

RESPONSIBLE GOVERNMENT  
IN CANADA AND ITS  
RELATION TO ENGLISH  
OPINION 1759-1848



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Man D. Pearson.

# Responsible Government in Canada and its Relation to English Opinion.

- ~~CANADIAN RESPONSIBLE GOVERNMENT AND~~ -

- ~~ENGLISH OPINION.~~ -

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With the surrender of Quebec, Sept<sup>ember</sup> 13th. 1759, and  
of Montreal, Sept<sup>ember</sup> 8th. 1760, British supremacy in Canada has  
its origin. The Articles of Capitulation which were drawn  
up, in each case established military rule as the obvious necessity  
of the situation. The French Canadian population numbering  
about 65,000, though friendly to England, was totally unfitted to  
bear any part in the Government. The great mass of the people  
could neither read nor write, the Governor, Intendant and Bishop  
were all important in the administration of the law, and the  
French Canadian was not permitted any participation in politics  
or legal affairs.

The Articles of Capitulation of Quebec provided for the  
surrender and safe-conduct of the garrison and also for the free  
exercise of the Roman Catholic religion. This question was given  
more definite form by the capitulation of Montreal by which docum-  
ent the request that the French Canadians should continue under the  
*droit* de Paris and have no increase in taxation was waived by

1. Capitulation of Quebec Art.6.

the simple statement that the Canadians would be subjects of the King of Great Britain,<sup>1</sup> a phase which may be said to embrace the whole spirit of the conditions of surrender. From 1760 -1763, therefore, occurs in Canada what is known as the "regne militaire", but during this period there was no attempt to introduce English law and great care was taken to conduct the Govt. in conformity with the law which had prevailed in Canada.<sup>2</sup>

1. Capitulation of Montreal, Art.27,28,29,42.

2. F.P.Walton, Scope. and interpretation of the Civil Code  
"The effect of the cession was to have the private law of the Province unchanged, but to substitute the public law of England for that of France".

On 10th. Feb. 1763, was signed the Treaty of Paris, the definite Treaty of peace which determined the new nationality of Canada. The cession of Canada was accompanied by the condition "that the King of Great Britain would give the most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion according to the rule of the Romish Church as far as the laws of Great Britain permit"<sup>1</sup>.

Eighteen months elapsed, during which time the government of the Province was under military domination, but conducted along very similar lines to the former French rule: ~~but~~ On Oct. 7th. 1763, the proclamation establishing Canada as a British Province was issued, and General Murray appointed Governor; ~~and~~ August 10th. 1764 the despatch establishing Civil Government reached Canada. The proclamation designated the boundaries of Canada, and stated that "so soon as the state and circumstances of the colony will admit" a general assembly should be called to make, constitute and ordain Laws, Statutes, and Ordinances, for the public peace and welfare and good gov't. of the people and inhabitants, as near as may be agreeable under the laws of England" <sup>2&3</sup>.

1. Treaty of Paris Art. 1V.

2. Proclamation Oct. 1 th. 1763.

3 " I think that it may be conceded that if the English law was not introduced by the Royal Proc. of 1763 it was not introduced by Murray's Ordinance. What he believed himself to be doing, and what in my opinion he did, was to establish courts as he could do ~~so~~ <sup>with</sup> to the advice of his council, and to administer laws already introduced by the King" F.P. Walton.

This provision was never acted upon, General Murray thinking it inexpedient to call an Assembly, since the majority was an illiterate French Roman Catholic population, and to summon an entirely English Protestant Assembly out of a population of about 400 would be ridiculous.

"For making more sufficient provision for the Province of Quebec", the Quebec Act was introduced into the House of Lords, May 2nd. 1774. Art. iv of this Act declares the Provisions of the proclamation of 1763 to be rendered null and void since they had been found to be both inadequate and inapplicable, and the religion of the Church of Rome may be exercised in perfect freedom, but the Crown retains the right to make provision\*

~~For~~ the encouragement of the Protestant religion and for the maintenance and support of the Protestant Clergy,<sup>1</sup> the following articles were contained in the Act. "The Civil law may be executed either according to the law of Canada, or according to the forms prescribed by the laws of England", but the criminal law of England is to be continued in the Province. Art. xii states that His Majesty may appoint a council of 17 to 23 members for the conduct of affairs of the Province, which council may make ordinances with the consent of the Governor, but is not empowered to levy taxes. The Act further

1. Quebec Act Art.vi.



reserves the right of the Crown to establish such other forms of Government as shall be considered necessary<sup>2</sup>.

The Quebec ~~Government~~<sup>Act</sup> encountered very strong opposition both in England and America, the Mayor, Aldermen and Council of London petitioned the King against the Bill as follows:-  
"We beg leave to observe that the English law and that wonderful effort of human wisdom, the trial by jury, are not admitted by this Bill in any civil cases, and the French law of Canada is imposed on all the inhabitants of that extensive province, by which both the persons and properties of very many of your Majesty's subjects are rendered insecure and precarious: we humbly conceive that this Bill if passed into a law will be contrary not only <sup>to</sup> with the compact entered into with the settlers of the reformed religion, who were invited into the said Province under the sacred promise of enjoying the benefit of the laws of your realm of England, but likewise repugnant to your Royal Proclamation of the 7th. Oct. 1763, for the speedy settlement of the new Government; that the whole legislative power of the Province is vested in persons to be wholly appointed by your Majesty and removeable at your pleasure, which we apprehend to be repugnant to the leading principles of this free Constitution by which alone your Majesty now holds or legally can hold, the Imperial Crown of these realms"<sup>1</sup>.

2. Quebec Act. Art. x, xi, xii, xiv, xvii.

1. Bancroft Vol.vii, Chap.xiv.

From Canada came petitions from the English settlers, complaining that the Act "deprived them of the franchises which they inherited from their forefathers, that they had lost the protection of the English laws, so universally admired for their wisdom and lenity and in their stead the laws of Canada were to be introduced, to which they were utter strangers; that this was disgraceful to them as Britons and ruinous to their properties as they thereby lost the invaluable privilege of trial by jury, and in matters of a criminal nature, the habeas corpus act was destroyed, and they were subject to arbitrary juries and imprisonment at the will of the Governor and Council"<sup>2</sup>. The General Congress in a lengthy address to the inhabitants of Quebec set forth their indignation in very similar terms.<sup>3</sup>

2. Cavendish Debates.

3. Address by General Congress to inhabitants of Province of Quebec.

Despite the opposition of Fox, Burke, and Towns<sup>h</sup>end in the House of Commons, and of the Earl of Chatham in the Lords, the Bill passed and received the Royal assent, the King stating that " it was founded on the clearest principles of justice and humanity, and would he doubted not, have the best effect in quietting the minds and promoting the happiness of his Canadian subjects"<sup>1</sup>. Towns<sup>h</sup>end in the House of Commons said " I say Sir, when I was calling for regulations for Canada, little did I think that I was calling for an arrangement which I will venture to say, is oppressive to the English subject, and disagreeable and hateful to the Canadian; little did I think that those subjects who had been invited by the proclamation that told them they were to have the law of England, they<sup>at</sup> they were not to be put under a law totally unknown to them, were at the same time to be deprived of some of the most valuable parts of the law of their own country"<sup>2</sup>.

The law and usages of Canada had been substituted for English civil law, but the French majority being represented by less than one fourth of the number of members in the Council, thought themselves but little better off than under military rule, while the English felt themselves injured that " the trial

1. Erier of Quebec.
2. E. Ryerson, Loyalists in Canada.



by jury in civil cases had been taken away. The absence of a representative form of Govt. and of the privileges of the Habeas Corpus Act made them feel that they were denied the rights of British subjects.<sup>1</sup>

The provisions of the Quebec Act which it was said "occasioned a continued series of disputes ever since it began to operate"<sup>2</sup> remained in force in Canada for 17 years.

In 1784 the Loyalist emigrants, well versed in the principles of popular assemblies, came from the revolted American colonies into Canada, and from that year on, frequent petitions were presented to <sup>the</sup> Parliament of <sup>Great</sup> G.B. <sup>Britain</sup> asking for a representation of the people in the Govt. of the Province. (A report of a Committee of <sup>Merchants</sup> of Montreal to a Committee of Council ran as follows:-)

(Jan. 1787) "The King's proclamation of 1762 promised the future settlers in this province, the benefit of the laws of England these laws were accordingly introduced by an ordinance of the Govt. and Council, in Sept. 1764, but unfortunately abrogated in all civil causes by the Act of the 14th. Geo.iii. Caput 83 which statute instead of remedying temporary abuses, introduced great evils, particularly to the trading part of the nation. The merchants in England and ~~there~~ those in this Province have severely felt the effects and disposition of laws to which they were utter strangers, the principles of which are anti-commercial altogether. In general and upon the whole, from the ob-

1. Review of Grievances of Prov. of Quebec.

2. Cavendish.

servation which we have offered may be collected the utter impossibility of governing this province as a British Colony and promoting its prosperity without a power existing somewhere, of levying inland taxes and providing for useful regulations. These considerations we humbly submit to the <sup>Honourable</sup> Committee of Council and refer them to the petition we had the honour of transmitting to his Majesty, and both Houses of Parliament two years ago, for granting a House of Assembly to this province. The English Government realized that immediate steps must be taken to put an end to the general discontent; accordingly in 1788 trial by jury in civil cases and Habeas Corpus were introduced and committees of inquiry were appointed by Lord Dorchester, who had been sent out as Governor in 1786, to seek out existing evils, and to suggest further remedies.

There were two shades of English opinion in Canada to be considered: that of the Loyalists who desired a separate province, and that of the English of Montreal, who feared that division would leave them in a hopeless minority with the French.

All possible information having been obtained a bill, was prepared and introduced into the House of Commons by Mr. Pitt (1791) known as the Canada Act, which gave to Canada her first Constitutional Government and was in force until the Union of the two Canadas in 1841.

In discussing this bill, Mr. Pitt spoke as follows:-

" An aristocratic principle being one part of our mixed government he thought it proper that there should be such a council in Canada ... with regard to the Protestant Clergy, he wished to make

adequate provision for them. Giving them a certain portion of land was the most eligible mode of supporting the clergy which had occurred to his mind, and as to the proportion <sup>one seventh</sup> ~~1/7~~ <sup>if</sup> it turned out to be too much, In future the state of the land appropriated to the clergy, like everything else in the bill was subject to a revision. As to the division of the Province, it was in a great measure the fundamental part of the bill, and he had no scruple to declare, that he considered it as the most material and essential part of it. He thought it extremely desirable that the inhabitants of Canada be united and led <sup>un</sup>universally to prefer the English Constitution and the English Laws. Dividing the Province he considered to be the most likely means to effect this purpose, since by so doing the French subject would be sensible that the British Gov<sup>ernment</sup>: had no intention of forcing the English laws upon them, and therefore they would with more facility look at the operation and effect of those laws, compare them with the operation and effect of their own, and in time adopt them from conviction"1.

By this Constitutional Act. of 1791, Canada was divided into Upper and Lower Canada, Lower Canada having a Govern<sup>ment</sup> <sup>or</sup>, Upper Canada a Lieut<sup>enant</sup> Govenor, and each a Legislative Council and Assembly of its own in imitation of the British Constitution.

