

BALLANTYNE

Quebec Act

1774

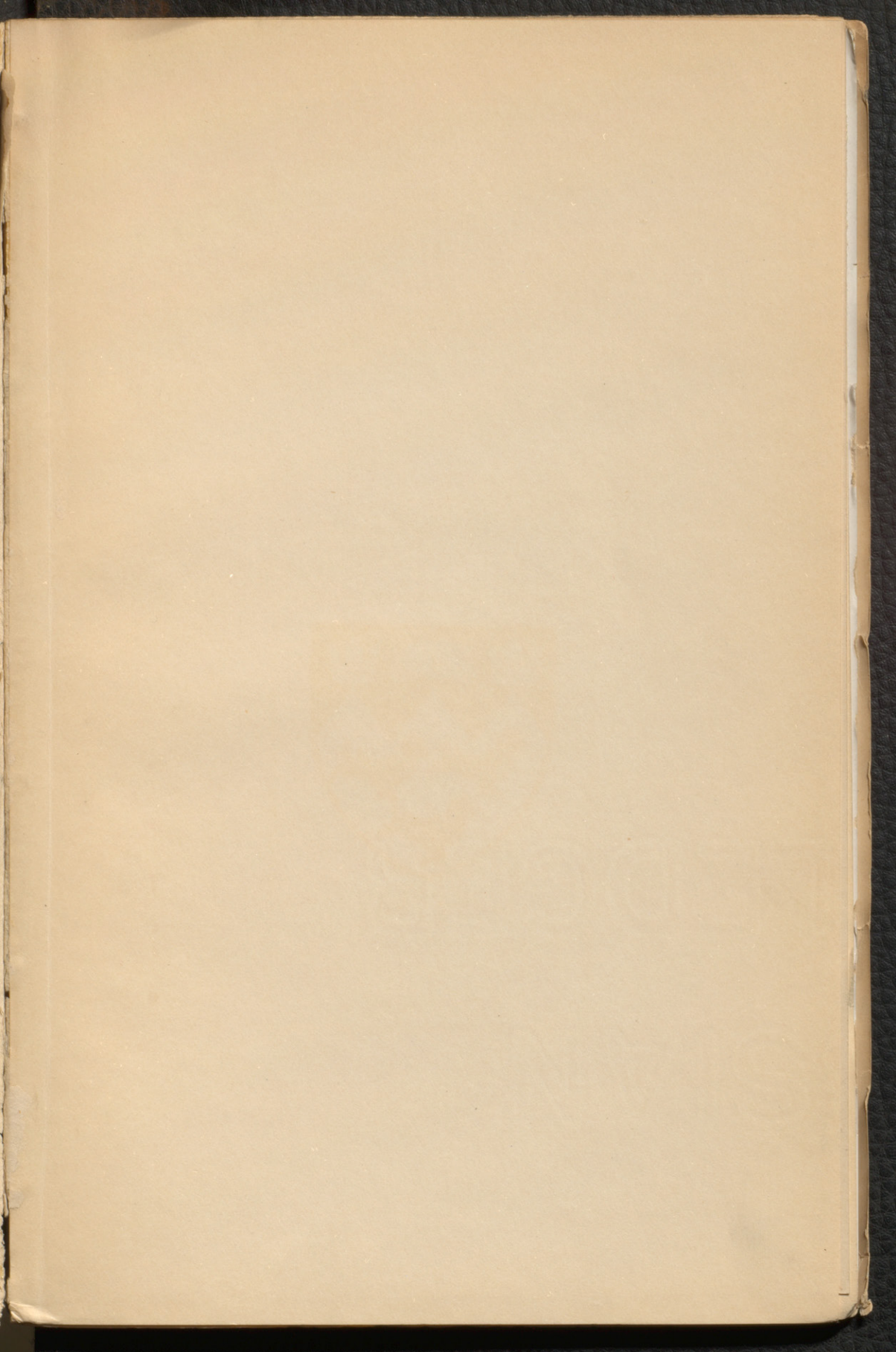
412 Hart

copy 2

PRESENTED TO THE LIBRARY
BY

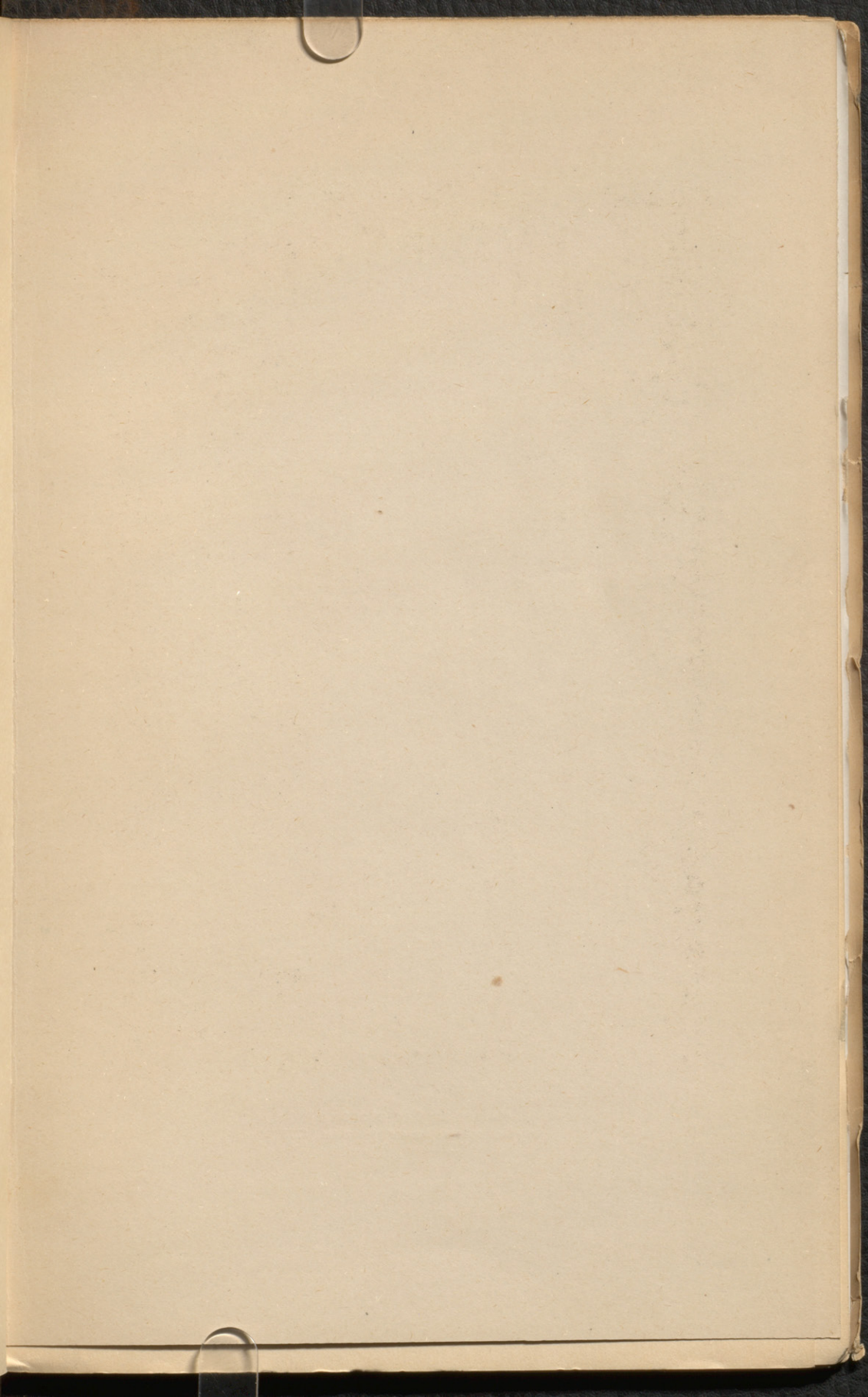
Murray G. Ballantyne





4

e





MARBLE BUST OF GEORGE III.
ON PLACE D'ARMES SQUARE, MONTREAL, 1775.

THE
QUEBEC ACT

1774.

—BY—

GERALD E. HART,
Ex President, Society for Historical Studies, Montreal.

Author of

The Fall of New France; Revolutionary Notes of 1837;
Treasuries of Bibliography or the Bibliographers
Paradise; Pre-Columbian America, Post-
Columbian America, and the Geogra-
phical Names thereof, etc., etc.

LIMITED EDITION.

MONTREAL

1891



MARBLE BUST OF GEORGE III.
ON PLACE D'ARMS SQUARE, MONTREAL, 1775.

THE
QUEBEC ACT

1774.

—BY—

GERALD E. HART,
Ex President, Society for Historical Studies, Montreal.

Author of

The Fall of New France; Revolutionary Notes of 1837;
Treasuries of Bibliography or the Bibliographers
Paradise; Pre-Columbian America, Post-
Columbian America, and the Geogra-
phical Names thereof, etc., etc.

LIMITED EDITION.

MONTREAL

—
1891

GAZETTE PRINTING COMPANY, MONTREAL.

