CANADIAN RESPONSIBLE GOVERNMENT

FROM BRITISH HANSARD AND OTHER SOURCES.

"BEING A MASTER OF ARTS THESIS, WRITTEN UNDER THE DIRECTION OF PROFESSOR CHESTER MARTIN OF THE DEPARTMENT OF HISTORY, UNIVERSITY OF MANITOBA."

- By -

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INTRODUCTION.

A brief survey of the course of British Parliamentary History, especially as it touches on Colonial affairs, is a necessary prelude to a discussion of the Canadian debates between 1830 and 1850.

The death of Lord Liverpool, 1827, and the break-up of his long lived administration, closed the period of hopeless reaction which had followed the wars with the French Revolution and Napoleon. Liverpool's death also terminated Earl Bathurst's tenure of the Colonial Office, which had lasted for eighteen years. Although the Tories still remained in power, the new Prime Minister, Canning, had alienated the more reactionary section of his party, and derived much of his support from the Whigs. The Liberal "tone" of the new Ministry was reflected at the Colonial Office, to which position Canning appointed F. Robinson. Canning's government was brought to an abrupt close, after a few months' duration, by the death of the Prime Minister. Robinson, who had become Lord Goderich, succeeded Canning and formed the only Ministry in British history which expired without meeting Parliament. In this administration, Huskisson held the seals of the Colonial Office.

On the collapse of the Goderich government, the King called on the Duke of Wellington, who aided by Peel as leader in the House of Commons formed the government which passed the Catholic Emancipation Act. The Canningites were represented by Palmerston, Melbourne, Grant and Huskisson, the last-named remaining Colonial

Secretary. It was in 1828 while Huskisson was in office that the Committee of the House of Commons prepared the famous report which was acclaimed in Lower Canada as a veritable charter of liberties. Almost simultaneously with the presentation of this Report the Canningites resigned, and Sir George Murray succeeded Huskisson. The agitation for Catholic Emancipation was paramount, Canadian affairs were no longer discussed in Parliament, and Murray made but little effort to implement the recommendation of the Committee.

Catholic Emancipation and Wellington's opposition to Reform antagonized, respectively, ultra Tories and ~~the~~ Whigs, and therefore doomed the Ministry, and prepared the way for the Whigs. Grey accepted office in 1830, pledged to reform. He secured the co-operation of the Canningites, who obtained a considerable number of the higher offices, Palmerston, Melbourne, and Goderich being Secretaries of State; and Grant, President of the Board of Trade. Whigs like Grey himself, Lansdowne, Graham, and Richmond were scarcely enthusiastic Reformers. By diluting the Whig party with these "Liberal" Tories, Grey secured Parliamentary support more in conformity with his own convictions, but he embittered the conflict between the "Whig" and the "Radical" sections of the Liberal party. This conflict was not without its effect on Colonial affairs. Goderich was once more Colonial Secretary, and his important achievement in this office was the passing of the Canada Revenue Act of 1831. By this Act, all the revenues of the colonies of Upper and Lower Canada, except the casual and territorial revenues of the Crown, were put under the control of the Assembly,

on the tacit understanding that, in return, a permanent Civil List would be provided. Upper Canada reciprocated on these terms, but Lower Canada did not.

After the passing of the Reform Bill, the main concern of the Colonial Office was the abolition of slavery. Grey did not consider Goderich had the capacity necessary to perform this difficult task. E. G. Stanley, the grandson of the Earl of Derby, was Chief Secretary to the Lord Lieutenant of Ireland. Although still young, he was, after Peel, the foremost debater in the House of Commons, and the hope of the Whigs. He was a favourite with Grey, who wished to promote him. Opportunely enough, Lord Durham resigned the Privy Seal, 1833, and Grey decided to make Stanley Colonial Secretary, compensating Goderich with the Privy Seal, and a promotion in the Peerage. Consequently Goderich became Earl of Ripon, and Stanley had the honour of emancipating the slaves. The change was hardly fortunate for Canada. The tone of Stanley's despatch to Aylmer,(1) which he instructed the Governor to submit to the Assembly, provoked the Ninety-Two Resolutions, and destroyed the effects, not very deep-rooted, of Ripon's conciliatory policy.

The Irish Church controversy was a consequence of Catholic Emancipation. It is unnecessary to discuss this issue further than to observe that Stanley made a speech which was regarded as an unconditional defence of that institution. Lord John Russell took issue with him, and as Stanley said to Graham,

(1). Vide infra, Glenelg period.

"Johnny upset the coach". The result was that, in protest, Stanley, Graham, Ripon and Richmond resigned. The succession of the Colonial Office passed to Spring Rice, a man then considered of great promise, but whose official career was destined to be short. But the Government was fast disintegrating, and the Prime Minister's dissatisfaction was daily more evident. Lord Althorp was the Government leader in the House of Commons. He held the confidence of that Assembly to a degree probably without parallel, but he detested office, and at last found a pretext for resigning. Grey accepted his resignation, and forwarded it with his own to the King. The same evening the cabinet met, Grey announced the resignations and handed Melbourne a letter from the King. Melbourne, with difficulty, prevailed on Althorp to aid him in forming a Government. But Althorp's days in the House of Commons were numbered, and the death of Lord Spencer, and his succession to the title, brought with it the problem of selecting a new leader for that House. Russell was the obvious choice, but the King, thinking the moment opportune for ridding himself of the Whigs, rejected Melbourne's suggestion, saying that Russell would cut a sorry figure when opposed by Peel, Stanley, and Graham, and dismissed the Government. Meanwhile Spring Rice had been working at the Colonial Office, formulating a Canadian policy. He had even drafted his despatches, when he was met on the street and informed, by someone who had the news from Brighton, that the Government was dismissed.

The King called on Wellington, who recommended Peel. The latter was instantly summoned from Rome, and travelling night and day, was soon, for those days, in London. Stanley and Graham would not join

his Government, so he relied on the Tories exclusively, although they were in a considerable minority. The Duke of Wellington became Foreign Secretary, and Lord Aberdeen, Colonial Secretary, in this short-lived administration. (December 1834 to the Spring, 1835). Aberdeen was, in a sense, like Peel, a Tory by accident, and was really a man of very liberal principles. He did not wish to undertake the direction of the Colonial Office. Lord Stanmore says, (2) "His dislike of the post was due chiefly to two causes - the amount of patronage which then belonged to it, the distribution of which was to him odious; and the existence in every colony of what he recognized as true and well-founded grievances, which were nevertheless so mixed up with faction and unreasonable pretension as to render their redress a work of the utmost embarrassment and difficulty." Aberdeen decided to send a High Commissioner to Canada, with power to redress grievances on the spot, and in view of the prominent part which Howick played in the struggle for responsible government, this extract from Stanmore is of interest.(3) He states that," On the Assembling of Parliament in 1835 Lord Howick vehemently assailed the Duke of Wellington and Lord Aberdeen, as leaders of the new Government in the House of Lords, and denounced the latter as a man whose principles made him an enemy of the human race! Three years later, in 1838, Lord Howick very handsomely admitted that such terms had been undeserved, and that on returning to office he had found, (no doubt to his surprise) that both

(2). Stanmore, Lord Aberdeen, J.M.Dent & Sons, London, p.110. Aberdeen wrote to a friend,"As a lover of your country,you will be glad to hear that Heligoland is quiet and contented This is something to be able to say, for of no other colony can it be said.".

(3). Id. pp.112-3.

in what he had written and what he had done, Lord Aberdeen's short administration of the Colonial Office had been marked by thorough liberality.....in 1838 Lord Howick did not know, and I doubt whether he is to this day aware, that, had it not been for the speech to which I have referred, it was to <u>him</u> that Lord Aberdeen had resolved to offer the conduct of the measures to be taken for the conciliation of the Canadian people. Lord Aberdeen, indeed, still wished to make the offer, even after the denunciation in question, but on this Sir Robert Peel placed his veto. Lord Howick, he said, could not now accept the proposal, and might, therefore, affect to doubt the sincerity with which he was made." The position was refused by several men, but finally Lord Amherst was prevailed on to accept, and he was on the point of sailing, when the Government resigned.

The King was again obliged to entrust Melbourne with the formation of a ministry. Spring Rice was made Chancellor of the Exchequer, and Charles Grant, created Lord Glenelg, became Colonial Secretary. Glenelg determined to convert Aberdeen's Commissioner-ship into a mere Commission of Inquiry, with the Governor as chairman, to be assisted by two Assistant Commissioners. Amherst refused the proferred Governorship, and Lord Gosford was appointed. With him were associated Sir Charles Grey and Sir George Gipps. To Glenelg also fell the duty of appointing a new Governor of Upper Canada. His choice was Sir Francis Bond Head. It is hardly conceivable that a worse choice could have been made. Head appointed three Reformers to the Executive Council, one being

Robert Baldwin. Baldwin soon disagreed with the Governor and resigned. He then went to England in the summer of 1836, for the purpose of interviewing the Colonial Secretary. Glenelg refused to see him and Baldwin wrote his celebrated letter outlining his plan of responsible government. Baldwin did see Russell,(4) and, presumably, also saw Hume,(5) who was at that time agent of the Upper Canada Assembly. Early in 1837, the Gosford Commission made its report, on which Russell's Ten Resolutions (6) were based.

The Melbourne Government was dependent on the Radicals and Irish for a share of its normal support, and was obliged, if this support were, on any occasion, to be neglected, to shape its course so as to be compensated for this loss by Tory votes, if the precarious majority was to be maintained. Roebuck and Hume, both, in the Thirties, extreme Radicals, were the agents, respectively, of the Lower and Upper Canada Assemblies. Roebuck had great oratorical gifts, but was antagonistic in his manner, and denounced his audience, instead of trying to convince it. Hume was a very poor Speaker, given to disjointed expressions, and with a penchant for personalities and for factiousness.(7) Such advocates were almost a hindrance to the Canadians. In the matter of the Resolutions, the Radical support was disregarded, but was more than balanced by Tory support. The Radicals were not without sympathizers in the ranks of the Government, as this extract from a letter,

(4). Vide infra, Grey Period.
(5). Vide infra, Glenelg Period.
(6). Vide Appendix.
(7). "Daniel O'Connell said to Mr. Gladstone that Joseph Hume would have been a more effective speaker if he could have avoided beginning a new sentence before he had finished the last but one". - J. A. Spender, Life of Sir Henry Campbell Bannerman, Hodder and Stoughton, 1923 vol. II,p. 59

Howick to Russell, April 7, 1837 indicates, "...it is with great difficulty that I have overcome my reluctance to refuse a larger concession to Roebuck, but ...George Grey had pointed out to me some passages....which would have been obstacles to the abolition of the Legislative Council..."(8) The view of the Government was that the demands of the Lower Canadians respecting the Council could not be allowed. The King was strongly opposed to concession. Dunckley says, (9) "Lord Glenelg, the Colonial Secretary, was the constant butt of the King's ill-will, because he was supposed to be in favour of bestowing some measure of self-government upon the Canadians."

The combined effect of the Ten Resolutions and of Head's publication of his instructions, was the Rebellion. The abortive nature of the rising in Upper Canada, and the more serious proportions of that in Lower Canada, served to augment the apprehension, which had previously been exhibited in Parliament, of the intentions of the French; and ripened this apprehension into unconcealed distrust. Melbourne's letters to Russell indicate that there was some difference as to what procedure should be followed, to meet the situation in Lower Canada. The Government hesitated between a proposal to repeal Lord Ripon's Act,(10) and, at the same time, suspend the Habeas Corpus Act, and the course, which was adopted, of temporarily suspending the Constitutional Act of 1791 in its provision for the government of Lower Canada. It was only with difficulty that Howick was dissuaded from resigning in protest. Melbourne succeeded in inducing Durham to go to Canada as High Commissioner. The long-

(8). Rollo Russell, The Early Correspondence of Lord John Russell, 1805-1840, Unwin, London, 1913, Vol.II, p. 194.
(9). Dunckley, Life of Melbourne, J.M.Dent & Sons, London, p. 199.
(10). The Canada Revenue Act, 1831; Rollo Russell, op.cit., Vol.II, pp.213-6

drawn-out debate of 1838 on the Suspension Bill was an ominous forecast of the fierce criticism to which Durham was later subjected. The onslaught of Brougham, and the frank hostility of both ultra Tories and ultra Radicals showed he was to have no unanimous support at Home.

Turton's employment was made the pretext for a renewal of this attack, and the Bermuda banishments raised an even greater storm in Parliament. Melbourne and Glenelg deserted Durham at this juncture, and though he was ably defended by Russell in the House of Commons, Durham felt that his influence was destroyed, and, in consequence, resigned. His report was prepared and presented to Glenelg, February 1839, shortly before the latter resigned, forced out of office by the insistence of Howick and Russell.(11).

The Marquess of Normanby succeeded Glenelg. In June, Russell introduced two resolutions in the House of Commons, one favouring the union of the Canadas, the other respecting the Suspension Act. In the midst of this debate the Government resigned. Peel was called on to form a Government, but was unable to agree with the Queen as to the Ladies of the Bedchamber. As a result of this "Bedchamber incident", Melbourne returned to office, and his government had two more years of palsied existence. In August, the administration was considerably reorganized, Russell becoming Colonial Secretary. Howick resigned, according to Greville, because he was not made Colonial Secretary. Buller, who was Durham's Chief Secretary in Canada, was given a minor office. Poulett Thomson was offered the Exchequer or the Governorship of Canada, and, at the instance of Russell, chose the latter.

(11). Id., p. 244-5.

Thompson went out to Canada for the purpose of carrying union, and intended to return as soon as he had achieved this purpose. He and Russell co-operated admirably, and were successful in this task. The Union Bill was carried through Parliament in the summer of 1840, and the Union proclaimed early in 1841. In the meantime the Government was growing weaker and weaker. In the summer of 1841 the elections were held, and the Tories obtained a large majority. Parliament met in September and the Melbourne Government came to an inglorious end. At the same time, in Canada, Sydenham had died.

Stanley, Graham, and Ripon all joined the new Government, Lord Stanley returning, after an absence of eight years, to the Colonial Office. Sir Charles Bagot was sent to Canada to succeed Sydenham, and he remained in office practically until his death, when Metcalfe was sent out to succeed him. There seemed, during these years, a definite policy of avoiding discussion of colonial affairs, which was almost superfluous, as the economic revolution then in progress, dwarfed all other issues. The short debates in 1843-4 were the only reflection of the agitation in Canada over Bagot's "great measure," and Metcalfe's conflict with the Reformers. In the late autumn of 1845 Peel resigned, and Russell was asked to form a government. He was not able to do so, and the Queen again summoned Peel, who took office for the avowed purpose of repealing the Corn Laws. Stanley refused to take office, and Gladstone became Colonial Secretary. In consequence, he vacated his seat in the House of Commons, and did not seek re-election until the general elections the following summer. Lord Metcalfe came home to die, and Gladstone appointed Cathcart, the Commander

of the Forces, Governor-General for the duration of the Oregon Boundary crisis. The day the Repeal Bill was passed, the Government was defeated on Irish coercion, and the same day, Lord Aberdeen announced the settlement of the Oregon boundary dispute. The Government resigned, and the first problem of the New Colonial Secretary was the appointment of a Governor-General for Canada.

Lord John Russell this time succeeded in forming a Government, and he appointed Howick, who had now succeeded his father as Earl Grey, Colonial Secretary; Buller was also given a post in the Government. Grey, following Stanley's policy in the case of Metcalfe, chose the new Canadian governor from the opposite party. Elgin, like Metcalfe, had been Governor of Jamaica, in those days a difficult and onerous post.

While Elgin was still in England, the affairs of Nova Scotia pressed for attention. The Executive Council had lost the confidence of the Assembly. In November, 1846, Grey sent the despatch to Harvey(12), which instituted responsible government in that province. This despatch was the foundation of Grey's policy in Canada, and was communicated to Elgin, with his instructions, for his guidance there. Buller was, undoubtedly, consulted in the preparation of this despatch, but he was not long to influence, in person, the course of development of responsible government. In 1848, while still a young man, and without seeing the vindication of Lord Durham in Canada, he died.

Grey and Elgin worked out in intimate intercourse, their policy

(12). Vide Appendix.

in Canada, and when the Rebellion Losses Bill raised a storm in Canada and Great Britain, Grey loyally supported Elgin's conduct. In England there was a bitter debate on this Act. Elgin's course was sustained by a comfortable majority in the House of Commons, but even with the aid of proxies, a majority of only three votes was mustered in the House of Lords.

This brief sketch may serve to introduce a more detailed discussion of the Parliamentary debates of this period on Canadian affairs. The period has been divided into four chapters corresponding to the four more important Colonial Secretaryships and these have, for convenience, been designated by the names of the Colonial Secretaries: Glenelg, Russell, Stanley, and Grey.

CHAPTER I.

GLENELG PERIOD.

THE GLENELG PERIOD.

Under this title it is convenient to treat the period from 1830 to 1838, although for only the last three years of this period, Lord Glenelg was Colonial Secretary. Lord Goderich had been at the Colonial Office from 1830 to 1833, when he was succeeded by E. G. Stanley. When Stanley resigned, Spring Rice succeeded to the office. The fall of the Melbourne government in the autumn of 1834, necessitated another change. Lord Aberdeen was, therefore, Colonial Secretary until the Peel government resigned in March, 1835. In Melbourne's reconstituted government Lord Glenelg became Colonial Secretary.

There are several reasons for treating this as one period. Goderich and Glenelg alone were in office long enough to have any effective policy. What the others might have done is, of course, of no practical significance. The policy followed by Goderich was very similar to Glenelg's, but while in the early years there was little discussion of Canadian affairs in Parliament, the last years of Glenelg's tenure of office synchronised with the most animated debates on Canada, since the days when Pitt, Fox and Grenville had discussed the "Constitutional Act of 1791". The opinions on Canadian affairs, with notable exceptions, conformed to party alignments, Tory, Whig and Radical. (1) In the main the differences between Tory

(1) The Irish have been included in the Radical group. Their position was, generally speaking, similar.

and Whig were slight, and tended to shade into one another. Between Whig and Radical the divergence was more marked, but even there the alignment was not sharp. Several interesting exceptions are specifically discussed.

The two important debates during the period were that on Lord John Russell's Ten Resolutions (2) in March, April and May of 1837; and that on the Suspension of the Lower Canadian Assembly in January and February, 1838. (3).

For convenience, opinion has been roughly divided on the party lines suggested, and, an effort made to show the transition from one group to another.

Taking first the Tories, there are several characteristics notably common to the Tory speakers. They took a relatively small part in the debates. They always expressed a willingness to redress "practical" grievances but were opposed to constitutional changes. They were devoted to the upholding of the "honour of the Crown". They tended to favour the government faction, the "English" party, and, as to Lower Canada, feared the danger of French tyranny over the loyal English section. The Duke of Wellington was the most influential of the extreme wing of the Tories. He had no appreciation of the constitutional problem. In 1838 he was inclined to rely on force. Speaking the debate on the Resolutions (4) he stated that a responsible Executive Council was impossible, that he could not consent to government by the people alone, as the British government must have authority to maintain

(2) Vide appendix.
(3) In this debate also the rebellion was reviewed, and Lord Durham's proposed mission discussed.
(4) Hansard, 3rd series, Vol. XXXViii. P.744.

justice. Again, February, 1838, (5) on the Rebellion, he favoured a strong military force in Canada, and was of the opinion that the Legislative Council was necessary for the protection of the English in Lower Canada.

Gladstone also was extreme. Speaking on the Resolutions (6) he claimed that the only real grievance in Canada was plurality of office - made necessary by the poor salaries. He insisted that the Legislative Council was an outwork of the government, and had been endorsed by the Governor and Executive Council. Speaking in January, 1838, (7) he felt that the Legislative Council, probably had saved the Colony. The lack of such an Assembly, for the loyally disposed to rally to, might have been largely responsible for the success of the American Revolution. He then asserted the great value of the connection to Canada - implying the ingratitude of the Canadians. Pakington, too, was of the extreme wing. Speaking on the Suspension Bill, (8) he urged the necessity of safeguarding British interests. He felt that Lord Gosford was too conciliatory, but commended the tardy vigour of the Government.

Sugden, in January, 1838, (9) said of the Canadians - "They desired a breach in their own charter - they desired to have an elective council, and what did they intend to do with it when obtained? Why, the Executive Council, and the Governor would thence forth be under the control of the local legislature.

(5). id. XL. 693.
(6). id. XXXV. 95
(7). id. XL. 219.
(8). id. XL. 346.
(9). id. XL. 406.

They desired a power of impeaching the Governor, and removing the ministers of the Executive. Now that demand was perfectly absurd, and the Canadians should recollect, although it was our bounden duty to cherish the connexion, and treat them with all kindness which a parent state evinced towards her colonies, the Canadians should recollect that the British Crown was superior; that we had by conquest, by treaty, and by possession, the right, which no doubt should ever by exercised for their benefit, of Sovereign dominion over the Colony."

Patrick Stewart, another extreme Tory, made this interesting suggestion in April, 1834, (10) "There was but one mode, in his opinion, of remedying the evils now disturbing Lower Canada, and that remedy was a legislative union between the two provinces".

G. F. Young, in April, 1835, (11) spoke in favour of a petition he was presenting from the English in Lower Canada, protesting against the conduct of the French.

Borthwick, one of the less important Tory speakers, (12) attributed the rebellion to the vacillation of the Government - and claimed that the so-called constitutional questions were mere abstractions.

Gally Knight (13) favoured the Russell Resolutions because he deemed the alternative was separation. Of the races he added, "They must be blended together before Canada can become a nation".

(10). id. XXii. 816.
(11). id. XXVii. 650.
(12). id. XL. 115.
(13). id. XXXViii. 234.

Robinson,(14) a member of the British American Land Company, was chiefly concerned with the defence of his Company's privileges, attacked by the Assembly of Lower Canada. He opposed all concessions, particularly an Elective Council.

Although Sir Robert Peel took part in practically all the debates on Canada, his speeches were short and comparatively unimportant, except as indicating that he was not of the extreme wing of his party. Speaking while Prime Minister, March, 1835, (15) he announced the Government's intention of sending a High Commissioner to Canada to redress grievances, but to introduce no new principle of government.

Again in April, 1836, (16) he stated his opposition to organic changes in the colonial constitution and hoped the government had no intention of making any.

Speaking on the Suspension Bill, (17) he stressed the temporary nature of the Suspension and hoped a free constitution would be restored as soon as practicable. Later in the same debate, (18) he observed that he hoped for an ultimate federation of all British North America.

The Earl of Aberdeen spent a few months at the Colonial office. His views were in close accord with those of his leader. He did not favour constitutional changes, and particularly urged the incompatibility of an Elective Legislative Council with monarchical institutions (19). He believed that

(14). id. XXXiii. 940. id. XXXVi. 134.
(15). id. XXiX. 699.
(16). id. XXXiii. 946.
(17). id. XL. 446.
(18). id. XL. 550.
(19). id. XL. 648.

"by good government, by wise administration, the time of separation from the colony might be removed far from them; and he certainly saw no reason why they might not look forward to long years of happiness and prosperity in the union of the colonies and the mother country.....They should endeavour at the same time to shape their policy, that they might hope, if ever a separation did take place, it would be in amity and friendship".

The Earl of Ripon had been twice Colonial Secretary (20). He left Earl Grey's government because of a difference on the Irish Church policy and gradually drifted back to his old home on the Tory side of the House. Speaking in 1831, on the Canada Revenue Bill, while Viscount Goderich, he voiced the aims of his conciliatory and well-intentioned policy (21) " One of the most essential objects at which their Lordships could aim was to secure a good understanding and perfect harmony between this country and her colonial possessions, which were in many respects essential to her strength and security; and if it were necessary to sacrifice some trifling interests, yet this object was of so much importance, that he should call upon there Lordships to sanction a Bill which would give contentment to Canada. He certainly would not be disposed to advise His Majesty to give his consent to the present Bill, until the Canadian Assemblies, agreed to provide, in the manner he had pointed out, for the expenses of the Civil Government; and the

(20). Formerly Colonial Secretary.
(21). Hansard, Vi. 1183.

administration of justice; but he believed that that Assembly would do what was just and due to the Mother Country." In the later debates he expressed his disillusionment at the conduct of the Lower Canadian Assembly which had never reciprocated with a Civil List. He found it difficult to understand their course. He could not see why their apparent satisfaction in 1828 and 1831 had so soon evaporated.

Lord Stanley had succeeded Lord Ripon at the Colonial Office. Like him, he had left the Grey Government on the Irish Church affair and was drifting into the Tory ranks. In relation to Canada, Stanley, while in office, had sent a despatch to Lord Aylmer, the Governor, to be laid before the Assembly. This despatch had precipitated the "Ninety-two Resolutions". The despatch was addressed by Aylmer to the Assembly in January, 1834. It contained, as to matter, nothing really offensive except a denial of the government to concede an elective Legislative Council. This denial need not have given great offence had it not been couched in language which must have aggravated the growing spirit of opposition, which actuated the Assembly. The concluding sentence will serve to illustrate. "Serious as are the difficulties by which your Lordships administration is beset, they are yet not such as to induce me to despair of the practical working of the British constitution; but should events unhappily force upon parliament the exercise of its supreme authority to compose the internal dissentions of the Colonies, it would be my object, and my duty as a servant of the Crown, to submit to parliament such modifications of the charter of the Canadas, as should tend, not to the introduction of

institutions inconsistent with monarchical government, but to maintaining and strengthening the connection with the Mother Country, by a close adherence to the spirit of the British Constitution, and by preserving in their proper place, and within their due limits, the mutual rights and privileges of all classes of His Majesty's subjects". (22)

Speaking on the Resolutions (23) "He affirmed - and he did so in the broadest and most open manner that it could be given - that in the present state of Canada the House could not and dared not yield to the demands of the Canadians."

"There were three chief demands, two of these were for rights and privileges which the Mother Country did not possess herself; and the third was one which, if conceded, would render impossible any further connexion with the Mother Country."

He considered an elective Legislative Council at variance with the British Constitution - it would lead to a subversion of the constitution. Also the demand for the hereditary revenues of the Crown, without a Civil List, was beyond the rights of the British Parliament itself. In this connection, Upper Canada had justified Lord Ripon's confidence in 1831, Lower Canada had not. He, then, adverted to the Executive Council. "Here the demand was, that the Executive Council should be rendered directly responsible to the House of Assembly. Here again was confounded altogether the wide and manifest distinction between an independent and a subordinate state; the King was subordinate to no one;

(22). W.P.M.Kennedy, Constitutional Documents of Canada, Oxford Press, Toronto, 1918, pp. 364-5.
(23). Hansard, XXXVii. 111.

the King's Ministers were responsible for him to the country; but what was the position of the Governor of this Colony? He was responsible to the Crown here, to the Ministers here; he acted under the orders of the ministry, and for his acts were the ministry responsible to the Legislature. To impose on him, then, a double responsibility - a responsibility to the government at home if he did not obey their instructions, and a responsibility to the House of Assembly if he acted contrary to their orders - would be to constitute two independent Legislatures interfering with and counteracting each other; yet this was the position in which it was desired to place the affairs of Canada." He criticized the Resolutions which he considered futile, and censured Glenelg's tranquillity in face of the distracted state of Canada. He advocated firmness - or separation, which the government seemed to desire, Stanley did not take a prominent part in the 1838 debate.

Lord Ashburton took a line in direct contrast to the rest of his party, (24) stating that preparations should be made for separation which was bound to come in the long run.

The position of the Whigs was, largely, similar to that taken up by the majority of the Tories. The Whigs were, generally speaking, opposed to constitutional changes, though they were perhaps more unwilling to adopt repressive measures than the Tories. Many of them, like the Tories, feared the ascendancy of the French in Lower Canada. It is perhaps

(24). id. XL. 847.

almost impossible to over-estimate the influence of Lower Canada on opinion in Parliament.

Practically all the debates were on that province, and it is doubtful whether the interest it evoked contributed more on balance to further, than the racial difficulty did, to retard the progress of responsible government.

Viscount Melbourne was Prime Minister in 1834, and again from 1835 until 1841. During the Glenelg period his contributions to the debates would seem to indicate that Canada did not much occupy his thoughts. Indeed the crisis due to the Rebellion stimulated his interest, but in the debates he showed little appreciation of the difficulties of the Canadinn situation, and no conception of a solution. His contributions are characterized by this generality used in speaking of Durham's Mission, (25) that the government intended " to do everything to promote the happiness and prosperity of the province' Later (26) in the debate, he rebuked Brougham and Ashburton for discussing separation. He thought the colonies should be maintained and deplored such discussions on this, and other abstract themes.

Lord Glenelg had succeeded Aberdeen at the Colonial Office in 1835. He was a singularly well-disposed man, liberal in his views, of considerable intellectual capacity, and a diligent worker. He seems to have lacked the force of character necessary for making decisions, and the discernment requisite for realizing their paramount necessity. Far from lax in the performance of

(25). id. XL. 685.
(26). id. XL.879.

the ordinary course of duty, he lacked the initiative and will-power necessary for the correction of great abuses. The Colonial Office was no "bed of roses". When Aberdeen retired he had been on the point of sending a High Commissioner to Canada to redress grievances. Glenelg converted this into a Commission of Inquiry, headed by the new Governor-General, Lord Gosford. This Commission was given very wide powers and its scope was practically unlimited. The liberal tone of the instructions may be illustrated from the following extracts - a despatch from Downing Street; 17th July, 1835. (27) - "14. You will ever bear in mind that you are sent on a mission of peace and conciliation. You will therefore proceed in a spirit not of distrust, but of confidence; remembering that much of your success will depend, not only on the zeal, ability and fairness of your inquiries, but also on your perfect separation from all local and party disputes, and on the unquestionable frankness and impartiality of your general conduct.

"15. I must not omit to observe, that the legislature of Lower Canada must ultimately be the instrument through which any benefits resulting from your mission must, to a very great extent, be accomplished. His Majesty disclaims the intention of provoking any unnecessary Parliamentary interferences in the internal affairs of the province. To mediate between adverse parties, with an entire respect for the constitutional rights common to them all, is the high office appropriate to his Royal station, and this function the King, aided by your inquiries and advice, is anxious on the present occasion to perform"

.....

(27). Kennedy, op. cit., pp.399-411. Vide appendix, Glenelg to Sir F. B. Head.

"77. The composition of the executive council has also been made the subject of censure. It is maintained that the members of the body are....unfit to act as the confidential advisers of the Governor, in their more appropriate office of aiding in the execution of his administrative authority. Hence, it is said, has arisen the habit of appealing, with inconvenient frequency, to the Secretary of State, on many questions which might more advantageously have been disposed of in the province itself. To this practice is ascribed not only much needless delay in the dispatch of public business, but the mischief inseparable from bringing the ultimate and supreme executive authority into needless collision with individuals and with the two Houses of Legislature."

"79. I am disposed to doubt whether the number of members of the executive council might not be reduced with advantage to the community. In the Indian presidencies, as well as in all the new British colonies, the number is limited to three or four. A much larger number would seem scarcely compatible either with promptitude, secrecy, and a due sense of personal responsibility; or with calmness of deliberation, freedom from party dissentions, and exemption from the danger of inconvenient compromise. If three members only had seats at the board, it might at once be reasonable to impose, and possible to enforce, the observance of the rule, that on all questions of importance the Governor should be bound to explain to the board his own opinions, and to receive from them, in return, an explanation of their's."

.....

"80. I would not, however, exclude from your consideration any proposal of which it is the professed object to render the Executive Council a more effective instrument of good government. You will therefore report whether there are any practicable amendments which, on the whole, it would be desirable to adopt, either in the mode of convening, of consulting, or of remunerating the members of that body, or regarding the tenures of their seats.

.....

"86.....In offering those observations I must again disclaim the remotest intention of fettering your discretion or of restricting in any degree the exercise of your own judgment, either as to the subjects of inquiry or of the opinions at which you may arrive....."

The references to the Executive Council show how far Glenelg was from conceiving responsible government, as Durham understood it, even as a possibility.

Writing to Gosford, 7 June, 1836, regarding the address from the Assembly Glenelg stated (28) "The house (of Assembly) now, however, state the necessity of establishing in the province what is termed a responsible and popular government.

"Understanding these expressions in their obvious sense, His Majesty is happy to declare that they do not advance beyond the principles by which it is His pleasure and command that the Executive Government of Lower Canada should be administered. It is His Majesty's desire and injunction that full and early explanations should be afforded to the Representatives of the people, of all measures adopted by the government; that the

(28). Kennedy, op. cit., pp. 431-434.

Assembly should enjoy ample opportunity of explaining both to the King, himself, and to His Majesty's Representative, in the Province, their opinions and their wishes respecting every such measure; that the imputed misconduct of any public officer, with the exception of His Majesty's Representative the Governor, who must be responsible directly to the King and the Imperial Parliament, should be closely and impartially investigated, that means should be devised for bringing to trial and punishing within the Province, itself, every such officer to whose charge any malversation in office may be laid; and that effectual security should be taken for the zealous co-operation of all subordinate officers in every measure advised by the Legislature and sanctioned by the King for the general welfare of His Majesty's Subjects."

Glenelg made his first important speech as Colonial Secretary in May, 1837, on introducing the Resolutions in the House of Lords. (29) He began with a long wearisome account of the Constitutional struggle in Lower Canada from the conquest. His deduction was that there should be delay and temperate consideration of the issues - not undue haste. He summarized the struggle since he had come into office, and adverted to the loyalty of Upper Canada and New Brunswick - quoting from their Assemblies in approbation of the Home Government. He felt it was impossible to accede to the demands of the Lower Canadians. Of a responsible Executive, he continued "The next claim was, that the Executive Council should be made so responsible to the

(29). Hansard, XXXVIII. 707.