1. Cobbetts Parlimentary History Vol.xxix.



The object of this Act was declared by Lord Greyville to be "to assimilate the Constitution of Canada to that of Great Britain as nearly as the difference arising from the manners of the people and from the present situation of the Province would admit".

The Legislative Council was to be appointed by the King for life, in Upper Canada to consist of not less than seven and in Lower Canada of not less than fifteen members. The Sovereign might if he thought proper annex hereditary titles of honour to the right of being summoned to the Legislative Council in either province. The whole number of members in the Assembly of Upper Canada was not be less than ~~16~~<sup>sixteen</sup>, and in Lower Canada not less than ~~50~~<sup>fifty</sup>, to be chosen by a majority of votes in either case. The Governor was authorized to fix the time and place of holding the meeting of the Legislature and to prorogue and dissolve it <sup>ex</sup> whenever he deemed either course expedient. The Governor could ~~withhold~~<sup>withhold</sup> or give Royal assent to all Bills and could reserve such as he thought fit for the signification of the pleasure of the Crown; British Parliament reserv<sup>a</sup>ed the right of imposing, levying and ~~taxin~~ collecting duties for the regulation of navigation and commerce, and also of directing the payment of dut- ties, but the appropriation of all moneys lev<sup>d</sup> in this way was left to the Legislature. All public functionaries were to be appointed by The Crown, and were removeable at the Royal pleasure.

The free exercise of the Roman Catholic religion was guaranteed permanently. The King was to have the right to set apart for the use of the Protestant clergy in the colony one eighth <sup>1</sup> of all uncleared lands, thus laying the foundation of the famous Clergy Reserves dispute. English criminal law was to obtain in both Provinces with French Civil law in Lower Canada

On the 4th. of March 1791 the following message was sent from the King to the House of Commons; " His Majesty thinks it proper to acquaint the House of Commons that it appears to his Majesty that it would be for the benefit of His Majesty's subjects in his Province of Québec,, that the same should be divided into <sup>two</sup> separate Provinces to be called the Province of Upper Canada, and the Province of Lower Canada, and it is accordingly His Majesty's intention so to divide the same whenever His Majesty shall be enabled by Acts of Parliament to establish the necessary regulations for the Government of the said Provinces" 1. Mr. Pitt in introducing his bill on this subject said " that the division of the Provinces into Lower and Upper Canada he hoped would put an end to the competition between the old French inhabitants and the new settlers from Britain and the British Colonies, this division he trusted would be made in such a manner as to give each a great majority in their own parts, although it could not be expected to draw a complete line of separation" 2.

1. Letter to Lord Dorchester, Oct. 20th. 1789.

2. Cobbett - Parliamentary History.

Mr. Fox warmly opposed the Bill objecting to the division "It had been urged that by such means we could separate the English and the French inhabitants: was this to be desired? was it agreeable to general political expediency? The most desirable circumstances was that the French and English inhabitants should *coalesce* into one body and that the different distinctions of people might be extinguished for ever."

" In his opinion this bill was also objectionable as far as it related to the trial by jury and the *habeas corpus* act which the Canadians were said to enjoy by an ordinance of the Province. It was stated by one of the council at the bar that either the ordinance which gave the inhabitants trial by jury or that which afforded them the benefit of the *habeas corpus* act would expire before this bill could pass into law. If this were true, it was an objection to the Bill, and ought to be remedied"<sup>1</sup>

The separation of the Provinces was opposed by many of the English inhabitants of Lower Canada, their opinions being set forth in a paper read before the House of Commons, 23<sup>rd</sup> March 1792 by Mr. Lyburner in which he said " In short, Sir, this division appears to me dangerous in every point of view to the British interest in America, and to the <sup>safety</sup> tranquillity, and prosperity of the inhabitants of the Province of Quebec"<sup>2</sup>.

The Legislature of Lower Canada met for the first time at

<sup>a</sup>  
1. Cobbett Parliamentary History Cap. XXIX.

2. Christie Vol. i



Quebec on the 17th. Dec. 1792, and of Upper Canada at Niagara on the 17th. Sept. 1792, where <sup>enant</sup> Lieutenant-Governor Simcoe in his closing speech said it was the desire of the Gov<sup>ernment</sup>. to make the new Constitutional system "an image and transcript of the British Constitution" <sup>3</sup>.

The dividing of the Province of Quebec <sup>into</sup> and the two Provinces of Upper and Lower Canada, inasmuch as these Provinces were given Legislative Assemblies, was considered by many to be equivalent to the granting of self-government to the Colonies. The French Canadians had clamoured for a Government which should enable them to manage their own affairs, the British element had insisted upon representative government, their requests were <sup>s</sup> supposedly granted by the Act of 1791, which, partial and illogical as it was, finally brought matters to a deadlock in the administration of the Government of Canada.

Gov. Simcoe was sent out to <sup>Upper</sup> Canada to administer the Constitution of 1791, and during his term of office (1791-1807) the current of events ran more or less smoothly. The Legislative Assembly met and occupied itself with Acts for the advancement of the Province without any of the racial bickerings which characterized the meetings of the <sup>o</sup> Lower Canadian Assembly. The Loyal British population of Upper Canada had been greatly increased by an influx of emigrants from Scotland and Ireland, some of

3. Bourmot, Canadian Constitution.

whom also, settled in Lower Canada. After the peace<sup>c</sup> of 1815, the fear of American invasion, which had welded together in common cause the French ~~inhabitant~~<sup>habitant</sup>, the British loyalist, and the Scotch and Irish im<sup>m</sup>igrant, being removed, the political difficulties of the Canadas became more acute.

In both Upper and Lower Canada the main cause of complaint was the irresponsibility of the Executive ~~of~~<sup>to</sup> the people. In Upper Canada, the quarrel resolved itself into a struggle between the office ~~of~~ holding minority, or Family Compact, and the excluded masses, while in Lower Canada the hatred of the domination of the British minority was intensified by religion<sup>us</sup> and racial ~~bickerings~~<sup>differences</sup>; while Upper Canada petitioned that the Legislature<sup>ive</sup> Council should be increased in number of whom, a small proportion <sup>only,</sup> on being strictly limited by law, to be permitted to enjoy ~~in~~ place of emolument under the Gov<sup>ernment</sup>. or to be members of the Executive Council<sup>1</sup>, Lower Canada wanted an Elective Legislative Council, and its complete separation from the Executive.

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1. 7th. Review on Grievances.

In the Westminster Review for <sup>July</sup> 1827, we find ~~them~~ a statement of English opinion of Canadian affairs " The connection now existing between this country and Canada, by subjecting Canada to a host of evils, in the shape of bad government, and this country to a no less fearful list, in that of unrequited expense, and a ruinous trade is productive solely of mischief to both parties. If the evil occasioned to Canada by her connection with England be greater than the benefit we derive from our dominion over her, no honest man would desire to see that dominion continued. Should it appear, however, that we not only harrass the Colonists but seriously injure ourselves, common prudence should induce us to relinquish our supremacy. If we continue our present dominion over Canada, the inevitable result will be an inveterate hostility on the part of the Canadians to the people of Great Britian. The Colony must at some time, and that too at no very distant date be severed from the mother country, and we have only to choose whether we shall voluntarily renounce dominion and by this wise and beneficial act make the Canadians our friends, or continue our rule and a few years longer, make them our enemies and at length submit to have the country wrung from our grasp by the combined power of Canada and <sup>the</sup> United States. It is childish to shut our eyes and determine not to see this result; the people are waiting but for a favorable opportunity to rescue themselves



from our subjection, and to throw themselves upon the protection of the United States, <sup>whose</sup> ~~and lose~~ power we are thus vainly endeavoring to circumscribe.

If we voluntarily confer independence on Canada, it is possible (perhaps as regards the Lower Province probable) that Canada may not form a <sup>part</sup> ~~portion~~ of the great Federal Union. <sup>we</sup> ~~If fear~~, however, ~~that they~~ are determined to give up our power only when no longer able to retain it Canada must inevitably become one of the United States"

Westminister Review July 1827.

N.B. This article was written by Roebuck. West.Rev. July 28th. 1835.

The nominated Executive in Upper Canada arrogated to themselves all the ~~important~~ posts in the gift of the Crown, together with large grants of land and other perquisites, thus forming a system of class tyranny known as the Family Compact. In opposition to this group grew up a party of reformers with <sup>William</sup> Wm. Lyon MacKenzie, the editor of the Colonial Advocate, a paper which he ~~issued~~ <sup>used</sup> as a medium for the arraignment of the Family Compact and all its methods, as their leader.

The Elections of 1824 and 1828 discovered a majority of reformers in the Assembly which, though it could effect little against the irresponsible executive, served to accentuate the anomalous position of such a body.

In 1829 we have a petition drafted by Robt. <sup>ert</sup> Baldwin and addressed "to the King's Most Excellent Majesty (and to the several other branches of the Imperial ~~and~~ Legislature), which forcibly points out the already familiar grievances of the Colony. Stanley's reply to this document clearly demonstrates the slight appreciation of the situation possessed by the Imperial powers, and displays their ignorance of the facts of the case, since he advocates the one impossible means of checking the Legislative Council " On the last and one of the most important topics, namely, the appointment of a local Ministry, subject to removal or impeachment when they lose the confidence of the people, I conceive there would be

1. 7th. Report on Grievances, Petition.

2. " " Stanley's letter

great difficulty in arranging such a plan, for in point of fact the remedy is not one of enactment but one of practice and a constitutional mode is open to the people of addressing for a removal of advisers to the Crown, and refusing supplies, ~~it~~ ~~is~~ necessary, to enforce their wishes "2.

The Family Compact party gained a majority in the elections of 1830, and expelled <sup>and</sup> disqualified McKenzie who sailed for England with petitions to the Home Government. These were ~~received~~ recognized by a voluminous despatch from the Colonial Secretary, Lord Goderich, to Sir John Colborne, the Govern<sup>r</sup> but no remedy was suggested.

The following opinion of the Canadian situation found expression in an English periodical of 1830.

" If the most excellent measure both as regards the colony and England, were to be proposed, there could be little hesitation in recommending the instant emancipation of the colony. Our government is, and do what we can, ever must be, a <sup>?</sup> better grievance to the colonists, is, and ever must be, an enormous and unrequited expense to ourselves. The people can rule themselves better without than with our assistance. We should part on good terms and anticipate by a ~~far~~ <sup>two</sup> very few years, the inevitable separation of the ~~A~~ countries, should cause no unnecessary carnage create no hostile feelings, and in the meantime gain not lose by our 2. 7th. Report on Grievances, Stanley's letter.

liberality".

