THE DURHAM REPORT AND DEMOCRACY IN UPPER AND LOWER CANADA

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THE DURHAM REPORT AND DEMOCRACY IN UPPER AND LOWER CANADA

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CHAPTER I

NOTIONS OF THE REPORT AND THE PROBLEM

In 1763 the province of French Quebec passed into the hands of England by virtue of the Treaty of Paris. Although all Canada now became a British colony, the rule of the French monarchs and the establishment of French culture were to leave an indelible mark of national identity upon the newly conquered St. Lawrence area. Even though the British probably anticipated the difficulties incurred between a conqueror and the conquered, little did they realize that the Canadians would prove to be so tenaciously French or prove to be so relentlessly stubborn to "progressive" English imperialism.

The first sincere and authoritative effort on behalf of the British Government to solve some of Canada's internal problems occurred nearly seventy-five years after conquest. This attempt has been called by some the Magna Carta of the modern colonial policy. It was formulated by Lord Durham, John Lambton, and embodied in his Report on the Affairs of British North America.

I. POPULAR NOTIONS OF THE REPORT

Since its creation, historians have extolled and
criticized this document. Durham's recommendation for responsible government was admirable, but his means of accomplishing it were distorted. The Report's fame is due to the main tenant which recommended responsible government for Canada. It is always easy to laud virtues while neglecting those aspects which might augment a more lucid interpretation. To overlook faults in order to preserve virtue is historical blindness. The Report must be examined in the light of its historical and social perspective.

The Durham Report has been approached in two ways. There are those who examine the document only from the imperial point of view, bringing forth its liberal renown. Others treat it as a work with certain weaknesses in addition to its merits. It would be a partial truth to extoll or criticize the Durham Report uncategorically; and to evaluate it correctly in a short sentence is impossible.

One history has called the Durham Report the "Bible of the British Commonwealth." Another agreed, adding that it is "a public document of great significance because it was a full, well written statement of a new colonial policy . . . the Durham Report provided a recommendation for a new

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and forward looking policy."¹ Still another lauded it as "a report which has become the Magna Carta of the British Commonwealth of nations. Like the Magna Carta it has this importance because more has subsequently been read into it than the literal meaning of its words."² Donald Creighton, the Canadian historian, stated the following concerning the fame of the document:

The Durham Report is a deservedly famous document in the history of the British Empire, and perhaps its most important function was to help the British North Americans to recover their belief in their own chosen destiny, to assist them in regaining confidence in the political methods which they instinctively preferred.³

But other histories are more discerning in their analysis of the Durham Report. Listed below are several comments which indicate that the Report is not entirely liberal.

In his analysis and recommendations, Durham covered a wide range of details that called for drastic reform. He criticized the system of land grants in Upper Canada


and the survival of feudal tenures in Lower Canada, and Buller in a special report advocated a tax on waste lands coupled with a system of cash sales which would provide funds for internal improvement and for assisted immigration. . . . Durham was highly critical of both the system of justice in Lower Canada and the character of the legislative council. . . . He attached particular importance to the creation of municipal institutions in Lower Canada. He regarded them not only as an essential training ground for self-government, but also as instruments in the policy of anglicizing the French. . . . But important as these features were, they were overshadowed in significance by the three great recommendations of the report—the Union of the Canadas, the grant of responsible government, and the separation of local from imperial affairs.1

Judged by its reception and its immediate results, Durham’s report was a failure. Alone among the parties concerned, the Canadian reformers hailed it with enthusiasm. The Tories of Upper Canada disliked the proposed union and fiercely attacked the idea of responsible government. The Family Compact, stung by Durham’s criticisms, pointed out that he had spent only eleven days in Upper Canada out of his five months’ stay and that his report contained many misconceptions. The French were outraged by the attacks on their race and the revival of a policy of anglicization. Their anger at the report increased their solidarity and showed how mistaken Durham had been in his hope of extinguishing French nationalism. His chief recommendations were either warped or rejected. The British government refused to draw a clear line between local and imperial affairs . . . yet in spite of this failure to implement his proposals, and of Durham’s own errors in judgement and foresight, time was to bring his vindication. The logic of events worked inexorably on the side of his faith in free government, as the basis for harmony, and imperial unity. Durham’s report marks the beginning of the transition from the troubled and precarious second empire to the modern British Commonwealth of Nations.2