House of Assembly as to be dismissible at the will and pleasure of the Assembly. If measures considered in a provincial Parliament and connected with local interests, had nothing external about them, it would be of little consequence if the rule were established. But let it be recollected what must be the situation in which the Executive Council must be thrown by admitting this principle. If the Assembly disapproved of an Act of Parliament, then their councillors would lose office at the instance of the House of Assembly. What than was the course to be pursued? Were the Executive Council under such circumstances to be replaced? If not, what must be the consequence? Why, the Provincial Assembly would decide in matters of foreign policy, and exercise its own judgment, independent of the parent country; and the result would be that they would have a series of independent States, each exercising independent functions."

The demand for an Elective Legislative Council was, he stated, unusual and unconstitutional. To grant it would be unjust to the English. He would endeavour to make all conceivable improvements in the councils without changing their fundamental nature. (30).

(30). Lord Gosford in a despatch to Glenelg dated May 25, 1837. (Report of the Public Archives for the year 1923. King's Printer, Ottawa, 1924, pp. 267-8) "If...the legislative Council should be at the same time liberalized, and an efficient Executive Council established, matters might get on smoothly....Nothing is more erroneous, in my opinion than supposing that the French Canadians are a disloyal body; I have not the slightest apprehension of any serious commotion coming out of these meetings, which..... are planned and concocted.....by the same individuals who, it is understood, are desirous of substituting a republic for the existing form of government."

Glenelg wrote to Gosford, 31 August, 1837, (31) outlining various schemes for modifying the Legislative Council but not mentioning the Executive.

In July, 1837, Glenelg wrote to Sir Colin Campbell, the Governor of Nova Scotia, regarding an address of the Nova Scotia Assembly (32). In it he referred to the Executive as follows, "Sixth. The language of the Assembly would seem to indicate an opinion which yet is not definitely propounded, that the Assembly of Nova Scotia ought to exercise over the public officers of that government a control corresponding with that which is exercised over the Ministers of the Crown by the House of Commons."

"To any such demand Her Majesty's Government must oppose a respectful, but at the same time a firm declaration that it is inconsistent with a due advertence to the essential distinctions between a metropolitan and a colonial government, and is therefore inadmissible.

"On the other hand the influence which the House of Assembly claims to derive from the power of refusing supplies, properly belongs to them; it being always assumed that this power will be exercised only in defence of the Constitution, and of the rights which the Constitution has created; and it being further assumed that this privilege of refusing supplies shall not extend to the cases of those officers for whom provision is to be made by the Civil List."

In January, 1838, (33) he remarked on the racial difficulties,

(31). Archives Report 1923, pp. 296-302.
(32). Id. pp. 310-12.
(33). Hansard, XL. 162.

the unprogressive nature of the French, and the curious reverse of normal circumstances presented by Lower Canada were the popular branch of the Legislature was unprogressive. He took occasion to commend the loyalty of the other provinces, and even of Lower Canada, except Montreal and its environs. He felt this drastic measure - the suspension of the Constitution- was necessary as a breathing space while the permanent Settlement was being made. Later in the same debate, (34) he said Canada should be prepared for real nationhood in the future.

Significantly Glenelg did not discuss constitutional questions in either of these speeches.

Sir George Grey, Glenelg's Parliamentary Under-Secretary, mainly reflected Glenelg's views. He seemed willing to follow Glenelg's passive colonial policy.

Speaking in May, 1836, (35) he stated the willingness of the Government to redress real grievances. The Government had the interests of the colonies at heart. On the Resolutions he said (36) the Canadian demands respecting the Councils could not be acceded to, as they involved complete independence. After the Rebellion (37) he commended the loyalty of the Maritimes and of Upper Canada. He added "he sincerely trusted the course that would be pursued would be such that the connection would prove beneficial both to the Mother Country and to the Colony, and that by the promotion of the common interest of both, the union would be rendered permanent." Later in

(34). ID. XL. 708.
(35). Id. XXXIII. 935.
(36). Id. XXXVI. 1354.
(37). Id. XL. 143.

the same debate (38) he stressed the unreasonable attitude of the Lower Canada Assembly, which , unsatisfied with a concession of its just rights, had gone on to make unconstitutional demands.

The Marquess of Lansdowne spoke on the Suspension Bill (39). He said the Government was still attempting to conciliate Lower Canada, and as soon as Lord Durham had restored order, a permanent settlement was hoped for. The government was always anxious to redress grievances.

Speaking later in the same debate (40) he maintained the necessity of retaining the colonies until they showed that separation was generally desired. He was one of the few members of the Cabinet who championed Durham when he was attacked in the House of Lords.

Edward Ellice was listened to, as an authority on Canadian affairs. He did not however take part in the constitutional discussions. (41)

Spring Rice had been at the Colonial Office for a short time in 1834. He took little part in the debates, that mainly in answer to criticism of his official conduct.

Cayley, like Lansdowne, did not think the time had come for separation. In the debate on the Suspension Bill (42) he stated that the aim of the Lower Canadian leaders was not the redress of grievances, but total separation, and that Papineau did not represent the Canadians in general. He did

(38). Id. XL. 312.
(39). Id. XL. 234.
(40). Id. XL. 863.
(41). Id. XL. 484.
(42). Id. XL. 109.

not think Canada strong enough to stand alone. He would prefer a union of British North America within the Empire.

Clay (43) did not think supplies should be refused as a means of forcing organic changes, but merely to bring about a change in policy. He endorsed the Government in suppressing the Rebellion since the colonists were extreme.

Sir Hussey Vivian (44) also felt separation was inadvisable. He hoped Lord Durham might conciliate the Canadians so they might remain long and happily in the connection.

In direct contrast was Baines (45) who favoured separation, not on Radical grounds, but simply because the Colonies were a needless bill of expense.

Lord John Russell was the principal Government speaker in the House of Commons. His views may be illustrated from his speeches.

In May, 1836, (46) he saw no need of any organic changes in the constitution of Lower Canada.

When introducing the Ten Resolutions, March, 1837 (47) Russell pointed out the extreme nature of the views of the Lower Canada Assembly. He considered that the proposed elective Legislative Council would be useless, since it would merely echo the Assembly. Of the Executive he said "It is proposed in the next place that the Executive Council should be made to resemble the ministry in this country. I hold this proposition to be entirely incompatible with the relations between the Mother Country and the Colony. The relations between the Mother Country and the Colony require that His Majesty should be repre-

(43). Id. XL. 125.
(44). Id. XL. 127.
(45). Id. XL. 510.
(46). Id. XXXIII. 949.
(47). Id. XXXVI. 1287.

sented not by a person removable by the House of Assembly, but by a Governor sent out by the King, responsible to the King, and to the Parliament of Great Britain. This was the necessary constitution of a colony; and if you have not these relations existing between the Mother Country and the Colony, you will soon have an end to relations altogether. Then, again, if the Executive Council were made responsible, as the Ministers of this country, of course the Governor must act according to their advice.....That part of the constitution which requires that the Ministers of the Crown shall be responsible to Parliament, and shall be removable if they do not obtain the confidence of Parliament, is a condition which exists in an Imperial Legislature only.....Otherwise we should have separate independent powers existing not only in Great Britain, but in every separate colony.....This therefore is a condition which it is impossible to have, consistently with the relations between the Mother Country and the Colony." Regarding the payment of civil servants he went on " I apprehend that it is undoubtedly in the power of the Imperial Parliament to interfere in colonial affairs, whether in legislative matters or supply, when a pressing occasion occurs for so doing." He would prefer, however, to surrender all the revenues to the control of the Assembly in return for an adequate Civil List.

After Roebuck had taunted him on the repressive nature, and Stanley on the inadequacy of the Resolutions, Russell pointed out the Government was attempting to follow a moderate course and was unprepared to adopt either extreme line. (48) He again adverted to the question of executive responsibility. "It was

(48). Id. XXXVII. 1234.

obvious that if the House agreed to a demand of this kind, they would have an inferior and independent government in Canada..... It was quite impossible to have a Governor there acting by the orders of the King, and to say, at the same time, that he was to be guided by responsible advisers, but that those responsible advisers, whom he should choose should be under the control of the House of Assembly."

Again on the same subject (49) he stated that government would be impossible if the demands of the Assembly were acceded to - he doubted the danger of revolt, and throught the Assembly would deem it wise to desist after an overwhelming expression of Parliamentary opinion.

When he rose to move the Suspension of the Lower Canada Assembly, (50) Russell traced the history of grievances in Lower Canada until 1828 when all the legitimate ones were redressed. Since then the Assembly had been most intemperate. He again condemned the elective principle for the Legislative Council. "Their next demand," he continued, "is that the Executive Council should only be responsible to the House of Assembly. Sir, I stated there was one place in which the power of the Executive Council could thus be entirely controlled, and that was at the seat of the Imperial Government." To accede meant separation and independence. He commended the loyalty of Nova Scotia and New Brunswick, and of Upper Canada where Mackenzie, " a base traitor" had unsuccessfully, "attempted to disturb." Lower Canada could not be abandoned, without losing the rest of British North America, which could not be considered. He then outlined the course proposed by the Government, Durham's mission, etc.

(49) Id. XXXVII. 1277. (50). Id. XL. 7.

Again on the Suspension Bill, (51) he defended the measure as a temporary necessity - the government was anxious to establish a permanent and free constitution as soon, again, as possible - they wished to maintain the connexion for the mutual advantage.

One of the most liberal of the Whigs was Henry Labouchere. In 1831 he presented a petition from the Assembly of Lower Canada. His accompanying speech is interesting. In it (52) he said he was presenting a "petition from the House of Assembly of Lower Canada, which was agreed to unanimously, and comprised a long list of grievance, from which they prayed redress from the House of Commons. He would not fatigue the House by going through these grievances at large, which it was not likely many honorable Gentlemen would comprehend or pay attention to; but from this very circumstance he derived the strongest argument, and which was also the prayer of the petition, that it was most advisable to meet the evils effectually of which the petitioners complained, by enabling the colonies to manage their own concerns in their own way, so that the colonial Legislators could redress the grievances of their constituents without being compelled to come to this country for the purpose; this would be going at once to the root of the evil, for it was plainly impossible that the present state of affairs could long remain, as the House of Assembly of Canada, although unanimous on the subject of these grievances, did not possess the power to remedy them..... he entreated the House to consider whether the time had not arrived when the whole system of colonization ought to be thoroughly

(51). Id. XL. 462.
(52). Id. VIII. 767.

investigated, and the connection between them and the Mother Country put on a more liberal footing, while means were taken to improve the institutions of the colonies themselves.... the institutions of any country must be so regulated, if good government was to be the result, that they must meet the wants, and be applicable to the habits of the people living under them..... He was...fully convinced that our only chance of going on well with the colonies was, to put the Legislative Councils on a different footing, and introduce the principle of election into them."

Speaking on the Resolutions, March, 1837, (53) he urged that the colonies should be treated justly,so that, if a separation ever took place, Britain would have a good case. He believed Canada should be governed as far as possible according to the wishes of the people. But there must be no injustice. (54) He thought an elective Legislative Council in 1791 might have induced amicable relations, as a similar institution had in Lousiana. He felt the present system entrenched the British in the Council against the French in the Assembly. There was no historical reason for refusing an Elective Council - it had pre-revolutionary precedent. Fox had well said, in the debate in 1791 " If you don't take care, you will have a Legislative Council which will not be the object of the reverence, respect, and affection of the people, but an object of their hatred and contempt." But he could not advocate an Elective Council, as

(53). Id. XXXVII. 105.
(54). As in the case of unpaid civil servants in Lower Canada.

the other demands of the Assembly obliged him to support the Resolutions. "The first was that which referred to the Executive Council being made responsible to the House of Assembly. He really could hardly conceive of a public body of the respectability of the House of Assembly making any such claim. It was incompatible with all relations between a colony and the Mother Country." They must hope to conciliate the great moderate party of Canada. He hoped for immediate redress of grievances.

It seems strange that so staunch a liberal and friend of the colonies should have objected to the one condition necessary to bring about what he desired.

Speaking of the Rebellion (55) he noted with pleasure that no harshness towards the Canadians had been expressed in the House. The Canadian constitution must be liberal. He favoured the connection, but would rather sever it than make the Canadians serfs. The government was secure in its good intentions and conciliatory attitude, and as a result the revolt was not serious.

E. L. Bulwer (56) remarked, in a witty speech on the Suspension Bill, on the moderation and liberal intentions of the Government. He lauded Durham who was making a great sacrifice in accepting this arduous task. While he thought independence was the ultimate destiny of the colony, they must first heal the racial wound and establish good government.

Viscount Howick spoke as Colonial Under-Secretary in reply to Labouchere in 1831. (57) His speech was liberal and well-disposed in tone, as the following extracts indicate. "He also concurred with his honourable Friend, that the Colonial

(55). Hansard, XL. 414.
(56). Id. XL. 393. Later Colonial Secretary, 1858-9.
(57). Id. VIII. 770. Howick was Lord Goderich's Under-Secretary at the Colonial Office.

Legislatures ought to be entrusted with the internal management of the affairs of their respective colonies, and that it was for the interest of all parties, that every means should be adopted, which could tend towards increase the happiness, wealth and commerce of the colonists." He admitted the Legislative Council was not unexceptionable. More care should be taken with appointments, but if that did not suffice - they must go into the constitution of that body. "The noble Lord at the head of the Colonial Department had distinctly recognized the principle that the local Legislatures of the Canadas, were the best judges of the principles to be adopted in the government of the country, and of all matters connected with its internal economy."

Speaking on the Resolutions (58) he urged a moderate course, and wished for an amicable settlement, although he was not prepared to accede to the Assembly's demands in full. He could not believe the Canadians wished to end the connexion. The existing Legislative Council could not be defended - it was not suited to Canadian conditions - an uncontrolled body without parallel outside the Canadas. While he thought it should not be elective its composition should be changed by certain immediate removals and a more judicious mode of selection. He believed that "in all free countries the institutions ought to be such as were calculated to produce the most good to the great body of the people." He hoped it might be possible to conciliate the races in Lower Canada.

(58). Hansard, XXXVII. 126.

Of the Rebellion (59) he considered it an effusion of intemperance, not a settled resolve to destroy the connection. He proposed an intricate plan of colonial government to reconcile the theory of responsibility with colonial status, which he at this stage could not do. (60)

"For the well working of constitutional government," he said, "it is necessary not only that there should be harmony between the representative body and the executive authority, but it is further necessary that the different classes of the community should be prevailed upon - I do not say, to lay aside their party differences, because in every free government party differences, I believe, must and will prevail, - but to have some degree of tolerance for each other, so that their differences may be discussed and their disputes decided by constitutional means." He looked to an immediate "federation" of Canada, ultimately to include the other provinces. "I believe", he continued, "that the Canadian people and the House of Assembly might be very easily reconciled to the differences existing between the responsibility of the officers of the colonial government, and the responsibility of the Imperial Government, which a colonial relation necessarily implies, If the Governor is to be responsible to the Crown and Parliament, it is impossible that the officers who serve under the Governor should be responsible to the local legislatures, as

(59). Id. XL. 596.
(60). In a sense, this was, theoretically, always a consideration with him. Vide infra, speech, as Lord Grey, in 1849.

the ministers of the Crown in this country are, to the Imperial Legislature, because responsibility necessarily implies power, and if the Governor is not to exercise any more direct authority than the Sovereign in this country, and if a greater personal responsibility is not to attach to him, the whole notion of colonial administration would be destroyed." He then suggested a sort of indirect security, through direct action, by which the Assembly would appeal by address to the Crown against acts of Governor, and would impeach colonial officials before a court to be set up for that purpose. This scheme would, he felt, ensure good government. He hoped Durham might settle practical difficulties by compromise on getting both sides of the disputes to confer. He cordially subscribed to the resolutions respecting Canadian Union. He felt great sympathy for the Canadian people. He continued, prophetically, "a time must ultimately arrive when the relative magnitude of the two nations would be altogether changed, and the relations of a Mother Country and a colony with respect to them would be practically absurd."

In a letter dated from the War Office, February 7, 1839, to Durham, Howick used this phrase "....I entirely concur with you in your leading notions of allowing the colonists the most complete self-govt. upon matters of internal regulatn & local interest, & of binding the different provinces together by the closest & strongest ties it may be practicably to establish."

Charles Buller, it would appear from the debates, took little interest in Canada prior to his appointment

(61). Archives Report 1923 pp. 1266-8. cf. speech on Union Bill 1840, infra.

as Lord Durham's Chief Secretary. He spoke on the Resolutions in March, 1837, (62). He adverted to the general indifference and ignorance of the House - including himself-respecting colonial affairs. He characterized the Resolutions as the first act aimed at the constitutional rights of a whole people since the American War, and pleaded for conciliation before coercion. He humourously compared the Legislative Council with the House of Lords. In this council "a pig merchant, eminent in sausages, and an ironmonger, eminent in ten-penny nails" corresponded to the Howards and the Russells. He concluded his indictment, "The Ministers must ultimately succumb before the load of unpopularity which would press upon those who should be charged with a course of mis-government ultimately destructive of our interests in the colonies."

Speaking on the Rebellion (63) he must, he said, support the government as he saw no necessity for separation. He considered it wise to send a negociator to Canada speedily to settle matters at first hand, and to do justice to the Canadians. He concluded "However much he might lament the carnage and conflagration which had taken place, he rejoiced that the insurrection had been put down, for it appeared to him that there was now a fair opportunity of acceding with decency and propriety to the just demands of the people."

There is no suggestion, other than his favourable disposition towards the colonists, that Buller would the following

(62). Hansard, XXXVII. 1268.
(63). Id. XL. 86.

year be the foremost champion of Responsible Government.

Lord Durham made one important speech in the House of Lords before he left for Canada, January, 1838, (64). He remarked on his proposed course in Canada in such general terms as were alone suitable in the unusual circumstances. He said "....It would be my wish....to leave behind me such a system of government as may tend to the general prosperity and happiness of one of the most important portions of Her Majesty's Dominions."

.....

"I go, not for the purpose of exercising that power, that species of discreditable power, as the noble Lord (Brougham) calls it, which is to be vested in me; but in the first place to restore, I trust, the supremacy of the law and next, to be the humble instrument of conferring upon the British North American provinces such a free and liberal constitution as shall place them on the same scale of independence as the rest of the possessions of Great Britain, and as shall tend to their own immediate honour, welfare, and prosperity."

It is impossible adequately to present Lord Durhams views without relating them to his Report. The following extracts from his recommendations, may not be amiss at this point.

"The preceding pages have sufficiently pointed out the nature of those evils, to the extensive operation of which, I attribute the various practical grievances, and the present unsatisfactory condition of the North American Colonies. It is not by weakening but by strengthening the influence of the

(64). Id. XL. 240.

people on its Government; by confining within much narrower bounds than those hitherto allotted to it, and not by extending the interference of the Imperial authorities in the details of colonial affairs, that I believe that harmony is to be restored, where dissention has so long prevailed; and a regularity and vigour hitherto unknown, introduced into the administration of these Provinces. It needs no change in the principles of government, no invention of a new constitutional theory, to supply the remedy which, in my opinion, would completely restore the existing political disorders. It needs but to follow out consistently the principles of the British constitution, and introduce into the Government of these great colonies those wise provisions, by which alone the working of the representative system can in any country be rendered harmonious and efficient. We are not now to consider the policy of establishing representative government in the North American colonies, that has been irrevocably done; and the experiment of depriving the people of their present constitutional power, is not to be thought of. To conduct their government harmoniously, in accordance with its established principles, is now the business of its rulers; and I know not how it is possible to secure that harmony in any other way, than by administering the Government on those principles which have been found perfectly efficacious, in Great Britain. I would not impair a single prerogative of the Crown; on the contrary, I believe that the interests of the people of these Colonies require the protection of the prerogatives, which have not hitherto been exercised. But the Crown must, on the other hand, submit to the necessary consequences of representative institutions; and if it

has to carry on the Government in unison with a representative body, it must consent to carry it on by means of those in whom that representative body has confidence."

.....

"An elective executive council would not only be inconsistent with monarchical government, but would really, under the nominal authority of the Crown, deprive the community of one of the great advantages of an hereditary monarchy. Every purpose of popular control might be combined with every advantage of vesting the immediate choice of advisers in the Crown, were the Colonial Governor to be instructed to secure the co-operation of the Assembly in his policy, by entrusting its administration to such men as could command a majority; and if he were given to understand that he need count on no aid from home in any difference with the Assembly, that should not directly involve the relations between the Mother Country and the Colony. This change might be effected by a single dispatch containing such instructions; or if any legal enactment were requisite, it would only be one that would render it necessary that the official acts of the Governor should be countersigned by some public functionary. This would induce responsibility for every act of the Government, and, as a natural consequence, it would necessitate the substitution of a system of administration, by means of competent heads of departments, for the present rude machinery of an Executive Council."

.....

"I know that it has been urged, that the principles which are productive of harmony and good government in the Mother

Country, are by no means applicable to a colonial dependency. It is said that it is necessary that the administration of a colony should be carried on by persons nominated without any reference to the wishes of its people; that they have to carry into effect the policy, not of that people, but of the authorities at home; and that a colony which should have all its own administrative functionaries, would, in fact, cease to be dependent. I admit that the system which I propose, would, in fact, place the internal government of the colony in the hands of the colonists themselves; and that we should leave to them the execution of the laws, of which we have long entrusted the making solely to them. Perfectly aware of the value of our colonial possessions, and strongly impressed with the necessity of maintaining our connexion with them, I know not in what respect it can be desirable that we should interfere with their internal legislation in matters which do not affect their relations with the Mother Country. The matters, which so concern us, are very few. The constitution of the form of government, - the regulation of foreign relations, and of trade with the Mother, Country/the other British Colonies, and foreign nations, - and the disposal of the public lands, are the only points on which the Mother Country requires a control. This control is now sufficiently secured by the authority of the Imperial Legislature; by the protection which the colony derives from us against foreign enemies; by the beneficial terms which our laws secure to its trade; and by its share of the reciprocal benefits which would be conferred by a wise system of colonization. A perfect subordination, on the part of the Colony, on these points, is secured by the advantages which it finds in the continuance of its connexion

with the Empire. It certainly is not strengthened, but greatly weakened, by a vexacious interference on the part of the Home Government, with the enactment of laws for regulating the internal concerns of the Colony, or in the selection of the persons entrusted with their execution. The colonists may not always know what laws are best for them, or which of their countrymen are the fittest for conducting their affairs; but, at least, they have a greater interest in coming to a right judgment on these points, and will take greater pains to do so than those whose welfare is very remotely or slightly affected by the good or bad legislation of these portions of the Empire. If the colonists make bad laws, and select improper persons to conduct their affairs, they will generally be the only, always the greatest, sufferers; and, like the people of other countries, they must bear the ills which they bring on themselves, until they choose to apply the remedy. But it surely cannot be the interest or the duty of Great Britain to keep a most extensive military possession of these Colonies, in order that a Governor or Secretary of State may be able to confer the colonial appointments on one rather than on another set of persons in the Colonies, for this is really the only question at issue." (65)

The extracts quoted are not only essential to a right presentation of Lord Durham's views, but, as shall be shown, are the foundation of the Revolution in British Colonial Policy known as Responsible Government. In the succeeding session of 1839 this portion of the Report excited the greater part of the controversy.

Before considering the Radicals as a body there are three

(65) Lucas, Lord Durham's Report. Clarendon Press, Oxford, 1912, pp. 277-82.

men, an Irish member, a Whig and a Radical, whose moderate views make them difficult to classify. These men are interesting rather than important, as none of them was very influential. Smith O'Brien, an Irish member spoke in the debate of January, 1838. (66) Unlike the Radicals he favoured the Suspension Bill. He commended Durham's mission. In his opinion, although the provocation was considerable, the rebellion was not justified. He condemned the composition of the Legislative Council but did not favour the elective principle. He thought the faults were considerable on both sides - a lack of moderation and justice. He was strongly opposed to the separation of the Colonies. "He was for allowing the colonies self-government in connection with the Mother Country.....If they demanded an elective Legislative Council give it to them; if they asked for a responsible Executive let them have it." (67)

Rigby Mason, a Whig, opposed the eighth of the Ten Resolutions. (68) He moved this amendment "That the House of Assembly in Lower Canada by withholding the supplies necessary for carrying on the government, have adopted the only constitutional means for obtaining a remedy to their complaints, and the reasonableness of which this House has recognized by affirming the fourth and fifth resolutions, and it is therefore expedient to await the result of the plan about to be proposed by His Majesty's Government for redressing the grievances complained of by the Canadian Parliament."

(66). Hansard, XL. 387.
(67). Perhaps the first time it was suggested in Parliament, that self-government within the Empire was feasible. Vide Hume, infra.
(68). Vide Ten Resolutions in Appendix. Hansard, XXXVIII. 233.

Although he had supported all the previous resolutions, he could not consent to the appropriation of the funds of the Canadians, as he felt it would close the door to conciliation.

Henry Ward, although a Radical, was moderate in his views regarding the colonies. Speaking on the Resolutions (69) he differed with both Russell and Roebuck. In his opinion, "the question was, whether or not the Government should be responsible? and then, the question arose, to whom?.....He should wish to see the means of forcing responsibility in the hands of the Canadians." He feared the Resolutions would irritate the House of Assembly. He thought them most unstatesmanlike. He had visited the Spanish colonies under irresponsible government - they were most degraded. In the American colonies there had been almost complete self-government until about 1765, when they were driven away. When a colony matured, it dropped off the parent stem. They should separate in a good, rather than in a bad spirit.

Speaking early in the debate on the Suspension Bill, (70), he favoured the government plan which involved a thorough investigation of grievances and redress of those well-founded. The suspension existed de facto - the important matter was a permanent settlement. He commended the selection of Durham. He believed the greater part of the difficulty was racial. The French Canadians must be conciliated. He spoke happily of the connection, "It was his firm belief that if the authority of the British crown were once firmly established in the Canadas, the inhabitants might be left to exercise their own discretion and authority in the expenditure of

(69). Id. XXXVII. 1250.
(70). Id. XL. 97.

their funds, with perfect security to the freindly connexion between the colonies and the Mother Country." The Legislative Council was impossible, it was inconsistent with the old system, and should be abolished. The spirit of the government was good.

On the whole, the Radicals conceived separation as the ultimate destiny of the colonies. Many of them believed the Rebellion made it imminent. They stressed the similarity of the struggles in the First and in the Second Empires. They did not, or professed not, to believe there was a racial difficulty. In their eyes it was merely a minority oppressing a majority. They favoured the concession of all the demands of the Canadians, but to turn to individuals, by far the most important of the Radical speakers on Canadian affairs was John Arthur Roebuck. He had spent several years in Canada in his youth, and had always kept tolerably well informed of the views of the majority in the Assembly of Lower Canada, for which body he was the agent. Speaking in April, 1836, (71) he launched into an attack on the Legislative Council, ridiculed the notion of a Canadian aristocracy, and argued that the so-called racial question resolved itself into one of a clique versus the majority of the people.

On the Resolutions, March, 1837, (72) he stressed the justice of the right of self-government and the parallel between Ireland and Canada. After summing up the grievances of Lower Canada, he stated that to effect a settlement there must be an Elective Legislative Council, a repeal of the obnoxious Land Acts, and control of all the revenue. He contended that the Resolutions were at once injust, and inadequate to coerce, and predicted, as a result, a second Revolution. Later in the same debate (73) he

(71) Id. XXXIII. 920. (72). Id. XXXVI. 1335. (73). Id. XXXVII. 1209.

said "We are on the eve of taking a step which will forever preclude all hope of peace and content hereafter." Revolt and independence were the inevitable consequence. Independance was inevitable in any case - rather let them have it with good will than bad. He then proposed his own plan of settlement (74) which involved the abolition of the Legislative Council, a special power of amendment - but no rejection - to be given to the Governor and Executive Council - veto reserved to the Governor alone - an involved, doctrinaire scheme. He then continued, ominously "The similarity of the language used by both parties to that employed in the year 1775 is absolutely startling, and if we substitute Massachusetts or Virginia for Lower Canada, one record would serve for both sets of transactions."

He then proposed a general assembly for British North America "It ought to be a tribunal before which judges of the various provinces might be impeached; and out of the Assembly a court composed of not more than three members might constitute a court of appeal, and perform all the judicial functions now inefficiently exercised by our Privy Council." Canada would either be independent and friendly, or part of the United States, and thus most formidable.

Again in the same debate (75) he stated that the resolutions were a disgrace to a "liberal government", and once more he attacked the Legislative Council.

(74). Roebuck discriminated between his function as agent of the Lower Canada Assembly and as the M.P. for Bath.
(75). Hansard, XXXVII. 1271.

Later still (76) he felt that action under the Resolutions in using funds collected by the Canadian Assembly would contravene the Declaratory Act. Had the noble Lord (Lord J. Russell) learned nothing from the experience of half a century before.

Speaking at the Bar of the House of Commons against the Suspension Bill (77) he gave a long account of the struggle in Lower Canada as he understood it. The grievances recognized by the Committee of 1828 had never been redressed. He condemned Stanley, Rice and Glenelg unreservedly for their conduct of Canadian affairs. He then stated "If we are wise, we shall see and arrange all matters in Canada, and in our North American possessions, so as to prepare them, when a separation shall come, as come it must, to be an independent nation." He made a plea for generosity and against coercion.

Roebuck was the ablest, sanest and most characteristic of the leading Radicals. He set the standard to which the others more or less conformed. Lord Brougham was Lord Chancellor in the cabinet of Earl Grey, and in the first Melbourne cabinet. He proved an impossible colleague and Melbourne left him out of his second cabinet. This incensed Brougham who thereafter cordially hated Melbourne. He took an independent stand in the House of Lords and was on Canadian questions in sympathy with the Radicals. His speech in March, 1835, (78) while the Whigs were in opposition and he was still in there fold is in marked contrast to his later

(76). Id. XXXVIII. 241.
(77). Id. XL. 265. Roebuck was defeated in the elections of 1837. He made a similar speech at the Bar of the House of Lords, Id. XL. 735.
(78). Id. XXVI. 1181.

outbursts. He presented a petition outlining the Lower Canadian grievances, and demanding a reform of the Legislative Council. He accompanied it with a temperate speech in which he urged it on the attention of the House, but disclaimed any implication of endorsing the views it expressed.

When he spoke in May, 1837, on the Resolutions, (79), his tone had greatly changed. He ridiculed the Gosford Commission, contrasted the treatment of Ireland and Canada under similar circumstances, favoured an elective council, but stated that his cardinal objection was to the appropriation of the funds of the colony. There was no value in an abstract right to withhold supplies, if it could not be exercised. The Canadians would be loyal, if well treated, but continued irritation would end disastrously. "To treat the colonies well, to do them justice, to measure to them the same justice, and the same conciliation, as had been given, and was still in the course of being given, to the subjects of the Crown nearer at home, was the true, the safe, the honest, and therefore the best course of policy that could be pursued, and he only heartily regretted that he saw so little chance of its being adopted."

Nothing could have exceeded the virulence of his attack on his erstwhile colleague, Glenelg in his first speech on the Rebellion (80).

Not Glenelg alone but the whole ministry was indicted. He expected the Suspension and Durham's mission would be worse than useless. He advocated separation on the most favourable terms;

(79). Id. XXXVIII. 731.
(80). Id. XL. 177.

or, at least, just and generous treatment of the colony.

A few days later, (81), he practically repreated this speech, including Gosford in his attack. He concluded with a pious hope for peace and contentment in the end.

Leader's views were similar to Roebuck's. He had less knowledge of Canadian conditions. Speaking on the Resolutions (82) he found it strange that Liberals should oppose popular government, and the redress of legitimate grievances. The Resolutions involved taxation from outside - the policy which had caused the American Revolution. They were the result of the bad colonial policy of both parties. He felt the Legislative Council should be elective. "I beg leave to tell him (Russell) that if he perseveres, it will be, in a short time, impossible for his, or any other government to rule Canada except by force of arms." He moved an amendment to the Resolutions "That it is advisable to make the Legislative Council of that province an Elect ive Council."

In a later speech (83) he designated the conditions in Canada as similar to those in the old Empire in the 1770's with the difference that the Canadians had a powerful and friendly neighbour. The Resolutions were useless - neither conciliation nor coercion.

Speaking on the Rebellion (84)he censured the harshness of the military. The Rebellion had been caused by "Tory mis-government" for twenty years, and seven years of "Whig indecision."

(81). Id. XL. 664.
(82). Id. XXXVI. 1306.
(83). Id. XXXVII. 1266.

He condemned the Colonial Office for absolute neglect of Canadian affairs. Of Durham "If any man of all their party could settle the differences in Canada, and restore peace with good government to that unhappy country, I believe he is the man."

Grote, the historian of Greece, took a slightly different line. In his speech on the Resolutions (85) he compared Russell to Strafford in respect to Irish policy. He believed the Legislative Council could well be abolished. He disapproved of appropriating colonial revenues, and would never consent to the use of force to preserve the connexion.

Speaking with marked moderation in January, 1838, (86) he urged the necessity of redress of grievances, and deplored the inefficiency of the Colonial Office. He spokepertinently of the Legislative Council. "Let the noble Lord (Russell) say whether, with the best intentions on the part of the Colonial Office, it was practicable to prevent in so distant a colony as Canada, the possession of power which might be turned to the private purposes of a small knot of individuals, of a little oligarchy, who govern there for their own benefit under the name of the Colonial Office."