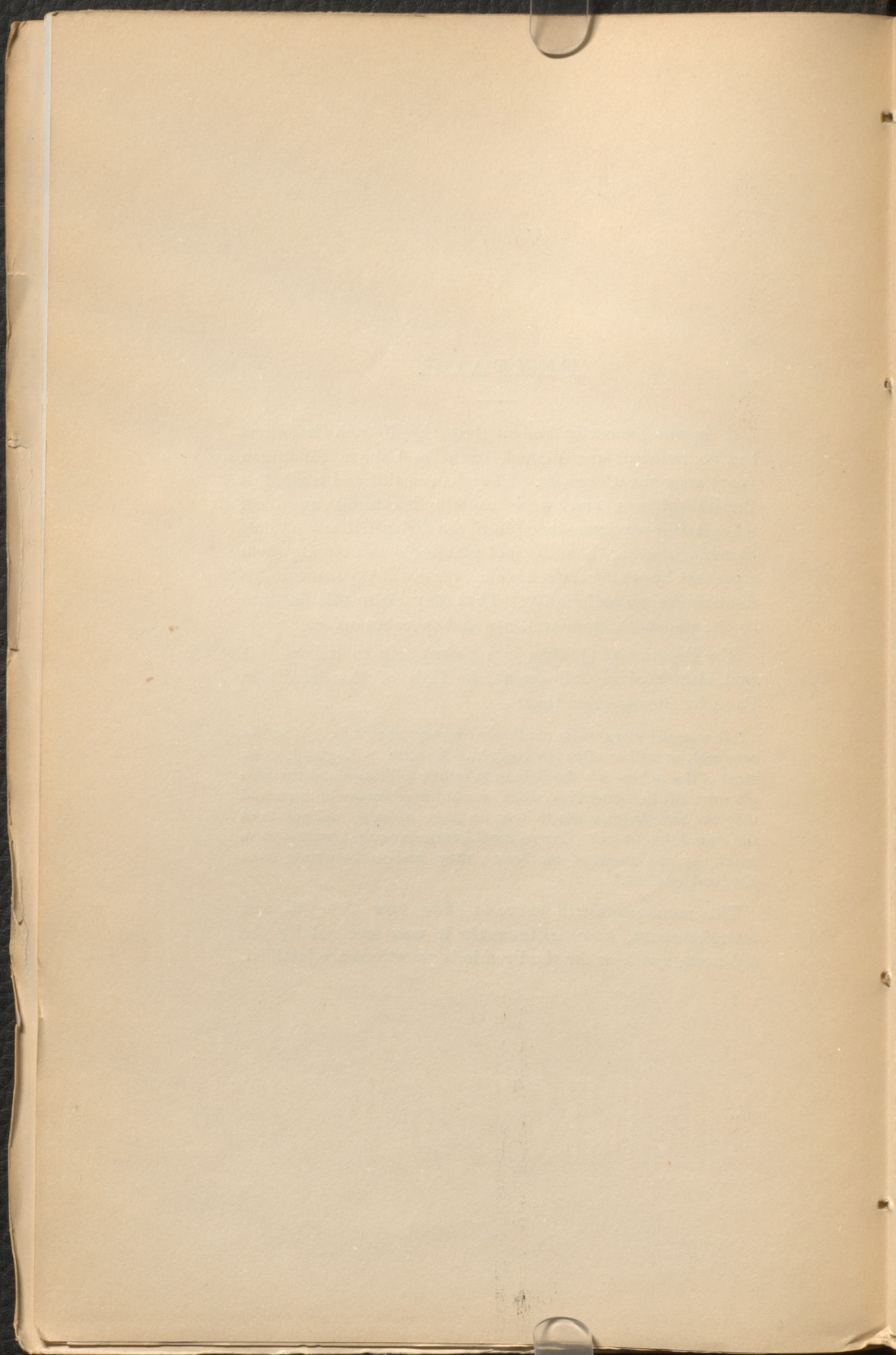
PREFACE.

It is not generally known that the French Canadians had no political or religious status in Canada for fifteen years after the Conquest. They were ruled and treated as British subjects, and were rapidly becoming anglicized, when a Bill was introduced into the British House of Parliament granting them distinct privileges and giving them a pretext by which they have ever since stood out as a distinctive French nationality. That they claim this latter to be the case both their writings and speeches evince.

The Premier of Quebec, in a recent trip to Europe it is said, electrified an audience at the Hall of the Jesuits in Paris, by the assertion that:—

“It was our clergy who made our country what it is. After the conquest, or rather after the cession of Canada to England, when most of the nobles left the Colony to return to France and the people were left to themselves, what would have become of them had they not had their priests to keep up their courage and point out the star of the future? Our political institutions are secured, so to speak, by the sweat of our brow; they had to be wrung from England, etc., etc.”

This monograph will serve to show how this Bill was brought about, how indignantly it was received by the *habitants*, and how far the Premier's assertions are justified.



THE QUEBEC ACT.

CANADA'S TRANSITION STATE.

A paper by MR. GERALD E. HART read before the Society for Historical Studies, Montreal, November, 1890.

"Voici le Pape du Canada et le Sot des Anglicans,"* were the significant words appended to the small but handsome marble bust of George the Third, the gift of the King to the city, now decorated with full papal insignia, mitre, cross and rosary, the face further bedaubed with lamp black, which met the eyes of the astounded citizens of Montreal as they wended their way to their places of business on the morning of the 1st May, 1775.

The motive was suspected and generally understood, so that there was an evident lack of zeal attending the efforts to discover the actual perpetrators; the authorities, no doubt, realising that they were treading on dangerous ground. Rewards were offered and much apparent indignation expressed, but the culprits remained undiscovered, and so faithfully was the secret kept, an evidence of the deep felt and universal approval, that to this day, like the letters of Junius, the authors of this anti-Papal and anti-regal act are unknown. It was necessary that a martyr should be made, and like the policeman who arrests the hind urchin of the crowd, a young merchant, named Franks, who did not denounce the act as loudly as all others, and had the

* Behold the Pope of Canada and the Fool of Englishmen. Thanks to the authorities of the Natural History Society, a photographic fac-simile of this bust is given as the frontispiece hereto. It stood upon a pedestal under a niche or cover erected in the Place d'Armes Square. It was removed after the insult and finally found a resting place in the Natural History Society's Museum of this City. The Grand Jury in 1790 in their presentment stated: "That the building situated upon the Place d'Armes under which His Majesty's bust was formally placed is a public nuisance, and ought to be pulled down." The Court granted the request and "orders that the same be pulled down accordingly."

hardihood to tell a new king's councillor, Mr. Picotté de Belestre, of the now rising French-Canadian nation, that it was not customary to hang for so trivial an offence in England, fell the victim and was committed to prison. This was no doubt more for the insult to the councillor's personal dignity, than any well-grounded suspicion that Franks was the perpetrator of the offence to the King, as at that time a councillor could imprison without assigning cause, especially under the French law permitting *lettres de cachet*, so that Mr. Franks was not aware of the crime laid at his feet. The whole body of English merchants offered to become his bail; but the Governor, as soon as it reached his ears at Quebec, saw fit, without enquiry of any kind, to release him within a week and to severely reprimand Mr. Belestre for his officiousness.

History oft repeats itself and we have here a verification of the adage, for the self-same cause occasioned this insult to the King as in after years, 1849, the loss of the seat of Government to Montreal; acts of sedition, unpardonable in themselves, albeit justifiable as the expression or voice of an indignant people in condemnation of the Government for granting, or yielding to, French supremacy in an English colony to the detriment of English rule.

No day in the annals of Canada since the conquest has been invested with the constitutional importance of this memorable May day of 1775. We may well call it "the birthday of Canada's autonomy," for on this day the "Quebec Act" was to come into force, the first Act of the British Legislature having reference to Canada, the foundation of our present political status and the laws under which we are governed.

It was this Act which had aroused the indignation of the British population as well as that of a large number of the French citizens of Montreal; from these latter, no doubt, the insult had emanated, as the language used and subsequent acts would imply, and well would it have been had this childish treatment of the king's effigy been the sole out-

come of their wrath; but unfortunately it was not destined to end here, and much more serious consequences soon followed.

To understand the political condition of the country, it will be necessary to revert to 1760, when England assumed the administration of affairs.

For the four years immediately following the conquest, Canada remained under military jurisdiction, with Major Gen. James Murray acting as governor in chief in immediate succession to General Amherst, to whom the surrender of the country was made. The French peasants accustomed to military dominancy did not find his rule irksome, and as he was largely guided in his legal decisions upon civil matters by the advice of the French advocates, notable among whom was François Joseph Cugnet, a very able and talented Canadian, who exercised for years afterwards immense influence with the British governors, his administration was very popular with the French people. Cugnet's influence extended even beyond the limits of this province, his opinion being sought by the English ministry in all questions affecting the old inhabitants.

In 1763, after the treaty of peace had been signed by which the conquest of Canada for the British Crown was ratified, King George the Third issued his royal proclamation putting an end to the military regime and substituting for it English laws and customs. The words used are:—
“That in the meantime, and until such assemblies “ (referring to a preceding section in which the governor was authorized to summon and call general assemblies of the people)” could be called, all persons inhabiting in, or resorting to His Majesty's said colonies “ (referring to the distributing of his American conquests into four colonies, Quebec, East Florida, West Florida and Granada)” might confide in His Majesty's royal protection for the enjoyment of the benefit of the laws of his realm of England.....for the hearing and determining of all causes, as well criminal as civil,

according to law and equity, and, as near as may be, agreeably to the laws of England."

Governor Murray and his council of twelve, partly appointed by England and partly by himself, immediately promulgated this proclamation and in his first or great ordinance dated 17th September, 1764, constituting the courts of justice, these English laws, in abolition of the French law in its entirety, were put into force with the solitary reservation "that the French laws and customs should be allowed and admitted in all causes in the said court (Common Pleas) between the natives of the said province, in which the cause of action arose before the first day of October, 1764." A Court of Chancery was further established with the Governor as Chancellor, and two Masters, two examiners and one registrar. Full effect was thus given to the king's proclamation, but Murray, under the all-powerful influence of Cugnet and the French gentry soon upset the whole force of the king's edict by the resolution of council adopted the following month: "That in actions relative to the tenure of lands and rights of inheritance, the laws and usages of Canada should be observed as the rule of decision according to equity, conformable to the former ordinance." This was never confirmed by the King, and as the Governor and Council had no authority to pass such a resolution, it was not only illegal but wholly *ultra vires*, nevertheless it was acted upon and rendered "confusion worse confounded" in the decisions of the courts under the two systems of law thus brought into force; a constant cause of complaint to the Crown in after years, and which ultimately largely brought about the Canada Act of 1791.

General Murray, after the conquest resided in Quebec, where he soon became on most intimate terms with the French gentry, all of whom had renounced their allegiance to the Throne of France, had forfeited any titles of honor they had received from the French King and had become British subjects by taking the oath of fidelity. Son of Lord

Elibank and of an autocratic turn of mind he would not condescend to associate with the commoners from England who came to settle in this country, many of whom felt the unjust imperiousness of his nature and the pointed slights he gave them. Nor need we express surprise, it was the natural outgrowth of sycophancy and the aristocratic constitution of society of that day; Murray therefore formed his associates and friends largely from among the self-styled French noblesse, poor and ignoble as the majority were, not one of whom were peers in fact but gentry only, of whom there were one hundred and fifty chiefly resident in Quebec; rather than from the English population, chiefly merchants who followed in the wake of the conquest, respectable and wealthy as many of them were, intelligent and patriotic as they proved themselves to be, the progenitors of our race, but unequal in social status to the aristocracy of England with which Murray was allied. To properly appreciate this feeling we have only to remember the power of the nobility and the great divisions of society which existed in all European countries antecedent to the birth of democracy by the French Revolution.

