Lord Durham's Report on the Affairs of British North America abridged to highlight constitutional defects and recommendations with context

REPORT TO THE QUEEN'S MOST EXCELLENT MAJESTY

YOUR MAJESTY, in entrusting me with the Government of the Province of Lower Canada, during the critical period of the suspension of its constitution, was pleased, at the same time, to impose on me a task of equal difficulty, and of far more permanent importance, by appointing me High Commissioner for the adjustment of certain important questions depending in the Provinces of Lower and Upper Canada, respecting the form and future Government of the said Provinces (...) and to devise such reforms in the system of their government as might repair the mischief which had already been done, and lay the foundations of order, tranquillity, and improvement.

How inseparably connected I found the interests of Your Majesty's Provinces in North America, to what degree I met with common disorders, requiring common remedies, is an important topic, which it will be my duty to discuss very fully before closing this Report.

Every day's experience and reflection impressed more deeply on my mind the importance of the decision which it would be my duty to suggest, it became equally clear that that decision, to be of any avail, must be prompt and final. I needed no personal observation to convince me of this; for the evils I had it in charge to remedy, are evils which no civilised community can long continue to bear.

While the present state of things is allowed to last, the actual inhabitants of these Provinces have no security for person or property, no enjoyment of what they possess, no stimulus to industry. The development of the vast resources of these extensive territories is arrested; and the population, which should be attracted to fill and fertilize them, is directed into foreign states.

This Report (...) will include the whole range of those subjects which it is essential should be brought under Your Majesty's view and will prove that I have not rested content without fully developing the evils which lie at the root of the disorders of the North American Provinces, and at the same time suggesting remedies, which, to the best of my judgement, will provide an effectual cure.

On the course which Your Majesty and Your Parliament may adopt, with respect to the North American Colonies, will depend the future destinies, not only of the million and a half of Your Majesty's subjects who at present inhabit those Provinces, but of that vast population which those ample and fertile territories are fit and destined hereafter to support.

No portion of the American Continent, possesses greater natural resources for the maintenance of large and flourishing communities. It depends upon the present decision of the Imperial Legislature to determine for whose benefit they are to be rendered available. Under wise and free institutions, these great advantages may yet be secured to Your Majesty's subjects; and a connexion secured by the link of kindred origin and mutual benefits may continue to bind to the British Empire the ample territories of its North American Provinces

LOWER CANADA

The prominent place which the dissensions of Lower Canada had, for some years, occupied in the eyes of the Imperial Legislature, the alarming state of disorder indicated or occasioned by the recent insurrection, and the paramount necessity of my applying my earliest efforts to the re-establishment of free and regular government in that particular Colony necessarily directed my first inquiries to the Province of which the local government was vested in my hands.

The suspension of the constitution gave me an essential advantage over my predecessors in the conduct of my inquiries; it not merely relieved me from the burthen of constant discussions with the legislative bodies, but it enabled me to turn my attention from the alleged, to the real grievances of the Province.

The condition of the people, the system by which they were governed, were thus rendered familiar to me, and I soon became satisfied that I must search in the very composition of society, and in the fundamental institutions of government, for the causes of the constant and extensive disorder which I witnessed.

The presumed cause and resolution of the constant and extensive disorder

The quarrel which I was sent for the purpose of healing, had been a quarrel between the executive government and the popular branch of the legislature. The latter body had, apparently, been contending for popular rights and free government. The executive government had been defending the prerogative of the crown and the institutions which, in accordance with the principles of the British Constitution, had been established as checks on the unbridled exercise of popular power.

I had imagined that the original and constant source of the evil was to be found in the defects of the political institutions of the Provinces.

This opinion was strengthened by the well-known fact, that the political dissensions which had produced their most formidable results in this Province, had assumed a similar, though milder, form in the neighbouring Colonies; and that the tranquillity of each of the North American Provinces was subject to constant disturbance from collision between the executive and the representatives of the people.

I supposed that my principal business would be that of determining how far each party be in the right, or which was in the wrong; of devising some means of removing the defects which had occasioned the collision; and of restoring such a balance of the constitutional powers as might secure the free and peaceful working of the machine of government.

The relative influence of various causes

A defective constitution

The experience derived from my residence in the Province had completely changed my view of the relative influence of the causes which had been assigned for the existing disorders. I had not, indeed, been brought to believe that the institutions of Lower Canada were less defective than I had originally presumed them to be. From the peculiar circumstances in which I was placed, I was enabled to make such effectual observations as convinced me that there had existed in the constitution of the Province, in the balance of political powers, in the spirit and practice of administration in every department of the Government, defects that were quite sufficient to account for a great degree of mismanagement and dissatisfaction.

A far more efficient cause: the national hostility

The same observation had also impressed on me the conviction, that, for the peculiar and disastrous dissensions of this Province, there existed a far deeper and far more efficient cause, - a cause which penetrated beneath its political institutions into its social state, - a cause which no reform of constitution or laws, that should leave the elements of society unaltered, could remove; but which must be removed, ere any success could be expected in any attempt to remedy the many evils of this unhappy Province.

I expected to find a contest between a government and a people; I found a struggle, not of principles, but of races; and I perceived that it would be idle to attempt any amelioration of laws or institutions until we could first succeed in terminating the deadly animosity that now separates the inhabitants of Lower Canada into the hostile divisions of French and English.

It would be vain for me to expect that any description I can give will impress on Your Majesty such a view of the animosity of these races as my personal experience in Lower Canada has forced on me. The national feud forces itself on the very senses, irresistibly and palpably, as the origin or the essence of every dispute which divides the community; we discover that dissensions, which appear to have another origin, are but forms of this constant and all-pervading quarrel; and that every contest is one of French and English in the outset or becomes so ere it has run its course.

