

APPENDIX (B.)

R E P O R T :

British North America.

(PRESENTED BY HER MAJESTY'S COMMAND.)

*Ordered, by The House of Commons, to be Printed,
5 March 1839.*

[*Price 2 s. 3 d.*]

APPENDIX (C.)

TO

R E P O R T

ON

THE AFFAIRS

OF

BRITISH NORTH AMERICA,

FROM

THE EARL OF DURHAM,

HER MAJESTY'S HIGH COMMISSIONER,

&c. &c. &c.

(PRESENTED BY HER MAJESTY'S COMMAND.)

Ordered, by The House of Commons, to be Printed,
27 March 1839.

[Price 8d.]

APPENDIX (C.)

SCHEDULE.

[illegible]

2.—REPORT from the Bishop of Montreal on the state of the Church within his Diocese - p. 57

British North America.

APPENDIX (C.)

1.—REPORTS OF COMMISSIONERS OF INQUIRY INTO THE MUNICIPAL INSTITUTIONS OF LOWER CANADA.

THE COMMISSION.

Province of Lower }
Canada. } DURHAM.

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland
Queen, Defender of the Faith:—

To *Charles Buller*, greeting.

WHEREAS it is highly expedient and desirable that the counties, cities, towns, parishes and townships in Our province of Lower Canada should respectively enjoy as extensive a control as may be consistent with their own improvement, and with the general welfare of Our said province, over all matters and things of a local nature, to the end that intercourse may be facilitated, industry promoted, crime repressed, education appreciated, and true liberty understood and advanced:

Know ye, therefore, that We, reposing great trust in your zeal, ability and discretion, have nominated, constituted and appointed, and by these presents do nominate, constitute and appoint you, the said *Charles Buller*, to proceed with the utmost despatch to inquire into the safest and most efficient means of endowing the said counties, cities, towns, parishes and townships with such powers and privileges as to you may seem meet for the effecting of the important ends aforesaid; and Our further will and pleasure is, that you, after due examination of the premises, do and shall from time to time report to Us, under your hand and seal, what you shall find touching or concerning the premises upon such inquiry as aforesaid; and also that you shall, from time to time, suggest such alterations or modifications of the laws and regulations at present in force as may appear likely to promote the objects aforesaid. We do by these presents give and grant to you full power and authority to call before you such and so many of the grand voyers, surveyors of highways and justices of the peace in Our said province of Lower Canada, and such other officers of the Crown and other persons as you shall judge necessary, and by whom you may be the better informed of the truth in the premises, and to inquire of the premises and every part thereof by all other lawful ways and means whatsoever; and We do also give and grant to you full power and authority to cause all and singular the officers aforesaid in Our said province of Lower Canada, or any other person or persons having in their custody any records, orders, regulations, books, papers or other writings relating to the premises, or in any way connected therewith, to bring and produce the same before you. And for your assistance in the due execution of this Our Commission, We do hereby authorize you to nominate and appoint such person or persons as you shall think fit, to be Assistant Commissioner or Assistant Commissioners, for the purposes aforesaid, or any of them, and to delegate to him or them such and so many of the powers hereinbefore vested in you as may seem expedient; and Our will is, and We do hereby direct and ordain that the person or persons so nominated by you shall possess and exercise any powers and authorities so as aforesaid delegated to him or them, in as full and ample a manner as the same are possessed and may be exercised by you under the authority of these presents; and We do hereby further authorize and empower

you, at your discretion, to appoint such person as Secretary to this our Commission as you shall see proper.*

In testimony whereof, We have caused these Our letters to be made patent, and the great seal of Our said province of Lower Canada to be affixed thereto.

Witness Our right trusty and right well-beloved John George Earl of Durham, Viscount Lambton, &c. &c., Knight Grand Cross of the Most Honourable Military Order of the Bath, one of Our Most Honourable Privy Council, and Governor-general, Vice-admiral and Captain-general of all Our provinces within and adjacent to the continent of North America, &c. &c. &c.

At Our Castle of St. Lewis, in Our city of Quebec, in Our said province of Lower Canada, the 23d day of August in the year of Our Lord 1838, and in the second year of Our reign.

(signed) D. Daly, Secretary.

Castle of St. Lewis, Quebec, 25 August 1838.

APPOINTMENTS.

General Commission of Inquiry into Municipal Institutions.

Chief Commissioner:—

The Honourable Charles Buller.

Assistant Commissioners:—

William Kennedy and Adam Thom, Esquires.

MUNICIPAL COMMISSION.

(COPY of a LETTER of INSTRUCTIONS addressed by the Honourable Charles Buller, M.P., Chief Commissioner of Municipal Inquiry to the Assistant Commissioners.)

Gentlemen,

Castle of St. Lewis, Quebec, 25 August 1838.

BEFORE entering on the duties which you have undertaken in consenting to act as Assistant Commissioners in the inquiry respecting the municipal institutions of this province, it is necessary that I should point out the objects of that inquiry more specifically than they are to be found in the commission itself.

You cannot, however, have failed to observe from the whole tenor of that commission, that the word "Municipal" has been used in its largest sense; that it has not been conjoined with any other that would limit your inquiries to incorporated towns; and that within the scope of your investigation will be included every matter that may be properly submitted to local or municipal management. The chief of these have been pointed out in the commission, which mentions increased facilities of internal communication, the encouragement of industry, and the repression of crime, as primary objects of attention. It is indeed impossible to enumerate exactly the various branches of inquiry, or define them very precisely. The class includes all those concerns of the people which it is advisable to exclude from the business of the central executive government, and leave to be managed by the separate local divisions which have an interest in them. The limits of this class have been more or less wide in different countries. There would be no objection to your extending your inquiries to all the matters comprehended in the widest classification, but custom and general opinion have sufficiently marked out the most important of those which come within the province of municipal administration.

Having determined the objects of municipal government, you will proceed to ascertain how they have been provided for in this country. You will inquire and report about the provision which has been made for the formation and maintenance of those internal communications, which, as they concern only local divisions, can never be objects of interest to a central government. The system by which the roads and bridges of the province have been managed will be one of the first and most important subjects of investigation. The paving, draining and lighting of towns will present kindred subjects of inquiry. You will also direct your attention to the means provided for the erection and maintenance of public buildings, both in town and country. The management of the entire police of the province will come under your consideration. You will inform me of the system which has been established for the purpose of protecting the persons and property of the inhabitants, both of the towns and rural districts, and of the degree of efficiency with which it has been administered. It will not be your business to inquire into the various particular charities, hospitals and medical institutions which have been founded throughout the province by the benevolence of individuals, and governed according to the regulations prescribed by their founders; but the general provision for the poor is an important part of local arrangements. You will therefore investigate the system which has been established for the general relief of destitution and the suppression of mendicancy and vagrancy.

There

* No Secretary was appointed to the Commission.

There are other matters which no wise government would leave entirely to mere local arrangement, but in the management of which it has been found that the central government may advantageously avail itself of a well-organized municipal machinery: such are the inferior judicatures, the subordinate magistracy, and the institutions of education. I do not desire from you a complete view of the judicial establishments of the province, because the administration of justice is a subject the importance of which will demand and receive from his Excellency a separate investigation; but you will inquire into the establishments which exist unconnected with the higher courts of civil and criminal jurisdiction, for the settlement of petty disputes, the repression of minor offences, and the enforcement of police regulations. You will especially direct your attention to all those judicial institutions which are in any degree of a popular nature, and in which the inhabitants of the various provincial subdivisions have a voice in the selection of the local judges.

The choice of a local magistracy has in some countries been wholly, or partly, left to the people of the locality. You will inform me how far the inhabitants of this province have been intrusted with any share of this power, either by direct selection or recommendation of their magistrates, or by the attribution of magisterial functions to the popularly-elected officers of a town or district—applying the latter word according to general usage.

In the same way, you will inquire how far the inhabitants of the local divisions of the province have had a voice in the management of local schools or the appointment of schoolmasters, and how far the support of the institutions of education has been made to depend upon local imposts.

After these investigations, our information on this head as to the present establishments of the province will require to be completed by your turning your researches from the mode in which municipal purposes have been provided for, to the municipal machinery which may happen to exist. The example of various nations supplies instances of the existence of a very complete machinery for local government available for all municipal purposes, but actually applied to none, or to very few, furnished with very inadequate powers, or intrusted with very incomplete duties. Thus, in the parishes of England a machinery for local self-government exists, which might be rendered applicable to every description of municipal business, but which is, in fact, restricted to the management of a very small portion. In Upper Canada there appears to exist a systematic, comprehensive and popular organization of the townships. The people of these districts are intrusted with the freest election of municipal officers, but the officers thus chosen seem to be intrusted with hardly any duties, and certainly are invested with hardly any of the powers, which are necessary for a really efficient municipal government. The inhabitants of these townships appear to have a very popular choice of nearly useless functionaries; and a very perfect municipal machinery exists without being rendered available for the most important municipal purposes. You will inquire, therefore, whether any thing of a similar nature exists in this province; whether, for any purposes, the inhabitants of small local districts are in the habit of managing any portion of their own affairs, or meeting to discuss their local concerns, or selecting their local officers. You will describe the municipal machinery which may happen to exist for any purpose, and any existing institutions for any species of local self-government, which may be applied to the higher kinds of municipal duties.

To leave to local management whatever can be safely intrusted to it, and in such local management to give a voice to as large a number of the people as can use the suffrage for the common advantage, will be your great object; in the prosecution of which, you will conduct your inquiries in the way which you may deem best calculated to enable you to draw just conclusions and to furnish an early report.

I have, &c.

William Kennedy, } Esquires.
Adam Thom,

(signed) Charles Buller.

PRELIMINARY REPORT OF THE ASSISTANT COMMISSIONERS OF MUNICIPAL INQUIRY.

To the Honourable *Charles Buller*, Chief Commissioner of Inquiry into Municipal Institutions.

Municipal Commission Office, Quebec,

Sir,

27 October 1838.

IN conformity with your letter of instructions, as chief of the commission appointed to inquire into the municipal institutions of the province of Lower Canada, we proceeded to lay down a plan for conducting the inquiry on a comprehensive basis, and, in the way that promised to enable us most readily to meet the exigencies of a community lying under a suspension of constitutional rights. With a view to the economy of time, as well as to the obtaining of accurate information, we came to the conclusion, that we should discharge the duties of the commission most satisfactorily by directing our investigation, in the first instance, to the cities of Quebec and Montreal. Those cities had been incorporated for

a term of three years by Acts of the provincial legislature. If the experiment of incorporation had been successful, their inhabitants would, of course, feel anxious for the renewal of the statutes which expired in 1836; if it had been unsuccessful, it was necessary to ascertain the cause of failure, in order to guard against its recurrence in future legislation. It was fair to assume, that the lapse of their municipal government would be productive of injury and inconvenience in growing commercial towns like Quebec and Montreal; we were, therefore, impressed with the conviction that we should best consult the public interest and wishes, by making the municipal regulations of these towns the subject of a separate report, to be submitted as early as possible to his Excellency, Her Majesty's High Commissioner, as material for legislative enactment. Thus we had reason to hope that, in the course of a few months, the benefit of improved and extended municipal institutions might have been conferred upon the principal seats of provincial intelligence and wealth, in which the disorder and discomfort occasioned by the absence of these institutions is strikingly apparent.

Another consideration weighed with us in giving precedence to Quebec and Montreal, the desire of obtaining the advantage of the auxiliary information to be derived from this branch of the inquiry before directing our investigation to the rural districts, where habits of self-government are almost unknown, and education is so scantily diffused, as to render it difficult to procure a sufficient number of persons competent to administer the functions that would be created by a general scheme of popular local control.

In accordance with this plan, we called for the evidence of persons presumed to be acquainted with the subject, as to the working of the Act which provided for the incorporation of Quebec. The inquiry was so far matured, that we should have been prepared, after devoting a little time to hearing evidence in Montreal, to submit to his Excellency a complete scheme of incorporation for both cities. After the performance of this, the more urgent part of our duty, it was our intention to have made a circuit of the rural districts, for the purpose of carefully examining the practical operation of such institutions as may have been devised for the regulation of local affairs, and of determining, from personal observation, to what extent, and under what restrictions, the agricultural population might safely become the depositories of municipal authority. The vague and conflicting character of the evidence submitted to us, even on matters of ordinary social concern, satisfied us of the necessity of closely examining, on the spot, the wants of the rural districts, their modes of local government, and their capacities for municipal organization. We were farther confirmed in this opinion, by the discouraging manner in which intelligent and experienced persons, both of British and Canadian blood, spoke of the *habitants* in relation to the business of local management. They were almost unanimous in affirming, that the ignorance which prevails among this class, together with their deep-rooted dislike to every kind of tax and assessment, must render any attempt to improve the country, by means of a comprehensive municipal system, impracticable.

From the line of proceeding which, under the circumstances referred to, we deemed it expedient to adopt, events untoward for the settlement of these colonies constrained us to depart. We were, therefore, obliged to alter the plan of investigation, so that we might be enabled to furnish a general report on the subject of our inquiry, which, while it might be insufficient to show precisely the machinery which ought to be constructed for the administration of local affairs in the province, might at least serve to demonstrate that some advances towards a less defective system are imperatively demanded. Instead of visiting Montreal and the townships and seigniories, as we proposed, we were forced to content ourselves with examining some of the executive officers who act in these localities, aided by whose testimony, with documents from various sources, we have drawn up a statement of the existing municipal establishments of Lower Canada, and the machinery that might be applied to the working of an improved and comprehensive system of local administration. The nature and efficacy of superior municipal institutions seem to be very imperfectly understood in this province; and the evidence we have collected from parties examined is exceedingly meagre and indefinite. It is indeed comparatively valueless as a help to establishing a better order of things. One important inference, however, we could not fail to draw from it, namely, that there is no such thing as systematized local self-government in Lower Canada, and that although long under the rule of England, the province has participated far too sparingly in the benefits of sound British institutions.

We do not propose to include minute details of evidence in the report which we are preparing to lay before you, but to embody under their proper head such hints for amendment as may seem of sufficient note to be adopted or recorded.

We may be permitted to remark, that perhaps in no particular is the unhappy condition of this colony more conspicuous than in the apathy, or despondency, or party jealousy, with which persons, neither deficient in education nor wanting in the spirit of enterprise, are disposed to regard the constitution of new popular authorities for the management of matters of common interest. The proper fruits of representative government are not to be found in Lower Canada. We look in vain for the young, vigorous and generous institutions which ought to have grown up under its shade. The Constitutional Act conferred a representative government on the province. Yet, hitherto, the higher municipal functions have been discharged, partly by the provincial legislature, and partly by officers appointed by the central executive. The mass of the people, whose incapacity is censured or deplored, have been allowed the exercise of the greater privilege of electing provincial representatives, while, with singular inconsistency, they have been denied the minor right (the exercise of

which

which would have been a wholesome preparatory for the discharge of the superior trust) of choosing municipal authorities, and thereby gradually acquiring a disciplined knowledge of their social duties in the school of practical citizenship. There are persons, too, who now plead for the restoration of the greater right, and still would hesitate to grant the lesser, contending that, until education is generally diffused, a system of popular local government would do more harm than good, and that, consequently, until a new and instructed generation shall arise, the Canadian farmers ought to remain without a voice in the management of the affairs with which they are most familiar, and for the prudent direction of which they have a paramount interest in providing.

We have, &c.

(signed) *William Kennedy,*

Adam Thom,

Assistant Commissioners of Municipal Inquiry.

GENERAL REPORT OF THE ASSISTANT COMMISSIONERS OF MUNICIPAL INQUIRY.

SOCIAL ASPECT OF THE PROVINCE OF LOWER CANADA.

THE institutions by which the affairs of a country are to be regulated ought to be framed in accordance with the spirit of the people, their capacities for government, and the circumstances of their physical condition.

To bestow upon a people modes of government greatly in advance of the general state of society is hardly less unwise than to cause institutions to linger in the rear of the public mind. The imprudence of a sudden transition from political inexperience and dependence to the loosest habits of democracy is visible in the republics of South America; it may be questioned whether most of the evils that afflict Lower Canada have not originated in an error of a like description.

What is the present condition of the province, and how far are its inhabitants prepared, by previous discipline, to profit by a more liberal and comprehensive system of internal administration?

The earlier French settlements in Canada were made ostensibly with the view of converting its aboriginal inhabitants to the Roman Catholic faith. It happened, however, that of the Indians, a greater number were slain in provincial feuds than were christianized by missionary zeal. A military policy eventually prevailed in the government of the colony; and to sustain this policy, the Court of France created a military *noblesse*, poor, proud, restless, and contemptuous of commerce. There was no real order of proprietorial nobility in the country. In 1763, France ceded Canada to England. In the same year, a Governor and Council were appointed, and a proclamation was issued, which substituted for the "Custom of Paris," heretofore the law of Canada, the civil and criminal law of England. It was ordered, that in legal proceedings the English language should alone be used; the Governor was empowered to convene an Assembly elected by the "freelholders and planters," and representatives were chosen accordingly for all the parishes except Quebec. Owing to difficulties arising out of the form of the oath prescribed to the representatives, the Assembly never sat. Thus, in the very first year of possession, did England hasten to ingraft her representative system on the sterile institutions of a colony, whose only progressive movement had been from monastic rule to military despotism. At a subsequent period, Governor Carleton and the chief law officers of the colony united in the opinion that the Canadians were not ripe for so large a share of legislative power as had at the outset been volunteered for their acceptance.

By an Act passed in 1774, it was provided, that in the administration of the colony, the Governor should be assisted by a Legislative Council, to consist of not less than 17 and not more than 23 persons (resident in the province), to be appointed by the Crown. The Act empowered the Council to impose such taxes (and such only) as the inhabitants of any town or district within the province might be "authorized by the said Council to assess, levy, and apply within the said town or district for the purpose of making roads, erecting or repairing public buildings, or for any other purpose respecting the local convenience and economy of such town or district." This Act re-established the French civil law in Canada.

In the year 1791, the Imperial Parliament divided the province into Upper and Lower Canada, and gave to each a constitution modelled after the form of the British; thus, within the narrow limit of 28 years, we find Lower Canada placed under four different modes of government; viz., French military authorities; English Governor and Council, with English law; English Governor and Legislative Council, with French civil law; and a constitution framed in imitation of the British, which constitution, after a troubled existence of less than half a century, has been suspended by the same imperial authority that called it into being.

Lower Canada embraces a vast extent of territory in proportion to its population, its superficies extending over almost 250,000 geographical square miles,*—about half the aggregate superficies of the British North American provinces. At the cession of the colony in 1763, its population was estimated at 70,000. The return of the census of 1831 was,

For the district of Montreal	-	-	-	-	-	290,000
Ditto - ditto - Quebec	-	-	-	-	-	151,980
Ditto - ditto - Three Rivers	-	-	-	-	-	56,579
Ditto - ditto - Gaspé	-	-	-	-	-	13,312
Estimated increase from 1831 to 1836	-	-	-	-	-	88,000
TOTAL - - -						599,862

Of which it is computed that seven-eighths are Roman Catholics. The number of persons of this aggregate population, who are of British origin, has been generally estimated at 200,000, of whom the great majority reside in the cities and parishes of Quebec and Montreal and the townships. The inhabitants of French origin are chiefly distributed along the banks of the St. Lawrence, as far up as Montreal. The land adjacent to this magnificent river exhibits the appearance of a continuous line of villages, a military mode of settlement, which presents obvious facilities for municipal organization.

The bulk of the population of the townships is composed of old American loyalists and more recent settlers from the United States; the remainder are emigrants from Britain. The townships in which settlements have been made are unequally peopled, some containing a sufficient number of inhabitants to form substantial communities, others varying in amount from, it may be, five to a hundred families and upwards.

The *habitans*, or agricultural population of French origin, hold their lands by feudal tenure, which prevails in the "seigniorial" districts. Though under the sway of England for 75 years, they are but little changed in usages, and not at all in language. A very small proportion of them are acquainted with the first rudiments of education; they use comparatively few imported articles, and their system of agriculture is generally rude and antiquated. Owing to the neglect of manure and a proper rotation of crops, the land in many places has become exhausted, and its cultivators, year after year, sink deeper in poverty. Scanty harvests during the last six or eight years, caused mainly by imperfect modes of culture or injudicious cropping, have reduced considerable numbers of the *habitans* in the district of Quebec to a state of extreme destitution. In the district of Montreal, the farming is better, and the people more prosperous. The *habitant* is active, hardy and intelligent, but excitable, credulous; and, being a stranger to every thing beyond his own contracted sphere, he is peculiarly liable to be made the dupe of political speculators. His ignorance of the English language prevents him from acquiring any knowledge of the sentiments and views of the British Government and people, except what he may derive from educated persons of his own race, interested, it may be, in deceiving him. Never having *directly* experienced the benefits of British rule in local affairs, and almost as much insulated from British social influences as if the colony had never changed masters, it is idle to expect that he should entertain any active feeling of attachment to the Crown.

For opening new settlements the *habitant* has many useful qualifications, being usually competent to provide, by his personal skill, all the essentials requisite for his situation, such as house, clothing, and the ordinary farming implements. But having cleared his land, erected a dwelling for himself and a church for the *curé*, he remains stationary, contented with his lot, and living and dying as his ancestors lived and died before him. At the present day, for instance, a traveller may pass through districts where there is an abundance of excellent milk, and be unable to procure either butter or cheese with the sour and black-looking country bread which is served up at his meals; and it is by no means an uncommon circumstance for a *habitant* to sell his manure to a neighbouring farmer, or throw it into the adjoining river, while every season his crops are deteriorating, in consequence of the degeneracy of the seed and the exhaustion of the soil.

By the *habitant* a small gain, or saving of actual coin, is deemed much more important than a large expenditure of time; and he will not easily be induced to venture on an immediate pecuniary outlay to secure a remote advantage, unless indeed the money is to be devoted to litigation, in which he loves to indulge.

There is no class resembling English "country gentlemen" among the Canadians; nor do the doctors, notaries and lawyers, who overabound in the colony, form an efficient substitute for such a class. Needy and discontented, they are more disposed to attempt an improvement in their own condition by political agitation, than to labour for the advancement of their uninstructed neighbours. The only body of men to whom the *habitans* can look for aid and direction are the parochial clergy, who, in the districts where their authority is unimpaired, act as a vigilant moral police, the efficiency of which is manifested in established habits of sobriety and order. Persons acquainted with the province are well aware that, in the disaffected districts, the influence of the Canadian clergy is much diminished.

It appears, then, that the mode of village settlement adopted by the Franco-Canadians is favourable to the establishment of municipal institutions, and that the obstacles to be encountered are the absence of education, popular inexperience, blind repugnance to taxation,

* Bouchette.

tion, and the absence of a wealthy and instructed class, interested in the prosperity of the many, and desirous of engaging gratuitously in the administration of local affairs.

The townships afford better materials for municipal government than the seigniorial districts; but, even in these localities, the state of education is very backward. A gentleman well acquainted with the townships writes thus from Frelighsburg, in the county of Missisquoi, on the borders of the United States. "The people are not anxious for municipal institutions, and if they receive them, they are prepared for a very limited power. I must warn you that the power of taxation, for any purpose whatever, would produce the greatest dissatisfaction. The Commissioners would therefore do well to confine the local officers to performing administrative functions simply; and if they do so, it is evident that their powers cannot be very extensive. But there is one set of powers which might be exercised by the officers to the great benefit of the people, and that is the control of roads. If the Commissioners see fit to recommend them to receive and exercise the same powers as the Grand Voyer now does, I am convinced that nothing would be looked upon as a greater boon. The expense, the trouble and vexation of procuring the establishment of a new road, or of altering the course of an old one, are so great that individuals undergo them only when necessity absolutely compels them. In a country such as this, the greatest facility ought to be given to the laying out of roads. It is by them that the country becomes settled and improved: without them it is nothing. Still I should not think it advisable to change the system. Here the method of making and repairing roads is infinitely preferable to any other—to that especially of the United States. The Commissioners might also, with great advantage, intrust to local officers the granting of warrants against debtors leaving the country, and for a sum much less than the one now fixed: they might reduce it to, say, 5*l.* currency. The substance of the above suggestions is, shortly, 1st. Freeholders to recommend officers (I have said nothing about the term of service; but I think part of them should go out of office every year: if three be appointed, one to go out; if five, two). 2d. Powers limited to those now exercised by the Grand Voyer, and to granting warrants against absconding debtors. The warrant and whole proceedings to be brought before the Commissioners' Court for small causes, if the sum due be 6*l.* 5*s.*; and if greater, to be brought before the King's Bench."

It is to be observed that the writer of the preceding remarks, while he alleges that the people are not anxious for municipal institutions, bears testimony to the existing necessity for them with regard to the management of roads,—one of the most important matters that can fall within their range. Such, with the exception of the cities, is the general aspect of the province. But, unhappily, it must be added, that the distrust and animosity engendered by political dissension between the settlers of different races have materially increased the difficulty of establishing a sound and comprehensive system of local administration.

GENERAL CHARACTER OF PROVINCIAL LEGISLATION.

THE mere concession of a form of general government, in outline resembling its own, may amount to a very imperfect fulfilment of the duties owing by the imperial state to a conquered colony. It is possible that the original may be excellent and the outline correct, and yet the constitution fail to benefit the country to which it has been transplanted. When, in 1791, Mr. Pitt introduced to the House of Commons the Bill for granting a representative system of government to Lower Canada, Mr. Fox remarked, that "the only means of retaining distant colonies with advantage, was to enable them to govern themselves;"—an opinion undoubtedly just, if the speaker's ideas were not limited to the gift of some peculiar constitutional forms. The value of British constitutional forms to a people of foreign origin, language and manners, has been tested in Lower Canada, and may be ascertained by an examination of the provincial statute book, and an estimate of the benefits which have accrued to the colony from domestic legislation.

The bulk of the statutes of Lower Canada bear upon matters of a strictly municipal character, and the labour of the present investigation has been materially increased by the necessity of sifting a mass of petty enactments, framed to endure for periods so short as rather to keep society in an anxious and unsettled state, than to afford it the blessings of security and repose.

The Governor and Council who exercised their authority under the British statute, 14 Geo. 3, c. 83, commonly called "The Quebec Act," were, as has been stated, so far restricted as to be incompetent to impose any tax or duty, excepting only local rates for local objects. This power of taxing—limited and exceptional as it was—was amply sufficient to provide for the establishment of efficient municipal institutions; but, at so early a stage in the career of a thinly-peopled and newly-conquered colony, these institutions would most probably have been deemed premature, perhaps even dangerous. Besides, to secure their effective operation would have been a heavy burthen upon the indolence of colonial administration. A comparatively small portion of the legislation of the Governor and Council was, at all events, directed to objects of a municipal nature. Their legislation, if not remarkable for pains-taking, had the merit of being at once general and moderate; neither usurping the functions of a parish meeting on the one hand, nor encroaching on the prerogatives of the Imperial Parliament on the other.

Very different has been the course pursued by the legislature created by 31 Geo. 3, c. 31. The constitutional legislature of Lower Canada has too often betrayed its ignorance of

its proper functions by dabbling in affairs unworthy of legislative cognizance, or grasping at matters beyond its legislative range; equally anxious to extend the limits of its authority, and reluctant to delegate to other bodies a share of that authority. So much addicted has it been to this two-fold deviation from its legitimate province, that, during a term of 45 years, it has effected little or nothing towards fulfilling its highest and most important duty—the purging of the civil code of universally acknowledged evils. Almost every essential improvement introduced into the laws of the colony has been the work of the British Parliament in the Quebec Act, of the Governor and Legislative Council in their Ordinances, or of the Imperial Parliament in the Tenures Act. Such attempts at reform as have been made by the constitutional legislature have referred almost exclusively, not to the law itself, but to the administration of the law. Most of these attempts—developed in temporary statutes—sometimes renewed, sometimes allowed to expire, have caused uncertainty and confusion; while the judicature law (34 Geo. 3, c. 6), by multiplying Courts of King's Bench, and infusing them alternately into the Court of Appeal, has tended to produce and to perpetuate discordant systems of jurisprudence in the courts, both of original and appellate jurisdiction.

Temporary laws, with a few exceptions, founded either on natural or constitutional necessity, are a barbarous solecism in legislation. To pass a law once, for a limited period, might evince a modest caution on the part of an inexperienced legislature (though even as an experiment, a temporary law could not have so fair a trial as a permanent one), but it would not be easy to justify the colonial practice of successively continuing, from time to time, temporary Acts without amendment. It would be uncandid to throw upon the ambition or party spirit of any portion of the constitutional legislature of Lower Canada the odium of a system which is so general in colonies, and which has even been sanctioned by the British Government in its instructions to colonial governors; but it is impossible to doubt that the political leaders of the majority of this province have perverted the power of framing temporary Acts into an instrument of factious aggrandizement.