2Ibid., pp. 229-230.
Both revolts were put down, but they led to the sending out of a commission of inquiry headed by Lord Durham. He recommended a considerable extension of self-government and also a policy designed to establish English ascendancy and to do away with the special national privileges of the French Canadians. The first of Lord Durham's recommendations was gradually but steadily put into effect and by the middle of the century the principle of responsible self-government was fully established. On the other hand the idea of denationalizing the French proved impracticable and the enforced union of Upper and Lower Canada, which led to nothing but mutual irritation and administrative deadlock, was later repealed.¹

The supreme excellence of the Report, aside from its recommendation of local self-government, consists in the extraordinary penetration of its analysis. Who is there who does not know those classic phrases: "I expected to find a contest between a government and a people: I found two nations warring in the bosom of a single state. I found a struggle not of principles but of races." Englishmen had little in their own experience to enable them to understand the racial situation in Lower Canada, though they could have found it across the Irish Sea, and this failure to understand had been a large part of the trouble. Durham put his finger on the difficulty at once. Further, he described in exact terms the natures of the two struggling civilizations. All the more wonder, then, that he failed so signally to understand one of them. But apparently he was imbedded too far in the individualistic, Protestant commercialism of the time to be able to see virtue in medievalism.²

Durham's Report, submitted early in 1839, insisted upon a complete change in British Colonial policy. The fear of letting the colonies have too much freedom lest this freedom destroy the empire, he argued, was false and dangerous. Trying to hold back the colonies would only


irritate them into wishing to break away, and their people would cease to be British if their British birthright were withheld from them. There was only one way to keep them attached to the mother country, and that was to give them the same liberty to govern themselves as the people at home enjoyed. Instead of a policy of force inspired by fear he demanded a policy of freedom inspired by faith... This was the magic that would bind the empire together. He was the first British statesman to see this fundamental principle, and seeing it he gave the idea to the British world. In this lies the supreme greatness of his report.1

But Burt, the author of the above comment, also recognized Durham's blind spot. In referring to the Report's undemocratic element he stated:

At different times in various lands, races have been assimilated. But this has occurred only when the assimilated people did not possess an old and fixed civilization, or when they were such a small or such a scattered minority that they all came into personal contact with those who absorbed them. Neither of these basic conditions existed in Canada. The French belonged to a civilization as ancient and as established as that of the English. Far from being a small and scattered minority, they were still perhaps a majority in the two Canadas, though Durham seems to have doubted it, and they were already settled in to big and solid a block ever to be broken.2

Perhaps the most concise estimation of the diverse elements of the Durham Report can be summarized in these

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2Ibid., p. 158.
words: "The sections of Lower Canada are decidedly weak. Politically there is fairness, socially and economically there are exaggerations and distorted views."¹

If the Durham Report is to be considered noteworthy because of its contributions to British colonial thought, so must it, at least in part, be considered detrimental to French Canadian culture. Durham's recommendation for responsible government was predicated upon French Anglicization. The Report was a British document with which the French could find little sympathy.

II. STATEMENT OF THE PROBLEM

It was the purpose of this investigation to recount the political and social milieu in which the Durham Report found its genesis. It was likewise the concern of this investigation to give a fuller interpretation of the Durham Report than is implied in most English and Canadian history texts. The Report is understood to have brought responsible government to Canada, seemingly advancing democracy. With respect to the French Canadians, however, its intent was not a furtherance of democracy. The problem was to analyze the extent to which the Durham Report was not democratic and to what extent its main recommendations were not successful.