The growing national hostility and its effect on political rationality

The national hostility has not assumed its permanent influence till of late years, nor has it exhibited itself every where at once. One by one the ancient English leaders of the Assembly have fallen off from the majority and attached themselves to the party which supported the British Government against it. On the other hand, year after year, in spite of the various influences which a government can exercise, and of which no people in the world are more susceptible than the French Canadians; the number of French Canadians, on whom the Government could rely, has been narrowed by the influence of those associations, which have drawn them into the ranks of their kindred.

The insurrection of 1837 completed the division. Since the resort to arms the two races have been distinctly and completely arrayed against each other.

The most just and sensible of the English, those whose politics had always been most liberal, those who had always advocated the most moderate policy in the provincial disputes, seem from that moment to have taken their part against the French as resolutely, if not as fiercely, as the rest of their countrymen, and to have joined in the determination never again to submit to a French majority.

A few exceptions mark the existence, rather than militate against the truth of the general rule of national hostility. A few of the French, distinguished by moderate and enlarged views, still condemn the narrow national prejudices and ruinous violence of their countrymen, while they equally resist what they consider the violent and unjust pretensions of a minority, and endeavour to form a middle party between the two extremes.

Those who affect to form a middle party exercise no influence on the contending extremes; and those who side with the nation from which their birth distinguishes them, are regarded by their countrymen with aggravated hatred, as renegades from their race; while they obtain but little of the real affection, confidence or esteem of those whom they have joined.

The politics of national hostility

It is not, indeed, surprising, that each party should, in this instance, have practised more than the usual frauds of language, by which factions, in every country, seek to secure the sympathy of other communities. A quarrel based on the mere ground of national animosity, appears so revolting to the notions of good sense and charity prevalent in the civilized world, that the parties who feel such a passion the most strongly, and indulge it the most openly, are at great pains to class themselves under any denominations but those which would correctly designate their objects and feelings.

The French Canadians have attempted to shroud their hostility to the influence of English emigration, and the introduction of British institutions, under the guise of warfare against the Government and its supporters, whom they represented to be a small knot of corrupt and insolent dependents; being a majority, they have invoked the principles of popular control and democracy.

The English, finding their opponents in collision with the Government, have raised the cry of loyalty and attachment to British connexion, and denounced the republican designs of the French.

Thus, the French have been viewed as a democratic party, contending for reform; and the English as a conservative minority, protecting the menaced connexion with the British Crown and the supreme authority of the Empire.

There is truth in this notion in so far as respects the means by which each party sought to carry its own views of Government into effect. But when we look to the objects of each party, the analogy to our own politics seems to be lost, if not actually reversed. The French appear to have used their democratic arms for conservative purposes; and the sympathies of the friends of

reform are naturally enlisted on the side of sound amelioration which the English minority in vain attempted to introduce into the antiquated laws of the Province.

Yet it is difficult to believe that the hostility of the races was the effect, and not the cause, of the pertinacity with which the desired reforms were pressed or resisted.

The English complained of the Assembly's refusal to establish Registry Offices, and to commute the feudal tenures; and yet it was among the ablest and most influential leaders of the English that I found some of the opponents of both the proposed reforms.

At the same time, the mass of the French population, who are immediate sufferers by the abuses of the seignorial system, exhibited, in every possible shape, their hostility to the state of things which their leaders had so obstinately maintained.

I cannot but think that many, both of the supporters and of the opponents, cared less for the measures themselves, than for the handle which the agitation of them gave to their national hostility; that the Assembly resisted these changes chiefly because the English desired them; and that the eagerness with which many of the English urged them was stimulated by finding them opposed by the French.

The members of the oldest and most powerful official families were, of all the English in the country, those in whom I generally found most sympathy with, and kindly feeling towards, the French population. I could not therefore believe that this animosity was only that subsisting between an official oligarchy and a people; and again, I was brought to a conviction that the contest, which had been represented as a contest of classes, was, in fact, a contest of races.

The incompatibility of the two races in Canada

To conceive the incompatibility of the two races in Canada, it is not enough that we should picture to ourselves a community composed of equal proportions of French and English. We must bear in mind what kind of French and English they are that are brought in contact, and in what proportions they meet.

The French culture

The institutions of France, during the period of the colonization of Canada, were, perhaps, more than those of any other European nation, calculated to repress the intelligence and freedom of the great mass of the people. These institutions followed the Canadian colonist across the Atlantic. The same central, ill-organized, unimproving and repressive despotism extended over him. Not merely was he allowed no voice in the government of his Province, or the choice of his rulers, but he was not even permitted to associate with his neighbours for the regulation of those municipal affairs, which the central authority neglected under the pretext of managing.

He obtained his land on a tenure singularly calculated to promote his immediate comfort, and to check his desire to better his condition; he was placed at once in a life of constant and unvarying labour, of great material comfort, and feudal dependence. The ecclesiastical authority to which

he had been accustomed established its institutions around him, and the priest continued to exercise over him his ancient influence. No general provision was made for education; and as its necessity was not appreciated, the colonist made no attempt to repair the negligence of his governments.

Along the alluvial banks of the St. Lawrence, and its tributaries, they have cleared two or three strips of land, cultivated them in the worst method of small farming and established a series of continuous villages, which give the country of the seignories the appearance of a never-ending street. Besides the cities which were the seats of government, no towns were established; the rude manufactures of the country were, and still are, carried on in the cottage by the family of the habitant; and insignificant proportion of the population derived their subsistence from the scarcely discernible commerce of the Province.

The mass of the community exhibited in the New World characterises the peasantry of Europe. Society was dense; and even the wants and the poverty which the pressure of population occasions in the Old World, became not to be wholly unknown. They clung to ancient prejudices, ancient customs and ancient laws, not from any strong sense of their beneficial effects, but with the unreasoning tenacity of an uneducated and unprogressive people.

Nor were they wanting in the virtues of a simple and industrious life, or in those which common consent attributes to the nation from which they spring. The temptations which, in other states of society, lead to offences against property, and the passions which prompt to violence, were little known among them. They are mild and kindly, frugal, industrious and honest, very sociable, cheerful and hospitable, and distinguished for a courtesy and real politeness, which pervades every class of society.