So far as the existence of any temporary law is necessary or useful, the mere lapse of time must place the whole community at the mercy of any one branch of the legislature, and the other branches must be often tempted to purchase reluctant assent by mischievous concessions. As a general instance of the evil, it is almost needless to mention that, so long ago as the year 1825, the Imperial Parliament was obliged to avert serious disasters by passing the Canada Trade Act, perpetuating certain temporary revenue laws of Lower Canada. As special instances of the unseasonableness of temporary laws, we may mention the brief incorporation of Quebec and Montreal, and the Act for establishing registry offices in the townships.

Temporary laws, by encouraging every raw representative to try his hand at statute-making must promote slovenly legislation; and even qualified representatives will too frequently be disposed to overlook the blunders of an enactment, which is only destined to continue for one or two years. The system, moreover, while it reserves too much discretionary authority to the legislature, to be exercised at the caprice of any particular branch thereof, also serves to conceal from the country at large the real amount of legislative labour. Exclude from the statute book of Lower Canada its slightly amended and merely continued laws, and its compass will be reduced very considerably. Deduct from the sum total of the enactments which it contains those that relate to matters purely municipal, which experience proves to be better cared for by local authorities than by general representative bodies, and the remainder will hardly seem of sufficient importance to warrant the expense of maintaining a provincial legislature.

The subjoined tabular statement of the various ordinances and statutes respecting the cities of Quebec and Montreal may be taken as a fair specimen of the petty legislation of Lower Canada.

No. I.

CITY OF QUEBEC :—ORDINANCES and STATUTES.

SUBJECT.	Volume.	Page.	Year.	Reign.	Chapter.	REMARKS.
Markets - - -	Ord.	5	17	Geo. 3	4	Regulates markets of Quebec and Montreal.
" - - -	13	180	1	Will. 4	28	- - Partially suspends the foregoing Act till 1st May 1836.
" - - -	14	262	6	"	32	Continues 1st Will. 4, c. 28, till 1st May 1840.
Hay-market - -	9	94	57	Geo. 3	16	- - Leaves regulating of the same in Quebec and Montreal to magistrates of the respective districts.
Bakers - - -	Ord.	17	17	"	10	Regulates bakers in Quebec and Montreal.
" - - -	8	40	55	"	5	- - Regulates bakers in Quebec, Montreal and Three Rivers, repealing the preceding ordinance till 1st May 1817.
" - - -	9	40	57	"	9	- - Continues and amends the foregoing till 1st May 1819.
" - - -	9	392	59	"	11	Continues temporary Acts till 1st May 1821.
Accidents by fire -	Ord.	33	17	"	13	N.B.—Since 1st May 1821, suspended ordinance again in force. - - Provides against accidents by fire in Quebec, Montreal and Three Rivers.

No. I.—CITY OF QUEBEC:—Ordinances and Statutes—*continued.*

SUBJECT.	Volume.	Page.	Year.	Reign.	Chapter.	REMARKS.
Accidents by fire -	Ord.	189	30	Geo. 3	17	Amends foregoing ordinance.
" - - - -	13	536	2	Will. 4	37	-- Establishes fire society in Quebec, suspending so far the two ordinances till 1st May 1834. N. B.—Since 1st May 1834, ordinances in force in Quebec.
Police - - -	9	86	57	Geo. 3	16	-- Provides for regulation of police in Quebec, Montreal and Three Rivers, former Acts having expired on 1st May 1816.
Highways, &c -	2	56	39	"	5	-- Partially repeals 36 Geo. 3, chap. 9, with respect to Quebec and Montreal.
" - - - -	9	183	57	"	29	-- Amends foregoing, with respect to salaries of surveyors.
Port of Quebec -	4	68	45	"	12	-- Regulates shipping in port of Quebec and Montreal, erecting Trinity-house in Quebec, and repealing all former ordinances and statutes, 28 Geo. 3, c. 5, 30 Geo. 3, c. 1, and 37 Geo. 3, c. 4.
" - - - -	54	72	51	"	12	Amends the foregoing Act.
" - - - -	10	204	2	Geo. 4	7	Further amends first above mentioned.
Upper Town Market	4	222	47	Geo. 3	8	Provides for erection and regulation thereof.
New Market-place, St. Paul-street.	12	366	9	Geo. 4	53	Establishes the same.
" - - - -	13	350	2	Will. 4	13	Amends and extends the foregoing Act.
St. Roch's Market -	13	128	1	"	19	Provides for the establishment of the same.
Incorporation - -	13	14	1	"	52	Provides for the same.
" - - - -	13	28	3	"	6	-- Amends foregoing Act, with respect to time of electing councillors and mode of electing mayor.
" - - - -	13	140	4	"	27	-- Amends 1 Will. 4, c. 52, with respect to mode of conducting election of councillors.
Beaches, or Strand -	11	392	7	Geo. 4	11	Regulates same until 1st May 1829.
" - - - -	13	332	2	Will. 4	9	-- Continues and amends foregoing Act till 1st May 1834.
" - - - -	13	72	4	"	3	Continues foregoing Act till 1st May 1836.
Wharfingers - -	13	508	2	"	32	-- Compels same to advertise unclaimed goods till 1st May 1834; continued, without amendments, by two subsequent Acts, till 1st May 1840.
Assessors - - -	12	130	9	Geo. 4	16	-- Increases number of the same for Quebec and Montreal till 1st May 1831; continued, without amendment, by two subsequent Acts, till 1st May 1840.
Watching and light- ing.	9	16	58	Geo. 3	2	-- Establishes the same in Quebec and Montreal till 1st May 1821.
" - - - -	10	82	1	Geo. 4	11	Continues foregoing Act till 1st May 1823.
" - - - -	10	266	3	"	6	-- Continues and amends 58 Geo. 3, c. 2, till 1st May 1825.
" - - - -	11	10	5	"	1	Continues and amends further, until 1st May 1827.
" - - - -	11	398	7	"	12	And until 1st May 1829.
" - - - -	12	206	9	"	30	- ditto - ditto - 1833.
" - - - -	13	230	1	Will. 4	34	Continues whole, till 1st May 1834.
" - - - -	13	70	4	"	9	- ditto - - - - ditto - 1836.

No. II.

CITY OF MONTREAL:—ORDINANCES AND STATUTES.

SUBJECT.	Volume.	Page.	Year.	Reign.	Chapter.	REMARKS.
Markets - - -	Ord.	5	17	Geo. 3	4	Regulates the same in Montreal and Quebec.
" - - - -	13	180	1	Will. 4	28	Partially suspends foregoing Act till 1st May 1836.
" - - - -	14	262	6	"	32	Continues 1 Will. 4, c. 28, till 1st May 1840.
Haymarket - -	9	94	57	Geo. 3	16	-- Leaves regulating of the same in Montreal and Quebec to magistrates of respective districts.
Bakers - - -	Ord.	17	17	"	10	Regulates same in Montreal and Quebec.
" - - - -	8	40	55	"	5	- ditto - - ditto - and Three Rivers, repealing ordinance till 1st May 1817.
" - - - -	9	40	57	"	9	Continues and amends foregoing till 1st May 1819.
" - - - -	9	392	59	"	11	Continues temporary Acts till 1st May 1821.
Accidents by fire -	Ord.	33	17	Geo. 3	13	N. B.—Since 1st May 1821, suspended ordinance again in force.
" - - - -	"	189	30	"	7	-- Provides against the same in Montreal, Quebec and Three Rivers.
" - - - -	"	"	"	"	"	Amends foregoing ordinance.

No. II.—CITY OF MONTREAL:—Ordinances and Statutes—*continued*.

SUBJECT.	Volume.	Page.	Year.	Reign.	Chapter.	REMARKS.
Accidents by fire -	12	390	9	Geo. 3	57	-- Establishes fire society in Montreal, suspending, so far, the two ordinances till 1st May 1834.
" - -	13	190	1	Will. 4	30	Amends foregoing Act. N. B.—Since 1st May 1834, ordinance in force in Montreal.
Police - - -	9	86	57	Geo. 3	16	-- Provides for regulation of the same in Montreal, Quebec and Three Rivers, former Acts having expired on 1st May 1816.
Highways, &c. -	2	56	39	Geo. 3	5	-- Partially repeals 36 Geo. 3, c. 9, as to Montreal and Quebec.
" - -	9	138	57	"	29	Amends foregoing Act as to salaries of surveyors.
Watching and lighting	9	16	58	Geo. 3	2	-- Establishes the same in Montreal and Quebec till 1st May 1821.
" - -	10	82	1	Geo. 4	11	Continues foregoing Act till 1st May 1823.
" - -	10	266	3	"	6	Continues and amends till 1st May 1825.
" - -	11	10	5	"	1	- - ditto - - - ditto - - 1827.
" - -	11	398	7	"	12	- - ditto - - - ditto - - 1829.
" - -	12	308	9	"	30	- - ditto - - - ditto - - 1831.
" - -	13	230	1	Will. 4	34	Continues whole till 1st May 1834.
" - -	13	70	4	"	9	- - ditto - - ditto - 1836.
Corporation - -	13	46	1	"	54	Provides for the same.
" - -	13	140	4	"	27	-- Amends foregoing Act with respect to the mode of conducting elections of councillors.
Wharfingers - -	13	508	2	"	32	-- Compels them to advertise unclaimed goods till 1st May 1834. Continued, without amendment, by two subsequent Acts till 1st May 1840.
Assessors - - -	12	130	3	Geo. 4	16	-- Increased number for Montreal and Quebec; continued to 1st May 1840.
Harbour (Police) -	1	1	33	Geo. 3	1	-- Regulates the bringing of gunpowder into the same, and defends also the same.
" - -	4	68	45	"	12	-- Regulates shipping in harbour of Montreal and Quebec, creating Trinity-house jurisdiction for both cities, and repealing all former ordinances and statutes, 28 Geo. 3, c. 5; 30 Geo. 3, c. 1; 37 Geo. 3, c. 4.
" - -	54	72	1	"	12	Amends the foregoing Act.
" - -	10	204	2	Geo. 4	7	Farther amends.
" - -	13	432	2	Will. 4	24	-- Partly repeals preceding three Acts, erecting Trinity-house in Montreal.
(Finance) - - -	12	686	10 & 11	Geo. 4	28	Provides for improving and enlarging harbour.
" - -	13	90	1	Will. 4	11	Extending provisions of foregoing Act.
" - -	13	530	2	"	36	Farther extends - - ditto.
" - -	14	464	6	"	58	- - Vests dredging-machine in harbour commissioners, who shall be appointed by any Act to be passed during the present session of the Provincial Parliament.
New Market - -	4	210	47	Geo. 3	7	Provides for building the same.
" - -	4	336	48	"	4	Authorizes erection of temporary stalls.
" - -	5	18	49	"	5	-- Repeals the foregoing Act, declaring the temporary stalls to be "new market-house."
" - -	14	38	6	Will. 4	7	Continues the same.
Markets and weigh-houses.	9	400	59	"	14	-- Authorizes extension of new market, and erection of weigh-house in each market.
Haymarket weigh-house.	9	94	57	Geo. 3	16	Authorizes erection of same.
St. Ann's Market -	11	408	7	Geo. 4	14	Authorizes establishment of same.
" - -	12	276	9	"	38	Amends and extends the foregoing Act.
Pres de Ville Market	12	282	9	"	39	Establishes the same.
St. Lawrence Market	12	286	9	"	40	Provides for establishing of same.
" - -	12	700	10 & 11	"	30	Amends the foregoing Act.
" - -	13	236	1	Will. 4	36	-- Provides for better regulation, repealing former Acts.
" - -	10	92	1	Geo. 4	6	-- Authorizes and establishes the same, but proves abortive.
Common - - -	13	86	1	Will. 4	10	Vests the same in city.

Under legislation so minute and inconstant, the laws by which the affairs of a community are regulated must generally be mere matter of surmise, and inconvenience and incongruity the certain result. The chimnies of Montreal have been swept one year under the Act Will. 4; and the next under a revived ordinance of Geo. 3. The dues on the Lachine Canal, a most expensive public work, were uncollected for a year, owing to the non-renewal of the Act which authorized the collection. In consequence of a like omission, the wharfage dues of the Montreal Harbour were not legally exigible during the same year.

year. Other instances might be adduced to show, that so long as the constitutional legislature exercised its functions, it was possible that local Acts of primary importance to the public interests might be suffered to expire, in order that a single branch of that legislature might, as a condition of the revival of these Acts, extort from the other branches compliance with its demands. In 1836, the House of Assembly declared its intention to adjourn its sittings until its demands had been granted. It is needless to advert to the ultimate consequences of this determination; they are matter of history.*

DIVISION OF THE PROVINCE.

THE province of Lower Canada is divided into five districts: Quebec, Montreal, Three Rivers, Gaspé and St. Francis which are subdivided into Counties, Townships, Parishes and Extra-parochial places.

DISTRICTS.

The "Districts," properly so called, are almost exclusively judicial. They are independent of each other, and differ occasionally, both in the theory and practice of the law; the inferior district of Gaspé being dependent on the district of Quebec, and, in fact, forming part thereof. The only other characteristic of the districts, whether dependent or independent, is, that they have each their own grand-voyer, with the single exception of the district of St. Francis.

St. Francis.—It is to be remarked, that while the district of St. Francis was merely an inferior district, dependent partly on the district of Montreal, and partly on that of Three Rivers, the grand-voyers of these districts had full jurisdiction each in his own section; but now that it is superior and independent, some degree of confusion seems to exist with respect to the legal position of the said grand-voyers within its limits. They both act as if no such district were in existence; and yet, by the road laws, any offence against the laws can be punished only within the district where it was committed. A question thus arises as to which district is understood—the judicial or the road district.

Gaspé.—The inferior district of Gaspé includes the two counties of Gaspé and Bonaventure. It contains a scattered population of mixed races, British, Canadians, natives of Jersey and Guernsey, and Acadians. Placed at the *embouchure* of the St. Lawrence, and distant about 400 miles from Quebec, the affairs of Gaspé have occupied but a comparatively small share of public or legislative attention, and its inhabitants are in a most primitive state as regards local improvements. Mr. Power, who represented Gaspé in the House of Assembly, states, that "the roads in the district are very bad; there are, in fact, no roads in the settlements in the interior. The people are much dissatisfied with the administration of justice. They complain of the distance they have to travel to New Carlisle, the principal town and seat of justice, and wish for a judge in each county. There is but one circuit in the year; there is no description of police; and though magistrates have been appointed, the greater part of them did not qualify, being without the requisite landed property. Law has no great force in the district, people doing much as they like."

Looking to the position which Gaspé occupies upon the map, it becomes a question whether it would not be sound national policy, as well as for the advantage of the district itself, to unite it with the improving province of New Brunswick. An arrangement of this kind would certainly tend to simplify the administration of Lower Canada, would benefit the district itself, and would render the province more compact for the working of improved institutions. In the event of the severance of Gaspé from Lower Canada, perhaps the most convenient boundary would be the river Mitis, or Rimouski.

COUNTIES.

The counties are principally political subdivisions, laid down with a view to the returning of members to the Provincial Parliament.

By 2 Will. 4, cap. 44, the counties had potentially, for a short time, a municipal character, through the collective action of the road commissioners of the respective parishes, townships, &c., and of the justices of the peace who homologated or rejected *procès verbaux*; but, as it was discretionary with any parish or township to continue under the old system, or to avail itself of the Act, very few counties, more especially in the seigniorial districts, ever assumed the character in question.

By 2 Will. 4, cap. 66, and by 4 Will. 4, cap. 8, the counties, moreover, have had and will, until the 1st of May 1840, have potentially a judicial existence. But of the said Acts only two counties have availed themselves in any degree; and even those two have not established quarter sessions of civil and criminal jurisdiction, which the Acts were intended to introduce.

PARISHES and TOWNSHIPS.

Parishes (which, so far as they are ecclesiastical, are almost exclusively for Catholic purposes) and townships are merely divisions for local improvement, and for the better prevention of abuses prejudicial to agriculture. By means of these divisions, the farmers are enabled

* The capricious legislation of the province has not been rendered less injurious by a steady and well-sustained executive. From the year 1799 down to the present time, the administration of Lower Canada has passed from one Governor to another, on an average, once in every two years.

enabled to provide for the repairing of roads, and the inspection of fences, ditches, water-courses, &c. Each parish and township is subdivided into not more than nine sections. Parishes vary in extent, but the townships usually embrace a superficies of 100 square miles, or 10 miles square, or 64,000 acres each.

PAROCHIAL OFFICERS and PARISH FUNDS.

For the management of the secular concerns of the Catholic churches, a court or council exists in the several parishes, composed of three acting churchwardens, and of persons who have filled the office of churchwarden: of the three wardens, the senior is the principal. One of the number is elected every year; in most cases by the court or council, though in a few localities by the *notables* or principal parishioners. Where there is more business than the wardens are able to get through, as sometimes happens, a portion of it is devolved upon committees of the council. Ten or twelve years ago, Mr. Papineau's party in the House of Assembly brought forward a bill to empower the parishioners to choose their churchwardens. The agitation of this measure, which passed through the House of Assembly, created considerable excitement at the time; but the bill was rejected by the Legislative Council, and ultimately abandoned. Mr. J. Langevin, who has acted as churchwarden in Quebec, says, that the present system of election works satisfactorily, as the persons chosen are generally respectable.

The senior churchwarden collects the pew-rents and all monies owing to the church, which go to the support of the edifice. Where the business of the parish is extensive and the outlay considerable, a paid agent is chosen to receive and disburse money and register the accounts, which are examined annually by two persons nominated by the council. No salary or entertainment is allowed to the wardens or members of the council. When the funds of the *fabrique* are insufficient for any large undertaking, such as the erection of a church, the requisite assessments are raised in this manner: a list, with the amount of each parishioner's contribution, is made by trustees appointed by the majority of the parishioners; this list is submitted to the superior courts of law, and, should it receive their sanction, becomes an assessment binding on the parties whose names are inrolled in it. The money thus raised is expended under the superintendence of the trustees. The law for regulating this department of parish business is contained in old French ordinances, which are so doubtful and contradictory as to occasion frequent litigation. A suit of this kind was commenced at Three Rivers, which lasted 15 years.

No part of the funds of the *fabrique* is appropriated to the relief of the poor. Mr. Langevin states, that if such a disposal of the parish money had at any time taken place, it must have been by way of loan, or with the formal sanction of the parishioners, on some extraordinary occasion, there being no legal authority for it. The income of the Catholic clergy is derived from their share of all grain grown on the lands of the Catholic parishioners, which share is not a tenth, but a twenty-sixth bushel.

SCHOOL DISTRICTS.

According to the system of elementary schools, each county has been divided into districts, generally, if not always, smaller than a parish or township. The number of school districts has varied under different Acts of the legislature.

PRINCIPAL OFFICERS OF THE DIFFERENT DEPARTMENTS OF GOVERNMENT IN LOWER CANADA.*

Assistant Civil Secretary.
Provincial Secretary and Registrar.
Receiver-general.
Inspector-general of Accounts.
Clerk of the Special Council.
Inspector-general of the Queen's Domain.
Surveyor-general.
Adjutant-general of Militia.
Commissioners of Crown Lands.
Agent for Emigrants at Quebec.

Administration of Justice:

Chief Justice of the Province.
Chief Justice of Montreal.
Three Judges of the Court of King's Bench at Quebec.
Three Judges of the said Court at Montreal.
Provincial Resident Judge at Three Rivers.
Provincial Judge of the District of Gaspé.
Provincial Judge of the District of St. Francis.

Judge

* Every officer of any note in the province is appointed by the Crown, and all hold their appointments during its pleasure.

Judge of the Court of Vice-Admiralty at Quebec.
 Attorney-general.
 Solicitor-general.
 Advocate-general.

Sheriffs:

District of Quebec.
 " Montreal.
 " Three Rivers.
 " Gaspé.
 " St. Francis.

Coroners:

District of Quebec.
 " Montreal.
 " Three Rivers.
 " Gaspé.
 " St. Francis.

Clerks of the Crown:

District of Quebec.
 " Montreal.
 " Three Rivers.

*Clerk of the Court of Appeals:**Prothonotaries of the Court of King's Bench:*

District of Quebec.
 " Montreal.
 " Three Rivers.
 " Gaspé.
 " St. Francis.

Clerks of the Peace:

District of Quebec.
 " Montreal.
 " Three Rivers.
 " Gaspé.
 " St. Francis.

Inspectors of Police:

District of Quebec.
 " Montreal.

CUSTOMS.

Collectors:

District of Quebec.
 " Montreal.
 " St. John's.
 " Coteau du Lac.
 " Stanstead.
 " Beauce.

HIGHWAYS and BRIDGES.

Grand Voyers:

District of Quebec.
 " Montreal.
 " Three Rivers.
 " Gaspé.

SUBORDINATE JUDICATORIES.

CIRCUIT COURTS.

A GRAND desideratum in Lower Canada is a supreme court of original jurisdiction for the whole province; there being at present four co-ordinate courts, each of them supreme in its own particular district. Hence inconvenience, delay, expense, uncertainty and confusion.

The existing system has doubtless been framed, and from time to time extended, with the laudable view of bringing justice as near as possible to every man's door; but it has, unfortunately, had a different effect. To work well, one supreme court must necessarily

be accompanied by a thorough organization of circuits; whereas the multiplication of supreme courts not only diminished the necessity for such organization, but was intended to supply its place.

These observations are necessary before entering upon any notice of the present system of circuits, which extends to the rural districts the jurisdiction merely of the "inferior terms" of the supreme courts—a jurisdiction little more extensive than that of the commissioners for the trial of small causes—being confined to suits not exceeding the amount of 10*l.* sterling. In the townships not comprised within the district of St. Francis, it is a just ground for complaint, that the circuit stations have not been multiplied since the enactment of 34 Geo. 3, c. 6, to meet the wants of a rapidly-peopling country.

SMALL CAUSE COURTS.

By 6 Will. 4, c. 17, any parish, seigniory, township or extra-parochial place, on petition of not less than 100 freeholders (200 in the cities of Quebec and Montreal) may call on the Governor "to appoint as commissioners such and so many fit and proper persons as he shall think fit," "to hear and determine in a summary way, according to the facts as proved, and to law to the best of their knowledge and judgment, all suits and actions purely personal (with the exceptions hereinafter made) to the amount of 6*l.* 5*s.* currency."

The small cause courts are held weekly in the cities, and, in the rural districts, on the first and third Saturday of every month, with power of adjournment. The commissioners act gratuitously, assisted by a clerk, who is paid by fees.

There are various opinions as to the working of this Act, which has been but a short time in operation; the first commission under it having only issued May 20, 1838. In Quebec, there are ten commissioners of English extraction and three of French; many of the latter having declined to accept the appointment when offered to them by Sir John Colborne. One of the most active (Mr. T. L. McPherson, notary) estimates the costs of suit at from 5*s.* to 7*s.* 6*d.* He thinks the court might advantageously determine personal causes to the amount of 10*l.* sterling. Mr. Rodier, a commissioner of the Montreal Small Cause Court, states that the weight of the business presses very heavily on the time of the commissioners, who ought, he conceives, to be paid for their services.

In Quebec and Montreal, the court appears to give satisfaction; but there is reason to apprehend that there will be a falling off in the attendance of commissioners, unless they are paid.* Mr. Knoulton, of Brome Township, thinks the commissioners should be allowed reasonable fees for their trouble. The court, he says, works decidedly ill in his district; men being appointed to act as commissioners who are destitute of public regard. The small cause courts will, of course, greatly increase petty and vexatious litigation, and as the commissioners must reside within the limits of their jurisdiction, it is probable that there will be not a few cases of interested oppression. Such courts, if established in and for larger districts, as counties for example, might be placed on a less questionable footing. Local residence would not be so objectionable, and there being a wider circle for the selection of commissioners, it is to be presumed that a better class of persons would be chosen.

Magistrates.—The magistrates are unpaid, and are appointed by the Crown. By a law of the provincial legislature, which will exist until the 1st May 1840, it was provided that every justice of the peace should possess immovable property, worth, after the discharge of all liabilities, at least 300*l.* currency. The practical result of this law was to lead to the withdrawal of some of the most valuable magistrates. The law calling for a qualification in land was also extended to the militia, which caused the dismissal or disqualification of many useful and intelligent officers.

By various provincial Acts the powers of justices are defined and regulated. Sometimes they may act singly, sometimes two together, sometimes three, sometimes in special sessions in any part of the province, and sometimes in quarter sessions in the various judicial "districts."

One of their most important duties in quarter sessions is, to decide on the legality or illegality of the grand-voyer's *procès verbaux*—a duty which, as it bears on legal forms rather than on questions of fact, cannot be prudently left to unprofessional men. Hence, among other reasons, an almost universal feeling in favour of having paid professional chairmen of quarter sessions.

To make a judicious choice of magistrates in the rural districts, or even in the cities, must always have been one of the most difficult duties of the provincial executive; and the difficulty has been much increased by the act of qualification, which exemplifies the danger of following too closely the analogies of England. In the corporate towns of England no pecuniary qualification is now required, and in the counties the qualification is so generally diffused as not materially to fetter the judicious exercise of the regal prerogative; and there, moreover, the landed qualification is what it cannot generally be in Canada, a pretty fair index of intelligence and respectability. Here, the qualification was the more uncalled for, as nothing of the kind had been required for the admission of a member of the legislature, whether of the House of Assembly or of the Legislative Council. It was farther objectionable,

* In Lower Canada, especially among the inhabitants of French extraction, there is a general indisposition to serve the public without pecuniary remuneration. This reluctance is not of recent growth. "At present," remarks Sir James Marriott, the accomplished and sagacious Advocate-general, in his 'Plan of a Code of Laws for the Province of Quebec'—"at present, the Canadians, as it is stated upon good authority, complain of the attendance upon juries in civil suits as a heavy burthen and interruption of their occupations; though they like well enough to be tried by juries, they do not like to be the triers without some compensation."

objectionable, as open to the charge of being a party measure, inasmuch as it had a tendency to affect more extensively that race which, being newer to the country, and very generally devoted to commercial pursuits, possessed rather personal than real property. Besides, a qualification in land is nominal and delusive in Lower Canada, because from the want of a registry of real estate, even the apparent proprietor, acting in good faith, may be utterly ignorant of the incumbrances on his possessions; and because through the operations of the law of marriage, an insolvent husband may feel himself justified in taking the requisite oath. The system of unpaid magistracy, as incidental to the criminal law of England, was naturally introduced into the province with that law; and the utter unfitness of the people for such an institution is a striking instance of the imprudence of unadvisedly engrafting the code of one country on that of another. There was not in 1763, nor is there now, a sufficient number of men capable from education, intelligence and disinterestedness of deciding singly between contending parties; and the magisterial system ought to be so far modified as to require two or three justices of the peace for every district of any importance. In other words, there ought to be local courts, sitting *at least* once a month in sections of country larger than parishes and townships, and smaller than "districts," technically so called. The greatest care ought also to be taken to guard against the admission of uneducated, indolent, factious or otherwise improper persons into the magistracy, and the duties hitherto incidental to the office might be advantageously lightened by the establishment of more effective institutions.

COURTS OF QUARTER SESSIONS.

By the 2d Will. 4, c. 66, and 4th Will. 4, c. 8, both of which Acts will expire on the 1st of May 1840, county courts of quarter sessions, having a civil as well as a criminal jurisdiction, may be held whenever, under the provisions of the said Acts, court-houses and gaols have previously been erected; half the expense of erecting such edifices being paid by the counties, and the remainder by the province. Such buildings have, however, been erected only in two counties, L'Acadie and St. Hyacinthe, and even in these, with a solitary exception in St. Hyacinthe, courts of quarter sessions have never been held. With respect to the civil jurisdiction of these courts, the law seems to have been hastily framed. It was designed to extend to all claims, whether real or personal, not exceeding 10 *l.* sterling; without making any provision for evocation or appeal, even in cases that might be evoked from the "inferior term" of the Court of King's Bench to the superior,—thence carried to the Court of Appeal, and thence to the Privy Council.

Courts of monthly, or even weekly sessions might be very useful, if controlled and guided by an impartial chairman of professional education—a mixed system which has worked well in Nova Scotia. These courts might furnish, either on the bench or in their grand juries, valuable instruments for county objects of a municipal character, such as the management of the poor, police, &c. One palpable advantage they would afford to the rural population, viz. the means of appealing against a *procès verbal* of the grand-voyer, without incurring the expense and trouble of forwarding it to the chief town of the district.