Following a review of the evils of British administration we have the following alternatives suggested: " The one method, that who<sup>?</sup> has found favor in the eyes of the ministry, is to charge the Government<sup>ors with</sup> instructions to act in a conciliatory<sup>a</sup> manner towards the leaders of the people; to yield in spite of any suggestion to certain demands of these leaders, both on the part of the people and of themselves: to pursue in short a more<sup>7</sup> equitable conduct towards the two hostile parties. These instructions are usually given under the influence of fear, and while that fear lasts are adhered to by the ministry and the Government. The fear, however, is by time allayed, the suggestions of the Executive Council listened to; the Government<sup>or</sup> if he change not with the change of feeling in the ministry is recalled and the Executive Council again are paramount. The other method has been proposed by the Canadian<sup>1</sup>, and deserves the most strenuous support: the alternation<sup>ve</sup> which he proposes is " to abolish the Legislative<sup>powers</sup> in the House of Assembly, and the Governor. The reasons for this alteration are manifest and apparent. The Executive<sup>Council is</sup> Government, although under some circumstances, a mischievous, at all times a necessary, body; it is necessary to carry<sup>on</sup> ~~all~~ the<sup>mere</sup> routine of Government; but it is mischievous<sup>because</sup> only, being composed of the same persons as the Legislative Council it is enabled, for private purposes to disturb the business of legislation. It is well known that the interests of the

1 . A political and historic account of Lower Canada by a Canadian

Executive Committee have been followed steadily ~~by~~ in the Legislature; and by that means alone has the Executive ~~Committee~~ <sup>Council</sup> been able to <sup>v</sup>persue its plans of selfish aggrandizement, to enthral<sup>t</sup> the Government <sup>ors</sup> and deceive the ministry"2.

" Our object hitherto has been to open the eyes of the public to the real state of the Government to which all the interests of this remote colony are intrusted, in the full conviction that its whole principle must be revolutionized before any other fruit than misrule can be gathered from it. Indeed on all subjects of local detail we are very much of the opinion of Mr Stephen " They ( the colonists) are incomparably more competent to provide for the exigencies of the case than parliament can be. If an act were passed for the single purpose of erecting a legislative body properly constituted, and fairly representing the inhabitants, I would expunge from the statute book every single enactment respecting the internal concerns of the province, and leave them to make the laws for themselves"1.

A Canadian Alliance Society was formed at Toronto 1834, with the demand for responsible government and the abolition of the nominated Legislative Council as its political programme. A Committee on Grievances appointed by the Assembly drew up a report in which the misgovernment of Canada was exhaustively reviewed. Lord Glenelg<sup>elg</sup> the Colonial Secretary sent an answer-  
2. West.Rev. July 1830

~~N.B.~~

2 Report of select Com. of House of Commons on Civil Govt-of Canada.

3. West. Rev. 1829



ing despatch to Sir Francis Bond-Head, the newly appointed Governor of Upper Canada, who communicated it to the Assembly. The Quebec Gazette commented upon the communication of the despatch as follows: " The publication of the instructions has occasioned great regret and disappointed public expectations generally. Very certainly their tenor betrays dispositions little likely to inspire confidence in ministerial liberality or reliance on the soundness of official policy in respect to our interests. If British statesmen be not content to learn <sup>ere</sup> ~~their~~ duty through representations, they will be taught it ~~be~~ <sup>ere</sup> ~~long~~ long, in a rougher way, for things move on rapidly in this new world of ours" 1.

Meanwhile in Lower Canada matters were reaching a crisis. The situation was well summed up by Lord Durham in his famous report. " I expected to find a contest between a Government and a people. I found two nations warring in the bosom of a single state" 2.

The British minority had grown and it was to this body that the Governour ~~went~~ <sup>looked</sup> for support. The French Canadian vote easily commanded a majority in the Assembly, and they de-termined to use this power against the oligarchy. England took from Canada the control of the fiscal policy and this the Governor and Council by the import ~~and~~ revenue, and sale

1. D.B. Read Rebellion 1837

2. Durham's Report page 8.

of timber on Crown lands, held <sup>money</sup> power which made them independent of the Assembly, as long as it lasted; further than this they were dependent upon the Assembly for supplies. The Assembly insisted ( 1818) that the detailed items of expenditure should be submitted to its consideration, and on voting the civil list from year to year. It also asserted its claim to appropriate not merely the revenue raised by its own act, but the whole expenditure of the Province. In 1820, Lord Dalhousie discountenanced this claim, and the conflict reached an acute stage.

Louis Joseph Papineau was the leader of the French Canadian majority and speaker of the Assmebly ( 1815). Owing to the opposition of Dalhousie petitions for redress of grievances from Lower Canada poured in upon the Imperial Government. A few English made common cause with the French in their cry for reform of the Government, while on the other hand the British adherents openly expressed their desire to rid the country of French control " this province is far too French for a British colony", wrote the Quebed Mercury 1820 " after forty years possession it is now fitting that the Province become truly British. Up to the time of the Papineau leadership there had been no systematic attempt to rouse the French against the English But Papineau now became the open adversary of the Governor-Gener-

al. A petition signed with 87,000 names was forwarded to the Home Government 1827.

In vain the Imperial authorities surrendered their control over the customs duties ( 1831). The Assembly refused to vote a permanent civil list, and the leaders of the popular party clamoured for the abolition of the nominated Upper House. Stanley the Colonial Secretary hinted that Britain might be forced to curtail even the existing privileges of its colonial subjects. Aroused to furious opposition the Assembly adopted the famous ninety-two resolutions indicating a long catalogue of grievances, and denouncing the existence of the Upper House.1.

Sir Francis Head soon showed the Upper Canadians that though he had appointed reformers to his council the "smooth face insidious doctrine of responsible government had no place in his programme. They were informed that responsibility to the people who are already represented in the House of Assembly is constitutional, that it is the duty of the council to serve him ( the governor) not them"2.

The reform party had meanwhile organized a constitutional Reform Society of Upper Canada ( July 16th.1836) with Responsible Government as their platform, but were defeated and with the elections of the Conservatives lost all hope of Constitutional reform by peaceable means. The Quarterly thus characterizes Sir Francis

1. 7th. report on Grievances.

Head's success in winning victory for his party in these elections. "This revolution in public sentiment, or we should rather say, revelation of a public sentiment, long compressed and stifled by the mismanagement of Downing St is one of the most extraordinary triumphs of good sense and firmness that we have ever read of, and entitles Sir. C. Head to the gratitude of his country. From the Colonial Office it seems to have produced him nothing but increased annoyance and more recently in Lord Dunhams ~~time~~ Report misrepresentation, and obloquy - But it saved Canada " 1.

The armed Rebellion that followed was a complete fiasco and needs no recapitulation in this review of the growth of Responsible Government.

In Lower Canada matters were rapidly tending to open revolt. The Home Government<sup>ernment</sup> alarmed at the trend of events, sent a special commission of investigation with a new Governor General, Lord Gosford, at its head. The wisdom of sending this commission and the probable outcome of its investigations were freely discussed in the periodicals of the time.

1. Quarterly Review Vol. 63 ( 1839).

" The people see that the evils of their Government spring directly from the Legislative Council, and that this Council is maintained solely by the influence of England. The connection with England is <sup>therefore</sup> looked upon as an evil, and every day is strengthening the desire of the people to be free from it. If this party be allowed to exist but a few years longer, all attachment to England will be utterly destroyed and a separation will immediately follow".

"Lord Gosford and <sup>two</sup> ~~2~~ commissioners are about to proceed to Canada to enquire into the grievances of the Canadians and report thereon. What is likely to be the result of this enquiry. Our answer is that let the commissioners make what report ~~they~~ <sup>it</sup> pleases, one only result can follow, and that is the demands of the House of Assembly must be acceded to.

1. An Elec<sup>tive</sup> Council must be granted to the people, and the present Legislative Council abolished.
2. The whole of the revenue must be placed entirely under the control of the people of Canada.
3. The judges must be made responsible to the Provincial Legislature and not to the King.

If these things be done, we may keep the Canada<sup>s</sup> for some time to come: if they be refused, our dominion will cease within a very few months after the people shall become aware that the Gov<sup>ernment</sup>.

(1835) Westminster Review Vol.30, pg.475 The Canada<sup>s</sup> and their Grievances J.A.R.



of this Country has definitely determined not to grant them.

Mr. Roebuck shows that an elective Council would tend more than any other measure to prevent a rupture between the Colony and the Mother Country: " If the separation be to take place violently, it will be a matter of no moment that it is opposed by the present Legislative Council. Rather indeed would such opposition aid any measure of separation. The decisions of the Council have no moral force with the people, while the House of Assembly completely represents the whole population. The Legislative Council represents no part of them. Whenever the time for violent separation may come, if come it must, the assent of the Council will neither be needed nor looked for. On the other hand, if the Council were elected, and represented either the whole or a portion of the people, then its co-operation would be looked for and would be needed. In no way could the breach between the Mother Country and the Colonies be hindered by the existing Council, while in many and important ways it might be delayed by an ~~executive~~ <sup>elective</sup> one. The true friends, therefore, of English dominion, ought to desire the change now so eagerly demanded by the Canadians themselves"1.

Although the people of Upper Canada are now, through the press and otherwise, freely discussing the means of establishing their independence, neither they nor their brethren of Lower

1. Roebuck Existing Difficulties Pg. 52.

Canada desire independence as an end, but merely as a means to good government. Give them a responsible government, that is, responsible to themselves, and we shall not hear of independence for many years to come. Deny what they ask, and who will venture to predict the result<sup>1</sup>.

Lord Aberdeen had said in the House of Commons, 12th June, 1835; " He could not conceive what interest the country could have in refusing large and liberal concessions: Legislative assemblies were not to be treated as children<sup>u</sup>, and entirely directed from this country, but should be left to the enjoyment of the utmost freedom, consistent with the maintenance of the King's dominion. He heard a commission was to be sent out, a course which appeared to him not only useless but worse than useless. In this case a commissioner ought to go out ready to act. It was competent to and incumbent on the Government to decide at once on all important matters at issue in Canada; the time was now come for prompt and immediate action".

" Our obvious policy, then will consist in assimilating the Government<sup>s</sup> of our colonies as nearly as is compatible to their connection<sup>with</sup> the Mother Country, to those of the American States in their neighbourhood".

1. Westminster Review Vol. 26. 1836

Quarterly 1835.

The report of the commission shows it to have been a failure (March 1837) It condemned the principle of an Elective Upper House, declared that ministerial responsibility was inadmissible, suggested that means should be found to elect a British majority by altering the franchise and recommended coercion in the last resort.

Papineau meantime was boasting in the Assembly that "the time had gone by when Europe could give monarchies to America. On the contrary, an epoch is now approaching when America will give Republics to Europe". Lord Gosford wrote of the state of affairs as follows. "It is evident that the Papineau faction are not to be satisfied with any concession that does not place them in a more favourable position to carry into effect their ulterior<sup>or</sup> objects, namely, the separation of this country from England, and the establishment of a Republican form of Government"

In order to overcome the deadlock in the Government a bill was brought forward to dispose of the ~~Legislative Council~~ <sup>revenue of Lower Canada</sup> without the consent of the Assembly, and Papineau issued the call to revolt. Sir John Colborne crushed the rebellion, and Papineau fled to the United States. Sir John Colborne and Council then passed an ordinance suspending the Constitution of Lower Canada and the Habeas Corpus Act.1

1. Christie History of Lower Canada.

Such was the situation when the British Government at last awoke to the realization of the existence of political difficulties, and inconsistencies in Canada. Petitions had been sent home at intervals for years, only to be ignored entirely or have absurd remedies suggested. But not until 1837 when bad Government had precipitated a rebellion did the matter receive proper attention.