Dissatisfied with his many acts of partiality towards the French-Canadians and the introduction of the French law in several of the ordinances which he and his council made, the British population held indignation meetings and petitioned the king for his dismissal; the London merchants trading with Canada supported this in a remonstrance and petition they laid before the Board of Trade and Plantations, and the result was Murray's recall within two years of his appointment as governor! He was succeeded by Lieutenant-Colonel Irving as administrator, he being the oldest councillor, but he in turn was almost immediately superseded by Brigadier General Sir Guy Carleton who was appointed Lieutenant-Governor in 1766, and Governor-in-Chief in 1768. He was no improvement on Murray, but far more diplomatic and less imperious. He was politic enough

not to show his hand at all times and knew how "to run with the hare and hunt with the hounds." He still retained the counsel of Cugnet which was ever unfavorable to British interests, but fewer ordinances were passed than under Murray favoring this law-maker's opinions.

The best illustration of Carleton's character may be gathered from his reply to the King's request for a report from him upon the best system of laws for the colony. Having in view the ignoble discomfiture of his predecessor and his wreck upon a somewhat similar rock, he sailed around it by an artful report, the concluding clause of which reads ; —"That they (Governor and Council) cannot draw a balance in favor of any one of these methods in preference of the other, nor find a new one preferable to them all, being unequal to the task. We have no other merit than that of giving some information of facts. Your Majesty is best able to decide."

In 1773, Sir Guy visited England and while there he was faced with two petitions to the King, one from the British residents in Canada stating that they numbered over 3,000 and asking that the King instruct the Governor to convene the House of Assembly expressly granted to them by the terms of the royal proclamation of 1763 and for which they had waited ten long years, representing that the situation and circumstances of the province required the same. The memorial accompanying it intimated that ordinances repugnant to British laws were constantly being passed, so that the petitioners requested that an assembly subject to the King's pleasure (thus not objecting to Roman Catholic representation if he saw fit to have it) should be convened.

The other petition was from the French gentry, advocates, and others, expressly adverse to any House of Assembly being convened, but asking for an enlarged executive council to assist the Governor in which they were to have full representation. * Also for the repeal of that part of the proclama-

* Hitherto they had been excluded owing to their religion.

tion of 1763 in which the English laws were made absolute and further asking for the restoration of their laws, privileges and customs, and the extension of the boundaries of the province to its former (French) limits. They also asked to be allowed to hold office under the Crown and entreated for the rights and privileges of citizens of England. The petition was signed by sixty-five names, several of whom were boys and lads at school, representing that they spoke in the name of over one hundred thousand French-Canadians resident in the country.*

More they could not ask for and more they could not wish for, than they obtained in reply to this remarkable petition. The rights and penalties of conquest were completely expunged and the vanquished were now the victors. Well may their politicians and writers of to-day proclaim, "We were ceded not conquered!"

Within a few months of the presentation of these petitions, a bill from the House of Lords, where it had been passed without a challenge, was introduced by the Government in the Commons in the last days of the session of Parliament of 1774, when not over 130 members out of 558 were present upon a division, entitled "An Act for regulating the Government of the Province of Quebec," better known as "The Quebec Bill." Rushed through both Houses with undue haste, notwithstanding petitions and remonstrances from the merchants of London concerned in the Canada trade, and the protests of *Cursitor* Baron Maseres, acting on behalf of the British residents of the province, the bill was passed, and received the King's assent in the face of a further very strong protest from the corporation of the city of London. Thus became law the famous "Quebeck Bill" (14 George III, chap. 83), and it was very soon seen that the French petition of sixty-five individuals had supplied the basis of its provisions. The advice tendered by Carleton to the King

* At this time the French Canadian population exceeded 150,000 as proved by evidence in the proceedings of the Quebec Bill. For list of these names see p. 22 *appendix*.

may thus plainly be discerned, as no disavowal came from him, and he returned to the country to enforce its provisions.

By it the French civil law (and in consequence, the French language), and Roman Catholic hierarchy were established in Canada.

Tithes and all the other church dues were now made legally collectable, which had not been the case since the conquest, fifteen years previous. Roman Catholic disabilities as to tenure of office were removed. The clergy were permitted to hold real estate, the source of the present mortmain by which the burdens of taxation are more largely thrown on the English or Protestant population. The limits of the province were largely extended. In short by this bill, the whole fabric of English dominancy in the province of Quebec was for ever, at one fell blow, annihilated ; leaving but a British protectorate as a result of the heroic conquests of Wolfe and Amherst, to meet the groaning expense of which the foundation of England's public debt was largely laid.

Such a bill as this, it would be natural to infer, would have made the hearts of his Canadian new subjects, as they were called, rejoice. But not so; the peasantry in whose name the bill had been procured and whom it was specially intended to benefit, mourned in sackcloth and ashes the moment information as to its provisions reached them. "Are we reverting to the old bygone days of French rule, when we were as slaves in the land, subject to every whim and order of our seigniors and priests?" asked they of each other? "If so, we repudiate the action of these sixty-five self-termed representatives and will not accept the bill. We have been quite satisfied with British institutions and treatment during the past fifteen years, and wish for no change. We have had liberty of action, and have materially benefitted by the liberality in purchase of our products. We have supported our priests and church voluntarily and have received politeness which we were unaccustomed to, and much better service in consequence."

These sentiments found expression in a petition of remonstrance forwarded by the British residents to the King and Parliament asking for the repeal of the bill: "And whereas an Act of Parliament has lately passed, intituled, an Act for making more effectual provision for the Government of the province of Quebec, which is said to have been passed upon the principles of humanity and justice, and at the pressing instance and request of the new subjects, signified to His Majesty by an humble petition setting forth their dislike to the British laws and form of Government, and praying in the name of all the inhabitants and citizens of the province, to have the French institutes in their stead and a total abolition of trials by jury, together with a capacity of holding places of honor and trust in common with His Majesty's ancient (British) subjects; we crave leave to inform your honorable House, that the said petition was never imparted to the inhabitants in general, that is, the freeholders, merchants and traders, who are equally alarmed with us at the Canadian laws being to take place, but was in a secret manner carried about, and signed by a few of the seigniors, chevaliers, advocates, and others in their confidence at the suggestions and under the influence of the priests."

To this petition one hundred and eighty-four representative names by committees from all over the country were appended including many French; and it was stated it would have received a much larger French acquiescence by signatures were it not that the act had been obtained by their priests whose power they now apprehended would be restored and with whom therefore they did not wish to be on ill terms or offend.

In England likewise the bill was very hotly denounced after it had passed, and innumerable pamphlets with inflammatory titles and cartoons, the popular mode of expression of the day, were issued. But all to no avail; the bill like the many other American bills of that day, equally as

erroneous and impolitic, had become law, and was not to be altered by petitions, remonstrances or public denunciation.

Dr. Marriot, the King's Advocate General of Great Britain, deprecated in his report to His Majesty in 1773 any hasty measures in settling the constitution of Canada, "because, if hasty and ill digested regulations should be adopted upon any mistaken notions of men and things, the evils already felt, by your Majesty's Government will increase beyond the power of remedy."

The Advocate General's opinion was well founded, for it was not long before further evils were soon felt by the enforcement of this Act. A Star-chamber legislature was established, it retarded immigration, it stifled commerce, agriculture, and the fisheries. The country was fast reverting to its primitive state; the few English settlers were seriously contemplating emigrating, when Providence intervened and did for the country what its King and Government failed to do. The neighboring colonies revolted and Canada was saved. Thousands of expatriated loyalists found a refuge in the wilds of Canada and turned the abode of the Indian, the Buffalo and the Beaver, into the shining English Provinces of the Dominion which it is our glory to acknowledge to-day. The lily bespeckled banner of St. George of 1774, which for the moment threatened to overspread the territory acquired by the Conquest, has been relegated to a very small portion of it, superseded by the plain and unembellished banner of Great Britain, the emblem of freedom and enlightenment which waves over six of the seven provinces, the outcome of the welcome and bloodless tory invasion which followed the Independence of the United States.

The U. E. loyalists opened the door for that legislation which was so essential to the salvation and prosperity of Canada, the reversal of this Act of 1774, the paramount disadvantages of which had been so manifested as to obtain appeals for its amendment or reversal from many even of those who had sought its enactment, and which, so far as it

applied to the new settled territory, was granted by the British Parliament under the Canada Act of 1791.

Nevertheless, the Quebec Bill had its bright side in the removal of the civil disabilities of the people arising from their religion only, which does credit to Carleton and Edmund Burke (the latter, in all other particulars, strongly opposed the bill) with which liberality and justice none will disagree. The French inhabitants had taken the oath of fidelity to the Crown and were fully entitled to all the privileges of British subjects. The pages of Canadian history have been too much darkened by religious dissensions and disabilities, and are so to-day, for the prosperity and welfare of the country. It is a relic of barbarism, of that regrettable mediæval period, the dark ages, that any body of people should be ostracised from political preferment for religious belief, a mere accident of birth, the heritage of ancestry. But dangerous indeed is the doctrine that any such religion should receive state recognition, especially when contrary to the established faith of the Crown of the country to which it owes allegiance, or possess privileges not accorded to all other faiths, simply because it is numerically the strongest. Such was the blunder of Carleton's advice and Lord North's action; but this was a period of blunders for which kingcraft was more responsible than the elected ministry of the country; the spirit of coercion was rampant, the antithesis of American legislation was to be Canada's, the "Quebeck Bill" had emanated from the king's hand, advised and encouraged by the short-sighted policy of the Governor, contrary to the written opinion and views of the high law officers of the Crown, it was largely owing to this exalted author ship that it prevailed.