There were, until 1830, paid professional chairmen of quarter sessions for Quebec, Montreal, Three Rivers and Gaspé, but some of the parties filling the office having fallen under the displeasure of the House of Assembly, they were all obliged to retire in consequence of the House refusing to vote their salaries. The discontinuance of these officers has been a subject of much complaint, and has proved exceedingly prejudicial to the due administration of justice.

PUBLIC BUILDINGS.

THERE are no public buildings of a municipal character in the province other than court-houses and gaols, with the exception of such as will be mentioned under the head of "The Poor."

In the court-houses of Quebec and Montreal are held the sittings of the Court of King's Bench, and of the Courts of Vice-Admiralty and Quarter Sessions.

COURT-HOUSES and GAOLS—(Districts.)

These have been built partly at the expense of the province by public grants, and partly at the expense of suitors by fees on suits. There are two of these buildings in Gaspé.

COURT-HOUSES and GAOLS—(Counties.)

By 2 Will. 4, c. 66, amended by 4 Will. 4, c. 8, every county was authorized (voting by parishes or townships) to erect a court-house and gaol; half the cost to be advanced by the government if it did not exceed 600 *l.* currency, and the remainder to be assessed on the real property of the county, according to a rule which must be pronounced vague and iniquitous. The edifices were to be repaired, and establishments maintained by fees on suits. Of this Act only the counties of L'Acadie and St. Hyacinthe practically availed themselves, although it held out the advantage of a county court of civil and criminal jurisdiction as the recompense for the erection of a court-house and gaol.

HOUSES OF CORRECTION.

These did exist under temporary laws, and, as might be expected, were purely temporary themselves; they exist no longer.

COURT-HOUSES—(Circuits.)

There are none; public school-houses are convertible into judicial edifices for the occasion.

POLICE.

Police may be either preventive or executive.

At the date of the arrival of the Earl of Durham as Governor-general, there was not, in any part of the province, a body of preventive police, the night-watch of Quebec and Montreal (the only force of the kind that had ever existed) having been broken up in May 1836, in consequence of the expiring of the statute in that case made and provided. By the Provincial Ordinance, 2 Vict. c. 2, an efficient system of preventive police was established in the cities of Quebec and Montreal, the authority of which has since been extended by proclamation, issued under the said ordinance, to the respectively adjacent parishes.

The executive police of the province are the captains, subalterns and serjeants of militia, the militia itself being but a nominal force, which includes every male inhabitant between 16 and 60 years of age. By the Permanent Ordinance, 27 Geo. 3, c. 6, militia-men are declared to be, *ex officio*, peace-officers within their respective "parishes;" and, by the statute 6 Will. 4, c. 37, they are declared to be so within their respective "districts." But constables, properly so called, may be appointed by the justices of the peace, acting either singly or collectively; and by 6 Will. 4, c. 19, s. 6, bailiffs of any Court of King's Bench are authorized to act as constables within the district of such court. The whole militia, too, of the province may be considered as a preventive police, inasmuch as the Provincial Ordinance, 1 Vict. c. 22, s. 13, enacts that "all or any of the militia in any parish, township, extra-parochial place or county, may be ordered out by the civil authority in execution of the laws."

VILLAGE POLICE.

For the removal of nuisances and the prevention of accidents by fire in towns and villages, it was enacted by 4 Geo. 4, c. 2, that wherever there were 30 inhabited houses on 15 *arpents** of land, or less, or on a greater extent of ground a greater number of houses, not more than half an *arpent* apart, the freeholders should meet and choose from their number five trustees, who, on application of three freeholders, should appoint an inspector of the borough or village, to cause the regulations of the Act to be executed, and to enforce penalties. This Act was in force until May 1836, when it expired. It was revived, with amendments, by 6 Will. 4, c. 46, and will expire again in May 1840. According to the terms of this Act, nearly the whole of the Franco-Canadian settlements would be legally classified as villages, so dense is the population.

It may in general be remarked that the criminal law of England, which was introduced by the Royal Proclamation of 1763, and confirmed by the Quebec Act of 1774, necessarily brought with it all its system of executive police; which is, either actually or potentially, still in force, unless so far as it may have been modified by provincial enactments.

The imposition of constabulary duties on the militia is both burdensome and unsafe. Offenders are passed from captain to captain, by whom the serjeants are ordered to take charge of them; and they being indifferent to the due execution of an irksome duty, escapes are frequent, whenever the party in custody has reason to dread the result of his detention. If the *habitans* have any political sympathy with the prisoner, his escape is certain. There are no prisons nor places of temporary confinement in the rural districts; so that a prisoner may be passed along from militia-man to militia-man, for 200 miles, before he can be lodged in a place of safe keeping. The system offers no security whatever for the protection of the public peace or the rights of property. The following complaint of the want of a proper police was addressed to the Assistant Commissioners of Municipal Inquiry by three respectable inhabitants of the township of Hull, in the county of Ottawa, one of them—we believe two—being in the magistracy, Messrs. Wright, Taylor and Brigham.

"You are, no doubt, aware that our situation is immediately on the Chaudière Falls, where pass yearly above 160,000 pieces of timber for the Quebec market. In consequence of the obstruction of the navigation, the whole of the people employed in this branch of business are, from time to time, collected in this vicinity. Frequent breaches of the peace occur, offenders pass with impunity, and because we are unable to put the law in force, many profligate characters commit crimes and persist in their wicked courses, knowing that it is impossible for us to get them to Montreal. Thus a very heavy tax is levied upon the magistracy in attending to complaints. No good results therefrom; in fact, the magistrates have nearly given up the idea of trying to send culprits to Montreal, as all that are sent, as by law authorized (through the militia), have made their escape, and returned worse characters and more difficult to restrain than before.

"You will perceive, from the above facts, that something more efficient is requisite for this place than any other perhaps in the province, with the exception of the cities of Quebec,

* An *arpent*, or French acre, is about four-fifths of an English acre.

Quebec, Montreal and the town of Three Rivers. It is true that provision was made by our late legislature for the erection of court-houses and gaols in the several counties of the province; but the jarring interests called into play by the provisions of the Act have rendered it useless in this county, and, we believe, in almost every other in the province.

"The laws regulating our roads are also very defective; those who make the most use of them not being obliged to do any thing towards their repair. Something should be done to compel merchants and residents, who do not own lands, to do their share of labour in supporting the roads."

Through the incompetency of the existing legislature to impose even local rates for local purposes, the heavy expense of maintaining the necessary police force of Quebec and Montreal, instead of falling, as it ought to fall, upon the localities that benefit thereby, is thrown on the general funds of the province. It cannot be too deeply regretted that, during the discussions of the passing of the "Imperial Act," 1 Vict. c. 9, the friends of Lower Canada did not, in general terms, demand the full benefit of the analogy of the Quebec Act, by which the Governor and Council, though restricted as to the power of general taxation, had full authority to impose local rates for local purposes.

The absence of this essential power must have crippled every attempt to introduce early and extensive plans of improvement, whether legal, municipal or educational. The following are the enactments respecting matters of rural police.

RURAL POLICE:—ORDINANCES and STATUTES.

Volume.	Page.	Year.	Reign.	Chapter.	REMARKS.
Ord.	185	30	Geo. 3	4	-- <i>Abandon des animaux.</i> Extended by 4 Geo. 4, c. 33, s. 27, and virtually repealed by 6 Will. 4 c. 56, till 1st May 1845.
14	356	6	Will. 4	55	Preserves grass on beaches below city of Quebec.
14	362	6	"	56	-- Remedies abuses prejudicial to agriculture; consolidating and repealing all former Acts till 1st May 1845.
4	292	47	Geo. 3	14	-- Provides for appointment of inspectors and constables in towns and villages till 1st Jan. 1811, &c.
10	512	4	Geo. 4	2	-- Provides for police of William Henry, and other villages, repealing all former Acts till 1st May 1826.
14	322	6	Will. 4	46	-- Revises and amends the foregoing Act till 1st May 1840.
11	368	7	Geo. 4	3	-- Provides for maintenance of good order in churches, &c., repealing all former Acts till 1st May 1830: Continued by 10 & 11 Geo. 4, c. 21, till 1 May 1834. " 4 Will. 4, c. 9, " 1836. " 6 Will. 4, c. 32, " 1840.
9	74	57	Geo. 3	14	-- Facilities; administration of petty justice in rural parishes, till 1st May 1819: Continued by 59 Geo. 3, c. 20, till 1 May 1821. " 1 Geo. 4, c. 3, " 1823. " 3 Geo. 4, c. 2, " 1825. " 5 Geo. 4, c. 24, " 1827.
10	368	3	Geo. 4	21	Provides for establishment of fairs till 1st May 1826.
12	748	10 & 11	"	42	Establishes market in village of St. Hyacinthe.
13	8	1	Will. 4	51	-- Provides for ascertaining boundaries of parishes, "for civil purposes."
13	764	2	"	66	-- Authorizes the erection of court-houses and gaols in the counties till 1st May 1840.
13	64	4	"	8	Amends the foregoing Act.
14	288	6	"	37	-- Provides for safe conveyance of criminal prisoners from country parts to common gaol.

SCHOOLS.

By the 41 Geo. 3, c. 17, which is still in force, "a majority of the inhabitants" of any parish or township, by petitioning the Governor for the establishment of one or more schools of royal foundation, may subject the whole parish or township to the expense of erecting suitable school-houses for the instruction of pupils and the accommodation of teachers. By subsequent statutes grants of money were made in favour of school districts; and by the more recent Acts of the Provincial Legislature, all of which, however, have expired, such heads of families as were qualified to vote for members of Assembly were authorized to elect school trustees for each school district.

In the session of 1835-6, the House of Assembly sent up a Bill to the Legislative Council, where it was rejected, which proposed to give to the majority of the inhabitants of any parish, township or extra-parochial place, assembled for the purpose, the power of taxation to a certain extent for the support of schools; but it went no farther than barely to give the power, neither offering inducement, nor imposing obligation, with a view to ensure its exercise.

Very few, if any, parishes or townships availed themselves of the provisions of the 41 Geo. 3, c. 17, for assessing themselves for the support of schools—one out of many proofs, that optional taxation is not suitable to the people of Lower Canada.

Under the school laws the actual practice has, in all instances, fallen short in point of regularity and efficacy of the requirements of the statutes. Of the various enactments contained in those laws, hardly any are accompanied by provisions calculated to produce their punctual fulfilment and practical operation. As might have been anticipated, they have been neglected or evaded in all those particulars that involved any sacrifice of immediate interest or convenience on the part of the inert and unreflecting mass for whose benefit they were devised.

POOR.

THE Poor of Lower Canada, so far as they have been the objects of legislative provision, may be divided into two classes.

First Class.—The first class consists of such individual objects of charity as are to be found in every country—the insane, the sick, the infirm, the friendless, and the destitute.

Second Class.—The second class consists of such multitudes of persons in particular localities as require aid to avert the consequences, whether present or prospective, of an alleged failure of the crops.

The first class has been practically subdivided into residents and strangers.

I. RESIDENTS.

Charitable institutions in Lower Canada were early founded by religious communities of the Roman Catholic faith; but we find that previous to the foundation of the General Hospital of Quebec (which is at present, as heretofore, under the charge of nuns governed by a superior), an office for the relief of the poor, "*Bureau des Pauvres*," had been established at Quebec. The expenditure of this office was controlled by trustees, and every colonist and community was bound to contribute annually to the funds. In the country parishes the maintenance of the poor was provided for in a similar manner.

So far as the statute-book affords information on the subject, it appears that steps towards the support of the poor were first taken by British authority at the commencement of the present century. In the preamble of 41 Geo. 3, c. 6, is recited the substance of a suggestion contained in the Lieutenant-governor's speech, "for securing and supporting such indigent persons as from a temporary or lasting derangement of intellect are incapable of earning their subsistence, and regarding the means to be employed to prevent the inhuman practice of exposing and deserting new-born infants." On this suggestion the legislature, "until further and more effectual provision could be made," authorized the Governor to apply 1,000*l.* currency a year, for the next three years, for the purposes aforesaid, and for the aid and support of such religious communities as receive and administer relief to sick and infirm persons and foundlings. By a series of temporary statutes the annual grant was gradually raised in the course of eighteen years from 1,000*l.* currency to 3,500*l.* currency, the latter grants having been divided by the legislature in certain unequal proportions between the districts of Quebec, Montreal and Three Rivers. In the Act which raised the grant to 3,500*l.* currency, namely, 58 Geo. 3, c. 13, appears the first symptom of "further and more effectual provision," as promised by the legislature in 1801. This Act authorized the Governor to apply 2,500*l.* currency for the purpose of building and repairing certain wards or apartments in one of the wings of the General Hospital, near the city of Quebec, "for the reception and relief of insane persons," and 2,000*l.* currency for building additional wards and apartments for the aforesaid purposes adjacent to those already in use, at or near the General Hospital in the city of Montreal.

The last Act passed on the same narrow basis was 3 Geo. 4, c. 25, granting 5,585*l.* 17*s.* 10*d.* currency for the year 1823; and even in the same sessions other grants were made on a somewhat more liberal basis. The very next Act, namely, 3 Geo. 4, c. 26, granted 850*l.* currency to the Montreal General Hospital, and 2,139*l.* 6*s.* 9*d.* currency to the Hotel Dieu of Quebec, as an aid "to complete the wards, buildings and dependencies by them recently erected in the city of Quebec, on the ground of the poor of the said Hotel Dieu, with funds arising from savings on the income of the poor aforesaid, and with funds heretofore appropriated for that purpose by the legislature;" and the third Act thereafter, namely, 3 Geo. 4, c. 29, granted 250*l.* currency a year, for two years, to the House of Industry of the city of Montreal.

By the Ordinance 1 Vict. c. 17, of the present year (1838), the following grants were made to charitable institutions to defray the charges of the year commencing in October 1836, and ending in October 1837, viz. 658*l.* 6*s.* 8*d.* currency, towards the expense of supporting the insane persons in the cells of the General Hospital at Quebec; 511*l.* currency towards the expense of maintaining sick and infirm boarders in said hospital, and 100*l.* currency towards their clothing; 580*l.* currency towards the expense of maintaining the foundlings in the hospital of the Hotel Dieu at Quebec, and 15*l.* currency towards their clothing; 200*l.* currency for support of indigent sick in the said hospital; 600*l.* currency towards the support of the foundlings in the General Hospital of the Grey Nuns at Montreal; 220*l.* currency towards the support of insane persons in the cells of said hospital; 850*l.* currency towards defraying the current expenses of the corporation of the General Hospital at Montreal; 400*l.* currency towards the maintenance of the indigent sick in the convent of Ursuline Nuns at Three Rivers, and of supporting the insane persons and foundlings

foundlings under the charge of the Commissioners of the said district; 100 *l.* currency as an aid to the lady managers of the Orphan Asylum at Quebec; 75 *l.* currency to the lady managers of the Asylum at St. Roch's suburbs, Quebec; 100 *l.* currency to the Ladies' Charitable Society (for orphans) at Montreal; 100 *l.* currency to the Ladies' Benevolent Society (for widows and orphans) at Montreal; and 100 *l.* currency for the Orphans' Asylum at Montreal.

The Montreal House of Industry was established by 58 Geo. 3, c. 15, with very inadequate funds, and agreeably to the last will and testament of one John Conrad Marsteller. With the exception of the aforesaid grant of 500 *l.*, it has not received any further aid from the legislature, or any accession to its funds from other sources. For the last two winters an institution, styling itself "House of Industry," has been maintained in Montreal, chiefly (if not altogether) by voluntary subscriptions, and these almost entirely from the British inhabitants. The constitution of the Montreal House of Industry has been slightly amended by 2 Geo. 4, c. 6; 7 Geo. 4, c. 4, and 9 Geo. 4, c. 43.

By the Act 45 Geo. 3, c. 12, for establishing the Corporation of the Trinity House of Quebec, provision was made for creating a fund for "decayed pilots and their widows and children."

II. STRANGERS.

Strangers having a claim on charitable support have been practically ranked in two classes—Emigrants and Mariners.

Emigrants.—The statute 3 Geo. 4, c. 7, authorized the Governor to advance, for the year 1823, 750 *l.* currency, for the relief of indigent sick emigrants, to be dispensed by justices of the peace residing in Quebec; the preamble of the Act holding this promise—"until permanent establishments for the relief of the indigent sick of all denominations can be made, in addition to those which already exist." Under this Act, the justices of the peace aforesaid established an "Emigrant Hospital."

The sum of 600 *l.* currency was granted by 4 Geo. 4, c. 32, authorizing the admission into the hospital of "indigent sick" of whatsoever denomination, labouring under contagious diseases," as well as of "indigent sick emigrants from the United Kingdom." Farther grants were made; viz., for 1825, 700 *l.* currency; for 1826, 950 *l.* currency, including a sum not exceeding 100 *l.* currency for a plan or plans of an hospital for the medical treatment of sick seamen and others coming from sea—a partial redemption and a partial evasion of the promise conveyed in the first Act on the subject.

For several years similar grants were made of somewhat greater amount (1,000 *l.* and upwards), and, in addition to the Emigrant Hospital at Quebec, a temporary fever hospital was erected at Point Levi, on the south bank of the St. Lawrence, opposite to Quebec, under 10 & 11 Geo. 4, c. 18, "for the reception and medical treatment of such persons arriving in this province from seaward as shall be found labouring under typhus fever, yellow fever, scarlet fever, plague, small-pox or measles, and of paupers infected with any of the said diseases;" the said Act granting 750 *l.* currency for 1830 for the purposes recited. For the said establishment, a further grant of 750 *l.* currency for 1832 was made by 2 Will. 4, c. 15.

A fund was created by 2 Will. 4, c. 17, for "defraying the expense of providing medical assistance for sick emigrants, and for enabling indigent persons of that description to proceed to the place of their destination," by laying a poll-tax on emigrants from the United Kingdom, to be paid by the shipmasters, and to be equally divided between the Emigrant Hospital at Quebec, the Montreal General Hospital, the Emigrant Society of Quebec, and the Emigrant Society of Montreal. The tax amounted to 5 *s.* currency for each emigrant coming out under the sanction of Government, and 10 *s.* currency for every other; the Act to be in force until the 1st of May 1834. In the same session (c. 60) an aid of 100 *l.* currency was granted to the Emigrant Hospital, in addition to a previous aid (c. 15) of 1,500 *l.* currency by 6 Will. 4, c. 13; the Act of 2 Will. 4, c. 17, was continued to the 1st of May 1838, and by 1 Vict. c. 3, to May 1839.

Mariners.—By 10 & 11 Geo. 4, c. 23, was granted a sum of 11,541 *l.* 8 *s.* 6 *d.* currency, to be advanced in three equal instalments, to build "an hospital for the reception of sick seamen and other indigent persons;" and by 3 Will. 4, c. 13, there was a farther grant for completing the building of 2,530 *l.* currency, and an additional grant of 2,000 *l.* currency for erecting wharves, "in order to ensure the safety and preservation of said building."

The 6 Will. 4, c. 35, imposed a duty of a penny currency a ton on "every vessel from any port out of the limits of this province," the portion received in Quebec to be given to the Marine Hospital, and the portion received in Montreal to be given to the General Hospital of that city; the Act to be in force until 1st May 1840.

Various Acts have been passed to establish depôts of provisions for the relief of shipwrecked mariners; the last (6 Will. 4, c. 39) established a depôt near Cape Chat, another at Magdalene River, and four depôts at Anticosti, limiting the appropriations "to the present year only."

The second class of persons who have become the object of legislative provision consists, as has been stated, of such multitudes of persons in particular localities as require aid to avert the consequences, whether present or prospective, of the alleged failure of the crops.

For the relief of this class various measures have been adopted by the legislature; the first object being to enable the distressed applicants to procure seed-grain and seed-potatoes; the second to facilitate the supply of immediate wants.

The legislature attempted to accomplish the first object, sometimes by granting a privilege to the sellers of seed-grain and seed potatoes, and sometimes by advancing loans from the provincial chest, to be repaid in money or in labour.

The former mode was legalized by 45 Geo. 3, c. 5; 51 Geo. 3, c. 6; 57 Geo. 3, c. 1; 3 Will. 4, c. 2; 4 Will. 4, c. 3 & 4.

The advancing of loans from the provincial chest was carried into effect by various Acts. The most remarkable of these is 57 Geo. 3, c. 12, authorizing the advance of 20,000 *l.* on good security; one-half of this sum might, however, according to the Act, be expended as a premium for the sale of seed-corn and seed-potatoes, at a rate varying from 2 *s.* to 6 *d.* per minot, a Canadian measure one-eighth larger than the Winchester bushel.

The excellence of the security, and the vigilance of the authorities in regard to the loans, may be estimated from the fact, that, of all the expenditure under the Act, only one loan of 8 *l.* or 10 *l.* has been repaid, and that not by the personal debtor, but by a cautious purchaser of the debtor's land, who cleared it of the mortgage for his own protection.

With respect to the supply of seed-corn and seed-potatoes, it is worthy of notice, as showing the utter absence of principle or system, that the time limited for the sale of these essentials of husbandry was 25th June, in 57 Geo. 3, c. 1; and in 57 Geo. 3, c. 12, 10th May for wheat, and 20th May for any other kind of grain, or potatoes.

The second object contemplated by the legislature, viz. facilitating the supply of immediate wants, had been indirectly promoted by two ordinances passed by the old Legislative Council, 20 Geo. 3, c. 1, and 30 Geo. 3, c. 9, respectively intitled, "To prohibit, for a limited time, the Exportation of Wheat, Peas, Oats, Biscuit, Flour or Meal of any kind, also of Horned Cattle, and thereby to reduce the present high Price of Wheat and Flour;" and, "To prevent, for a limited time, the Exportation of Biscuit, Flour or Meal of any kind; also of Wheat, Peas, Barley, Rye and Oats."

The legislature, under the Constitutional Act, has granted relief, occasionally, in the form of a loan, and occasionally as a free gift. The most important Act on the subject was 57 Geo. 3, c. 2, authorizing an advance of 15,000 *l.* currency, to be repaid by the parties relieved, but without exacting security for its repayment. So far as can be ascertained, no portion of this money has ever been refunded.

By the 9 Geo. 4, c. 50, a loan of 200 *l.* currency, for the relief of the parish of St. Louis, Lotbinière, was advanced on the credit of the *Fabrique*, and, failing that, on the credit of certain individuals on behalf of the *Fabrique*.

The 4 Will. 4, c. 1, granted a free gift of about 3,000 *l.* currency, to be divided between certain specified parishes, in sums varying from 37 *l.* 10 *s.* to 588 *l.* 10 *s.*

Within the last two years, several thousand pounds have been apportioned among distressed parishes bordering on the St. Lawrence, for the purpose of providing seed-corn and seed-potatoes, or sustaining the necessities of the inhabitants until harvest should bring them the means of subsistence. Of these advances, 2,000 *l.* have been given to the single parish of Les Eboulemens. No part of the advances has been repaid, nor is it at all probable that any portion ever will be.

The first step towards the correction of this vicious plan of relief was taken during the administration of the Earl of Durham. Applications for aid having been addressed to the Government, his Excellency caused an inquiry to be instituted into the condition of the distressed parishes on the St. Lawrence, with a view to the adoption of such measures as, by striking at the root of the evil, might save the rural population from sinking into a state of helpless and reckless pauperism. A report was made accordingly.

It may be remarked, in relation to the different modes of providing for the necessities and afflictions of the poor of Lower Canada, that some of the arrangements are both objectionable in principle and defective in practice. For instance, it appears that "insane persons," as well as sick and foundlings, are placed in charge of "religious communities" of females. Without intending the slightest disrespect to the members of these communities, whom we believe to be actuated by the best motives, we must say, that considerations of decorum, and regard for the proper treatment of the patients, alike forbid their being placed under the superintendence of women. It is discreditable to the province, and more especially to its constitutional legislature, that such an absurd, inefficient and indecent system should have been permitted to continue. Lunatic asylums, conducted on the humane and enlightened principles which generally preside over these institutions in the cities of Europe, are generally wanted in Lower Canada. For most insane persons, there is, at present, no other receptacle than the common gaol. Is it not, moreover, objectionable, that nearly all relief (part being through commissioners appointed by the Governor) should be dispensed to a mixed population through Catholic establishments?

In the supplying of seed-corn to distressed farmers, no pains whatever were taken, or enjoined to be taken, to ascertain that the seed was *bonâ fide* purchased or used; thus a wide door seems to have been opened for collusion between any *habitant* and a favoured creditor, and to the misapplication of such seed as was really bought. So far from guarding against abuses of this kind, the legislature appears to have encouraged them, for the quantity (40 minots of wheat, 30 of other grain and 20 of potatoes) was fixed and constant, without reference to the extent of the purchaser's farm, and the sale might take place under the

the earlier Acts as late as the 1st July and 25th June; though, in the latest Acts, the period for the sale of wheat extended only to 18th May, and for other grain and potatoes to 18th June. The obvious tendency of the extension of time in the older statutes was to produce fraud or failure of crops. To obstinate perseverance in the growing of wheat, which is neither suited to the soil nor to the severe seasons in certain districts, much of the distress periodically existing among the rural population is attributable. Yet the legislature, in providing supplies of seed-grain, neglected an excellent opportunity of checking a confessedly unprofitable mode of cultivation, by not withholding the privilege in the case of seed-wheat, a privilege which did no more to promote private than public good, inasmuch as the privilege of the seller, at spring prices, would swallow up most of the crop at autumnal prices.

There is reason to fear that much mismanagement prevailed in many of the local committees appointed generally for purposes of local relief, involving a waste which, without injustice and oppression, could never be recovered by the government from the nominal receivers of the loans.

With respect to all such grants it may be broadly asserted, that, even if more judiciously and impartially regulated, they must inevitably retard the progress of agriculture, and lower the independence of the people. And in a new country, where there is a redundancy of uncultivated land, they form but a puny and fallacious palliative for the evils periodically induced by an ignorant application of agricultural labour. The distressed localities lie chiefly in the district of Quebec, where the frost sets in earlier than in the districts farther up the St. Lawrence, and where the soil, unrecruited by fallowing or manure, is unable to bear the exhaustion of continual crops of wheat. Now it clearly was the duty of the legislature to have taken advantage of every occasion that presented itself to discourage the growing (or rather the sowing) of wheat, and to promote the cultivation of the hardier crops and the prosecution of the fisheries. The operation of the feudal laws upon agriculture ought likewise to have been considered. The law of mills and the law of *cens et rentes*, for example, tend to encourage the exclusive cultivation of wheat; on the other hand, the law of tithes and the negative law of duty-free distilleries, lead to a more varied agriculture, the former offering a premium on green crops, and the latter on the inferior and hardier kinds of grain.

VAGRANT POOR.

COMPLAINTS have been made by persons residing in the townships bordering on the seigniories, of the burden upon the inhabitants caused by the influx of Franco-Canadian poor. They state that township poor are never found levying contributions on the charitable in the seigniories. In the District of Quebec, the parishes on the south bank of the St. Lawrence make a similar complaint, of the influx of the poor from the parishes on the north side of the river. Parochial and township administration of the poor is evidently wanted, though upon very different principles from those which prevail in countries where the land is overstocked with population.

ROADS AND BRIDGES.

ROAD OFFICERS.

THE road officers of the province are the grand-voyer and his deputy in each district (excepting the district of St. Francis, which is, in fact, subject, partly to the grand-voyer of Three Rivers, and partly to the grand-voyer of Montreal); a surveyor of roads in each parish or township, and an overseer of highways in each subdivision of every parish and township, the subdivisions never exceeding nine. The grand-voyer, whose office originated during the French colonial rule, is appointed by the Governor during pleasure. The deputy grand-voyer and surveyor of roads are nominated by the grand-voyer; and the overseers of highways are elected by the people. The grand-voyer is paid by salary and fees, and pays his deputy according to private arrangement; the surveyors and overseers are gratuitous servants of the public. In the two most important districts, Quebec and Montreal, the yearly salary of the grand-voyer is 150*l.*; out of which he defrays postage, rent, stationery, and all the general expenses incidental to his office.

The duty of the grand-voyer is to open new roads, and to see that the established roads are kept in good repair. His duty, as regards the opening of new roads, he is bound to discharge on the requisition of any one interested person; the requisitionist or requisitionists being liable for the grand-voyer's claim for fees and travelling expenses. Whether he grant or reject the prayer of the requisition, that officer may be presumed to be altogether disinterested in his decision, a presumption which is requisite to justify the judicial despotism of his office. As to the extent of the grand-voyer's judicial power, a degree of doubt, it is true, has existed; some maintaining that an appeal to the quarter sessions may open the merits of the case, and others contending that the court can take

cognizance merely of the form and technical accuracy of the *procès verbal*. The highest legal authority has decided in favour of the latter construction of the Act under which the grand-voyer exercises his authority.