In the Quarterly 1838 we find the following reason given for rebellion " That real cause is neither more nor less than the determination of the House of Assembly of Lower Canada to throw off the British authority, and to erect the Province into an independent Republic after the manner and model of the United States. The real and immediate cause of the revolution of public opinion in Canada was the recent triumphs of the revolutionary principle in Europe, the success of the July barricades in France and above all the subversive doctrines and practices of the English Whig ministry".

*The Westminster Gazette justified the Canadian rebellion*

"The people of Canada had against the people of England legitimate cause of war. They had the provocation which on every received principle of public law is a breach of the conditions of allegiance. Their provocation was the open violation of their constitution in the most fundamental of its provisions by the passing of Resolutions through Parliament for taking their

Christie History of Lower Canada  
Quarterly 1838

money from their exchequer without their consent".

Lord Glenelg says " The Constitution of 1791 from the earlier years at least in the history of Canada might be said not to be administered It might have been very advantageous to the people of Canada if it had been so, but the Executive Government <sup>took</sup> ~~took~~ part with one race ~~against the other~~ <sup>against the other</sup> ~~other~~ <sup>it took</sup> ~~other~~ ~~took~~ part with English race".

Lord John Russell in proposing his scheme for the management of Canadian affairs said that the Constitution of Lower Canada would be suspended for <sup>two</sup> years, and moved an address to the throne pledging the House to vindicate the Royal authority in Canada, gave an outline of the intended Bill which was passed.

Lord Brougham in a speech made in the House of Lords Jan. 1838 sums up the situation as follows " You had given them in 1831 the power of the purse, had told them that they should no longer have to complain of possessing the British Constitution in name, while in substance they had it not, had "kindly and cordially" , such were your words, conferred on them the self same footing with the British Parliament, secured to them the substantial power of granting, postponing, or refusing supplies, that they could thence forth enforce their claims of right; that they could insist upon redress of their grievances Westminister Vo. 28 ( 1838)



by withholding supplies, while the redress was refused: but what do you offer them in 1837 by way of sweetening the bitter refusal of their prayer for an Elective Council. Not a repeal of the Act of 1831 but a declaration that for using its provisions, you would set the act and all its provisions at naught, appropriate their money without their consent, because they had done what you took credit 6 years ago for giving them, the right to do, withhold their money until they had obtained redress. "

Later on in the same speech Lord Brougham voices the sentiment which appears to have been somewhat prevalent in England at that time, that Canada was not worth the effort of retaining"

"But let it not be supposed that when I dwell upon the greatness of the occasion, it is from setting any high value upon such a possession as Canada. I really hold these colonies to be worth nothing. I am well assured that we shall find they<sup>m</sup> very little worth the cost they have entailed on us, in men, in money, and in injuries to our trade; nay, that their separation will even now be a positive gain, so it be but effected on friendly terms, and succeeded by an amicable intercourse"1

Lord Durham was, however, sent out to Canada ( May 29th.1838) as a special commissioner and Governor-General to inquire into the complaints and to suggest remedial measures to Lord Melbourne's Government.

1. Brougham's<sup>e</sup> speech on Maltreatment of A Colonies.

John George Durham, created Earl of Durham ( 1832) was a liberal who had sat in the House of Commons and had been Lord Privy ~~Seal~~ <sup>Seal</sup> in the ministry of Earl Grey ( 1830). Lord Durham strained the liberal powers bestowed upon him as High Commissioner to the utmost, and interpreted them to as giving him an autocratic domination over Canada, a fact which his political opponents at home made most generous use of in their attack on his administration.

But the High Commissioner have<sup>d</sup> every excuse for assuming despotic powers; Russell had said in Parli<sup>am</sup>ent that it was proposed " to set aside and suspend for a time the present Constitutional Govt. of Lower Canada and to place the authority, despotic authority if the right, (~~Rev. pg. 24~~).

Hon. Baronet ( Sir Robt. Peel) would have it so; in the hands of the Governor-General in Council". Again on Jan. 26th. Russell said " in proceeding to Canada Lord Durham will proceed with our instructions and will not consider his discretion fettered by any resolution or any vote which has been come to by the House on the subject"1 Molesworth was even more emphatic on this subject" The Govern<sup>r</sup> General alone should be made responsible for every act done or omitted, all responsibility should be concentrated on his single head, and the ~~whole~~ noble lord should be made to feel that, though he alone

would merit all the praise of success, he must equally bear all the odium, blame, and deep discredit of failure. In proportion as Lord Durham was independent of the control of the Colonial office in exactly the same ratio would the probability of a successful termination of these affairs increase. The first act of the noble lord should be one of grace and mercy, an oblivion of all <sup>5</sup>past political offences, a general amnesty" "§.

Durham landed in Quebec May 29th. 1838 and set about the accomplishment of that great word <sup>for the</sup> ~~of~~ re-organization of <sup>the</sup> Lower Canadian Government; the plan and reasons for which we find so admirably set forth in his famous report. While an ordinance banished the leaders of the insurrectionary movement, to Bermuda, the Gov<sup>ernor</sup>-General issued an amnesty to the other participants in the rebellion, reconstructed Sir John Colborne's Council in Lower Canada, and having thus reduced matters to a running basis proceeded to organize an inquiry into education, immigration, municipal Government and Crown Lands in all the Provinces.

On July 14th. Durham started on his short tour of Upper Canada, encountering everywhere good will and friendliness. The British were willing to be pleased, the French were grateful for the ordinance and anxious to believe in him, but disinclined to unbend; altogether the trip was a grand success not marred by a single jarring note. In Toronto the Tories were found

~~3. Rev. Pg. 238~~

1. Hansard. Vol XL.

to be not at all adverse to ~~F~~ederation, and while the ~~House of~~ <sup>High</sup> ~~Commissioner~~ ~~Commons~~ recognized that their support would mean much to him, he was ~~not~~ <sup>most</sup> anxious to do nothing to alienate the Reformers. However, the Upper Canadian Reformers recognized in him a protector of their rights and for that reason were willing to be on ~~one~~ friendly terms.

Durham's plan for the federation of the British North American Colonies received its greatest ~~resistance~~ <sup>opposition</sup> from New Brunswick, which had been granted ~~the~~ control of the revenues and now found themselves in a better position to assert their rights than they had ever been, and were disinclined to try other measures. The other Maritime Provinces had been more and more continuously harassed by their ~~Assemblies~~ <sup>Assemblies</sup>, and were willing advocates of ~~F~~ederation. The preliminary conference was not a success and a second meeting was arranged for September 22nd. Meanwhile Durham's enemies at home had been attacking him, mainly disputing his right to have passed the Ordinance. In vain did his friends uphold him, Lord John Russell saying " I ask you to pass this Bill of Indemnity telling you that I shall be prepared, when the time comes, not indeed to say that the terms or the words of the ordinances passed by the Earl of Durham are altogether to be justified, but that looking at his conduct as a whole, I shall be ready to take part with him, I shall be ready to bear my

share of any responsibility which is to be incurred in these different circumstances"1.

It is sufficient for the purpose to state that Durham's enemies led by Lord Brougham prevailed against him, and rendered his recall inevitable, without entering into a discussion of the legality or ~~right~~<sup>fitness</sup> of his ordinances. The Bill of Indemnity was passed and on August 19th. Lord Melbourne wrote to Durham, in - forming him of the course of events .- " The only safety lies in strict observance of the powers, in adhering to forms as well as to principles, and if you are obliged to deviate from either, in making apparent the grounds and reasons for such deviation". Unfortunately for Melbourne this was not the first intelligence Durham had received of the proceedings in Parliament. On September 19th. he saw a copy of an American newspaper containing the report of the debate in the Lords. The news spread over Canada and produced a sensation. On the 21st., nearly ~~400~~<sup>four hundred</sup> callers of all shades of opinion signed their names in a book at the Castle. The Maritime deputies presented an address on the 22nd. expressing gratitude for past kind offices, and confidence in ~~his~~<sup>the Governor's</sup> future plans.1 In his reply Lord Durham stated that he was on the point of proposing a scheme of federation which, if they accepted it, he intended to bring before the Imperial Parliament. " In this I trust useful course. I have been arrested by the interference of a branch

1. Bradshaw

of the English Legislature, in which the responsible adviser's of the Crown have deemed it their duty to acquiesce. Under these circumstances, I have but ~~one~~ <sup>one</sup> step to take to resign that authority the exercise of which has been so weakened as to render it totally inadequate to the grave emergency, which alone called for its existence". A conference as originally intended was now out of the question, though Durham had many conversations with the Maritime delegates and found them, though willing to agree to a somewhat loose federation, ambitious to obtain a semi-responsible Government similar to that which New Brunswick now enjoyed.

The British in Canada forgot all their opposition at the news of Durham's resignation and rallied round him, while the French extremists made ready for a possible opportunity for an outbreak.

The Quebec Gazette defended Durham. Men hardly <sup>save</sup> ~~save~~ ask what is now to be done; the most gloomy apprehensions are entertained, but we will hope yet needlessly. Our prospect, which Heaven knows was dark enough before, has been rendered more gloomy by the conduct of the Ministers in denying their support to the local Government, whose measures conceived in a knowledge of the actual state of the Colony, were framed to meet the exigencies of the dangerous position in which it was placed". The Montreal Gazette went even further " We cannot conceive how many men of



of high spirit could submit to the utter degradation of serving a Government who have neither the power to support him in the exercise of his public functions, nor the courage to defend him and themselves from the factious insults of party politicians. A ministry so utterly weak and incapable as a Government, so grossly ignorant of the duties of their station, of their obligations to their Sovereign, and of their responsibility to their country are totally unworthy of being favored by the services of any man of honour who values his own reputation".

Durham sent his despatch containing his real defense home in which he said " nor shall I regret that I have wielded these despotic powers in a manner which, as an Englishman, I am anxious to declare utterly inconsistent with the British Constitutional principles, that remain in force when a whole constitution is suspended; what principles of the British Constitution hold good in a country in which the people's money is taken without the people's consent, where representative Government is annihilated, where martial law has been the law of the land, and where the trial by jury exists only to defeat the ends of justice, and to provoke the righteous scorn and indignation of the community"2.

The disallowance of the Ordinance was published and the Act of Indemnity proclaimed, Durham embarked for England Nov. 1st. 1838.

Had he succeeded in the impossible task of pleasing the French and English both, no one would have blamed the ordinance:

1. Bradshaw

2. Durham's despatch to Lord Glenelg 28th. Sept. 1838.

had he chosen to support the British at their own price, the legislative union of the Canada<sup>s</sup>; he might have returned in triumph but ~~he~~<sup>would</sup> have incurred the intense hatred of the French.

The Report on Canada, setting forth the state of affairs as disclosed by Durham's investigation and suggesting future Government was published 11th. Feb. 1839. Upper and Lower Canada were spoken of with authority since Durham had personally visited them and investigated their affairs, but the Maritime Province matters were discussed only from second-hand information. In the Report the history of the growth of opposition and discontent is admirably traced; the feud of nationality in Lower Canada is here given its proper weight for the first time." The national feud forces itself on the very senses, irresistably and palpably as the origin or essence of every dispute which divides the community"2.