On the opening of the American revolt, the French-Canadian peasantry, uncertain of the benefits to accrue to them under the Quebec Act in other regards than that of the rescinding of their religious disabilities, were not long in doubt as to the course they should adopt during the American invasion which almost immediately followed the

coming into force of this obnoxious bill on the 1st May, 1775. Openly espousing the cause of the invaders, they rendered the way easy for the conquest of Montreal, the whole of Lower Canada, and the investiture of Quebec, many joining the Provincials notwithstanding that Bishop Briand used all the thunders of the church to prevent them, and tried in vain to get them to join the British forces and remain loyal, but they were independent and free men then and shewed it, the clergy had not yet recovered its grip of former and after days.

With a very small garrison and requiring soldiers to repel the invaders, Carleton applied to the seigniors for help, the friends for whom he had done so much. Quoting from an author of the day, we will see in his own language how far the influence of the gentry over the people extended. "M. Taschereau, the seignior of Beauce, endeavored to enlist the services of his censitaires but was indignantly refused, they adding that they did not now acknowledge his authority over them, or that he had any right to command their military service. Mr. La Corne, seignior of Terrebonne, summoned his tenants, and received for answer: "We have now become subjects of England and do not look on ourselves as Frenchmen in any respect whatever." Mr. La Corne, unaccustomed to being disobeyed by his vassals, struck some of those who spoke loudest; this provoked the people to such a degree he had to beat a hasty retreat to Montreal, threatening to return with an armed force to compel them. The people hearing this forthwith armed themselves, some with guns, others with clubs, and they all resolved to die rather than submit to be commanded by their seigniors.

Mr. Deschambaud went over to his seigniorship on the River Richelieu and harangued the inhabitants in a similar manner. Like consequences and refusal ensued. He drew his sword; they surrounded him and beat him severely. Fearing reprisals, they armed themselves to the number of near 3,000 and marched from Fort Chambly to Fort St.

Johns to face the two regiments of regulars in garrison there. General Carleton sent an officer to disavow the acts of their seignior and requested them to disperse, stating that all would be well if they would return to their homes. This was immediately complied with. Mr. Cuthbert, an English gentleman, who had purchased the seigniory of Berthier, imitating the manners of the French, summoned his censitaires to assemble at his house and received for answer, that if he had anything to communicate he might come to them; appointing a cross road as the place of meeting. Mr. Cuthbert came thither and made an immediate demand of their services, as their seignior, to repel the invader. They replied "that if that was his business with them, he had best retire to his own home and trouble them no more, for that not a man of them would follow him. And as soon as he was gone they all made oath on the cross round which they were assembled, that they never would take arms against the invaders; that if one among them offered to join the Government, they would directly burn his house and his barn, and destroy his cattle; and that, if General Carleton should attempt to compel them into service, they would repel force by force."

This happened in the latter end of July or the beginning of August, 1775.

Afterwards, about the end of September, Mr. Lanaudière, seignior of another place, came to them from Montreal and said that he was employed by General Carleton to lead them against the provincials—martial law having been declared in the interval—otherwise he assured them that their lands and houses should be laid waste and burnt. Upon his return in a few days to enforce his mission he, Mr. Tonnancour, and sixteen others who accompanied him were all made prisoners by the inhabitants.

Warm debates ensued among them, whether or not they should send Mr. Lanaudière to the provincial (invaders)

camp near St. Johns. It was at length agreed to set him and his friends at liberty on his promise to obtain for them General Carleton's pardon for this outrage, and on his further promise never to come again amongst them on a like errand.

Violent as the proceedings of these people may appear, and averse as they may seem to the service required of them, they had intimated that if General Carleton would promise by affixing a writing to that purport to the church door, that he would use his influence and endeavors for the repeal of the Quebec Bill and for restoring to them those privileges of which they were deprived by its operation; in that case they all declared themselves ready to defend the province for Government. "But," say they, "as things are now circumstanced, what have we to fight for? We have enjoyed very valuable privileges since we became subjects of Great Britain; we had the royal promise for the continuance of that enjoyment. On a sudden, without our having done anything to merit such treatment, we are deprived of those inestimable privileges, and reduced to our former state of slavery. The people whom we are desired to regard as our enemies tell us they are our real friends; and they give us convincing proofs of their sincerity.

They are now in arms for our defence from our oppressors; and they make the repeal of the Quebec Bill one of the conditions on which they offer to lay them down. Which party then ought we to assist? Certainly that one which is fighting for the restoration of that liberty to us, of which we have been wantonly and most cruelly deprived by the other."

It is further added "this is not the language of that district (Berthier) only; the same is in the mouths of the "most ignorant peasants all over the province."

Carleton promised but did not perform, and therefore did not succeed, notwithstanding his proclamation of martial law, in securing the services of any considerable number of

the French peasantry; on the other hand many openly joined the forces of the provincials while the greater number maintained a doubtful neutrality so long as the invaders remained on Canadian soil. Well was it for England that no Papineau arose among them at this time, as nothing would then have prevented the onward course of the provincials to the summit of Quebec Hill and the planting in after days of the Stars and Stripes with a fourteenth star for Canada, on the citadel flagstaff.

Reviewing the events of this period in the light of the present, it is difficult to comprehend the attitude of the French-Canadians (the tiers-état) towards their priesthood, their gentry and their laws, all of which they held so dear and cherished under French regime, in thus openly proclaiming their opposition to them and dissatisfaction with any movement tending to restore, even partially, the customs they formerly lived under. Fifteen years of liberty outweighed one hundred and fifty years of the former religious and military dominancy.

Evidently a plebiscite would have altered the destiny of Canada, for an overwhelming majority would have declared in favor of the adoption of the whole body of English customs and laws, and the English language would in a generation or two have followed, as has actually taken place in Louisiana, the sister French colony of America.

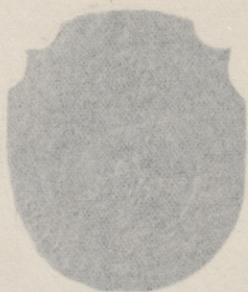
It is likewise a strange anomaly to find England pursuing so different a course in the treatment of her conquest of Canada to that which she had universally adopted hitherto. Dealing with such populous countries as Ireland and Wales she enforced the adoption of her laws and customs. Conquering New Netherland she not only made the Hollanders replace their laws by hers, but she added the greater change of transforming it into a new country by altering the name to New York. In her other conquests made in this very war, of Florida, Dominica and other places in the West Indies, she substituted English, for the Spanish and French laws and customs in use.

Foreign languages likewise received no official recognition elsewhere as they did in Canada; while the Roman Catholic religion wherever existent was proscribed as a *religion of state*: tolerated in Maryland, persecuted in Ireland, but established in Canada!

Wherefore the concessions to Canada? Wherefore so radical a change from precedent? Was it the reflex of that little spark struck at Boston in 1773 by which the torch of republicanism was set burning, and which the British Government feared might extend to so close a neighbor as Canada, were they to meet the wishes of the English population by establishing a House of Assembly at Quebec, the political and fiscal policy of which might not be any more in accord with British ideas, than those of the neighboring colonies which were now occasioning so much trouble and in open revolt? Between the two stools Britain fell; the Quebec Bill was as obnoxious to the provincials as the stamp act, and was as injurious to the British interests in Canada as the latter was to its sovereignty in the American colonies. Whatever was the cause the result has not been beneficial to Canada or England, for instead of the homogeneous unity expected by the conquest, from which unity in language, laws and customs, there would be strength; a very disunited and complex dominion has ensued by the growth of a "nation within a nation" solely attributable to the mistaken policy of the Quebec Act.



MEDAL ISSUED BY THE UNITED STATES GOVERNMENT UPON THE INVASION OF CANADA.
PORTRAITS—WASHINGTON AND FRANKLIN.



STAMP FOR USE UNDER THE STAMP ACT OF 1765 REPEALED 1766, WITH ITS LOCATION TICKET ON BACK.
REFUSED ADOPTION BY THE COLONIES AND WHICH LED TO THE AMERICAN REVOLUTION.

Foreign languages spoken elsewhere as they did in Canada, Catholic religion whereas elsewhere it was the *religion of state*: tolerated in England but established in Canada?

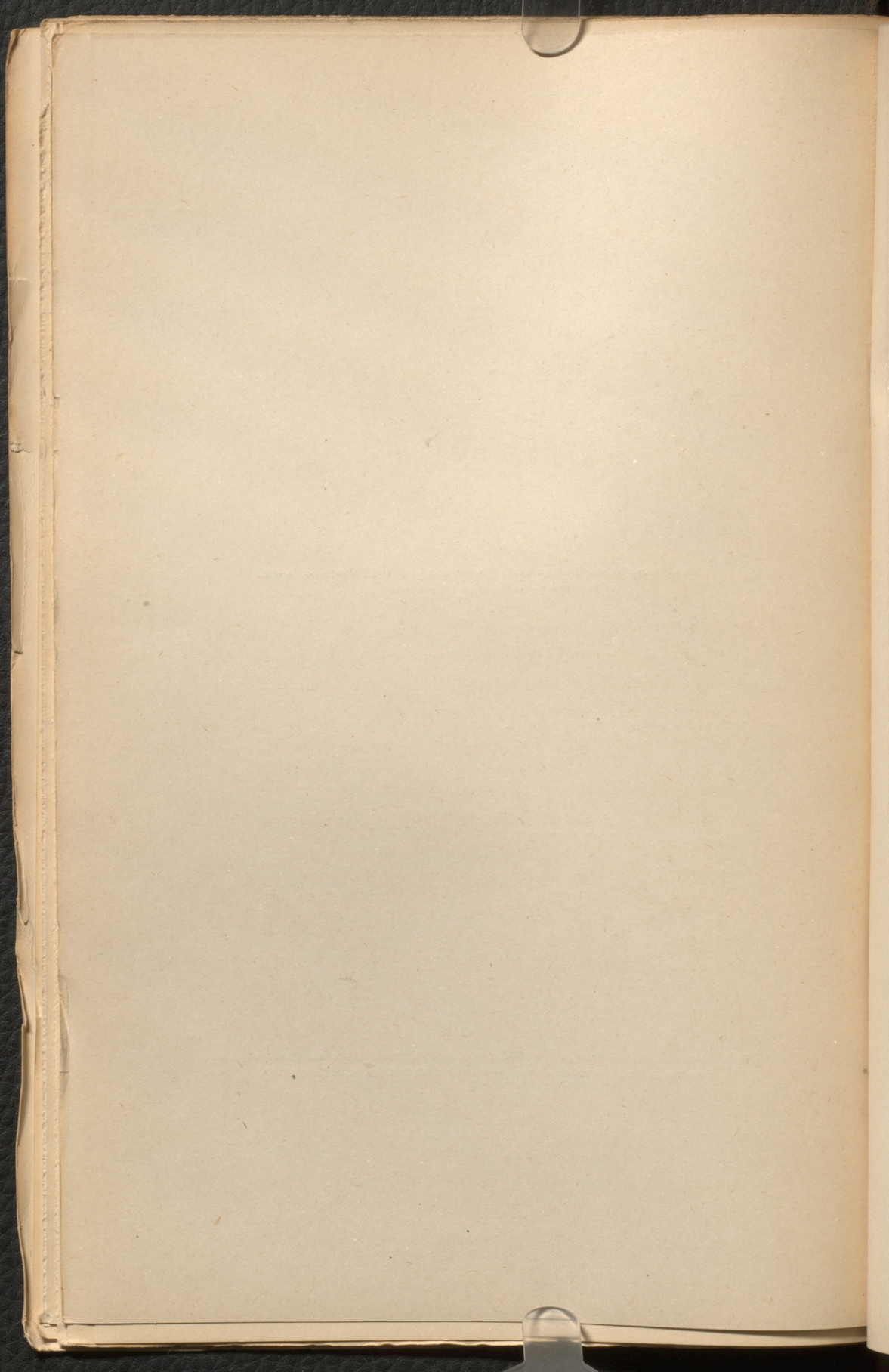
Wherefore the concession to French? Was it a radical a change from precedent? Was it the result of a little spat of attack at Quebec in 1759 by which republicanism was not banished, and which the British government feared might extend to all those provinces, Canada, were they to meet the wishes of the English population by establishing a House of Assembly at Quebec? Was political and fiscal policy of which might not be expected in accord with British ideas, than those of the neighboring colonies which were now menacing so much trouble and open revolt? Between the two stools Britain fell; the Quebec Bill was as objectionable to the provincials as the Stamp Act, and was as injurious to the British interests in Canada as the latter was to the sovereignty in the American colonies. Whatever was the cause the result has not been beneficial to Canada or England, for instead of the harmonious unity expected by the conquest, from which unity in language, laws and customs, there would be derived a very disjointed and complex dominion has ensued by the growth of a "nation within a nation" solely attributable to the mistaken policy of the Quebec Act.