The conquest has changed them but little. The higher classes, and the inhabitants of the towns, have adopted some English customs and feelings; but the continued negligence of the British Government left the mass of the people without any of the institutions which would have elevated them in freedom and civilization. It has left them without the education and without the institutions of local self-government, that would have assimilated their character and habits, in the easiest and best way, to those of the Empire of which they became a part. They remain an old and stationary society, in a new and progressive world.

The circumstances of a new and unsettled country, the operation of the French laws of inheritance, and the absence of any means of accumulation, by commerce or manufactures, have produced a remarkable equality of properties and conditions. A few seigniorial families possess large, though not often very valuable properties; the class entirely dependent on wages is very small; the bulk of the population is composed of the hard-working yeomanry of the country districts, commonly called habitants. It is impossible to exaggerate the want of education among the habitants; no means of instruction have ever been provided for them, and they are almost universally destitute of the qualifications even of reading and writing.

The common assertion, however, that all classes of the Canadians are equally ignorant, is perfectly erroneous; for I know of no people among whom a larger provision exists for the higher

kinds of elementary education, or among whom such education is really extended to a larger proportion of the population.

The piety and benevolence of the early possessors of the country founded, in the seminaries that exist in different parts of the Province, institutions, of which the funds and activity have long been directed to the promotion of education. Seminaries and colleges have been, by these bodies, established in the cities, and in other central points. The education given in these establishments greatly resembles the kind given in the English public schools, though it is rather more varied. It is entirely in the hands of the Catholic clergy.

The number of pupils in these establishments is estimated altogether at about a thousand; and they turn out every year, as far as I could ascertain, between two and three hundred young men thus educated. Almost all of these are members of the family of some habitant, whom the possession of greater quickness than his brothers has induced the father or the curate of the parish to select and send to the seminary.

These young men possessing a degree of information immeasurably superior to that of their families, are naturally averse to what they regard as descending to the humble occupations of their parents. A few become priests; but as the military and naval professions are closed against the colonist, the greater part can only find a position suited to their notions of their own qualifications in the learned professions of advocate, notary and surgeon. As from this cause these professions are greatly overstocked, we find every village in Lower Canada filled with notaries and surgeons, with little practice to occupy their attention, and living among their own families, or at any rate among exactly the same class.

Thus, the persons of most education in every village belong to the same families, and the same original station in life, as the illiterate habitants whom I have described. They are connected with them by all the associations of early youth, and the ties of blood. The most perfect equality always marks their intercourse, and the superior in education is separated by no barrier of manners, or pride, or distinct interests from the singularly ignorant peasantry by which he is surrounded. He combines, therefore, the influences of superior knowledge and social equality, and wields a power over the mass, which I do not believe that the educated class of any other portion of the world possess.

To this singular state of things, I attribute the extraordinary influence of the Canadian demagogues. The most uninstructed population any where trusted with political power, is thus placed in the hands of a small body of instructed persons, in whom it reposes the confidence which nothing but such domestic connexion, and such community of interest could generate.

Over the class of persons by whom the peasantry are thus led, the Government has not acquired, or ever laboured to acquired, influence; its members have been thrown into opposition by the system of exclusion, long prevalent in the colony; and it is by their agency that the leaders of the Assembly have been enabled hitherto to move as one mass, in whatever direction they thought proper, the simple and ductile population of the country.

The entire neglect of education by the Government has thus, more than any other cause, contributed to render this people ungovernable, and to invest the agitator with the power, which he wields against the laws and the public tranquillity.

The English culture

Among this people, the progress of emigration has of late years introduced an English population, exhibiting the characteristics of the most enterprising of every class of our countrymen.

The circumstances of the early colonial administration excluded the native Canadian from power and vested all offices of trust and emolument in the hands of strangers of English origin. The highest posts in the law were confided to the same class of persons. The functionaries of the civil government, together with the officers of the army, composed a kind of privileged class, occupying the first place in the community, and excluding the higher class of the natives from society, as well as from the government of their own country.

It was not till within a very few years, as was testified by persons who had seen much of the country, that this society of civil and military functionaries ceased to exhibit towards the higher order of Canadians an exclusiveness of demeanor, which was more revolting to a sensitive and polite people than the monopoly of power and profit

Another and larger class of English settlers began to enter the Province. The active and regular habits of the English capitalist drove out of all the more profitable kinds of industry their inert and careless competitors of the French race. A few of the ancient race smarted under the loss occasioned by the success of English competition; but all felt yet more acutely the gradual increase of a class of strangers in whose hands the wealth of the country appeared to centre.

The wealthy capitalist invested his money in the purchase of seigniorial properties; and it is estimated, that at the present moment full half of the more valuable seigniories are actually owned by English proprietors.

The seigniorial tenure is one so little adapted to our notions of proprietary rights, that the new seignior, without any consciousness or intention of injustice, in many instances exercised his rights in a manner which would appear perfectly fair in this country, but which the Canadian settler reasonably regarded as oppressive.

But an irritation, greater than that occasioned by the transfer of the large properties, was caused by the competition of the English with the French farmer. The English farmer carried with him the experience and habits of the most improved agriculture in the world. He settled himself in the townships bordering on the seigniories and brought a fresh soil and improved cultivation to compete with the worn-out and slovenly farm of the habitant. He often took the very farm which the Canadian settler had abandoned, and, by superior management, made that a source of profit which had only impoverished his predecessor.

The ascendancy which an unjust favouritism had contributed to give to the English race in the government and the legal profession, their own superior energy, skill and capital secured to them in every branch of industry. They have developed the resources of the country; they have constructed or improved its means of communication; they have created its internal and foreign commerce. The entire wholesale, and a large portion of the retail trade of the Province, with the most profitable and flourishing farms, are now in the hands of this numerical minority of the population.