"It may fairly be said that the natural state of Government in all these Colonies is that of collision between the executive and the representative body. In all of them the administration of public affairs is habitually confided to those who do not co-operate harmoniously with the popular branch of the Legislature; and the Government is constantly proposing measures which the majority of the ~~kills~~ Assembly reject, and refusing its assent to bills which that body has passed"3

2. Durham's Report.

3. Durham's report Pg. 51.

"It appears much more difficult to form an accurate idea of the state of Upper than of Lower Canada. The visible and broad line of demarcation which separates parties by the distinct characters of race, happily has no existence in the Upper Province. The quarrel is one of entirely English, if not British population"1. The difficulties of the legal system, the impossibility of getting a fair decision; educational, religious, and financial questions, are all minutely dealt with. The parties of Upper Canada, their arms and acts are enumerated, Crown Lands and Clergy Reserves are criticised2.

Durham's ideal appears to have been a federal union of all the Provinces, a plan which he evidently considered impracticable at that time, and for which he was willing to substitute the scheme of ~~the~~ Union of the two Canadas.

The plan of dividing Canada into the Province of Quebec, ~~the~~ Montréal, Kingston and Toronto, and forming thus a Federal Union with the Maritime Provinces, and Newfoundland, under the title of British North America, was another scheme attributed to Durham. The ~~French~~ Canadians would thus have a majority in their own Province of Quebec, while the English dominated the other Provinces~~2~~. Durham's firm conviction was that Lower Canada must become English if the other colonies were to remain British and thus through all his report we find his idea was to swamp <sup>out</sup> the French ~~out~~, and in time

1 Durham's report pg. 103

2, Report pg. 212.

to denationalize them, with this project in view though he advocated Legislative Union of Upper and Lower Canada as the present solution, a federal union of all the Colonies was his ultimate goal.

" I entertain no doubts as to the national character which must be given to Lower Canada; it must be that of the British Empire; that of the great race which must, in the lapse of no long period of time be predominant over the whole North American Continent. Without effecting the change so roughly as to shock the feelings of the existing generation, it must henceforth be the first and steady purpose purpose of the British Gov<sup>ernment</sup>t- to establish an English population with English laws and language, in this Province, and to trust its government to none but a decidedly English Legislature.

" I believe that no permanent or efficient remedy can be devised for the disorders of Lower Canada, except a fusion of the Government in that of one or more of the surrounding Provinces and as I am of the opinion that the full establishment of responsible Government can only be permanently secured by giving these Colonies an increased importance in the politics of the Empire, I find in union the only means of remedying at once, and completely the two prominent causes of their present unsatisfactory condition"1.

I am inclined to go further and inquire whether all these  
1. Durham's Report.

~~these~~ objects would not more surely be attained by extending this Legislative Union over all the British Provinces in North America"2. " It needs no change in the principles of ~~the~~ Government, no invention of a new constitutional theory to supply the remedy which would in ~~any~~ <sup>my</sup> opinion remove the existing political disorders. It needs but to follow out consistently the principles of the British Constitution and introduce into the Government of those great colonies those wise provisions by which alone the working of the representative system can in any country be rendered harmonious, and efficient. We are not now to consider the policy of establishing representative government in the North American colonies; that has been irrevocably done; and the experiment of depriving the people of their present constitutional power is not to be thought of. To conduct their Government harmoniously in accordance with established principles is now the business of its rulers; and I know not how it is possible to secure that harmony in any other way ~~which~~ than by administering the Government on those principles which have been found perfectly efficacious in Great Britian. I would not impair a single prerogative of the Crown; on the contrary, I believe that the interests of the people of these Colonies require the protection of prerogatives which have not hitherto been exercised. But the Crown must on the other hand, submit to the necessary consequences of represent-

Durham's report.

tative institutions; and if it has to carry on the Government in unison with a representative body, it must consent to carry it on by means of those, in whom that representative body has confidence!"

Thus did Lord Durham revolutionise British Colonial policy advocating as its logical conclusion Responsible Government.

As might have been expected, the publication of Durham's report caused a flood of criticism. The Westminster Review writes as follows: " He has shown how Canada ought to be governed; and if anything can allay her dissensions and again attach her to the Mother Country this will. He has at the critical moment taken the initiative of a healing policy, that which seeks popularity, not by courting it but by deserving it, and council, not by compromise but by justice, by giving to every body not the half of what he asks but the whole of what he ought to have. If this example had not been set at this juncture, the colony was lost, having been set, it may be followed, and the colony may be saved. He comes home master of the details of these abuses which he had recognized as the original causes of the disaffection, <sup>prepared to</sup> submit to Parliament <sup>a</sup> after the most comprehensive inquiry which has ever taken place, the system on which the North American Colonies may be preserved and well governed hereafter".

Lord Durham's Report and the scheme which it proposes must be utterly rejected. Lord Melbourne indeed said a few words on the first appearance of the Report which might lead us to fear an intention of adopting it, at least in some degree, but

at that time Lord Melbourne could hardly have read, certainly not considered, that strange document. " We venture to proclaim with confidence that the time is arrived in which active resistance to these accumulated and accumulating evils is become an inevitable duty. This trumpety report, as with regard to intrinsic value it is justly called, will become a text book of disaffection in the distant recesses of our American Government: Every unconst<sup>ra</sup>dicted assertion of that volume will be made the excuse of future rebellions, every unquestioned principle will be hereafter perverted into a gospel of treason, and that, if that rank and infectious report does not receive the high, marked and energetic discountenance and indignation of the Imperial Crown and Parli<sup>a</sup>ment, British America is lost". 1

" We must observe that his Lordship's allegations <sup>against</sup> ~~and~~ the Lieut-<sup>enant</sup> Govern<sup>r</sup>or, Council, Legislative Council, Commons, House of Assembly, and people, have been unreservedly, indignantly and in most instances, officially denied, repudiated and disproved by the following competent witnesses", and here follows a list of ten persons in office in Canada and England, and further on in the same article " This un-British policy has at last driven our North American provinces to the desperate remedy of preparing to desert an Empire, <sup>which</sup> in a manner unparalleled in history, has deserted them. The British Parli<sup>a</sup>ment offers them no protection.

1. Quarterly Vol. 64.

2. Quarterly Vol. 64.

## Our colonists

are ashamed of their parent state; there remains nothing for them to suffer but the death-struggle which is to sever them from us for ever.

The first immediate result of these suggestions was the presentation to the Imperial Parliament on the 3rd. ~~day~~ of May, 1839, of the royal message, recommending the Union of the two Canadas. In June 1839, Lord John Russell introduced a bill to reunite the two provinces, but it was laid aside for the session pending more information from Canada. Mr. Poulett Thompson, afterwards Lord Sydenham, was sent out to Canada Nov. 1839. ~~He~~ called a special Council together and explained to them "the anxious desire felt by Parliament and the British people that a settlement of the questions relative to the Canadas should be speedily arrived at". The council passed an address in favour of the reunion of the provinces under one legislature, as a measure of indispensable and urgent necessity, and Mr. Thompson wrote home as follows:-

"It is my decided conviction, grounded upon such other opportunities as I have enjoyed since my arrival in this country of ascertaining the state of public feeling, that the speedy adoption of that measure (the Union) by Parliament is indispensable to the future peace and prosperity of this province"<sup>a</sup>2.

Christie Vol v

2. Parli<sup>a</sup>mentary Papers 1840.



Having assured himself of the concurrence of the only existing Legislative body in Lower Canada, Mr. Thomson left Montreal for the Upper Province on <sup>the</sup> 19th. November, arriving at Toronto on the 21st. ~~and~~ <sup>eδ</sup> assuming the Government of Canada on <sup>the</sup> 22nd, and received the following expression of opinion in an address from the Corporation of Toronto.

" We beg respectfully to express our conviction that any Legislative Union which shall not be predicted upon the ascendancy of the loyal portion of the inhabitants or which shall give to that portion of the population who from education, habits and prejudices are aliens to our nation and our institutions, and to that part of it more particularly which has been engaged in open rebellion, or <sup>e</sup> treasonable conspiracy against the Government, the same rights and privileges with the loyal British population of the Provinces, who have adhered so zealously and faithfully at the risk of their lives and property to their Sovereign and Constitution, would be fatal to the connection of these Provinces with the parent country"1

Mr. Thomson in his reply by stating that " to be of permanent advantage, it <sup>(the Union)</sup> must be founded upon principals <sup>e</sup> of equal justice to all her Majesty's subjects" gave a blow to the hopes of the dominating British party.

On the 20th. Nov. <sup>ember</sup> and the 8th. Dec. <sup>ember</sup> 1839, Mr. Thomson wrote from Toronto as follows:- "So far as the Lower Province is

1. Address of Corporation Toronto 18 Nov. 1839

concerned, I look upon the Union as settled. Of course the extremes have their different crotchets for arriving at the end. The ultra-French desire an immediate return to the old constitution. The ultra-British, the disfranchisement of the French Canadians. If it were possible the best thing for Lower Canada would be a despotism for <sup>Ten</sup> ~~10~~ years or more. But in ~~Lower~~ Upper Canada the case appears to me to be widely different. The country is split into fractions animated with the most deadly hatred to each other. The people have got so much into the habit of talking of separation that they begin to believe in it. I do not wonder at the cry for Responsible Government when I see how things have been managed."!

What Mr. Poulett Thompson meant by the term Responsible Government is readily seen in a letter from him to a friend "I am not a bit afraid of the responsible government cry. I have already done much to put it down in its inadmissible sense; namely, the demand that the council shall be responsible to the assembly, and that the governor shall take their advice and be bound by it". While Lord John Russell had sent the following instructions in a despatch to Thomson. "You will understand, and will cause it to be made generally known that hereafter the tenure of Colonial offices held during her Majesty's pleasure, will not be regarded as equivalent to a tenure during good behaviour; but that not only such officers will be called upon to retire from the public <sup>service</sup> ~~policy may suggest~~ as often as any sufficient motives of public <sup>^</sup> policy may suggest

the expediency of that measure, but that a change in the person of the Governor will be considered as a sufficient reason for any change which ~~had~~<sup>his</sup> successor may deem it expedient to make in the list of public functionaries, subject of course to the future confirmation of the Sovereign, and on Oct. 14th. "the principle offices of the Colony would not be considered as being held by a tenure equivalent to one of good behaviour but that the holders would be liable to be called upon to retire whenever from motives of public policy or for other reasons this should be found expedient"<sup>1</sup>.

The Parliament was summoned to meet on the 3rd of December and a few days after the opening the question of reunion was brought up. On the 19th. of Dec<sup>ember</sup> the resolution introduced by the Government were carried and on the 22nd. was transmitted to her Majesty's Government the draft of a bill for carrying the Union into effect. "After fifteen years of trouble and contest you have now the golden opportunity of settling the affairs of Canada upon a safe and firm footing, insuring good government to the people, and securing ample power to the Crown, and that with their own consent, accompanied by a request that no further appeal should be made to them on the subject: If it be not now seized, I tell you the occasion will never rise again, and you may as well give up the Provinces at once"<sup>2</sup>.