MEDAL ISSUED BY THE UNITED STATES GOVERNMENT UPON THE INVASION OF CANADA.
PORTRAITS—WASHINGTON AND FRANKLIN.



STAMP FOR USE UNDER THE STAMP ACT OF 1765 REPEALED 1766, WITH ITS LOCATION TICKET ON BACK.
REFUSED ADOPTION BY THE COLONIES AND WHICH LED TO THE AMERICAN REVOLUTION.



APPENDIX.

1. List of Signatures attached to the French Petition to the King, asking for the Quebeck Bill p. 22
2. Letter of the period, unpublished, from Mr. Joseph Howard, a prominent merchant at Montreal, to George Allsopp, Esq., at Quebec, then Dep. Commissary General, afterwards Member Legislative Council, Judge Court of Appeals, etc., etc. p. 22
3. Extracts from the Debate in the House of Commons at time of passing the Quebeck Bill, by Lord North the Prime Minister, Mr. Edmund Burke Leader of the Opposition, the Solicitor-General, Mr. Townshend, Col. Barré, etc., etc. p. 25

[*Extract from Petition of French Residents.*]

Nous esperons d'autant mieux cette grace que nous possédons plus de dix douzièmes des seigneuries et presque toutes les terres en rotures.

Fr. Simonnet,	Hertel Beaubassin,	J. Sanguinet,
Longueuil,	La Corne, fils,	John Vienne,
De Rouville, fils,	St. Ours,	Le Palliau,
St. Disier,	Landriève,	Gordien de Cuisy, fils,
La Perier,	De Ronville,	Picoté de Belestre,
Chevalier de St. Ours, Peschaillon,		
St. Ours, fils,	J. La Croix,	Pierre Foretier,
Carilly,	Giasson,	L. Defoui,
Lemoine,	Vallés,	La Combe,
Guy,	P. Pillett,	Ch. Sanguinet,
Contre-coeur,	Laurent Du Charme,	S. Chaboille,
Des Rivières,	Berthelot,	J. G. Bourassa,
Montigny, fils,	Mézière,	P. Panet,
L. Porlier,	St. Ange,	J. B. Blondeau,
J. G. Hubert,	La Corne,	Le Grand,
Fr. Cariau,	Quinson de St. Ours,	L. Baby,
Landriaux,	Pouvret,	Hamelin, fils,
J. G. Pillett,	St. George du Pré,	Foucher,
Fr. La Combe,	Louvigny de Montigny	Lamber St. Omer,
Jobert,	Sanguinet,	De Bonne,
M. Blondeau,	Jean Crittal,	Gamelin.
Eauge,	Pierre Panet, fils,	
J. Daillebout de Cuisy	Pillet.	

[*Copy of a Letter of the Period.*]

MONTREAL, Dec'r 1765.

DEAR ALSOPP,

The Joyfull news of a recall of the G—— being come here confirm'd through so many channells, there now cannot be the least doubt.——our worthy Agients advice ought to be wrought on our minds viz: not to exult too much, this I understand, to be while in suspence I mean the stroke of the recall, but after that is sure we certainly sho'd not conseal by our faces the real sentiments of our

hearts rejoiced and thankful that our Sovereign has at last heard the complaints of an oppressed people.—

I observe from your accounts as well as from others, our agient wishes for and wants matter, why sh'd it be wanting—let us now joyne hearts and hands to furnish him with what we abound in here, begin with what you think proper, we will Joyne you to a man I mean when it comes properly prepar'd & propos'd from you, you can always depend on any little influence I have, let it then begin with, or come first to your other friends with whom you have a great deal to say and who tho' we differ in some trifling affairs yet abhorre equally Tyrany and Opression.

I say let it begin with them and I will Joyne, we now ought to redouble our strokes and activity to Insure what seems to be in so good a way! Dont you think it might be urg'd with great propriety the situation we are in here with our Court of C——n P——s, can a man not only a Stranger to our Constitution, but to our Language be a proper Judge, a man bred up in France tho' he assumes the name of a native of Great Brittain be a Judge to Englishmen, a man who even serv'd the French King, consequently must have taken oaths to him——think of a Subject doing this, a man who is esteem'd & thought at present, by many to be a Roman Catholick, who really was once of the order of J——s, and who has been seen and known as such and wearing their habbitts or dress at Douey in France, but we suppose discharg'd for want of capacity—— a man who in fact begun every disturbance, in this unhappy country, and in whom the G——r places his greatest confidence and adds Power to Power, to make Cyphers of our Magistrates (were they weak enough to submit) and to command the Country, but men of such education, with such principles are the proper instruments and Tools for Tyrants.

I hope Dear Alsopp you'l excuse my warmth on this point, but is occurs to me now, and I see dayly the inconveniences from Cap—— F. being a Judge —— would it

not be better to have an honest Englishman if we co'd not obtain one bred to the Law for one of our Judges, but this I submit to you.—has our friends at Quebec forgot the iligall Rum Tax? our pocketts keep us in mind, here, have you forgott the attempt to Tax—— The arbitrary appropriating to his own Private ends the Kings Posts, the Influence he has over an ill chosen Councill who I am sorry to say attempts too much to be our Legislature and forgets by their ordinances that they are subject to the Law of England. What ever faults they may have I am sure they have not heads nor hearts to amend, have we not just cause to complain against that Toole of his and Sycophant the Col——r muster up all you can, be asured his fall is certain, and we can make him fall with more rapidity.

I sh'd be glad you wo'd send me an account of our adventure. I hope we shall gain by that trade. I had a girl born last Friday week. My wife and the little one are likely to do well. I am very sorry for Death of Mrs. Gridly, my wife is daily asking after her, but does not know that she is dead.

If you can change my Butter for Dry Goods, do it as I have more here of the same. I cannot give you more Information in regard to your Port Wine, then I am sure that Mr. Finlay had the odd one.

My Ribb Joynes in complem's with

Sr. Yr. Most obed't &

Very hble servt,

JOSEPH HOWARD.

P.S.—Pray let us have none of your Insignificant nodd, as you live so near Justice Fielden, he'l certainly take notice of you.

To
MR. GEO. ALSOPP,
Merch't in
Quebec.

EXTRACTS FROM SPEECHES

MADE IN THE

HOUSE OF COMMONS DURING THE PASSAGE OF THE BILL.

SOLICITOR GENERAL WEDDERBURN:—I do not think in the abstract or theory, the highest degree of liberty ought to be granted to a country, situated as Canada is—*not the highest degree of political liberty.*

The next clause was read, enabling His Majesty's Canadian subjects to hold and enjoy their property and possessions, together with all customs and usages relative thereto, and all other civil rights, etc.; and that, in matters of controversy, relative to property and civil rights, resort should be had to the laws of Canada for the decision.

Mr. Edmund Burke.—The question under this clause is whether we shall take away all the law of England, at six months or twelve months hence. I declare myself incapable of arguing the question. I have neither strength of body nor energy of mind to proceed at this late hour.

He spoke warmly against going on with the debate, and left the House. Lord John Cavendish spoke to the same effect, and also went out. Mr. Cavendish spoke to the same purpose, but would not go out.

Mr. Thomas Townshend.—The gentlemen opposite, who are now sitting in sullen silence, as soon as they have obtained a kind of licence to proceed, by the absence of those honourable members who oppose them, will go further than people who talk upon the subject. I should be glad to know how far we are to go. I believe we have no instance upon

the journals of the House of business being treated in this manner. And why? Because the administration have been idle—have neglected their duty, and been guilty of criminal negligence. Looking at the volume of reports upon the table, I ask—where is Lord Palmerston? Where are the members of the Board of Trade? Why have they gone from their opinions? Gentlemen who have signed their names to a report should tell us why they now have differed from that report. Is this all to be passed over in sullen silence, and no answer to be given to any objection?

