

Till Henry the Seventh the nobles were looked upon as so many pillars, whereon the people rested their rights; accordingly, we find that in the grand compact between John and the collective body of the nation, the King and the people jointly agree to confide to the nobles the superintendance of the execution of the great charter, with authority to them, and their successors, to enforce the due performance of the covenants therein comprised. Such a preference must have proved an unremitting incitement to the cultivation of every virtue, and acts embracing the general welfare. The crown did not at once assume the independent right of conferring nobility. Henry the Third first omitted to call some of the barons to Parliament, who were personally obnoxious to him, and he issued his writs, or written letters, to some others who were not barons, but from whom he expected greater conformity to his measures. These writs, however, did not ennoble the party till he was admitted, by the second estate, to a seat in Parliament, neither was such nobility, by writ, hereditary. To supply these defects, the arbitrary ministers of Richard the Second invented the method of ennobling by letters patent, at the King's pleasure, whether for years or for life, in fee simple, to a man and his heirs at large. This prerogative, however, was, in many instances, declined and discontinued, more particularly by King Henry the Fifth, till, meeting with no opposition from the other two estates, it has successively descended from Henry the Seventh down to our present gracious Queen VICTORIA. Next to their Sovereign, the people have allowed to their peerage several privileges of the most illustrious distinction. Their Christian names, and the names that descended to them from their ancestors, are absorbed by the name from whence they take their title of honor, and by this they make their signature in all letters and deeds. Every temporal peer of the realm is deemed a kinsman to the crown. Their deposition on their *honor* is admitted in place of their oath, except where they personally present themselves as witnesses of facts, and also their obligation of allegiance, supremacy, and abjuration. Their persons are at all times exempted from arrests, except in criminal cases. During a session of Parliament all actions and suits at law against peers are suspended. In presentments or indictments by grand juries, and on impeachments by the House of Commons, peers are to be tried by peers alone, for in all criminal cases they are pri-

viled from the jurisdiction of inferior courts, excepting on appeals for murder or robbery. Peers are also exempted from serving on inquests, and in all civil causes (I believe) there must be two or more knights impanelled where a peer is plaintiff.

The bishops, or spiritual lords, have the privileges of Parliament, but have not the privileges of personal nobility.

All the temporal or spiritual nobles who compose the House of Lords, however different in their titles and degrees of nobility, are called peers ( *pares* ) or equals, because their voices are admitted as of equal value, and the vote of a bishop or baron is equivalent to that of an archbishop or duke.

The capital prerogative of the House of Peers consists in their being the *Supreme Court of Judicature*, to whom the final decision of all civil causes is confided, *in the last resort*. This *constitutional privilege* is a weighty counterpoise to the *Sovereign's second prerogative of appointing the administrators of justice throughout the realm*, forasmuch as judges (who are immediately under the influence of the crown) are yet restrained from infringing by any sentence the laws or Constitution of England, while a judgment so highly superior to their own impends.

The second great privilege of the House of Peers consists in their having the sole judicature of all impeachments commenced and prosecuted by the Commons. And this again is a very weighty counterpoise to the *Sovereign's third prerogative*, of the *executive government of the nation by his ministers*, since all ministers are amenable to such a tribunal.

The third capital privilege of the House of Peers consists in their share or particular department of rights in the legislature. The confirming or negating all bills sent up from the Commons for the purposes of government, reserving always to the Commons their incommunicable right of granting taxes or subsidies to be levied on their constituents. This negative power of the Lords forms a happy counterpoise to the power both of *King and Commons*, should demands on the one part or bounties on the other exceed what is requisite.

#### THE DEMOCRATICAL, OR THIRD ESTATE.

The election of commoners to be immediate trustees and representatives of the people in Parliament is the privilege of the people. "The House of Commons was instituted by the crown as a balance to the barons, who were grown very opulent and numerous, and as appears by their wars, very uneasy to the crown; hence we find that upon the escheat of any barony for want of issue, or by forfeiture, the crown parcelled it out into smaller districts, and this