~~1. Letter from Poulett Thomson Dec. 24.~~

1. Despatch from Lord Russell 14 Oct. 1839.

2. Letter from Poulett Thomson. Dec. 24. 1839.

The Act of Union passed the Imperial Parliament<sup>e</sup>, following the despatch of this information, and was put in force by a proclamation of the Governor General on Feb<sup>h</sup>. 10, 1841. According<sup>h</sup> to the terms of the Act of Union there was to be one province of Canada, a Legislature, consisting of ~~1~~<sup>two</sup> Houses; the Upper or Legislative Council, consisting of not less than 20 persons, appointed for life by the Crown, and the Lower House, or Assembly being elected by the people. English was to be the official language. The sum of \$ 75,000 yearly was to be appropriated by the Crown for the payment of the civil list. The executive authority was vested in a governor-general acting with the advice and consent of an executive council appointed by the Crown.

In the Papers of Sr. Robert Peel we find the following references to the Union Bill. "Whatever construction may be placed upon Lord Seaton's ( Sir John Colborne) despatches, as an indication of his opinions on the principle of a Union, they are decisive. I think on this point that if the measure is to be entertained at all, there can be no more favorable time than the present for the consideration of it. Lord Seaton says " It is evidently desired by the British portion of the population of Lower Canada that the Union of the Provinces should not be delayed", and again " I have already stated that the population of British origin earnestly desire

the Union, and that the Canadian French population are not so averse to the measure as they formerly were".

Upon reconsideration of the whole question I adhere to the opinions I have expressed in the House of Commons. I see less danger in the measure of Union, proposed as it has been by the Crown after ample public notice and assented to by all the colonial authorities, than in the rejection or delay of the measure".1

"Upon the other subject, that of Canada, the Duke was positive and decided. He feels that the House of Commons has the power to throw out the Bill, and prevent the Union of the ~~two~~ Provinces, and foreseeing what would in his opinion be the certain consequence of such Union, namely, a separation from the Mother Country, he would not at the close of a life passed with honour, take upon himself the grave responsibility of inflicting a heavy and fatal blow on England when he knows that he had the power to prevent it".2

1. Memoirs of Sir. Robt. Peel July 6th. 1840

2. Letter from Mr. Arbuthnot (personal friend of Duke of Wellington) to Sir J. Graham. June 10th. 1840.

" I remarked to him ( Duke of Wellington ) that no counter-project had ever appeared, upon which he said " Oh, if it all depended upon me, I would settle it at once. I would unite Montreal to the Upper Province, and I would govern the Lower Province for the present by a Governor and Council, as was the case until in 1791 that foolish Constitution~~al~~ was granted for which the French population have always proved themselves unfit"./

Following the passage of the Union Bill, writs were issued for an election, a new Executive Council appointed and Kingston selected as the place of Government.

In spite of Lord Sydenham's assurances to the contrary, the French Canadians were not in favour of the Union so that in Lower Canada the elections were carried on amid great tumult, the administration sparing no pains to insure the election of Union partisans. The result of the election showed only twenty-four out of of the eighty-four members pledged supporters of the Governor General while the Reform party numbered over forty members. \. Meanwhile Sydenham had appointed an Executive Council which did not contain one French Canadian and was therefore another source of grievance. Baldwin who in accepting a seat in the Executive & had demonstrated that he did so on the supposition that the incoming Government would be based upon the principle of ~~the~~ Executive responsibility, was convinced that such a ministry could only be compatible with the system of Government that recognizes the Governor General as its motive force.

1. Letter from Mr Arbutnot to Sir J. Graham

n Feb. 19th. 1841 he wrote to Lord Sydenham as follows:- "

" with respect to these gentlemen ( members of the Council) Mr. Baldwin has an entire want of political confidence in all of them except Mr. Dunn, Mr. Harrison and Mr. Daly. He deems it a duty which he owes to the governor general at once to communicate his opinion that such an arrangement will not command the support of Parliament" 1. June 12th. 1841, following a meeting of the Reformers, Baldwin addressed a letter to the Governor-General recommending a reconstruction of the Ministry so that the Reform Party of French Canada who were co-operating with their Upper Canadian allies, should be represented. Lord Sydenham refused this request on the grounds that it was most inopportune just at the moment of the opening of Parliament and moreover the French Canadians whom it was proposed to substitute for the present members had been opponents of the very Union of which the new Government was the embodiment. Baldwin therefore resigned, June 12th. 1841 and the House met on June 14th.

The Governor General was not present in person at the opening of the House, but the members having been sworn in and the proclamation convening the Parliament read, the Assembly began the task of electing a speaker. The Reformers had decided to nominate for Speaker a Mr. Cuvillier, member for Huntingdon, a man moderate in his views and apparently acceptable

1. S. B. Leacock - Life of Baldwin

to both sides. Hicks, however, determined to force the government to some expression of opinion, stated that his reasons for supporting Mr. Cuivillier were, his opposition to certain provisions of the Union Bill, notably the provision for a permanent civil list, and also "His ( Mr. Cuivellier's ) entire want of confidence in the present administration". Sir Allan McNab was nominated in opposition to Mr. Cuivillier and on this action followed a somewhat tangled debate in which the Reform party endeavored to force the government to a statement of their attitude on the question of Responsible Government. The Attorney-General undertook a formal statement of the principle of colonial government as he conceived it. In the first place he would declare for the information both of those who act with him and those who who act against him, that so long only as he could give a <sup>con</sup>scientious support to those measures which the head of the government might deem it his duty to submit to that House, so long only would he continue to hold office under the government. He looked upon the Governor as having a mixed character, firstly as being the representative of Royalty, secondly as being one of the ministers of her Majesty's Government and responsible to the Mother Country for the faithful discharge of ~~his~~ <sup>the</sup> duties of his station. a responsibility that he cannot avoid by saying that he took the advice of this man or that man." - " whenever I find the head of the

1. S.B. Leacock. Life of Baldwin.



~~of the~~ Government and the ministries of the Crown desirous of propounding measures which I cannot conscientiously support. Honour and duty point out but one path, and that is resignation. There are few men who have long acted in a public capacity, who have escaped animadversion and censure, but a man must indeed be hardened in sentiment and feeling who does not acknowledge a degree of responsibility to <sup>public opinion. It is to be desired above all things</sup> that between the Governor and the people there should exist the greatest possible harmony and mutual good understanding. It is the duty of the head of the government to preserve that harmony ~~and~~ <sup>by</sup> all the means in his power. If he find that he has been led astray by incapable or dishonest advisers, he may relieve himself of them by <sup>their</sup> ~~his~~ dismissal"1.

Mr. Baldwin in reply expressed his regret that the matter had not been made the subject of a distinct communication in the speech from the throne " It <sup>is</sup> ~~was~~ a great and important principle, on the faithful carrying out of which the continuation of the connection with the Mother-country in great measure depends". The debate became so confused that at the end of it there was little idea whether the principle of Responsible Government had been admitted or not, Mr. Draper had been forced to admit that he would resign but the Montreal Herald, said " The ~~company~~ <sup>is</sup> responsible government has come at last"2, while the Kingston Chronicle said " the great monster responsible government

1. The Church, June 26th. 1841

2. Cited by the Albion July 3rd. 1841

was actually ground into nothing".<sup>1</sup>

The administration by proceeding to carry out a programme of popular measures, succeeded in shelving the question of Responsible Government for the time being. They declared their intention to adopt measures for the completion of the great public works of the Province, for which Great Britain was prepared to pledge its credit to the extent of £1,500,000 sterling, for the encouragement of immigration; the creation of municipal government and a better provision for education. In the first Parliament of the United Canadas, the Government ~~were~~<sup>was</sup> successful in nearly every measure that ~~they~~<sup>it</sup> brought forward and Lord Sydenham wrote to Lord John Russell ( 4th. August 1841) " Your connection with North American matters will then terminate most prosperously; and I think whoever will compare the state of things two years ago with that which exists at present will not venture to affirm that any Secretary of State before ever produced half so great a change. One province then without a Constitution -- both without anything approaching to a government or departmental responsibility. ~~how~~ ~~held~~ the great and harassing questions of Church Revenue and Responsible Government settled -- the offices of Government arranged so as to ensure responsibility in those who are at their head, and an efficient discharge of their duties to the governor and the public; the legislature assembled acting in harmony with the Executive, public tranquillity restored and trade and immigration

1. Cited by The Albion. July 3<sup>rd</sup> 1841.

nearly doubled".

On the 25th. July, Sydenham had sent in his resignation <sup>of Parliament in September</sup> hoping to sail for England after the prorogation <sup>^</sup> but illness following a riding accident prevented him from carrying out his plans. The prorogation of Parli<sup>a</sup>ment was deferred from the 15th. to the 17th. Sept. but Sydenham grew steadily worse and died at Kingston on the 24th. Sept. 1841.

On the 7th. Oct. 1841, Sir. Chas. <sup>rles</sup> Bagot was appointed as Sydenham's successor and arrived in Canada on 10th. January 1842; meanwhile Lieut. Governor Sir Richard Jackson had administered the Government of Canada.

Sir Chas. Bagot instead of identifying himself with either party passed the winter and spring in making himself acquainted with the country in general and its political affairs in particular. New appointments were made with the greatest impartiality; French Canadians were given prominent offices. The Maine boundary dispute was still a great cause of difficulty between the United States and Canada, and the Ashburton treaty aggravated the injury which Canada felt the Mother country had inflicted, as did also Peel's tariff revisions of 1842. The appointment of Francis Hincks as Inspector General was unpopular with the Cabinet and led to strife. The Reformers accusing Hincks of deserting his party for private gain, <sup>le</sup> which Bagot further

increased the discontent by <sup>the</sup> appointments of men of different political sympathies to a new Commission of Peace. Such was the condition of affairs when the Legislature met on Sept. 8th., and the first Baldwin-La Fontaine Ministry came <sup>in</sup> to existence. The new ministry was assailed on all sides. Sir Robert Peel in reply to Lord Stanley's request for advice on Sir Chas. <sup>his policy,</sup> said =

From my imperfect acquaintance with the particular sections into which the Chamber is divided, and with the personal character of the leaders, I must necessarily speak rather of the principles on which Bagot should act, than of the course he should pursue. If Conservatives and French Canadians, or if French Canadians and Radicals choose by their unnatural union to ~~be~~ obstruct the Government, let them take the consequences and either consent or refuse to act together in office. Suppose the party refuse office on the terms offered by the Governor, let him get their terms in writing, and then if the individuals are notoriously unfit, let him refuse to take them, and try an appeal to the good sense -- the sense of justice, of the Province. Sir Chas. Bagot says he has derived great advantage, and has created an impression favourable to the Government by making appointment to office of men of high character, not on the dictation of party, but on the scope of civil desert, and personal qualification. I would persevere in this system. I would not voluntarily throw myself into the hands of the ~~hands of the~~ French party <sup>through fear</sup> of being in a minority. The difficulty in Canada is that the weapon of dissolution as a last resource is not in our hands" 2.

1. McMullen History of Canada.

2. Letter from Sir Robt. Peel, Aug. 28.1842

Before this advice could be acted upon, Bagot had formed his Government. Sir. Robt. Peel says :- " It is impossible not to admit from the statements made by Sir Chas. Bagot that his position was a very embarrassing one.

Assuming that he had no safe alternation<sup>ve</sup> but to admit the French party, that it was politic to anticipate a hostile note, and to form his Government in unison with the known will of the majority of the popular assembly. I still think his mode of doing this was ill chosen and unfortunate. It seems to me that every object would have been insured by taking the course which the Sovereign in this country would take under similar circumstances".1

Mr. Arbuthnot wrote to Sir Robt. Peel. "The Duke (Wellington) has been thunderstruck by the news from Canada. Between ourselves he considers what has happened to be fatal to the connection with England". 2.