Colonel Barre.—I do not rise to express any warmth. A bill of greater magnitude never came before the House in such a shape as this bill. It passed the House of Lords without a single evidence in its favour. When it was sent down here we obtained some evidence, but other documents were refused. The noble lord himself, with every appearance of candour, in the first stages, called for assistance in discussing. Sir, we have discussed till we are tired. Will anybody deny that the noble lord has not had help, even from those who, only as members of this House, were required to give it him? The request made by my honorable friend is a very proper one. If other gentlemen cannot draw an answer, I cannot draw one. I can only say, it would have been more in character to declare that you shall pass this bill as the Lords have sent it, and not have any discussion upon it: that would have been the more manly conduct.

Mr. Charles Fox.—It is indeed indecent conduct; as it appeared to me, the other night, when ministers refused to call for General Murray. What was then said? “No precipitation is used in the passing of this bill; as much time is given to it as to any other.” Whoever made this assertion has frankly broke his word, and will be as much respected as a man ought to be, who makes a promise and does not keep it. What single attempt has been made on our

part to delay this bill? Has the same debate been gone over twice? They have not hinted that there has been any delay. Upon what ground does the bill now stand? Two or three clauses have been gone through. Are the rest not as material? Yes; but they should not be taken up at twelve o'clock at night. The boundary was settled in the House of Commons, without having anything fixed by those whose duty it was to have that boundary fixed. Was no boundary necessary, in their opinion, that they came unprepared?

Lord North.—As to the boundary, I, for one, was very well satisfied with it, as it stood in the bill. Several gentlemen, speaking for particular provinces, entreated that other boundaries might be taken; and there was that attention paid to their doubts, that, provided they would settle a good boundary, the friends of the bill were willing to give way; in my opinion, the first boundary ought to have satisfied everybody. As for the cause before us, I am very much mistaken if it has not been fairly debated already; but I do not in the least object to have it debated again. I would submit it to any honourable gentleman, whether, after we have sat so long upon it,—after the clause has been so fairly debated—is it so very violent, so very precipitate, to proceed with it before the committee rises to-night. I am for proceeding at least through this clause before the committee breaks us.

The committee having gone on with the clauses, to the end of the criminal law clause, Lord North said, if any gentleman wished to adjourn, he had no objection. The Chairman was going on, but Mr. Charles Fox got up and desired the committee might adjourn, which it accordingly did. Lord North said to him, are we not very candid? I said, I generally was for adjourning at twelve o'clock.

WEDNESDAY, June 8.

The House having resolved itself into a committee of the whole House on the bill,

Mr. Edmund Burke said:—I should, Sir, have proposed some amendments to the bill last night, if my ideas had not been thought ridiculous, by the conduct of the committee, in proceeding with a most material part of the bill at twelve o'clock, when the natural constitutions of gentlemen were perfectly exhausted. When this bill was brought down to us, the general voice of almost every one who supported it was, that it was a very imperfect measure as it stood, and that, agreeably to the universal practice, it would be open to any amendment. Unfortunately, I was utterly unacquainted with the bill. I took it up with a determination to come here, not only with my mind unprejudiced, but with a determination to avoid everything that had any shadow of passion in it; and I appeal to the candour, the direct justice, of parliament, whether the clause fixing a boundary to such an extent of territory, or the clauses settling the laws and religion of such a province, could be well debated, upon the numberless momentous questions that arose, in less time than we have given to them. The privilege allowed in committees of the House of speaking more than once, is a privilege founded upon reason. An argument upon the principle of a measure may be dispatched in the House at one speaking, as well as a thousand; but in the committee, where matters of detail are gone into, it is necessary to speak more than once. The noble lord, therefore, has no right to say that we have interposed any delay. The first part of the bill took us up two days—in my opinion, a very short time to spend upon such a subject. Fixing the geography was the work of one day; fixing the religion of another. These and other delays, if they can be called delays, were absolutely necessary. The committee ought to take care that no delays but necessary ones should be allowed in this business—but the necessary delay arising from a detail. Now, Sir, if an entertainment should be given ten miles from London, and we were to adjourn over this day and thereby make the busi-

ness of the nation give way to such entertainment, what would be the opinion of the people? I do not censure the House for entering into the innocent gaities of this life, provided they give time enough for the discharge of more important duties. If any youth, in the gallantry of his spirit, calls gentlemen to such an entertainment, I would not say, do not enjoy it; but go and enjoy it if you have taken care, at the same time, to provide for the prosperity of your country. But while I say this, I ask that the same indulgence which is given to those who engage in scenes of joy and dissipation should be given to those who have need of rest to support their bodies to enable them to come here to discharge their duty, I for one complain that I am precluded from doing my duty. I complain on the part of the people of England, who have sent here five hundred and fifty-eight men to represent their interests that they and I are cruelly, wickedly and unjustly treated. I complain of it and demand justice; that is, I demand a reparation of the wrong which has been done us. I have spoken strong words. Last night I spoke feebly; but now my voice is raised my accusation is steady and re-olute. I had several material amendments to propose to the clauses. I had an equitable clause with regard to revocation, etc. (He mentioned other alterations). I wished to have provided a remedy for the objection that causes were tried by persons not fit to be treated. My opinion is that the people of Canada, with regard to the civil law, have not expressed their dislike of the trial by jury. These are some of the matters that I would have stated; but it would have been impossible to have debated them at that hour of the night. Having said this in defence of a conduct which may have been a little unjustifiable, I will add that this headlong mode of proceeding will not tend to make this law go down with the people of England. They will certainly dislike it. America will dislike it. As I was not permitted to make these amendments before, I conclude I shall not be heard to-day.

Mr. Cavendish was sorry the honourable gentleman did not make the amendments he intended.

Lord North—These amendments may still be made by being thrown into the form of a clause. The honourable gentleman is not precluded from making, even in the committee, any alteration he proposes; but as to the propositions themselves which he threw out, as far as I understand them, I shall certainly be against admitting them. We are not, at the present time, competent to enter into a detail of the necessity of those provisions for the constitution of Canada. All that the parliament of Great Britain can do is to lay down general rules; to say, you shall proceed according to Canadian customs, or according to the English law. Every alteration which the circumstances of the country can admit of—every variation which the interest of the old subjects may require—all these circumstances will be more properly considered upon the other side of the water where they may be regulated by special ordinances. It would not be in vain, and more likely to occasion confusion, for the parliament of Great Britain to attempt to enter into the particular laws by detail; to say, this law you shall have, or you shall not have. The best way is to give them the Canadian customs and to let them be altered. What is of infinite advantage, they will thus have the law that they understand. The laws and customs of Canada are the basis of the law that they understand. If any ordinances are made varying that law they will be promulgated, and they will understand them. For these reasons, I shall certainly oppose any proposition for entering into a detail connected with the English criminal or the Canadian civil law; because I think that detail, these alterations, and those amendments which are necessary can only be entered into and settled with propriety by lawyers upon the spot. As to the proceedings of last night, I shall remain satisfied in the consciousness of the rectitude of my conduct; it is a very sufficient regard, and it is the only regard I shall be likely

to have. Upon the whole, I will venture to say, that there never was a bill that has been more amply examined and debated than this has been. There are few bills that have remained so long in the House as this has done; there have been few propositions where there has not been a readiness in the friends of the bill, to accept any suggestions, from whatever quarter they might come. The honourable gentleman says that we are to adjourn to-morrow for an entertainment, which he approves of as an entertainment; but he thinks, that as he left the House at twelve last night, it would be a disgrace to the House to adjourn over to-morrow; but I see no reason why, upon Friday, we may not give this bill every attention. I accuse no person of designed delay, but, at the same time, no person can accuse me of having shut out any material amendments. Those amendments may be proposed now; many could not be proposed last night, and if they are not proposed in the committee, there are yet two stages when they may be proposed. I was accused of a sullen silence last night; perhaps I may be excused from expatiating upon a matter not really before us, but when the House is taken up with what is not of importance to the bill, I trust that the candour of the House will excuse me if I respect the time of the House more than the justification of myself from any personal charge.

Lord John Cavendish.—Though I never can find out from whence this bill came, and though nobody seems to avow it, there is evidently concurrence enough to carry it on.

Mr. Thomas Townshend. I must complain, sir, of the slovenly manner in which the two clauses were carried through the committee. I will venture to say, that two-thirds of that majority never heard the debate. It consisted of those gentlemen who take their meals regularly, and who are now taking their dinners. They come in when they have dined, and are extremely clamorous, crying, go on! go on! I do not thank the noble lord for the candour

of last night; but I thank him for the candour of to-day, in chalking out a method of going on for the future. I likewise understand that the House is to adjourn for a day, on account of a *fete champetre*; and to be sure, the day that follows the ninth of June is a day more proper for a *fete champetre*, than for a committee of the House of Commons to be sitting on so important a bill. But, at the same time, I cannot but confess, that the noble lord has shown an amazing degree of foresight in fixing, above all other days in the year, on the 10th of June, for finishing a bill which goes to establish Popery. For God's sake, Sir, let us come down with white roses in our hats! A day more propitious for a bill of this complexion could not have been fixed on. On the report of the bill, I shall propose a clause for rendering it temporary, and if the noble lord will suffer it to pass, he never had at his levee a more humble suppliant for a boon for himself, than I am for the Canadians. This bill will make the Canadians the detestation of the English colonies.

Mr. Dunning—The noble lord takes credit for his candour. His candour consists in giving five days to the consideration of this bill; but five days are very little indeed for the mischief which this bill provides. I collect the noble lord meant to tell us this—that it is his intention to refer every thing, in future, to that legislative council, to whom these Canadians are to be referred, but that it is far from his intention to introduce trial by jury. Is that his candour? Is that the concession for which we are not precluded thanking him? Thank ye, for nothing, would be a true description of the thanks that are due for his concession; but unless it be the pleasure of the creatures created by this bill, to counteract the pleasure of their Creator, can it be expected this blessing will be produced? Will they counteract all the purposes of the bill—all the pleasures of those who made the bill? And is not, then, the question concluded, as far as the committee have to do with it? In point

of form it will be competent for the House to reject the provision and the Bill itself containing the provision; but that this ought to be done, goes a very little way, in my opinion, to cause it to be done. My expectations are not better founded upon the future pleasure of the House, than on the future legislative council.