In order to discharge the duty of seeing that the established roads are kept in good repair, the grand-voyer, after public notice being duly given, is bound to make "annual circuit through the highways leading from point to point within his district," and "to examine and inquire whether the surveyors and overseers duly execute their several offices, and in default thereof to prosecute them, or either of them, for neglect."

This yearly tour of inspection is made in a very superficial and imperfect manner. According to the evidence of Mr. Panet, grand-voyer for the district of Montreal, there are portions of his district which have never been visited by himself or his deputy. Mr. Panet adduced the strong plea of impracticability in defence of this omission, adding, that the whole expense of travelling would fall on a very inadequate salary, subject already to many deductions for official charges. Apart from the latter consideration, it is too much to expect that the grand-voyer, even with the aid of a deputy, can complete an official annual "circuit" of the roads in a district so extensive as Montreal,

The surveyor of roads in a parish or township is the grand-voyer's representative therein, as to the repairing of roads, &c.

The overseers of highways support the same character in their respective sections of parishes or townships; though, as will hereafter be set forth more fully, they have also, in some respects, a collective or *quasi* corporate existence.

HIGHWAYS.

The public highways are of two kinds—front roads and bye-roads.

The front roads are those that run between two ranges of "concessions," or through the front range on the banks of rivers, and thus, generally speaking, they cross the breadth of every farm at right angles to its length. As the seigniorial farms are usually 90 *arpents* in extent, in the proportion of ten breadths to one length, and as the *arpent* is equivalent to 3,600 square yards, every proprietor's share of front road is 180 yards French measure. But, in township farms, which approach to a square form, every settler's share of front road is a good deal larger, in proportion to his quantity of land. Such is the general system of front roads; but there are numerous important exceptions. Hills, bridges, marshes, and all portions of more than average difficulty, which are peculiarly numerous on the undulating surface of the townships, are worked by *joint labour*; the grand-voyer, by his *procès verbal*, designating all those who, on the ground of a common interest, ought to contribute a share. Through all unconceded land, too, and all uncultivated land in possession of the original Crown grantee, the highways are made and repaired by *joint labour* of the parties to whom "the road is useful," that is, by the persons who are obliged to pass over it in going to church, market, &c.

The bye-roads, or as they may be most appositely named, the "cross roads," are altogether made and repaired by *joint labour*.

With respect to the prescribed dimensions of the public highways, every front road is required by law to be 30 feet wide, with a ditch on either side three feet wide; every bye-road, besides having ditches of like extent, is required to be 20 feet wide.

Fence Viewers.—By 6 Will. 4, c. 56, s. 27, which will expire on the 1st of May 1845, the freeholders of each parish or township are empowered to elect inspectors of fences and ditches, in the same manner and to the same number as overseers of highways.

By the 47th section of the same Act, a majority of the persons interested in the clearing or opening of any water-course (*cours d'eau*) may cause the work to be done by *contract*, each person interested contributing his share in money, a power analogous to that which, by the existing law, is reposed in a majority of overseers, with respect to joint labour on bridges, and similar to that which, by an expired law, was vested in the majority of parties interested with respect to joint labour on roads and bridges generally.

In several particulars the fence-viewers are invested with more important functions than overseers of highways, or even surveyors of roads. Every inspector of fences and ditches exercises, like the grand-voyer, judicial as well as administrative powers, being authorized singly, and sometimes in conjunction with one or more, to frame *procès verbaux* with regard to joint labour, subject, however, to the revision of two justices of the peace for the county in which the inspector acts. The inspectors are, in fact, official *experts*, and, as such, are allowed a recompense for the loss of time at the rate of 6*d.* currency per hour—a provision which, as it tends to induce popular vigilance, goes far to remedy the evils incidental to the non-responsibility of these officers to any central power.

ROAD FUNDS.

There is no law to authorize the exaction of any amount of annual revenue for the maintenance of roads, or other works of utility in the rural districts; charges which, in England, are provided for out of the county rates, have been defrayed in Lower Canada

Canada out of the provincial treasury. Large sums, the disbursement of which has been intrusted to unsalaried, but not always uninterested, commissioners, nominated by the Governor generally, on the recommendation of members of the legislature, have been appropriated to the opening of internal communications. Mr. Bouchette, surveyor-general of Lower Canada, in his *Topographical Dictionary* of the province, gives the following account of the sums voted for the formation and repair of roads and canals from 1814 to 1830.

	£.	s.	d.
From 1814 to 1827, both inclusive, 14 years (including 25,000 <i>l.</i> for the Welland Canal, Upper Canada)	-	-	-
For 1828, 1829, 1830	-	-	-
	284,172	-	-
	100,000	-	-
	£. 384,172	-	-

The heavy expenditure on road-making has not produced corresponding results. At the present day there is hardly in the whole province what an Englishman would call a good line of road, while, even in places where from the favourable character of the soil a moderate portion of well-directed labour might afford excellent highways, the roads are (save in summer, when they are simply *bad*) truly and absolutely execrable.

Charges of jobbing, and unfairly directing lines of road through their own property, have been made against the commissioners for applying the provincial grants, and, judging by the general complexion of Canadian management in like matters, probably not without cause. Many of the grants themselves were objectionable on the ground of their being voted for *local* instead of *general* improvements. The direct tendency of such appropriations is to introduce a corrupting influence into the legislature; the majority having it in their power to withhold from the minority grants for improvements in the districts they represent, and thereby depreciate them in the estimation of their rustic constituents. That the majority of the late House of Assembly did stoop to this description of party tactics is borne out by the testimony of some of its most respectable members of Canadian birth, who have declared that, because they declined voting with Mr. Papineau's majority, they found it impossible to obtain grants for any local object, however unimpeachable in its character.

It may be observed, that whenever a highway requires widening, or whenever it may be necessary to construct a bridge for general as distinguished from purely local purposes, there might arise a question as to the propriety of granting provincial aid, but even then aid ought only to be given in connexion with the permanent establishment of a turnpike, so as to provide a fund for the preservation of the provincial work, and for the payment, if possible, of interest on the original advances. For lack of such an appendage, provincial grants have sometimes been pleas for local oppression. By the 2d Will. 4, c. 44, s. 21, for instance, it was enacted with respect to certain roads in the vicinity of Quebec, Three Rivers and Montreal, "that no road in the said country districts or *banlieue*, which shall have been macadamised, shall be held to have been in a sufficient state of repair, unless such road shall have been kept in repair in the same manner, and with materials and quality at least equal to that of the materials with which the same was macadamised." To constrain the parties, who by the road laws are bound to repair the highways, to maintain them according to the terms of this Act must appear harsh and unjust to those who are acquainted with provincial affairs. The natural and equitable mode of keeping up the roads referred to would have been by turnpikes. A few good turnpike roads fairly introduced in the neighbourhood of Quebec and Montreal would be invaluable as models for imitation. Suburban roads are as frequently used by residents of towns as by country people, and it is only by exacting tolls that the former can be assessed for their legitimate share of contribution to the maintenance of these roads. A turnpike was tried with success on the Lachine Road at Montreal, and after much opposition, the same system has been adopted and approved in Upper Canada.

AMENDMENT OF ROAD LAW.

The existing law of roads and bridges is as old as 1796. If age, therefore, is a test of excellence, the continuance of this law is a presumption in its favour. But the repeated attempts of the provincial legislature to remedy the admitted defects of the road system by temporary enactments, prove that the law of 36 Geo. 3, c. 9, has not been retained in consequence of its intrinsic excellence and superior applicability to the wants of the colony.

With the laudable view of facilitating improvement and lessening expense, the Act 2 Will. 4, c. 44, of the provincial legislature authorized the freeholders in any parish or township, or extra-parochial place, to elect a road commissioner, who should within the limits of such parish, township or extra-parochial place, have all the powers heretofore vested in the grand-voyer or his deputy (the powers hereinafter reserved for the commissioners of the county, or the majority of them, alone excepted). According to provincial custom, it was a temporary Act, and expired on the 1st of May 1835. Now to submit a

temporary law to the voluntary acceptance or rejection of the people was to divest it even of the character of an experiment. But the measure itself was defective; it contained no provision for the possible case of only *one* commissioner being elected for a county; neither did it create the checks and securities requisite for the working of a novel administrative machinery among a rural population deficient in elementary instruction, and inexperienced in the management of local affairs. The Act, in one word, conveyed too much license to the people, and reserved too small a share of restraining and correcting influence to central authority.

DIGEST OF EVIDENCE respecting the OPERATION of the LAW of ROADS and BRIDGES.

Edmund William Romer Antrobus, Esq., Grand Voyer of the District of Quebec.

A letter dated 6th October 1838, of which the following are extracts, was addressed by Mr. Antrobus to the Assistant Commissioners, explanatory of the duties of the grand-voyer, and the operation of the road laws:—

“The Act for making, repairing and altering the highways and bridges in this province, now in force, was passed in the year 1796. By this Act, the grand-voyers have the direction &c. &c. in their districts.

“The grand-voyer may appoint a deputy. He may cause lands to be cleared, and, in case of heavy works or repairs, may call for the assistance of a parish. He also decides disputes concerning labour, &c. &c., and distributes the work to be done on winter roads. It is his duty to lay out parishes in divisions, for each of which an overseer is elected by the parishioners. He appoints a surveyor of roads in each parish, seignior or township, also the overseer in default of election, and when vacancies by death or otherwise occur. He (the grand-voyer) is obliged to make an annual tour of inspection, when it is his business to fine his officers for neglect of duty. The *habitans*, generally, wait for the grand-voyer's annual visit, to lay their opinions before him, to whose opinion they bow, and thus many lawsuits and heartburnings are avoided. It has been my good fortune to settle hundreds of these squabbles, and to send home as friends the parties concerned, who, if left to the tender mercies of either the *avocats de campagne* or of the city, might have fought their battles until their means were exhausted.

“When it is necessary to change an old road, or open a new one, &c., a *requête* is presented to the grand-voyer, who, thereupon, calls a public meeting, and, after having heard the parties for and against the prayer contained in the petition, he proceeds to examine the premises personally; and he afterwards decides upon the line of road to be made, and draws his *procès verbal* by which the road is described, and the persons named who are appointed to make and keep the same in repair. This act is subsequently placed before the court of quarter sessions to be ratified. Persons not satisfied with the grand-voyer's decision have an opportunity to file their opposition to the *procès verbal* before this court, which may reject or ratify the same after hearing the parties; but the magistrates who compose the court have only a right to inquire and decide on points of form, and the court is little else, in matters touching the *procès verbaux* of the grand-voyer, than a court of record.

“The above are among the principal features of the Road Act, which, with some amendments much required in consequence of the increase of the population, but which, as you are not likely to amend that Act, it is unnecessary here to mention, I suppose will answer the wants of the people in the road way for the next quarter of a century, perhaps, unless the schoolmaster should be very busy indeed.

“In 1832, the Honourable John Neilson, being then a Member of the House of Assembly and President of the Road Committee, introduced a Bill, which was passed, intituled ‘An Act to amend the Act (the above 36 Geo. 3, c. 9),’ the object of which was to give the *habitans* the management of their road affairs, without consulting the officer of the government, namely, the grand-voyer. By this Act the inhabitants of each parish were authorized to meet, and if the majority of the proprietors present at such meeting chose (it was not compulsory upon them), they might elect a road commissioner, to whom all the powers vested in the grand-voyer were to be transferred. The duration of this Act was limited to 1835. Mr. Neilson, when he introduced this, his favourite measure, in the House of Assembly, was, as many others were at the time, convinced that the period had arrived when the *habitans* might have the management of their own affairs, and might do without a grand-voyer in the settlement of their road concerns; but, before the expiration of the Act, Mr. Neilson having inquired into the way in which it operated, became convinced that the time *had not arrived*, but that, in fact, the new law did not work well. I believe that Mr. Neilson is now quite aware that the period has not arrived when the Canadians may be left to settle their affairs. I have not, at least I do not recollect having met with a single person of respectability, and who has had the good of his country at heart, since 1832, who expressed himself in favour of the change; and, of all parties I have seen—and I have seen the most respectable and most independent—I know of none who did not rejoice that the said Act had expired.

“Among the persons elected (*vice* the grand-voyers) many could not sign their names. I have now in my office (which was constituted one of record by the new law) *procès verbaux* to which the ^{his} ~~X~~ of my substitute is affixed. I mention this circumstance to
mark show

show that my countrymen (for I also am a Canadian) are not sufficiently educated to be entrusted with the management of their affairs. In most parishes are to be found a doctor, a notary, and perhaps a couple of *avocats de campagne*, who possess learning, that is, who can contrive to read their names when they have written them; but the great majority of the inhabitants of Lower Canada are totally uneducated. It would therefore be cruel, I think, to invest them with powers which, the chances are, would be exercised against their interests.

Mr. Antrobus, in his examination before the commissioners, stated that he had succeeded his father in the office of grand-voyer, which he had now filled for 20 years. Before the introduction of the Road Commissioners' Act by Mr. Neilson, petitions had been presented to the legislature, complaining of partiality on the part of the grand-voyers, and praying for an alteration in the Road Laws. The grand-voyers could have no motives for partiality, not being interested in the localities where their duties called them, nor mixed up in the affairs of the inhabitants. The real grievance at the time was the amount of the grand-voyer's fees, and to lighten these was one of the objects of Mr. Neilson's Act. Had that Act been permanent, it would have produced general dissatisfaction. It was adopted pretty generally in the townships, but very sparingly in the seigniories. It worked well in places where competent officers were chosen, and it would be more convenient than the present system, if proper persons could be found to execute it; but the difficulty is to find educated and disinterested men. The *habitans* will not place confidence in each other. In the Quebec district there is no complaint as to any needless delay in the working of the present Road Law. There is a deputy, who acts for the grand-voyer in each district. He is no additional expense to the country, being paid by private arrangement with the chief, who nominates him. The number of deputies ought to be increased; and thus, by assigning them judiciously to the different divisions of a district, the travelling charges might be greatly reduced. Were a sufficient number of deputies appointed, the grand-voyer would be enabled to remain, as he ought to do, more constantly at his office, to supply the information required by the *habitans*. The yearly salary of the grand-voyer for the district of Quebec is 150*l.*, in addition to which he is entitled to fees on every act of office. Out of these emoluments he is called upon to defray all office charges. The fees are frequently not collected, owing to the poverty of the people. Were it not for the grand-voyer's expenses, new roads would be frequently opened in places where they do not exist. In appointing surveyors of highways, he (Mr. Antrobus) has usually deferred to the wishes of the people, where the party recommended was likely to be efficient. The overseers of highways could very well execute the duty of fence-inspectors. The surveyors are frequently remiss in prosecuting for neglect of road labour, from the apprehension that, when their neighbour's turn of service comes, they may retaliate their official vigilance on themselves.

In Lower Canada there will never be a good road until a rate is established for maintaining the "King's highway."

When the proprietor of a lot is not forthcoming, those to whom the road in front is "useful" are obliged to keep it in repair. This is unjust, and the law ought to be amended by taxing the land for the maintenance of the road, and, if need be, selling it for the purpose. On the cross roads, people come willingly from a distance to work; and if they refuse, the surveyors employ labourers, and sue the recusants for the payment.

The court of quarter sessions, as at present constituted, is totally inadequate to determine appeals on *procès verbaux*; most of the magistrates being altogether unacquainted with law, and some of them mean, dependent and illiterate. Paid professional chairmen ought to preside at quarter sessions, and then these courts would be competent to their duties. There are magistrates in the province who cannot write their own names. Formerly there were professional chairmen of quarter sessions, but the House of Assembly, it is said, from political dislike to the parties filling the office, caused them to be dismissed. The power of nominating the superior local officers should be vested in the central executive. Pure elective institutions are not suited to the province, as, owing to the jealousy of the *habitans*, fit and respectable men will not be chosen by them. At the same time, it must be admitted, that the grand-voyer system is a source of grievance. The powers of the surveyors might with advantage be extended, and all payments to the grand-voyer equalized, the fees diminished, and the salary increased.

The opening of a road at Ramouski (about 200 miles from Quebec) ought to cost no more than opening a road at Beauport. The Road Commissioners' Act might have suited the townships better than the old system, the great comparative extent of the townships not being favourable to the working of the present Road Law. Lands cleared or in cultivation ought to be assessed according to extent, and not according to their positive value. Wild lands ought also to be assessed, of course, more lightly than cultivated lands. If wild lands are worth little or nothing, let the sale of them be the only penalty on the proprietor for non-payment of rates; but it is most unjust to constrain settlers to make roads which add to the value of wild lands, and yet leave those wild lands untaxed. Among the mass of the population, it will be impossible to raise a local assessment, unless payment be made compulsory. The people in the townships are fitted for a more advanced system of local administration than the inhabitants of the seigniories.

No respect will be attached to the courts of quarter sessions until they have paid professional chairmen of learning and integrity. Being ignorant of law, the magistrates are liable to be bullied by the lawyers, and there is no assurance of their arriving at correct decisions or deciding upon proper grounds. No unprofessional man likes to act as chairman of quarter sessions; he has himself remained absent from the court rather than act in this capacity. The magistrates at quarter sessions sometimes decide upon the merits of a *procès verbal*, which is a usurped authority, and absurd in its exercise, the court not having the power to examine witnesses on oath in the matter at issue. This power is vested in the grand-voyer, who also judges of the affair at issue on the spot. The Court of King's Bench has decided against the assumed authority of the magistrates in regard to the *procès verbal*. Perhaps an authority of this description might be advantageously conferred on county courts, accompanied by some modification of the duties of grand-voyer. The more able members of the magistracy have become disgusted by the appointment of inferior persons to the bench, and consequently have grown remiss in the execution of their duty.

Hughes Heney, Esq., Grand Voyer of the District of Three Rivers.

Mr. Heney is of opinion that, in establishing a system of rural municipalities, it would be advisable to preserve an efficient central authority, were it only for the keeping of the road archives. He fears that if the control of municipal affairs were committed entirely to the country people, it would give rise to favouritism; besides, a sufficient number of persons could not be found competent to discharge the functions that might be assigned them. The cost of a *procès verbal* for opening a new road in the district of Three Rivers is about 12*l.*, exclusive of the fees of the clerk of the peace, which amount to about 1*l.* 15*s.* The magistrates have not, in general, sufficient intelligence to qualify them for "homologating" *procès verbaux*. By Mr. Neilson's Act, the *procès verbaux* were to be deposited with the nearest magistrate; after whose decease, copies could not have been obtained.

There is no legal authority to authorize the grand-voyer to demand any part of his fees in advance. The fees are very badly paid; so many small sums being due by poor persons. He (Mr. Heney) has very often lost his fees, or a great part of them; even when the *procès verbaux* have been homologated. He has only, on two occasions, been paid his fees in full. When a requisition has been made to the grand-voyer, it is the custom to pay him one-third of his fees.

The greatest grievance now experienced under the grand-voyer system would be removed by the appointment of deputies residing in the districts for which they may be called upon to act. By this means, the charges would be equalized, instead of falling, as they now do, more heavily on the poorer and more remote districts. He (Mr. Heney) has a deputy in the townships; were it not so, the expense would be unreasonably heavy. In the district of Three Rivers, there are in fact two deputies; although the existing law authorizes the appointment of one only. He wishes that he had the power of appointing another. It is possible that the St. Francis district does not fall legally within the road jurisdiction of Three Rivers. Some of the townships of the district are under the superintendence of the grand-voyer of Montreal.

The yearly salary of the grand-voyer of Three Rivers is 90*l.*, out of which he has to provide for all office charges, postage, and the expenses of his annual circuit. The gross amount of his fees for the last year was about 140*l.* The receipt of fees does, to a certain extent, give an interest to the grand-voyer, which might prove prejudicial to justice. When the roads are contiguous, and the locality poor (the same parties being interested) Mr. Heney has united the different roads applied for—amounting sometimes to 16—in one *procès verbal*, and thereby greatly diminishing the expenses.

The *habitans* could not, he thinks, be induced to tax themselves for municipal purposes, or to pay turnpike tolls. They would rather make a circuit of leagues than pay a turnpike. They would not consent to give a money payment, instead of labour value to a greater amount; time and labour being in their situation of comparatively little moment. They have not assessed themselves for schools or gaols, as they were invited to do by law. They are, however, bound by law to build and repair their churches, and they pay pew-rents in money besides.

Unoccupied lands should be made liable for the maintenance of roads and bridges. The wood upon them, when required, should be taken for this purpose, and if necessary, part of the land sold to pay the share of the road expenses, with which, in equity, the property might stand chargeable.

The law, as at present, does not authorize payment to the owners of uncleared land through which roads may pass. This sometimes operates unfairly, as, for instance, in the neighbourhood of towns a road may pass through a "sugary," which is a valuable description of property. A discretionary power in this and other points ought to be reposed in the grand-voyer. The road regulations are too imperative. The grand-voyer, or some parallel authority, ought to have the power of adapting the construction of roads to the character of the soil. The law enforces the making of ditches of a certain width, although ditches are frequently not required at all; no regulation ought to be made legally absolute, except that which prescribes the breadth of the road.

Pierre

Pierre Louis Panet, Esq., Grand Voyer of Montreal.

There are about thirty-four townships in the district of the grand-voyer of Montreal. There are also three townships in the district of St. Francis under his control; Stanstead, one of them, is 90 miles from Montreal. The deputy of the grand-voyer of Three Rivers is likewise deputy of the Montreal grand-voyer in these townships. Mr. Panet has never visited them in his "annual circuit," not having time to do so.

Fees are regulated by tariff, approved at court of quarter sessions. The Montreal tariff is different from that of Quebec. The average cost of a *procès verbal* in the Montreal district is from 11 *l.* to 15 *l.* currency, exclusive of the fees paid to the clerk of the peace. The fees of the grand-voyer are very badly paid; he (Mr. Panet) believes he does not receive one-half of his taxed charges. His yearly salary is 150 *l.*, out of which he defrays all the expenses of his office. Is of opinion that the fees should be relinquished, reserving only so much as would stimulate deputies to the discharge of their duty, and prevent idle applications from the country people. By a rule of the court of quarter sessions, the grand-voyer of Montreal has a right to claim four shillings a day towards travelling expenses (going and returning) before he starts. The power should be vested in the grand-voyer of appointing a greater number of deputies. His (Mr. Panet's) deputy resides in Montreal. The townships of the Ottawa are in the Montreal district, but so distant that the grand-voyer has never had an application from them, neither has he visited them in his annual circuit. The Act giving to grand-voyers the right of appointing more than one deputy expired in 1825. If the number of deputies were increased, the amount of fees received by the grand-voyer would be proportionally lessened. The gross amount of the fees received annually for the district of Montreal may average about 300 *l.* The Road Commissioners' Act was put into operation chiefly in the townships. In the parishes of some counties there was not a sufficient number of magistrates to "homologate" the *procès verbaux*. About one-half of the parishes in the Montreal district elected officers under the Act. Has heard that the opening of an extraordinary number of roads was legally approved when this Act came into operation. For example, in 1834 and part of 1835, 52 new roads were sanctioned in the county of Beauharnois. Mr. Brown, of Beauharnois, represented at the time to his brother magistrates, that these roads were too numerous to be completed, but the bench out-voted him. The grand-voyer's emoluments are in no degree affected by his acceptance or rejection of a petition, and whether he complies with or rejects its prayer, he frames his *procès verbal*.

Large sums of money have, since 1815, been granted for road-making by the provincial legislature. In the first instance, the grants were placed at the disposal of commissioners appointed by the government, who were empowered to lay out their roads according to their own discretion, and expend the money on them. Great complaints of mismanagement and non-appropriation arose, and, subsequently, a better system was adopted, by which the road for which the money was granted was specially designated, and vouchers required for accounts. The money thus granted was chiefly expended in the townships; the settlers there being so much impeded by the crown and clergy reserves as to feel necessitated to call upon the government to aid in opening roads.

Under Mr. Neilson's Act, although the commissioners had no fees, the expenses were occasionally greater than under the old law. There were various disbursements to make, as, for instance, for the payment of a sworn surveyor and a notary to draw up the *procès verbal* and furnish copies thereof; none of which charges were exacted from the applicants under the grand-voyer system. In the townships, which sometimes did not employ a sworn surveyor, there was a saving, but little was gained in the seigniorial districts. The commissioners did very little in the fifty parishes which adopted the Act, owing to the difficulty of procuring magistrates to homologate the *procès verbaux*, and the short duration of the law. Only 30 or 40 *procès verbaux* proceeded from these parishes; the remainder, of 150, for the Montreal district, were from the townships. There are about a hundred parishes in the district of Montreal.

Mr. Panet is of opinion that enlarged municipal powers might be intrusted to officers popularly elected, so as to unite in the same body the superintendence of roads, fences, pounds, water-courses, &c., preserving, however, so much of the grand-voyer system as would leave the opening of new roads to officers independent of the localities interested, and free from such personal ties as might be supposed to influence their decisions.

The *habitans* would be very reluctant to pay a regular annual tax; but they would not object to be assessed for any necessary and clearly-understood object as occasionally might arise, such as the repair of roads or the construction of bridges. It would be quite practicable, indeed it has been the custom in many cases, to repair bye-roads by contract, levying the amount expended by assessment. This practice is a convenience to farmers, who might otherwise, when living at a distance from the works, be put to considerable trouble and expense in contributing personal labour.

It would be well to exact money contributions in all cases, except for the front roads or highways; and for these, the kind of contributions, whether of money or of labour, might be left optional. The Act of 1825 was framed with this view; but the intention of its authors was frustrated by the clumsiness of the machinery employed.

A portion of the provincial funds might perhaps be usefully appropriated in laying out great lines of road, under the direction of government engineers, and taxing the people for their support, in proportion to the local advantage they derived from them.

The apportionment of money payments is made by overseers. It would much facilitate their labours, and promote an equitable assessment, if the overseers of parishes or townships were authorized to keep a register of the lands or rateable property.

Much inconvenience is occasioned by the postponement of *procès verbaux* from one quarter sessions to another. Paid professional chairmen are absolutely essential to the efficiency of courts of quarter sessions, and power should be given to magistrates to decide postponed *procès verbaux* in special sessions, to avoid the delay of three months, which, in the climate of Canada, must materially retard improvement.

Jacques Viger, Esq., Surveyor of Highways for the Parish and City of Montreal.

Mr. Viger, in the country part of his district, exercises an authority similar to that of the grand-voyer, assisted by nine overseers or sub-inspectors of highways. In the city, by a clause of the Road Act, the surveyor of the highways is inspector also; so that Mr. Viger, the inspector in Montreal, bears the same relation to Mr. Viger as surveyor that the overseers bear to him as grand-voyer in the country part of his district. In his character of inspector, he is called upon to superintend the execution of the work prescribed or suggested by himself as surveyor, and his city duties are so multifarious, that an overseer named by the magistrates really discharges the duty of inspector. When the opening of a new street is deemed necessary, a petition to that effect is forwarded to the magistrates, who, if favourable to its prayer, call upon the sheriff to form a jury of 12 to be sworn before them at special sessions, and to report upon their oath whether the desired improvement be useful and necessary. If the jury report in the affirmative, the magistrates are empowered to treat and agree with the proprietors of the ground through which the street is to pass. If there be a difference as to terms, the matter is left to arbitrators, whose judgment is final; the losing party paying costs of arbitration. After the plan has been adopted, it is the duty of the surveyor of highways to trace the line of the road or street.

In the construction of a sewer or bridge for the city, the surveyor proceeds by *procès verbal*, which is submitted to the magistrates, notice being given to the parties interested to appear to offer their objections within eight days. The magistrates decide in the same way as in the case of an appeal against the grand-voyer's *procès verbal*. After the *procès verbal* has obtained the sanction of the court, the surveyor of highways passes from the character of grand-voyer into that of road-inspector, and proceeds to superintend the erection of the work thus approved by the court.

Mr. Viger's income is derived partly from salary, and partly from fees, as regulated by tariff. His salary is 200*l.* a year, payable out of the "road fund." His fees have declined to a small amount, his country district being limited to a parish, for which *procès verbaux* are now rarely required; the roads demanded by public concurrence having been already opened, and new streets and sewers being seldom wanted for the city.