The large mass of the labouring population are French in the employ of English capitalists. I do not believe that the animosity which exists between the working classes of the two origins is the necessary result of a collision of interests, or of a jealousy of the superior success of English labour. But national prejudices naturally exercise the greatest influence over the most uneducated; the difference of language is less easily overcome; the differences of manners and customs less easily appreciated. The labourers, whom the emigration introduced, contained a number of very ignorant, turbulent and demoralized persons, whose conduct and manners alike revolted the well-ordered and courteous natives of the same class.

It is not any where a virtue of the English race to look with complacency on any manners, customs or laws which appear strange to them; accustomed to form a high estimate of their own superiority, they take no pains to conceal from others their contempt and intolerance of their usages. They found the French Canadians filled with an equal amount of national pride; a sensitive, but inactive pride, which disposes that people not to resent insult, but rather to keep aloof from those who would keep them under.

Their perception of one another

The French could not but feel the superiority of English enterprise. They looked upon their rivals with alarm, with jealousy, and finally with hatred. The English repaid them with a scorn, which soon also assumed the same form of hatred. The French complained of the arrogance and injustice of the English; the English accused the French of the vices of a weak and conquered people.

The entire mistrust which the two races have thus learned to conceive of each other's intentions, induces them to put the worst construction on the most innocent conduct; to judge every word, every act, and every intention unfairly; to attribute the most odious designs, and reject every overture of kindness or fairness, as covering secret designs of treachery and malignity.

Two solitudes

Different religion and education

Religion formed no bond of intercourse and union. It is, indeed, an admirable feature of Canadian society, that it is entirely devoid of any religious dissensions. No common education has served to remove and soften the differences of origin and language. The associations of youth, the sports of childhood, and the studies by which the character of manhood is modified, are distinct and totally different. In Montreal and Quebec there are English schools and French

schools; the children in these are accustomed to fight nation against nation, and the quarrel that arise among boys in the streets usually exhibit a division into English on one side, and French on the other.

Different language

Those who have reflected on the powerful influence of language on thought, will perceive in how different a manner people who speak in different languages are apt to think. The articles in the newspapers of each race, are written in a style as widely different as those of France and England at present; and the arguments which convince the one, are calculated to appear utterly unintelligible to the other.

The difference of language produces misconceptions; it aggravates the national animosities, by representing all the events of the day in utterly different lights. The political misrepresentation of facts is one of the incidents of a free press in every free country; but in nations in which all speak the same language, those who receive a misrepresentation from one side, have generally some means of learning the truth from the other. It is difficult to conceive the perversity with which misrepresentations are habitually made, and the gross delusions which find currency among the people; they thus live in a world of misconceptions, in which each party is set against the other not only by diversity of feelings and opinions, but by an actual belief in an utterly different set of facts.

National preference in business

The establishment of the "Banque du Peuple" by French capitalists, is an event which may be regarded as a satisfactory indication of an awakening commercial energy among the French, and it is therefore very much to be regretted that the success of the new enterprise was uniformly promoted by direct and illiberal appeals to the national feelings of the race. Some of the French have lately established steam-boats to compete with the monopoly which a combination of English capitalists had for some time enjoyed on the St. Lawrence, and small and somewhat uncomfortable as they were, they were regarded with favour on account of their superiority in the essential qualities of certainty and celerity. But this was not considered sufficient to insure their success; an appeal was constantly made to the national feelings of the French for an exclusive preference of the "French" line, and I have known a French newspaper announce with satisfaction the fact, that on the previous day the French steamers to Quebec and La Prairie had arrived at Montreal with a great many passengers and the English with very few. The English, on the other hand, appealed to exactly the same kind of feelings and used to apply to the French steam-boats the epithets of "Radical", "Rebel" and "Disloyal".

The introduction of this kind of national preference into this department of business, produced a particularly mischievous effect, inasmuch as it separated the two races on some of the few occasions on which they had previously been thrown into each other's society. They rarely meet at the inns in the cities; the principal hotels are almost exclusively filled with English and with foreign travellers; and the French are, for the most part, received at each other's houses, or in boarding houses, in which they meet with few English.

Distinct societies

Nor do their amusements bring them more in contact. Social intercourse never existed between the two races in any but the higher classes, and it is now almost destroyed. I heard of but one house in Quebec in which both races met on pretty equal and amicable terms, and this was mentioned as a singular instance of good sense on the part of the gentleman to whom it belongs.

While such is their social intercourse, it is not to be expected that the animosities of the two races can frequently be softened by the formation of domestic connexions. During the first period of the possession of the Colony by the English, intermarriages of the two races were by no means uncommon. But they are now very rare.

Political forbearance

Social intercourse between the two races is so limited, that the more prominent or excitable antagonists never meet in the same room. The ordinary occasions of collision never occur, and men must quarrel so publicly, or so deliberately, that prudence restrains them from commencing, individually, what would probably end in a general and bloody conflict of numbers.

This feeling of mutual forbearance extends so far as to produce an apparent calm with respect to public matters, which is calculated to perplex a stranger who has heard much of the animosities of the Province. The British party consequently have their meetings; the French theirs; and neither disturb the other.

The two parties combine for no public object; they cannot harmonize even in associations of charity. The only public occasion on which they ever meet, is in the jury-box; and they meet there only to the utter obstruction of justice.

The different perception of the business of government

The English population regarded it as the chief business of the Government, to promote, by all possible use of its legislative and administrative powers, the increase of population and the accumulation of property; they found the laws of real property exceedingly adverse to the easy alienation of land; they found the greatest deficiency in the internal communications of the country.

The utter want of local self-government rendered it necessary for them to apply to the Assembly for every road or bridge. They wished to form themselves into companies for the establishment of banks, and the construction of railroads and canals, and to obtain the powers necessary for the completion of such works with funds of their own. And as the first requisite for the improvement of the country, they desired that a large proportion of the revenue should be applied to the completion of that great series of public works, by which it was proposed to render the Saint Lawrence and the Ottawa navigable throughout their whole extent.