Lord Stanley's reply to Sir Robt. Peel voices the necessity of avowing Sir. Chas. Bagot's policy. " Concurring in what you say of the mismanagement of the negotiation by Bagot, and fully sensible of the difficulty of defending his course in itself, I yet see such formidable obstacles to the disavowal of his policy that I lean to the opinion that we must avow and adopt it.

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1. Letter from Sir. Robt. Peel to Lord Stanley Oct.17, 1842.

2. " " Mr. Arbuthnot to Sir Robt. Peel, Oct. 18, 1842.

But great as our difficulties in doing so before were, the Duke's strong and decisive condemnation of it will be a formal aggravation of them, unless we can lead him to moderate his views. But if they should fail to meet with acceptance and he should still press them, I confess I should look with some apprehension to the result which from Arbuthnot's letter it is evident he has contemplated"1.

And later in a letter to the Duke of Wellington Peel says:  
" Supposing that Sir. Chas. Bagot was reduced to such difficulties that he had no alternative but to take the best men of the French Canadian party into his councils, and that it was better for him to do this before there was a hostile vote; and still the manner in which he conducted his negotiations was a most unwise one".2

Sir. Robert Peel in 1842 expressed his doubt of the value of the Canadian connection.

" Let us fight to the last for the point of honour, if the people are with us. In that case we cannot abandon them. But if they are not with us, or if they will not cordially support and sustain those measures which we consider necessary for their good government and for the maintenance of a safe connection with them, let us have a friendly separation while there is yet time"3.

1. Letter from Stanley to Sir Robt. Peel, Oct. 21. 1842
2. Letter from Sir Robt. Peel to Duke of Wellington.
3. " " " " to Lord Aberdeen.

The session was adjourned on the 12th. of October owing to the necessity for the new Ministry to be re-elected. Sir Charles became ill and was obliged to ask for his recall which was granted by the Colonial Secretary and his successor appointed in the person of Sir Charles Metcalfe.

Lord Grey in a letter to Lord John Russell thus characterises Bagot's administration;-

"During the Government of Sir C. Bagot a much nearer approach was made to the establishment of a really constitutional system"1. A different policy would have nullified the measure of Responsible Government, which had been conceded to Canada, and must have proved suicidal to any Ministry seeking to carry it out. Bagot acted on the broad principle that the Constitutional majority has a right to rule under the Constitution. "2.

Sir. Charles Metcalfe arrived in Kingston on the 28th. March 1847, and on the 12th. May in a letter to the Colonial office he sums up the situation in Canada: " Now I conceive is the first time when the scheme called Responsible Government, as here, construed, has come forward to be carried fully into effect in any colony. Lord Durham had no difficulty in writing at leisure in praise of Responsible Government, which had no effect during his administration. Lord Sydenham put the idea into force without suffering himself to be much restrained by it, and for the greater part of his administration it had no existence and

1. Col. Policy of Lord John Russell's administration.

2. McMullen.

was only coming into operation when he died. Sir. Chas. <sup>les</sup> Bagot yielded to the coercive effect of Lord Sydenham's arrangements, and thence Responsible Government, as understood by its extreme advocates, is said to be Sir Chas. Bagot's policy, but though he yielded to the extent of calling certain parties into his Council, he had not the least intent of surrendering his power into their hands. Now comes the tug of war, and supposing absolute submission to be out of the question; I cannot say that I see the end of the struggle if the people alluded to really mean to maintain it"1 The attitude the new Governor purposed to assume under these circumstances is strongly shown further in his correspondence. " I am requested to give myself up entirely to the council; to submit absolutely to their dictation; to have no judgment of my own; to bestow the patronage of the government exclusively on their partisans; to proscribe their opponents; and to make some public and unequivocal declaration of my adhesion to these conditions, including a complete nullification of her Majesty's Government..... failing of submission to these stipulations, I am threatened with the resignation of ~~Mr.~~ Mr. Lafontaine for one, and both he and I are fully aware of the serious consequences likely to follow the execution of that menace, from the blindness with which

1. Letter to Colonial office April 24, 1843.



the French-Canadian party follow their leader. The sole question is to describe it without disguise, whether the Governor shall be wholly and completely a tool in the hands of the council or whether he shall have any exercise of his own judgement in the administration of the Government. As I cannot possibly adopt them I must be prepared for the consequences of a rupture with the council. Government by a majority is the explanation of responsible Government ~~by~~ given by the leader in this movement and government without a majority must be admitted to be ultimately impracticable. But the present question, the one which is coming on for trial in my administration, is not whether the governor shall so conduct his people as to meet the wants and wishes of the people, and obtain their suffrages by promoting their welfare and happiness, nor whether he shall be responsible for his measures to the people through their representatives, but whether he shall or shall not, have a voice in his own council. The tendency and object of this movement is to throw off the government of the Mother country in internal affairs entirely, but to have all the advantages of connection, as long as it may suit the majority of the people of Canada to endure it. This is a very intelligible and very convenient policy for a Canadian aiming at independence, but the part ~~people~~ that the representative of the Mother country is required to perform in it is by no means fascinating."

The people of Upper Canada were further irritated by the

1. Letter to Lord Stanley. 12<sup>th</sup> May 1843.

the proposed removal of the seat of government from Kingston to Montreal. The Assembly had been summoned to meet on the 28th. <sup>ember</sup>Sept., and after a long and bitter debate, a ministerial resolution authorizing the removal to Montreal was passed.

As the session progressed it became known that Metcalfe had made some official appointments without consulting his Cabinet. At a Cabinet meeting on the 25th. <sup>ember</sup>Nov. a strong remon<sup>r</sup>stance was made to Metcalfe, who, while admitting the principle of Responsible Government, still clung to his right to ~~make~~ appointments at his own discretion.

The result was that nine out of ten ministers resigned, and when <sup>a</sup>Parliament was prorogued on the 9th. <sup>ember</sup>Dec. no ministry had been formed.

In a letter to Lord Stanley of the 11th. <sup>ember</sup>Dec. the events of the "Metcalfé Crisis" are narrated by the Governor himself.

"Late the following day (27th. Nov) Mr. Lafontaine sent me a written statement of the ~~e~~xplanation which he and his colleagues proposed to give in their places in <sup>a</sup>Parliament of the grounds of <sup>their</sup> resignation. It is a most disingenuous production; suppressing entirely the immediate matter on which their resignation took place and trumping up a vague assertion of difference on the theory of "Responsible Government", as applicable to a Colony, which had been ~~expressed~~ in the freedom of conversation as matters of opinion, but not as grounds of procedure and were therefore very unfairly used for the purpose to which this

misrepresentation was applied. Had the gentlemen openly avowed that their object was to make the Council Supreme and to prostrate the British Government and reduce the authority of the Governor to a nullity, there would have been truth in their statement of a difference between us, as I never can admit that construction of "Responsible Government" in a Colony, but on any reasonable construction of that undefined theory, they were without cause for any assertion of any difference as practically "Responsible Government" has been acted on throughout my administration to the very verge even of that extreme view of it. Their object however was to raise a cry against me as resisting "Responsible Government" and a loose and general representation suited their purpose, better than a correct statement of facts.

The advantage which they were likely to gain by this course was evident and it was necessary to endeavor to counteract it. I therefore drew up a statement of the facts connected with the real cause of their resignation which was nothing else than my refusal to surrender the patronage of the Crown into their hands. I sent this statement to them, protesting against the explanation which they intended to make. Notwithstanding this protest they proceeded to make the explanation that they proposed, and on being asked whether they had permission from the Governor to make such a statement to the House, Mr. Baldwin with that protest in his possession had the boldness to say that they had. On subsequent days <sup>they</sup> made other statements suitable to their purpose and on being questioned as to their having permission to make such disclosures, they with the same recklessness asserted that they had. I had no wish to prevent their stat-

ing that anything that was true, but their design was to excite a clamor against me on the popular question of Responsible Government, and they were <sup>not</sup> scrupulous as to the means of accomplishing that object.

After Mr. Baldwin's oral explanation, Mr. Daly the Provincial Secretary thought it right to read in the House the written statement which Mr. Lafontaine had sent to me and my reply. On an application from the House for all correspondence connected with the resignation of the retiring members of the Council those two documents were sent being the only correspondence that had taken place on the subject. A very extraordinary omission of an important paragraph of my reply occurred in the printing of that Document for the House. It was the paragraph ~~of~~ the most calculated of all to refute the accusation of opposition to Responsible Government. The omission was detected in the House and the document was reprinted but the omission had in the meantime produced some effect. Some persons supposed that the omission had been intentional in the printing office for a mischievous purpose. I could not believe such villainy <sup>to</sup> be possible, and concluded that the omission was accidental. On enquiry there was no apparent reason to suppose that it was otherwise.

A debate of <sup>two</sup> 8 days followed the explanation of the ex-members of the Council on a Motion brought forward by a devoted partisan of Mr. Baldwin which was of course, in their favour. The intended motion, however, was set aside it being ascertained that many would not agree to it who might be induced to vote for one more moderate. The one substituted by others was moved by the same member, and carried in favour of the ex-Councillors by a majority of 46-23. Several amendments were proposed, all of which failed. This majority consisted of the French party, who with only two exceptions as usual followed their leader; of the extreme party which supports Mr. Baldwin, and generally of the party called Reformers, who, the cry of Responsible Government having been set up, either from imagining that a cherished object to be in peril or from the fear of being supported<sup>? s</sup> by their constituents to vote against it, gave their voices in support of the ex-councillors.

Notwithstanding this vote, which being in their favor, was of course a declaration against me, a considerable, & degree of good feeling towards me was evinced in the House, and several members refused to join in the Resolution proposed unless another were added as a soother. A second resolution was accordingly added with that view, on the motion of another member second<sup>ed by</sup>ly Mr. Lafontaine. This resolution was carried

by a majority of 60-7, the ~~major~~ minority consisting of gentlemen who are giving me their honest support, and an uncompromising opposition to the proceedings of the House in favour of the ex-councillors, and who did not probably consider that the second resolution was a sufficient modification of the first. The address with the two Resolutions, certainly in some degree contradictory to each other was carried on a division of 49-11. I was not surprised at the result of the debate. Mr. Lafontaine with the impenetrable French phalanx and Mr. Baldwin supported by the party called Reformers had commanded such large majorities in the House of Assembly that I could hardly expect a result even so favourable as that which occurred. Whenever I saw reason to apprehend a difference with the council in which I could not yield, I had also grounds to expect a collision with the majority in the House of Assembly as an almost inevitable consequence. I always took pains to avoid a rupture with the Council and suppressed the feelings of disapprobation that I entertain regarding their manifest inclinations and conduct while which had always prevented my sympathising with them. In speaking thus of the late Council, I allude to the leaders. The majority were merely followers and those who differed from the Leaders hardly dared to oppose them. When the address came, the second part seemed so much to disagree with the first, that it gave me an opening, of which I availed myself, to infer and show that the opinion of the House in a great degree coincided with mine, and was opposed to the conduct pursued by the ex-Councillors. The reply giving this turn to the address caused some sensation and an effort was made

to bring it into question, which, however, was put down by the general good feeling of the House. I had determined not to have a quarrel with the House if I could avoid it, and that determination seemed to produce a corresponding effect on many of the members, ~~Copies of the address and of my reply are enclosed.~~

When the agitation commenced in the House, Dissolution and Prorogation were talked of, and each had its advocates. I was not disposed for either if they could be avoided. Dissolution would be of no service unless a majority could be secured by it of which there was no expectation in Lower Canada, though it was probable, if not certain, in Upper Canada. Prorogation would disturb the Progress of Public Business and be injurious to the country. It was my anxious desire that all good measures should be proceeded with. The ex-Councillors, however, still able to command a majority had different views and were not disposed to promote that object. Learning that the members of the Legislature were preparing to return to their homes in such numbers as to threaten the want of a quorum in both Houses, owing to the expectation of an immediate prorogation, and the near approach of the termination of navigation on the Rivers and the Lakes, I sent a message to both Houses expressing the anxious desire that I entertained on the subject. This message which was meant to be pledge on my part to the Legislative bodies that I would not prorogue, and to the country that no obstruction to the public business should proceed from me was not palatable to the dominant party in the Assembly, and was referred to the Committee of Privileges

It was so obvious, however, to all, that no breach of privilege was intended that the resolution passed, exonerated me from such a design.