begot the distinction between the *barones majores* and the *barones minores*. These *barones minores*, held by knights' service, and being too numerous to be all called to Parliament, were allowed to sit by representation. This matter was set on foot as a matter of the greatest service to the crown, both for the balancing of the peerage, and for more conveniently taxing the people."—(*Bacon's Abridgments*, vol. 1, p. 568.) "At the first instituting a House of Commons, the representatives of knights, citizens, and burgesses were only looked upon as trustees to manage the affairs of their principals, and, therefore, in former days it was held reasonable that they should be recompensed by their principals for the expence and trouble they were at in managing the trust reposed in them. Hence the fee of every knight of the shire was four shillings per diem, and that of a citizen or burgess, two shillings per diem."—(4 *Institute*, 46.) The persons of commoners, or the representatives of the people, during their session, and for a limited time before and after every meeting, adjournment, prorogation and dissolution of Parliament, are equally exempted with the persons of peers from arrest, and duress of every sort. Whether fourteen or forty days, is a question mooted, and remains at issue between the Lords and Commons.—(*Bacon's Abridgments*, vol. 4, p. 233—*Cotton's Record*, 704—*Jenkin's*, 118.) They are also during the session to have ready access to the King or House of Lords, and to address or confer with them on all occasions they may require.

No member of the House of Commons, any more than the House of Peers, can by right be questioned or compelled to answer in any place whatever, touching any thing said or done by himself or others in Parliament, in order that perfect freedom of speech and action may leave nothing undone for the public weal. They have also during the session, an equal power to punish any who shall presume to traduce their dignity, or detract from the rights or privileges of any member of their house. The Commons form a court of judicature distinct from the judicature of the House of Lords. Theirs is the peculiar privilege to try and adjudge the legality of the election of their own members. They may fine and confine their own members, as well as others, for delinquency or offence against the honour of their house. But in all other matters of judicature, they are merely a court of *inquisition* and *presentment*, and not a tribunal of *definitive judgment*.

In this respect, however, they are extremely formidable. They are considered the *grand inquest of the nation*, for which they are supposed to be perfectly qualified by a personal knowledge of what has been transacted throughout the several shires, cities and towns, from whence they assemble, and which they represent. Over and above their inquiry into all public grievances, all ministers, magis-

trates, judges, and justices, who sell, deny or delay justice, who attempt or devise the subversion of any part of the Constitution, with all such as are above the reach of inferior courts, come under the particular cognizance of the Commons, to be by them impeached and presented for trial at the bar of the House of Lords. And these inquisitorial and judicial powers of the two houses, from which no man under the crown can be exempted, are deemed a sufficient allay and counterpoise to the *whole executive power of the King by his ministers*. The legislative department of the powers of the Commons is in all respects co-equal with that of the peers. They frame any bills at pleasure for the purposes of government. They exercise a right, as the Lords also do, to propose and bring in bills for the repeal or amendment of old laws, as well as for the ordaining of new ones—and each house hath alike a negative on all bills that are framed and passed by the other.

But the capital, the incommunicable privilege of the House of Commons, arises from their being empowered to take from the people a small portion of their property, in order to restore it three-fold, in the advantages of peace, equal government, and the encouragement of trade, industry, and manufactures. This power, once given to the people, could never after be wrested from them, and the Commons, the immediate organ of the people, have ever been exceedingly tenacious of their privileges, and have justly considered that to suffer the superior peerage to infringe them, would be the highest breach of trust they could be guilty of. By this fundamental and incommunicable privilege, the Commons have the sole power over the money of the people, to grant or deny aids, according as they shall judge them either requisite or unnecessary to the public service. Theirs is the province, and theirs alone, to enquire into and judge of the several occasions for which such aids may be required, and to measure and appropriate the sums to their respective uses. Theirs also is the sole province of framing all bills or laws for the imposing of any taxes, and of appointing the means for levying the same upon the people. Neither may the first or second estate, either King or Peerage, propound or do any thing relating to these matters that may any way interfere with the proceedings of the Commons, except by their assent or dissent to such bills when presented to them. After such taxes have been levied and disposed of, the Commons have the further right of examining into the application of them, of ordering all accounts relative thereto to be laid before them, and of censuring the abuse or misapplication thereof.

The royal assent to all other bills is expressed in Norman French, by the terms "*le Roy le veut*," "*the King wills it*." If the King refuse his assent, "*le Roy si avisera*," "*the King will advise upon*

ii." But when the Commons present their *bills of aid* to the Sovereign, it is answered, "*le Roy remercie ses loyaux sujets et ainsi le veut,*" "*the King thanks his loyal subjects and so willeth;*" an express acknowledgment that the right of granting or levying monies for public services lies solely in the people and their representatives. This capital privilege of the Commons constitutes the grand counterpoise to the Sovereign's principal prerogative of *making peace or war*, for no war could be undertaken without the *sinews* thereof—*money*, and the granting of which is immediately vested in the people, through their representatives in the House of Commons. Both Houses must be prorogued together, and dissolved together, for one cannot subsist without the other.