The Assembly looked with considerable jealousy and dislike on the increase and prosperity of what they regarded as a foreign and hostile race; they looked on the Province as the patrimony of

their own race; they viewed it not as a country to be settled, but as one already settled. They refused to increase the burthens of the country by imposing taxes to meet the expenditure required for improvement

The applications for banks, railroads and canals were laid on one side until some general measures could be adopted with regard to such undertakings; but the general measures thus promised were never passed, and the particular enterprises in question were prevented. The English inhabitants generally regarded the policy of the assembly as a plan for preventing any further emigration to the Province, of stopping the growth of English wealth, and of rendering precarious the English property already invested or acquired in Lower Canada.

The alliance of the English population with the Executive government

The Assembly was at the same time in collision with the Executive Government. The party in power, and which, by means of the Legislative Council, kept the Assembly in check, gladly availed itself of the discontents of this powerful and energetic minority, offered it its protection, and undertook the furtherance of its views; and thus was cemented the singular alliance between the English population and the Colonial officials, who combined from perfectly different motives, and with perfectly different objects, against a common enemy.

Thus, a bold and intelligent democracy was impelled, by its impatience for liberal measures, joined to its national antipathies, to make common cause with a government which was at issue with the majority on the question of popular rights.

The collision between the Executive and the Assembly becomes a civil war

The actual conflict commenced by a collision between the Executive and the French majority, and, as the English population rallied round the Government, supported its pretensions, and designated themselves by the appellation of “loyal”, the causes of the quarrel were naturally supposed to be much more simple than they really were; and the extent of the division which existed among the inhabitants of Lower Canada, the number and nature of the combatants arrayed on each side, and the irremediable nature of the dispute, were concealed from the public view.

The treasonable attempt of the French party to carry its political objects into effect by an appeal to arms, brought these hostile races into general and armed collision. It is not difficult to conceive how greatly the evils, which I have described as previously existing, have been aggravated by the war; how terror and revenge nourished, in each portion of the population, a bitter and irreconcilable hatred to each other, and to the institutions of the country.

The French population, who had for some time exercised a great and increasing power through the medium of the House of Assembly, found their hopes unexpectedly prostrated in the dust. Removed from all actual share in the government of their country, they brood in sullen silence over the memory of their fallen countrymen, of their burnt villages, of their ruined property, of their extinguished ascendancy, and of their humbled nationality. To the Government and the

English, they ascribe these wrongs, and nourish against both an indiscriminating and eternal animosity.

Nor have the English inhabitants forgotten in their triumph the terror with which they suddenly saw themselves surrounded by an insurgent majority. They find themselves still a minority in the midst of a hostile and organized people; apprehensions of secret conspiracies and sanguinary designs haunt them unceasingly, and their only hope of safety is supposed to rest on systematically terrifying and disabling the French, and in preventing a majority of that race from ever again being predominant in any portion of the legislature of the Province.

The state of society

Every institution which requires for its efficiency a confidence in the mass of the people, or co-operation between its classes, is practically in abeyance in Lower Canada. The militia is completely disorganized. The course of justice is entirely obstructed by the same cause; a just decision in any political case is not to be relied upon. The partiality of grand and petty juries is a matter of certainty; each race relies on the vote of its countrymen to save it harmless from the law.

It cannot occasion surprise that this state of things should have destroyed the tranquillity and happiness of families; that it should have depreciated the value of property, and that it should have arrested the improvement and settlement of the country.

The alarming decline of the value of landed property was attested to me by some of the principal proprietors of the Province. The continual and progressive decrease of the revenue, though in some degree attributable to other causes, indicates a diminution of the wealth of the country. The staple export trade of the Province, the timber trade, has not suffered; but instead of exporting grain, the Province is now obliged to import for its own consumption. The influx of emigrants, once so considerable, has very greatly diminished. In 1832 the number of emigrants who landed at the port of Quebec amounted to 52,000; in 1837 it had fallen to a few more than 22,000; and in 1838 it did not amount to 5,000.

Insecurity begins to be so strongly felt by the loyal inhabitants of the seignories, that many of them are compelled, by fear or necessity, to quit their occupations, and seek refuge in the cities.

If the present stage of things continues, the most enterprising and wealthy capitalists of the Province will thus in a short time be driven from the seats of their present industry.

Nor does there appear to be the slightest chance of putting an end to this animosity during the present generation. The state of education which I have previously described as placing the peasantry entirely at the mercy of agitators, the total absence of any organization of authority that could counteract this mischievous influence, and the serious decline of the influence of the clergy, concur in rendering it absolutely impossible for the Government to produce any better stage of feeling among the French population.

It is ere impossible to impress on a people so circumstanced the salutary dread of the power of Great Britain. I have been informed that the peasantry were generally ignorant of the large amount of force which was sent into their country last year. The newspapers that circulate among them had informed them that Great Britain had no troops to send out; that in order to produce an impression on the minds of the country people, the same regiments were marched backwards and forwards in different directions and represented as additional arrivals from home. This explanation was promulgated among the people by the agitators of each village; and I have no doubt that the mass of the habitants really believed that the Government was endeavouring to impose on them by this species of fraud.

It is a population with whom authority has no means of contact or explanation.

Their ultimate designs and hopes are equally unintelligible. Some vague expectation of absolute independence still seems to delude them. The national vanity, which is a remarkable ingredient in their character induces many to flatter themselves with the idea of a Canadian Republic. Their more discerning leaders feel that their chances of preserving their nationality would be greatly diminished by an incorporation with the United States. Yet, I am persuaded that they would purchase vengeance and a momentary triumph, by the aid of any enemies, or submission to any yoke.

This provisional but complete cessation of their ancient antipathy to the Americans, is now admitted. An invading American army might rely on the co-operation of almost the entire French population of Lower Canada.