An attempt was made to send me an address calling on me to form a new administration but this was got rid of in the House by an Amendment in the shape of an inoffensive resolution which was passed. On more than one occasion during the discussions arising out of the rupture of the Council with the Government it was observable that the good feeling of many members of the House thwarted the intentions of the dominant party, and led the latter to acquiesce in more moderate proceedings <sup>than</sup> they were spontaneously disposed to adopt.

After the first day of the agitation I was without any official representative in the House of Assembly or indeed in either House. Mr. Daly the only remaining member of the old Council was taken seriously ill, and could not from that time attend in his place. It was impossible to form a new Council in the face of a rampant majority that would instantly have passed a vote of want of confidence or have adopted some other proceeding to stop progress. The Party called Conservative or British in the Assembly gave me honest hearty support. The seconders from the Legislative Council came back to their duty in sufficient numbers to establish in that Branch of the Legislature a majority



latterly in support of the Government several members of the opposite party having returned to their homes. A French Canadian gentleman, Mr. Viger was a constant indefatigable defender of the Government in the House of Assembly on Constitutional principles and I see great reason to admire his disinterested and generous conduct for he was deserted by his own relations, and all who were previously supposed to be attached to him. It is prophesied, I hope not truly, that this most respectable gentleman, hitherto a great favorite with his countrymen, will henceforth be entirely without influence among them like every other gentleman of that race who has at any time stepped forward to support the British Government in any contest with a party opposed to it. The only other French Canadian member who supported me in the Assembly was Mr. Noel who acted independently and not as far as I am aware in connection with Mr. Viger. The formation of a Council has been an affair of difficulty in a state of things which requires that the Government must have the support of a majority in the Representative Assembly, the majority having been so decidedly against me. I have only this day been able to form a Council, as a Provisional arrangement to consist of Messrs. Viger, Daly, Draper and Harrison, with an addition not yet determined. The arrangement of offices still remains to be settled."

1. Letter from Sir Charles Metcalfe. Canadian Archives.

On the 2nd. of Feb<sup>ruary</sup>, 1844, in the House of Commons, Lord Stanley declared most emphatically that the course pursued by Sir Chas. Metcalfe met with the approbation of Her Majesty's Government. On the 30th. May, Roebuck drew attention to the fact that Canada had been <sup>six</sup> months without an administration and Stanley, Peel <sup>and</sup> Lord John Russell, all expressed their approval of Metcalfe's conduct. In August six of the Cabinet offices were filled and writs were issued for a general election to take place in November. The elections terminated in favor of the Government and Parli<sup>a</sup>ment met in Montreal November 28th, Sir Allen McNab the Government candidate being elected Speaker.

The session lasted for four months: in January Draper resigned ~~for~~ his seat in the Legislative Council, and returned to London, and on the 13th. Feb<sup>ruary</sup> took his seat in the Assembly as the leader of the Government party. Parliament was prorogued on the 28th. March, and Metcalfe began to grow seriously ill.

On the 29th. Oct<sup>ober</sup>, the Governor wrote to Lord Stanley asking to be relieved of his duties. His request was promptly granted. "I need hardly say", wrote Lord Stanley, "that your administration of the affairs of Canada has more than realized the most sanguine expectations which I have ventured

to form of it, and you will return from it with the entire approval and admiration of Her Majesty's Government; and, I may venture to add, of the Queen herself".

Metcalf was authorized to hand over the Government to Earl Cathcart, <sup>the</sup> commander of the forces in Canada, who was sworn in as administrator of the Government on the 26th. November, 1845, and continued in office until Oct<sup>ober</sup> 1st. 1846.

The Oregon boundry<sup>a</sup> question, left unsettled by the Ashburton Treaty, had become a bitter source of dispute with the United States and it was owing to the imminent prospect of war that Lieut-Governor Cathcart was appointed Governor, and given full control of the civil, as well as the military administration of Canada.

He took no part whatever in the disputes between the rival political parties. Parli<sup>a</sup>ment met on the 20th. inst. March, and occupied itself with a militia bill and a bill for providing for a sufficient Civil list.

The abandonment by the Imperial Parliament of the commercial union of the Empire, greatly alarmed the Canadians. An <sup>a</sup>address to the Queen agreed to unanimously by the Assembly on the 12th. May stated " We cannot but fear that the abandonment of this protective principle, the very basis of the colonial commercial system, is not only calculated to retard

the agricultural improvement of the country, and check its hitherto rising prosperity, but seriously to impair our ability to purchase the manufactured goods of Great Britain, a result alike prejudicial to this country, and the parent state". But this address had no effect upon the final issue; the free trade policy of Cobden and the League, gathering new strength from the Scotch and Irish famine, became in its entirety the policy of England.

Parliament was prorogued on the 9th. June, and the Oregon treaty was signed at Washington on the 15th. June. All danger of war having thus passed away, the Imperial authorities considered it wise to appoint a civil<sup>l</sup>an governor, Lord Cathcart being offered the command of the forces in Canada, an offer which he refused.

The ~~House~~<sup>Home</sup> of Parli<sup>a</sup>ment had begun to realize that Responsible Government could only be worked out effectually in Canada, on precisely the same lines that it was worked out in the Mother Country. <sup>The</sup> Queen's representative should not assume that he degrades the Crown by following in a colony, with a constitutional government the example of the Crown at home.

Responsible Government had been conceded to Canada, and should be attended in its workings with all the consequences of Responsible Government in the Mother Country. What the Queen cannot do in England the Governor-General should not be permitted to do in Canada. In making her Imperial appointments ~~the Governor~~

1. London Morning Chronicle. September 1<sup>st</sup> 1846.

she is bound to consult her Cabinet; in making Provincial appointments the Governor General should be bound to do the same." 1

This new line of policy was the principal reason for the sudden recall of Earl Cathcart and the appointment of Lord Elgin (who arrived in Montreal January 1847) to succeed him as Governor General of Canada.

Earl Grey, the Colonial Secretary, sent a despatch to Lord Elgin before his departure for Canada, in which was set forth the proper course for the Governor to pursue. The substance of this despatch had been formerly transmitted to Sir John Harvey, Governor of New Brunswick, as it was held to involve principles of general application to all Colonies having a similar form of Government. "I am of the opinion that under all circumstances of the case, the best course for you to adopt is to call upon the members of your present Executive Council to propose to you the names of the gentlemen whom they would recommend to supply the vacancies which I understand to exist in the present board. If they should be successful in submitting to you an arrangement to which no valid objection arises, you will of course carry on the Government through them, so long as it may be possible to do so satisfactorily, and as they possess the necessary support from the Legislature. Should the present Council fail in proposing to you an arrangement which it would be

1 London Morning Chronicle, Sept, 1st, 1846

proper for you to accept, it would then be your natural course, in conformity with the practice in analogous cases in this country to apply to the opposite party; and should you be able, through their assistance, to form a satisfactory Council, there will be no impropriety ~~XXXX~~ in dissolving the Assembly upon their advice; such a measure under those circumstances, being the only mode of escaping from the difficulty which would otherwise exist, of carrying on the Government of the Province upon the principles of the Constitution. The object with which I recommend to you this course, is that of making it apparent that any transfer which may take place of political power from the hands of one party in the Province to those of another, is the result, not of an act of yours, but of the wishes of the people themselves, as shown by the difficulty experienced by the retiring party in carrying on the government of the Province according to the forms of the Constitution. To this I attach great importance. I have therefore to instruct you to abstain from changing your Executive Council until it shall become perfectly clear that they are unable, with such fair support from yourself as they have a right to expect, to carry on the government of the Province satisfactorily, and command the confidence of the Legislature." 1

In such manner did the Home Government express to Lord

1 Despatch from Earl Grey to Lord Flgin

Elgin, the new Governor-General of Canada, their determination to grant full responsible Government ~~to~~ Canada and it was his object in assuming the Government of the Province, to withdraw from the position of depending for support on one party ~~on~~ <sup>into</sup> which Lord Metcalfe had, by unfortunate circumstances been brought. He was to act generally upon the advice of his Executive Council, and to receive as members those persons who possessed the confidence of the Assembly. ¶

~~These opinions were frequently expressed by Lord Elgin in his correspondence.~~

That Lord Elgin believed in Responsible Government and its efficacy in curing the ills of Canada may readily be seen by a few quotations from his correspondence.

"It must be remembered that it is only of late that the popular assemblies in this part of the world have acquired the right of determining ~~the right~~ who shall govern them. . . . It is not wonderful that a privilege of this kind should be exercised at first with some degree of recklessness. . . . My course in these circumstances is I think clear and plain. I give to my ministers all constitutional support, frankly without reserve, and the benefit of the best advice that I can afford them in their difficulties. In return for this I expect that they will, in so far as it is possible for them to do so, carry out my views for the maintenance of the

connection with Great Britain and the advancement of the interests of the province. . . . . That Ministers and Oppositions should occasionally change places, is of the very essence of our Constitutional system.

I feel very strongly that a Governor General acting upon these views, with tact and firmness, may hope to establish a moral influence in the province which will go far to compensate for the loss of power consequent on the surrender of patronage to an executive responsible to the local Parliament." 1

Earl Grey justifies Lord Elgin's administration "Upon this policy <sup>(Responsible Government)</sup> Lord Elgin has steadily acted, and, after passing through a crisis of great difficulty, it has been crowned with great success". On his assumption of the Government he found the Provincial Administration in the hands of the party which had supported Lord Metcalfe; and for the first session, as the members of this administration were enabled to maintain their majority in the Assembly, they remained in office. At the close of 1847 the then Canadian Administration, finding that they could neither form a new and stronger combination of parties, nor reckon any longer upon even the bare majority they had previously had in the Assembly, applied to Lord Elgin for power to dissolve the Parliament; no objection having been made on his part, the dissolution took place, and was followed by a general election, which

1 Letter of Lord Elgin (Walrond)













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