CHAPTER II

BACKGROUND OF THE DURHAM REPORT

In 1791 the Canadian Government Act divided the province of Quebec into two provinces, Upper Canada and Lower Canada.¹ These two governmental units correspond to the present day districts of Ontario and Quebec respectively. The new constitution provided that each province be presided over by a governor appointed from Great Britain. To aid the Canadian governor of each section was an Executive Council appointed by the governor and meant to act as the Governor's cabinet. In addition, the Act of 1791 provided that the Governor of each province appoint a Legislative Council, who functioned as the upper house of the legislature. This body resembled the English House of Lords, being composed of a colonial nobility.² The lower house of the legislative branch, the Legislative Assembly of each province, was elective but did not have full control of finance.³

I. THE CANADIAN POLITICAL AND SOCIAL BACKGROUND

The Canadian Government Act had split old Quebec along ethnic lines. Lower Canada was predominately French in culture and nationality whereas in Upper Canada the English were in majority.¹ This situation caused much friction, for the English minority in Lower Canada considered itself in, and represented by, a foreign element. At the same time the English majority in Upper Canada was disgruntled that their sea-bound commerce had to pass through a colony dominated by a hostile French culture.²

But complicating the political morass even more, was that in Upper Canada friction occurred between the older settlers and the newer arrivals from England, Ireland, and America. The earlier inhabitants, who had accumulated wealth and position, formed what was called the "Family Compact" in an effort to divide the church lands and to attain more political power.³ In both colonies, the majorities in each Legislative Assembly were becoming disgusted and frustrated at the constant obstruction by the imperial government, personified by the Governor, of their wishes. The colonists,

¹McInnis, op. cit., p. 170.
³Ibid.
especially the French, finally realized that the Legislative Assembly, even though elective, was not effective nor able to function under the appointive thumb of Governor, Executive Council, and Legislative Council doing the will of an imperial government across the Atlantic. They realized that for its government to be truly responsible and representative, they had to have a hand in the election of the Upper House and a responsible leash on the Governor.¹

Such were the general animosities and seeds of rebellion which existed between and within each province. But each colony had its own particular deepseated grievances which were to blossom into revolt by 1837.

II. THE REBELLION IN LOWER CANADA

The basis of agitation in Lower Canada, if a single all-pervading cause may be ascribed to the situation, was the upsetting influence of the Canadian society and economy by the English commercial element. The latter imposed its speculative, mercantilistic energies of commercialism to acquire wealth and political influence upon the rural, manual working French Canadians.² Ever since Wolfe had cap-

¹Eckles and Hale, op. cit., p. 460.
²Brebner, op. cit., p. 211.
tured Quebec in 1759, there persisted between the French and English a distinct breach, and even though common urgencies may have united the two ethnic groups temporarily, the Canadiens achieved substantial unity when their survival as an entity was threatened. The cultural difference permeated every part of the Canadians' life.¹

Economically the two cultures came into conflict; the Roman Catholic tradition of the French seemed to limit their economic activity to rural farming and gradual inheritance of land, while on the other hand, the English tradition of Protestantism encouraged the British trait of fostering all sorts of devices to exploit and commercialize upon the large economic possibilities offered by Canada.²

To the British, being the major possessors of capital and credit, came political office and power in the appointive Executive and Legislative Councils. These powerful British merchants formed an association with officialdom in Lower Canada and by virtue of their position were able to obstruct efforts by the predominately French Assembly to maintain the old culture and true Canadien representation. The English merchants of Montreal, the center of British imperialism and commerce in Lower Canada, praised the Imperial Government

and the Canadian Constitution while condemning democracy as "subversive, revolutionary and despotic."\(^1\)

To Montreal the Great Lakes Basin was a potentially rich region to be economically expanded. The merchants wished to build canals, the Canadiens demurred from it; the Merchants wanted to unite Upper Canada for economic and political reasons, the French wished to maintain their own identity in Lower Canada; the Montrealers wanted to raise revenues for public works through a land tax, the French Canadians refused to confirm it; and the English wished to reap speculative profits in empty lands by increasing immigration, but in this the French saw an effort by the English to overwhelm them.\(^2\)