Later in the same debate (87) he approved the selection of Durham and the exercise of clemency, but disapproved suspension, He favoured separation. He feared Durham would be hampered by the Colonial Office and by the official clique in Canada.

Sir William Molesworth, too, spoke in the Canadian debates. In March, 1837 (88) he pointed out the analogy between Canada and

(85). Id. XXXVII. 1260.
(86). Id. XL. 59.
(87). Id. XL. 399.
(88). Id. XXXVI. 1331.

Ireland; in both a miserable oligarchy was opposed to the majority. They should not use the funds of the Canadians, who, if true Britishers, would revolt rather than submit.

Speaking in January, 1838, (89) he condemned the Colonial Office, but favoured Durham's mission. He examined in detail the blame for the rebellion, which he attributed to Tory misrule and to the incompetence of Glenelg. He continued "In the last ten years there have been no less than eight different Colonial Secretaries. They had seldom, therefore, the time, and still more seldom the inclination, to make themselves acquainted with the complicated details of their office, their ignorance rendered them mere tools in the hands of the permanent Under-Secretary, and other clerks. It was in the dark recesses of the Colonial Office - in those dens of peculation and crime - it was there that the real and irresponsible rulers of the colonies were to be found .....These men he now denounced as the originators and perpetrators of those grievances in Canada, the evil effects of which this country had already begun to experience."

Warburton spoke on the Rebellion (90) advocating moderation, amnesty and real redress. In his view "they ought to emancipate the colony" if the revolt could not easily be suppressed. Even if it were put down, "the advice he was still ready to give was to emancipate the colony." This was generally admitted to be ultimately inevitable. They should, however, choose a time when feelings were cool, so as to ensure subsequent good relations.

(89). Id. XL. 358. cf. Buller's Responsible Government vide appendix
(90). Hansard, XL. 102.

"He hoped then that measures would be taken by the government which might lead to a friendly and amicable separation at no very distant period, and thus unite all these colonies into an independent Confederation collected together for balancing the enormous power of the North American states."

Speaking a few days later, (91) he re-iterated his belief in separation. He observed that petitions from all the provinces demanded "that the people required not only popular representation but what grew naturally out of it, a responsible executive. What he meant by a responsible executive was, that if there was a majority in the House of Assembly against that government which was put over them by the Colonial Government at home, or if the course recommended by the administration at home was disapproved of by them, what they asked was the power to dismiss the executive and to place in their stead ministers who would act in conformity with the wishes of a majority of the inhabitants." He maintained that disaffection would continue until "they gave them the benefits of responsible government." This he regarded as a long step towards "emancipation". He favoured a federal union of all British North America apart from both Great Britain and the United States. He felt that separation would be an advantage to Britain. He wished Durham had the power to consummate a federal union.

Daniel O'Connell, speaking on the Resolutions, (92) deprecated the use of Canadian funds - he pointed out the analogy with the First Empire, and with Ireland. He deplored the racial and relig-

(91). Id. XL. 476.
(92). Id. XXXVI. 1324.

ious animosities, and advocated a liberal government for Canada. Of the British Government he added "Let them prove that they were governing Canada for the good of the Canadians, or let them cease to take money from the Canadian people." Later in the same debate (93) he opposed the "tyrannical" eighth resolution. He believed an elective Legislative Council would ensure harmony. "This he at least, was convinced of, that no man who was born in that country, and had a true regard for his native land, but would determine to continue the struggle until he should make it impossible for another country to plunder his own."

Except for O'Brien, Dillon Browne was the only other Irish speaker. In January, 1838, (94) he stated, as an Irishman, that Canada was in a worse position than Ireland because less favoured in the House. He looked to separation ultimately, as the solution, and hoped it would be in a good spirit. He favoured conciliation.

Joseph Hume perhaps took the most extreme line, even of the Radicals. Speaking in August, 1836, (95) he censured Sir Francis Head, concluding thus, "Whatever might be the result of the contest, it would not redound to the credit of the Governor, who had unfairly employed the patronage he possessed,....which....would widen the breach between parties." He then moved the following resolution, a resolution inspired, doubtless, by Robert Baldwin, whose visit to England in the summer of 1836 coincides with this motion. (96) Hume, it must be recollected, was the agent of the

(93). Id. XXXVIII. 237.
(94). Id. XL. 119.
(95). Id. XXV. 1256.
(96). For Baldwin's ill fated letter to Glenelg, vide Archives Report 1923 p. 329 et seq. Hume never reverted to this motion, evidently attaching little importance to it.

Assembly of Upper Canada. "That it is the opinion of this House that the Provincial Government of His Majesty's province of Upper Canada ought, agreeably to the Act of 31 George 111 cap. 31 (97) and the royal instructions dated 1818, be conducted by His Majesty's lieutenant-governor, by and with the advice and assistance of an Executive Council, composed of men possessed of the public confidence and whose opinions and policy should be in harmony with the opinions and policy of the people of that province, as declared by the majority of their representatives in the House of Assembly, by which the contentment, peace, and prosperity of that important province will be increased, and the willing and loyal attachment of its inhabitants to the Mother Country be best promoted and secured."

Thereafter Hume dropped this question, and followed the current line of his Radical associates. On the Resolutions (98) he condemned the Legislative Council, and stated that for ten years no attempt had been made to redress grievances, and that now the government propose to coerce. The cabinet intended to trample on the rights of 600,000 people. He feared the people would take the matter into their own hands. He advocated redress in Canada, as in Ireland.

More than half his speech was occupied with a scarcely plausible explanation of the phrase, "the baneful domination of the Mother Country," used in a letter to MacKenzie - this in a debate on Lower Canada.

Speaking early in the Rebellion debate (99) he attributed the real blame to the Governor, and the councils - plus the Russell Resolutions.

There had been no attempt to conciliate. He favoured Durham's

(97). The Constitutional Act of 1791.
(98). Hansard, XXXVII. 79. (99). Id. XL. 42.

mission but would prefer to accompany it with an amnesty than with suspension. He then adverted to his notorious letter. He further pointed out the analogy with the Massachusetts Charter Suspension in 1774. They should conciliate the colony or separate.

Shortly after this (100) he advised the Government to abandon the Bill, oust Glenelg from the Colonial Office, and appoint Durham in his place, with real power to redress grievances.

Thus when Lord Glenelg left the Colonial Office early in 1839, opinion was roughly grouped into three sections, Tory, Whig and Radical, without sharp transitions between them. Responsible Government was not yet a practical issue, despite the approaches of Hume, O'Brien, Ward and Warburton to an expression of the principle, and the well prepared ground in the minds of men like Howick, Labourchere, and Buller. Lord Durham's function had been to sow the seed.. This, through his Report, as shall subsequently appear, he had well performed. As a result of his recommendations, Responsible Government became the leading issue in the Canadian debates during the Russell period.

(100). Id. XL. 179.

CHAPTER II.

RUSSELL PERIOD.

THE RUSSELL PERIOD.

The Marquess of Normanby succeeded Lord Glenelg at the Colonial Office early in 1839. He exchanged this Office for the Home Office with Lord John Russell in August, shortly after the "Bedchamber incident." Russell remained in Office until the fall of the Melbourne ministry in 1841. Poulett Thomson went to Canada as Governor-General to carry out Russell's Colonial Policy which in several particulars differed from Glenelg's. In the debates too, a different note was sounded. Lord Durham's recommendation of Responsible Government had made it the main subject of discussion. The party divisions have, for convenience, been retained. It is noticeable, however, that they are less representative of the real cleavages of opinion. Furthermore, between the Whigs and Radicals were Buller and Durham, the champions of Responsible Government. Although they stood practically alone in their advocacy of their views, several speakers particularly Howick and Lansdowne were significantly sympathetic. The Tories are divided, particularly on the question of Union, the more prominent following Peel, but the majority taking positions similar to Wellington's. It is, also interesting to observe that, unlike the Glenelg period, in the debates of 1839-40 the Tories number well over half the speakers. Even the Whigs give some indication of dissention, although rather in the background, as only the leaders speak. The Durhamites have been mentioned. As for the Radicals, they had never been homogenous, and were hopelessly divided. The part they take in the debates is insignificant.

In this period therewere two important debates. The first, in

1839, on the amendments to the Suspension Act, while Normanby was still Colonial Secretary, resolved itself chiefly into a debate on Durham's Report. The second was the debate on the Union Bill of 1840. Of minor importance was that on the Clergy Reserves Bill in the same year. There were no debates on Canada in 1841.

Treating the Tories first, it must be observed at the outset that there is a distinct cleavage on the question of Union. This however did not mean, simply, that there were two wings to the party, since almost every speaker introduced some point on which he differed from the previous speaker. However, for convenience, the opponents of Union will be first discussed.

In the van of these was the Duke of Wellington. He had not changed one iota from his position before 1839. The honour of the Crown, the maintenance of the connexion, and the minimum of concession to popular demands, continued his guiding principles.

Speaking in July, 1839(1) he said no settlement could be made until peace and security were re-established. He considered the army insufficient.

In June, 1840 (2) he again stated that the time was not ripe for settlement. He considered there was a growing desire in England to get rid of the North American provinces. There was still considerable agitation in Upper Canada for a "responsible local government." On the 16th of October (3) a new system of administering the patronage of the Colonial Government was adopted - a system which appeared to him the most extraordinary procedure which had ever been adopted by any

(1). Hansard, 3d. series, Vol. XLVIII, p. 871.
(2). Id., LV. 239.
(3). Russell to Thomson, 16 October, 1839. For this and 14 October, 1839 despatches, vide appendix.

public man, under any circumstances whatever." Since the publication of that dispatch the "Responsible Local Government cry" had spread like wildfire even in the Maritime Provinces, but "their Lordships might depend upon it, that local responsible government, and the sovereignty of Great Britain were completely incompatible. This was not his opinion alone - it was the opinion also of the noble Lord, the author of the dispatch of the 16th of October, and of another dispatch, written with great ability, on the very subject of local responsible government." He did not think Upper Canada favoured union. It would not be satisfactory and would likely destroy the connection.

Gally Knight condemned Britain's policy respecting Canada. Several phrases are quoted as an admirable exposition of the ultra Tory position(4) "-...whenever this Bill should become law he should regard the Canadas as gone; a few years, more or less, might intervene, but this was the beginning of the end." . . . . . .

"He knew that he should be told at once the true cause of this disease was mis-government, and mis-government he admitted it to have been; but not the mis-government which was commonly imputed. It had not been hard usage; it had not been tyranny or oppression; it had been the very reverse; it had been a long series of mistaken conciliation and the premature gift of a free constitution . . . .But, from mistaken kindness, by the 14th and 31st, George III(5) the French laws were restored, and a representative Assembly was introduced." . . . .

"All along a few demagogues were instigators of the movement.

(4). Hansard, VIII, 1057.
(5). The Quebec Act 1774 and The Constitutional Act, 1791.

The people, long habituated to passive obedience took little part - in one way or the other to affect the proceedings of the representatives. Hatred of England was the one impelling principle, masked under the name of love of freedom, and this specious pretext induced many British sympathizers to take up the cause of those who said they were oppressed . . . .England went on hoping and believing that it was still possible to conciliate; but how could this be done, when the object was, to get rid of England altogether . . . . .If the lessons of experience were not to be disregarded, we should be taught by the example of the Canadas not to give constitutions to colonies, at any rate, not before they were in a condition to receive them - " He concluded hopelessly "But the Canadas must be settled, no doubt, just as there must be a settlement in the case of a bankruptcy when, by a long course of injudicious proceedings, a merchant has failed, his affairs must be wound up - but was an assignment ever a triumph? Did a man ever think of rejoicing in such a termination? . . . . . .I have no alternative to propose, - we are driven up into a corner."

John Pakington, speaking in March 1840(6) also doubted the advisability of union. He went on to protest against the Clergy Reserves Bill.

In May(7) he again opposed the Union. "Had it not been for their false system of conciliation, their long continued system of depressing the loyal and encouraging the democratic and republican factions in that country . . .the rebellion, in his opinion, would not have occurred. . ."

(6). Hansard, VII. 1347. Mr.(later Sir) John Pakington was Lord Derby's Colonial Secretary in 1852.
(7). Id., LIV. 710.

"In the first place, it was their duty to legislate for the internal happiness and welfare of the Canadas, and, in the second place, it was their duty to legislate for the maintenance of the connexion which existed between Canada and the Mother Country. There was another object which they ought, also, to keep in view, ... and that was, that their attention ought especially to be directed to promote the happiness and welfare of the loyal and attached subjects of Upper Canada." This Bill would not accomplish such a purpose. Canada was too large, the racial evil would be accentuated. He continued "He regretted to mission of the noble Earl(Durham) to Canada, and he considered that mission unfortunate for Canada, unfortunate for England, and unfortunate, also, for the noble Earl, himself. The Report of the noble Earl he looked upon as containing a tissue of misrepresentations. That such was the case was not a matter of opinion. It was the fact, for it had been refuted in every important particular to which it related . . . . .The only part of the report which was to be relied on, he believed, was the portion of it, which spoke of the feelings of the two races in Canada." The ill-disposed French, together with the friends of the honourable Member for Kilkenny (Joseph Hume) "not a few of whom had run away from the province in order to avoid the most unpleasant of all sudden deaths," would seek to end "the baneful dominion of the Mother Country." "He believed that the people of this country were mainly indebted to the great moral struggles of Sir Francis Head for the fact, that Canada was, at this moment, an integral

portion of the British dominions."

"Now he did not hesitate to state, that, in his opinion, the far better course would be, to annex Montreal to the upper province, and to govern Canada by the constitution of 1774, by the Governor and Council, not permanently, but until the English language shall have been learned, English laws adopted, and the population so far modified as to be prepared for a participation in the privileges of the British constitution."

He moved a six months' hoist.

Speaking in June (8) Pakington re-iterated his sentiments at less length.

Sir Robert Inglis in March, 1840,(9) violently attacked the Clergy Reserves Bill. He considered the Canadian Assembly had no business to tamper with the Clergy Reserves.

In June(10) he stated that "he objected to Union as pregnant with danger."

Colquhoun in June, 1840 (11) following speeches by Buller and Hume, put his objections to the Union very succinctly. "The honourable and learned Member for Liskeard (Buller) had stated, that if the Canadians were united, they would have a responsible Government. That was no very gratifying prospect for this (the Tory) side of the House." The union of the French and Upper Canadian Republicans would result in separation. They should retain arbitrary government in Lower Canada.

Sir George Sinclair, June, 1840,(12) believed that the provincial division in 1791 was wise. Re-union should not be

(8). Id., LIV. 1144.
(9). Id., LII. 1346.
(10). Id., LIV. 1128.
(11). Id., LIV. 741.
(12). Id., LIV. 1115.

forced. He feared it would accelerate the disruption of the Empire. "In this instance the cry is for responsible government. But this phrase also admits of various meanings, and, I am persuaded that in the mouths of those who are, so clamorously, insisting upon it on behalf of the Canadians, it means a Government altogether responsible to themselves, and which shall, as soon as possible, divest itself of all responsibility to the British Parliament, or the British Crown." He did not think Poulett Thomson's "veni, vidi, vici," justified them in putting his views above those of the many authorities who opposed the union, such as, Head, Maitland, J.B.Robinson, The Bishop of Toronto and many members of the Assembly of Upper Canada. He believed it was unpopular in Lower Canada. Baldwin's lukewarm loyalty scarcely justified his appointment to the Council.

The Earl of Hardwicke followed a similar line of argument in the House of Lords(13). He quoted the authoritative opponents, and added, that he doubted Melbourne's faith in the measure. He went on to say that "Sir Francis Head had succeeded - he had succeeded in saving Canada -". "The union was never mentioned as in contemplation until Lord Durham's expensive Report was sent in. By the term expensive he meant that the report was all they had got for something like a million of money, he believed." He reverted to the formidable opponents, Head, Maitland and Company. The opinions in favour of union were obtained through fraud and coercion. They should leave things as they were. Upper Canada was a citadel, a safe citadel, of loyal Englishmen. Nova Scotia

(13.) Id., LV. 490.

and New Brunswick, also, were loyal. The French, however, should be suppressed until it was safe to give them a constitution.

The Earl of Wicklow spoke in the same style almost immediately after Hardwicke(14).

Lord Ellenborough, too, opposed the Union(15). His arguments were, however, unusual - unique, for his party. He thought the Bill "had for its object to exchange for the Governor-General and the representative of the Queen, the Government of the majority of the people of Upper Canada, and to plunge into eternal disfranchisement a whole people, on account of an offence committed two years ago, by a portion of that people. This, he considered grossly unjust." A different system of government was required by each province, and, further, the country, if united, would be too large. "For five sessions, the majority returned to the House of Assembly in the upper Province were adverse to the connexion with this country, and it was only by the great and meritorious services of Sir Francis Head . . . . that a majority had been returned which was favourable to the continuance of the connexion."

The Earl of Ripon,(16) while he did not oppose the union, regarded its prospect of success as very doubtful. He, like, Ellenborough, thought the French would resent it. He felt the basis was very unjust, but did not oppose the principle of union.

Sir Robert Peel, in June, 1839 (17) thought the government should act under Durham's Report without greater delay.

In July he (18) insisted on the necessity of maintaining the

(14). Id., LV. 519.
(15). Id., LV. 248.
(16). Id., LV. 257.
(17). Id., XLVII. 1276.
(18). Id., XLIX. 159.

connection. He doubted the practicability of union, and objected to pledging himself to any definite act, which they did not mean to proceed with. "He was well assured, that it was an absolutely necessary precaution, with a view to rendering Canada a thoroughly British Colony, - with a view to the introduction of British laws, and to the continued maintenance of British supremacy - that they should take some effectual guarantee that the present majority in one of the provinces, when by union it should become a minority, should not be exposed to injustice."

In June, 1840, (19) Peel stated that both honour and material considerations required the maintenance of the connexion. He would favour a general federation of British North America, but as this was not practicable, he favoured the union, which, he believed was generally approved in Canada.

A few days later, in committee, (20) he re-iterated his stand - he did not think union free from danger - but the best practicable plan.

Gladstone took much the same position in June, 1840.(21) He included a parenthetical eulogy of Sir Francis Head. Adverting to the difficulties of union, "He was inclined to ascribe a great portion of the difficulties, but certainly not all the difficulties, which encumbered this part of the question, to the Report of Lord Durham, and that not to the Report of Lord Durham on the whole state of Canada, but on one specific point, which he would briefly mention. He concluded that it was easy to anticipate that when the united Legislature assembled, Responsible Government would be the war cry,

(19). Id., LIV. 1063.
(20). Id., LIV. 1119.
(21). Id., LIV. 724.

in which the French Canadians, and the British Republicans in the Upper Province, would cordially unite. That lesson had been read to the people of the Canadas, by the report of Lord Durham..... Now what was it that Lord Durham had said on responsible government? He had treated it as a claim, the equity of which it was impossible to doubt. He had blamed the French representatives of Lower Canada for having directed their attention to objects comparatively unimportant, and had bestowed unqualified praise on the acuteness of the Liberal party in Upper Canada, because they had always maintained the necessity of having a Responsible Government."

. . . . . .

"Now in a British House of Commons, where we were familiarized to the name and practice of responsible government, it might appear strange for him to choose responsible government as a matter which he designated objectionable. In treating of responsible Government as a matter unsuited to the condition of a colony, he was not advocating any doctrine peculiar to himself. Responsible government meant nothing more than an independent Legislature. He was willing to be bound by the terms which the noble Lord (Russell) had used in one of his recent dispatches to the Governor of Canada;. . . ." He proceeded to quote from Lord John Russell's dispatch of 14, October, 1839(22) and continued "He admitted that the privilege which Parliament possessed was the Security of every liberty which the people enjoyed. But if the Colonial Assembly possessed the same privilege, why was this called the Imperial Legislature?"

. . . . . .

"But Lord Durham now said, that this cry was not only compatible with the British connexion, but that it was the best means of per-

(22). Vide appendix.

petuating it, and, therefore, under cover of seeking the best means of perpetuating the British connexion he had no doubt that the disaffected inhabitants of Canada would attempt, and ultimately effect, their schemes for severing the connexion altogether?"

He did not consider union a very good plan, but as likely as any other to succeed. "It seemed to him that the maintenance of our connexion with the colonies was to be regarded rather as a matter of duty than one of advantage.

. . . .Therefore he thought, that it should be a cardinal principle of our policy to regard the union between Great Britain and Canada, and her other American colonies as dependent on the free will of both parties. . . . . It would be a great problem of statesmanship, at a future period, when those growing societies should be attained to such a degree of maturity, as to be truly fit for self-government, to fix upon the period when the connexion with the parent state should be severed". . . . But while "Preserving a temperate and conciliatory policy, with united action in Parliament, establishing, in particular, a liberal system of government, making non-interference the rule and interference the exception, we should maintain, at the same time, with a firm hand, the supremacy of the British Legislature, and its right to assert that supremacy, as well as to determine the cases in which it should be asserted, recognizing therefore, the necessity of having an executive unity throughout all portions of the Empire, and consequently repudiating, as one of the shallowest of all possible delusions, the doctrine of responsible government, as connected with the perpetuation of the union."

Lord Stanley, also, supported the union, in July, 1840.(23)

(23). Hansard, LIV. 1137.

His chief argument was that while action was dangerous, delay was even more so. He concluded "Sensible of the necessity of re-uniting the two provinces, - sensible of the hazard and danger of allowing another session to pass by without taking some step to provide for the government of that important portion of our Empire, and sensible of the responsibility which those persons would take upon themselves, who ventured to reject the provisions proposed by the Government, he should feel it his duty, although he did not approve of every part of the Bill, to vote in favour of the motion for the third reading."

Lord Seaton(Sir John Colborne) (24) threw the weight of his considerable influence into the scale in favour of union. He stated baldly that he felt "it would be better to proceed with the measure than to leave the two provinces in the present state."

Lord Ashburton represented the "Little England" school in the Tory party. He was willing to accept separation whenever it occurred. In July, 1840 (25) he said "Not undervaluing these colonies . . . . . he was still of opinion, that the Imperial Parliament was constantly mistaken, looking to the peculiar description of the population there, in supposing these colonies were forever to be governed from Downing Street."

Both houses wished to establish good colonial government. No two opinions at home, no two governors were agreed - even as to facts, much less, remedies. This seemed the only plan feasible at present time. . . ."the time might come when self-government was necessary, and when separation from the Mother Country must take place."

Thus none of the Tory speakers, who discussed the question, coul

(24.) Id., LV. 505.
(25.) Id., LV. 259.

see how responsible government was feasible within the Empire.

The first feature that a consideration of the Whigs presents, is that only the leaders, and a few men, in some particular way, connected with Canada, participated in the debates. It would seem that the Whig following generally had little interest in the colonies.

Lord Melbourne's speech in 1839 (26) was couched in general terms. The government had originally intended to legislate, but had considered that its plan should first be approved in Canada. He denied the analogy between Ireland and Canada in terms, which, to the present-day reader must seem ironical; because the Irish were always loyal, and the Canadians were not.

In 1840, Melbourne had to pilot the Union Bill through the House of Lords, with a consequence that he was betrayed into making several specific statements of considerable importance.

When introducing the Bill in June (27) he outlined the provisions in detail, and then quoted Durham, Colbourne, and Thomson in favour of union. He concluded ". . .and if they adopted it, he hoped it would lay the foundation for a wise, an enlightened, a liberal, and a free government in those provinces."

After Ashburton and Brougham had settled the ultimate independent destiny of Canada, Melbourne rose (28) to question the prudence of such a discussion. He replied to Wellington that "he could not feel more keenly 'the disgrace of living to see that day' when Canada should be separated from Great Britain than he (Melbourne) should". Of the 16th October dispatch he said "He must say, that dispatch did not in the slightest degree countenance the principle

(26). Id., LV. 256.
(27). Id., LV. 267.
(28). Id., LV. 267.

of irresponsible government, but was intended directly to counteract it. It was meant by it to say 'irresponsibility is perfectly inconsistent with your situation as colonists, but the government shall be carried on in future more in accordance with your feelings than it has been'."

In reply to Lord Hardwicke(29) Melbourne admitted he had some doubts regarding the Union - but he believed it the best practicable measure. He could not see how it would weaken the connexion. Lord Durham's Report was not "expensive". "There were unquestionably many things in that report which he did not praise, and which he did not think were prudent matters to be brought forward, and which he thought it would have been wiser to have omitted, and he, therefore, did not say, that the Report was an impartial authority; but, at the same time, he must add, that it contained much which was of very great value, and which was well deserving of consideration and attention."

Melbourne, again adverting to the dispatch(30) said "it was perfectly well known there (in Canada) that the opinion of this country, and this government was entirely opposed to <u>independent responsible government</u>." And further he "had been most distinctly given to understand, that Mr. Baldwin had declared, previously to his accepting office, that he adopted the idea conveyed by the words <u>responsible government</u>, precisely in the sense used by the noble Lord, the Secretary for the Colonies, and that he did not wish for responsible government in the sense employed by the noble Duke (Wellington)". . . ."He understood from Sir G. Arthur, the feeling in favour of responsible government, had, in great measure, passed

(29). Id., LV. 510.
(30). Id., LV. 659-61, 662.

away."

Lord John Russell had practically unhampered control of the Colonial Office during his term in charge of that department. In Canada he had as governor Charles Poulett Thomson, later Lord Sydenham. The Colonial Secretary and the Governor were personal friends, had been colleagues in the same administration, and had implicit confidence in one another. For that reason more than usual importance must be attached to the views of the Governor.

Russell made one of his most important speeches in June, 1839 (31) while Lord Normanby was still at the Colonial Office. He argued that the Separation of the provinces in 1791 had been a mistake. It was impossible to maintain arbitrary government; and the annexation of Montreal to Upper Canada would settle nothing. Union seemed the only course by which the provinces could be given a British character. He accepted all Durham's important recommendations except that regarding the Executive Council.

"There is another question upon which I am now going to state an opinion, which question I think of the very greatest importance, and upon which Lord Durham has expressed an opinion contrary to that expressed by this House - I mean the question with respect to the responsibility of the individual holding the office of Governor in the province. Lord Durham has stated that an analogy existed between the representative of the Crown in the colony, and the constitutional responsibility of the Ministers in this country. He states that as soon as the Ministers of the Crown have lost the confidence of the House of Commons in this country, they ceased to be ministers, and that they could not go on with the Government in

(31). Id., XLVII. 1254.

a constant minority. He adds that it is certainly a most unusual case for a Ministry to go on for several months in a minority - and he then attempts to apply the principle to the local Government of Canada. . . . . .It does not appear to me that you can subject the Executive Council of Canada to the responsibility which is fairly demanded of the Ministers of the Executive power in this country. In the first place, there is an obvious difference in the matter of form with regard to the instructions under which the governor of a colony acts. The Sovereign in this country receives the advice of the Ministers, and acts by the advice of those Ministers, and, indeed, there is no important act of the Crown, for which there is not some individual Minister responsible. There responsibility begins, and there it ends. But the Governor of Canada is acting, not in the high and unassailable position in which the Sovereign in this country is placed. He is a Governor receiving instructions from the Crown on responsibility of a Secretary of State. Here, then, at once, is a wide and complete difference between the executive of this country, and the executive of a colony. The Governor might ask the Executive Council to propose a certain measure. They might say, they could not propose it, unless the Members of the House of Assembly would adopt it, but the Governor might reply that he had received instructions from home commanding him to propose that measure. How, in that case, is he to proceed? Either one power or the other must be set aside. Either the Governor or the House of Assembly, or else the Governor must become a mere cipher in the hands of the Assembly, and not attempt to carry into effect the measures commanded by the Home Government." He

then cited cases of foreign affairs and trade policy where the effect would be disastrous. ". . .how can you adopt a principle from which such large exceptions are to be made?" There were likewise cases of internal policy, but he added. "I know no reason why the Legislative Assembly, whether of each, separately, or of both provinces, united, should not be listened to with deference; but I am not prepared to lay down a principle, a new principle, for the future government of the colonies, that we ought to subject the executive there, to the same restrictions as prevail in this country." He would introduce the following resolutions, submit them to Canada, and follow with a Bill next session.

"1. That it is the opinion of this House that it is Expedient to form a legislative union of the provinces of Upper and Lower Canada, on the principles of a free and representative government, in such a manner as may most conduce to the prosperity and contentment of the people of the United Province.

"2. That it is expedient to continue till 1842 the powers vested in the Governor and Special Council of Lower Canada by an Act of last Session, with such alteration of those powers as may be deemed advisable."

Closing the debate the same day(32) he re-iterated his views on the Executive. ". . . .that the executive should be carried on in such a way that their measures should be acceptable and agreeable to the representatives of the people, and he saw no reason why the Government should not adopt the measures approved of by a majority of (32). Id., XLVII. 1287.

the colonists. He certainly did say, as he still thought, that it was not wise to lay down as a principle that the Canadian constitution, or any Colonial constitution, should be an exact copy of the British constitution, unless the analogy could be completely carried into effect. . . . He certainly did think it unwise to lay down a principle, which although it went through the entire executive here, could not be applied to the entire executive of the colonies."

Speaking in July, 1839(33) on the amendments to the Suspension Act he concluded with this phrase,". . .the declared object they had in view - namely to secure the province of Lower Canada to the authority of the Crown, and, at the same time, to provide for the general welfare and happiness of the people."

In August Lord John Russell succeeded to the Colonial Office, and on October 14 and 16 he wrote to Thomson those two dispatches, which were the centre of so much controversy both in Great Britain and Canada(34)

In the meantime Lord Sydenham in Canada was energetically engaged in creating a public opinion favourable to union and to Russell's policy. How difficult this task was, this extract from a letter to Russell, dated 24 December, 1839, serves to indicate(35) "After fifteen years of trouble and contest you have now the golden opportunity of settling the affairs of Canada upon a safe and firm footing, insuring good government to the people, and securing ample power to the crown, and that with their own consent, accompanied by a request that no further appeal should be made to them upon the

(33). Id., XLIX. 172.
(34). Vide appendix.
(35). Scrope, Life of Sydenham, Murray, London, 1843, pp.149-50.

subject. If it be not now seized, I tell you the occasion will never rise again, and you may as well give up the Provinces at once."

Russell, however, seized the opportunity, and on March 23, 1840 introduced the Union Bill (36). He commended Thomson and the good work he had done. The principle of union had been favoured by the Special Council of Lower Canada, and by the Legislature of of Upper Canada. He felt the Union would remedy those evils resulting from the continuance of feudalism, and the great predominance of the French population in one province. "The Earl of Durham had shown, in a clearer manner than had been shown before, how very little we ought to confound the conduct of the Assembly of Lower Canada, with the views of the advocates of constitutional freedom. In fact, the Assembly of Lower Canada, while they used all the weapons of freedom, while they used the constitutional arguments for the prevalence of free institutions, were using those arguments in order to establish a gross monopoly in the hands of their own race, and to exclude from the enjoyment of those rights to which they were entitled, the general body of the British inhabitants. Lord Durham has shown, I think, clearly, that whilst to all appearance the advocacy of constitutional doctrines was confined to M. Papineau and to the leading members of the Assembly, whilst the English party were obliged to find refuge in, and had the support of the legislative council, and were therefore obliged to take the side of prerogative, in opposition to the popular assembly, they were really more attached to those great principles of liberty which it is our pride to uphold. In fact, the Assembly used the weapons of Hampden in support of the principles of Wentworth, and while they possessed the

(36). Hansard, LII. 1323.

sympathy of a considerable number of the inhabitants of the United States, they used their utmost efforts to forward a system of government extremely exclusive, extremely hostile to all social and political improvement, to the general extension of British enterprise, and the progress of education . . . . .there seems no reason why the two should not send members to the Assembly, who would fairly represent the whole body, and give free scope to British enterprise and emigration, without subjecting the French to any degree of oppression."

He then outlined the provisions of the Bill, and discussed the basis of representation. Money votes must be preceded by a message from the Crown, and an adequate Civil List was to be provided. "I think, at the same time, it will be necessary, without any positive enactment, (for it would be impossible to introduce such a provision into the Bill), but by the rule of administration which will be established by the Union, that the Assembly should exercise a due control over the officers appointed or kept in office by the Governor, and over the distribution and expenditure of public funds. Many abuses have arisen from the want of this control. I am not now going to raise a discussion on which I expressed my opinion fully on the dispatch now on the table, and which excited so much agitation in Upper Canada a short time ago - I mean what was then called the question of responsible governors. I am not of opinion, as I have often declared, that the official servants of the Governor should be subject to exactly the same responsibility as the Ministers in this country, because the Governor's orders issue directly from the Crown; and it is unjust that representatives in

the Assembly should visit with responsibility those who are not the authors of the acts which they condemn. But the practice has, unfortunately, prevailed that there has been one set of men enjoying the confidence of the Governor, forming very often a small party in the Colony, distributing the revenues of the colony according to their own notions, and having the great skill and practice which long experience gives in disposing of the property and guiding the administration of the people, while there have been men ambitious perhaps, stirring perhaps, of great public talent, totally excluded from all share in the administration, which seems an unfortunate and vicious system, and I think that, by rule of administration, a better practice ought to be introduced. In conformity with this opinion, my noble Friend who occupied the situation which I now hold (Normanby) informed the governor of Nova Scotia, that whenever a vacancy occurred in the Council, he was to fill it up by a person selected from the majority of the Assembly, whom he thought properly qualified for such a trust. The occasion of making anappointment arose soon after I succeeded my noble Friend, and the governor of Nova Scotia requested to know whether he were to act on the direction which he had received from my predecessor. I told him he was, and I know no better way of giving confidence to the provinces, and at the same time making leaders of the Assembly practical men of business, than by appointing them to situations of official trust and responsibility. I have said you cannot lay down any positive rule for effecting this object, still less can you trust to the Legislature as your guide, because

you can never adopt the advice which members of the Assembly may give, when it interferes either with the Imperial Policy, or with the honour and faith of Parliament or the Crown. I would not, then, by any means, lay down an inflexible rule on the subject, but I maintain, that a general system should be adopted, by which the leaders among the majority of the Assembly should be included in the executive government."