The state of feeling among the English population

They complain loudly and bitterly of the whole course pursued by the Imperial Government, with respect to the quarrel of the two races, as having been founded on an utter ignorance or disregard of the real question at issue, as having fostered the mischievous pretensions of French nationality, and as having by the vacillation and inconsistency which marked it, discourages loyalty and fomented rebellion.

They feel that being a minority, any return to the due course of constitutional government would again subject them to a French majority; and to this I am persuaded the would never peaceably submit.

They assert that “Lower Canada must be English, at the expense, if necessary, of not being British.” They have begun to calculate the probable consequences of a separation followed by an incorporation with the United Sates. They assert very confidently that the Americans would make a very speedy and decisive settlement of the pretensions of the French; and they believe, that after the first shock of an entirely new political state had been got over, they and their posterity would share in that amazing progress, and that great material prosperity, which every day’s experience shows them is the lot to the people of the United Sates.

The origin of the disorder

I have not attributed to political causes a state of things which would, I believe, under any political institutions have resulted from the very composition of society.

That liberal institutions and a prudent policy might have changed the character of the struggle I have no doubt; but they could not have prevented it; they could only have softened its character and brought it more speedily a more decisive and peaceful conclusion. Unhappily, however, the system of government pursued in Lower Canada has been based on the policy of perpetuating that very separation of the races and encouraging these very notions of conflicting nationalities which I ought to have been the first and chief care of Government to check and extinguish.

The origin of the present extreme disorder may be found in the institutions by which the character of the colony was determined.

In the case of an old and long settled country, in which the land is appropriated, policy as well as humanity render the well-being of the conquered people the first care of a just government. But in a new and unsettled country, a provident legislator would regard as, his first object the interests not of the few individuals who happen at the moment to inhabit a portion of the soil, but those of that comparatively vast population by which he may reasonably expect that it will be filled.

The course which I have described as best suited to an old and settled country, would have been impossible in the American continent, unless the conquering state meant to renounce the immediate use of the unsettled lands of the Province.

In the first regulations adopted by the British Government, we perceive very clear indications of an intention of adopting the second and the wiser of the two systems.

Unfortunately, however, the conquest of Canada was almost immediately followed by the commencement of those discontents which ended in the independence of the United Provinces.

To prevent the further dismemberment of the Empire, to isolate the inhabitants of the British from those of the revolted Colonies, became the policy of the Government; and the nationality of the French Canadians was therefore cultivated, as a means of perpetual and entire separation from their neighbours.

It seems also to have been considered the policy of the British Government to govern its Colonies by means of division, and to break them down as much as possible into petty isolated communities, incapable of combination, and possessing no sufficient strength for individual resistance to the Empire.

For this purpose, Canada was afterwards divided into two Provinces, the settled portion being allotted to the French, and the unsettled being destined to become the seat of British colonization. But it was quite impossible to exclude the English race from any part of the North American continent.

Until the popular principles of English institutions were brought effectually into operation, the paramount authority of the Government left little room for dispute among any but the few who contended for its favours.

The defects of the colonial constitutions necessarily brought the executive Government into collision with the people; and the disputes of the Government and the people called into action the animosities of race;

It has actually conceded the mischievous pretensions of nationality, in order to evade popular claims; as in attempting to divide the Legislative Council, and the patronage of Government, equally between the two races, in order to avoid the demands for an elective Council, and a responsible Executive;

At the root of the disorders of Lower Canada, lies the conflict of the two races, which compose its population; until this is settled, no good government is practicable; for whether the political institutions be reformed or left unchanged, whether the powers of the Government be entrusted to the majority or the minority, we may rest assured, that while the hostility of the races continues, whichever of them is entrusted with power, will use it for partial purposes.

The common constitutional defect in all north American colonies

It is impossible to observe the great similarity of the constitutions established in all our North American Provinces, and the striking tendency of all to terminate in pretty nearly the same result, without entertaining a belief that some defect in the form of government, and some erroneous principle of administration, have been common to all;

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.

When we examine into the system of government in these colonies, it would almost seem as if the object of those by whom it was established had been the combining of apparently popular institutions with an utter absence of all efficient control of the people over their rulers.

The Assembly, after it had obtained entire control over the public revenues, still found itself deprived of all voice in the choice or even designation of the persons in whose administration of affairs it could feel confidence.

It is difficult to conceive what could have been their theory of government who imagined that in any colony of England a body invested with the name and character of a representative Assembly, could be deprived of any of those powers which, in the opinion of Englishmen, are inherent in a popular legislature.

It was a vain delusion to imagine that a body, strong in the consciousness of wielding the public opinion of the majority, could look on as passive or indifferent spectator, while the whole business of the country was conducted by men, in whose intentions or capacity it had not the slightest confidence.

However decidedly the Assembly might condemn the policy of the Government, the persons who had advised that policy, retained their offices and their power of giving bad advice.

A body of holders of office thus constituted, without reference to the people or their representatives, must in fact, from the very nature of colonial government, acquire the entire direction of the affairs of the Province.

A Governor, arriving in a colony, is compelled to throw himself almost entirely upon those whom he finds placed in the position of his official advisers.

Thus, every successive year consolidated and enlarged the strength of the ruling party. Fortified by family connexion, and the common interest felt by all who held, and all who desired, subordinate offices, that party was thus erected into a solid and permanent power, controlled by no responsibility, subject to no serious change, exercising over the whole government of the Province an authority utterly independent of the people and its representatives, and possessing the only means of influencing either the Government at home, or the colonial representative of the Crown.

It is difficult to understand how any English statesmen could have imagined that representative and irresponsible government could be successfully combined.

The opposition of the Assembly to the Government was the unavoidable result of attempts on the part of that body to acquire control over the administration of the Province.

The collision with the executive government necessarily brought on one with the Legislative Council, the majority of which, was always composed of members of the party which conducted the executive government.

The Legislative Council was practically hardly any thing but a veto in the hands of public functionaries.