And so the situation stood—two bickering cultures locked in a political impasse. Then in 1834, Louis Papineau, the fiery Speaker of the Lower Canadian Assembly, sponsored Ninety-two Resolutions which would have modified the Canadian Government Act of 1791.\(^3\) Papineau demanded not only financial control for the Legislative Assembly but also an elected Legislative and Executive Council. This would have given the French majority in Lower Canada a truer representation

\(^1\)Ibid., p. 215.  
\(^2\)Ibid., p. 216.  
\(^3\)Hall and Albion, op. cit., p. 683.
in the then British-minority-controlled upper councils.¹

The Governor had large military funds at his disposal since he was Governor General of British North America. He could also draw upon revenue derived from Church lands or the Crown revenues from territory and customs.² And even though the Assembly had gradually won some control of the provincial exchequer since 1791, there still persisted in the Lower House a sense of frustration that the government could carry on even when the Assembly and Governor were in defiance of each other.³

In 1835, a British Commission under Governor Gosford was appointed to examine the state of Lower Canada, now aroused by Papineau's oratory and the Ninety-two Resolutions.⁴ Afraid that the Commission would be convinced that the French Canadian desires for responsible government were the best alternative, the English minority in Montreal, Quebec and other settlements in Lower Canada organized "Constitutional Associations" in support of the Canadian Government. The French leaders retaliated by arousing their people


²Brebor, op. cit., p. 217.

³Ibid. ⁴Bryce, op. cit., p. 327.
to "support their downtrodden race."\(^1\)

When the Gosford reports were presented to the British Parliament, the ensuing debate, as well as the attitude of King William IV, was most unfavorable to the Lower Canadian demands.\(^2\) Then, early in 1837, Lord John Russell openly rejected the elective Legislative Council demanded by Papineau and the French, and in addition, he authorized the governor to appropriate funds without the consent of the legislature in order to pay the salaries of civil servants which the Assembly had defaulted on since 1832.\(^3\)

When this news reached the French, their infuriation was exemplified by their political news organ, the *Vindicator*. It hotly contested that: "Henceforth, there must be no peace in the Province—no quarter for the plunderers. Agitate! Agitate! Agitate! Destroy the revenue; denounce the oppressors. Everything is lawful when fundamental liberties are in danger."\(^4\)

After the issuance of the Russell proposals, Papineau was prepared to resort to open rebellion to gain his elective and responsible principles. Throughout the summer months of

\(^1\)Ibid.


\(^3\)Brabner, *op. cit.*, p. 220.  

1837 resolutions were adopted against Russell's retort and the furor grew. In order to pacify the angry attitude of Lower Canada, Papineau and the Canadiens were offered seats on the appointive Councils, but the offer came too late and the excitement had grown too high.¹

When the inevitable rebellion came, it was a trifling affair. The agitation burst into armed conflict at St. Denis and St. Charles, northeast of Montreal, the loyalists forces administering defeats to the rebels. Thereafter the conflict was relegated to unsuccessful demonstrations and petty incidents, and the troops which were used during the winter of 1837-1838 were little needed.²

Thus, the Lower Canadian appeal to arms was unsuccessful. Its constitution was suspended, and it was now for the Canadiens to await the arrival and recommendations of Lord Durham.

III. THE REBELLION IN UPPER CANADA

At the same time that trouble was brewing in Lower Canada, similar causes of disturbance were found in Upper Canada. Here, as in the French section, the Executive and Legislative Councils were controlled by a British oligarchy

of wealth and prestige, the Family Compact. The achievement of the Reform Bill of 1832 in England was not lost to the Upper Canadians. The need of reform along more British lines was acutely felt. Proper representation, the control of funds and land reform were foremost in the minds of the scattered British settlers of Upper Canada.¹

As Papineau was the leader of the reform government and nationalistic spirit in Lower Canada, the chief agitator of responsible government in the upper province was William Lyon Mackenzie, along with the more moderate Robert Baldwin. A head-on clash between Mackenzie and Governor Francis Bond Head was the immediate cause for the revolt there.²