He stated the need of provision for municipal institutions, and endorsed Wakefield's land policy. The Clergy Reserves question should be settled in the Upper Canada Legislature before union was consummated. Canada must have a free constitution, - real freedom. Of the United States he said "You gave them that from which they will now never swerve - you gave them the love of free institutions, and you taught them the way in which the love of free institutions can manifest and exercise itself." He continued, "It is my belief, that you may maintain the connexion with the colonies of British North America, without imposing terms on them which they would feel it incumbent on them to resist, and that they may be made to add to your greatness and strength, without a wish on their part to take their station on the globe as an independent nation. . . .You will be establishing no form of slavery on those distant shores, but you may rest assured that while your power and reputation will be extended, their freedom and happiness will be secured."

Early in April (37) Russell spoke briefly respecting the Clergy Reserves question when he asked grave consideration before they should oppose "the loyal subjects of Her Majesty who have agreed to adopt this measure."

(37). Id., LIII. 428.

Later in the same month(38) he re-iterated his faith in the connexion. "He considered our colonies to form an inherent part of the strength of this Empire, and, deeply impressed with that conviction, he said without hesitation, that they could not continue to govern Canada, without going back to the principles of representative government. But they could hardly again constitute an Assembly consisting almost wholly of French Canadians, without incurring the greatest risk; and the representative union of the provinces appeared to him, therefore, to be the most judicious mode of solving the difficulty." This in reply to the Tory advocates of the continuance of arbitrary government in Lower Canada.

On the Union Bill in May (39) Russell made several noteworthy remarks, in further illustration of his policy.

". . .Englishmen, who always, sooner or later, would, wherever they might be placed, insist on the benefits of those institutions which they were used to have the benefit of at home . . . . .He would only say, that when an Assembly considered that certain institutions and objects would be for the benefit of the country, and that these objects were not incompatible with imperial interests, that it must be considered a folly not to accede to their wishes rather than refuse them on account of any supposed incompatibility with their own peculiar notions. On the other hand, he never could admit that where the dignity of the Crown was concerned, and the interests of the country were involved, any opinion of a Colonial Assembly was to overbear the opinion of the United

(38). Id., LIII. 1062.
(39). Idl, LIV. 150.

Parliament." He continued by a defence of Thomson's appointment to the Executive Council of the Upper Canadian Reformer, Robert Baldwin.

Several extracts from Lord Sydenham's correspondence, valuable as side-lights on Russell's policy, may well be quoted.

Writing to a friend in England from Nova Scotia, 27 July, 1840 (40) Sydenham stated "The principle on which I would proceed, is, first, to compose the Executive Council in such a way that it should comprise only the leading official servants of the Government, and a few of the more influential members of either House - but especially those of the House of Assembly; and, next, that the law officers of the Crown, and any other public servants whom it may be desirable to make use of in that way, should be required, when necessary, to become members of the Assembly, as well as of the Executive Council, in order to afford their assistance there, and that their whole undivided time and talents should be at the disposal of the Government. . . . . .With these changes I feel satisfied the Government will acquire the necessary strength in the Legislature, and if the proper direction be given to their labours, and due firmness evinced in controlling them, the Council will prove a very useful and powerful engine in the hands of the Governor. They will afford no triumph or victory to either party; and I am satisfied they will meet the views and wishes of the Government at home, because they carry out the wishes expressed by Lord John Russell, that such modifications should be made in the Executive and Legislative Councils as might bring those bodies more into harmony with the general

(40). Scrope, op. cit., pp. 183-5.

opinions of the popular branch of the Legislature, and introduce into them some of those who exercise influence there."

After a tour of Upper Canada he wrote (41) "What is of more importance my candidates are everywhere taken for the ensuing elections; . . . .The fact is, that the truth of my original notions of the people and of this country is now confirmed. The mass only wanted the vigorous interference of a well-intentioned Government; strong enough to control both the extreme parties, and proclaim wholesome truths, and act for the benefit of the country at large, in defiance of the ultras on either side."

Writing to Russell in 1841 (42) he said his ministers did not understand "government through Parliament" and in consequence all the burden fell on him. He believed his new system would soon be consolidated, and emphasized "the absolute necessity of sending out as my successor some one with House of Commons and Ministerial habits, - a person who will not shrink from work, and who will govern, as I do, himself. Such a man - not a soldier, but a statesman - will find no difficulties in his path that he cannot easily surmount; for everything will be in grooves, running of itself, and only requiring general direction."

This, further; an extract from his speech in Nova Scotia(43) "Her(the Queen's) commands to her representative are, that he should consult their wishes and their feelings, - that he should promote their interest by well-considered reforms, and suit his administration of affairs to the growing importance and varying circumstances of each colony; - that whilst it should be alike his

(41). Id., p. 233.
(42). Id., p. 245.
(43). Id., p. 271.

interest and duty to listen respectfully to the opinions which may be offered to him, and seek the advice of those who may be considered to represent the well-understood wishes of the people, he can devolve the responsibility of his acts on no man, without danger to the connection of the Colony with the Empire, and injury to the best interests of those whose welfare is committed to his care."

These extracts from Sydenham's letters and speeches are significant, as the opinions expressed by a man who had given up high office in England, to carry out the Government's policy in Canada, and whose opinions have thus great weight on their own merits. They are further significant as expressions of the aims and policy, of Lord John Russell's chosen agent, whom Greville represents as having been forced on a none too eager cabinet, and may therefore be considered a valuable supplement to Russell's own speeches.(44).

The Marquess of Normanby was Colonial Secretary in the short period between Glenelg's resignation from, and Russell's accession to the Colonial Office, in the early months of 1839. His views corresponded closely with Russell's, and were probably inspired by him. (45) His one importantn speech was made when he introduced the amendments to the Suspension Act in July, 1839. He began by stating that "he was anxious to abstain from anything likely to excite discussion, as well for the exigency of the present moment, as for the future government of Canada." After detailing the purposes of the amendments, he alluded to Durham's

(44). Vide Appendix, Resolutions of Canadian Assembly, Sept. 1841.
(45). Normanby was merely a "stop-gap", between Glenelg's resignation, and Russell's appointment. Hansard, XLIX, 839.

'Report' "He now came to the recommendations contained in the report of his noble friend(Durham), but he could not enter upon the general subject without first offering his tribute of praise to the intelligence and industry manifested in the compilation of that report. The government felt that it was a document entitled to their most mature consideration; for at the same time it was a subject requiring great attention and resources, founded upon a deep and accurate knowledge of the state of the colony, the report itself contained recommendations of a very novel kind. While, however, he stated his own sincere opinion of the results of that report, and admitted the influence which the information it contained had naturally exercised over many of the subsequent, as it would no doubt over many of the future deliberations of the Government on the subject of Canadian affairs, he must allude to one particular point upon which a great deal of excitement was known to prevail among those most likely to be affected by it, and on which the Government has the misfortune to differ in opinion from his noble Friend. He alluded to the theory of a responsible Government laid down in that Report. He undoubtedly was of the opinion that no form of popular government for a colony could be properly conducted unless there existed a desire on the part of the superintending authority that the executive government of the colony should, as much as possible, act in harmony with the representative body. But at the same time he quite concurred with his colleagues in opinion, that it was not possible in the present

condition of affairs in the Canadas to act upon any plan by which the principle laid down and recommended by the noble Earl in his report, could effectually be carried out, consistently with strong and efficient government. Nor had the noble Earl, as he conceived, pointed out any mode by which his principle might be applied to the government of Lower Canada. He had himself had some experience in colonial government, and he must say he did not see how a government could act under the species of double and opposite responsibility which the plan of the noble Earl presumed. In what position would a governor be placed who was bound to obey the instructions from the Home Government, and at the same time to act in accordance with the expressed opinion of the representative body of the colony, in the event of a conflict of opinion between those two.

This was a practical difficulty which seemed to him not easily got over; at the same time he admitted to the full how desirable and important it was that the Imperial Government should endeavour, as far as possible to keep up a continued harmony between the Governor of the colony, and the House of Assembly."

He saw in a union of the provinces the solution of the immediate difficulty.

Speaking in July, 1840(46) Normanby favoured the Union as it would give Commercial freedom to Upper Canada, and constitutional government to Lower Canada.

Sir Charles Grey was listened to with some respect in the

(46). Id., LV. 521.

House of Commons because of his first-hand knowledge of Canada. In July, 1839(47) he spoke of the great importance of Canada to British trade and naval supremacy. The Gulf of St. Lawrence was a sort of British Baltic. No precipitate action should be taken to force a union in Canada - the Canadians should first consent. The consequent increase in taxation might present a difficulty in Lower Canada. Municipal institutions were required, above all.

He spoke again in March, 1840(48) to the Union Bill. He was glad there was a real prospect of settling the Clergy Reserves controversy.

Edward Ellice spoke in June, 1840(49). He would have preferred a federal union, had thought that "a congress (however the word might shock ears polite) was necessary." He hoped the present scheme would succeed, but opposed municipal institutions, as one government was sufficient. They would probably function like the Irish grand juries. There was no fear of religious animosities.

The Earl of Gosford(50) was the only Whig who opposed union. It was a dangerous experiment. The French were loyal to Her Majesty. The measure was most unjust - on account of unfair representation and the debt settlement. "He opposed the measure upon two grounds, - first, because he thought it founded on misrepresentation, and, secondly, independent of that, because he thought it most unjust."

The remaining two Whigs, Lansdowne and Howick approach, in their speeches, the Durhamite views, but, yet, with certain reser-

(47). Id., XLIX. 153. Grey was a member of the Gosford Commission.
(48). Id., LII. 1349. (49). Id., LIV. 1129. (50). Id., LV.246.

vations.

The Marquess of Lansdowne(51) in what sounds like contradictory terms to those Melbourne employed, said, regarding the October dispatches, "The first of these was dated the 14th of October, and was followed by that of the 16th of October, and in them the importance of giving free institutions to the people of the Colony was clearly shown, as well as the duty that existed of making the officers of the local government responsible to the representatives of the country, and it was impossible to give satisfaction to a people who had once been accustomed to free institutions, unless this weredone." This was only qualified by the fact that Lansdowne was a member of a cabinet which denied this principle, which he apparently accepted.

Viscount Howick speaking in support of the Union Bill(52) replied to Mr. Colquhoun's plan for maintaining arbitrary government designating such a scheme as "utterly and altogether impracticable." The union was not perfect, but there were objections to all plans. Much difficulty arose because of the use of general terms, not exactly defined.

"If by Responsible Government it were meant, that the Executive Government should be directly responsible to the Colonial Assembly, he was of opinion that responsible government so defined would be incompatible with the maintenance of colonial government. But he believed, that if the Government at home, as well as the authorities in the colonies, were to pursue a system of protective government, guided by a conciliatory spirit, and a desire to consult the wishes

(51). Id., LV. 252.
(52). Id., LIV. 744.

of the people, then such a form of government would answer the object that those who were loudest in the clamours for a responsible government had in view."

If the majority of the colonists were opposed to the connexion, the position was hopeless. But, if they merely desired more democratic institutions such should be conceded to them. "In carrying on the Government of Canada, we must be prepared to give them a government differing in many respects from that which was established among ourselves, and we must exhibit a disposition to go to great lengths for the purpose of conciliating the people of Canada.....When the deliberate sense of the people was ascertained, it ought not to be opposed, - and if that feeling were in favour of a more democratic form of government, he saw no reason why in the management of their internal affairs, the wishes of the people should not be acceded to, as long as they did not produce a clashing with the authority of this country. . . . It was a bad policy when any portion of the people of a colony were desirous of any reform which we might deem it inexpedient to grant at once, to turn round upon them and say, you wish to separate yourselves from the Mother country. When they imputed such ideas to persons who were asking for reform, it not unfrequently happened that the imputation itself was the cause of such persons ultimately entertaining the very ideas which, in the first instance, had been unjustly imputed to them. The fair mode of conducting such discussions was, to patiently listen to the complaint of the colonists, to argue the point calmly with them, to state the objection to the proposed reforms; but let not either

party impute motives to the other. Let the colony avoid accusing the government of tyranny, and the Government avoid accusing the colony of the desire for separation. If Colonial differences were discussed in this temper, they would find very few but what might ultimately be settled in a satisfactory manner."

While not conceding the theory, Howick indicted thus the liberal spirit, which, he conceived, should be applied to colonial relationships.

Charles Buller spoke almost immediately after Russell on June 3, 1839.(53) He stated his pleasure at hearing that the Colonial Secretary favoured the plan of Union. He deplored the government's procrastination. Of the principle of Responsible Government he continued "What the Earl of Durham proposed was a representative Legislature with a responsible Executive; and until enlightened by the superior intelligence on constitutional history of those who dissented from him he should continue in the belief that this, at least, was new."

". . .Any bill which the noble Lord might introduce for the union of the two Canadas, he would support, without any reference to the principle of responsible government, because he thought that the union in itself would carry out that principle, but he could not help remarking on the entire omission to legislate at all on the subject." He outlined the chaotic conditions in Canada, concluding, "He believed that this House would sacrifice every party feeling to put an end to such horrors as he had referred to, and he thought that all classes, and all parties in the House, would at

(53). Id., XLVII. 1282.

once united to establish, on a firm and permanent basis, a free and constitutional government for these colonies."

In July of the same year (54) he urged the necessity of immediate action and the grave danger of delay. Lord Durham had intended to outnumber the French, not misrepresent, or under-represent them.

A few days later (55) he, again, condemned the delay, which he attributed to party machinations, discreditable to both sides of the House. He then adverted to the success of past colonial government. ". . . . but he could not understand how anyone could cast his mind over the recent history of our colonies, or advert to their present deplorable state in everything that respects their government without coming to the conclusion that, in our whole colonial system, there is some radical vice requiring vigorous and searching correction. The system of government from home had a long trial in the North American provinces, and proceeding on the principle of combining an irresponsible executive, with a representative legislature, how had it practically worked in them all?. . . . .This was an error which he would rectify, by establishing an entirely different practice in our colonial government; by proposing it as a rule of government, that the executive of the colony should be kept in entire harmony with the legislature; that the system of constant interference with the details of colonial affairs should be abandoned and that the colonial government should, in fact, be carried on in the colony, and not in Downing Street. . . .He was not one of those who thought that the connexion need necessarily be of brief duration

(54). Id., XLVIII. 1199.
(55). Id., XLIX. 179.

or mischievous influence. . . . . .To regulate their foreign relations, and to secure immigration, and the settlement of waste lands, were the only objects left to the Mother Country." He stated his entire adhesion to the Report, and concluded, "He thought he might feel very sure that his (Durham's) Report would be the text book of the colonial reformer, until it became the manual of the colonial government of Great Britain."(56)

In June, 1840, Buller spoke(57) in support of the Union Bill "He believed that in his views he coincided with his noble Friend, Lord Durham. He was perfectly free, for his own part, to say that so far as practical results were concerned, he agreed as cordially in the dispatch of the noble Lord, the Secretary for the Colonies, (Russell), as his Honourable Friend opposite, (Pakington), could possibly do. The Reformers of Upper Canada, who had been so much misrepresented, - the Reformers of Nova Scotia, - the popular party generally - the vast majority of the intelligent inhabitants of all the Colonies, had practically supported the doctrine of responsible government, long before Lord Durham approved of it; but when it was announced by him, he never supposed it could be effected by a change in positive law. Lord Durham merely announced the principle of responsible government, as the one which the government of every country having representative institutions might, either boldly and intelligibly, like Lord Durham, say that if you hope to have representative government work harmoniously, you must carry on the executive by those persons who have the confidence of the majority of the representatives, or involve the meaning in the unintelligible vagueness which he must charge against his honourable Friend(Glad-

(56). Vide Appendix, extracts from Buller's Responsible Government
(57). Hansard, LIV. 752.

stone), in talking of maintaining unity between the imperial and colonial governments, and at the same time preserving harmony between them; in either case they would come to the plain common-sense truth, that if they wished to govern any colony peaceably, they must govern it on principles and by men approved of by the people of the colony, and that otherwise the colony would be a scene of interminable confusion, and anarchy, such as had followed every attempt to work representation without a responsible executive. Was he complaining, or did Lord Durham, in his report, complain, of a system which had worked well? Did their presumption go so far as to find fault with institutions which produced perfect satisfaction, or to suggest improvements in colonial government, to bring it into accordance with any theory of government? On the contrary, Lord Durham said, that he did not find one government which worked well. He found in every one the hazard of collision between the Executive and the representative, and he preferred to remove the evil by the same principle which common sense had led to the adoption of, in England. He(Buller) had always said, that the union of the Canadas carried responsible government with it, as a necessary consequence. It seemed to him to be indispensable, that if they collected the representatives of eleven hundred thousand people in an Assembly, that they must necessarily exercise an influence over the Executive government. It would be found necessary to bring the executive into harmony with the wishes of the people. In fact, responsible government, call it by what name they chose, was the necessary consequence of giving representative institutions to a large number of people."

No plan of government was without danger. Arbitrary government could not be retained, but, if they found, in the United Legislature, a majority adverse to the connexion, on what grounds should it be maintained. "It had been said, that the French would never be reconciled to the British connexion. He agreed so far in the opinion as this, that recent events had made such an impression on the present generation, that they could not calculate on a cordial co-operation from them. He thought that so long as the French were in a majority in Lower Canada - so long as they indulged in the mischievous notion of a French nationality - so long might they calculate on an opposition from them to the Government. But then he appealed to those who had a knowledge of the French under an arbitrary form of government - he meant the French accustomed to the old form of French despotism - he appealed to those who knew the character of the Canadians, whether it was not correct to say, as there were no people more inclined to make a bad use of success, so there were no people that would succumb more quietly, when a majority declared against them? When they once showed to the Canadians a British majority, who spoke the English language in the united Assembly, they would find that, from that moment, the French would abandon all hope of nationality, and the instant they abandoned it, he believed that the only fear would be, that they might become too pliant instruments of the Government, rather than be prepared to oppose it. This Bill provided for the welfare and security of the British race."

He then defended the character of Robert Baldwin, and went on to refer to the sentiment of loyalty and national pride found in all parts of British North America. "He believed that the uniting of the two provinces would be followed by the union of all the other provinces."

Buller's Sketch of Lord Durham's Mission to Canada in 1838, appeared shortly after Durham's death in 1840(58). In it he spoke thus of responsible government. "The principle of executive responsibility which he (Durham) recommended, not with the vain notion that it could be enforced by positive law, but as the sure and only foundation of a firm and peaceable government of the Colonies, though repudiated in words, has been already partially recognized in the appointments made by the Government. But it does not matter very much what the Government repudiates and what it recognizes, for certain it is that in the Parliament of United Canada it has created a power from which no Government in this country will be able to withhold that voice in the selection of its rulers, which Lord Durham showed to be a necessary consequence of representative institutions."

Buller closed his sketch with an estimate of Durham's merit which time has justified. "But from the mass of his countrymen he may expect at least that generous sympathy with the rectitude of his purpose, which Lord Durham found even in his own day. From after times, he will receive a yet larger meed of justice. For, as coming events in their appointed course shall prove the sagacity with which he foresaw them - as the public mind, gradually opening to new and sound views, shall be prepared to read the right lesson in the occurrences which it may witness - so will shine forth with daily in-

(58). Archives Report, 1923, pp. 341-67.

creasing brightness the character of that statesman, who alone in his day rightly appreciated the worth of our Colonial Empire, and saw on what deep and sure foundations of freedom its prosperity might be reared. With us, then, that sorrowfor his loss, which no time time can efface, need be mingled with no vain and injurious regrets for the result of his labours, which will long survive in the bettered lot and grateful recollections of our Colonies, with none for a fame which, instead of being laid in his untimely grave, will date from the hour of his death the commencement of a long and vigorous existence." Buller was the only champion of Responsible Government in the House of Commons during the Russell period.

The Earl of Durham, himself entered the lists in the House of Lords in July, 1839 (59) with a vigorous defence of his course of action in Canada and his recommendation of colonial self-government. "It was his conviction that no government could be established which would give permanent satisfaction, which was not founded on a principle, and conducted in such a manner, as to carry with it the feelings and approbation of the people of the Colony. He did not say that he would proceed immediately to the construction of such a government, or that he would take Ministers from the House of Assembly and so form a Responsible Government, but he did say that if they gave to the Canadian people all the freedom which they themselves enjoyed as to representatives institutions - if they gave them the power of regulating their own affairs, of voting money and of refusing supplies - if they gave them all these powers, and yet denied to them the results of that freedom, and those powers, it was impossible to imagine that there would be satisfaction in the Colony.

(59). Hansard, XLIX. 875.

On the contrary, if they were denied the enjoyment of those results which ought naturally to spring from free institutions, the Colony would continue to be the scene of dissatisfaction, and there would be struggles and contentions without end; there would continue to exist differences of opinion leading to insurrections such as that to which the colony had recently been exposed. Therefore it was, that he would ask whether, when such were the results of a want of responsible government, it would not be better, if such a government could not be formed, to give up the colony altogether, and suffer them to govern themselves."

This was Lord Durham's last speech in Parliament on Canadian affairs. At the end of 1840 the Durhamites could not yet be classed as a separate group, since Durham and Buller still stood alone as champions of their policy. However it has been observed, that among the Whigs, two influential men, at least, were sympathetic, and among the Radicals, too, we shall observe Durhamite tendencies. The diversity of opinion in the Radical group was even more conspicuous than in 1838.

Perhaps the most moderate of the Radicals was William Ewart, a Liverpool merchant.(60) The following extract from his short speech on the Union Bill, might, but for the unfortunate word independent, have been spoken by a convinced Durhamite. He "thought we ought to legislate for Canada, on the principle that she would one day become independent of the Mother Country. The more slight our control, the more firmly she would adhere to us. If we reckon on her assistance, we must govern her gently."

(60). Id., LIV. 752, Ewart was Gladstone's godfather.

Sir William Molesworth, in July, 1839 (61) quoted Durham's Report, to make his point that there should be settlement without delay, and sarcastically, he turned to Peel, to request him to take the reins from the hands of the effete government.

Joseph Hume in June, 1839(62) is till harping on his old strain - the elective Council. "He would tell the noble Lord, that if the Legislative Council were not made Elective, there was no other way in which to secure the peace and welfare of the colonies."

In July (63) he was demanding the acceptance of the Report, and the re-establishment of local government, without so much as mentioning his sine qua non of the previous month.

In March, 1840 (64) Hume immediately followed Russell's speech introducing the Union Bill. He stated that if the government had conceded in 1837 what it was prepared to do now, there would have been no rebellion. He continued, "The colonial administration should be made to act in unison with the House of Assembly, as the House of Commons in England does with the Government." He favoured the Union of the provinces, as one good government was cheaper than two. "He would conclude, protesting on the part of the colonies alluded to, against the conduct which had been pursued towards them by the British ministry for the last twenty years; and expressing hope that the present Government would take warning from the example of previous Governments of Canada; and do nothing which would again endanger the peace and tranquillity of those colonies."

(61). Id., XLIX. 147. (62). Id., XLVII. 1275.
(63). Id., XLVIII. 1197. (64). Id., LII. 1342.

those colonies."

In April (65) he favoured the immediate acceptance even of an imperfect Bill. He felt that Durham's principle of reeponsibility should be adopted. The Bill was unjust to the Fench but he would support it.

He cannot be classed as a Durhamite for a reason, appearing in his Speech in June (66) "His complaint against the Bill was, that it did not hold out that security to the popular branch of the Legislature which had all along been promised." Hume hardly understood Responsible Government if he believed it would be implemented by Legislative enactment.(67).

Daniel O'Connell, in June, 1839, (68) urged that any union must be fair to the French. He instanced Ireland as a warning.

Speaking in July (69) he condemned the principle of union in Durham's otherwise admirable Report. It would alienate the French and sow the seeds of permanent discord. The Councils should be amended.

In the debate on the Union Bill, June 1840 (70) he protested against the unequal representation and inequitable distribution of the debt, "He believed that if Sir Francis Head had not been as destitute of common sense as any man who ever filled a public situation, they would not have had any insurrenction at all." Lord Durham after commenting favourably on the French character, had advised annihilating their race.

Leader, also, condemned the plan of union, in a Speech in

(65). Id., LIII. 1055. (66). Id., LIV. 740.
(67). Cf. Lord Durham's Report, Lucas, op.cit., p. 280."This change might be affected by a single dispatch..."Cf.also Buller's Responsible Government, vide appendix.
(68). Hansard, XLVIII 1286. (69). Id., XLVIII. 1198.
(70). Id., LIV. 748.

July, 1839.(71). He objected to a continuance of arbitrary government; even for one year, as tyrannous, useless, and ruinous; and censured the government for its indecision.

Lord Brougham made, in July, 1839 (72) a vitriolic attack on the Government, including Normanby, as Colonial Secretary. He railed against the continued dictatorship. Of union, he said "They never could hope to have an English majority in Lower Canada; they could hardly hope for a majority even in the union of the provinces; and the difficulty and embarrassment now felt on this account, would be equally felt in 1842."

Brougham made a short speech in July, 1840(73) on the Union Bill. He did not think union was approved in Canada, and thought it would augment the racial conflict. Of the connexion between the Mother Country and Canada he felt its "disadvantages greatly preponderated over its advantages." He looked to an early separation. In the meantime he protested against the augmentation of existing animosities.

Lord John Russell left the Colonial Office in September, 1841, and the Queen entrusted the seals of office to Lord Stanley, as a member of Sir Robert Peel's cabinet. It would seem that Responsible Government had won no unreserved converts during Russell's tenure of office. It had been made an active political issue by the efforts of its protagonists; Durham and Buller, which paved the way for its eventual acceptance. Further, Lord Sydenham in Canada had put into effect the changes suggested in the 16 October dispatch, had consummated the Union, and governed,

(71). Id., XLVIII. 1204.
(72). Id., XLIX. 843, Cf. Buller re the French Vide supra.
(73). Id., LV. 262.

himself as minister, it is true, but had governed through a Parliamentary majority in the United Assembly. The stage had been set, but the time had not yet arrived for the performance to begin.

CHAPTER III.

STANLEY PERIOD.

THE STANLEY PERIOD.

When Peel came into power in 1841, Lord Stanley returned to the office from which he had retired when he resigned from the Grey administration in 1834. It was fitting that the man, who had, for six years, been the principal Tory critic of the colonial policy of the Whig government, should take the principal direction of colonial affairs.

Practically coincident with Lord Stanley's accession to office was the tragic death of Lord Sydenham, so that in Canada, the new Colonial Secretary was to be represented by a new Governor. The Stanley period covers the governorships of the two governors, Sir Charles Bagot, (1841-3), and Lord Metcalfe(1843-5). These governorships make, both in Canada and in Great Britain, a natural division of the Stanley period.

During the four years Stanley was in office only two debates of consequence took place on Canadian affairs. The first, nominally on the transported political prisoners, developed into a debate on Bagot's policy. The second, of more considerable dimensions, was occupied with Metcalfe's policy as contrasted with Bagot's. Both of these require to be filled in with a slight sketch of events in Canada, and they have been treated separately for this and other reasons. Therefore, an outline has been given of Bagot's relations with the British Government; followed by the first debate, with a similar treatment of Metcalfe, followed by the second debate.

Bagot's real difficulty began, when he met the Provincial Parliament of Canada in September, 1842 with his executive council doomed to defeat. For such a crisis Bagot had explicit instructions. Stanley had written, 17 May, 1842:(1)"Although I am far from wishing to re-establish the old Family Compact of Upper Canada, if you come into difficulties, that is the class to fall back upon, rather than the ultra-liberal party". As early as July, Bagot was beginning to doubt the practicability of adhering to such instructions, and wrote to Stanley, "If I should act as I am not likely to do, in opposition to your fixed and determined policy. . ." This indicated an advance from his position in June, when he was still contemplating a policy of broadening the basis of Sydenham's moderate party. Stanley warned him that black and white did not always produce grey, and Bagot replied (12 June, 1842)(2) "My hope is that, circumstanced as I am, I possibly may be able to do this, that is to take from all sides the best and fittest men for the public service. . . . The attempt to produce such a grey, whether it succeed or not, must, I think, after all that has passed, and in this particular crisis in which I find myself here, be the safest line." When the time came it was the July policy, not the June one, that he adopted, and in defiance of instructions, he included Lafontaine and Baldwin in his council, rather than turn to the Family-Compact men, who were in a hopeless minority. Bagot wrote to Stanley, 26 September, 1842(3) to justify his "great measure". He began

(1). J. L. Morison, British Supremacy and Canadian Self-Government, 1839-1857, S. B. Gundy, Toronto 1919, pp.129-30.
(2). Id., p. 144.
(3). Id., p. 131 and pp. 146-7.

by describing his late Council which "might be said to represent the Reform or popular party of Upper Canada, and the moderate Conservatives of both provinces, to the exclusion of the French, and the ultra-conservatives of both provinces." He then described one of his difficulties in amending the council - a lack of scope. "Out of the 84 members of the House of Assembly, not above 30, as far as I can judge, are at all qualified for office, by the common advantages of intelligence and education, and of these, ten, at least, are not in a position to accept it."

Meanwhile, too late, a reply to his July despatch arrived. Stanley was not convinced. He preferred a policy of divide et impera, gaining the French by detaching them from their party - a hopeless policy. He confessed that "if the Conservatives could not out-vote the Radicals and French I fear the union is a failure and Canada gone . . . ." Peel's advice, in a letter to Stanley, 28 August, 1842,(4) was more hopeful. He felt "that much must be left to the judgment and discretion of those who have to act at a great distance from the supreme authority."

Confronted with the fact, the Government loyally supported Bagot. Stanley wrote that the action was "on your own responsibility and contrary to the wishes of the Home Government." He added "we do not disapprove your policy, we are prepared to support it and defend you." He used phrases about the "effect at Home" and "on the other Colonies."

Writing to Bagot at the end of the year (3 November and 3 December, 1842,)(5) Stanley made it clear that he did not concede

(4). Id., pp. 147-8.

(5). Id., pp. 102-3.

Responsible Government. "Your position is different from that of the Crown in England. The Crown acts avowedly and exclusively on the advice of its Ministers, and has no political opinions of its own. You act in concert with your executive council, but the ultimate decision rests with yourself, and you are recognised, not only as having an opinion, but as supreme and irresponsible, except to the Home Government, for all your acts in your executive capacity. Practically, you are (influenced) by the advice you receive, and by motives of prudence, in not running counter to the advice of those who command a majority in the Legislature; but you cannot throw on them the onus of your actions in the same sense that the crown can in this country."

Bagot's sound good sense, appears in this extract regarding the Civil List written in March, 1842 to Stanley, (6) words with a wider significance. "I know well by what a slender thread the adhesion of the colony will hang, whenever we consent to leave the matter entirely in its own hands. . .But the present supply is not sufficient for its purposes. We must always be dependent on the Legislature for provision to meet its excess; and I cannot but think that the sooner the Legislature succeeds, if they are to succeed, in carrying the point, the more generous they may possibly be in the use of the victory." But even more significant were his words, written to Stanley, 28 October, 1842 (7)". . .whether the doctrine of responsible government is openly acknowledged, or is only tacitly acquiesced in, virtually it exists."

(6). Id., pp. 138-9. (7). Id., p. 153.

In February, 1843 Roebuck made a motion respecting Canadian political prisoners who had been transported, and he seized the occasion to introduce a discussion of Bagot's conduct.

Lord Stanley spoke on behalf of the Government(8). "When Sir Charles Bagot first went out to Canada, the instructions given to him on the part of her Majesty's Government were, that in the administration of the law, and in the selection of those, to whom he might think fir to call to his councils, no distinction of origin or race should be made, but that men of all parties, of different origin and race, should combine together in that which was to be the great object of his policy and government - forgetting and passing by recent transactions and recent animosities - should combine together for the advantages of those great provinces which her Majesty's Government - he thought advisedly - had united under one government and council. He thought, therefore, that in the main - in all the essential features of the case, - Sir Charles Bagot, since his appointment, had acted entirely and cordially in concurrence with her Majesty's Government. It was in pursuance of the policy they pointed out- in pursuance of that determination they had taken to know no distinction of race or origin between those who were willing cordially to co-operate with the government for the advantage and welfare of the Colony. . ."

"The two provinces of Canada were united; . . .From that time there was no reason why in the affairs of Canada this country should not feel herself bound to act upon the principles

(8). Hansard, 3d. series, vol. LXVI. p. 245.

upon which, in all other colonies with legislative assemblies she had felt it necessary to act, - namely, to carry on the Government in accordance with the views and sense of the great bulk of the population, that without entering into the abstract theories which were put - and he thought needlessly - of a responsible government, and how far the Colonial Assembly must be overruled by the Parliament of this country, it was at once the duty of the British Government frankly to act upon the maxim of carrying on the government in accordance with the views of the great bulk of the people, and in support of the great interests of the province. . ."