I look on the conduct of the Assembly as a constant warfare with the executive, for the purpose of obtaining the powers inherent in a representative body by the very nature of representative government.

It made the business of legislation, and the practical improvement of the country, subordinate to its struggle for power; and, being denied its legitimate privileges, it endeavoured to extend its authority in modes totally incompatible with the principles of constitutional liberty.

It is melancholy to think of the opportunities of good legislation which were sacrificed in this mere contest for power.

It will be a ground, I trust, of permanent congratulation, that the contest terminated in the destruction of the impracticable constitution, which caused the strife.

The inevitable result of the animosities of race, and of the constant collision of the different powers of the State, which I have described, was a thorough disorganization of the institutions and administrative system of the country.

The blame rests not on individuals, but on the vicious system, which has generated the manifold and deep-rooted abuses that pervade every department of the public service and constitute the real grievances of the Colony.

The defective system of administration commences at the very source of power; and the efficiency of the public service is impaired throughout, by the entire want in the Colony of any vigorous administration of the prerogative of the Crown. The fact is there is no real representative of the Crown in the Province; there is in it, literally, no power which originates and conducts the executive government. The Governor is, in fact, a mere subordinate officer, receiving his orders from the Secretary of State, responsible to him for his conduct, and guided by his instructions.

Almost every question on which it was possible to avoid, even with great inconvenience, an immediate decision, has been habitually the subject of reference. The Governor has been enabled by this system to shift responsibility on the Colonial Office regarding questions of a strictly local nature, on which it was next to impossible for the Colonial Office to have any sufficient information.

One of the greatest of all the evils arising from this system of irresponsible government, was the mystery in which the motives and actual purposes of their rulers were hid from the colonists themselves. The most important business of Government was carried on, not in open discussions or public acts, but in a secret correspondence between the Governor and the Secretary of State.

The Governor, on his arrival in the Colony, found himself under the necessity of being, in many respects, guided by the persons whom he found in office. In no country, therefore, could there be a greater necessity for a proper demarcation of the business of each public officer, and of a greater responsibility resting on each.

The administration of justice, police, education, public works and internal communications, of finance and, of trade, would require the superintendence of persons competent to advise the Governor, on their own responsibility. Yet, of no one of these departments is there any responsible head, by whose advice the Governor may safely be guided.

The real advisers of the Governor have, in fact, been the Executive Council; and an institution more singularly calculated for preventing the responsibility of the acts of Government resting on any body, can hardly be imagined.

As there is no division into departments in the council, there is no individual responsibility, and no individual superintendence.

Beyond the walls of Quebec, all regular administration of the country appeared to cease; and there literally was hardly a single public officer of the civil government except in Montreal and Three Rivers, to whom any order could be directed.

UPPER CANADA

Upper Canada has long been entirely governed by a party commonly designated throughout the Province as the "family compact". This body of men possessed almost all the highest public offices, by means of which, and of this influence in the Executive Council, it wielded all the powers of government; it maintained influence in the legislature by means of its predominance in the Legislative Council. Successive Governors are said to have either submitted quietly to its influence, or, after a short and unavailing struggle, to have yielded to this well-organized party the real conduct of affairs. They shared among themselves almost exclusively all offices of trust and profit.

An opposition grew up in the Assembly which assailed the ruling party, by appealing to popular principles of government, by denouncing the alleged jobbing and profusion of the official body, and by instituting inquiries into abuses, for the purpose of promoting reform, and especially economy.

The reformers, however, at last discovered that success in the elections insured them very little practical benefit. For the official party not being removed when it failed to command a majority in the Assembly, still continued to wield all the powers of the executive Government, to strengthen itself by its patronage, and to influence the policy of the Colonial Governor and of the Colonial Department at home. By its secure majority in the Legislative Council, it could effectually control the legislative powers of the Assembly.

The reformers rightly concentrated their powers, therefore, for the purpose of obtaining the responsibility of the Executive Council;

I cannot help contrasting the practical good sense of the English reformers of Upper Canada with the less prudent course of the French majority in the Assembly of Lower Canada. Both, in fact desired the same object, namely, an extension of popular influence in the Government.

It was upon this question of the responsibility of the Executive Council that the great struggle has for a long time been carried on between the official party and the reformers; for the official party, like all parties long in power, was naturally unwilling to submit itself to any such responsibility as would abridge its tenure or cramp its exercise of authority.

The views of the great body of the reformers appear to have been limited, according to their favourite expression, to the making the Colonial Constitution an "exact transcript" of that of Great Britain; and they only desired that the Crown should in Upper Canada, as at home, entrust the administration of affairs to men possessing the confidence of the Assembly.

THE EASTERN PROVINCES AND NEWFOUNDLAND

In all these Provinces we find representative government coupled with an irresponsible executive; we find the same constant collision between the branches of Government; the same abuse of the powers of the representative bodies and the same constant interference of the Imperial administration in matters which should be left wholly to the Provincial Governments.

In these Provinces there is less formidable discontent because there has been recently a nearer approach to sound constitutional practice.

New Brunswick was still a short time ago one of the most constantly harassed by collisions between the executive and legislative powers; the collision has now been in part terminated by the concession of all the revenues of the Province to the Assembly.

But a more important advance has been made towards the practice of the British Constitution. The administrative power of the Province had been taken out of the hands of those who could not obtain the assent of the majority of the Assembly. The result is, that the Government of New Brunswick is now the most harmonious and easy.

General review and recommendations

If a system can be devised which shall lay in these countries the foundation of an efficient and popular government, ensure harmony, in place of collision, between the various powers of the State, and bring the influence of a vigorous public opinion to bear on every detail of public affairs, we may rely on sufficient remedies being found for the present vices of the administrative system.

It is not by weakening but strengthening the influence of the people on its Government, by confining within much narrower bounds that those hitherto allotted to it, and not by extending the interference of the imperial authorities in the details of colonial affairs, that I believe that harmony is to be restored.