Mr. Viger thinks favourably of the turnpike system as regards the maintenance of highways, more especially in the neighbourhood of large towns. The bye-roads he would leave to be maintained by the farmers by contract, as recommended by Mr. Panet,—a practice which has been voluntarily adopted by the people apart from legal enactment. The road from Montreal to La Chine was 16 years turnpike, and paid expenses, and gave satisfaction. The farmers in the immediate vicinity of a large town are not able to maintain the roads, nor is it fair that they should be constrained to do so. After the La Chine road again came under the old system of management, and ceased to be turnpike, a rich and educated man residing on the line returned to the obsolete and defective system of repairing his portion of the road, a system which had been relinquished for 16 years,—a proof of the obstinate adherence to ancient usages which prevails even among the better class of persons in the province.

Joseph Bouchette, Esq., Surveyor-general of the Province.

Mr. Bouchette stated that the grand-voyer system had never been popular; it was both tedious and expensive. There ought, he conceived, to be a new municipal subdivision of the province, and proper officers assigned to the different localities for executing the duties expressly assigned to the grand-voyer.

Poor settlers in the townships are hardly dealt with in being obliged to make new roads through large blocks of uncultivated lands. The holders of those lands ought, in equity, to be called upon to contribute to the roads. A precedent for exacting road duty from absentee proprietors had been set in Upper Canada, where the remedy, Mr. Bouchette alleges, has proved effectual.

Paul Holland Knowlton, Esq., J. P.

Mr. Knowlton, of Brome township, county of Shefford, is a colonel of militia, and a member of the special council, under the administration of his Excellency Sir John Colborne.

In a written communication, Mr. Knowlton submitted the following general suggestions to the commissioners. His own words are quoted:—

"First. It appears to me that a new subdivision of counties should take place; and, if not done by some such power as that with which you are invested, it never can be done; for there are those among us, and they are not few, whose local interests will be,

or

or they will fancy them to be, affected by the first subdivision; and who would move heaven and earth sooner than suffer any loss of property, or of supposed consequence. These considerations must all be set aside; and the only question to ask is, What is best and safest for us as British subjects?

"Second. Give us county courts, or establish new districts. In either case let there be a competent jurisdiction, with a respectable law judge, or with circuit judges, as may be deemed best, bringing the court as near the door of the suitor as possible.

"Third. Abolish the grand-voyer system of road-making, which is illegal under the English tenure, and give us power, in each township, to alter and execute every thing pertaining to highways; matters can be better managed, and at far less expense, by those who have the roads to make than by the grand-voyers."

Mr. Knowlton, being examined by the commissioners, stated that the expense and delay of the grand-voyer system were the subject of much complaint; it was altogether unsuited to the condition of the people in the townships. The grand-voyer, unless specially called upon, had never made an official visit to the townships. The people of those localities are perfectly competent to manage their common affairs, and all road business might be left to them with great advantage. Their fitness had been proved by the experiment under the Road Commissioners' Act; but that Act was defective, inasmuch as the commissioners were bound by the old road laws, which were ill adapted to the townships. Without a new and complete subdivision of the province, no improved system of local institutions can be efficiently established. Such a subdivision must be matter of imperial legislation, as, if left to provincial arrangement, private interests would interfere injuriously.

Mr. Macbean, of De Rouville Mountain, in the county of Rouville, thus alludes to the road system in a letter addressed to the commissioners, bearing date September the 10th, 1838:—"I beg you will give your particular attention to the present manner of repairing roads. I conceive the system to be most objectionable. The duties upon the overseers are oppressive, and quite unrequited by remuneration; while the practice of giving personal labour upon the road, exerted as it is at your own discretion, and upon a particular spot, contributes really nothing either to its present or paramount improvement.

"At their own convenience, after seed-time, they turn out at summons of their surveyor, and throw clods upon the roads until it is almost impassable for a few weeks after. When it has become beaten down, it is no more looked after, and the remaining or subsequently formed ruts are left unfilled during the whole season. Oftentimes bridges are broken down or planks removed from their covering, and they remain for weeks unrepaired. The bridge over the Huron or St. J. Baptiste river, above Point Olivier, which fell down last winter, has not yet been repaired or rebuilt, and no one seems to say it is wrong or knows any thing about it. These things penetrate a person from 'the old country' to the quick, and continually stick to and torment him. They are really a never-ending source of chagrin."

Mr. Henry May, of Verdun, on the Lower Lachine road, near Montreal, after calling attention to the "imperfect and vexatious manner in which the roads of the district are made and repaired, and to the dangerous state in which they are for the greater part of the year," urges the necessity of establishing "turnpike roads, under trusts or commissioners, to the principal outlets to Upper and Lower Canada." "This," adds Mr. May, "would not only relieve the agriculturists situated on these roads from vexatious interference, at a time when their attention ought to be directed to putting in their crops and harvesting the same, for the short period of the year in which agricultural operations can be carried on, but would likewise greatly improve the entrance to the city of Montreal."

Mr. Charles Howard and others, proprietors and landholders of the parishes of Charlebourg and Beauport, in the neighbourhood of Quebec, state, in a memorial praying for relief, that the mode of giving notice under the Road Act is extremely inconvenient to persons not belonging to the Catholic faith nor residing in the vicinity of the parish churches. The memorialists also complain of the custom of partitioning off small patches of roads for them to keep in repair at a distance from their houses, and profess a willingness to repair a larger portion of road adjacent to their places of residence. Another grievance to which they advert is the practice of overseers, who, when difficulties arise between them and the farmers, have recourse to advocates, and issue summonses from the police office, "thereby heaping ruinous expenses on them, and injuring them with impunity." They pray for a less expensive and more summary mode of trial, so that the penalty may be proportionate to the offence.

Mr. Charles Houle and others, inhabitants of the township of Stanfold, Somerset and Nicolet rivers, in a memorial praying for the grant of public money for the opening of a road, represent that they have been five years residing in these districts, and number about 200 families, and that they have no means of communication from their houses to the highway by which they might convey their potash to a market.

David Chisholm, esq., formerly clerk of the peace at Three Rivers, thus describes the effect of the present road system in promoting litigation among the country people:—

"In the general and special sessions of the peace, and before single justices, complaints are almost daily brought against some offender under the road law. Sometimes a common informer files a *qui tam* prosecution against a *habitan* for permitting, for instance, a

cahot to be upon the public highway in front of his house or property. Sometimes the surveyor, or overseer of roads and bridges, is prosecuted for not doing his duty; that is, for not taking care that the good order of the roads is properly attended to. Sometimes, as there is a gradation of road officers, the one prosecutes the other for a neglect of public duty. The grand-voyer informs upon his inferiors, and, in return, the grand-voyer himself is not unfrequently charged with official dereliction.

"The road system has always been a most fruitful source of petty, penal litigation in this province. The moment neighbours quarrel, the first thing they do in order to gratify their animosity is to prosecute one another for some breach of the road law, an offence easily substantiated against almost every landholder in the country. Such prosecutions are of course legally resisted, not only with the view of escaping the prescribed penalties, but also in the hope of gaining a judicial victory over private vindictiveness. Lawyers are employed, and the French Canadian will spend his last penny to get the better of his antagonist; the consequence is, that many of the *habitans* have been driven to want and even to beggary by this propensity to litigation, a passion so congenial to the natures of an ignorant and semi-civilized people.

"As to prosecutions under the road law, I have known many of them to commence before a single justice of the peace for a penalty of 5s. which terminated before the Court of King's Bench, after exposing the parties to an expense for law proceedings of 15*l.*, 20*l.* and even 30*l.* There are, first, the proceedings before the justice or justices in special or weekly sessions—not at the door of the litigant, but at Quebec, Montreal or Three Rivers, frequently many miles distant from the homes of the contending parties. There is, next, an appeal to the quarter sessions; and as it is impossible that the decision of any court can satisfy both sides, there is, lastly, a writ of *certiorari* to the Court of King's Bench, which, before it can be returned, will cost, at least, 5*l.* in fees to court officers, besides the usual consideration to lawyers.

"Now, although it is impossible to enforce the provisions of any statute imposing penalties, without admitting the right of any one that chooses to prosecute for these penalties, still, in a country where indolent habits are so prevalent, and where there are thousands who would expend their last farthing on law rather than repair a piece of road, at the cost of, perhaps, a few hours' manual labour, it seems absolutely necessary to have recourse to some more efficacious methods of enforcing the road law than those prescribed by the Act. Resort must be had to some system of municipal superintendence and direction similar to that which exists in Upper Canada. To be sure, the roads in that province are sometimes bad enough, but that is not the fault of the law; it is the effect of a scanty population, and a corresponding want of funds for carrying the provisions of the law into execution.* At any rate, if there were no other blemish in the road laws of Lower Canada than the facility which they afford to the litigious propensities of the French Canadians, no time ought to be lost in applying a remedy to the evil."

CITIES AND TOWNS.

EACH grand division of the province has its capital, the seat of district jurisdiction; Quebec, Montreal and Three Rivers for their respective districts of the same name; New Carlisle for the inferior district of Gaspé, and Sherbrooke for St. Francis. The population of Quebec has been estimated at 30,000 (the British and French Canadians being nearly in equal numbers); of Montreal (where the majority are supposed to be British) at 36,000; of Three Rivers, 3,000. New Carlisle and Sherbrooke are as yet rather villages than towns. Quebec and Montreal alone have been incorporated.

A stranger arriving at Quebec experiences at every step the discomfort occasioned by the absence of good local government. He finds streets narrow and ill-paved, huge wooden steps projecting, in contempt of the law, across the broken and unsocial *trottoir*, to the imminent peril of the unwary passenger; unwholesome water, sold by carters who take it from the St. Lawrence; and a total want of public lights: a lantern is the usual resource of those who are obliged to explore their way through the streets on dark and stormy nights. Such is the capital of British North America,—a city beautifully situated, and possessing an extensive commerce.

Montreal has, in some respects, more of British improvement in its appearance and arrangements than Quebec; the paving is indeed very defective, but the new lines of streets are

* This observation explains the cause of the imperfect working of the municipal machinery of Upper Canada, where the laws are framed in a manner very superior to those of the Lower Province. Persons who are disposed to regard the local administration of the United States as a model for other countries, will probably be unwilling to believe that in the State of New York, whose prosperity has been immensely increased by its canal and railroad communications, the management of the roads is extremely defective, although there is a large population, possessing abundant resources. The last message of the Governor to the legislature of the State of New York contains this reference to the subject: "The present condition of our highways has resulted from the necessity of constructing roads over an extended surface, with the scanty means and efforts of a sparse population. But this inconvenience has, in a great measure, ceased to exist. The labour expended on our highways is a grievous tax, and yet our roads are scarcely improved. Their summer repairs accomplish little more than restoring them to the condition they maintained before the injuries of the winter season occurred. The evil lies in a misapplication of the labour assessed."

are well laid out, and the obstacles to pedestrians are fewer and less formidable than in the provincial capital. A good supply of water is furnished by an incorporated company; and there is a gas company prepared to light the town whenever the local authorities are empowered to conclude an agreement for that purpose. As, under the existing legislature of Lower Canada, no new tax or rate can be imposed, Montreal remains in darkness during the nights of winter, at a time when military guards are planted in almost every street, and the citizens are constantly disturbed by alarms of invasion and insurrection.

From the middle of November until May the inhabitants of the cities are held responsible, under the road law, for the state of the highways and footpaths in front of their houses. It is thus left to individuals to remove the obstacles caused by the snow, instead of resorting to the far more efficient and less annoying mode of providing for the performance of the work by general assessment. Many persons, finding it inconvenient to discharge the duty through servants of their own, have recourse to professional street-clearers, who undertake to keep the ways free from obstruction during the winter season, at a certain specified rate of charge.

The following announcement, taken from the Montreal newspapers of this year, will explain the practice more clearly than general description:—

“ WINTER ROADS.

“ Captain B. S. Schiller will, during the winter season (commencing 1st December, and ending 1st May) undertake to keep the roads free from *cahots**, and to take away the ice and rubbish. He will also clear the footpaths. The charge for the above will be 6*d.* per superficial foot, payable as follows:—One-half on the 1st of December, and the other half on the 1st of March.

“ Captain S. hopes his friends will continue the patronage with which he has been favoured during the last 17 years.”

Closely connected by commercial relations with Upper Canada, Montreal, under a stable system of government and enlightened institutions, would advance with great rapidity, and become, ere long, one of the most flourishing emporiums on the American continent. Its trade—indeed the whole trade of the province—is almost entirely in the hands of the British. An inclination to commercial pursuits is rarely displayed by the Franco-Canadians; on the contrary, they seem to regard the mercantile class with jealousy and dislike, and their occupations with something approaching to scorn. And what is the result of their anti-commercial habits and foolish prejudices? The division of landed property, which takes place under the law of inheritance daily, reduces the means of the more opulent families. The young men of these families are destitute of the skill and capital required for profitable agriculture, even if they were disposed to maintain themselves by farming. The Catholic Church offers few temptations to the young and aspiring colonist; and there is no army or navy to open a way for him to distinction. Law and medicine are the only professions that hold out the hope of elevation and independence; but these professions are too crowded to render it possible for the majority of practitioners to obtain a satisfactory share of public favour, and consequent emolument. From professional disappointment arises political place-hunting, which, baffled in its object, too often expands into a wild desire for change, criminal in its means, desperate in its aims, the growth of mortified pride, narrow experience, and an unreasoning ambition.

Under a temporary Act, Quebec and Montreal were watched and lighted, after a sort, down to May 1836. The funds were altogether unequal to the proper support of these essential branches of civic government. Lamps fed with oil were distributed at intervals, “ few and far between;” and the guardianship of the night was intrusted to a meagre selection of the class of veteran servitors, of whose impotency for all useful purposes the people of London were cognizant before the establishment of “ the New Police.”

A constabulary force for day and night service in Quebec and Montreal, on the plan of the metropolitan police, has been organized under an ordinance issued during the administration of Lord Durham. The force in each city is placed under the direction and supervision of an inspector and superintendent, who is also a justice of the peace, and acts in that capacity. The propriety of uniting the functions of magistrate and executive chief of police in one and the same person may well be questioned; but in these particular cases it may doubtless be justified on the ground of present necessity. Such a necessity would cease to exist, if Quebec and Montreal were again incorporated upon safe, equitable and comprehensive principles.

Mr.

* The French word “ *cahot*,” literally, a jolt or shake, is applied in Lower Canada to the inequalities on the winter roads, caused by the masses of snow accumulated, in consequence of the clumsy construction of the winter carriages in use among the *habitans*.

Where “ *cahots*” abound, they destroy the pleasure of sleighing, and add materially to the fatigue of man and horse during a long journey. No such nuisance exists in the townships, Upper Canada or the United States. Attempts have been made, but in vain, by the authorities, to coerce the *habitans* into a reform of their vehicles; had these attempts been persisted in, the country folks would probably have shown their determination to uphold the jolting system, by stopping the supplies to the town markets. It is indeed recorded, that such was actually the case, and had the effect of causing the Governor and Legislative Council of the day to repeal an ordinance prescribing, under a slight penalty, a small alteration in the form of the Canadian train or cariole.

APPENDIX TO REPORT ON THE AFFAIRS OF

Mr. T. A. Young, inspector and superintendent of police for Quebec, has furnished the subjoined return of the force on duty in that city, as a day and night police, on the 27th of September 1838; with a statement of the expense of its maintenance, and an estimate of contingencies.

QUEBEC CITY POLICE.

							£.	s.	d.
One inspector and superintendent, per diem	-	-	-	-	-	-	1	-	-
One chief constable	-	-	-	-	-	-	-	6	-
One serjeant-major	-	-	-	-	-	-	-	4	-
Two serjeants, at 3s. 6d. each	-	-	-	-	-	-	-	7	-
Four corporals, at 3s. each	-	-	-	-	-	-	-	12	-
Twenty-four privates, at 2s. 6d. each	-	-	-	-	-	-	3	-	-
Expense per diem	-	-	-	-	-	-	5	9	-
Weekly expense	-	-	-	-	-	-	38	3	-
Annual expense	-	-	-	-	-	£.	1,989	-	-
Contingencies :									
Clothing	-	-	-	-	-	£. 448	13	-	-
Stationery, printing, surgeon's account, expresses, secret service, &c. &c.	-	-	-	-	-	200	-	-	-
							648	13	-
TOTAL EXPENDITURE for One Year	-	-	-	-	-	£.	2,637	13	-

Since the date of the preceding return, the provisions of the police ordinance have been extended to the parishes in the neighbourhood of Quebec and Montreal, and a considerable increase of the force in both cities has been made owing to this extension and the disturbed state of the province.

The police, as an improvement upon the past, has generally afforded satisfaction, and in Quebec it has been very useful from the facilities it gave for the apprehension of runaway seamen. A testimony of its usefulness appears in the presentment of the grand jury at the last September session of the Court of King's Bench for the district of Quebec:—

"The grand jury have noticed with much satisfaction the great advantages experienced by the public in the recent establishment of the police in this city, on an improved system, under the authority of his Excellency the Governor-general, and strongly recommend an increase to the members of this useful description of force; added to which, the grand jury respectfully recommend that public lamps be again fixed throughout the city,—a measure of great necessity to aid the efficiency of the police, and further to secure the peace and quietness of the inhabitants during the night."

The recommendation of the grand jury respecting public lamps strikingly illustrates the neglect of the most ordinary accessories to social comfort, security and decorum, occasioned by the want of appropriate local institutions. The Watch and Light Act expired in 1836, and as the law from which the Governor derived his powers deprived him of all authority in the matter of imposing any rate or tax, the recommendation of the grand jury was, in substance, a suggestion to his Excellency to defray the expense of lighting the streets of Quebec out of the provincial chest, the funds in which appear to be regarded in Lower Canada as a common stock, on which every class of exponents have a right to lay their hands before they have recourse to their own particular pockets. Previous to the passing of the Acts incorporating Quebec and Montreal, bills for establishing municipal government in these cities had been sent up by the House of Assembly to the Legislative Council, where they were rejected, on the plea that they contained provisions calculated to promote private interests to the prejudice of the public. The bills which eventually received the sanction of the provincial legislature might, we conceive, have been justly rejected, for reasons in the main not dissimilar. In the first place, their temporary character had a tendency to lessen the respect due to the authority they were intended to create, that authority itself being necessarily incompetent to mature and work out any comprehensive plan of improvement. In the next place, their provisions, as regarded the municipal franchise and the distribution of the wards, had the inevitable effect of giving a lasting and undue preponderance in the town councils to the representatives of a favoured class, namely, the Franco-Canadians. It happened, accordingly, that, among the twenty councillors allotted to Quebec, four was the average number of members of British blood. The officers appointed by the corporation were of French extraction, and the corporate records were kept in the French language. There was about the same proportion of members of British origin in the Montreal town council as in that of Quebec, and the corporate officers were similarly selected. Thus, in two cities dependent for their prosperity on commerce, that portion of the community who were at the head of all commercial undertakings were, by a partial franchise, and an unfair sectional

sectional arrangement, thrown into a hopeless minority in the local administrative bodies. Nor do we find that their exclusion was compensated by the superior trustworthiness of those who constituted the majority. In Montreal, the choice, for one year at least, was unfortunate. In the list of councillors elected in June 1835 (for the last year of incorporation) are the names of Dr. Robert Nelson, Messrs. E. E. Rodier, John M'Donnell, L. H. Lafontaine, J. Donegani, and Dr. Lusignan; all of whom are now in prison or in exile, in consequence of being engaged in treasonable practices, or implicated in aiding and abetting them.

Besides their temporary and exclusive character, there were other and vital defects in the Acts incorporating Quebec and Montreal. They invested the town councils with a very imperfect share of municipal attributes. These bodies had, in fact, hardly any substantial authority beyond the superintendence of streets, and, even in that department, they were controlled by a special Road Act of 1799. A section of the meagre statutes of incorporation is devoted to a summary of the moral obligations incident to the discharge of the mayoralty: "The mayor to be vigilant and active in causing the laws for the government of the city to be respected," &c. Through what description of agency the city functionary's vigilance was to be exerted, we are left to surmise, for he who, by virtue of his office, is chief magistrate in the corporate towns of Great Britain and the United States, was in the incorporated cities of Lower Canada no magistrate at all. And if the administrative powers conferred upon the corporations were little, the resources at their disposal were less. The average yearly revenue of the city of Quebec for five years was 5,500 *l.*, a sum which, with strict economy, would barely suffice to pay the corporate officers, and maintain an efficient constabulary police.

Partial in the distribution of electoral privileges; crippled by the Road Act, the Watch and Light Act, and other laws for municipal purposes; obliged to await the tardy sanction of the superior courts to their bye-laws and internal regulations; destitute of funds adequate to the proper accomplishment of the objects within the limited circle of their administration; the corporations of Quebec and Montreal passed through the term of their brief existence, leaving with the public no memorial of their usefulness, nor any general anxiety for their revival.* Sir George Gipps could hardly have examined this halting attempt at municipal government, when he expressed the opinion, "that if the chief magistrates of Quebec and Montreal, after their completion of the terms of their service, were to become, of right, legislative councillors for an equal term, it would add to the popularity of the legislative councillors."

ABSTRACT OF THE ACTS FOR INCORPORATING QUEBEC AND MONTREAL.

QUEBEC.

By the Provincial Act 1 Will. 4, c. 52, Quebec was incorporated and divided into 10 wards; each ward to return two members to the common council; nine of the 20 councillors thus returned to constitute a *quorum*, of which the mayor always to be considered one.

ELECTORAL QUALIFICATION.

The right of voting for the ward in which he resided, conferred upon every male inhabitant, being a resident in the city for 12 months preceding the election, and proprietor of a house, with the ground on which it is built and paying assessment.†

In cases of objection to voters, the party tendering the vote to swear to his qualification.

Qualification of Councillors.—The possession as proprietor of real property to the yearly value of 25 *l.* currency (amounting to 22 *l.* 4 *s.* 8 *d.* sterling), clear of all incumbrances, and over and above all rents and charges affecting the same (said property being in the ward for which the return is made); with residence in the city for two years previous to the election.

Election of Councillors.—The annual election to be holden on the first Monday in June; poll to open at 10 in the morning, and close at four in the afternoon. The election not to occupy more than two successive days, unless Sundays and holidays (*fêtes d'obligation*) should intervene. Justices of the peace to preside at the first elections under the Act; at all subsequent elections, the councillors for the time being in their respective wards.

One-half of the council to retire in annual rotation. At the close of the first year under the Act, the councillors for the several wards to determine the order of their retirement by lot or ballot.

Persons refusing to serve liable to a penalty of 25 *l.* currency. No councillor obliged to

* It is stated, that an Act for continuing the incorporation of Montreal was thrown out by the House of Assembly, because a provision had been inserted in it by the Legislative Council, conferring the municipal franchise upon tenants as well as proprietors.

† Assessment is levied under the road law, which provides, "That no lot of ground which (together with the houses and buildings thereon erected) does not exceed the annual value of 5 *l.* currency, and no lots, houses or buildings occupied by religious communities of women, and no grounds without the fortification walls of the said cities respectively used for pasture, hay-land, or for raising grain, shall be assessed under this Act." No other description of property is exempted. "The Canadians," says Laterrière, in his Political and Historical Account of Lower Canada, "with hardly an exception, are proprietors of land." Not so the commercial classes of British origin resident in the towns.

to serve for more than four successive years. Exemptions may be claimed by certain public officers and members of learned professions.

Oath of Office.—Councillors sworn to perform and execute their duty according to the intent and meaning of the Act.

The Mayor.—To be elected annually by and from the council, and to be allowed a salary not exceeding 100*l.* per annum.—*Chief executive officer of the corporation and president of the council*, which may, in his absence, choose a temporary chairman. Empowered to call extraordinary meetings of council.* Instructed “to be vigilant and active in causing the laws for the government of the city to be enforced, to inspect the conduct of all subordinate municipal officers, and, so far as in his power, to cause all neglect or violation of duty to be prosecuted and punished.” Also instructed to communicate to the council such information and recommend such measures “as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort and advancement of the town.”

PROCEEDINGS AND POWERS OF COUNCIL.

Proceedings to be public “with regard to all the members of the incorporation.”

A statement of revenue and expenditure to be published at least once a year, in one or more of the French and English newspapers of the city.

The council to appoint such officers as to it may seem expedient, and allow them a just and reasonable remuneration. The treasurer to give security, and all the corporate officers to render their accounts as often as required by the council.

Council to have the powers which, before the passing of the Act, were vested in the justices of the peace (resident in the city) for making police regulations, receiving and employing the monies raised by assessments or otherwise, and over and concerning all streets, lanes, roads, causeways, pavements, bridges, embankments, water-courses, sewers, market-places, public squares, and all other improvements within the city; the making and repairing of all market-houses and weigh-houses in the different markets, watching and lighting, and, generally, over all things which might in any way regard the improvement and convenience of the city.†

Council to have possession of all monies raised by assessment or otherwise, the funds appropriated for watching and lighting the city, and all the immovable property and outstanding debts formerly under the control of the justices of the peace, with all registers, books of assessment and other documents belonging to or concerning the city.

Council empowered to make bye-laws, “such laws not being repugnant to the laws and constitution of the province,” with the proviso that no bye-law shall have effect unless made by a majority of the whole council, and confirmed by the Court of King’s Bench. Bye-laws not to impose any fine or penalty exceeding the sum of 5*l.* currency.

Fines, penalties and forfeitures recoverable in a summary manner before any two justices of the peace for the district, in weekly sessions; one moiety of such fines and forfeitures to go to the informer, the other to the corporate fund.

Council empowered to purchase ground for opening new streets, squares and market-places, or improving those already opened; also to borrow money and to issue transferable and redeemable bonds for the same, bearing interest not exceeding six per cent. The sums borrowed not to exceed at any time “one moiety of the net proceeds of the revenue raised by assessment or otherwise” for city purposes during the preceding year.

The powers vested in the corporation not to interfere with the powers granted by law to the Trinity-house in respect of the port and harbour of Quebec.

MONTREAL.

By the Act of Incorporation, 1 Will. 4, c. 54, the city was divided into eight wards, each returning two members to the council. Seven to be a quorum; the mayor always to be one.

The Act restrained the corporation from interfering with the powers of the Montreal Trinity-house (since merged in that of Quebec), the wharves and slips erected or being erected by the commissioners for improving and enlarging the harbour of the city, and the wharves and grounds under the direction of the commissioners for superintending and enlarging the Lachine Canal. With the exception of these purely local provisions, the Montreal Statute of Incorporation is similar to that of Quebec.

MUNICIPAL OFFICERS.

Mr. Longevin, formerly town clerk of Quebec, has furnished the following list of municipal officers for that city during the period of its incorporation, distinguishing those appointed by the council and those appointed by the Crown. With some immaterial differences, the return will also apply to Montreal.

Officers

* The Act made no provision for meetings of council at certain fixed periods.

† The municipal powers withdrawn by the Act from the resident justices became re-invested in them after the Act had expired. Thus two important towns were shuttle-cocked between different forms of local government in the short space of three years.

Officers appointed by the Crown.

Health Officer.—Chief duty, inspecting vessels, their crews and passengers.

Road Surveyor.—Duties prescribed by Road and Police Acts.

Inspector of Flour.

Inspector of Pot and Pearl Ashes.

Inspector of Chimneys.—The duty performed in 1833, by an officer chosen by a society constituted under a temporary Act, and confirmed by the Common Council. After the expiry of the said Act, the duty performed by the officer originally appointed by the Crown.

Inspector of Weights and Measures.

Clerks of Markets.

Superintendent of Watch and Light, and his Deputy, under a provincial Act since expired.

Clerks of the Peace ; High Constable.—“ District ” officers.

Harbour Master and Superintendent of the *Cul-de-sac*.—Appointed by the Crown, but acting under the direction of the Quebec Trinity-house.

Officers appointed by the Common Council.

Mayor.

Town Clerk.—(This office was not filled by a lawyer.)

Road Treasurer.—Acting as treasurer to the corporation.

Law Adviser.—None appointed in 1835.

Notary.

Clerks of Markets.—Two for new markets opened during the period of incorporation, but not recognized by the Crown.

Inspector of Beaches.—Under a temporary Act, now expired.

Corporation Wardens.—Six ; for enforcing sanatory and other regulations ; and inspecting streets and public works.

To the foregoing list may be added,

The Assessors of the City Rate.—There are five, who serve gratuitously, and are selected by the magistrates out of a list of 15, presented annually by the grand jury at quarter sessions. Parties assessed have the right of appeal to the justices at quarter sessions.

PUBLIC BUILDINGS.

No town-hall or other building for corporate uses in Quebec or Montreal. The Quebec Council held its sittings in a house rented for the purpose. The Montreal Council met in a room in the court-house, by permission of the justices.