Charles Buller (9) was opposed to interference with the colony "but it depended on Sir Charles Bagot, the present Governor General of Canada, and on those who had sent him out to determine in what way he should meet the new necessities imposed upon him,- whether he was to struggle to conduct affairs as former governors had done, and oppose for a while an unavailing and mischievous opposition to the will and power of the people speaking through their Legislature, or cheerfully and at once accept those necessities, and without a struggle a new and better and more liberal system, in such a manner as to conciliate the good-will of the people, while he yielded to their inclinations? He was bound to say that Sir Charles Bagot's government had taken the wiser and safer course; that he had, in a manner which could never be sufficiently commended, adopted the right course, and in the best possible way."

(9). Id., LXVI. 255.

They had no cause to distrust the Home Government or the Governor.". . .He wished to inculcate upon both sides of the House, that in this case there was no reason for distrust; on the contrary, that the exercise of the largest trust, the fullest confidence, was the safest and most prudent policy for them to follow."

Roebuck, again in the House, (10) approved Bagot's course in the following terms. "The curious state of the country when Sir Charles Bagot resorted to the wise policy which he had adopted - the remarkable exhibition which the country then showed was calculated to instruct persons the least capable of paying attention to the changes that had taken place. The moment it was discovered that their compatriots and the leaders of the people were to be raised from their servile condition to the position of subjects under our jurisdiction, equal with any other persons - that instant, from one end of the country to the other, there was a feeling, not only of triumph, but almost of piety, in their rejoicings".

". . .the right honourable Gentleman had adopted a new rule,- he gave a responsible Government, not in name but in reality, to the Canadians, and resorted to no stratagems to keep them down, corrupt or frighten them."

But Bagot's days were numbered, and in the middle of January, 1843, Lord Stanley appointed Sir Charles Metcalfe, who was to proceed to Canada to relieve the dying Governor. The contrast between them was striking. Although personally amiable,

(10). Id., LXVL. 237.

Metcalfe lacked Bagot's tact. Furthermore he had been accustomed to Crown Colony bureaucratic government, and did not understand the significance of developments in Canada. A Whig, almost a Radical in Home politics, in Canada his sympathies were extended to the Tories, the ostentatious champions of the Empire to which he was passionately devoted. Such a prejudice made his position very difficult. He had hardly reached Canada before he was anticipating a difference with his Council, which although six months in maturing, the mutual suspicions made inevitable.(11). His great difficulty was the degraded position which, he conceived, the Canadians intended the Governor to occupy.(12). "The sole question", he wrote, "is, to describe it without disguise, whether the Governor shall be solely and completely a tool in the hands of the Council, or whether he shall have any exercise of his own judgment in the administration of the government."

He again said,(13) "He had the strongest possible assurance that he had not been sent out to Canada to be the tool of a party- and that party the one least favourable to the interests of the Mother Country". "My own dislike of governing by or with a party"; ". . . I . . .must toil on to no purpose in the Slough of Despond"(14) are phrases which typify Metcalfe's feelings.

Writing to Stanley, 5 August, 1843 Metcalfe indicates his own interpretation of responsible government - apparently a sort of individual departmental responsibility, but no collective

(11). Vide appendix, Metcalfe's despatches to The Colonial Office, 24 April and 12 May 1843.

(12). Kaye, Life of Lord Metcalfe, Richard Bentley, London 1854, vol. II. p. 494.

(13). Id., II. p. 498. (14). Id., II. p.500.

cabinet responsibility.(15). "In adopting the very form and practice of the Home Government, by which the principal Ministers of the Crown form a Cabinet, acknowledged by the nation as the Executive administration, and themselves acknowledging responsibility to Parliament, he (Sydenham) rendered it inevitable that the council here should obtain and ascribe to themselves in at least some degree, the character of a cabinet of ministers . . . . all officers of the government, except the Governor and his secretary, should be responsible to the united Legislature; and that the Governor should carry on his government by heads of departments, acting under the orders of the Governor, each distinctly in his own department, might exist without the destruction of the former authority of Her Majesty's Government."

On his own interpretation, Metcalfe could honestly say(16) "I found Responsible Government practically acknowledged in this colony, and I have endeavoured to carry it out for the public good."

Then came the long expected breach - a trivial difficulty over patronage in which the Reformers put themselves in the wrong. Metcalfe refused to agree to their demands, and the Council resigned. In reply to an address in support of the late Council, Metcalfe re-iterated his belief in Responsible Government, but refused to derogate the dignity and prerogative of the Crown to subserve party ends. Metcalfe was without a council, but, as Kaye remarks, (17) "he was not without advisers. . .he had sought the advice of - Mr. Viger and Mr. Draper."

He dissolved Parliament; and remained without a Council anti l

(15). Morison, op. cit., pp. 164-6.
(16). Kaye, op. cit., p. 515. (17). Id., p. 548.

after the elections. His attitude to the elections he expressed thus (18) "I regard the approaching Election as a very important crisis, the result of which will demonstrate whether the majority of Her Majesty's Canadian subjects are disposed to have Responsible Government in unison with the British connexion and supremacy or will struggle for a sort of government that is impracticable consistently with either." The result of the Elections enabled him to form an executive council from the Tory party which had a precarious majority, far from satisfactory to Metcalfe. In a letter to Stanley in May, 1845, he admitted practical failure by acknowledging the impossible nature of his position, if the council were defeated, and it became necessary to call on the opposition(19). "It will be seen, from the description of parties which I have submitted, that the two parties in Upper and Lower Canada which I regard as disaffected, have a bitter animosity against me; and if it should ever become necessary to admit these parties again into power, in preference to standing a collision with the Legislative Assembly, a case would arise in which my presence here might be rather prejudicial than beneficial, as it would be impossible for me to place the slightest confidence in the leaders of these parties."

The 13th of the same month(20) Metcalfe wrote to Stanley. Speaking of Responsible Government as "a system of government which, however suitable it may be in an independent state, or in a country where it is qualified by the presence of a Sovereign and a powerful aristocracy, and by many circumstances in correspondence with which it has grown up and been gradually formed, does

(19). Id., pp. 571-2.
(20). Morison, op. cit., p. 165.

not appear to be well adapted for a colony, or for a country in which those qualifying circumstances do not exist, and in which there has not been that gradual progress, which tends to smooth away the difficulties, otherwise sure to follow the confounding of the Executive and legislative powers, and the inconsistency of the practice with the theory of the Constitution."

Stanley, still like Metcalfe, despite Bagot's success, pinned his faith on the Conservatives in Canada, and wrote to Metcalfe, 18 June, 1845(21) respecting". . . .the extreme risk which would attend any disruption of the present Conservative party of Canada . . .for the temporary admission to power of men the most unscrupulous in its exercise, and quite ready to sacrifice all national and above all, all British interests, to their own personal and selfish objects."

Writing in November 1845, in accepting Metcalfe's resignation Stanley thus approved his conduct in Canada,(22) "I need hardly say that you administration of affairs in Canada has more than realized the most sanguine expectations which I had ventured to form of it."

Metcalfe had been a year in Canada when Stanley was questioned regarding his approval of Metcalfe's conduct(February, 1844) (23) Stanley replied that Sir Charles Metcalfe's course "had the entire concurrence and approbation of Her Majesty's Government. The resolution of sending out Sir Charles Metcalfe as Governor for Canada, a man of tried ability and known liberality in his views of government was a sufficient indication of the wishes of

(21). Kaye, op. cit., p. 596.
(22). Id., p. 599.
(23). Hansard, LXXII. 144.

Her Majesty's Ministers. Sir Charles Metcalfe went out to Canada to carry out fairly the new Colonial System, but equally determined to resist those extravagant demands which were inconsistent with the authority of the crown and of the true rights of a colonial legislature."

In May, Stanley(24) rose to reply to an attack on Metcalfe's policy, which Roebuck had made . Roebuck had advocated full self-government as a prelude to amicable separation. Stanley rejoined,". . . .however true and unanswerable these principles were, as applied to an independent Republic. . .they were inconsistent with the existence of monarchical institutions; and in the next place, with the relations which should exist between a colony and the mother-country. If he admitted the full extent of the principles on which the honourable and learned Gentleman (Roebuck) had laid so much stress - of the right of the colony to govern their own local affairs - he should yet be prepared on the part of the Government, to express their unhesitating and cordial approbation of the course which Sir Charles Metcalfe had pursued, and their unqualified approval of his conduct in the two matters which had been made grounds of accusation against him by the Members of the Executive Council, and which had been brought forward on their behalf by the honourable and learned Gentleman. Now what were those two points of accusation? They were not left to conjecture on the subject, for the Governor-General and the Executive Council had both stated them distinctly as the grounds upon which the Members of the Council resigned their offices, on which their resignation was accepted by Sir Charles

(24). Id., LXXV. 38-61.

Metcalfe. . .The Executive Council demanded from the Governor-General that he would agree, under his hand and seal, to make no appointment, and no offer of appointment whatever, without previously taking the advice of the Council; . . .and that the Governor-General should not make any appointment which they might consider prejudicial to their views; in other words, that the whole patronage of the Crown in the Colony should be surrendered to the Executive Council, for the purposes of Parliamentary Support. . .Sir Charles Metcalfe at once rejected that proposal and he(Stanley) thought he was right in rejecting it. The honourable and learned Gentleman had sought to draw an analogy between the position of the Governor-General in Canada, and that of the Sovereign in this country. He denied that analogy. But even admit, for the sake of argument, that the analogy existed, and he still contended that the demand which the Executive Council had made of the Governor-General was one which no minister would allow. But he denied the analogy. The constitution of Canada might be formed upon the model of the Constitution here; but still they could not give to it the life of the British Constitution. Observe what was the nature of the British Constitution- what were the functions of the Sovereign. The basis of the British Constitution was, that the Sovereign was personally irresponsible for every act of the Government - that the responsibility rested with the confidential advisers of the Sovereign, who were responsible to Parliament and the people for the advice they gave, and he admitted and allowed that no minister could hold permanently the

reins of power in this country who did not, in addition to the confidence of the Sovereign, possess the confidence of the popular branch of the Legislature. But because the Crown was not responsible for the Acts of Government, the Crown particularly exercised no political power; and it was obvious that the exercise of political power without responsibility would not be more dangerous to the liberty of the country, than the exercise of responsibility without power would be an absurdity and a contradiction. He said, therefore, that no minister in this country would make or allow such a proposition as had been made by the Executive Council of Canada to Sir Charles Metcalfe. The theory was well understood and the practice followed. The Sovereign, in deference to the opinions of the constitutional advisers of the Crown, made the appointment on the recommendation of the Minister; and every Minister in making a recommendation to the Crown, so far as higher and more important considerations would permit, paid and was bound to pay deference to the personal convenience, wishes, and feelings of the Sovereign; and, on the other hand, although the Sovereign had the power to reject the appointment recommended by the Minister, it was usual to sacrifice all personal considerations to the public advantage. But the case of a colony was totally different from that of this country. Here the people respected the dignity of the Crown from its hereditary nature, and were influenced by a loyalty and attachment to the person of the Sovereign and the Monarchy that was almost inherent. Then there was the House of Lords, the hereditary Peerage of the country. . .Compare this with the position of Canada; but where

was the parallel to the House of Lords? There was the Legislative Council, but it possessed none of the advantages of the Peerage of this country; its Members were not elevated much by rank, station, or property above their fellow-citizens, and possessed no great influence; they were nominated by the Crown, and held office for life. Then the Governor-General had none of the dignity of the Sovereign about his position, having an income not more then that of a country gentleman - a stranger to the colony - having probably no personal influence or interest in it until his appointment, and previous to his arrival, no connexion with it. Place that Governor, and the Legislature so constituted, in the position of a Minister being himself responsible, and compelled to act in every respect with Parliament, stripped of all real power and authority, liable to act under the control of the leading politicians and parties of the day, and what would they institute in Canada? That which, but for the influence of the Crown and the Peerage, and the necessity of the Prime Minister possessing the confidence of the House of Commons, would be the result here, a republic government - a Governor placed in a state of absolute dependence on the Assembly. He said to the honourable and learned Gentleman that he proposed a course which, by no gradual steps, but certainly and at once, would place the whole authority in the hands of the dominant party for the time, and convert Canada into a republic, indepedent of the Crown of this Country.

It was inconsistent with monarchical government that the Governor who was responsible, should be stripped of all authority

and all power, and be reduced to that degree of political power which was vested in the constitutional Sovereign of the country. Not only would such a course be inconsistent with monarchical government, but also with colonial dependence. The honourable and learned Gentleman might desire to see the Colony divested of that dependence(Mr. Roebuck interposed "No"). But the argument the honourable and learned Gentleman laid down would lead to that conclusion. The System which the honourable and learned Gentleman proposed was inconsistent with that which at all times had been held forth by all British and Colonial authorities as Responsible Government. The sketch of the honourable and learned Gentleman went from the period of Lord Durham's 'Report' to thepresent time, and he stated that the Report was remarkable only for confirming that which had been demanded by the legislatures of both provinces for twenty years. Now he had looked into the recommendations of Lord Durham as to the principles of responsible government, and although that noble Lord, did emunciate certain views, he did not appear to him, to have seriously considered the mode in which they were to be carried out, or the practical results to which these principles would give rise if carried to their full extent. But he did not find Lord Durham laying down, even as a principle, the doctrine which the honourable and learned Gentleman would wish to see carried out, of the reponsibility to the people of Canada." The noble Lord proceeded to quote the Report of Lord Durham, to the effect that the responsibility to the United Legislature of all the Officers of

the Government except the Governor and the Secretary should be secured by every means known to the constitution. The Governor, as representative of the Crown, should carry on the Government by means of heads of departments on whom the United Legislature shall repose confidence, and who must not look for support from home except in points of imperial interest. The noble Lord continued, "Here Lord Durham laid down the doctrine that the internal administration should be administered by heads of departments, - each of them being in the Legislature answerable for his own department, prepared to defend it, and if not supported by the Legislature, prepared to resign. To that principle from the time when Lord Sydenham went to Canada until now, when Sir Charles Metcalfe had declared his adherence to Responsible Government, he had not heard any objection." He then alluded to Russell's despatch to Thomson, 14 October 1839(25) from which he quoted extensively. "He made no apology for quoting from this dispatch, because it laid down broadly principles in which he concurred." He was sorry Lord Sydenham had not communicated this dispatch to the Assembly - "he thought much misrepresentation and misconception might have been prevented." . . . .

"He understood by responsible government that the Administration of Canada was to be carried on by heads of departments enjoying the confidence of the people of Canada- enjoying the confidence of Legislature of Canada for the due exercise of functions of their departments, and more that the governor in preparing and introducing with their sanction, legislative measures to the

(25). Vide Appendix.

Colonial Parliament, was to be guided by the advice of those whom he had called to his Councils; that he was to introduce measures upon their advice and information of the local authorities throughout the Colony; taking the responsibility of conducting them through the Colonial Legislature. But if the honourable and learned Gentleman asked this, whether he meant by Responsible Government that the Governor was to be a mere machine - a passive instrument in the hands of the Executive Council or of any other different body - he replied that he did not so understand it. He quite well understood to what that led; but he did not understand that it was a constitutional method of governing a British Colony. He, therefore, approved of the discretion exercised by Sir Charles Metcalfe in refusing his consent to a proposition which bound him in every respect to the will and pleasure of the Executive Council. But Sir Charles Metcalfe had signified his adherence to that principle which the honourable and learned Gentleman desired to see established as the basis of the Canadian Administration. The Resolution of 3 September, 1841(26) bore upon the face of it that the head of the Executive Council being the representative of the Sovereign, was responsible to the Imperial authority alone, but that the internal management of local affairs could only be conducted by and with the assistance of the Council, and the subordinate officers of the province. He did not now enter into the question of whether responsible government were orwere not likely to be conducive to the welfare and prosperity of Canada -

(26). Vide Appendix.

whether it was most likely to enlist in the ranks of Government the greatest number of men of talent, honour, integrity, and station. The principle had been fully recognized on the part of the government both here and in Canada; and it was upon the principle of that recognition that Sir Charles Metcalfe had avowed his determination to conduct the Government of that Colony. But what did this resolution state? That the Governor-General was responsible to the Imperial authority alone. Responsible! For what? The doctrine of the honourable and learned Gentleman would leave him no responsibility, for it would leave him neither power, authority, nor discretion - a mere instrument in the hands of the Executive Council, nominated by the dominant party in the province - and yet, forsooth that Governor-General, who was to be at the feet of the Executive Council - itself the organ of the dominant party of the day - that Governor-General was to be solely responsible to the Imperial authority. Why this was a practical absurdity. Taking the principle as he interpreted it, it was to be exercised with mutual forbearance and good sense, neither party straining their powers, but making concessions to the wishes of the other. Interpreting the principle in this way, it was possible, - nay, it was not difficulty - successfully to administer the affairs of Canada by its application; But taking it as urged by the honourable and learned Gentleman, it was a mere absurdity. Without power there could be no responsibility. Yet the honourable and learned Gentleman proposed to take away all the powers from the

Governor, and then mock the Government at home by calling him responsible. For what was he to be responsible? Not for the exercise of patronage, which the Executive Council would deny him; not for the exercise of the prerogative of the Crown, in withholding the assent of the Crown from Measures which he considered dangerous. Well, for what was he to be responsible, if not on these two heads - . . . .Both of these powers the Council withheld from the Governor-General."

Adverting to the immediate cause of dispute, "He doubted whether it was for the advantage of any small community - he was sure it was not for the advantage of a colony - that political patronage should be dispensed as a reward for political subservviency." He defended Sir Charles Metcalfe from the charge of illiberality, advanced by Roebuck, quoting Metcalfe's definition of Responsible Government. In regard to the Civil List, he continued, "I say, for the working of any constitution, that the Civil List should be independent of the annual caprice of the local legislature, is absolutely indispensable to the due administration of justice and the proper disposal of the business of the State." The Imperial government would accept Canadian legislation to replace that existing at present, if certain conditions were observed.

"I do trust - I have a confident belief that the moderation, discretion, firmness, conciliatory temper, and disposition of Sir Charles Metcalfe - his earnest desire to carry on the government of Canada in accordance with the well-understood wishes and views

of the people of that province - that his determination to act in accordance with his own instructions, to the effect that this country is not disposed to interfere in the local administration of purely internal affairs - and that the honesty, simplicity, and straightforwardness of Sir Charles Metcalfe's character will not be without its influence on the feelings of the population. I believe the clamour, raised against him through a misrepresentation of his words, actions, and sentiments, will die away within a limited period; and I do entertain a confident belief that his acting on his own sound and determined views - reconciling the Colonial dependency of the provinces with the entire responsibility of the government in local matters, will obtain for Sir Charles Metcalfe, in the long run, the concurrence and support of the people."

The connexion was valuable, politically and economically to Britain, and even more so to Canada. He concluded, "I believe the mass of the people of Canada are cordially attached to this country. I believe, when they seriously consider the results of the alternative I have put, they will follow, not the advice of unprincipled demagogues- bad, rash, and interested counsellors, but take as their guide the liberal, sound, and honest views of the Governor-General. I am persuaded, that by the exercise of sound sense and discretion, the people of Canada may long continue to enjoy the advantages she now possesses; and that, in connexion with, rather than in subordination to, this country, she may assume the position of a thriving and happy Colony."

This, the one public exposition of Lord Stanley's views, while he was in office, is an exhaustive presentation of them, so far as he deemed public discussion would permit, and is most important evidence in estimating his attitude at the time.

Sir Robert Peel was the only other Tory who spoke. He closed the debate with the first really significant Speech he made on Canadian affairs(27). He said that, "For his part, he did not think the Ministers could have given a stronger or a greater practical proof of the principles upon which they desired the Government of Canada to be conducted, than by the selection they had made of Sir Charles Metcalfe . . . .He was not connected with them either by political or by personal ties; and they disregarded all political claims in their desire to make an appointment to Canada which should be an intimation to the people of that Colony of the principles on which their government was to be carried on. . . .It appeared to him that Sir Charles Metcalfe had been completely in the right in this respect, and that he was entitled to the entire confidence of Her Majesty's Government, and to the fullest support that the Government could afford. As to the proposal that he should bind himself to act upon the recommendation of the Executive Council, whether conveyed in writing or by a tacit understanding, he thought Sir Charles Metcalfe would have submitted to a greater humiliation if he had consented. The first principle undoubtedly of a representative Government, was that the Sovereign should be guided, in making appointments, by the advice of the Ministers; but it was quite a different thing whether the Sovereign should adopt the advice of the Ministers,

(27). Hansard, LXXV. 73.

when or whether the Sovereign should contract obligations to act upon all occasions by that advice. In that case, the Sovereign would become the slave, instead of the master. But independently of the humiliation. . .it was perfectly right for him in subutance to decline such an engagement. There was no analogy between the position of the Governor and the Council of Canada, and between the Sovereign and Ministers of this country. The Governor was bound. . . .he thought the Governor of Canada would be unwise who did not, in local matters, consult the feelings and opinion of his Council; but then he would say this, that with regard to all these questions of patronage, he thought that the Government in England or Canada would be mad, that sought for the possession of patronage or power, excepting for the benefit of the community. But in his opinion the position of an Executive Council towards a Governor was perfectly distinct from the relations of a Minister towards his Sovereign. The very fact of a Governor standing in a double relation, as it were, responsible to his Sovereign, at the same time that it was his duty to defer to the Colonial Legislature, at once established that distinction. But there was another ground also on which, in the case of a colony, a distinction existed. He thought it might be for the interest of the governed that the Governor should refuse to place himself under the entire control of the Executive Council, and that it was impossible to govern Canada on the same principles on which this country was governed. The greater the population and the more regular the Constitution, the

easier was the country governed by party. But in a small community he did not think that party could govern with any advantage."

Political animosities were more likely to be bitter ina small community.

"He was perfectly satisfied that the utility of our connection with Canada must depend upon its being continued with perfect good will by the majority of the population, otherwise it would be a source of weakness and discontent."

He concluded by commending Metcalfe.

Lord John Russell, alone, of the Whigs, took part in this debate(28). He hesitated to give an opinion without understanding all the circumstances. "He had been one of those who had counselled the appointment of Lord Durham, and he had also been one of those who had counselled the appointment of Lord Sydenham. With respect to the principles contained in the Report of Lord Durham, he had concurred in them in the despatch which the noble Lord (Stanley) had quoted, to the extent therein stated; but if what he there said were taken without sufficient limitations, misapprehensions might be, and perhaps had been created. With respect to Lord Sydenham, he was sure that no man could have been appointed, who was so likely to use his faculties for the benefit of the people of Canada, and the maintenance of the connection with this country. Lord Sydenham, he believed, had been struck with an observation of his(Russell's) that there was no place where a man could do so much good to a large portion

(28). Id., LXXV. 69.

of his fellow creatures, as in the situation of Governor-General of Canada. Lord Sydenham, on that account, accepted that office and when he got out, devoted his energies to the good of the country. Lord Sydenham possessed great influence with the Assemblies of Canada, chiefly on account of the knowledge which Lord Sydenham possessed of Parliamentary business, and the manner in which free discussion ought to be carried on. The knowledge that he had of affairs of trade and commerce was likewise a recommendation. Accordingly, those who were engaged in affairs of state felt that his advice was useful to them, and therefore, his opinion had great weight with the Representative Assemblies. Those Resolutions which the noble Lord had read to this House were passed by the advice of Lord Sydenham, in opposition to those put forward by Mr. Baldwin. They purported that the government could be carried on, in accordance with the representative body of Canada, but that the Governor-General could not divest himself of his duties to the Crown. On these two principles the government has since been carried on. With respect to Sir Charles Bagot he did not think it at all necessary to recur at length to his conduct of the government. He thought that Sir Charles Bagot, in the circumstances in which he was placed, could have done no other than choose the ministry out of the large majority of the representative body; but he thought that circumstances did occur which tended to weaken the authority of the Governor-General in those provinces. It must be remembered that Sir Charles Bagot was suffering under indisposition. When Sir Charles Metcalfe was placed in the situation of Governor-

General of Canada, he declared his adherence to the resolutions of 1841; he declared his adherence to the principles of responsible government, so far as they were applicable to a colony; he continued the Ministry of his predecessor; but he found, but not till after a considerable time had elapsed, a difference of opinion between himself and his Ministry; they required concessions from him, which he considered it not to be consistent with his duty to the Crown to make."

Russell approved Metcalfe's conduct, so far as he understood it. He continued "the noble Lord (Stanley) had stated, in a way not unwarranted by the fact, the great advantages which Canada derived from her connexion with this country. It was impossible to imagine that Canada could obtain any more advantageous position at any price. Even if she were to become an independent republic, she could not last so but for about six months; and if she were to join the United States, what would become of her independency, and especially of that peculiar regard to her religious establishments, which this country had always shown in her connexion with Canada. He could not but think, then, that the people of Canada and their representatives, would ultimately agree in the appointment of Sir Charles Metcalfe, and, also, that this arrangement with respect to the Executive Council would be for the benefit of Canada. He was sure they would not improve their situation by endeavouring to deprive the Governor of that authority which was so necessary for the maintenance of the connexion between this country and the colony."

Charles Buller, at this time, made his last important contribution to the Canadian debates. The next significant debate took place a year after his death. Buller approved Metcalfe's course,(29) but did not neglect the opportunity of re-iterating his faith in Responsible Government.(30).

"The recommendation of responsible government, or, as he preferred calling it, in a general sense, Parliamentary government, was the main feature of Lord Durham's Report; and though his honourable and learned Friend (Hume) had insinuated that Lord Durham was not originator of the idea, but took it from Mackenzie he could assure the House it was borrowed from no such source. Inquiring into the causes of the disorders in Canada, Lord Durham picked this out from the causes of Canadian discontent and mismanagement, as that which appeared to him, conversant with the government and constitutional principles of this country, the main and obvious cause of the disaffection, the Executive Government being carried on by persons not possessing the confidence of the Legislature, to which was entrusted the full power of making laws, and the entire control over the public purse. No arguments had ever shaken his conviction, that if you had the powers of legislation vested in a Parliament, the plainest and simplest reason dictated, that you must place the Executive Government in the hands of those who possessed its confidence....In spite of any difficulties which might have lately occurred, he could not but look with triumph to the success of that recommendation, wherever

(29). Buller was influenced by Wakefield who supported Metcalfe in Canada, but he disapproved the demands of the Canadian Reformers.

(30). Hansard, LXXV. 63.

and insofar as it had been fully and honestly applied. There was no one of the British American Colonies in which, when acted upon, it had failed to produce perfect harmony between the different branches of the Legislature, and content among the people. He felt confident that any attempt to abandon that principle, and revert to the old system of previous years, would only produce confusion and collision, a stoppage of the machine of Government, and a prostration of that prosperity for which the situation of the British colonies offered so fair an opening, and, in the ultimate result, an ignominious and disastrous separation from the Mother Country. . .Personally interested as he was, in the recommendation of that principle, in which he had borne his full share, he felt bound to insist that it should be fairly carried out. But while he should resist any attempt to abandon it, he felt it to be equally his duty to resist any attempts from those on the popular side to abuse it by encroaching on the just and due prerogatives of the Crown. He would not lay down any definition of the principle of responsible government. It seemed to him unwise to attempt to frame too strict a definition of constitutional principles, and still more unwise to put - which was the only fault he could find with the noble Lord (Stanley)- hypothetical cases, in which those principles would be pushed to extremes. Of this there could be no doubt, that in every instance of Parliamentary government, the business of that government must be carried on by heads of departments, who enjoy the confidence of the executive authority, and of a majority of the Legislative Assembly; and no man could seriously think of

saying, that in the appointment of every subordinate officer in every country of Canada, the opinion of the Executive Council was to be taken. No man could seriously believe, that anyone thought that a revenue officer, in a remote county of Canada, would be appointed by any government other than by recommendation of the local authorities. No ruler could hope to carry on the business of government, if he did not take that course; for the local authorities were those alone who could possess the knowledge requisite for giving a sound recommendation in such a case. So far then they were agreed as to the principles, but he differed from the honourable Members for Bath and Montrose(Roebuck and Hume), as to the facts. In the first place, Sir Charles Mercalfe did not violate the principles of responsible government; in the second, he did not turn out his Executive Council; and in the third, he did not refuse, in the manner stated, the pledge which had been demanded of him . . . . . .

"He was firmly convinced, looking at the subject with no bias whatever against the gentlemen who had gone out of office, that the errors in this case, were on the part of those who had quarrelled with Sir Charles Metcalfe.....

"If the people of Canada believed that an encroachment on the rights of the Crown was meditated, he believed that then good reason would make them resist any such attempt. Whatever might be the advantages to this country of the connexion, he believed with the noble Lord (Stanley) that the balance of advantages was

infinitely on the side of Canada. He knew by experience what mischief a want of reliance on the good faith of this country, and on its determination to preserve the connexion with the colony, had worked, and he believed that the best thing which the Legislature could do, would be to take means to strengthen the belief of the people of Canada in that good faith and that determination, and that he considered would but be done by taking measures to support Sir Charles Metcalfe in the course he was pursuing. He thought that course would be the best for the security of the government, and the welfare of the people.... He believed that it was impossible to find any man better adapted to carry on the Government in a conciliatory, as well as a perfectly just and liberal manner."

The Radicals were represented in the debate by J. A. Roebuck and Joseph Hume. The former opened the debate(31). He began with a violent attack on Lord Sydenham's method of forming the Electoral districts of Canada, to the accompaniment of fraud, intimidation and violence. He continued, "Upon the death of Lord Sydenham, Sir Charles Bagot was appointed his successor, but the majority against his government was so manifest, he could not continues his government under the existing system, and a remarkable change took place. Sir Charles Bagot made a declaration of the principles upon which he would henceforth conduct his government. He referred to the Resolutions of the House of Assembly, 4 September, 1841(32), a resolution in favour of Responsible Government, and declared that he would govern

(31). Id., LXXX.31.
(32). Vide appendix.

Canada on the principle of that resolution. Acting on the Spirit of that resolution, he selected from the body of the House of Assembly certain persons who seemed to possess the public confidence in the strongest degree, and of them constituted his Executive Council, determining, at the same time, that so far as the internal policy of the country was concerned, he would be governed by their advice. In matters of Metropolitan policy, of course, as heretofore, he would continue to receive his instructions from the Home Government. He thought the distinction a very clear one; he thought that in matters relating to the Metropolitan or imperial relations of Colony, the governors should be under the control of the Home Government; but that in matters of purely internal polity, the local council should have the controlling voice; and this also was the declaration and explanation of Sir Charles Bagot. Accordingly, Sir Charles Bagot appointed his council, consisting of men having the confidene of the people; and it was touching to see how this conciliatory act was received by the people. That people, who had been so long subject to the iron rule of previous governors- who had been hunted by soldiers, and tried by soldiers, and whose wives and families had been insulted by soldiers, - this people, who had thus cruelly suffered, seemed to forget at once all the evil which had been done them, and turned with a gushing outpouring of gratitude to their new governor, who had shown this goodwill towards them; and when that governor, who had done so much for them, was oppressed with sickness, a heartfelt prayer was put up from one end of the country to the other for the alleviation of his sufferings. Upon the death

of Sir Charles Bagot, Sir Charles Metcalfe was appointed his successor; and when he went out, he admitted that he was not quite prepared to handle a representative government; and particularly in America. He did not take the same view of the matter as his predecessor had taken. Indeed, he acknowledged, to use his own words, that Government established by Sir Charles Bagot, introduced a principle of antagonism, which, he foresaw, could not long work smoothly. Sir Charles Metcalfe however, announced, at the same time, that he intended to govern the colony on the principles of a responsible government; but from that hour to this, he had never explained what he meant by a responsible Government."

. . . . . .

"Now he wanted to know whether it was the opinion of the noble Lord opposite, that Sir Charles Bagot took a wrong view with respect to the principles upon which the Government of Canada should be carried on?" They should lead the Canadians on to complete self-government "in order that, when separation from the mother country took place it might be of a friendly, not a hostile nature." He objected to Metcalfe's autocratic procedure; they must "treat the Canadians fairly."

Joseph Hume spoke immediately after Stanley.(33) He stated that, "The conduct followed by Sir Charles Bagot had given the greatest satisfaction to the people of Canada, and he wished the noble Lord(Stanley) had stated whether he approved of it.

"With respect to the noble Lord's statement that the Governor had engaged to administer his patronage in accordance with the Sentiments of his Council, that was expressly denied by the resigned Ministers. Sir Charles Bagot had frankly adopted the course

(33). Hansard LXXV. 61.

of acceding to the demands of the Colonists to possess a responsible Government, to manage, in fact, the public affairs by the representatives of the people. On the other hand, the late Ministers of Canada had found it impossible to conduct the Government under Sir Charles Metcalfe, and, at the same time, give satisfaction to the House of Assembly, and had, therefore, felt it their duty to resign their offices. He asked any honourable Member, who had attended to what had passed in the debate, if he could tell what was the meaning of responsible government? It seemed to be now one thing, now another. It was for the Government, who had approved both governors-general, though acting on entirely different principles, to explain what part of Sir Charles Bagot's conduct they thought peculiarly deserving of approbation."