I now come to treat of them collectively as

#### THE THREE ESTATES IN PARLIAMENT.

The Sovereign, Lords and Commons, in Parliament assembled, have the *legislative power*, and when so assembled form the *great representative of the whole nation*. The institution, repeal, and amendment of laws, together with the redress of public grievances and offences are not within the capacity of any of the three estates, distinct from the others.

The three estates originally when assembled in Parliament sat together consulting in the open field; accordingly at Runnymede, or Runnimeede, on the 15th June, 1215, in the seventeenth year of his reign, King John passed the great charter, (as therein is expressed,) "by the advice of the Lords spiritual and temporal, and of several commoners, (*et aliorum fidelium*) and of others of his faithful people." And in the twenty-first clause of the said charter, he covenants that "for having the common council of the kingdom to assess aids, he will cause the lords spiritual and temporal to be summoned by his writs, and moreover he will cause the principal commoners or those who held from him in chief, to be generally summoned to said Parliaments by his sheriffs and bailiffs."

In the said assemblies, however, the concourse became so great and disorderly, and the contests frequently ran so high between the *several estates in assertion of their respective privileges*, that they judged it more expedient to *sit apart and separately to exercise the offices of their respective departments*.

One of the greatest benefits conferred by the British Constitution, and which is an essential part of it, is the *trial by jury*, and which may be traced to very ancient origin. Mr. Hume has given an opinion that the first lineaments of English jury displayed itself in the fertile mind and wise acts of the great Alfred. But the trial by jury, in civil and criminal causes by twelve men, appears to have

been first placed on tangible footing by William the Conqueror, and made permanently perfect by the famous Act of the 12 Charles the Second, from which data we may reckon the re-establishment of church and monarchy. By that act Charles removed all the slavish tenures and disabilities, the badges of foreign dominion. And the greatest security, by the same monarch, was thrown around the liberty of the subject, by that great bulwark of our Constitution, the Habeas Corpus Act ; which is of inestimable value, and even more beneficial than the magna charta, unwillingly conceded by John at Runnimede.

By the 6th Will. and Mary, cap. 2, it was enacted that Parliaments could not continue longer than three years ; but by the 1st Geo. I. stat. 2, cap. 38, it was enacted that Parliaments may respectively have continuance for seven years, except by demise of the crown, or by exercise of the prerogative of the Sovereign in dissolving the Parliament.

In all steps of national import the Sovereign is to be conducted by the direction of the Parliament, his great national council, a council on whom it is equally incumbent to consult, for the Sovereign, with whom they are connected, as for the people, whom they represent.

Thus the Sovereign is constitutionally to be guided by the sense of his Parliament, and the Parliament alike is to be constitutionally guided by the general sense of the people. Now while the three estates act distinctly, within their respective departments, they affect and are reciprocally affected by each other. For instance, the *Sovereign* has the *sole prerogative of making war*, but the *means* are in the hands of the *people and their representatives*. Again, to the *Sovereign* is committed the *whole executive power* ; but then the *ministers of that power are accountable to a tribunal* from which a criminal has no appeal. Again the *Sovereign* hath a *negative voice upon all bills* whereby his own prerogatives are guarded from invasion.

But should he refuse the royal assent to *bills tending to the general good of the subject*, the *Commons* can also withhold their *bills of assessment*, or *annex the rejected bills to the bill of aids*. Again to the *Sovereign* is committed the *cognizance of all causes*.

But should his *judges or justiciaries* pervert the rule of right and strict justice, an *inquisition, impeachment and trial* impends, from whose judgment the *judges cannot be exempted*.

## DEDUCTIONS.

While the *Sovereign* is thus controlled by the *Lords* and the *Commons*, while the *Lords* are thus controlled by the *Commons* and the *Sovereign*, and while the *Commons* are thus controlled by the other *two estates* from attempting any thing to the prejudice of the *general welfare*, the three estates may be justly compared to three pillars divided below at equidistant angles, but united and supported at top merely by the bearing of each pillar against the other. Take but any one of these pillars away and the other two must inevitably fall; but while all act on each other, all are equally counteracted, and thereby establish the general frame.