REVENUE.

The sources of corporate revenue in both cities were—

Assessment on real estate.

Tax on horses.

Poll-tax, being composition for statute labour.

Tavern and other licenses.

Markets and stalls.

Municipal property.

Fines, penalties and forfeitures.

Subscriptions from parties desirous of improvements.

QUEBEC.

By a rather complex statement from the road treasury, Quebec, it appears that the amount of revenue raised in the city from the 1st of January 1833 to the 31st of December 1837, was 27,505*l.* 13*s.* 6*d.*

The expenditure during the same period was 27,879*l.* 9*s.* 10*d.* Of this expenditure, the charge under the head of salaries to officers is 4,362*l.* 9*s.* 3*d.*

Amount of debt owing by the city, up to September 1838, 1,992*l.* 4*s.* 3*d.*, being money expended in the purchase of ground for opening and prolonging streets, and in the construction of wharves in the St. Paul's-street market.

Amount of unpaid assessment, and rent of stalls for the year 1837, 137*l.* 16*s.* 5*d.*

MONTREAL.

I. Total amount of city revenue from the 1st of January 1833 to the 1st of December 1837, 31,406*l.* 5*s.* 2*d.*

II. The road treasurer's statement shows the proportions in which the various sources of revenue contributed to the city fund.

3.—IV.

APPENDIX TO REPORT ON THE AFFAIRS OF

STATEMENT showing the various Sources of the ANNUAL REVENUE of *Montreal*, for the Years 1833, 1834, 1835, 1836, 1837.

	1833.			1834.			1835.			1836.			1837.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.
Assessment on property	2,908	-	-	3,649	1	6	3,511	3	9	4,048	4	10	3,879	16	6
Tax on horses -	327	15	-	307	2	6	337	2	6	371	5	-	315	-	-
Statute labour money	152	10	-	144	2	6	186	12	6	162	15	-	87	2	6
Tavern-keepers -	32	-	-	318	-	-	382	-	-	412	-	-	508	-	-
Grocers -	-	-	-	292	-	-	284	-	-	268	-	-	168	-	-
Rent of butchers' stalls	247	17	6	481	16	8	395	14	-	373	5	-	396	-	-
Clerk of the markets -	131	7	4	213	10	2	203	19	7½	203	18	4½	239	17	1
Rent of municipal property.	-	-	-	82	-	-	91	5	-	88	5	-	86	10	-
Fines -	86	2	6	39	-	-	39	12	6	23	15	-	58	17	6
Arrears collected -	142	19	-	89	3	6	250	9	6	58	6	-	14	15	-
Balance in hand -	-	-	-	-	-	-	170	17	1	144	-	3½	1,149	-	9½
Loan of money -	1,000	-	-	500	-	-	-	-	-	1,007	12	11	200	-	-
Sale of old materials -	-	-	-	-	-	-	2	7	6	26	6	3	-	-	-
Amount of public subscription.	-	-	-	100	-	-	-	-	-	-	-	-	-	-	-
Waterworks company, in lieu of repairing streets.	-	-	-	16	7	6	-	-	-	-	-	-	-	-	-
£.	5,028	11	4	6,232	4	4	5,855	3	11½	7,187	6	2	7,102	19	4½

III. Amount of expenditure from 1st January 1833 to 31st December 1837, 29,311 l. 19 s. 9 d.

IV. CLAIMS against the City of *Montreal* up to 31 August 1838.

	£.	s.	d.		
John Bowers * -	500	-	-	with interest -	from 4 August 1835.
Fabrique of Montreal † -	750	-	-	without interest	from 26 April 1836.
Hon. John Molson ‡ -	5,250	-	-	with interest -	from 20 April 1836.
Hon. Pierre de Rocheblave -	120	-	-	- ditto -	from 2 June 1838.
Augustin Tulloch -	120	-	-	- ditto -	- - ditto.
Moses Hayes -	79	-	6	without interest.	
Henry Jackson -	44	6	6	- ditto.	
Montreal and People's banks	1,500	-	-	with interest -	10 August 1838.
Thomas Philipps -	75	-	-		
£:	8,438	7	-		

* This loan of money was contracted under the sign manual of the mayor and seal of the city corporation. The creditor has not required the amount, but only the interest, which has been annually paid to him.

† One instalment of 100l. has been paid for the year 1837.

‡ This debt was contracted under and by virtue of 6 Will. 4, c. 7. Mr. Molson having experienced some difficulty relating to the payment, has instituted a law-suit against the magistrates, which was pending in court at the date of the return.

The various sums due to the above-mentioned claimants were expended in enlarging the new market, tunnelling the little river, and improving the streets.

MUNICIPAL DIVISIONS.

QUEBEC.

Of the ten wards into which the city was divided, four were allotted by the Act of incorporation to the Upper Town, two to the Lower, and four to the suburbs.

MONTREAL.

To the city proper were allotted two wards; to the suburbs, six; returning 16 members, less by four than Quebec, which is inferior to Montreal in wealth and population.

In this distribution of wards no sound governing principle is discernible; nor, indeed, principle of any kind. Had aggregate population formed the basis of the division, the Upper Town of Quebec would have had a smaller, and the Lower Town a larger share of the municipal representation; for according to the returns of 1825, the population of the latter was 4,187, and of the former, 4,445. That the influence of property was not regarded in the warding of the cities will be seen by referring to the assessments for the several divisions of each.

GENERAL

GENERAL VIEW of the ASSESSMENTS for each Section of the City of *Quebec* in 1837.

WARDS in each Section.	SECTION.	MEN, at 2 s. 6 d.	HORSES, at 7 s. 6 d.	Real Estate, at 2½ per Cent. on Annual Value.	TOTAL.
		£. s. d.	£. s. d.	£. s. d.	£. s. d.
Two Wards -	St. John and St. Louis suburbs.	101 12 6	95 12 6	230 5 6	427 10 6
Two Wards -	St. Roch and St. Vallier suburbs.	75 2 6	78 15 -	319 1 -	472 18 6
Two Wards -	Lower Town - -	89 10 -	15 - -	955 8 6	1,059 18 6
Four Wards -	Upper Town - -	67 2 6	55 17 6	999 - -	1,122 - -
GRAND TOTALS - £.		333 7 6	245 5 -	2,503 15 -	3,082 7 6

Of this assessment, the amount actually contributed in 1837, from each section, was—

	£. s. d.
From St. John and St. Louis suburbs - - - - -	395 5 -
„ St. Roch and St. Vallier suburbs - - - - -	451 10 3
„ Lower Town - - - - -	1,031 3 6
„ Upper Town - - - - -	1,111 7 6
Excess of city contribution over suburbs - - - - -	1,295 15 9
Excess of Lower Town contribution, alone, over suburbs - - - - -	184 7 9

The Montreal “assessment” for the year 1837 amounted to 4,801 l. 4 s. of which 4,281 l. 19 s. was actually collected in the subjoined proportions from each section of the town.

ACTUAL CONTRIBUTION from each Section of the City of *Montreal*, on the Assessment of 1837.

SECTION.	MEN, at 2 s. 6 d.	HORSES, at 7 s. 6 d.	Real Estate, at 2½ per Cent. on Annual Value.	TOTAL.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.
City { East Ward - -	20 10 -	33 15 -	1,177 14 6	1,231 19 6
Proper { West Ward - -	20 2 6	27 15 -	977 6 -	1,025 3 6
St. Lawrence „ - -	8 12 6	49 10 -	394 17 6	453 - -
St. Antoine „ - -	2 5 -	27 15 -	165 6 -	195 6 -
St. Louis „ - -	14 5 -	41 12 6	260 11 6	316 9 -
St. Mary „ - -	15 - -	48 15 -	252 12 6	316 7 6
St. Anne „ - -	2 7 6	39 7 6	346 6 -	388 1 -
St. Joseph „ - -	4 - -	46 10 -	305 2 6	355 12 6
GRAND TOTALS - £.	87 2 6	315 - -	3,879 16 6	4,281 19 -
City Proper - - -	40 12 6	61 10 -	2,155 - 6	2,257 3 -
Suburbs - - -	46 10 -	253 10 -	1,724 16 -	2,024 16 -
Excess of City Contributions over Suburbs - £.				232 7 -

The inferiority of the assessment on real estate in the suburban divisions, as compared with the main part of the cities, clearly establishes the fact, that in apportioning municipal representatives to the different sections of Quebec and Montreal, the Canadian legislature did not proceed upon the basis of property; nor assuming that the proprietorial qualification was a sound and liberal one, instead of being partial and narrow, does it appear that the plan of warding adopted in Quebec was justified by the number of qualified voters in each ward.

We learn from the assessment books that the number of rated proprietors of houses and lots in the Upper Town of Quebec is 221; in the Lower Town, 265; in St. John and St. Louis suburbs, 343; in St. Roch and St. Vallier suburbs, 473. Now, had the distribution of the wards been regulated by the number of assessed proprietors, the suburbs would have formed at least six out of the ten, while the Upper Town, even had the wards been increased to twelve, would not have been entitled to more than two, under the same standard of qualification.

Unable, then, to discover any guiding principle in the warding of Quebec and Montreal, it is difficult to resist the conviction, that the comparatively small share of representative influence given to the Lower Town of Quebec and the City Proper of Montreal, where trade is chiefly centred, and where the commercial interest prevails, originated in a feeling hostile to the British population on the part of the House of Assembly, or of those who were instrumental in passing the measure of incorporation through that House. In consequence of aggrandizing the Upper Town at the expense of the Lower, the four wards in the former contained only a mockery of popular constituencies. The assessment books show that the whole of the proprietors qualified to vote for the city council amount to about 1,302; of which 816 belong to the poorer suburban population: after deducting from the remaining 486 the 265 Lower Town electors to be distributed between two wards, there is left for each of the Upper Town wards an average electoral body of 55 and a fraction,—a constituency little better than a close club.

QUALIFICATION OF ELECTORS.

CAPITAL and population are the wants of a colony like Lower Canada, and it must be the object of an enlightened policy to encourage their introduction by an ungrudging participation of the rights of citizenship. In the towns, especially, every inducement should be given to the settlement of wealthy, enterprising and industrious strangers. The municipal franchise selected by the Canadian legislature was calculated to have an effect directly the reverse, inasmuch as, being vested exclusively in the possessors of real estate, it conferred a monopoly of local influence on the old race of settlers to the prejudice of the new; and this, too, in places depending on trade for their prosperity, and where the commercial classes have always been recruited from without. It is hard to believe that the House of Assembly had any other motive in fixing the municipal franchise than the desire to secure the ascendancy to the Franco-Canadians.*

By the Constitutional Act, the privilege of voting for members of the House of Assembly itself was extended to the occupiers of houses paying a yearly rent of 10*l.* sterling, yet the very same class of tenants, who were chiefly British, were deprived by the legislature which this Act created, of a voice in the municipal elections. And that the municipal franchise adopted by the provincial legislature afforded no correct test of the degree of individual or sectional interest in the judicious management of city affairs is evident from the assessment returns, which show that 816 suburban proprietors of Quebec, having eight representatives in the council, did not contribute so much annually to the corporate fund, by 184*l.* 7*s.* 9*d.*, as did the 265 Lower Town proprietors, having no more than four representatives.

Poor and ignorant Canadians are the proprietors of houses and lots, of which the yearly assessment value would rarely be less than 6*l.*; and while the proprietorial franchise tended to give such persons an undue influence in the urban government of the province, it had the effect of excluding persons of wealth and intelligence; the very best depositaries of colonial municipal power. Nor can the authors of this invidious and deceptive franchise uphold it on the score of its popular operation. Had the possession of the electoral right been conceded to the single class of occupiers of houses assessed at the annual value of 10*l.* sterling, it would have been more extensively as well as more equitably distributed. Take, for example, the comparative amount of proprietors and occupiers of houses assessed as before in the city of Quebec.

SECTION.	Proprietors.	Occupiers.	Increase and Diminution.
St. John and St. Louis suburbs.	343	182	Less by 161.
St. Roch and St. Vallier suburbs.	473	300	„ 173.
Lower Town - - -	265	489	More by 224.
Upper Town - - -	221	510	„ 289.
TOTALS - - -	1,302	1,481	More by 179.

Thus

* In Upper Canada, Toronto has been successfully incorporated, and the municipal franchise of that city is, by the Act of Incorporation, vested “in such male inhabitant freeholders within the ward for which the elections shall be holden, or the liberties thereof, as shall be possessed at the time of the election, either in freehold or as tenant for a term of years, or from year to year, of a town lot or dwelling-house within the said ward or liberties: Provided always, that a portion of a house in which any inhabitant shall reside as a householder, and not as a boarder or lodger, and having a distinct communication with the street by an outer door, shall be considered a dwelling-house within the meaning of this clause.” By a subsequent Act (7 Will. 4, s. 39), the franchise was altered, and the right of voting restricted to possessors, either in freehold, or as tenants for a term of years, or from year to year, of a town lot or dwelling-house rated at the yearly value of ten pounds.

Thus it appears, that by conferring municipal electoral rights on this class of substantial occupiers, in preference to assessed proprietors, the constituency of Quebec (which would be open to constant increase by new settlers) would at once receive an addition of 179 voters. But this is not all: it will be found, on referring to the assessment returns, that the substitution of occupiers for proprietors would bring the electoral strength of the municipal divisions into limits proportionate to their respective sectional contributions to the local revenue. St. Louis and St. John suburbs, which contribute the least amount, would have fewest qualified voters, and of course ought to have fewest wards. The Upper Town, which pays the largest assessment, would furnish the most numerous constituency; and the remaining divisions, according to their proportion of the public burthens, would obtain their share of influence. By a new and just municipal division, the number of wards should be so limited as to ensure constituencies large enough to make what might deserve to be entitled a popular choice, and at the same time afford their due weight and influence to the heaviest tax-payers.

In the city of Montreal, the enlargement of the municipal constituency, by transferring the franchise from proprietors to the aforesaid class of occupiers, would be still more important than in Quebec.

SECTION.	Proprietors.	Occupiers.	Increase and Diminution.
East Ward - - -	138	412	More by 274.
West Ward - - -	93	365	" 272.
St. Anne's Ward - - -	130	215	" 85.
St. Joseph " - - -	250	278	" 28.
St. Antoine " - - -	131	200	" 69.
St. Lawrence " - - -	296	435	" 139.
St. Louis " - - -	183	452	" 269.
St. Mary " - - -	232	402	" 170.
TOTALS - - -	1,453	2,759	" 1,306.

The constituency of Montreal would thus be nearly doubled, the greatest increase accruing to the east and west wards, which constitute the "city proper," and pay a larger share of assessments than all the other wards combined, and are particularly devoted to the commerce on which the town depends for its prosperity.

QUALIFICATION OF MUNICIPAL COUNCILLORS

FOR a seat in the House of Assembly or the Legislative Council, no qualification whatever was required by the Constitutional Act. By the provincial Act, 2 Will. 4, c. 22, the right of serving on grand juries of the superior courts was extended to occupiers of houses in Quebec and Montreal paying a yearly rent of 60*l.*, as well as to the owners of real property producing an annual return of 25*l.* A like qualification, but to a less amount, was fixed by the same Act for the grand jurors at quarter sessions. By the Quebec and Montreal statutes of incorporation the qualification was restricted absolutely to the possession of real property to the yearly value of 22*l.* 10*s.* sterling, clear of all incumbrances.

There are two objections to this qualification; first, the impossibility of ascertaining whether it be actual or nominal; second, its tendency to exclude from the management of corporate affairs persons highly competent to conduct them with advantage, viz. those whose capital is embarked in trade.

Under the laws of the province there is no way of arriving at the knowledge of the incumbrances on real estate, so that an individual having ostensibly a 25*l.* property qualification, may, in fact, not be possessed of an annual income of 25 pence. The municipal representatives of Quebec and Montreal were not required to swear to their qualification.

Owing to the aforesaid defect in the provincial law, and to the unimproving and unstable system of general government, most of the British engaged in trade have been deterred from the purchase of real property, for lack of which they were inadmissible to the city councils, however wealthy, experienced or enlightened they might be. Nothing could be more short-sighted and illiberal than to frame laws for establishing municipal institutions in such a way as to give an undue preponderance to the class which was wholly unacquainted with the working of these institutions by excluding another class whose social training in the mother-country had made them familiar with their operation, their objects and their advantages. And why was a tenancy qualification, recognized with regard to grand jurors by the Canadian legislature, overlooked with respect to the members of a municipal council?

MUNICIPAL PROPERTY.

QUEBEC.

THE property vested in the corporation of Quebec was comprised of markets, St. Paul's wharf, and a small lot of ground opposite the custom-house, granted to the city by the Crown. The markets were established by provincial Acts; one for the Upper Town, one for the Lower (St. Paul's-street), and one for the St. Roch's suburbs. The last has not succeeded. There is also a hay-market.

The principal market is in the Upper Town. Mr. Thomas Atkins, clerk of the market, (who is also the inspector of weights and measures, at a yearly salary of 40*l.*), stated to the commissioners, that, in addition to his salary, he was entitled to weigh-house fees; but these had been reduced almost to nothing by a regulation which permits the buyer and seller, when both are consenting, to weigh commodities where they like. There are 18 stalls in the market, which let, on an average, at from two to five dollars a year each. They are let annually by auction. The revenue from them is diminished, owing to the great number of hucksters, who pay no rent, and only 5*s.* a year for license. These hucksters advance the price of almost every article for sale by forestalling. Mr. Atkins has recommended the magistrates to raise the charge of a huckster's license to 5*l.* yearly.

The chief business done in the St. Paul's market is the selling of hay, which has been removed thither from the Upper Town. The old hay-market does not, at present, yield any revenue; but the magistrates are said to entertain the intention of erecting new stalls upon it, which might be made to pay well.

The general returns from the Quebec markets might be considerably increased. A trifling income has been derived from St. Paul's wharf.

MONTREAL.

Besides markets, the corporation of Montreal had no property, save a common, containing about 40 acres; returning no revenue, but capable of being advantageously disposed of in lots.

Four markets, exclusive of a hay-market, have been established, under provincial Acts—the new market, St. Anne's, Pres de Ville and St. Lawrence markets. Little, if any, business is done, except in the new market and St. Anne's.

The new market belongs to the city, and is the most frequented. Its returns are good, in proportion to the original outlay and yearly expenditure.

St. Anne's market is under the management of trustees. According to a statement furnished by their treasurer, Mr. Thomas Blackwood, the claims against the trustees remaining unliquidated on the 1st of September 1838, amounted to - £.19,057 4 5

Viz. Money borrowed	-	-	-	-	-	-	-	-	£.13,776	13	4
Balance due to tradesmen for erecting the market-house, &c.	-	-	-	-	-	-	-	-	773	6	4
Interest of money up to June 1838	-	-	-	-	-	-	-	-	4,507	4	9

RECEIPTS for last Three Years :

	£.	s.	d.
From 1st July 1835 to 30th June 1836	-	-	-
„ 1st July 1836 to 30th June 1837	-	-	-
„ 1st July 1837 to 30th June 1838	-	-	-
	725	9	11
	612	2	9
	435	11	8

EXPENDITURE for last Three Years :

From 1st July 1835 to 30th June 1836	-	-	-
„ 1st July 1836 to 30th June 1837	-	-	-
„ 1st July 1837 to 30th June 1838	-	-	-
	269	2	2
	240	17	9
	253	8	9

The officers of the market are secretary and treasurer (one person), at a yearly salary of 25*l.*; clerk, at a reduced salary of 50*l.*; and constable, at a reduced salary of 30*l.*

DIGEST OF EVIDENCE RESPECTING THE INCORPORATION OF THE CITIES OF QUEBEC AND MONTREAL.

QUEBEC.

Edward Glackemeyer, Esq., notary public, justice of the peace, and formerly a member of the Quebec common council, being examined, expressed the opinion, that the powers conferred upon the councils of the incorporated towns were too limited. With an inadequate revenue for effecting necessary local improvements, they were destitute of authority to raise an assessment. There was and is no public supply of water in Quebec, and the watch and light fund was insufficient for the proper accomplishments of the objects to which it was appropriated. The expenses of the fire department were defrayed out of the "road money." There was no municipal property, except the markets, a wharf, and a small lot of ground, worth perhaps 1,000*l.* or 1,200*l.* All the wharves are private property, with the exception of the St. Paul's (city) wharf, and the King's; the latter

latter is appropriated to the purposes of government. The Court of King's Bench delayed for six months the grant of its sanction to the market regulations framed by the Quebec common council. When the Act of Incorporation last expired, the same court refused to renew its sanction to these very regulations when applied to by the magistrates; and the markets came again under the old rules, which are unfit for the present state of society in the town.

It was desirable that there should be a comprehensive municipal administration, including, so far as might be reasonable, every institution of a municipal character, and invested with power to appoint all corporate officers, license public-houses, &c. &c.

A daily police court is much wanted for the summary trial of petty offences, and breaches of municipal law. At present it was sometimes difficult to procure an attendance of magistrates, those unacquainted with law having a disinclination to attend. For this, among other reasons, it was expedient that a paid professional chairman should be appointed to preside at quarter sessions.

A change might properly be made in the municipal franchise, by adopting the city franchise for the election of members of the House of Assembly. This alteration, by extending the right of voting to those tenants who paid a yearly rent of 10*l.* sterling, would increase the number of city electors in a larger proportion than the suburban. The possession of a yearly clear income of 25*l.*, arising out of real property, appeared to him a sufficient qualification for a common councillor, and he considered it just to exclude from the council all who were not possessors of a real property qualification.

A larger revenue might be obtained from the markets if the rules framed by the corporation were again in operation. The property of the *Cul-de-sac*, now vested in the Trinity-house, and comparatively valueless, might, if transferred to a city corporation, be made productive. The wants of the public under municipal government ought to be provided for by a general assessment, when the funds raised by special rates proved insufficient. The existing mode of assessment might be improved, it being unequal, troublesome and expensive. An assessor was chosen yearly for each of the five divisions of the city, and the consequent inequality of assessment occasioned complaint and appeals to the magistrates. There ought to be paid assessors for rating the whole town uniformly, and, instead of a yearly valuation, one in every five years might perhaps suffice.

The ferry from Quebec to Point Levi is an open one, and is under the jurisdiction of the Trinity-house. The only regulation respecting ferryage is a rule of the Trinity board, that the horse-boats shall start regularly every half hour.

Mr. Glackemeyer is of opinion that the Quebec corporation had generally afforded satisfaction to the public, until politics were introduced into the council. The affairs of the city would, he conceived, never be well regulated until they were again submitted to corporate control.

Ebenezer Baird, esq., merchant and a member of the late corporation of Quebec, did not think that the corporation had satisfied the inhabitants generally. There was, in fact, a continual outcry against it. Its character was injured and its usefulness impaired by the introduction of party politics. One instance to which he alluded was the uncalled-for introduction to the council by Mr. (now Judge) Bedard, of a letter from William Lyon M'Kenzie. In addition to the objection arising from its interference in politics, the corporation was imperfect in its powers, not possessing the prerogatives of an efficient municipal government. It had, for example, no police court peculiar to itself, nor any means for enforcing the summary payment of rates, such as are possessed by the corporation of Toronto.

The British population were not fairly represented in the council. This was partly owing to the partial provisions of the Act of Incorporation, and partly to the supineness of the British, who felt that they must, under such a law, always remain in a minority, and, therefore, did not greatly exert themselves to obtain admission into a body constituted with powers so inadequate. The municipal franchise was not an equitable one; it operated more directly against the rights of the British, than the elective franchise for the House of Assembly. A uniform household qualification, say to the extent of 10*l.* sterling by the yearly assessment, would be preferable to a qualification based upon the possession of real property, which in the towns must tend to exclude new settlers and persons in trade from a share in the local government. The qualification of common councillors was too low to secure the services of respectable men; it ought to be doubled, at least; nor ought it to be confined to the ownership of real estate, which, in a colony under the French law of property, afforded no grounds of forming a correct estimate of an individual's worldly circumstances.

There were not sufficient funds at the disposal of the corporation, nor were the modes of assessment and appropriation the best that might have been devised. It would be better to appoint permanent assessors to value all the rateable property of the city at reasonable intervals,—for example, once in three years. There ought to be a general fund for corporate purposes, composed of the aggregate local contributions; and when a deficiency arose in providing for any useful object of expenditure, it should be supplied by a general equitable assessment. Certain taxes levied upon shops and taverns ought not to have been specially set apart for watching and lighting; nor ought the road money to have borne the expense of the fire department. As to payment of fair local taxes, people would not object to it if the extent of public accommodation bore a just proportion to the outlay.

In the event of the cities of Lower Canada being again incorporated, the town councils

ought to have the control of the police, the fire department and other branches of municipal administration, and the corporate jurisdiction should be extended as far as high-water mark of the St. Lawrence.

The power of making bye-laws should be granted to the councils without imposing on them the necessity of awaiting the sanction of the Court of King's Bench. Corporations wisely constituted and invested with due authority would be of the greatest advantage to Quebec and Montreal.

Rene Edouard Caron, esq., advocate and mayor of Quebec during two years, considered the power of the late corporation too circumscribed, and its revenues too limited, for an efficient administration of city affairs. The road surveyor and some other officers performing corporate duties were appointed by the Crown, nor had the common council even the power of appointing the common constables. In case of the peace of the city being disturbed, the mayor had no more right to interfere than any other citizen.

The corporation was fettered by various municipal laws, all of which should be repealed if the cities are re-incorporated, and the powers conferred by these laws on insulated authorities, together with the appointment of all the municipal officers, should be given to the councils; which ought likewise to be empowered to frame bye-laws without reference to the Court of King's Bench or the executive. The corporate authority should not only be extended, but clearly defined, so as to prevent it clashing with the jurisdiction of the Trinity-house. Of course an increase of duty would call for a corresponding increase in the number of municipal councillors.

A daily police court would be of great utility, provided there were a paid professional magistrate (who might preside at quarter sessions) to sit with and assist such unpaid magistrates as might be in attendance. The mayor ought to be a magistrate *ex officio*, and be allowed a salary in proportion to his responsibility, labour and sacrifice of time. Unless a salary were given, it would be difficult to procure the services of qualified persons; there being but few who could afford to spare the time requisite for the discharge of the office.

Triennial assessment appeared to him objectionable, owing to the frequency of removal and the fluctuations in the value of property. As to the imposition of new taxes, it would probably be complained of at the outset, but the public would become reconciled to the burthen when it had been succeeded by improvements of obvious and general advantage.

With respect to the franchise, Mr. Caron would not object to confer it upon tenants who pay a yearly rent of 25 *l.* and are assessed for municipal purposes, but he would oppose the admission of any to the town councils save those who possessed a qualification in real estate; and the former one he conceived to be high enough for a fair popular choice. According to his view, mere tenants, as their residence might be only temporary, would not have a sufficient interest in the welfare of the city. If they wished to enter the corporation, they might purchase property and stand upon the same footing as others.

John Malcolm Fraser, esq., merchant, and a common councillor of Quebec during the three years of its incorporation, was of opinion that the conduct of the council had not satisfied the inhabitants generally. A portion of the council consisted of men of strong prejudices and inferior education, and, of the educated members, some were violent political partisans. Their proceedings had at times been marked by the introduction of party politics, and the manifestation of an anti-British feeling. (Mr. Fraser alluded to the letter from W. L. McKenzie mentioned in the evidence of Mr. Baird, and to a quarrel that had occurred between the soldiers of the 79th regiment and some of the inhabitants of the suburbs, concerning which the corporation had thought proper to make certain representations, considered by the British objectionable in themselves, and irregular as regarded the legitimate exercise of corporate functions.)

Mr. Fraser concurred in the sentiments expressed by the gentlemen previously examined as to the insufficiency of the city revenue, the necessity of a complete and comprehensive system of municipal government, with the power of making bye-laws subordinate only to the law of the land, and the establishment of a city police court for the summary trial of petty offences. He likewise deemed it expedient that a new measure of incorporation should include an impartial adaptation of the franchise to the capacities of the citizens for maintaining a sound local administration. A corporation so constituted would, he believed, prove of undoubted benefit to Quebec, and he felt assured that the respectable part of the inhabitants would not object to being called upon to contribute to its support.