Colonel Barre.—This bill, Sir, originated with the House of Lords. It is Popish from the beginning to the end. The Lords are the Romish priests, who will give His Majesty absolution for breaking his promise given in the proclamation of 1763. In this bill they have done like all other priests—not considered separately the crimes with which the bill abounded, but have bundled them all up together, and, for despatch, given absolution for the whole at once. When, however, the measure came down to this House, its members, not being so Popishly inclined, wished to have some information. They asked for papers; all the papers they asked for were not granted. They asked for evidence; all the evidence was not granted. The first man who governed the colony you would not hear, though I stated the reasons why he ought to be called. The chief justice and the attorney-general of Canada were both examined; and their testimony goes in the teeth of this bill. Then it is decidedly opposite to the opinion of two of the most respectable men in the kingdom. When the noble lord was asked for the papers containing these opinions he refused to give them, alleging that the reports are very long; but the attorney and solicitor-general are both in the House, and I wish to hear the abstract of their opinions given by themselves. This they could have done, but the House would not let them. The advocate-general was called to the bar upon which they said, we meant to create delay. The witness is so singular a man, that I cannot persuade myself to be out of temper with him. He was mounted very high, and pranced and pranced, and never moved from the place. I noticed a few expressions not becoming him as a witness

at the bar, but altogether singular from a man who tells you he had no memory to relate anything he had written, and is at the same time known to be of so singular a memory that, without the help of notes, he can sum up the largest train of evidence, not thinking it worth while to take it down upon paper. Some time ago we were given to understand, that we were not to expect a general election. The report now runs, that parliament is immediately to be dissolved; and, in truth sir, after the passing of this bill, the sooner it is dissolved the better. In its infancy it was a very compliant one, and humoured the ministry in what I called a strong measure. I mean the Middlesex election. It continued to do so up to the middle of its existence; and, upon its dissolution, people may say, as they did after death of King Charles, that by some papers found after its decease, there is great reason to suspect that it died in the profession of the Roman Catholic religion.

Mr. Edmund Burke.—There is one favour I admit to have received from the noble lord. He has assured me, that I may propose those clauses of which I have spoken, but that when they are proposed he will certainly reject them. I think the noble lord does deserve my warmest acknowledgments. That is a kind of favour which is paid immediately on the receipt. Most assuredly I will never propose them.

Mr. Jenkinson—The honourable colonel tells us that this parliament is a Roman Catholic parliament, and very near its end. I have always understood, that when a Catholic is dying, he is generally attended by a number of troublesome people, disposed to put many troublesome questions to him. Now, I hope that Catholic practice will not be followed in our case, but that he will, at least, allow us to die in peace.

Governor Johnstone.—I should not object to the clause, if the bill was a temporary one. The English colonies have flourished more than others; they have found out the secret of carrying freedom to the distant parts of the empire. I hope gentlemen will not come to the conclusion, because

certain assemblies in America have recently been tumultuous on a nice point, that therefore all assemblies are to be discountenanced. I see throughout the whole, that the interest of the governor, and the interest of the receiver-general, are the predominant features of the bill; together with surrounding our own colonies with a line of despotism. As an Irishman said to me, in that nice metaphorical language that belongs to his country, you are coming round and round, till, like water flowing in upon an island, encroaching upon it more and more, you will not leave a foot of ground for the fowl of the air to rest upon. I fear you will not leave a foot for liberty to rest upon.

Lord North.—In the first place, Sir, I cannot admit, that the evidence taken at our bar has been in opposition to the principle of the bill; on the contrary, I think it confirms the most material parts of it. With regard to the particular clause before us, what have the witnesses at the bar said? The governor certainly is evidence against an assembly; the chief justice certainly is evidence against an assembly; Mr. Maseres is for an assembly. But, in point of fact, what came out in evidence. That there were in the province at present one hundred and fifty thousand Roman Catholic subjects, and about three hundred and sixty Protestant families, whose numbers we will suppose to be a thousand or twelve hundred persons; but very few of them are possessed of any property at all. The fair inference, therefore, is, that the assembly would be composed of Roman Catholics. Now, I ask, is it safe for this country—for we must consider this country—to put the principal power into the hands of an assembly of Roman Catholic new subjects? I agree with the honourable gentleman, that the Roman Catholics may be honest, able, worthy, sensible men, entertaining very correct notions of political liberty; but I must say there is something in that religion, which makes it not prudent in a Protestant government, to establish an assembly consisting entirely of Roman Catholics. The

honourable gentleman is of opinion, that more is to be dreaded from the seigneurs than from those in the lower ranks. Sure I am, that the seigneurs, who are the great possessors of the lands, would be the persons who composed the assembly, and some of them will, I hope, be admitted to the Legislative Council; but then, the governor will choose those on whose fidelity he has the greatest reason to rely. They will be removeable by the King-in-Council, and will not depend wholly upon the Roman Catholic electors, or be removeable at their pleasure. It is not at present expedient to call an assembly. That is what the act says; though it would be convenient that the Canadian laws should be assimilated to those of this country, as far as the laws of Great Britain admit, and that British subjects should have something or other in their constitution preserved for them, which they will probably lose when they cease to be governed entirely by British laws. That it is desirable to give the Canadians a constitution in every respect like the constitution of Great Britain, I will not say; but I earnestly hope, that they will, in the course of time, enjoy as much of our laws, and as much of our constitution, as may be beneficial for that country, and safe for this. But that time is not yet come.

The clause was agreed to. After which the preamble of the bill was read.

Mr. William Burke—I do not remember that I ever saw the House of Commons in so sick a situation as it is at present. (Cry of "Order! order!") I say, Sir, that the parliament of Great Britain is in an unfortunate situation. This is the worst bill that ever engaged the attention of a British council. It is a bill to establish the Popish religion—to establish despotism. There have been instances in human affairs in which, for purposes of commerce, we have established freedom, as far as we could, in a certain locality, but to establish Popery, to establish despotism, in a conquered province, is what we have never done before. I am

aware I cannot count forty upon you; (there were forty-five members at this time in the House) but I will say, that this business has been brought forward very late in the session; when men of great rank and property in this country must be tired. There is Mr. Soame Jenyns. He is a lord of trade, and possess a great deal of wit, and a great deal of information. I wish to hear him speak upon the subject. I also expect to hear the attorney and the solicitor-general, who have hitherto been very sparing of their law. They heard the witnesses at the bar, but did not dare to say they were wrong, and they saw the majority voting plump in the teeth of their own evidence. I say it is quite disgraceful to them, not to tell the House, whether the king is or is not bound by this bill to apply a portion of the revenue arising from tithes, to the establishment of a Protestant clergy in the province. I say, that by this bill he is not bound, but may apply those revenues to any purposes, however extravagant or profligate—either to raise an army, or to bribe, or anything in the world that he pleases. I will say this to that majority to whom I am to submit, and to that public who may hear the little which I have to say, that never since God made the world or parliaments existed, was there a time when the conduct that is now carried on was justifiable. The gentlemen who oppose the bill, knowing it was impossible to defeat it, have almost worked themselves to death, to make it as far as they could, consonant to English liberty, and the principles of the English constitution. I do not know what they meant by opposing the amendment of my honourable kinsman, for placing the debateable tithe under the control of the Society for the Propagation of the Gospel. I vow to God, that I believe the noble lord did not know his own situation; that he did not know there was such a thing in the country as that society. I don't believe the law officers knew a bit about it. But whether he knew there was or was not such a society (I don't know which, nor much care), I say, nothing but ignorance can justify

the refusal of that motion of my honourable kinsman. There will come an hour, when it will be necessary, when it will be proper, when it will be just, to testify that there was some opposition made, some protest entered against mad proceedings.

The preamble being agreed to, the House resumed.

Mr. Sergeant Glynn.—In the concluding proposition of the noble lord, I perfectly agree, namely, that as the House is now considering the plan of laws and judicature to be given to the people of Canada, the one that is best calculated to promote the permanent happiness of the people who are to be governed by it is the preferable plan, and the one which it is the duty of the King to give them. Having thus far agreed with the noble lord, he must pardon me when I declare, from the bottom of my heart, that I think the only certain step we can take to secure for them that permanent happiness, is to bestow upon them that system of laws and judicature, which have been productive of so much happiness to ourselves at home, and obtained for us so much honour abroad. I would give it to them subject to such restrictions and regulations as the particular tenures by which their property is held might require. Give them, if you please, their particular usages and customs, but let the leading principle be that of the laws of England.

I am one of those, Sir, who are glad that the clause has been proposed; and though, to be candid, I cannot say that the adoption of it would remove my objections to this bill, yet I am certain it has a tendency to reconcile the minds of some gentlemen to the measure, and to remove some of the most striking and formidable objections to it. The omission of this right of appeal to a jury in civil causes appears to me an insuperable objection to the bill. To any predilection of the Canadians for their ancient laws and customs, I should be inclined as much as any one to yield, as far as I could do so with safety; but to carry my compliance to the exclusion of the laws of England—to consent

to substitute in their place the laws of France—and to add to all this a form of legislature correspondent to that of the kingdom whence those laws were borrowed, is what I can never consent to. And I own my objection to the measure was strengthened when I was told, that there was a prejudice and predilection in these people favourable to those laws, and that it was considered good policy to avail ourselves of this predilection, to build a system of government upon it so contrary to our own. I should have thought it was rather our duty, by all gentle means, to root those prejudices from the minds of the Canadians, to attach them by degrees to the civil government of England, and to rivet the union by the strong ties of laws, language and religion. You have followed the opposite principle; which, instead of making it a secure possession to this country, will cause it to remain forever a dangerous one. I have contemplated with some horror the nursery thus established for men reared up in irreconcilable aversion to our laws and constitution. When I was told by the noble lord, that they were insensible to the value of those laws and held them in contempt, wishing to be bound by laws of their own making—when I was told that they had no regard for civil rights, I must confess that it operated with me in a contrary way, and I could not help thinking that it furnished an unanswerable argument against gratifying them. I think that we could not, with humanity or policy, gratify them in their love of French law, of French religion. The common safety is concerned in our refusal.