It needs no change in the principles of government, no invention of a new constitutional theory, to supply the remedy which would, in my opinion, completely remove the existing political disorders. It needs but to follow out consistently the principles of the British Constitution and introduce into the Government of these great Colonies those wise provisions, by which alone the working of the representative system can in any country be rendered harmonious and efficient.

The Crown must submit to the necessary consequences of representative 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.

In England, this principle has been so long considered an indisputable and essential part of our constitution, that it has hardly ever been found necessary to inquire into the means by which its observance is enforced.

Every purpose of popular control might be combined with every advantage of vesting the immediate choice of advisers in the Crown, were the Colonial Governor to be instructed to secure the co-operation of the Assembly in his policy, by entrusting its administration to such men as could command a majority; and if he were given to understand that he need count on no aid from home in any difference with the Assembly, that should not directly involve the relations between the mother country and the Colony. This change might be effected by a single dispatch.

This would induce responsibility for every act of the Government.

The matters, which so concern us, are very few. The constitution of the form of government, - the regulation of foreign relations, and of trade with the mother country, the other British Colonies, and foreign nations, - and the disposal of the public lands, are the only points of which the mother country requires a control.

A perfect subordination, on the part of the Colony, on these points, is secured by the advantages which it finds in the continuance of its connexion with the Empire.

Nor can I conceive that any people, or any considerable portion of a people, will view with dissatisfaction a change which would amount simply to this, that the Crown would henceforth consult the wishes of the people in the choice of its servants.

If the rule of the Imperial Parliament, that no money vote should be proposed without the previous consent of the Crown, were introduced in these Colonies, it might be wisely employed in protecting the public interests, now frequently sacrificed in that scramble for local appropriations, which chiefly serves to give an undue influence to particular individuals or parties.

Two kinds of union have been proposed, - federal and legislative. By the first, the separate legislature of each Province would be preserved in its present form and retain almost all its present attributes of internal legislation; the federal legislature exercising no power, save in those matters of general concern which may have been expressly ceded to it by the constituent Provinces. A legislative union would imply a complete incorporation of the Provinces included in it under one legislature, exercising universal and sole legislative authority over all of them, in exactly the same manner as the Parliament legislates alone for the whole of the British Isles.

The main inducement to federation is the necessity of conciliating the pretensions of independent states to the maintenance of their own sovereignty.

I thought that it would be the tendency of a federation sanctioned and consolidated by a monarchial Government gradually to become a complete legislative union; and that thus, while conciliating the French of Lower Canada, by leaving them the government of their own Province and their own internal legislation, I might provide for the protection of British interests by the general government, and for the gradual transition of the Provinces into a united and homogeneous community.

But the period of gradual transition is past in Lower Canada. Time, and the honest co-operation of the various parties, would be required to aid the action of a federal constitution; and time is not allowed, in the present state of Lower Canada, nor co-operation to be expected from a legislature, of which the majority shall represent its French inhabitants. I believe that tranquillity can only be restored by subjecting the Province to the vigorous rule of an English majority; and that the only efficacious government would be that formed by a legislative union.

If the population of Upper Canada is rightly estimated at 400 000, the English inhabitants of Lower Canada at 150 000, and the French at 450 000, the union of the two Provinces would not only give a clear English majority, but one which would be increased every year by the influence of English emigration; and I have little doubt that the French, when once placed, by the legitimate course of events and the working of natural causes, in a minority, would abandon their vain hopes of nationality.

The union of the two Provinces would secure to Upper Canada the present great objects of its desire. All disputes as to the division or amount of the revenue would cease. It would be by no means unjust to place this burthen on Lower Canada, inasmuch as the great public words for which the debt was contracted, are as much the concern of one Province as of the other. p.308

I am inclined to go further and inquire whether all these objects would not more surely be attained, by extending this legislative union over all the British Provinces in North America. It would enable all the Provinces to co-operate for all common purposes.

The various Colonies have no more means of concerting such common works with each other, than with the neighbouring States of the Union. There is no means by which the various details may speedily and satisfactorily be settled with the concurrence of the different parties. The Colonies, indeed, have no common centre in which the arrangement could be made and the details of such a plan would have to be discussed just where the interests of all parties would have the least means of being fairly and fully represented.

But the state of the two Canadas is such, that will not admit of a single Session being allowed to pass without a definite decision by the Imperial legislature as to the basis on which it purposes to found the future Government of those Colonies.

In existing circumstances, the conclusion to which the foregoing considerations lead me, is that no time should be lost in proposing to Parliament a Bill for repealing the 31 Geo. 3, restoring the union of the Canadas under one legislature; and re-constituting them as one Province.

I am averse to every plan that has been proposed for giving an equal number of members to the two Provinces, in order to attain the temporary end of out-numbering the French. It appears to me that any such electoral arrangement, founded on the present provincial divisions, would tend to defeat the purposes of union, and perpetuate the idea of disunion.

The constitution of a second legislative body for the united legislature, involves questions of very great difficulty.

The analogy which some persons have attempted to draw between the House of Lords and the Legislative Councils seems to me erroneous.

Indeed, the very fact of union will complicate the difficulties which have hitherto existed; because a satisfactory choice of councillors would have to be made with reference to the varied interests of a much more numerous and extended community.

It will be necessary, therefore, for the completion of any stable scheme of government, that Parliament should revise the constitution of the Legislative Council, and, by adopting every practicable means to give that institution such a character as would enable it, by its tranquil and safe, but effective working, to act as a useful check on the popular branch of the legislature. The responsibility to the United Legislature of all officers of the Government, except the Governor and his Secretary, should be secured by every means known to the British Constitution. The Governor, as the representative of the Crown, should be instructed that he must carry on his government by heads of departments, in whom the United Legislature shall repose confidence; and that he must look for no support from home in any contest with the legislature, except on points involving strictly Imperial interests.

* Lord Durham's report on the affairs of British North America / edited with an introduction by Sir C.P. Lucas, Oxford: Clarendon Press, 1912