L. T. Macpherson, esq., notary public, considered the Quebec corporation defective in its constitution, in consequence of more power having been given to those who formed the mass of the provincial population than they were capable of using for their own good. To the same cause might be attributed the failure of all the popular institutions of Lower Canada. Still the province stood in need of popular institutions; but, to secure their beneficial operation, the qualifications of the elector and the elected should be so clearly understood and so accurately defined, as to restrict the possession of power to those who were competent to exercise it for the welfare of the whole. In order to promote this desirable end, he suggested that in all Canadian elections, whether local or parliamentary, each duly qualified elector should only possess a single vote when more than one representative was to be chosen. The effect of this arrangement would be a more equal representation. He thought, also, that quorums, small in number, should be fixed by statute, so that the minority should not be deprived of the power of transacting business when the majority did not choose to attend. Were Quebec incorporated on such principles, it might, with safety to the

the Crown and advantage to the people, be endowed with all the powers and attributes common to British corporations. But he held it to be indispensably necessary that the Governor and Council should enact, and the Imperial Parliament render permanent, the primary laws for the happy government of the province; for laws of this stamp they could never expect to obtain from any popular provincial assembly. Extensive private interests would always have sufficient influence to thwart comprehensive measures, however conducive those measures might be to the public good. The prosperity of all British North America now depended upon the remedies to be devised and sanctioned by the British Parliament. At present, with advantages far exceeding those enjoyed by the people of an adjacent country, they saw their neighbours advancing in improved institutions, arts and wealth, while they were poor, feeble and retrograding.

MONTREAL.

Jacques Viger, esq., mayor of Montreal during the whole period of its incorporation, then held and continues to hold the office of road surveyor for the city and parish of Montreal, in which capacity he was subject to the council, of which as mayor he was the head. A member of the council had on one occasion moved that Mr. Viger, as road surveyor, should report to Mr. Viger, as mayor, how he had discharged certain duties of his office.

Mr. Viger stated to the commissioners that little interest was taken in the municipal elections of Montreal. The British party probably made no efforts to gain admission into the council, as they could not hope to obtain a majority, else they might have succeeded in returning more members than they did. The powers of the corporation were too limited. It had no police authority, save over the night watch, which was altogether impotent for the due protection of the town. The city was badly lighted, although a yearly sum of 800*l.* had been expended for that purpose.

The Montreal gas company offered to supply double the quantity of public lights for the same sum, but the expiry of the Act of Incorporation prevented an arrangement. Had the Act been renewed, the council would have applied to the legislature for power to conclude an arrangement with the company. Since the demise of the corporation in 1836, nothing has been done for lighting the city, as the magistrates have no funds to meet the outlay.

A corporation to be effective for good should have powers more extensive than the former one. The mayor and a certain number of councillors ought to be justices of the peace, *ex officio*. All matters of common interest to the citizens should be placed under the management of the corporation, and it should possess the unfettered right of making bye-laws. It might be advisable to give the council the power of appointing paid assessors. There being five assessors for the city acting independently of each other, there are occasional complaints of inequality of assessment. The object of an assessment on real property is to keep up the roads; but the rate of sixpence in the pound is not sufficient to maintain good roads in Montreal. The city applied, at one time, to the House of Assembly for a grant of 1,000*l.* in aid of the road funds. During the worst part of the year, from the 15th of November to the 1st of May, the duty of sweeping the streets and clearing off the accumulations of snow and rubbish in front of the houses, devolves upon the citizens, who are liable to a fine for neglect.

Mr. Viger saw nothing objectionable in granting the municipal franchise to occupiers of houses fairly assessed for municipal purposes. A 25*l.* real property qualification seemed to him sufficient for a common councillor; but persons might be justly eligible who paid a rent equivalent, as a test of property, to the qualification of real estate.

The inhabitants of towns would not complain of a larger assessment, provided the money were applied to objects of general and acknowledged utility.

The introduction of additional testimony would not throw more light upon the working of the corporate system in Quebec and Montreal. With reference to the latter city it may be remarked, that the corporation satisfied the majority of the French Canadians, so far as its administration of affairs was concerned, while by the British it was regarded with strong dislike.

MINOR INCORPORATIONS OF QUEBEC AND MONTREAL.

QUEBEC TRINITY-HOUSE.

By the permanent Provincial Act 45 Geo. 3, c. 12, the corporation of the Trinity-house was erected for "the better regulating of pilots and shipping in the port of Quebec, and in the harbours of Quebec and Montreal, and for improving the navigation of the river Saint Lawrence, and for establishing a fund for decayed pilots, their widows and children."

The Trinity Board, which is chiefly composed of respectable merchants, consists of a master, deputy-master and five wardens. The officers of the corporation are a registrar and treasurer (one person), harbour-master (one of the wardens), assistant harbour-master and superintendent of the *Cul-de-sac* (one person), superintendent of pilots (a warden), and a water-bailiff. The members of the board, as well as the officers, are nominated by the Crown.

The corporation is empowered to make bye-laws and enact penalties for the breach thereof, the fines exacted for violation of pilot regulations going to the pilot charity fund; of the

remainder, one moiety goes to the informer and the other to the provincial chest. The first bye-laws were issued in 1805, under the sanction of the then Lieutenant-governor of the province, Sir R. S. Milnes.

Open courts for the transaction of business are held on Tuesdays and Fridays. Summons is served by the water-bailiff. Charges against pilots are directed by their superintendent; prosecutions for all other infringements of Trinity-house bye-laws are conducted by the harbour-master. During the period of the year when the St. Lawrence is open to navigation, the board is a good deal occupied in hearing complaints.

The corporation has a police jurisdiction over wharves and landing-places, for the removal of nuisances and the prevention of accidents to shipping by fire. It has, however, no constabulary force for securing the observance of its regulations. It is the duty of the water-bailiff to enforce the rules of the board at the Lower Town landing-place.

Mr. E. B. Lindsay, registrar and treasurer to the corporation, states that it has for some time experienced a deficiency of funds. Application was made to the House of Assembly for an Act to authorize the levying of a small tonnage duty, to which no opposition would have been offered by the commercial interest; but, owing to the political excitement which prevailed, no attention was paid to the matter.

MONTREAL TRINITY-HOUSE.

The Act which erected the Quebec Trinity-house, empowered the corporation to establish a branch at Montreal, which was done accordingly; and this arrangement continued in force until the passing of the Provincial Act, 2 Will. 4, c. 24, which erected an independent Trinity-house in Montreal, the boundary of the jurisdiction of the two houses being Pointe du Lac, about nine miles above Three Rivers. The latter, a temporary Act, expired in May 1837, and the government of the river has reverted to its former position.

According to Mr. J. Viger's evidence concerning the Montreal municipal corporation, the separate jurisdiction over the beaches and wharves, vested in the Trinity-house and the harbour commissioners, occasioned inconvenience by clashing with the city authority.

MONTREAL HARBOUR COMMISSIONERS.

Authority was given to the commissioners appointed under the Provincial Act, 10 & 11 Geo. 4, c. 28, to borrow money to be expended in enlarging and improving the harbour of Montreal. By subsequent enactments the authority of the commissioners was enlarged. The amount of receipt and expenditure, together with all necessary vouchers, are forwarded annually to the receiver-general of the province.

The general state of affairs is explained by Mr. Badgeley, secretary to the harbour commissioners, in the following communication, bearing date Montreal, 4th September 1838.

"I have the honour to transmit herewith copies of the following account of receipt and expenditure, viz.:—

Dated 31st December 1833
 „ 31st December 1834
 „ 26th October 1835
 „ 20th September 1836
 For 1837 - „ 21st February 1838

"Also the following statements made up from the above and those of the preceding year, viz.:—

	£.	s.	d.
Amount of three loans authorized by Act of the provincial legislature, with a detail of the certificates or debentures granted to the lenders for their respective sums, and the annual interest accruing thereon - -	35,000	-	-
Amount of incidental expenses advanced by the provincial government, closing with the year 1837 - - - - -	630	17	6
Amount of warrants granted by the government in advance to pay the annual interest to the holders of the (loan) debentures, &c. - -	7,006	4	2

"From which latter sum of 7,006*l.* 4*s.* 2*d.* is to be deducted the amount of wharfages collected for the years 1835, 1836, 1837, which did not pass through the hands of the commissioners, nor was any account thereof furnished to them; but the collector of the harbour dues was directed to transmit the sum in question to the receiver-general at Quebec, which mode still continues.

"Amount of interest paid to the holders of debentures from the commencement until the 5th of July 1837 (exclusive of 52*l.* 12*s.* 6*d.* unclaimed), from which is deducted the amount of wharfages received by the commissioners for the years 1832, 1833 and 1834, being 3,903*l.* 2*s.*, leaving a balance of 7,006*l.* 4*s.* 2*d.* advanced by the government, and corresponding to the sum stated in the account of government warrants. The stop-
 ping

ping of the improvements with the close of the year 1832 has materially affected the harbour revenues, rendering them inadequate to meet the interest on the money expended; as during the summer months many of the masters evade paying the dues by taking their vessels to the upper part of the harbour (beyond the wharves, where they do not incur the charge of wharfage), and which, at that season, notwithstanding its inconvenience, is accessible for commercial purposes. The result of the statement shows:—

	£.	s.	d.
The debt to individuals bearing interest is - - - -	35,000	-	- currency.
„ to the Government in advance for incidental expenses	630	17	6
To the Government in advance, on payment of interest - -	7,006	4	2

The last subject to the deduction of wharfage for 1835, 1836 and 1837, as already specified.

“You will please to observe, that the commissioners have to account for two farther warrants for 952 *l.* 17 *s.* 6 *d.* each; the one on the 31st January, and the other on the 18th July last, from which, deducting 5 *s.* 3 *d.* paid for the fees on the two warrants, make 1,905 *l.* 10 *s.* currency, to pay the interest for one year to the 5th July last; this sum, with the expenditure of the present season for the works now in progress, will be accounted for in the annual statement to be furnished at the usual period.”

Until the works are completed, which will probably be in the course of the ensuing year, no correct estimate can be made of the revenue to be derived from the harbour of Montreal. In the opinion of experienced commercial men, the rates of wharfage, at present uselessly low, might be quadrupled, without detriment to the port.

MONTREAL GAS COMPANY.

The Act 6 Will. 4, c. 18, which incorporated the company, provides, that the gas-works shall at all times be visited and inspected by the municipal authorities of the city or their deputies, all of whose just and reasonable orders shall be obeyed by the company's servants, under a penalty of not more than 5 *l.*, nor less than 2 *l.* 10 *s.* currency.

This provision was probably introduced under the anticipation that the public lighting of the city would have been intrusted to the company. In the absence of such an arrangement, the company is obliged to place a higher price on the gas supplied to individual consumers, by whom the increased rate of charge is very sensibly felt.

MONTREAL WATER COMPANY.

The affairs of this company have passed into the hands of a small number of private speculators, who, it is said, give satisfaction to the public; at all events the supply of water is good.

TOWN OF THREE RIVERS.

THE local government of Three Rivers is administered by the unpaid magistracy, who hold weekly sessions, and frame such police regulations as they deem necessary. But destitute as the magistrates are of the funds requisite for giving even due publicity to their regulations, they are quite incapable of enforcing them. No police, worthy of the name, is maintained in the town, and its inhabitants suffer accordingly from the influx of bad characters, who, expelled from Quebec and Montreal, resort to Three Rivers.

There are two market-places in the borough, one of which only is in use. These, with a common about 500 acres in extent, under the management of a corporate body chosen by the inhabitants, and which is productive of some revenue, comprise the whole of the town property. Local improvements are provided for by voluntary subscription.

The municipal officers of Three Rivers are, a high constable (of the district), an inspector of weights and measures, and an inspector of chimneys. The last two offices are held by the same person.

There, as elsewhere, stipendiary magistrates are required. The unpaid magistrates, engaged in their private affairs, are difficult of access; and as the same persons rarely occupy the bench on consecutive days, the public are exposed to the evils of contradictory decisions.

Owing to a provision of the road law, which forbids entrance into gardens, orchards, &c. without the consent of the proprietor, the district grand-voyer is unable to act in such places as Three Rivers, and the improvement of the streets is consequently neglected.

TOWN OF THREE RIVERS:—ORDINANCES and STATUTES.

SUBJECT.	Volume.	Page.	Year.	Reign.	Chapter.	REMARKS.
Accidents by fire -	Ord.	33	17	Geo. 3	13	- - Provides against the same in Three Rivers, Quebec and Montreal.
" - - -	"	189	30	"	7	Amends foregoing ordinance.
" - - -	13	94	3	Will. 4	25	- - Establishes fire society in the same, suspending, so far, the two ordinances till 1st May 1838. N. B.—Since 1st May 1838, suspended ordinance again in force.
Police - - -	9	86	57	Geo. 3	16	- - Provides for regulation of police in Three Rivers, Quebec and Montreal, former Acts having expired on 1st May 1816.
Common - - -	3	62	41	"	11	- - Authorizes inhabitants to regulate, concede, &c. &c., common.
" - - -	4	176	46	"	7	- - Remedies informality in carrying foregoing Act into effect.
" - - -	9	38	57	"	8	- - Extends provisions of 41 Geo. 3, c. 11, to surveying and defining of the same.
" - - -	11	324	6	Geo. 4	24	- - Extends power of conceding, and gives power of acquiring portion of jesuits' estates.
Markets - - -	10	668	4	"	29	Establishes two markets.
Wharfingers - -	13	508	2	Will. 4	32	- - Compels them to advertise unclaimed goods till 1st May 1834. Continued, without amendment, by two subsequent Acts, till 1st May 1840.

The Assistant Municipal Commissioners have now concluded their exposition of the state of Lower Canada, in regard to the various branches of local administration falling within the scope of their inquiry. In framing this portion of their report, they have aimed at giving a succinct statement of facts, in terms so clear, and with an arrangement so precise, as to be easily understood by persons unacquainted with the domestic history and usages of the province. The result of the inquiry shows the total absence of any efficient or uniform system of internal government. From the passing of the Constitutional Act

Act to the period of its suspension, the country presents few indications of progressive improvement apart from those which are sure to accompany commerce and emigration. The representative chamber of the province tried its hand at every thing, and constructed nothing durable and worthy.* When it ceased to exercise its functions, not a single popular institution remained capable of aiding the deliberations of the extraordinary legislature by which it was succeeded; or sustaining the necessary demonstrations of executive power during a season of great public emergency.

EXISTING MEANS FOR LOCAL SELF-GOVERNMENT IN LOWER CANADA.

THE only machinery for the working of a plan of municipal government in the province is to be found under the operation of the road law and collateral enactments.

Under the actually existing road law, there are, or may be, in every parish or township nine popularly-elected officers (overseers of highways), acting separately in as many districts, and collectively for the whole parish or township; and under the expired statute, 5 Geo. 4, c. 3, there were, or might have been, 45 officers of like authority, both separate and collective. To each of these popularly-elected officers are assigned duties which require for their due performance as much of education and intelligence as are required for the execution of most of the ordinary duties of a municipal character. By electing two officers from each subdivision of a parish or township, and distributing between them the executive functions for each particular district, and at the same time forming the whole into one collective council, a tolerably efficient municipal body for ordinary local purposes might be called into existence. The surveyor or surveyors may be considered the already-constituted head or heads, appointed, as at present, by the provincial executive—a reservation of authority which, besides being in accordance with the existing law, might, in many cases, prove highly advantageous.

In addition to overseers of highways, there is also in every parish or township another body of officers, chosen by popular election, namely, inspectors of fences. By reference to the duties devolved upon these officers, it will be seen that the law requires and expects from them a higher degree of education than from the highway overseers. Both classes of functionaries are elected for a period of two years, so that in fact we have the machinery adequate for accomplishing the objects of minor municipal jurisdiction, requiring merely a distribution of more various duties, and an alteration of elections, to provide against the retirement of more than one-half of the local authorities at the same time. The attempt to construct out of these materials a good working system of local administration might, owing to the apathy and obtuseness of the agency employed, prove a failure; but at all events, it would not be open to the objection of being new-fangled or visionary; for popularly-elected officers now are, and long have been, depositaries of legislative, judicial and administrative powers for minor municipal purposes over the whole length and breadth of the province. It may, moreover, be fairly inferred, that an extension of powers (still, however, under the correction of the provincial executive), and particularly the control of a pecuniary assessment, would lead to a more careful and discriminating selection of officers. With respect to this most important subject of a pecuniary assessment, it is, we must repeat, deeply to be regretted, that the existing legislature of the province of Lower Canada, as we have had occasion before to remark, is, by the law which constituted it, declared incompetent to levy "any tax, duty, rate or impost for any purpose whatever." Such a restriction it is difficult to account for, inasmuch, as has been observed, the similarly-constituted legislature, which existed before the introduction of the Constitutional Act, was, by a special exception, permitted to impose local taxes for local purposes. It might have been supposed that, in suspending the intermediate system, the natural and obvious course would be to fall back upon its predecessor, having due regard to the peculiar circumstances of the time, which certainly were not of a cast to warrant a distrustful and penurious delegation of authority. At all events the effect of the prohibition was to delay, if not to frustrate, the best designs of a government, whose hope of efficiency mainly rested upon prompt and comprehensive legislation. No law, whether for the promotion of education, registry of property, or of judicature or municipal reform, could have been put in operation without the power of local taxation, unless indeed fresh and indefensible sanction had been given to the old and vicious system countenanced by the House of Assembly—the application of the imposts levied on commerce to every provincial exigency, whether partial or general, temporary or enduring.

* The road law of 1796, which has long outlived its usefulness, was passed with difficulty through the House of Assembly by the influence of the executive. It created much discontent among the *habitans*, who were opposed to the grant of labour or money required under the Act for the maintenance of the roads.

SUGGESTIONS FOR AN IMPROVED MUNICIPAL ADMINISTRATION OF LOWER CANADA.

THERE are certain alterations in subordinate departments of local government which the Assistant Commissioners feel it their duty to recommend for immediate adoption, under the persuasion that they will constitute, *pro tanto*, a decided improvement on the present state of municipal administration.

In recommending partial ameliorations, they do not for a moment lose sight of the necessity of those extensive reforms which, whatever may be the system of general government, are imperatively demanded for the establishment of law and order throughout the province.

The lesser amendments, however, are not only useful intrinsically, but they will in no wise interfere with any complete scheme of municipal improvement that may hereafter be adopted, and which will necessarily require time to mature. The suggestions for an improved municipal administration fall, therefore, under two heads: first, partial amendment; second, general re-organization.

First. The first head includes the incorporation of the cities of Quebec and Montreal, and an amendment of the Road Laws.

QUEBEC and MONTREAL.

It is not easy to overrate the benefits that would accrue from the incorporation of Quebec and Montreal upon those protective and progressive principles on which the European municipalities of the middle ages were founded. It has been shown, in the preceding part of the report, that, by the Constitutional Act, a controlling legislative influence was granted to the representatives of the Canadian *habitans*, an electoral body altogether ignorant of the nature of the trust reposed in them, and inveterately hostile to any measure, however prospectively advantageous, that might trouble their rude repose. It has been shown, also, that this controlling influence was followed by crude, uncertain and one-sided legislation, continued encroachment of the popular branch on the other branches of the legislature, and an eventual disruption of the friendly social relations subsisting between the settlers of diverse origin. The Acts incorporating Quebec and Montreal studiously and unjustly excluded the British settlers from a fair share of local power in the very strongholds of the commercial energy which they themselves had introduced into the province. In the whole colony there was not a single popular institution through which the British could make known their grievances, or develop their capacities for self-control. What has been the consequence? Decreasing colonial enterprise and increasing dissatisfaction with the Government at home, from whatever party the materials of that Government may have been drawn. Destitute of any mode of constitutional organization by which they might be enabled to lay their complaint before the Imperial Parliament or the Executive, the British colonists have been obliged to rely for aid on the advocacy of the local press—not always wisely guided—or on associations, secret or open, the sure indications of a diseased condition of the body politic. The simple question at issue is, whether the province shall remain French, or stand still until pushed forward by the aggressive movements of the United States, or become English in the progressive and prosperous action, as well as in the outward and visible character of its institutions. As the incorporation of Quebec and Montreal, upon principles equitably regardful of the claims of property, intelligence and enterprise, would materially tend to promote the latter result, while it would remove the plea for associations unrecognized by and inconsistent with law, measures should be taken for that purpose with as much speed as may consort with the secure attainment of the contemplated object.

The outline of a plan of incorporation for Quebec and Montreal is annexed to this report. A scheme of local government for Three Rivers cannot at present be suggested, owing to the want of information collected on the spot.

AMENDMENT of the ROAD LAW.

POPULAR election, local supervision, judicial disinterestedness and central responsibility, are the theoretical features of the road system, and these are precisely the essential requisites for the successful working of municipal institutions in a country socially circumstanced as is Lower Canada. A few modifications—unimportant probably in the estimation of persons unacquainted with the necessities of a new country, would afford a grateful relief to the settlers, and would bring the promise of theory and the efficiency of practice to a closer approximation.*

These

* It might be advantageous to vest in the grand-voyer, or his local deputy, a discretionary power, within a limited extent, as to the dimensions both of the highways and the ditches; and, also, as to the moulding and repairing of roads. In two sections of country differing so widely in physical characteristics as the upper seigniories on the one hand, and the lower seigniories and townships on the other, legal uniformity as to the matters of detail cannot fail to be productive of inconvenience. But with the introduction of an improved general system, there must be a thorough revision of every branch of the now obsolete road laws.

These modifications, at least the most important of them, are the increase of the number of deputy grand-voyers, with perhaps only one grand-voyer for the whole province, and the substitution to a certain extent of pecuniary payments for road labour.

With respect to the first modification, it would materially diminish the travelling expenses of the grand-voyer or his local deputy, and would tend to equalize the costs of *procès verbaux* over the whole province; whereas, at present, the parts most remote from the seats of district jurisdiction, which are generally the poorest, are the most heavily burdened with regard to preliminary expenditure, and that sometimes to so onerous a degree, as to induce them to dispense with the grand-voyer's services altogether. Of course the local deputies would necessarily absorb all the fees, so as to throw the central head on the liberality of the central government.

The multiplication of local deputies is strongly recommended by the grand-voyers of the province, and it was effected for four years under the sanction of the Act 9 Geo. 4, c. 34, s. 3. By the statute which this Act amended and continued, viz., 5 Geo. 4, c. 3, s. 4 & 5, the grand-voyer or his deputy was empowered to appoint two or three surveyors for any parish or township, to act each in a separate division, and to authorize the election of not more than fifteen overseers in as many separate districts under each surveyor. To this enactment we have adverted already. A reasonable recompense by fees ought to be given to surveyors for the time absolutely spent in the discharge of their duty.

Pecuniary payments ought to be substituted for joint labour, whether on front roads or on bye-roads. The advantages of such a modification of the present system would be manifold:—

First. The proprietors, instead of being tempted, as they now are, to choose the worst men, in a practical point of view, namely, the men who are least likely to exact a strict performance of road labour, would be induced to choose the most intelligent, honest and energetic of their neighbours, inasmuch as, under a fixed rate, similar to that now levied in Quebec and Montreal, the difference between a good road and a bad one would really entail no cost upon the inhabitants.

Secondly. The overseers of highways having a much more definite duty to perform, and being allowed much less scope for discretionary indulgence, might fairly be held by their superiors as more directly responsible, and would certainly be so held by their constituents.

Thirdly. The voluntary labour of paid workmen would be far more efficient than the reluctant labour of unpaid workmen.

Fourthly. An incidental advantage would arise to poor and industrious men; as the pecuniary assessment would return to them in the shape of wages for labour, more than they would pay as a rate.

Fifthly. There would be another incidental advantage, inasmuch as farmers could not be dragged from their lands, to the great prejudice of their agricultural operations—an advantage to be the more gravely considered, in proportion to the shortness of the agricultural season, and to the entire dependence of most Canadian farmers on each crop as it is harvested.

Sixthly. A third incidental advantage would accrue from the substitution of pecuniary assessment for joint labour; it would gradually diminish the necessity, and even the desire of provincial grants for local purposes, which are subversive alike of local independence and central efficiency. The merits of the question may in some degree be appreciated from the somewhat analogous practice with regard to private bills in the Imperial Parliament; there being, however, this difference, that the operation of the latter is partial, and of the former universal, both among representatives and constituents. The provincial system—if system indeed it can be called—leads both to jobbing in the appropriation and waste in the expenditure; tempts both representatives and constituencies to purchase the acquiescence of majorities by prostitution of principle; tends to prevent each individual member of the popular branch of the legislature from considering himself, according to the true doctrine of the constitution, a representative of the whole people; and prompts every man to clamour for that spurious administrative economy, which is maintained at the expense of efficiency, with the view of preserving as large a residue as possible of the public funds for general—we might add, eleemosynary distribution.

It has been stated by many, if not most of the witnesses before the commission, that pecuniary assessment in the rural districts would be unpopular or oppressive. But beyond the general fact that the mass of the people dislike taxation, there seems to be no ascertained ground for the allegation, at least at the present day. Throughout the whole extent of the seigniorial parishes, large sums are levied for building and maintaining churches,—a proof that there is no such extreme scarcity of money among the *habitans* as to bar the collection of the very moderate pecuniary assessment that would be required for local improvements of obvious and admitted necessity.

But such pecuniary assessment, though in a modified form, already exists under the road law of 1796. By 36 Geo. 3, c. 9, s. 19, the majority of the overseers of highways of the parish or township may impose a rate on the parties interested “when it shall be necessary

to pay artificers or undertakers for making or conducting the work to be done on any public bridge, or to purchase materials for the same." And by the expired Act, 5 Geo. 4, c. 3, s. 7, the majority of the parties interested had the same power with respect to all joint labour—a power which would have been more generally exerted, had not the overseers been obliged to serve notices of the requisite meeting on each and every interested party. In cases of this description the apportionment generally is not based on value, but on extent of property. This basis, whether reasonable or unreasonable in the abstract, is equitable in the case of a composition for road labour, which service itself bears a regular proportion to extent of property, at least in the seigniorial districts. In the newer settlements, however, some distinction ought to be made between the cleared and uncleared portions of any lot or farm, and a register, as has been suggested by Mr. Panet, grand-voyer of the Montreal district, might be advantageously framed, so as not to require alteration for three or four years.

And here would naturally arise the question as to the propriety and expediency of rendering all land, wild or reclaimed, liable to the cost of making and repairing roads and bridges. By the existing law (36 Geo. 3, c. 9, s. 7), all unconceded land and all wild lots in the possession of the original grantees of the Crown are exempted from road duty; but by an Act amending this Act with respect to "the townships" (3 Geo. 4, c. 19), all granted lands, with the exception of those of "a Protestant clergy," were placed on precisely the same footing. It is to be regretted that a statute so beneficial in practice and so just in principle was only a temporary enactment, and, as such, permitted to die a natural death in 1828.

With regard to the wild land, the practical working of the present system is clearly bad. The resident settler, who is generally straitened in means, is compelled by it to make roads for the absentee proprietor, who is generally rich, and to whom, at all events, the possession of the land is a matter of subordinate consideration. The provisions of the expired Act, modified perhaps in some particulars, ought to be revived in the townships. It ought, moreover, to be extended to the unconceded land in the seignories, wherever and whenever the seignior is not competent to declare on oath that he has never directly or indirectly refused to concede any land in question on the terms prescribed by the old laws of the country; and should such a change of tenure take place as would render the seignior not trustee but proprietor, all distinction on this head between townships and seignories ought forthwith to disappear.

From the errors of the past, we may derive a lesson for the future. Institutions essential to the peace and welfare of the colony, when it first came under the sovereignty of Britain, are still wanting; and, as the ancestral character of the majority of the population remains unchanged, the principles upon which these institutions may be successfully established continue to be the same.

The period of deliberation has been too brief to allow the Assistant Commissioners to mature any scheme of municipal government for a province so disunited in itself, and so complicated in its relations as Lower Canada. But, in addition to an insufficiency of time, there is the farther disadvantage of considering a new municipal system as an insulated question; whereas, under the circumstances of the country, it claims to be regarded in connexion with whatever system of general government may ultimately be substituted for that unhappy shadow of the British constitution, so productive of mischief, so barren of good. Institutions, to operate happily, should be framed so as to dovetail with each other, and meet in a common correcting and controlling centre.

In the hope that they will not be charged either with fanciful speculation or presumption, the Assistant Commissioners venture to place on record what they wish to be viewed merely as hints for a plan, and not as a digested arrangement. A minute of Sir Charles Grey, in the Report of the Commission of which he was a member, suggests the division of Lower Canada into several subordinate "legislatures," with one general and controlling legislature. Not prepared to agree with this proposition, under the apprehension (which may be erroneous) that it comprehends an *important* delegation of legislative authority to sectional assemblies, we are still disposed to believe that, by machinery not widely dissimilar, but more guarded in its construction, the province might obtain the benefits of improved local administration. Under this impression, we should be inclined to recommend—

First. A new division of the province, on the principle of territory and population, with the transfer of the inferior district of Gaspé to New Brunswick, taking the river Mitis or Rimouski as the boundary line. The division to comprise "districts" and counties, leaving the present parochial and township subdivisions unaltered. Each "district" to be so far limited in extent as to lie within the direct and constant supervision of an executive head. Proceeding upon this rule, there would, probably, be about eight municipal districts in Lower Canada.