He pointed out that the Canadian "ministers" had differed with Metcalfe from the beginning. From everything he had heard of Sir Charles Metcalfe, "he had thought that if any man could carry on Canadian affairs quietly and harmoniously, Sir Charles Metcalfe was the man. Indeed he had no doubt the right honourable Gentleman would have done so, had he not been trammelled by the noble Lord." (Lord Stanley interposed: "I beg your pardon he is not.") "He had a high opinion of Sir Charles Metcalfe, and he had not a high opinion of the noble Lord . . . It appeared to him utterly impossible that Sir Charles Metcalfe could get out of his present difficulties. Responsible Government would be a delusion, if the noble Lord's interpretation of it were adopted. The

Canadians expected that a majority of the House ofAssembly should appoint the Ministers of Governor, just as a majority of the House of Commons appointed the Ministers of the Crown. What he should like to know would be the feeling of the people of this country, if any set of Ministers were to be maintained in power contrary to the opinion of Parliament repeatedly expressed? At this moment, Canada was without a single responsible Minister; and if the noble Lord's doctrine were adhered to, the inevitable consequence would be, the Colony would be deprived of even the shadow of popular rights. No one could expect the Canadians would be contented, unless the Government were conducted as it had been by Sir Charles Bagot, and the Ministers were allowed to act in unison with the representative Assembly. Allow this, and you would have a happy and united colony; deny it, and the worst consequences might be feared."

He thought the Ministers had been precipitate in resigning, but looked to Stanley to initiate conciliatory proceedings. He deplored Metcalfe's being in the hands of his present imprudent advisers.

This debate was the last important one connected with Canada, until over three years after Lord Stanley left the Colonial Office. Later in the year, he was called to the House of Lords in his father's barony, and the absence of the Colonial Secretary from the House of Commons distracted attention from a subject which, in any case, was certain to be crowded into insignificance during the next three eventful years of economic revolution in Great Britain. In

the late autumn of 1845 the Peel Government resigned, and after Russell's unsuccessful attempt, it was reconstituted to repeal the Corn Laws. Stanley remained outside, and Gladstone became Colonial Secretary. He was not, however, in the House, as he did not seek re-election until after the fall of the Government, which took place immediately after the passing of the Repeal Bill. Lord John Russell this time succeeded in forming a Government, with Earl Grey (Lord Howick) as Colonial Secretary. This administration is the subject of the next chapter.

CHAPTER IV.

GREY PERIOD.

THE GREY PERIOD.

Earl Grey became the Colonial Secretary in Lord John Russell 's Government formed in 1846. The Government also contained Charles Buller, long the champion of Responsible Government, and Lord Lansdowne, who has been remarked above, as sympathetically inclined towards the same end. Such a government promised well for Canada.

There was only one important debate during the Grey period, that in 1849 in which the Rebellion Losses Bill was the point at issue. The divisions of opinion no longer followed party lines; isolated members of both wings of the Tory party, Protectionist and Peelite, supported the policy of the Government. The line of demarcation between Whig and Durhamite has disappeared. The moderate note of the Radicals was new. If the attitude on this question be taken as an indication, very roughly, of the degree to which Responsible Government would be effectively conceded, it would seem as though all, but the Tory opponents, were Durhamites. This was, of course, not the case, but the approximations to the Durham creed, and the practical effect given to it, would have gladdened Buller's heart, had he lived to see Durham's memory vindicated. Although the party lines have been retained, it will be observed that the vital practical difference is the division indicated between Stanley and Peel, as they are treated below. Theoritically the difference was slight, but the vital difference

was practical. From the practical point of view, Responsible Government had come, at this stage, to signify Non-Interference. Interference was admitted in Imperial, but not Local Matters. Everything depended on how particular issues were interpreted. On this occasion, one party deemed the Rebellion Losses Bill an Imperial, the other a Local Matter.

Gladstone was the real leader of the Tory opponents to the Bill. Speaking, in reply to Roebuck, in a preliminary skirmish, a month before the main debate, May, 1849,(1) when he said, "I protest against a doctrine which interferes with the supremacy of this country over all imperial concerns. . . . . Although I should accompany the honourable and learned Gentleman (Roebuck) in asserting the principle that our interference ought to be strictly limited to matters that are of imperial concern, and that the discretion of local authorities ought to be left entire and unimpaired over matters that are not imperial."

There were, probably, few members of either House who would not have assented to this proposition. The application of course hinged on the extent of the interests signified by the term imperial. The middle of June(2) found Gladstone advocating interference on, what he considered, high imperial grounds.

"We have not merely to consider in regard to it, the general doctrine of the necessary supremacy of the mother country over a colonial dependency, but we have also to recollect that,

(1). Hansard, 3d. series, C.V. 565.
(2). Id., C.VI. 189-225.

in regard to Canada, the responsibilities connected with the fulfilment of the first duties of a Government - namely, the maintenance of public order, are responsibilities which are discharged, not by the people of Canada at their own cost, but by the people of England, under the auspices of the Crown, and under the sanction of the British Government.

"... because I hold it to be a sound principle, admitting of but rare exceptions, that if England is to interfere, with any national prospect of advantage, with the legislative proceedings of a colonial Parliament, in order to secure that prospect of advantage, it must be United and not divided England that undertakes such interference. ... the question really does involve the very first principles and duties of a Government, and does touch the very foundations of all social order .... My impression is that, on the Earl of Elgin has been laid an undue and excessive share of responsibility; that the Earl of Elgin, standing alone and single-handed, as the representative of the Crown, has been called upon to do more than any man in that position, without the distinct aid and clear guidance of the Government at home, could properly discharge. ... The honourable Gentleman, the Under-Secretary of State for the Colonies, (Hawes), on a recent occasion, expressed in this House his opinion, that it was not for this House to interpose in the consideration on any legislative measure that might be proceeding in Canada, until that legislative measure had reached, so far as the province was concerned,

its completion. He said that, pending the discussion in the colony of the measure, it was not for the British Parliament to interfere; and I put upon that declaration the construction that, if it was not for this Parliament to express its opinion on these proceedings, neither was it for the Secretary of State, in his view, to give any authoritative directions with regard to them. Therefore, I was led to the impression that, according to the doctrine of the Colonial Department, as it now exists, the business of a man occupying the position of Governor-General of Canada is to judge for himself in regard to all measures submitted to him by his advisers, on his responsibility alone, and that his conduct is in no way to be influenced from home, until he has transmitted such measures for the confirmation or disallowance of Her Majesty, and I was further confirmed in that belief in regard to the Earl of Elgin, by an earlier declaration of the honourable Gentleman(Hawes), the Member for Southwark, when the honourable Gentleman used these expressions: 'Not only has Canada local self - government, but responsible government, which has never been enjoyed to such an extent as it has been since the time of the Earl of Elgin.'

Now so far as responsible government,in general terms,is concerned, I think Canada has possessed it before the time of the Earl of Elgin; and I am at a loss what construction to put on the words of the honourable Gentleman, unless it is this, namely, that the rule is now established that the Earl of Elgin is not to refer for directions on any question of Colonial legislation to the

Secretary of State at home, but only at the last stage, and in reference to the ultimate question whether the assent of the Crown shall be given or withheld. . .I think his position an impracticable one, rendering it impossible for him to adequately discharge the duties he owes to the colony on the one hand, and to the Crown of England on the other. . . . I think the first duty of the Home Government should be, to interpose a check on the action of the colonial advisers of the Governor, and enable him to apply at home for guidance, when a question is before the local assembly not merely affecting local but imperial interests, and involving the honour and dignity of the Crown of Her Majesty. I think the local Legislature of the Colony should be left free and unrestricted in its action upon questions purely and entirely having a bearing upon the local interests of the colony; but we ought to draw the broadest and most marked distinction between questions of a local and imperial character; and with regard to imperial questions, instead of being postponed till the resolutions and deliberations of the local Legislature are concluded, and are sent home in their ultimate shape to receive the sanction or disallowance of the Crown, I think that reference to the Home Government ought to be made at the very first moment, and before public opinion may have been appealed to in the colony; and that at the first moment it ought to be ascertained how far the Queen's Ministers at Home think it necessary to fetter the discretion of the colonial authorities, and how far they may freely move in the path to be trodden on by them."

Gladstone, then; interposed a quotation from Lord John Russell's dispatch, 14, October, 1839(3) and continued "It is on the ground then which the noble Lord has given me, that I ask Parliament to direct its especial attention to this question; and, although I desire no higher authority than that, yet I observe that the honourable and learned Gentleman, the Member for Sheffield(Roebuck), who is known in this House as having, beyond all others, through good report and evil report to have advocated the principles of colonial freedom, - ". He then quoted Roebuck pertinently.

He considered the Act was ambiguous, and feared that there would not be much care taken to discriminate between rebels and loyalists.

"I now come to another matter on which great stress is laid; it is, that the sense of the people of Canada being in favour of the measure, it is not for us to question it. I look with the greatest respect to the opinion of the people of Canada, and regard it as conclusive within its own sphere - that is, in all matters that properly belong to the province of a colonial legislature; but even if the sense of the Canadians were pronounced in favour of the measure, (A case I believe the furthest possible from the fact), that is not a sufficient reason for our refusing to inquire into it. I cannot admit that the sense of the people of Canada is to limit the criterion that ought to be taken on imperial questions, and involving the highest imperial considerations."

(3). Vide Appendix.

He did not ask for disallowance, merely for an assurance from Russell that rebels would not be paid.

"Any obedience which is rendered to the Throne of these realms, must, to be useful and honourable, depend on the free and unbiased judgments of those who pay it. . . .I am not prepared, be the consequences what they may, to be a consenting party to advising the Crown - as might be done by a tacit acquiescence of Parliament - to assent to any act of a colonial legislature, which I believe to be essentially dishonourable to imperial rights . . .But if you obscure the line of demarcation - if you allow the loyal man and the rebel to be confounded - if you pervert the principle of mercy, which makes punishment lenient, into a law against the principles of justice, which determines between right and wrong, then you sin against the honour of the Crown, and abandon the most sacred duties of a Government."

Gladstone went into detailed consideration of the clauses of the Bill, and of its history, which does not concern the important question.

Herries(4) went a step further and moved that unless there was a positive assurance that no rebel would be paid out of the public funds, by virtue of this Act, Her Majesty might withhold her assent.

Newdegate(5) began by attacking Lord Elgin, Lafontaine, and Baldwin. He then paid a tribute to the fine loyal spirit of Sir Allan McNab.

(4). Hansard C VI. 243.
(5). Id., C VI. 319.

"It seemed that the doctrine of Responsible Government had gone to such an extent that the governor had no discretion, and that the Crown had no discretion, when an Act was sent home." He condemned such a doctrine unreservedly. He opposed the measure because it would reward rebels.

Anstey(6), in opposing the Bill, charged Lafontaine and Baldwin with being rebels.

The Marquess of Granby (7) said Russell admitted interference in Imperial affairs was justified. It was generally admitted the Bill would reward rebels, and it was therefore an Imperial matter. He could not support a measure which would tarnish the honour of the Crown.

Disraeli, too, spoke in this debate(8) "We are bound by policy and by honour to maintain - and I hope it is the feeling of all parties that we ought to maintain - them in the full enjoyment and exercise of their constitutional rights . . .It is all very well to talk about the opinion of the majority being conclusive in ordinary cases. It is all very well to come forward and say that the question at stake is the question of responsible government. These are empty phrases, fit only for a debating club - fit only for boys - and not for practical men; . . .I say that the situation of the two provinces, according to the system you are now fostering and encouraging, is one which must lead, not only to bitter feelings and violent passions, but to deeds of violence, blood, and disaster, far more terrible than any that have yet occurred. But have you no remedy in this difficult and delicate position? You have a power reserved to

(6). Id., C VI. 328. (7). Id., C VI. 335.
(8). Id., C VI. 354.

you in that constitution which you laud so highly; and by a wise, politic, and temperate exercise of that power - by mediating between the contending parties - you may insure the prosperity of their country, as well as the greatness of our own. . . .

"Sacrifice, if you will, the wealth of the nation, and the power of the Government, to the economic phantasies of the hour. Do so, but at least do this - if the Empire of England is to fall, and to fall by our votes, at least do not sacrifice the national honour and the Royal word."

Sidney Herbert, too, (9) opposed the Bill because he deemed it an imperial question.

In May, 1849, Lord Brougham(10) had said "He agreed with the noble Earl(Grey) that the best way of governing a colony was to take great care, in the first instance, to choose fit and proper persons, and having made a selection, to give them entire confidence, and to lend them an unhesitating and generous support until they were clearly proved to be in the wrong."

In June, Brougham opened the debate for the Tory opposition in the House of Lords!(11) Brougham, the ardent Radical of former days, in the ranks of the Tories, seems an anomaly. Perhaps his love of opposition led him to take such a course, although he seems to have fitfully supported the Tories, even when they were in power. He was, in any event, no longer the champion of the down-trodden Canadian majority. In an attack on Lafontaine, with which he began his speech, he said that if not a rebel, Lafontaine was certainly guilty of sedition. "But first I must account for Mr. Lafontaine and his coadjutors becoming

(9). Id., C VI. 367. (10). Id., C IV. 1254.
(11). Id., C IV. 450-83.

ministers of the Crown. A notion sprung up at one time, which was very much encouraged by Lord Durham and his Council, and which goes by the name of <u>responsible government.</u> If I were to say that I clearly understood what was meant by the term, I should be arrogating to myself a degree of perspicacity to which I have no right; I should, moreover, be invidiously placing my intellect in contrast with that of my noble Friend at the head of the Government(Russell). The principle of responsible government is this - that whosoever governs a colony, (and it is not confined to Canada), is, if I understand it at all - but my noble Friend, Lord John Russell, not being able, as he says, to understand it, I may be excused if I mistake - however, I believe it to be, that, whosoever governs a colony, he shall be bound to choose as his ministers whomsoever the legislature of the Colony is disposed to give its confidence to. And further, whatever be his opinion of their conduct, so long as the confidence continues, he cannot remove them. Now if it be supposed that this is a copy of the constitution of the Mother country, there cannot be a greater mistake. The Ministers in this country are the organs of the Crown. They are responsible to Parliament. But the principle is one of give and take. The Crown has the choice of selection or dismissal, and the Parliament of refusal; and therefore both Crown and Parliament have a somewhat similar, though in cases of irreconcileable differences, not unequal influence . . . .But in the colony we are told to regard as the English constitution one which gives the whole power to one party, Parliament, and leaving nothing to the Crown. This is called responsible government. . . .

Such is the construction put upon responsible government in the colonies; and Lord Elgin, I see, has put this construction upon it; indeed, but for such a construction, nobody could ever have dreamt of appointing Mr. Lafontaine. He was first appointed in the time of Sir Charles Bagot who was, I believe, an able governor, and he displayed great judgment, and great moderation, and gave, upon the whole, great satisfaction in the colony; he was, however, in very bad health during the greater part of his government, which thus added to the weight and influence of his Ministers. He appointed Mr. Lafontaine because responsible government had become the order of the day; but there can be no doubt, it must have been a painful duty to him to make such an appointment."

He, then, commended Lord Metcalfe who had dismissed Mr. Lafontaine. After him, Lord Elgin had gone out, returned to responsible government, and restored Mr. Lafontaine to office.

"This notion of responsible government," he continued, "almost passes my powers of comprehension. It is utterly inapplicable in the colonies, that is, as it is upheld in the Mother country. It is no doubt to a limited extent applicable, but only to a limited extent. I would, for my part, interfere as little as possible with the powers and working of the Colonial assemblies, in respect to the making of roads, bridges, and canals, and as to matters of a like nature; but in matters that touch in the slightest degree the honour of the Crown, or the interests of the Imperial Government, I deny that you can have responsible colonial government." They must retain authority to protect the loyal minority from the rebel majority, and ensure justice to all.

He praised the dispatch of 14 October, 1839.(12).

Lord Elgin's council had packed the Legislative Council and the Assembly. Then it had passed the unjust and noxious Bill to make the loyal reward rebels. This could be done "because the Governor, according to this doctrine of responsible government, is a mere tool or puppet in the hands of the Colonial Ministers." He did not blame Lord Elgin, who was bound by this doctrine of responsible government. He read a letter he had received from Montreal, as evidence that the loyalists would prefer annexation to the disgrace of rewarding rebels. "Let us, therefore, come to the consideration of this question uninfluenced by the farce of responsible government, so well exposed to ridicule and reprobation in the dispatch of Lord John Russell which I have read. I do not argue this question on these grounds alone; but I say that in exact proportion as that form of government is ill-adopted to a colony, it is well adapted to a parent state. It is ill-adapted where there is not the check of a House of Lords - where the Colonial Assembly is small in numbers, and may be, therefore, packed, as I have shown that the Canadian Parliament is packed."

He did not desire disallowance, merely reservation until the Bill was modified by the Canadian Parliament - an impossible proceeding, as Brougham well knew.

Lord Lyndhurst, Brougham's old friend and rival, came out of retirement especially to oppose the Government on the Rebellion Losses question. His opposition was, however, not to be

(12). Vide Appendix.

wondered at, as he was a life-long Tory - but such conduct illustrates the implacable nature of the Tory Opposition. "Whatever was the nature of responsible government,(13) how it could be applied to the Colonial possessions of the Empire, he would not take upon him at that moment to inquire. But he would say this, that unless the effect of responsible government was to establish an entire independence of the State, in the chief colonies of the Empire, there were cases in which the Government of this country and the Parliament of this country might be called on directly to interfere."

Lord Stanley also spoke against the Government,(14). "I must advert to one or two points. . .with regard to the control exercised by the Minister of the Crown, over the advisers of the colonial governor, in colonies where responsible government exists. By responsible government I mean the government of a party. Now I have always been of the opinion that government by a party is by no means that which is most likely to contribute to the good administration or successful management of a colonial dependency. At the same time I frankly admit, and I proved it when I had the honour of holding the colonial seal, that - party government having been introduced into Canada - I, whatever my a priori opinions were, was as Secretary of State, bound to do my best to to give effect to that system." This he had proved by allowing Mr. Lafontaine to take office. "But then if you are to say that that Minister, be he who he may, is on all questions, colonial or imperial, absolutely to dictate the course of government, and exercise an unlimited control over the person who is

(13). Hansard, C VI. 505.
(14). Id., C VI. 346.

nominally the representative of the Crown, but who under such circumstances would be the mere tool of a local administration - then I say that a system so carried out is utterly and wholly inconsistent with the idea of responsibility to the Sovereign or the Parliament of this country. Such a system, in fact, amounts to one of entire independence. If a governor has nothing to do but obey the orders of responsible administration in the colony, it is a farce to talk about his being responsible to a Secretary of State at home, and as much a farce to talk of the Secretary of State being responsible to Parliament, for any opinion expressed, or any act performed in the colony. The noble Earl (Grey) stated that it was an exceedingly difficult problem to reconcile the authority of the Crown with the exercise of local self-government. Now, with both authorities pushed to their extremes, such a reconciliation is impossible. It is a case of contradictory terms. The notion of a supreme local government excludes the power of the Crown; and the notion of the powers of the Crown again excludes that of local government. The real difficulty is this, as applied to responsible government. It is to state the occasions, and to form a judgment of the nature of the questions, in respect to which it is wise and expedient to interpose the authority of the Crown through the Secretary of State. . . .For if this is to be the principle, that the Prime Minister of the colony is to advise the colony on every question, and that his advice is always to be implicitly followed. that he must, too, be a man having the control of the local House

of Assembly- that he is to advise the former, on all occasions, including those of appointment of members to the Legislative Council - the result will be that the Legislative Council, the Governor, the Crown itself, will be absolutely made subject to one individual, who, for the time being, has in his hands the majority in one of the Houses of Parliament."

He believed the Canadian Ministers really intended to reward rebels. This had been no part of Lord Metcalfe's intentions. "Lord Metcalfe felt that he was responsible to his Sovereign, and he would not permit himself to shelter himself behind that which might compromise the loyalty of the subject or the prerogative of the Sovereign." In his view, the Secretary of State should interpose to prevent the tyranny of the French over the British, of the disloyal over the loyal Canadians.

Before examining Peel's speech , it might be well to pause for a brief consideration of the line of objection taken in these speeches. The typical Tory cries: "honour of the Crown; disloyal element; Republican party; etc.," are not new. The new feature is the more or less explicit acknowledgment of the desirability, if not of executive responsibility in the strict sense, at least a general harmony between the Executive and the legislature of the colony. This is particularly true of Stanley and Gladstone. They wished to throw the <u>onus</u> of deciding whether a matter was local or general on the Secretary of State, rather than leave the Governor the function of deciding such delicate matters.

This particular issue, the foregoing speakers considered

imperial or extra-colonial. The following Speakers, - four Tories, and all the Whigs and Radicals, - took the opposite view.

Sir Robert Peel (15) maintained that it was purely a colonial matter. Some, even, of the opponents of the Bill in the Canadian Parliament felt this, and deprecated the agitation of the ultra party for Imperial Disallowance. In his opinion, Lord Elgin was perfectly competent to uphold the honour of the Crown. "My conviction is, that he acted with great firmness, with great resolution, with great impartiality; that he gave his entire confidence to the government that was supported by the majority of the Assembly - that he dissolved the Assembly upon their advice - that when the majority of the New Assembly transferred their support to other parties, he then, under the principle of responsible government, selected for his Government those who had the confidence of the majority, and gave them, on the same principle on which he had acted with reference to his former Government, his cordial support."

He admitted the Canadian loyalists as much as any man, but this House should not be a Canadian political partisan. "Our only hope of maintaining the connexion permanently, and with reciprocal advantage to the Mother country and the colony, rests upon our acting on that principle upon which the Earl of Elgin has acted- that of maintaining strict impartiality between the opposing parties. . . .

"I would deprecate the day when the House of Commons should be unwilling to give due credit to men who, in time of difficulty, and danger, rallied under the British standard for the protection of British interests; but I cannot allow that feeling, warm and cordial

(15). Id. C IV. 346.

as it is, to influence me to vote for a resolution which, I believe, would prove destructive of the principle of representative government in the colonies - which would constitute a precedent for constant interference in the affairs of possessions with whose local concerns we are but imperfectly acquainted - and which would cloud the psopect I trusted was opening, of a long, permanent and cordial connexion with a colony, in the welfare and prosperity of which, England ought to feel the deepest interest."

Such a pronouncement was almost worthy of Buller himself, and is a considerable advance from his position in 1844.

Cumming Bruce, (16) who belonged to the Protectionist wing of the Tory party, was equally outspoken. He thought the real cause of discontent in Canada was the abandonment of Protection. He deplored the attacks on Lord Elgin. "You have conceded to Canada the boon of a free constitution, and of responsible government . . .Was that boon to be fairly and honestly carried out, or were you to brand it with the mark of a delusion and a mockery on the very first occasion on which its workings might seem to run counter to your own impressions of what it might be right and fitting for the Parliament of Canada to do? He believed that no more fatal error could have been committed, than to have impressed on the minds of the Canadian people a conviction, that the responsible government you have professed to bestow on them was a shadow and not a substance, a concession in name only, but wanting in reality and truth."

This would be more fatal in Upper than in Lower Canada

(16). Id., C VI. 262. Bruce was Lord Elgin's father in law, also a cousin.

He then discussed Lord Elgin's views and added,". . .what really was important in this matter was, that this Imperial Legislature should neither say nor do anything calculated to induce in the minds of the people of Canada a doubt of the sincerity of your determination honestly to allow them to work out, and reduce to practice, the principle of responsible government which your own concession of it, has for them invested with the character and force of a passion."

He remarked on the annexation question, "So long as we maintained in their integrity those fwee institutions, for the maintenance of which the honour and good faith of England was pledged, he had little fear of the effects of such publications; but if we once induced a doubt of our sincerity- if, above all, we appeared to countenance the policy of those reckless and wicked men who talked of the superiority of the Anglo-Saxon race, and of Anglifying the Canadians; in other words, of treating six or seven hundred thousand of the Queen's subjects as men undeserving of liberty, whose language and religion were to be suppressed, whose feelings were to be outraged and held of no account, who were branded as incapable of loyalty to our Sovereign; then, indeed, we might prepare for that war of races which had been so eloquently deprecated in another place,(17) but which the policy at present so fairly carried out in Canada, would, he trusted and believed, forever avert.".

Evidently Lord Elgin had, through his correspondence, gained a powerful recruit to his cause, and an eloquent exponent of his views.(18).

(17.). The House of Lords. (18). Vide Appendix, Elgin to Bruce.

Monckton Milnes(19) was the third Tory supporter of the Government. He inquired "Was it possible for the House to call upon the Crown to reject such a Bill as this, sanctioned by such a majority in the Canadian legislature without seriously endangering the connexion between the two countries? . . . Canada must be attached to us by the tie of the consciousness of her own interest; otherwise we could not hold Canada, and the question of separation could only be one of time."

The Earl of St. Germans was the only favourable Tory in the House of Lords.(20) "He accepted the interpretation of responsible Government put by the first Lord of the Treasury, whose dispatch, when Colonial Secretary, had been so much commented upon in the course of the debate. He understood responsible government to mean that the administration of local affairs was to be conducted by those who had a Parliamentary majority, provided these measures were not at variance with the honour of the British crown."

He did not think, taking a common sense view, that rebels would be paid. The opponents of the Bill in Canada did not favour a veto, and the consequent abrogation of responsible government.

In the House of Commons the Prime Minister, Lord John Russell, defended the Colonial Policy of the Government. In May, 1849,(21) in response to a question from Mr. Herries, he said,"I may add that the noble Earl, the Governor-General of Canada, possesses the entire confidence of the Crown, and that, in the exercise of his discre-

(19). Hansard, C VI. 344. Milnes was a close friend of Buller, they were at Trinity, Cambridge to-gether.
(20). Hansard, C VI. 534.
(21). Id., C IV. 1102.

tionary powers as Governor-General of the province of Canada, he will be deemed to have acted in a manner to protect the interests and prerogatives of the Crown, and also to conciliate the interests of the British Empire."

Russell rose immediately after Gladstone had finished, in June, 1849.(22) He made a vigorous defence of the Government.

"He (Mr. Gladstone) had stated, - and he had stated most ably- the case of one party . . .

"I must say in the outset, however, that I entirely concur with the right honourable Gentleman - and it is indeed in conformity with the sentiments I expressed in a dispatch written, I think, some ten years ago - that there are cases which must be left to the decision of the responsible Minister of the Crown . . .but when the right honourable Gentleman goes on to say that he considers the Earl of Elgin has received some instructions from the Government of this country, by which he is debarred from asking the advice and direction of the Crown upon questions which affect imperial policy and national honour, he is totally mistaken in that unwarranted assumption."

If Lord Elgin had, by his own discretion, tarnished the honour of the Crown, he must be recalled and reprimanded. "But if we believe, as we do believe, that the Earl of Elgin has rightly consulted not only the interests of Canada, but the interests of this country and the honour of the Crown - if we believe he has been guided by a knowledge of the feelings of the people of Canada, and at the same time, by a loyal and patriotic attachment to the country of his birth and the Sovereign he is bound to serve - I say, if such

(22). Id., C IV. 225-43.

is our opinion, we should be the basest of men if we were to desert the Earl of Elgin at this critical occasion; and if we were not to take upon ourselves any share of responsibility, which this House may think fit to cast upon us."

Russell then traced the history of the Rebellion Losses question, clashing in several instances with Mr. Gladstone. In the course of his outline he stated that, "On the meeting of the Assembly, when it was found that the great majority were against the Ministers, the latter resigned, and, according to the doctrine of responsible government the present Ministry succeeded to their places." The new Canadian Ministers had merely followed the course outlined by their predecessors. He did not think there was any justification whatever for disallowance.

"I trust that the different parties in Canada, whose dissentions are not of yesterday, who have carried on these bitter contests for many years, will feel that whatever imperial interests may be involved in this question, it is still more for the interest of Canada that she should be allowed to pursue her course of destined prosperity, undisturbed by the effect upon commerce, upon agriculture, upon industry, of these violent agitations. Such was the lesson which my lamented friend, Lord Sydenham, endeavoured to teach in all the provinces of North America.....

"I believe now, if such is the course of the opposition party in Canada, if they do not attempt to transfer to this House the differences which have already taken place in Canada, that Canada- this question over - is destined to see her prosperity gradually recovered, and, once recovered, continually augmented. Ibelieve

her situation is such, that the inhabitants of Canada need not envy any other country, any institutions it may enjoy . I believe, under the British sceptre, they may enjoy as much freedom and as much happinese, as can be the lot of any other people on the face of the earth."

. . . . . .

"Believing and trusting that a straight-forward and direct course is more likely to pacify, than any tampering with the difficulty, I have declared at once the course that the Government means to pursue."

In closing the debate, Russell(23) defended Baldwin and Lafontaine who had been bitterly attacked by some of the Tory speakers - although Lord Stanley had first consented to their appointment to office in 1842.

In explanation he continued, "I don't regard the principle of responsible government as implying that every Act passed in the colony ought to be assented to by the Imperial Government."

But there was no reason for interference in this case. To carry the motion was to censure Lord Elgin, and to endanger responsible government in Canada and elsewhere.

On February 6, 1850 Lord John Russell made a speech on the Colonial Policy of his Government, which attracted wide spread attention both in Great Britain and Canada.(24).

In the course of this Speech he said, "I now come to the question, as to the mode of governing our colonies. I think that, as a general rule, we cannot do better than refer to those

(23). Id., C VI. 367.
(24). Id., C VIII. 535.

maxims of policy by which our ancestors were guided upon this subject. It appears to me, that in providing that wherever Englishmen went they should enjoy English freedom, and have English institutions they acted justly and wisely. They adopted a course which was calculated to promote a harmonious feeling between the Mother country and the colonies, and which enabled those who went out to those distant possessions to sow the seeds of communities of which England may always be proud."

....

"Up to 1828 there were grave dissentions between the Ministers of the Crown in this country and the Canadian people. The Government of this country thought themselves justified in applying the taxes of Canada without the authority or consent of the inhabitants of the colony. Mr. Huskisson proposed an inquiry into the subject. Parliament, for a long time, turned its attention to the matter. Commissions were sent out; committees were appointed; but, in the end, an insurrection broke out in Canada, and blood was shed both in the Upper and Lower Provinces. The Government of which I was a Member thought it necessary, for a time, to suspend the constitution of the Colony. We afterwards proposed the union of the two provinces, and also to give the colony ample powers of legislation. In establishing that kind of government in so important a province, a question arose which, I trust, has been solved to the satisfaction of the people of Canada, although it is one which could not be solved in the same manner in a province of less importance, and of less extensive population. The popular party in Canada proposed that they should have what they called <u>responsible government</u> -

that is to say, that not only should there be a legislature freely elected, but that, instead of what had become the custom, that the Ministry should be named by the Governor-General totally irrespective of the prevailing opinions of the Legislature, they should be taken from that party in the Assembly which was supported by a majority. That plan was adopted.

"When Lord Glenelg held the Colonial Secretaryship, Mr. Baldwin, who I believe is now in office in Canada, came to this country. Lord Glenelg informed me that, for particular reasons, he could not see Mr. Baldwin, but wished me to see him, and to hear his statement. I met Mr. Baldwin. My opinion, when I met him was, that I should very widely disagree with him, and his opinion probably was that he would very widely differ from me; but, after a long conversation, and mutual explanations, we came to a result which was one of nearly entire agreement with respect to the government of Canada.(25).

That government has been conducted of late years in conformity with what Her Majesty's Ministers believe to be the opinion of the

(25). Writing in 1869, Russell stated"Mr. Baldwin, who had taken a prominent part in Canadian politics came to England while Lord Glenelg was Secretary of State for the Colonies, and by his desire discussed with me the question of responsible government; I raised the objection that a responsible Ministry in Canada might object to take part with England in a foreign war, in which she might be engaged. "Mr. Baldwin, who was a man of sense and ability, assured me that the Canadians had no such pretensions. They wished to manage their own local affairs, but had no desire to diminish the authority, or dim the lustre of the Crown of England in her external affairs.

"With this assurance I was satisfied; and when I held the seals I practically acted upon it, though I did not concur in the theory." - Earl Russell, Recollections and Suggestions, Roberts Bros., Boston, 1875. p. 165.

people of Canada. When Lord Elgin saw that the Ministry he had formed in office had narrow majorities in the Assembly, he proposed either that they should continue in office until they were obstructed by adverse votes, or that they should dissolve the Assembly. They preferred to dissolve the Assembly. The new Assembly, which was returned, gave a great majority to their adversaries, and Lord Elgin placed their adversaries in office. I do not think it would be possible to carry out more fairly, or more fully, the principle of allowing the provinces to manage their own affairs . . . .

". . .Such, then, is the condition of Canada. If the present Ministry in Canada are sustained by public opinion - and I believe the late elections that have taken place in the recess in Canada rather show that they will be - if they are sustained by public opinion, they will remain in office; if, on the contrary, the opinion of the province shall be adverse to them, the Governor-General will take other advisers, and he will act strictly according to the rule that has been adopted here."

. . . . . .

The conclusion excited Elgin's displeasure and elicited an interesting protest.(26). Russell said,

"I anticipate indeed, with others, that some of the Colonies may so grow in population and wealth that they may say - 'Our strength is sufficient to enable us to be independent of England. The link is now become onerous to us - the time is come when we think we can, in amity and alliance with England, maintain our independence.' I do not think that that time is yet approaching. But let us make them, as far as possible, fit to govern themselves, - let us give them,

(26). Vide infra. Elgin to Grey, March, 1850.

as far as we can, the capacity of ruling their own affairs - let them increase in wealth and population, and whatever may happen, we of this great Empire shall have the satisfaction of saying that we have contributed to the happiness of the world."