The noble lord has put it, that we are now giving laws to a great number of new inhabitants, and to a small body of our old subjects, and that it is our duty to give them such a form of government as shall best promote their happiness, but what I contend for is, that the bill upon our table, instead of providing that best form of government, puts them in the worst possible condition, as it takes from them a blessing which they now enjoy, and the greatest which it

is in the power of any legislature to bestow. Instead of being tried by juries selected from among themselves, and by judges sworn to administer justice according to the laws of the country, you substitute a trial before an individual appointed at the will of the governor, probably uneducated in those laws, and, if educated, brought up to entertain violent notions of law and justice. Such are the men by whom you would have justice decided! And all this is done because it is right to indulge the natural predilection of the Canadians in favor of their ancient laws and usages! Let me, Sir, in like manner, plead the law in favor of the English merchants—in favor of the English inhabitants. If it be cruel, if it be oppressive, to obtrude upon the Canadians this law, which they have been eleven years in exercise of, what should be said of those who take away the law from the poor English subjects who reside there? These men have a predilection and liking for the laws of their own country, and claim their privilege of being protected, according to the usage and just principles of policy of their ancestors. They have settled there in consequence of the royal faith pledged to them, that they should not be deprived of the law which they esteem so valuable, and that none of their privileges should be infringed. Is it justice to these men to force them to live under an arbitrary form of government, and to submit to the administration of justice by the principles of another law, to the exclusion of juries, for the gratification of others, who prefer being placed under a despotic form of government? Is not the gratification due to the natives of England rather than to the natives of Canada?

Mr. Sergeant Glynn.—There is, Sir, another consideration which I will submit to the House. Every man born in Canada since the conquest must be a free-born subject. In process of time, all will be of that description, and as such, entitled to partake of all the rights and privileges of that system of government which we are about to transmit

to them. Is it then wise, I ask, out of compassion to the prejudices of those who have been born under the arbitrary law of another country, to perpetuate a system of government, which will deprive all those who may hereafter be born, from the enjoyment of the privileges of other British subjects? I will give the House no further trouble. I see that the attempt to resist the passing of this mischievous bill will be in vain; but I earnestly hope, that it will be rendered less mischievous, by the admission of the clause proposed by the honourable gentleman near me.

Edmund Burke.—Now, instead of making them free subjects of England, you sentence them to French government for ages. I meant only to offer a few words upon the part of the Canadians, and leave them to their misery. They are condemned slaves by the British parliament. You only give them new masters. There is an end of Canada.

Sir, having given up a hundred and fifty thousand of these people, having deprived them of the principles of our constitution, let us turn our attention to three hundred and sixty English families. It is a small number; but I have heard, that the English are not to be judged of by number but by weight; and that one Englishman can beat two Frenchmen. Let us not value that prejudice. I do not know that one Englishman can beat two Frenchmen; but I know that, in this case, he ought to be more valuable than twenty Frenchmen, if you estimate him as a freeman and the Frenchmen as slaves. What can compensate an Englishman for the loss of his laws? Do you propose to take away liberty from the Englishman, because you will not give it to the French? I would give it to the Englishman, though ten thousand Frenchmen should take it against their will. Two-thirds of the whole trading interest of Canada are going to be deprived of their liberties, and handed over to French law and French judicature. Is that just to Englishmen? Surely, the English merchants want the protection of our law more than the noblesse! They have property

always at sea ; which, if it is not protected by law, every one may catch who can. No English merchant thinks himself armed to protect his property, if he is not armed with English law. I claim protection for the three hundred and sixty English families whom I do know, against the prejudices of the noblesse of Canada, whom I do not know. I must put the House in mind of what an honourable gentleman said in the course of this debate—that it was seldom that any improvement was introduced into any country, which did not, at first, militate against the prejudices of the people. Was all England pleased with the revolution? No. The wishes of the majority were sacrificed to the reason of the better part, and the interest of the whole; and we are now enjoying the benefits of that choice—benefits brought upon the ignorant people, not by force, but with an easy hand. The Canadians are struggling with their old prejudices in favour of their former laws. A new establishment is proposed to them, which throws them into some disorder, some confusion. “All the interim is like a phantasma and a hideous dream.” The honourable gentlemen opposite, taking advantage of this confusion, say: We have got a basis; let us see how much French law we can introduce! With a French basis, there is not one good thing that you can introduce. With an English basis, there is not one bad thing that you can introduce. Take the rule of the law of Canada for the rule of the constitution of your courts, and it will be the rule of all your proceedings; take it for the rule of your judicature, and sooner or later, it will be the rule of your legislature. How often have we had occasion in this House to quote the practice of the courts below! how many lights have we derived from the learned gentlemen pleading there! how many lights have we derived, from you, Sir! how many from the judicature of the upper House! Where there is a basis of French judicature, of French law, the legislature will never think of grafting upon it an English constitution.

With regard to state policy, which is the last point I shall touch upon—the preservation of their old prejudices, their old laws, their old customs, by the bill, turns the balance in favour of France. The only difference is, they will have George the Third for Lewis the Sixteenth. In order to make Canada a secure possession of the British Government, you have only to bind the people to you, by giving them your laws. Give them English liberty—give them an English constitution—and then whether they speak French or English, whether they go to mass or attend our own communion, you will render them valuable and useful subjects of Great Britain. If you refuse to do this, the consequence will be most injurious, Canada will become a dangerous instrument in the hands of those who wish to destroy English liberty in every part of our possession.

The question being then put that the said clause be read a second time, the House divided:

TELLERS.

Yeas.	{ Mr. Mackworth..... }	40
	{ Mr. Thomas Townsend, Jr..... }	
Nays	{ Mr. Bradshaw..... }	83
	{ Mr. Robinson	

So it passed in the negative.

Mr. Howard—I have considered it well, and I cannot separate my idea of it from that of a money bill; in which character, it is a violation of your privileges, which is confirmed by long usages and customs. It is, moreover, a bill which goes to introduce tyranny and arbitrary power into the colonies, to give a further establishment to popery, to annul the bill of toleration, and to destroy the act of habeas corpus. For these reasons, I have opposed it, and I venture to oppose it again. In short, I look upon it as a most abominable and detestable measure, which ought to be rejected.

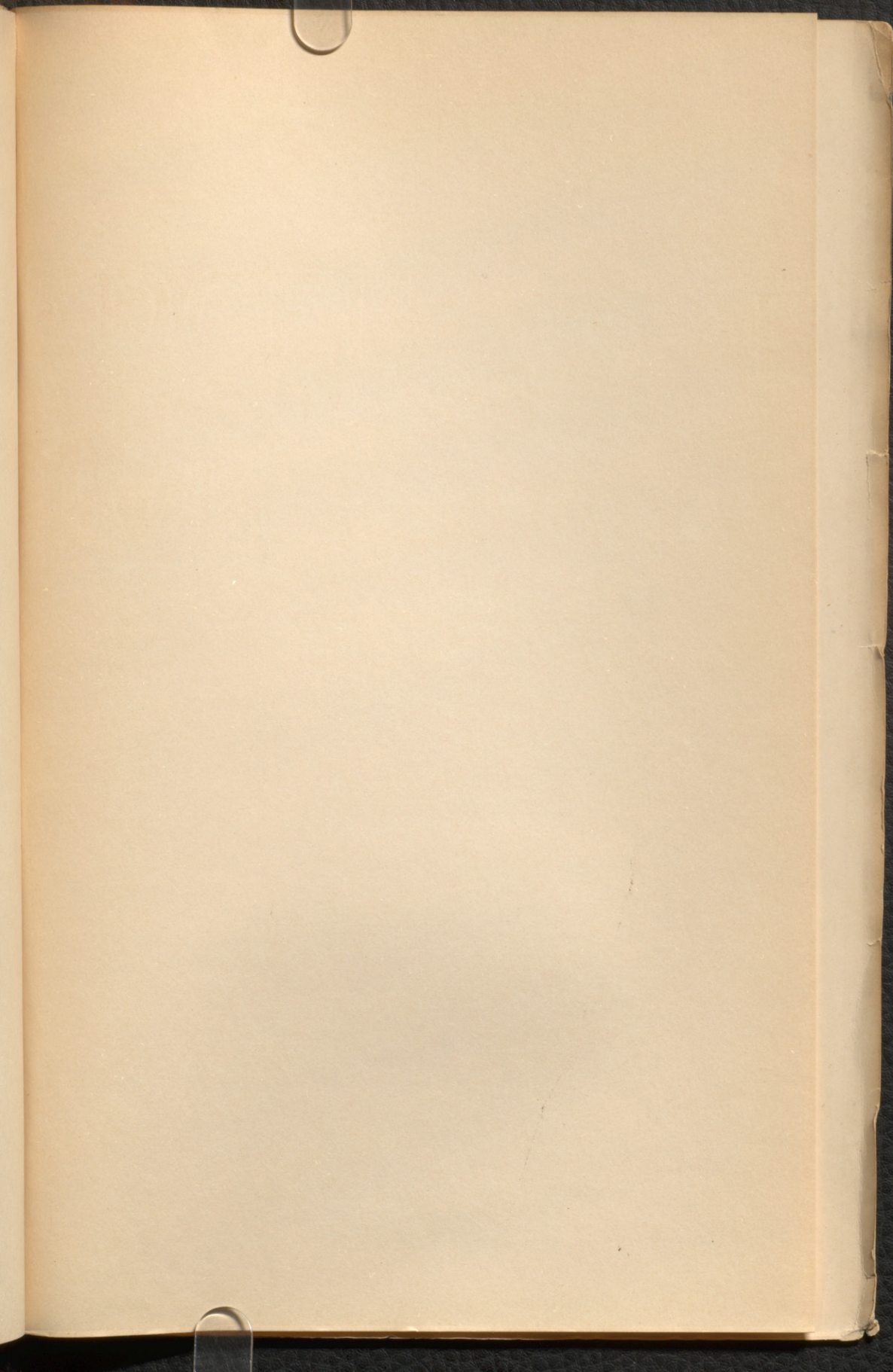
With respect to the other reason given by the honourable gentleman, that it is a money bill, I think no treatment too contemptuous can be applied to it. On that, and that account alone, you, Sir, should throw it over the table, and somebody else should kick it out at the door.

The question being put, that the bill, with the amendments, do pass, the House divided :

TELLERS.

Yeas.	{ Mr. Bradshaw..... }	56
	{ Mr. Cooper..... }	
Nays.	{ Mr. Howard..... }	20
	{ Mr. Dempster..... }	

So it was resolved in the affirmative. The bill was then passed. It received the royal assent on the 22nd, when the Parliament was prorogued, and shortly after dissolved.



1156941