Second. Councils chosen in the same way as overseers of highways under the road law, to administer the affairs of parishes and townships.

Third. Councils chosen by the municipalities of parishes and townships, from persons possessing the double qualification of education and property, to administer county affairs.

Fourth.

Fourth. Councils chosen by the county municipalities, from educated persons possessing a higher property qualification than that required for the county representation, to administer district affairs.

The duties of these various bodies to be of a strictly *local* character, and the execution of the duties, as well as the *mode* of executing them, to be provided for and prescribed by a code of municipal law.

Fifth. To assist and temper the action of these municipal bodies, as well as to facilitate the due administration of justice, courts of monthly sessions (more frequent, if need be) with civil and criminal jurisdiction, having paid professional chairmen.

Sixth. A board of internal improvement, to audit accounts, report upon all applications for aid, and make periodical statements to the legislature.

Seventh. Professional engineers appointed by the Crown, to act as superintendents of roads and bridges, in place of the unprofessional grand-voyers.

Eighth. A salaried district chief, appointed by the Crown to preside over district council, and report to the board of internal improvement and the provincial government.

Ninth. A county road superintendent appointed by the provincial superintendent, paid by fees and acting as a deputy grand-voyer, with power to homologate *procès verbaux* at monthly sessions, to preside at county council, and report to district chief.

Tenth. Surveyors of parishes or townships appointed by county superintendent, and paid by fees, to preside over their respective municipalities, and report to said superintendent.

None of the municipal bodies to possess the power of organizing or controlling a constabulary police. The protection of life and property in the rural districts cannot at present be withdrawn, without peril, from the hands of the central executive.

The good to be anticipated from the operation of such a system of local administration as has been faintly indicated, is the breaking up of jobbing connexions between the *habitans* and their representatives, and the introduction of habits of self-reliance among the former. The frequent interposition of responsible executive agencies might be expected to act as a stimulus to the inertness of the French Canadians, while it would enable the central government to discern, at a glance, the condition of the population, and to operate rapidly and simultaneously on every division of the province.

With respect to the pecuniary means for local government and improvement, the correct principles of provincial taxation were clearly laid down by the merchants and others of British origin in 1806. They then contended, in opposition to the majority of the House of Assembly, that "if the support of the civil government were not to rest on direct taxes, it should, at least, be secured by permanent Acts of indirect taxation, as already introduced by the British Act 14 Geo. 3, c. 83, and the provincial Acts 33, 35 & 41 Geo. 3. That local establishments, such as court-houses, gaols and houses of correction should be defrayed by assessments or indirect taxes upon the districts, counties and cities for whose benefit they might respectively be required. And that, for the general improvement of the country, its agriculture, commerce and communication by land and water with the adjoining colonies and foreign states, recourse should be had to indirect taxes of temporary duration."*

The construction of great public works by loan, as in the United States, would, in tranquil times, and under a stable provincial government, materially accelerate the physical prosperity of Lower Canada. The construction of the canals of the State of New York has been carried on chiefly with funds derived from loans. The whole amount borrowed is about fifteen millions of dollars; the balance of the debt for their construction is now less than five millions; and the Erie and Champlain Canal fund alone yields a net revenue, after paying all legitimate charges, and all deficiencies of the auxiliary canals, of \$718,650† (dollars). The beneficial effect of the loan system is twofold; it calls into operation individual capital and enterprise, and gives distant capitalists an immediate interest in the welfare of the country.

The Assistant Commissioners feel bound to declare their conviction of the uselessness of all subordinate measures for the improvement of Lower Canada, however promising in appearance, or excellent in design, unless the general government of the province shall be reconstructed, and placed on so solid a basis as to enable it to resist the shock of parties, to maintain the even course of justice, and secure for imperial authority the respect which it has lost by long perseverance in a blind, wavering and anti-national policy. The present moment is peculiarly favourable for the commencement of a new era in Canadian administration. Steam navigation has so far reduced the distance between England and her North American colonies, that the affairs of these most valuable dependencies are capable

* Political Annals of Lower Canada, 1823.

† Message of the Governor to the Legislature of the State of New York.

capable of being conducted with as much efficiency as those of the remoter sections of the United Kingdom. But it is vain to hope that commerce will thrive, emigration increase, or the lesser institutions for social advancement extend and flourish, until they are assured of the fostering care and protection of a firmly-rooted, enlightened and energetic government.

Will. Kennedy,

Adam Thom,

Assistant Commissioners of Municipal Inquiry,

Quebec, 14 November 1838.

APPENDIX.

No. 1.

HEADS of BILLS for incorporating the Cities of *Quebec* and *Montreal*.

1. REPEAL all Acts, and portions of Acts, likely to interfere with the operation of this Act, so far as they relate to Acts incorporated.
2. City boundaries and wards to be settled by commissioners appointed by the Crown.
3. Corporation empowered to erect, by Act of common council, any part of the suburbs into a ward, when it has as many inhabitants and contains as much assessed property as the smallest ward at the first assessment after the passing of this Act.
4. New wards to be erected by proclamation of mayor from date of proclamation; such part of suburbs to be a separate ward, and have all the privileges of a ward; but not to return members to the common council until the next city election.
5. The inhabitants of said city to form a body politic, by the name of the city of _____, to have a common seal, with power to change the same; to be capable of suing and being sued; and of purchasing and holding estate, real and personal; and of giving and receiving bonds, judgments, &c.
6. Two aldermen and three common councilmen to be chosen for each ward. Council to choose the mayor annually from among the aldermen. In case of an equality of votes, that alderman who is assessed the highest to give the casting vote.
7. Aldermen, to qualify, must be resident householders in the city for the two years immediately preceding the election; also, so resident at the time of the election, and in possession of real or personal property to the amount of 1,000 *l.* currency, clear of all debts and incumbrances, or in occupation of buildings assessed at the annual value of 100 *l.* currency, or upwards.
8. Qualification of common councilmen same as to residence, with possession of real or personal property to the amount of 500 *l.* currency or upwards, &c., or in occupation of buildings assessed at the annual value of 50 *l.* currency. Aldermen and councilmen to swear to qualification.
9. Aldermen and common councilmen to be elected respectively by the majority of votes of such persons, being male inhabitant householders within the city, as shall have been resident within the city for the twelve months immediately preceding the election, and occupiers of buildings assessed at the annual value of 12 *l.* currency and upwards, on which the assessment shall have been paid. Right of voting reserved to joint occupiers possessing a *bonâ fide* yearly interest to the amount of _____.
10. Mayor, aldermen, councilmen and voters to be natural-born or naturalized subjects, of the age of twenty-one.
11. Power of legislating for the city vested in mayor, aldermen and common council, and all legislative Acts to be expressed as enacted by the mayor, aldermen and commonality of the city in common council assembled.
12. Common council empowered to regulate all matters properly appertaining to corporate administration, to embody, direct and pay a constabulary police, to open streets, regulate ferries, assess property, borrow money, erect town-hall and house of correction, and make laws for city government not repugnant to the laws of the province. Mayor and aldermen to license inn-keepers.
13. Before first election, clerk of the peace to form a registry of voters from the assessment rolls; claims and objections to be heard and determined by an advocate appointed by the chief justice, and paid from the provincial funds.

14. Mayor

14. Mayor to hold office for one year, capable of re-election; to be, *ex officio*, chief magistrate of the city, and a "district" and county magistrate. To be allowed an annual salary of not less than 300 *l.* currency, nor more than 500 *l.* currency.
15. Aldermen to serve for six years, one-half retiring triennially. At the end of the three years immediately succeeding the first election, that half to retire who have had the fewest votes.
16. Common councillors to serve three years, one-third retiring annually. At the end of the first and second years immediately succeeding the first election, that third to retire who have had the fewest votes.
16. Common council empowered to make rules for the guidance of its members, and to appoint watch and other committees for the year.
17. Four quarterly meetings of council in each year. Mayor to call special meetings on the requisition of — members of the council; — to form a quorum.
18. Meetings of council to be open to the public. Statement of revenue and expenditure to be published annually, in one or more local newspapers.
19. Corporate bye-laws to be signed by the mayor, and published.
20. Council to appoint town clerk, city treasurer, road surveyor, superintendent of police, clerks of market, assessors and collectors, and such other officers as may be deemed necessary; compensation for service according to discretion of council.
21. Town clerk to be legal adviser to the corporation and keeper of corporate records; said records and all minutes of proceedings being in the English language; to frame an annual registry of voters after first election. Claims and objections to be heard and determined by an advocate nominated by the chief justice and paid from the provincial funds.
22. Rates and assessments unpaid ten days after demand, exigible by distress, by warrant of the mayor or other city magistrate, upon oath made of demand and neglect. Right of appeal, after rate is declared, to quarter sessions.
23. Treasurer and collector to give security.
24. Persons disqualified for serving as councillors, who hold, either directly or by partnership, any office of emolument or any contract under the corporation, insolvents, &c., penalties for refusing to serve.
25. Persons to be exempt by reason of age or profession, clergy, &c.
26. Corporate jurisdiction to extend to high-water mark, and over all wharves and slips.
27. Magistrates for the city to be appointed by the Crown. District or county justices to have no jurisdiction in the city, except in holding district or county quarter sessions. Warrant of district, county or city justices to have effect all over district.
28. A city daily police court, mayor to preside, assisted by one or more city justices. Magistrates to elect a lawyer as clerk, paid by salary and fees.

No. 2.

IN the event of the former municipal limits of Quebec and Montreal being retained, the following appears to the Assistant Commissioners to be a more equitable arrangement of the wards.

QUEBEC.

Seven Wards.—To be subdivided on the basis of actual contributions to the civic funds, rising from assessments.

Upper and Lower Town into five wards.

Suburbs into two.

As the blending of the two towns might be difficult,

Upper Town to consist of three wards.

Lower Town two wards.

Tower Ward - St. John and St. Lewis suburbs to form one ward.

Bridge Ward - St. Roch and St. Vallier's suburbs to form one ward.

Castle Ward - { Upper Town to be subdivided from the market-place, as a centre, by
Arsenal Ward - { three lines or radii, striking three gates, Hope, St. John, St. Louis,
Barrack Ward - { respectively, along Hope-street, Fabrique and John-streets, Hay-
market, Garden-street and St. Louis-street.

Cul-de-Sac Ward - { Lower Town to be subdivided by a line drawn from Prescott-gate to
Exchange Ward - { the nearest point of the river.

3.—IV.

MONTREAL

To be subdivided on the same basis as Quebec, into nine wards, viz., the city into four, the suburbs into five. In strictness, the suburbs are only entitled to four.

River Ward	-	Between middle of St. Paul-street and river.
Creek Ward	-	Between middle of Notre Dame-street, Place d'Armes, Great St. James-street and St. Lawrence suburbs.
Monument Ward	-	Between Quebec suburbs and St. Francis Xavier-street.
Recollet Ward	-	Between St. Francis Xavier-street and M'Gill-street.
Canal Ward	-	St. Anne's suburbs.
Union Ward	-	St. Joseph's and St. Antoine's suburbs.
Mountain Ward	-	St. Lawrence suburbs, between St. Antoine's suburbs and middle of Main-street.
Hospital Ward	-	Rest of St. Lawrence suburbs and all of St. Louis suburbs.
Victoria Ward	-	Quebec suburbs.

No. 3.

POLICE.

ESTIMATE of the FORCE required to constitute a thoroughly efficient POLICE within the City of Quebec and Country parts adjacent, and on the Waters and Banks of the St. Lawrence and St. Charles; by Mr. Young, Superintendent of Quebec Police.

	£.	s.	d.
One inspector and superintendent - - - - -	1	10	-
Clerk to ditto - - - - -	5	-	-
One chief constable - - - - -	7	6	-
„ deputy ditto - - - - -	6	-	-
„ serjeant-major - - - - -	5	-	-
Three serjeants, at 3s. 6d. each - - - - -	10	6	-
„ corporals, at 3s. each - - - - -	9	-	-
Four coxswains, at 3s. 6d. each - - - - -	14	-	-
Thirty privates, at 2s. 6d. each - - - - -	3	15	-
Twenty-four boat's crew, at 2s. 6d. each - - - - -	3	-	-
Horse for the inspector and superintendent - - - - -	2	6	-
Daily expense - - - - -	11	9	6
Weekly expense - - - - -	80	6	6
Yearly expense - - - - -	4,176	18	-
CONTINGENCIES:			
Four boats, at 30l. each - - - - -	£.120	-	-
Clothing - - - - -	940	7	2
Horse, saddle, bridle, &c. - - - - -	50	-	-
Furniture for police office - - - - -	20	-	-
Office rent, guard-room, strong-room, fire-wood, candles, &c. &c. - - - - -	100	-	-
Contingent charges - - - - -	200	-	-
	1,430	7	2
TOTAL Annual Expense - - - - -	£. 5,607	5	2

No. 4.

REVENUE.

PROPOSED WAYS and MEANS to cover the Expense of the POLICE for the City and Harbour of Quebec.

	£.	s.	d.
Tonnage duty upon all vessels entering the port of Quebec, 300,000 tons, at 2d. - - - - -	2,500	-	-
Average number of shop and wine licenses annually granted for the four last years, 318—which, at 6l. each, will amount to - - - - -	1,908	-	-
Two hundred boarding-houses, retailers of beer, cider, &c. - - - - -	1,200	-	-
The average amount of assessments on property is 3,000l. If a similar tax be laid upon tenants, it may be estimated at one-third at least - - -	1,000	-	-
Fines - - - - -	300	-	-
TOTAL Annual Amount - - - £.	6,908	-	-

Quebec, 27 Sept. 1838.

T. A. Young,
Inspector and Superintendent of the Police
for the City of Quebec.

There are numerous ways in which an adequate revenue may be raised in Quebec and Montreal without pressing severely on the inhabitants. Among other modes of increasing the civic funds, the Assistant Commissioners would recommend that the poll-tax or composition for statute labour be doubled at least, and payment thereof made compulsory, without offering the alternative of labour. Masters to be liable for servants, with liberty to repay themselves. Dogs ought to be taxed, and the tax on carters and on such horses as are kept for pleasure merely considerably increased. In Toronto, persons not otherwise rated, and liable to statute labour, pay 10s. In Quebec and Montreal most of this class evade payment altogether of the yearly 2s. 6d. With regard to corporate assessment, it would, we think, be unwise to restrict the common council to a *maximum* rate, the citizens having the corrective in their own hands, should their representatives attempt to levy unreasonable rates.

In drawing up the "Heads" of Bills for incorporating Quebec and Montreal, the Assistant Commissioners have referred to the plan of incorporation in operation at Toronto, and adopted such of its provisions as appeared to them suitable to be introduced into the administration of the cities and towns in Lower Canada. They were induced to do so, as much by the desire to assimilate the institutions of the two provinces, as by the applicability of the enactments.

2.—REPORT FROM THE BISHOP OF MONTREAL ON THE STATE OF THE CHURCH WITHIN HIS DIOCESE.

My Lord,

Marchmont, near Quebec, 20 Nov. 1838.

IN obedience to the signification of your Excellency's desire, I proceed to render a Report, for your information, of the state of the Church in this Diocese, as exhibited in the visitation, which I completed by my return to Quebec on the 14th of the present month, after having been absent since the 6th of August.

The number of persons professing adherence to the Church of England in the province of Upper Canada is roughly stated at 150,000. I believe it is by no means accurately known, but measures are understood to be in contemplation for ascertaining it. The number of clergy in the exercise of their ministry, including some whom I ordained during my visitation, is 73. The number of churches built, or in progress towards their completion, is about 90.

These data, however, would give a very imperfect idea of the condition and the wants of the population, as it respects the means of spiritual instruction, or, to speak more properly, could furnish no grounds whatever of forming a correct estimate upon the subject. The prodigious extent of country, the widely-scattered location of the inhabitants, and the state of the roads in the settlements of more recent formation, must, as will readily appear to the judgment of your Excellency, be all taken into the account; and it will be found, in point of fact, that a lamentable proportion of the Church of England population are destitute of any provision for their religious wants; another large proportion very insufficiently provided; and almost all the remainder served by a clergy who can only meet the demands made upon them by strained efforts, which prejudice their usefulness in other points.

The object of this Report to your Excellency will, I presume, be sufficiently answered by the adduction of some particular examples in support of what I have just said. In travelling from the town of London to Goderich, I passed through a tract of country 60 miles in length, in which there is not one clergyman or minister of any denomination.

3.—IV.

H

I believe

I believe I am safe in saying, that the great majority of the inhabitants, among whom are comprehended the Land Company's settlers, are of the Church of England; and the services of some of our missionaries, who have partially visited this tract of country, have been thankfully received by those who pass under other names. Between Wodehouse upon Lake Erie, and St. Thomas, a distance of upwards of 50 miles, which may be travelled by two different roads, there is not one clergyman upon either. From the reports made to me by one of our travelling missionaries, and by a solitary catechist stationed at Port Burwell, I know that there is a great body of church people scattered through this part of the country. In the whole of the newly-erected district of Wellington, which is every where scattered over with a Church population, there is only one clergyman of the Church. In the district of Newcastle there are six. I have good reason to know, that if 10 more could be immediately added, there would be full employment for them, with regular congregations. In one or two of the districts there is a missionary engaged in labours exclusively of an itinerant character; but how sparingly the word and ordinances of God are supplied, even to those among the unprovided settlements which are thus far favoured, your Excellency will have no difficulty in conceiving. The clergy, however, except in the few comparatively large towns, are almost all more or less itinerants. I take one example almost at hazard from the returns officially made to me, to which I could produce many parallel instances: it is that of a clergyman in the Bathurst district, a place noted at certain seasons for the excessive badness of the roads, who performs three full services every Sunday, distributing his labours in such a way in four different places, that once a fortnight he travels 28, and once a fortnight 16 miles; besides which, he has in the winter months four week-day appointments for divine service. Most of the clergy have what they call out-stations, which they serve in this manner on week-days, to supply settlements which would otherwise be wholly destitute; and many of them make occasional visits during the year to places still more remote. These objects they do not accomplish without many sacrifices, and much severe exertion; but the reward which they seek is not in the praise of men, and it is the value rather than the merit of their services to which I desire to solicit the attention of your Excellency. I do not speak here of those higher effects which constitute the ground and ultimate object of their ministry, but in proportion as means are taken for the extension of their influence, in such proportion, my Lord, I have no hesitation in saying,—for the effect is every where sufficiently marked,—that the loyalty, the good order, the steady habits, the peaceable and industrious deportment of the population will be promoted, and the ties strengthened which bind the colony to the parent state. Apart, also, from any consideration of preserving the supremacy of Britain over the Canadas, there is a sacred duty to be performed in laying such a foundation for the moral and religious character of the inhabitants in time to come as will best ensure their happiness and welfare; and it is not for me to point out to your Excellency that it is now that this foundation must be laid. In the young settlements now struggling into existence, or beginning to develop the signs of prosperous improvement, we see the germ of a great and important future, which must be vitally affected by the mould given to the population in this early stage of its formation. Millions who are yet unborn will have cause to bless or to reproach the present Government of Britain for the measures taken to provide for them those advantages, and to transmit to them those habits, principles and attachments, which form the only sure basis of national happiness.

Up to this period, although not a few people have been lost to the Church from the want of her ministrations, and a far more extensive defection must inevitably follow if things are left much longer upon their present footing; yet very generally the privations which have been experienced in this respect have served to teach our congregations the full value of those privileges which are enjoyed at home. The importunate solicitations which I constantly receive from different quarters of the province for the supply of clerical services; the overflowing warmth of feeling with which the travelling missionaries of the Church are greeted in their visits to the destitute settlements; the marks of affection and respect towards my own office which I experienced throughout the province; the exertions made by the people, in a great number of instances, to erect Churches even without any definite prospect of a minister, and the examples in which this has been done by individuals at their own private expense; the rapidly increasing circulation of the religious newspaper, which is called "*The Church*:" these are altogether unequivocal and striking evidences of the attachment to Church principles which pervades a great body of the population.

I would here beg leave to draw the attention of your Excellency to the bearing of these facts upon the question of supporting the clergy in Canada by the voluntary contributions of the people. Here is a deep sense of the value of religious services, and a strong manifestation of attachment to the Church. The moving principle, therefore, is not wanting; and if, with this advantage, the system cannot work successfully in Canada, it may be inferred that it cannot succeed there at all. And I am more deeply convinced than ever that such is the fact. In the few examples in which the experiment has been tried, it has rarely been otherwise than a failure, and in most cases it would be hopeless to attempt it. Even if the country were far more advanced, and the people had some command of money, I am persuaded that a faithful, respectable and independent body of clergy, sufficient for the wants even of that part of the population who already appreciate their labours, much more of that whom it is their duty to win to a care for religion, can never be provided by the operation of the voluntary system.

Your Excellency, I doubt not, is alive to the necessity of bringing at last to an issue the long-protracted questions respecting the clergy reserves, and putting an end to the painful
and

and mischievous agitations which must continue so long as those questions are left open. I shall not presume to argue here the right of the Church of England to the exclusive benefit of that property, but I should be wanting in my duty to the Church if I did not state my conviction of the existence of that right; at the same time that I think it but fair, that the clergy of the Church of Scotland should look for some reasonable assistance from other resources at the disposal of the Government. Against all idea of an equality of footing between the two Churches, I cannot do otherwise than earnestly and solemnly protest. If upon the manifestation of a spirit of rivalry in India, on the part of the Church of Scotland, instructions (of which a copy is in my possession) were sent to the Governor-general, declaring the impracticability of placing the two Churches upon a level, I conceive that the case is much stronger in favour of the Church of England in Canada. The royal instructions having declared that Church alone to possess the character of an establishment in the colony;—part of these same instructions having been cited in the Act 31 Geo. 3, c. 31, by which the clergy reserves are set apart, and the endowment of the church provided for “according to the establishment of the Church of England;”—this Act having been immediately followed up by the erection of the see of Quebec, and the constitution of the Canadas as a diocese in the same connexion with the archiepiscopal see of Canterbury as any diocese within the province of Canterbury in England;—the subsequent Acts of the Government in the establishment of a Cathedral at Quebec, the formation of certain parishes of the Church of England, the division of the diocese into archdeaconries, and the creation of corporations, consisting of the Church clergy for the management of the reserves, having all been in harmony with the original purpose of the Crown, as stated above: I submit to the judgment of your Excellency, whether the guardians of the interests of the Church of England in Canada can conscientiously do otherwise than oppose themselves, by every means in their power, to an abandonment of her peculiar claims,—claims, it is to be observed, of which the maintenance involves no burthen imposed for her benefit upon the members of other religious bodies, and no interference in any shape whatever with any but her own people. A declaration on the part of Government of the privileges assigned irrevocably to the Church of England, and an extension, at the same time, of such just advantages to the Church of Scotland as are compatible with the retention of those privileges by our own establishment, would, in my humble judgment, be infinitely better calculated to heal the religious dissensions of the colony than any temporizing course of policy, or any timid evasion of a question, which must at last be met in the face.

I cannot forbear, my Lord, from introducing some mention in this report of the labours of our clergy among the native Indians. There are two clergymen stationed among the Six Nations on the Grand River, one at the Mohawk village, and the other at Tuscarora. A missionary has been sent to the Manitoulin islands, and another to the Sault St. Marie, at the upper extremity of Lake Huron. These four are engaged exclusively in the charge of Indians. There are two other clergymen, who combine this charge with that of congregations of whites, one in the Bay of Quinté, where a branch of the Mohawk tribe is established, and one who resides in Caradoc, and devotes part of his time to the Mounsees and Bear Creek Chippawas in his neighbourhood. I have never seen more orderly and, to all appearance, devout worshippers than among some of these Indian congregations which I visited; and I have the fullest reason to believe that the ministry of the clergy among them has been attended with very happy effects. His Excellency Sir George Arthur is much interested in their welfare, and whatever the Government can do for their religious improvement, their temporal comfort or the education of their children, will, I am persuaded, be well and wisely expended. A great and promising field is here open to Christian philanthropy. A long debt is due to the Indians from the inhabitants of European descent, and it is by means such as those which I have just stated that the reparation must be made. They have been uniformly loyal. The Mohawks preserve to this day, with much veneration, a set of communion-plate and other appendages of divine worship, which were given them by Queen Anne, when they were seated in the colonies which now form part of the United States of America. I shall be happy to think that your Excellency will not forget the claims of these poor people in what you are engaged in doing for Canada at home.

The commands laid upon me by your Excellency having immediately had reference to the visitation of Upper Canada, upon which I was setting out at the time, I have forborne from troubling you with any details respecting the Lower Province. The observations, however, which I have submitted are in great part of common application to both Provinces; and although there is a far smaller number of Protestants in Lower Canada, the Protestant portion of the inhabitants is constantly gaining upon the older French population, and must be expected to receive progressively increasing accessions from the British isles, chiefly of Protestants, while the original settlers of the colony experience no augmentation of their numbers from any extraneous source.

There has been no census of the population of this province since the year 1831. At that time the Church of England population was estimated at 34,620 souls; the Church of Scotland population at 15,069; and the aggregate of all the non-episcopal Protestant denominations, including the Church of Scotland, at 37,937. The clergy of the Church of England are 44 in number, with 52 or 53 churches and chapels built or in progress. From 15 to 20 additional clergymen would, I think, provide for the present wants of this

portion of the diocese. In Upper Canada, I believe that employment would be found for 100 beyond the existing establishment.

The petitions which are before your Excellency from the clergy of both provinces respectively contain suggestions which, if acted upon, would open the way for improving the efficiency of the Church establishment in the diocese ; but, without some present aid from the Government, would be more tardy in their operation than the wants of the people would bear without detriment. Nothing can be less uniform and systematic than the manner in which a meagre supply of clergy is at present eked out and distributed over the diocese. One portion are paid from the imperial treasury (the salaries to be discontinued, one by one, as vacancies occur) ; another from local resources at the disposal of Government ; another is composed of missionaries from home ; and there are four different religious bodies (besides an individual of singular zeal in the cause) to whom the diocese is in this way indebted ; and another still, although an exceedingly small portion, are dependent, in whole or in part, upon the people. Thus the establishment of clergy, imperfect and insufficient as it is, is made up by means of shifts and expedients, and to a great extent is without any permanent character ; and the task of the diocesan in procuring supplies, and maintaining communication with the different parties who afford them, is complicated in a distressing degree.

I am thus led to a subject which I have reserved as the last to be brought under the notice of your Excellency. The care of this diocese is altogether too much for one man. Certainly one man cannot do justice to it, situated as I am. Your Excellency is, I believe, aware that negotiations have for some time been on foot for the erection of a separate see in Upper Canada. It is, indeed, high time that this measure should be carried into effect ; and for whatever time I am to remain in the charge of the whole diocese, I really ought (and so, indeed, I ought in any case) to be placed upon a new footing. In executing the duties of the visitation in the two provinces, I have travelled nearly 5,000 miles ; the extreme points which I have visited in the length of the diocese being Sandwich, at the head of Lake Erie ; and the Bay of Chaleurs, in the Gulph of St. Lawrence. Of the state of the communication in the interior parts of the country and among the new settlements, your Excellency is not without information. No provision exists for enabling me to employ a single functionary in conducting correspondence with the Government, the clergy, and the societies at home, keeping in proper order and arrangement the accumulating records of the see, or transacting those ordinary forms of ecclesiastical business which are proper to the episcopal office ; and in those departments of labour where the bishop can receive assistance from the archdeacon, I am deprived of this benefit, as far as Lower Canada is concerned, because, under the existing arrangements, I am compelled to hold the office of archdeacon myself.

The foregoing observations are submitted, with all respect, to the serious consideration of your Excellency. Should it be your desire to be furnished with statements in detail, taken from the returns of the clergy, it will be my endeavour to prepare them with all practicable despatch.

I have, &c.
(signed) *G. Montreal.*

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I have, Sir,
(signed) G. Montagu

APPENDIX (C.)
TO
REPORT
ON
THE AFFAIRS
OF
BRITISH NORTH AMERICA,
FROM
THE EARL OF DURHAM,
HER MAJESTY'S HIGH COMMISSIONER,
&c. &c. &c.

(Presented by Her Majesty's Command.)

*Ordered, by The House of Commons, to be Printed,
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