Russell did not really expect any dissolution of the Empire, but he merely indicated that if the colonies should freely choose such a course they would not be impeded.

The Colonial Secretary, Earl Grey, in May, 1849 (27) was questioned by Lord Stanley respecting his dispatches from Lord Elgin. Grey replied that he had no dispatch in reference to the Rebellion Losses Bill, but that from his private correspondence Lord Elgin had informed him that he must use his own discretion in the matter.

"I have further to state that I have given Lord Elgin, neither publicly nor privately, any directions or instructions with respect to the course he is to pursue. I have abstained from doing so deliberately and advisedly because, in my opinion, it is absolutely impossible that the affairs of the colonies can be administered with advantage, if the Secretary of State interferes more with the discretion of the Governor than is absolutely necessary. The more experience I have of colonial affairs, the more persuaded I am that the true secret of satisfactory management of our colonies is to choose the best men that can be found for governors, to give them a large and wide discretion, and a generous, trusting support, and never to believe they have acted wrong, unless there is some strong evidence to that effect."

(27). Hansard, C IV. 1252.

A few days later, in reply to another question, Lord Grey remarked, (28) "It has not been my practice, neither will it be my practice so long as I retain the office which I now fill, to depart from that wholesome rule; nor will I give instructions to the Governors as to giving or withholding assent to Bills which are not before me, and of which the circumstances were unknown to me."

In June, Grey answered Brougham's attack on the Government (29). He began by reminding Brougham of Burke's saying that it was impossible to indict a whole people. He challenged the unpleasant insinuations regarding Lafontaine. He then turned to the question of colonial government.

"I entirely concur in the opinions my noble Friend(Russell) has expressed in that dispatch;(30) and I believe, that as regards Canada, he takes a similar view of the case. I believe it is true, as he states in that dispatch, that there is a great distinction between the government of a colony and the government of this country. The circumstances of a colony will define the government which can be established there. But while all this is quite true, there is one passage in the dispatch to which I think I ought to call your Lordship's attention, and which the noble Lord (Brougham) omitted to read. Lord John Russell says,'Whilst I thus see insuperable objections to the adoption of the principles which I have stated, I see little or none to the practical views of colonial government, recommended by Lord Durham, as I understand them.' Lord Durham has pointed out,

(28). Id., C V. 469. (29). Id., C VI. 483-505.
(30). Vide Appendix - 14 October, 1839.

and most justly, as those of your Lordships will be aware, who have taken the trouble to study the history of our North American Colonies, that great evils have arisen between the Government and the Representative Assembly. The practice, to a very great degree, there prevailed of allowing persons, appointed to some of the most lucrative offices in the colonial government, to hold them for life, or during good behaviour, and, in fact, unless for very flagrant offences, they were not generally removed. Lord Durham, desiring to check some of the evils resulting from that practice, thought that some of these offices 'Should be held by a different tenure, and though not legally, or necessarily, yet practically, that the higher offices of the executive government should be held by persons having the confidence of the representative part of the legislature. The dispatch of my noble Friend concurs in that, and it was followed by another two days later, (31) giving those who held offices to understand that they were not to consider they had a vested right in any office they might have hitherto enjoyed. The noble Lord opposite (Stanley), while he held office, went upon the same principle, in a great degree, and affirmed the principle that the offices in our North American colonies were to be held by persons possessing the confidence of the representative part of the legislature. It is perfectly true that to lay out in terms what is the exact power of the Governor, the Assembly, the Secretary of State, and the Crown, is difficult; and if you attempt to define the power of each, you may lay out such a system in theory, that in practice the government could not go on. But my noble Friend, Lord John Russell, shows

(31). 16 October, 1839 - Vide Appendix.

that the same thing is true in our own Government, that if Parliament or if the Crown should stretch the powers to extremes, the whole machine of government must soon be brought to a stand. Therefore, if the noble and learned Lord (Brougham) lays down the rule that the governor is to act so and so, and is not to have a will of his own, I say he lays down a theory inconsistent with the working of responsible government. I entirely concur with the noble and learned Lord that the Governor exercises his will within certain well-known limits, and these limits are not very difficult to define. Indeed, I may remind your Lordships of what occurred in this House but lately . . .during a recent discussion, which took place when the noble Lord opposite (Stanley) presented a petition from Mr. Fairbanks of Nova Scotia, the noble and learned Lord did me the honour to refer to a dispatch of mine to the Governor of Nova Scotia,(32) and to state that he concurred in the principle which I laid down, and that, what he found fault with, was the application which I made of the principle."

In considering the Bill from Canada, it was not their function to discuss it clause by clause. All they need decide was, whether or not the principle of the Bill was an imperial matter. The similar Bill in Upper Canada had not been so considered. Even some of its Canadian opponents would regard disallowance as an interference with the domestic concerns of the province.

In 1853 Grey published in the form of a series of letters to Lord John Russell, a defence of the Colonial Policy of the Russell Administration (1846-52)(33).

(32). Grey to Harvey, 3 November, 1846, Vide Appendix.
(33). Earl Grey, The Colonial Policy of Lord John Russell, Richard Bentley, London, 1853.

The following extracts are important sidelights on the Canadian situation during these years, especially with reference to Responsible Government.

"I am happy to think," he remarked, "that there had never been the slightest difference between us, as to the principles which ought to form the guide of our policy."(34).

He states that he subscribed to the opinions expressed in the despatches of October, 1839; and observes that Lord Sydenham took more than a strictly constitutional share of the direction of government, a course which, in the existing state of affairs, was imperative. "He endeavoured to prepare the way . . .for the safe introduction of a more constitutional system of government. In this respect, he was highly successful and it contributed greatly to facilitate the adoption of the liberal and enlightened measures taken by his successor, Sir Charles Bagot, during whose brief government a much nearer approach was made to the establishment of a really constitutional system;"- but could Bagot have avoided Metcalfe's difficulties, which Grey briefly reviews. (35).

He remarks that he selected Lord Elgin as Governor, although he was a Tory, and refers to their extensive communications before Elgin left for Canada. Elgin was to be guided by his dispatch to Sir John Harvey. (36).

(34). Id., p. 3. Himself and Russell.
(35). Id., p. 202-4.
(36). Vide Appendix.
(37). Earl Grey, op. cit., p. 219.

He dwells on the significance of the great Lafontaine-Baldwin Ministry.(37) "By the change of Administration which had taken place the party long accustomed to ascendancy, and to consider themselves as the party of the English government, had seen the power and influence, which they had grown to regard as rightfully belonging to themselves, and which, by the support of the Home Government, they had been enabled, with a brief interval, to exercise for a long period, transferred to a party composed principally of persons whom, on account of their democratic opinions or of their national origin, they had been in the habit of regarding and representing as disloyal, and as the natural enemies of the British Crown."

The following extracts from Lord Elgin's correspondence, important in themselves, form an indispensable supplement to the extracts from Grey's Speeches and book given above.

The excellent relations and perfect confidence existing between Grey and Elginare one of the most pleasant features of this period in Canadian history.

Lord Elgin wrote to his wife, 31 January, 1847,(38) "I have adopted, frankly and unequivocally, Lord Durham's views of government, and I think that I have done all that could be done to prevent its being perverted to vile purposes of faction."

Lord Elgin stated his creed as follows:(39) "I give to my Ministers all constitutional support, frankly, and without

(37). Earl Grey, op. cit., p. 219.
(38). T. Walrond, Letters and Journals of Lord Elgin, Murray, London, 1872, p. 36. Elgin's Second Wife was Lady Mary Lambton the daughter of Lord Durham. His first wife was the daughter of C. Bruce.
(39). Id., p. 40.

reserve, and the benefit of the best advice that I can afford them in their difficulties. In return for this I expect that they will, insofar as it is possible for them to do so, carry out my views for the maintenance of the connection with Great Britain, and the advancement of the interests of the province. On this tacit understanding we have acted together harmoniously up to this time, although I have never concealed from them that I intend to do nothing which may prevent me from working cordially with their opponents, if they are forced upon me. That ministries and oppositions should occasionally change places, is the very essence of our constitutional system, and it is probably the most conservative element which it contains. By subjecting all sections of politicians in their turn to official responsibilities, it obliges partisans to place some restraint on passion, and to confine within the bounds of decency the patriotic zeal with which, when out of place, they are wont to be animated. In order, however, to secure these advantages, it is indispensable that the head of the Government should show that he has confidence in the loyalty of all the influential parties with which he has to deal, and that he should have no personal antipathies to prevent him from acting with leading men.

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

Writing again to Lady Elgin, he said,(40) "I still adhere to my opinion that the real and effective vindication of Lord Durham's memory will be the success of a Governor-General of Canada who works out his views of government fairly. Depend upon it, if this country is governed for a few years satisfactorily, Lord Durham's reputation as a statesman will be raised beyond the reach of cavil . . . I am still of the opinion that the thing may be done . . . I may not be able to bear up against the difficulties of my situation, and that it may remain for someone else to effect that object, which many reasons would render me desirous to achieve."

Of the French, he wrote to Grey,(41) "Let them feel . . . that their religion, their prepossessions, their prejudices if you will, are more considered and respected here than in other portions of this vast continent, who will venture to say that the last hand which waves a British flag on American ground, may not be that of a French Canadian."

To Earl Grey, respecting the Rebellion Losses Bill, Elgin wrote, 30 April, 1849,(42) "It is my firm conviction, that if this dictation be submitted to, the government of this province by constitutional means will be impossible, and that the struggle between overbearing minorities, backed by force, and majorities resting on legality and established forms, which has so long been the bane of Canada . . . . will be perpetuated."

At the end of 1849 he wrote to Grey,(43) "I do not believe

(40). Id., p. 41.
(41). Id., p. 54.
(42). Id., p. 86.
(43). Id., p. 96.

the function of the Governor-General under constitutional government, as moderator between the parties, the representative of interests which are common to all the inhabitants of a country, as distinct from those which divide them into parties, was ever so fully and so frankly recognized."

November 6, 1849, he wrote to Grey,(44) "Canada will remain attached to England, though tied to her neither by the golden links of Protection, nor by the meshes of old-fashioned Colonial Office jobbing and chicane."

In a letter to Grey, 16 November, 1849, Elgin wrote, (45) "I am prepared to contend that with responsible government, fairly worked out with free trade, there is no reason why the colonial relation should not be indefinitely maintained."

Writing to Grey in March, 1850(46) Elgin commented on Russell's February speech on the Colonial Policy of his Government, - deploring the conclusion respecting separation."For one I have never been able to comprehend why, elastic as our constitutional system is, we should not be able, now more especially when we have ceased to control the trade of our colonies, to render the links which bind them to the British Crown at least as lasting as those which unite the component parts of the (American) Union . . . One thing is, however, indispensable to the success of this or any other system of colonial government. You must renounce the habit of telling the Colonies that the colonial is a provisional existence. You must allow them to believe that

(44). Id., p. 103. (45). Id., p. 112.

(46). Id., p. 116. Russell's speech 6 Feb. 1850, Vide supra.

without severing the bonds which unite them to Great Britain, they may attain the degree of perfection and of social and political development, to which organized communities of free men have a right to aspire."

The 17 December, 1850 Elgin wrote to Grey; (47) "When you concede to the colonists constitutional government in its integrity, you are reproached with leading them to Republicanism and the American Union. The same reproach is hurled with anathemas against your humble servant . . .Now I believe, on the contrary, that it may be demonstrated that the concession of constitutional Government has a tendency to draw the Colonists the other way; firstly, because it slakes that thirst for self-government which seizes on all British Communities when they approach maturity; and secondly, because it habituates the Colonists to the working of a political mechanism, which is both intrinsically superior to that of the Americans, and more unlike it than our old Colonial system."

In a similar tone Elgin wrote to the Duke of Newcastle, March, 1853. (48) He said, "The true policy, in my humble judgment, is to throw the whole weight of responsibility on those who exercise the real power, for, after all, the sense of responsibility is the best security against the abuse of power; and as respects the connection, to act and speak on this hypothesis - that there is nothing in it to check the development of healthy national life in these young Communities."

(47). Id., p. 122-3.
(48). Id., p. 122. Newcastle was Colonial Secretary in Aberdeen's government; he was at Oxford with Elgin.

Elgin did not associate the same notion of the governor's position under Responsible Government as Metcalfe had. On this head, he said, (49) "I have tried both systems. In Jamaica, there was no Responsible Government, but I had not half the power I have here with my Constitutional and changing cabinet."

In his last official dispatch, 18 December, 1854 (50) he averted to the position of the Governor "Placed by his position above the strife of parties - holding office by a tenure less precarious than the Ministers who surround him - having no political interests to serve but that of the community whose affairs he is appointed to administer - his opinion cannot fail, when all cause for suspicion and jealousy is removed, to have great weight in the Colonial Councils, . . ."

Lord Elgin, was able to accomplish his object. He vindicated Durham's memory. But the credit was not his alone. The confidence and loyalty of Grey, and the generous support of the Government generally, but particularly, Russell, Lansdowne, Labouchere and Vernon Smith can, by no means, be neglected.

Charles Buller was, in 1849, no longer the champion of Responsible Government. He had not lived to see Durham's recommendations carried out in Canada; but in Nova Scotia, before his death, he rejoiced with Howe in complete success. Buller had accepted a minor office in the Russell government in 1846, and his influence on Grey was, doubtless, considerable. Fortunately in his letters to Howe there is some evidence which partially compensates for the absence of his name from the pages of Hansard.

(49). Id., p. 125.

(50). Id., p. 127. Vide appendix, Elgin to Bruce.

Writing, Thursday, Sept. 10th, 1846 to Howe he remarked,(51) "But ours is a sad Colonial System, even with all recent concessions. In my eyes the sole business of the Colonial Office should be to breed up a good supply of Colonial Governors; & then leave them & you to manage your own affairs. Our practice is to neglect the one duty, & meddle in everything else. You are fortunate in now having a Colonial Secretary who has sound views of Colonial Policy; but the good results of Ld. Grey's administration cannot be achieved all at once. We must wait some time until he can find Governors to carry his views into effect."

In a letter marked "Confidential", London Novr. 16th 1846, (52) he wrote "Despatches of some importance have passed between your Lt. Governor & Ld. Grey. I am sure from what I hear, that the latter impressioned on Sir John Harvey, the fullest adoption of Responsible Govt. I have not the slightest fear but that Sir J. H. will show himself perfectly ready to entrust his Govt. to those who have the confidence of a majority of the Assembly . . . ". . .Ld. Grey's good intentions you may rely on." The Marquess of Lansdowne closed the debate in the House of Lords(53) with one of the finest speeches made in any of the Canadian debates. He began by pointing out that the discussion in the House had been suitable rather to the Canadian than to the Imperial Parliament. Their Lordships should attend, not to minute details, but merely to the principle involved.

(51). Chester Martin, The Howe-Buller Correspondence, Canadian Historical Review, Vol. VI. No. 4. Dec. 1925. p. 318.
(52). Id., p. 320. For this despatch, vide appendix.
(53). Hansard, C VI. 537.

"He attached great importance to the decision of the House on this occasion, because it was the first time since that period when their Lordships . . .thought, and justly thought, that the period had arrived when to that colony they were bound to give the benefit, he would not say of responsible government, as that term had been objected to by his noble and learned Friend, but the benefit of a Constitutional government in the full sense of the word. Since that period this was the first occasion which had arisen when their sincerity in making that gift had been brought to the test, and when, by a proceeding to be adopted by Parliament, they were placed in a situation to show whether that which they gave was a reality or a delusion, a substance or a shadow.

. . . This country had many colonies, and he trusted she would continue to preserve them. The governments of these colonies were of different description, unavoidably arising out of the character, the extent, the population, and the power of those colonies; and according as they differed from each other in all those circumstances, one species of government or another might be the best adapted to their condition. Now he could conceive the advantage attendant on a colony in its infancy - . . .(with its government) being directly carried on by the parent state, might be the best which the nature of the colony required. All the authorities he had heard tonight concurred in the opinion that as a colony prospered . . . it . . . might require that a

change should be made in the administration and system of government of that Colony, and in which, if they hoped to retain any influence over it, and maintain undisturbed that connection which was attended with advantage to the parent and to the dependent state, they must enlarge the basis on which they conducted that colony. There was one basis, and only one, on which the government of any colony belonging to this country, could be enlarged, and that was by being made, according to the usual acceptance of the word, a constitutional government. That government might be, and, he trusted, would be found to be, not in Canada only, but, in many other large dependencies of this country, a useful, a happy, and a safe government . . . .There was a third mode of treating a colony which he did not think equally safe and equally advantageous. It was to give a colony the semblance of a constitution, and, when they had given it, to remain jealous of its operation, and to endeavour to exercise over it that control which they possessed before, upon grounds which were not tenable, or consistent with the constitution which you had given. . . . They must not give to any colony a constitution in leading strings."

This Bill did not reward rebels, as no man could be held a rebel, who was unconvicted by law. To accuse the French, eternally, of disloyalty would not make them loyal. The French realised they had least to gain from annexation. Lord Elgin was a fit judge of Imperial interests and the honour of the Crown.

Henry Labouchere spoke in this debate, with his usual liberality(54). "He believed that the connexion of Canada with this country was most essential to the interests of both countries, and that it was one which neither part of itself had a right to dissolve . . . They all admitted that there gucuid be a responsible government in Canada, and also that this Bill for the compensation of Rebellion Losses was a proper and a just measure . . . notwithstanding all that had occurred, he believed he might truly say that this country and Canada had reason to rejoice that this measure had passed. . . that House owed it to the great Empire of which they were the guardians, not to mix themselves up, in an unbecoming manner, in colonial disputes. . . . If he could have any doubt as to the decision of the House on this question - . . . he, for one, should contemplate the result with the gravest apprehension and alarm. He believed that such a course would beregarded by the great body of the people of Canada as a deliberate affront to their representatives - as an imputation upon their loyalty and good faith which they did not deserve; and that they would feel that this House on the most trifling and inadequate grounds, had exercised that authority which, in extreme cases, he would be the last to deny that they had a right to exercise, but which, in order to be maintained, must, he contended, be rendered compatible with colonial liberty, and be reserved for the most clear, distinct, and extreme cases."

(54). Id., C VI. 339.

Vernon Smith began his Speech(55) by remarking that Mr. Gladstone's Sppech was fitter for the Canadian Assembly than the House of Commons. "They were dealing with the most important of all branches of colonial government, namely, what was to be the responsible government of our colonies? The theory of that government, at least, had been explained by the noble Lord(Russell) when himself Secretary of State for the Colonies; and the doctrine laid down in his celebrated dispatch to Lord Sydenham had been ever since acted upon, and was never impeached in the slightest degree by any Colonial Secretary. Lord Stanley and Mr. Gladstone when in office, had never departed from the noble Lord's interpretation; . . . ."

Referring to the possibility of rebels coming under the provisions of this Act, Smith continued, "Against that criticism the noble Lord last night quoted from the Earl of Elgin and the debates on the question, giving the Expressions of Mr. Hinckes and other colonial ministers; and he must ask when, even in this country they often took the declarations of the Ministers for the intentions of the Legislature, whether all these declarations were to go for nothing becouse they were made at the distance of some thousand miles? Even if the right honourable Gentleman(Gladstone) had made good the whole of his case, still he would ask, was the danger of possibly admitting some few, who might have aided or abetted the rebellion, to a share in the compensation, anything at all to be compared with the imminent hazard they must run, by telling the greatest and most important of our colonies,

(55). Id., C VI. 330.

that we would not allow any Act sent home to us from their legislature to receive the Royal assent, unless they would modify every letter and word of the Act to suit our views of what could best carry out the obvious spirit and intentions of its framers? . . . Now he had heard a great deal of abuse of the constant and vicious intermeddling of the Colonial Office; but it rejoiced him now to hear it reproached, because the Colony and its Governor were left to act freely for themselves; because he approved of the widest and largest discretion, compatible with the rights of the Mother Country, being given to the Colony, and Earl Grey had steadily acted on that principle with respect to the Canadian legislature."

MacGregor(56) attributed the trouble in Canada to the overbearing British compact men and a few French demagogues. "The pretended motive of the latter was a good one, that the Canadians ought to demand a measure of self-government for themselves. Such has, much to the honour of the then Secretary of State for the Colonies, Now the First Lord of the Treasury, been given to the Canadians. Now, if the present Bill were disallowed, it would go to the extent of declaring to the people of Canada that although they had a controlling and responsible government in Canada, notwithstanding that, they would be deprived of its exercise when it suited the Home Government to do so . . . .

"In Canada however the present responsibility was thrown on the legislature; and to reject the Acts of that legislature

(56). Id., C VI. 330.

would be to drive the people into despair. It would extinguish the principle and practice of self-government."

He believed the Canadians could well look after their own domestic affairs, and he did not think they desired annexation to the United States.

Lord Campbell, also, spoke for the Government(57). He believed disallowance would cause serious disturbance in Canada. He did not deny the right of Parliament to interfere in imperial affairs, but this was domestic. They should not discriminate between French and English.

The hopeful and moderate attitude of the Whig speakers was reflected by the moderation of the Radicals.

They had altogether deserted their old cries of early Separation, elective councils, &c., and become more or less discerning advocates of responsible government.

Roebuck in a Speech, May, 1849(58), showed that he was still following the trend of events in Canada. There was no question then of annexation, he stated, but "he told it now, that whenever the question of annexation should arise, it would come from the English part of the population."

In the main debate, Roebuck remarked,(59) with obvious exaggeration, "The people of Canada are now enjoying the Constitution which I asked for at the bar. How did this come about? A noble Lord was commissioned by Her Majesty to make inquiries into the state of Canadian Government. He wrote in a report, which has since become celebrated, of <u>responsible government.</u> That

(57). <u>Id</u>., C VI. 514. (58). <u>Id</u>., C V. 561.
(59). <u>Id</u>., C VI. 254.

meant that the proceedings of the Canadian Administration should be subject to the approval of the majority of the House of Assembly."

He went on to discuss the Bill, which had been opposed by a small factious minority, formerly in power and formerly supported by the Colonial Office. "But the Colonial Office, this House, and the country have grown wiser. They have now given them a constitution, and the Colonial Office has given the Governor instructions by which the majority of the people, in place of the minority, shall rule in Canada . . . I want to retain our colonies- I want to see them loving and respecting our rule, and that they should be impressed with the generous spirit in which we govern them - I want that no narrow policy, no such unhappy interference shall shake the respect and love which I am bold to say they are happy to owe and feel towards English dominion in that country."

Joseph Hume,(60) unusually for him, approved the conduct of the Colonial Office. "He hoped the House . . . would support Her Majesty's Government, who had in such a fair and manly manner stood by the principles and acts of those who were in favour of responsible government."

Sir William Molesworth(61) also approved the policy of the Government. "He thought a grave error had long pervaded our system of colonial policy. That error had consisted in the tendency of the Imperial Government repeatedly to interfere in colonial affairs, on the plea that such interference was necessary to protect imperial interests . . . He believed the colonies would never be well governed and contented until our colonial policy was

(60). Id., C VI. 315.
(61). Id., C VI. 323.

reversed, and the rule was laid down and strictly adhered to, that the Imperial Government should abstain from interfering in colonial affairs, except in cases of grave and well proven necessity, in which it could be shown that there was an immediate danger to the empire."

The government was sustained by a comfortable majority in the House of Commons, but in the House of Lords was able to gain a majority of only three votes, and that by the aid of proxies. With the upholding of the Rebellion Losses Act, Grey and Elgin had consummated the revolution in Great Britain's Colonial Policy, in the cause of which Lord Durham had sacrificed his life.

C O N C L U S I O N.

There is no evidence that, before Baldwin's visit to England in 1836, any plan for making the Executive Council in the Colony responsible to the Assembly was even discussed in Great Britain. Baldwin did not see Lord Glenelg, but he apparently suggested his ideas to Russell and Hume. The latter introduced his resolution on this question in August of that year, but he subsequently neglected it, and followed the more attractive cry for an Elective Legislative Council. Russell claimed both in 1850 and in 1869 that he practically agreed with Baldwin; and that while he was Colonial Secretary, he followed Baldwin's principles, although he did not concede the theory. His attitude, in 1837-8, was one of almost unqualified denial. Russell was not alone in this denial, but was accompanied by almost all who seriously discussed this question, Glenelg, Stanley, Labouchere and Howick. They uniformly based their case against a responsible executive, on abstract constitutional grounds.

But there was a more vital objection, than the impossibility of reconciling conflicting responsibilities - an objection not usually openly stated, but the evidence for it is not far to seek, which existed as a barrier to any concessions. This objection was a fear of the French, a very real distrust of Papineau and the Lower Canada Assembly. Of this there are many illustrations. Lord Ripon's disappointment at their

reception of the Act of 1851, Stanley's horror at the accidental use of the phrase "French Republicanism", and this extract from a letter of Russell's to Melbourne, (1838), "I think you cannot leave the English to have their throats cut by the Canadian habitants", (1) are typical examples. This fear of the French dated from the reception of Lord Ripon's Act, and was much augmented by the Rebellion. It is not difficult to conceive that a generation which vividly recalled Napoleon's career, should tend to be apprehensive of things French. This objection can scarcely be over-estimated, and it was obviously the root cause of the Tory opposition to Elgin even in 1849. Only as this distrust was gradually allayed could that mutual confidence, inseparable from the working of responsible government, be created.

Perhaps the most striking feature of the debates in the Glenelg period was the gross ignorance manifested, of Canada and Canadian conditions. This ignorance was by no means confined to one party; it was, decidedly, common to all. Ellice and Roebuck, alone, seemed possessed of any approximation to a comprehension of the conditions there, and both were, to a considerable degree, partisan. The rebellion stirred Parliament momentarily from its apathetic state, and it never reverted to the same degree of ill-informed indifference concerning Canada. It was hopeless to expect from a Parliament dominated by ignorance

(1). Rollo Russell, op. cit., pp.232-3.

and indifference respecting them, any intelligent solution of difficult problems of government - when they could not understand what these problems involved.

Nor did Glenelg rise much above his environment. An able and conscientious worker, with, it seems, a passion for detail, he appears to have been embued with Melbourne's comfortable principle of "letting things alone". He pleaded for delay and temperate consideration - perhaps in a vain hope that the problems would settle themselves. Glenelg lacked initiative - he seemed never to get to grips with the actual problems. This is severe and somewhat unjust, as he had considerable success in New Brunswick where the problems were of a practical nature. He abhorred theories, and in his despatch to Campbell, he gratiutously seized the occasion to deny, before it was explicitly requested, the anticipated demand of the Nova Scotia Assembly, for executive responsibility.

Responsible Government was not an active issue in British politics until Durham recommended it. In a more or less incidental fashion it had been declared impossible by some of the leading statesmen who interested themselves in Colonial affairs; but there was no serious protagonist, before the session of 1839, of Responsible Government. Durham's Report made it the most important issue with reference to Canada. Durham was not important as a Parliamentary exponent of his recommendations. His activity was confined to one speech. His great service was his powerful exposition, in his Report, of the proposal for Responsible Government.

Russell believed that he virtually agreed with Baldwin, and that he practically followed the course Baldwin had suggested. His speech in June, 1839, and his 14 October despatch (2) contain a denial of the theory. How far did he go, practically, in the direction Baldwin had indicated? The qualifications which were included in the speech and despatch just mentioned, that while the executive should not be responsible, its relations with the Assembly should be harmonious, coupled with the 16 October despatch (2) which converted the tenure of Councillors from "good behaviour" to "pleasure", Buller stated in 1840, made responsible government inevitable.

Baldwin certainly did not consider that Sydenham was following the policy he had outlined. The "hierarchical system" which Sydenham built up, with Russell's co-operation, and apparent approval, was not responsible government. There is nothing in Sydenham's correspondence to indicate that he doubted that the "hierarchical system" might be permanently maintained. Yet, with a majority dissolving before his eyes, it seems almost incredible to suppose that he was so deluding himself. Sydenham substituted for the old, crude methods of the Assembly, a replica of British Parliamentary Government, and those who were opposed to Sydenham's supporters in the Assembly were not slow to see how such a system could be put to different uses. By great ingenuity, Sydenham countered Baldwin's attack in September, 1841, (3) but such attacks were certain to be renewed, and, in the long run, one would inevitably succeed. Russell

(2). Vide Appendix.
(3) Resolutions of the Legislation Assembly of Canada, 1841, Vide Appendix.

had, wittingly or no, taken a long step in the direction of Responsible Government, while persistently denying the theory.

In Parliament, Buller was the only protagonist of Responsible Government,(4) in 1839-40, but he was a host in himself. The debates had a definiteness and purpose that was absent before. There was less irrelevant and ill-informed discussion. In short, with the decrease in quantity, had come an increase in quality. The Tories were generally hostile to responsible government, the Radicals inclined to be sympathetic. The Whigs were divided; Melbourne and Russell opposing, Lansdowne and Howick tending in the opposite direction. Buller's insistence on the inevitability of Responsible Government seems to have had a curious psychological effect in Parliament. He stressed this feature, in 1839 and 1840, and again in 1843 and 1844. It doubtless played a considerable part in the development of the notion that responsible government had been conceded - a notion growing up while Stanley was in office, and almost unquestioned in Grey's term.

Other factors besides Buller's repeated iteration tended to foster this idea. The downfall of the "hierarchical system" in Canada had led to Bagot's "great measure". This was popularly acclaimed as the triumph of Responsible Government; and when Bagot's conduct was endorsed in Parliament at once by Stanley, Roebuck, and Buller, it doubtless tended to spread that impression. Metcalfe's influence was even more important.

(4). Excepting Durham. He spoke in July, 1839.

His re-iterated claim that he was following the principle of Responsible Government, appears to have converted Stanley, Peel and Russell to an acceptance of the term, without attaching to it the same significance as Buller did. Russell's phrase "responsible government insofar as it was applicable to a colony, "probably indicated no change in his convictions. The acceptance of the principle, even in a qualified form, was an advance from an unqualified denial, if for no more significant reason than, that it made any future difference, one, rather of detail than of principle.

The accession of Russell to office, brought to the Colonial office in Grey, a man who had always been sympathetically inclined towards the Colonies. Grey, in 1840, had not yet overcome his difficulty with respect to the double responsibility. In theory, it was still present in 1849. Then he had solved this difficulty, in practice, by the doctrine of mutual confidence and mutual forbearance, as the policy to be followed by the Governor and his ministers. He pointed out that if either the Queen or the House of Commons pushed powers to extremes, the constitution would break down, and applied this analogy to the Colony. His despatch to Harvey, November 1846, is the foundation of his Canadian policy. That despatch conceded Responsible Government to the full extent Durham had recommended it. Although Buller was undoubtedly consulted with reference to this despatch, it was unquestionably Grey's own conviction that this was the right policy to follow - a conclusion which the meagre evidence of his speeches from 1831 to 1849 tends to

substantiate. How soon Grey became a practical convert to Responsible Government may only be speculated. Theoretically he was not either in 1837 or 1840, but whether his reservations, particularly in 1840, were, practically, greater than in 1849, he had no opportunity of demonstrating.

The first severe test of Responsible Government, as it had developed in Canada under Elgin and Grey, was the Rebellion Losses Bill. Elgin was loyally supported by Grey during the crisis in Canada; and when the question of disallowance came up in Parliament, the fate of Responsible Government hung in the balance. Excepting Disraeli and Brougham, no one denied that Responsible Government existed in Canada. No one admitted this more unequivocally than Stanley and Gladstone. Responsible Government applied to local, but not to imperial matters. Hence its efficacy depended on the line of demarcation between imperial and local questions. The contention that the Rebellion Losses Act was an imperial measure, despite its obviously local character, would, if allowed, have destroyed the practical value of Responsible Government, since any specious pretext might then have been employed to justify interference with the colony, on so-called imperial grounds. This species of flank attack failed in the House of Commons, but was almost successful in the House of Lords.

It has been suggested that the granting of Responsible Government was regarded, even by the great body of its supporters in Parliament, merely as the beginning of the end, a separation to which they were resigned. In the 1849 debates

there is no evidence to substantiate this view. Even the Radicals talked much less of separation, and, generally speaking, there seemed considerable faith in the maintenance of the connection, at least for a considerable period. Buller had great influence in fostering this faith in the connection, and his death was not the great loss it might have been, to the cause he had at heart, largely because, in Elgin, his spiritual successor had been found. Elgin's influence was very great. It is only necessary to compare his published letters with the speeches of Grey, Lansdowne, Russell and Bruce, to be struck by the similarity of tone, sometimes, indeed, even of the very turn of phrase. They were all inspired with some of Elgin's magnificent faith. That they sometimes had doubts, and fears, and despondent periods is, no doubt, true; that their faith was not so great as his, is also true; but despite these weaknesses, he unquestionably did inspire them with some of his faith in the destiny of the British Empire, a faith based on the application of Responsible Government, with the fullest and freest co-operation in friendly association. Thus by Elgin Durham was vindicated.

A P P E N D I X.

"A".

Extract from a despatch from Lord Glenelg to Sir F. B. Head, dated, Downing Street, 5 December 1835.
(Professor W. P. M. Kennedy, Documents of the Canadian Constitution, 1759-1915, Oxford Press, Toronto, 1918. pp. 412-21.)

14. A very considerable part of the report is devoted to the statement and illustration of the fact that the Executive government of Upper Canada is virtually irresponsible; and the conclusion drawn from this statement is, that under the present system there can be no prospect of a good and faithful administration of public affairs.