HONI SOIT QUI MAL Y PENSE.

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## CONCLUDING REMARKS.

Thus, I have endeavoured to place before you, condensed in a small form, the Constitution of the country to which we in common owe allegiance. It is for you to judge between the sophistry of the unprincipled demagogue, who would blind your judgment by clamour and exaggeration, and the plain matter of fact presented for your consideration. I have not deluded you by false reasoning; but have placed for your acceptance incontrovertible truths. I am prepared to hear the republican Cantwell exclaim:—It may be all true that you have pointed out, but *give us a transcript of the British Constitution!* Had I time and limit, I think I could convince you, (not him,) that we *have* a transcript of the British Constitution, or as closely assimilating with it as may be compatible with the real interests of the colonies and the parent country collectively considered. A difference however in some respects must arise from the subjection of the colonies to the mother country; that power being subject to no other. I reiterate, that I assert not perfectability in our legislation at home nor in the colonies, and I am a warm advocate for the redress of any *real* grievance; point out its existence, and the practicability of its removal, without *producing a greater*, and I shall most happily employ with you every constitutional and *legitimate* means to effect a remedy; but do not ask me to attempt it by spilling the blood of my fellow man! Do not ask me to sound the tocsin of war in array against

the much revered institutions of my country,—for I dare not! I could not meet the frown of an angry God, should I be fated to fall in the unnatural enterprise! And I am too selfish, should I be certain of surviving it, for I must live to respect myself, which I could not do were I to forget all the sacred obligations of a Christian and a man, to my Creator and my country.

I cannot omit this opportunity of impressing on the minds of parents and guardians, that it is a duty which they owe to those under their charge, to make them acquainted with the history and laws of their country. It is an unquestionable obligation that every member of society owes to himself and his fellow men, to “read, mark, learn, and inwardly digest” that very useful lesson. Had this been more generally observed, I am satisfied the conviction, consequent upon such inquiry, showing the inestimable privileges and benefits conferred upon us by our happy Constitution—the pride of Britons, and admiration of the world—would have prevented the consummation of wholesale misery, which has overtaken so many of our fellow subjects during the past twenty months. For a brief time a disease, a mania, spread itself more fell and desolating than cholera or the plague; indeed the term mania appears very just in its application, when we reflect that hundreds who were living in independence, in command of all that could be desired to make themselves and their dependants happy, have *madly* risked so much good in possession, to gain what? Alas! I know not! I cannot perceive any good that could possibly have resulted to the country from the visionary scheme to overthrow the existing government. The ambition of *a few, seeking place and power*, might have been gratified, and your real interests offered up as a sacrifice.

I cannot better sum up all that I have endeavoured to convey to your minds, than by quoting a paragraph from an excellent sermon delivered at Montreal by the Reverend Robert Alder, Wesleyan Minister, on the occasion of the late Duke of York's death—“Of all the civil Constitutions under Heaven, the *British* is demonstrably the best. It has been long tried, and has stood the rudest test. The lapse of ages tends only to invigorate, and render it more effective. It is through its excellence, under God, that an inconsiderable island has acquired the resources, energy, and strength of the mightiest continental empire. It is the object of God's most peculiar care, because it is most like *His own* administration. It is an honor to be born under it, a blessing to live under it, and a glory to defend and support it.” I would for a moment direct your attention to an honourable example set us by our honest, right-hearted Indian brethren:—What say our



brave companions, who were with us in the hour of need? "We have not a radical or rebel among us." Thus to a man they venerate and support the country that knows how to appreciate their worth. And our colored friends, also, shew they estimate its value. Their conduct throughout the late troubles has testified it. To them the British Constitution has said—

"Thy chains are broken; Africa be free,  
Thus said the Island!—Empress of the sea,  
Thus saith Britannia—O ye winds and waves  
Waft the glad tidings to the land of slaves."

It is not unlikely that this little endeavour may fall into the hands of some (I hope they may be few) who were predetermined upon a pertinacious and wilfully blind opposition to the British Government; with such I commune not. You, my brave fellow subjects, born under the British flag, no matter where, and who proudly boast of your allegiance, I will exhort in the words of the poet Burns:—

Be Britons still to Britain true,  
Amang oursels united;  
For never but by Britons' hands  
Must British wrangs be righted."

MONTREAL, SEPTEMBER, 1839.