Without entering on the one hand unnecessarily into a discussion of those general principles to which my attention is thus invited, or digressing, on the other hand, into personal topics, it is enough for me to observe on the present occasion, that experience would seem to prove that the administration of public affairs in Canada is by no means exempt from the control of a practical responsibility. To His Majesty and to Parliament the Governor of Upper Canada is at all times most fully responsible for his official acts. That this responsibility is not merely nominal, but that His Majesty feels the most lively interest in the welfare of his Canada subjects, and is ever anxious to devote a patient and laborious attention to any representations which they may address to Him, either through their representatives or as individuals, is proved not only by the whole tenor of the official correspondence of my predecessor in this office, but by the despatch which I am now addressing to you. That the Imperial Parliament is not disposed to receive with inattention the representations of their Canadian fellow-subjects, is attested by the labours of the Committees which have been appointed by the House of Commons during the last few years to inquire into matters relating to those provinces.

It is the duty of the lieutenant-governor of Upper Canada to vindicate to the King and to Parliament every act of his administration. In the event of any representations being addressed to His Majesty upon the subject of your official conduct, you will have the highest possible claim to a favourable construction; but the presumptions which may reasonably be formed in your behalf will never supersede a close examination how far they coincide with the real facts of each particular case which may be brought under discussion.

This responsibility to His Majesty and to Parliament is second to none which can be imposed on a public man, and it is one which it is in the power of the House of Assembly at any time, by address or petition, to bring into active operation.

I further unreservedly acknowledge that the principle of effective responsibility should pervade every department of your government; and for this reason, if for no other, I should hold that every public officer should depend on His Majesty's pleasure for the tenure of his office. If the head of any department should place himself in decided opposition to your policy, whether that opposition be avowed or latent, it will be his duty to resign his office into your hands, because the system of government cannot proceed with safety on any other principle than that of cordial co-operation of its various members in the same general plans of promoting the public good. The inferior Members of the different offices should consider neutrality on this great litigated question of provincial policy as at once their duty and their privilege. Diligently obeying all the lawful commands of their superiors, they will be exempted from censure if the course which they have been directed to pursue should issue in any unfortunate results.

Some of the Members of the local government will also occasionally be representatives of the people in the Assembly, or will hold seats in the Legislative Council. As Members of the local legislature they will of course act with fidelity to the public, advocating and supporting no measures which, on a large view of the general interest, they shall not think it incumbent on them to advance. But if any such person shall find himself compelled by his sense of duty to counteract the policy pursued by you, as head of the government, it must be distinctly understood that the immediate resignation of his office is expected of him; and that, failing such a resignation, he must, as a general rule, be suspended from it. Unless this course be pursued, it would be impossible to rescue the head of the government from the imputation of insincerity, or to conduct the administration of public affairs, with the necessary firmness and decision.

I need hardly say, that in the event of any public officer being urged into a resignation of his place by his inability to give a conscientious support to his official superior, the merits of the question would undergo an investigation of more than common exactness by His Majesty's Ministers, and that His Majesty's decision would be pronounced with a perfect impartiality towards those who had the honour to serve him in the province, however high or however subordinate might be their respective stations.

By a steadfast adherence to these rules, I trust that an effective system of responsibility would be established through-

out the whole body of public officers in Upper Canada, from the highest to the lowest, without the introduction of any new and hazardous schemes; and without recourse to any system, of which the prudence and safety have not been sufficiently ascertained by a long course of practical experience.

"B".

Lord John Russell's Ten Resolutions, March 6, 1837. (Kennedy, op. cit., pp. 434-6, Hansard (3d. series) XXXVI. p. 1303).

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1. That since the 31st day of October, in the year 1832, no provision has been made by the Legislature of the province of Lower Canada, for defraying the charges of the administration of justice, and for the support of the civil government, within the said province, and that there will, on the 10th day of April now next ensuing, be required for defraying in full the charges aforesaid to that day, the sum of £142,160.14s. 6d.

2. That at a session of the Legislature of Lower Canada, holden at the City of Quebec, in the said province, in compliance with his Majesty's commands, recommended to the attention of the house of assembly thereof, the estimates for the current year, and also the accounts, showing the arrears due in respect of the civil government, and signified to the said House his Majesty's confidence that they would acceded to the application which he had been commanded to renew, for payment of the arrears due on account of the public service, and for the funds necessary to carry on the civil government of the province.

3. That the said House of Assembly, on the 3rd day of October 1836, by an address to the Governor, 1836, of the said province, declined to vote a supply for the purpose aforesaid, and by the said address, after referring to a former address of the said House to the Governor of the said province, declared that the said House persisted, amongst other things, in the demand of an elective Legislative Council, and in demanding the repeal of a certain Act passed by the Parliament of the United Kingdom in favour of the North American Land Company; and by the said address, the said House of Assembly further adverted to the demand made by that House of the free exercise of its control over all the branches of the Executive Government; and by the said Address the said House of Assembly further declared, that it was incumbent on them, in the present conjuncture, to adjourn their deliberations until his Majesty's Government should, by its acts, especially by rendering the second branch of the Legislature comformable to the wishes and wants of the people, have commenced the great work of justice and reform, and created a confidence, which alone could crown it with success.

4. That, in the existing state of Lower Canada, it is unadvisable to make the Legislative Council of that province an elective body; but that it is expedient that measures be adopted

for securing to that branch of the Legislature a greater degree of public confidence.

5. That while it is expedient to improve the composition of the Executive Council in Lower Canada, it is unadvisable to subject it to the responsibility demanded by the House of Assembly of that province.

6. That the legal title of the North American Land Company to the land holden by the said company, by virtue of a grant from his Majesty, under the public seal of the said province, and to the privileges conferred on the said company by the Act for that purpose made, made in the fourth year of his Majesty's reign, ought to be maintained inviolate.

7. That it is expedient, that so soon as provisions shall have been made by law, to be passed by the Legislature of the said province of Lower Canada, for the discharge of lands therein from feudal dues and services, and for removing any doubts as to the incidents of the tenure of land in fee and common soccage in the said province, a certain Act made and passed in the sixth year of the reign of his late Majesty King George IV., commonly called "The Canada Tenures Act," and so much of another act passed in the third year of his said late Majesty's reign, commonly called "The Canada Trade Act," as relates to the tenures of land in the said province, should be repealed, saving nevertheless to all persons all rights in them vested under or by virtue of the said recited Acts.

8. That for defraying the arrears due on account of the established and customary charges of the administration of justice, and of the civil government of the said province, it is expedient, that after applying for that purpose such balance as shall, on the sadd 10th day of April, 1837, be in the hands of the Receiver-General of the said province, arising from his Majesty's hereditary, territorial, and casual revenue, the Governor of the said province be empowered to issue from and out of any other part of his Majesty's revenues, in the hands of the Receiver-General of the said province, such further sums as shall be necessary to effect the payment of the before-mentioned sum of £142,160.14s. 6d.

9. That it is expedient that his Majesty be authorised to place at the disposal of the Legislature of the said province, the net proceeds of his Majesty's hereditary, territorial, and casual revenue arising within the same, in case the said Legislature shall see fit to grant to his Majesty a civil list for defraying the necessary charges of the administration of justice, and for the maintenance and unavoidable expenses of certain of the principal officers of the civil government of the said provinces.

10. That great inconvenience has been sustained by his Majesty's subjects inhabiting the provinces of Lower Canada and Upper

Canada, from the want of some adequate means for regulating adjusting questions respecting the trade and commerce of the said provinces, and divers other questions, wherein the said provinces have a common interest; and it is expedient that the Legislature of the said provinces respectively be authorised to make provisions for the joint regulation and adjustment of such their common interest.

"G".

Lord John Russell's October Despatches.
Russell to Poulett Thomson.
(Kennedy, op. cit., pp. 522-5; Egerton and Grant, Selected Speeches and Despatches Relating to Canadian Constitutional Development, Musson Book Co., Toronto, 1907, pp. 266-72).

Downing Street,
14th October, 1839.

Sir:-

It appears from Sir George Arthur's despatches that you may encounter much difficulty in subduing the excitement which prevails on the question of what is called "Responsible Government." I have to instruct you, however, to refuse any explanation which may be construed to imply an acquiescence in the petitions and addresses upon this subject. I cannot better commence this despatch than by a reference to the resolutions of both houses of Parliament, of the 28th April and 9th May, in the year 1837.

The Assembly of Lower Canada having repeatedly pressed this point, Her Majesty's confidential advisers at that period thought it necessary not only to explain their views in the communications of the Secretary of State, but expressly called for the opinion of Parliament on the subject. The Crown and the two houses of Lords and Commons having thus decisively pronounced a judgment upon the question, you will consider yourself precluded from entertaining any proposition on the subject.

It does not appear, indeed, that any very definite meaning is generally agreed upon by those who call themselves the advocates of this principle; but its very vagueness is a source of delusion, and if at all encouraged, would prove the cause of embarrassment and danger.

The constitution of England, after long struggles and alternate success, has settled into a form of government in which the prerogative of the Crown is undisputed, but is never exercised without advice. Hence the exercise only is questioned, and however the use of the authority may be condemned, the authority itself remains untouched.

This is the practical solution of a great problem, the result of a contest which from 1640 to 1690 shook the monarchy, and disturbed the peace of the country.

But if we seek to apply such a practice to a Colony, we shall at once find ourselves at fault. The power for which a minister is responsible in England, is not his own power, but the

power of the Crown, of which he is for the time the organ. It is obvious that the executive councillor of a colony is in a situation totally different. The Governor under whom he serves, receives his orders from the Crown of England. But can the Colonial council be the advisers of the Crown of England? Evidently not, for the crown has other advisers, for the same functions, and with superior authority.

It may happen, therefore, that the Governor receives at one and the same time instructions from the Queen, and advice from his executive council, totally at variance with each other. If he is to obey his instructions from England, the parallel of constitutional responsibility entirely fails; if, on the other hand, he is to follow the advice of his council, he is no longer a subordinate officer, but an independent sovereign.

There are some cases in which the force of these objections is so manifest, that those who at first made no distinction between the constitution of the United Kingdom, and that of the colonies, admit their strength. I allude to the question of foreign War, and international relations, whether of trade or diplomacy. It is now said that internal government is alone intended.

But there are some cases of internal government, in which the honour of the Crown or the faith of Parliament, or the safety of the state, are so seriously involved, that it would not be possible for Her Majesty to delegate her authority to a ministry in the colony.

I will put for illustration some of the cases which have occurred in that very province where the petition for a responsible executive first arose - I mean Lower Canada.

During the time when a large majority of the Assembly of Lower Canada followed M. Papineau as their leader, it was obviously the aim of that gentleman to discourage all who did their duty to the Crown within the province, and to deter all who should resort to Canada with British habits and feelings from without. I need not say that it would have been impossible for any minister to support, in the Parliament of the United Kingdom, the measures which a ministry, headed by M. Papineau, would have imposed upon the Governor of Lower Canada; British officers punished for doing their duty; British emigrants defrauded of their property; British merchants discouraged in their lawful pursuits, - would have loudly appealed to Parliament against the Canadian ministry, and would have demanded protection.

Let us suppose the Assembly as then instituted, to have been sitting when Sir John Colborne suspended two of the judges. Would any councillor, possessing the confidence of the Assembly,

have made himself responsible for such an Act? And yet the very safety of the province depended on its adoption. Nay, the very orders of which your Excellency is yourself the bearer, respecting Messrs. Bedard and Panet, would never be adopted, or put in execution by a ministry depending for existence on a majority led by M. Papineau.

Nor can anyone take upon himself to say that such cases will not again occur. The principle once sanctioned, no one can say how soon its application might be dangerous, or even dishonourable, while all will agree that to recall the power thus conceded would be impossible.

While I thus see insuperable objections to the adoption of the principle as it has been stated, I see little or none to the practical views of colonial government recommended by Lord Durham, as I understand them. The Queen's Government have no desire to thwart the representative Assemblies of British North America in their measures of reform and improvement. They have no wish to make those provinces the resource for patronage at home. They are earnestly intent on giving to the talent and character of leading persons in the colonies, advantages similar to those which talent and character, employed in the public service, obtain in the United Kingdom. Her Majesty has no desire to maintain any system of policy among her North American subjects which opinion condemns. In receiving the Queen's commands, therefore, to protest against any declaration at variance with the honour of the Crown, and the unity of the empire, you are at the same time instructed to announce Her Majesty's gracious intention to look to the affectionate attachment of her people in North America, as the best security for permanent dominion.

It is necessary for this purpose that no official misconduct should be screened by Her Majesty's representative in the provinces; and that no private interests should be able to compete with the general good.

Your Excellency is fully in possession of the principles which have guided Her Majesty's advisers on this subject; and you must be aware that there is no surer way of earning the approbation of The Queen, than by maintaining the harmony of the executive with the legislative authorities.

While I have thus cautioned you against any declaration from which dangerous consequences might hereafter flow, and instructed you as to the general line of your conduct, it may be said that I have not drawn any specific line beyond which the power of the Governor on the one hand, and the privileges of the Assembly on the other, ought not to extend. Every political constitution in which different bodies share the supreme power, is only enabled to exist by the forbearance of those among

whom this power is distributed. In this respect the example of England may well be imitated. The sovereign using the prerogative of the Crown to the utmost extent, and the House of Commons exerting its power of the purse, to carry all its resolutions into immediate effect, would produce confusion in the country in less than a twelve month. So in a colony; the Governor thwarting every legitimate proposition of the Assembly; and the Assembly continually recurring to its power of refusing supplies, can but disturb all political relations, embarrass trade, and retard the prosperity of the people. Each must exercise a wide moderation. The Governor must only oppose the wishes of the Assembly where the honour of the Crown, or the interests of the empire are deeply concerned; and the Assembly must be ready to modify some of its measures for the sake of harmony, and from a reverent attachment to the authority of Great Britain.

I have, &.c.,

(Signed) J. Russell.

Downing Street,
16th October, 1839.

I am desirous of directing your attention to the tenure on which public offices in the gift of the Crown appear to be held throughout the British Colonies. I find that the Governor himself and every person serving under him are appointed during the royal pleasure, and with this important difference. The Governor's commission is, in fact, revoked whenever the interests of the public service are supposed to require such a change in the administration of local affairs. But the commissions of all other public officers are very rarely indeed recalled, except for positive misconduct. I cannot learn that during the present or the two last reigns, a single instance has occurred of a change in the subordinate colonial offices, except in case of death or resignation, incapacity or misconduct. This system of converting a tenure at pleasure into a tenure for life, originated probably in the practise, which formerly prevailed, of selecting all the higher class of colonial functionaries from persons who, at the time of their appointment, were resident in this country; and amongst other motives which afforded such persons a virtual security for the continued possession of their places, it was not the least consideration, that, except on those terms, they were unwilling to incur the risk and expense of transferring their residence to remote, and often to unhealthy climates. But the habit which has obtained of late years of preferring, as far as possible, for places of trust in the colonies, persons resident there, has taken away the strongest motive which could thus be

alleged in favour of a practise to which there are many objections of the greatest weight. It is time, therefore, that a different course should be followed, and the object of my present communication is to announce to you the rules which will be hereafter observed on this subject in the province of Lower Canada.

You will understand, and will cause it to be made generally known, that hereafter the tenure of colonial offices held during Her Majesty's pleasure, will not be regarded as equivalent to a tenure during good behaviour; but that not only will such officers be called upon to retire from the public service as often as any sufficient motives of public policy may suggest the expediency of that measure, but that a change in the person of the governor will be considered as a sufficient reason for any alterations which his successor may deem it expedient to make in the list of public functionaries, subject of course to the future confirmation of the sovereign.

These remarks do not extend to judicial offices, nor are they meant to apply to places which are altogether ministerial, and which do not devolve upon the holders of them duties, in the right discharge of which the character and policy of the government are directly involved. They are intended to apply rather to the heads of departments than to persons serving as clerks or in similar capacities under them. Neither do they extend to officers in the service of the Lords Commissioners of the Treasury. The functionaries who will be chiefly, though not exclusively, affected by them, are the colonial Secretary, the Treasurer, or Receiver-General, the Sheriff or Prevost Marshal, and other officers, who, under different designations from these, are entrusted with the same or similar duties. To this list must also be added the Members of the council, especially in those colonies in which the Legislative and Executive Councils are distinct bodies.

The application of these rules to officers to be hereafter appointed will be attended with no practical difficulty. It may not be equally easy to enforce them in the case of existing officers, and especially of those who may have left this country for the express purpose of accepting the offices they at present fill. Every reasonable indulgence must be shown for the expectations which such persons have been encouraged to form. But even in these instances it will be necessary that the right of enforcing these regulations should be distinctly maintained in practise, as well as in theory, as often as the public good may clearly demand the enforcement of them. It may not be unadvisable to compensate any such officers for their disappointment, even by pecuniary grants, when it may appear unjust to dispense with their services without such an indemnity.

I have, &c.,

(Signed) J. Russell.

"p".

Extracts from Charles Buller, Responsible Government for Colonies, Jas. Ridgway, London, 1840. (Reprinted in E.M. Wrong, 'Charles Buller and Responsible Government,' Clarendon Press, Oxford, 1926).

(p. 96). Among those who in this country or in the colonies have made "Responsible Government" their watchword, there has never been the least difference of opinion as to the object in view: all have confined themselves to demanding that the Crown, while retaining the present unlimited choice of its servants, should nevertheless make a practice of selecting them from among those who possess the confidence of the Legislature. No one has ever proposed a legislative Enactment with a view to enforce the principle. It has been seen that the practice of governing by those who command the confidence and co-operation of the Legislature, must be established not by Act of Parliament, but by the good sense of the Crown, impelling it not to make a particular concession at this or any other particular moment, but to adopt a general rule of action as essential to the efficient administration of the government as to the contentment of the people.

. . . . . .

(p. 100). The Mother country should never interfere in the administration of the colony, either in the legislation on which the Assembly is bent, or in its preference of one Colonial party to the other, but should let the Governor and Assembly get on as they best may, passing such laws and administering such affairs by parties, as they may agree on between themselves. The only exception is, when the course of legislation adopted in the colony conflicts with the interests of the Mother country.

. . . . . .

(pp. 100-1). The Governor would in fact stand in the position of the Crown at home; and it is difficult to make out why the prerogative which suffices to maintain the balance of power at home, should not be equally competent to uphold it in a Colony.

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(pp. 102-3). No one will venture to deny its perfect accordance with the spirit and practice of the British constitution. Nor is it possible to show how representative government can harmoniously be carried out without adopting it.

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(p. 112). The increased independence of the colony would rivet its connexion with Great Britain, by removing those numerous causes of collision that constantly arise in the working of the present system.

. . . . . .

(pp. 143-7). Thus, from the general indifference of Parliament on Colonial questions, it exercises, in fact, hardly the slightest efficient control over the administration or the making of laws for the Colonies. In nine cases out of ten, it merely registers the edicts of the Colonial Office in Downing Street. It is there, then, that nearly the whole public opinion which influences the conduct of affairs in the Colonies really exists. It is there that the Supremacy of the Mother Country really resides: and when we speak of that supremacy, and of the responsibility of the Colony to the Mother Country, you may to all practical intents consider as the Mother Country - the possessor of this supremacy - the centre of this responsibility- the occupants of the large house that forms the end of that cul-de-sac so well known by the name of Downing Street. However colonists and others may talk of the Crown, the Parliament, and the Public - of the honour of the first, the wisdom of the second, or the enlightened opinion of the last - nor Queen, nor Lords, nor Commons, nor the great Public itself, exercise any power, or will, or thought on the greater part of Colonial matters, the appeal to the Mother Country is, in fact, an appeal to "the office."

But even this does not sufficiently concentrate the Mother Country. It may, indeed, at first sight, be supposed that the power of "The Office" must be wielded by its head; that in him, at any rate, we have one of our most eminent public men, whose views on the various matters which come under his cognizance, are shared by the Cabinet of which he is a Member. We may fancy, therefore, that here, at last, concentrated in a somewhat despotic, but at any rate in a very responsible and dignified form, we have the real governing power of the Colonies, under the System which boasts of making their governments responsible to the Mother Country. But this is a very erroneous supposition. This great officer holds the most constantly shifting position on the shifting scene of official life. Since April, 1827, ten different Secretaries of State have held the seals of the Colonial Department. Each was brought into office from business of a perfectly different nature, and probably with hardly any experience in Colonial affairs. The new Minister is at once called on to enter on the consideration of questions of the greatest magnitude, and at the same time of some hundreds of questions of mere detail, of no public interest, of unintelligible technicality, involving local considerations with which he is wholly unacquainted, but at the same time requiring decision, and decision at which it is not possible to arrive without considerable labour . . . .every Secretary of State is obliged at the outset to rely on the aid of some better-informed member of his office. His Parliamentary Under Secretary is generally as new to the business as himself: and even if they had not been brought in together, the tenure of office by the Under Secretary having on the average been quite as short as that of the Secretary of /

State

he has never during the period of his official career obtained sufficient information to make him independent of the aid on which he must have been thrown at the outset. Thus we find both these marked and responsible functionaries dependent upon the advice or guidance of another; and that other person must of course be one of the permanent members of the office .....

It may be, as a great many persons think, the permanent Under-Secretary; it may be the Chief, it may be some very subordinate clerk; it may be one of them that has the most influence at one time, and another at another; it may be this gentleman as to one, and that as to another question, or set of questions; for here we get beyond the region of real responsibility, and are involved in the clouds of official mystery . . . In some back-room - whether in the attic, or in what storey we know not - you will find all the Mother country which really exercises supremacy, and really maintains the connexion with the vast and widely-scattered Colonies of Britain. We know not the name, the history, or the functions of the individual, in the narrow limits of whose person we find the Mother Country shrunk. Indeed, we may call him by the name of which we have thus shown him to be the rightful bearer; and when we speak of MR. MOTHER COUNTRY, the Colonist will form a much more accurate notion than heretofore of the authority by which he is in reality ruled.

"E".

Resolutions of the Legislative Assembly of Canada.
(September) 1841. (Kennedy, op. cit., pp. 564-5)

I. Robert Baldwin's Proposals.

1. That the most important as well as the most undoubted of the political rights of the people of this Province is that of having a Provincial Parliament for the protection of their liberties, for the exercise of their constitutional influence over the Executive Departments of their Government and for legislation upon all matters which do not; on the grounds of absolute necessity, constitutionally belong to the jurisdiction of the Imperial Parliament, as the paramount authority of the Empire.

2. That the head of the Provincial Executive Government of the Province being within the limits of his Government, the representative of the Sovereign, is not constitutionally responsible to any other than the authorities of the Empire.

3. That the representative of the Sovereign for the proper conduct and efficient disposal of the public business is necessarily obliged to make use of the advice and assistance of subordinate officers in the administration of his Government.

4. That in order to preserve that harmony between the different branches of the Provincial Parliament which is essential to the happy conduct of public affairs the principal of such subordinate officers, advisers of the representative of the Sovereign, and constituting as such the Provincial administration under him as the head of the Provincial Government, ought always to be men possessed of the public confidence, whose opinions and policy harmonizing with those of the representatives of the people, would afford a guarantee that the well understood wishes and interests of the people, which Our Gracious Sovereign has declared shall be the rule of the Provincial Government, will at all times be faithfully represented to the head of that Government, and through him to the sovereign and Imperial Parliament.

5. That as it is practically always optional with such advisers to continue in or retire from office at pleasure, this House has the constitutional right of holding such advisers politically responsible for every act of the Provincial Government of a local character, sanctioned by such Government while such advisers continue in office.

6. That for the like reason this House has the constitutional right of holding such advisers in like manner responsible for using, while they continue in office, their best exertions to procure from the Imperial authorities the exercise of their right of dealing with such matters affecting the interests of the Province as constitutionally belong to these authorities, in the manner most consistent with the well understood wishes and interests of the people of this Province.

II. S. B. Harrison's Amendments to Baldwin's Proposals.

1. That the most important, as well as the most undoubted, of the political rights of the people of this Province is that of having a Provincial Parliament for the protection of their liberties, for the exercise of a constitutional influence over the Executive Departments of their Government, and for legislation upon all matters of internal Government.

2. That the head of the Executive Government of the Province being, within the limits of his Government, the representative of the sovereign is responsible to the Imperial authority alone; but that, nevertheless, the management of our local affairs can only be conducted by him, by and with the assistance, counsel and information, of subordinate officers in the Province.

3. That in order to preserve between the different branches of the Provincial Parliament that harmony which is essential to the peace, welfare and good Government of the Province the chief advisers of the representative of the Sovereign, constituting a Provincial administration under him, ought to be men possessed of the confidence of the representatives of the people, thus affording a guarantee that the well understood wishes and interests of the people, which our Gracious Sovereign has declared shall be the rule of the Provincial Government, will, on all occasions, be faithfully represented and advocated.

4. That the people of this Province have, moreover, a right to expect from such Provincial Administration, the exertion of their best endeavours that the Imperial authority, within its constitutional limits shall be exercised in the manner most consistent with their well understood wishes and interests.

"F".

Metcalfe to the Colonial Office. April and May, 1843. (Kaye, Life of Lord Metcalfe, Richard Bentley, London, 1854, Vol. II, pp.477-9)

24April, 1843. (Confidential)

Lord Durham's meaning, seems to have been that the Governor should conduct his administration in accordance with the public feeling, representated by the popular branch of the Legislature, and it is obvious that without such concordance the Government could not be successfully administered. There is no evidence in what manner Lord Durham would have carried out the system which he advocated.....Lord Sydenham arranged the details by which the principle was carried into execution. In forming the Executive Council he made it a rule that the individuals comprising it should be members of the popular branch of the Legislature, to which, I believe, there is only one exception... .....Lord Sydenham had apparently no intention of surrendering the Government into the hands of the Executive Council. On the contrary he ruled the Council, and exercised great personal influence in the election of members to the Representative Assembly.....I am not aware that any great change took place during the administration of Sir Charles Bagot which preceded the meeting of the Legislature - but this event was instantly followed by a full development of the consequences of making the officers of the Government virtually dependent for the possession of their places on the pleasure of the Representative Body. The two extreme parties in Upper Canada coalesced solely for the purpose of turning out the office-holders, or as it is now termed, the ministry of that day, with no other bond of union, and with a mutual understanding that, having accomplished that purpose, they would take the chance of the consequences, and should be at full liberty to follow their respective courses. The French party also took part in this coalition, and from its compactness and internal re-union formed its greatest strength. Those parties together accomplished their joint purpose. They had expected to do so by a vote of the Assembly, but in that they were anticipated by the Governor-General, who, in apprehension of the threatened vote of want of confidence in members of his Council, opened negociations with the leaders of the French party, and that negociations terminated in the resignation or removal from the Council of those members who belonged to what is termed by themselves the Conservative party, and in the introduction of five members of the United French and Reform parties .....The events were regarded by all parties in the country as establishing in full force the system of Responsible Government of which the practical execution had been before incomplete .....From that time, the tone of the members of the Council and the tone of the public voice regarding Responsible Government has been greatly exalted. The Council are now spoken of by

themselves and others generally as, "the ministers," "the administration," "the cabinet," "the Government," and so forth. Their pretentions are according to this new nomenclature. They regard themselves as a responsible ministry and expect that the policy and conduct of the Governor shall be subservient to their views and party purposes.

12, May, 1843.

Now, I conceive, this is the first time when the scheme of Responsible Government, as here construed, has come forward to be carried fully into effect in any colony. Lord Durham had no difficulty in writing at leisure in praise of Responsible Government, which had no effect during his administration, and was treated by him as a general question, without any definition of details by which it was put into effect. Lord Sydenham put the idea in force, without suffering himself to be much restrained by it; and for the greater part of his administration it had no existence, and was only coming into operation when he died. Sir Charles Bagot yielded to the coercive effects of Lord Sydenham's arrangements; and thence Responsible Government, as understood by its extreme advocates, is said to be Sir Charles Bagot's policy; but though he listened to the extreme calling of certain parties in his Council, he had not the least intention of surrendering his power into their hands; for the remainder of his time the contest was staved off by his illness; but that very cause rendered it more certain for his successor. Now comes the tug of war, and supposing absolute submission to be out of the question, I cannot say that I see the end of the struggle if the parties alluded to really mean to maintain it.

"G".

Earl Grey to Sir John Harvey, the Lieutenant-Governor of Nova Scotia, 1846. (Kennedy, op.cit., pp. 570-3; Egerton & Grant, op.cit., pp.297-302; Earl Grey, Colonial Policy of Lord John Russell, Bentley, London, 1853, pp. 211-3).

Downing Street,
3 November, 1846.

.....

I am of the opinion that under all circumstances of the case, the best course for you to adopt is to call upon the members of your present Executive Council to propose to you the names of the gentlemen whom they would recommend to supply the vacancies, whichIunderstand to exist, in the present Board. If they should be successful in submitting to you an arrangement to which no valid objection arises, you will of course continue to carry on the government through them, so long as it may be possible to do so satisfactorily, and as they possess the necessary support from the Legislature. Should the present Council fail in proposing to you an arrangement which it would be proper for you to accept, it would then be your natural course, in conformity with the analagous cases in this country, to apply to the opposite party, and should you be able, through their assistance, to form a satisfactory Council, there will be no impropriety in dissolving the Assembly upon their advice; such a measure, under those circumstances, being the only mode of escaping from the difficulty which would otherwise exist of carrying on the government of the province upon the principles of the constitution.

The object with which I recommend to you this course, is that of making it apparent that any transfer which may take place of political power from the hands of one party in the province to those of another is the result not of an act of yours but of the wishes of the people themselves, as shown by the difficulty experienced by the retiring party in carrying on the government of the province according to the forms of the constitution. To this I attach great importance; I have therefore to instruct you to abstain from changing your Executive Council until it shall become perfectly clear that they are unable, with such fair support from yourself as they have a right to expect, to carry on the government of the province satisfactorily, and command the confidence of the Legislature.

Of whatsoever party your Council may be composed, it will be your duty to act strictly on the principle you have yourself laid down....."of not indentifying yourself with anyone party," but instead of this, "making yourself both a mediator and moderator between the influential of all parties." In giving, therefore, all fair and proper support to your Council for the time being, you will carefully avoid any acts which can possibly

be supposed to imply the slightest personal objection to their opponents, and also refuse to assent to any measures which may be proposed to you by your council, which may appear to you to involve an improper exercise of the authority of the Crown for party rather than for public objects. In exercising, however, this power of refusing to sanction measures which may be submitted to you by your council, you must recollect that this power of opposing a check upon extreme measures proposed by the party for the time in the government, depends entirely for its efficacy upon its being used sparingly, and with the greatest possible discretion. A refusal to accept advice tendered to you by your council is a legitimate ground for its members to tender you their resignation, a course they would doubtless adopt should they feel that the subject on which a difference had arisen between you and themselves was one upon which public opinion would be in their favour. Should it prove to be so, concession to their views must, sooner or later, become inevitable, since it cannot be too distinctly acknowledged that it is neither possible nor desirable to carry on the government of any of the British provinces in North America in opposition to the opinion of the inhabitants.

Clearly understanding, therefore, that refusing to accede to the advice of your council for the time being upon a point on which they consider it their duty to insist, must lead to the question at issue being brought ultimately under the decision of public opinion, you will carefully avoid allowing any matter not of very grave concern, or upon which you cannot reasonably calculate upon being in the end supported by that opinion, to be made the subject of such a difference. And if, unfortunately, such a difference should arise, you will take equal care that its cause and the grounds of your own decision are made clearly to appear in written documents capable of being publicly quoted.

The adoption of this principle of action by no means involves the necessity of a blind obedience to the wishes and opinions of the members of your Council; on the contrary, I have no doubt that if they see clearly that your conduct is guided, not by personal favour to any particular men or party, but by a sincere desire to promote the public good, your objections to any measure proposed will have great weight with the Council, or should they prove unreasonable, with the Assembly, or, in last resort, with the public.

.....I have only, in conclusion, to assure you that Her Majesty will always be anxious to put the most favourable construction upon your conduct in the discharge of the arduous duties imposed upon you by the high situation you hold in Her service.

"H".

Elgin to Mr. Cumming Bruce, September, 1852. (Kennedy, op.cit., pp.589; Egerton & Grant, op.cit., pp. 331-3; Walrond, Letters and Journals of Lord Elgin, Murray, London, 1872, p. 126).

I have been possessed (I use the word advisedly, for I fear that most persons in England still consider it a case of possession) with the idea that it is possible to maintain on this soil of North America, and in the face of Republican American, British connection and British institutions, if you give the latter freely and trustingly. Faith, when it is sincere, is always catching; and I have imparted this faith, more or less thoroughly, to all Canadian statesmen with whom I have been in official relationship since 1848, and to all intelligent Englishment, with whom I have come in contact since 1850.....Now if the Governor ceases to possess this faith, or to have the faculty of imparting it, I confess, I fear that, ere long, it will become extinct in other breasts likewise. I believe that it is equally an error to imagine with one old-fashioned party, that you can govern such dependencies as this on the antiquated bureaucratic principle, by means of rescripts from Downing Street, in defiance of the popular legislatures, and on the hypothesis that one local faction monopolises all the loyalty of the Colony; and to suppose with the Radicals that all is done when you have simply told the colonists "to go to the devil in their own way." I believe, on the contrary, that there is more room for the exercise of influence on the part of the Governor under my system than under any that ever was before devised; an influence however, wholly moral - an influence of suasion, sympathy, and moderation, which softens the temper while it elevates the aims of local politics.

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.....It is true that I have always said to my advisers, "while you continue my advisers you shall enjoy my unreserved confidence; and en revanche you shall be responsible for all acts of government.