Governor Head, appointed in 1836, was an uncompromising megalomaniac, believing that he alone must, and could, eradicate the republican ferment against the existing imperial system.³ When Head attempted to exercise his independent authority, he ran into severe opposition not only with the radical reformers but also with his moderate advisors. The legislature of Upper Canada went so far as to deny funds to the Governor. But this was of little concern to Head for he

¹Mc Innis, op. cit., p. 208.
²Brubner, op. cit., p. 238.
³Ibid.
simply dissolved the assembly and suspended all government payments. The new Governor further aggravated the situation by meeting an existing recession by ordering the banks to pay in specie which meant the calling in of their loans.¹ He then threw himself into the election of 1836 in order to return an Assembly favorable to his aims.²

In the election Head used intimidation, monetary inducements and warnings of invasion from the U. S. to stimulate the successful return of loyalists.³ With the subsequent defeat in the election, the radicals now despaired of constitutional means of reform. In addition to the electoral defeat of 1836, came the news from England of Parliament's opposition to a responsible form of government for Canada based upon Governor Gosford's Commission of Inquiry into Lower Canadian affairs. This position was reinforced by the Ten Resolutions of Russell in March, 1837.⁴

Mackenzie, one of the defeated aspiring reformers in the election of 1836, became greatly exasperated at the government's stubborn course and excited by the agitation of

¹Mc Innis, op. cit., p. 221.
²Ibid.
³Ibid.
⁴Ibid.
the Canadian radicals. He revived his old newspaper under the new name of the Constitution, and stirred up the province against the Governor, advocating a provisional government.

The rising of Lower Canada in late November, 1837, incited the Upper Province to the use of force. On December 7, Mackenzie attempted to capture Toronto with a feeble force, but he was defeated in a brief skirmish with loyalist volunteers. Mackenzie then fled to the United States in an effort to organize forces to continue the Rebellion, but his meager efforts in this respect were cut short by his arrest by New York State authorities.

IV. THE APPOINTMENT AND MISSION OF DURHAM

Even though the radical-led Canadian Rebellion of 1837 was a military fiasco due to lack of majority support, the demand for constitutional reform persisted. The would-be revolution did succeed, however, in making the Imperial

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2. Bryce, op. cit., p. 337.
5. Mc Innis, op. cit., p. 223.
Government more attentive and sensitive to the need of its restive American colonies. A second look had to be taken at the existing colonial policy and some readjustment had to be formulated to save a seemingly deteriorating empire.¹

The far-away colony of Canada became the center of popular and governmental concern. The English were presented with reports of corrupt Canadian administration and of exaggerated sanguine revolt.² The voice of public propaganda was augmented by the agitation of such prominent British liberals as Hume, Roebuck, and Mill, whose defense of the Canadian rebels found interested listeners in government.³

Something had to be done not only to remedy the Canadian situation and to re-evaluate a colonial policy of simple loyalty or disloyalty, but also to soothe voices of domestic protest concerning them. In order to preserve his already unstable Whig ministry against the attacks of the Tories, and to placate the radicals, the Prime Minister, Lord Melbourne, approached Lord Durham to deal with the Canadian situation.⁴

¹Gillis, op. cit., p. 151.
²Ibid., p. 150.
³Ibid.
⁴Mc Innis, op. cit., p. 224.
John George Lambton, the Earl of Durham, was a popular and eminent Whig personality who could command the needed interest for the intended task. This ceremonious aristocrat had just returned from a diplomatic mission to Russia; and his radical views had won for him the nickname of "Radical Jack" for the major part he played in bringing to fruition the Reform Bill of 1832. However, Durham's views were sometimes a little too radical for most of the Whigs. And although he was given the mission to Canada because of his reputation as a political analyst and because his appointment offered a liberal, unorthodox settlement of the Canadian question, the circumstances also served to remove the outspoken Lord from the English political forum.

In 1838, the warship Hastings departed from London. On board the vessel was the Earl of Durham with a large entourage which included an orchestra as well as his silver plate and racing trophies. He was determined to conduct a systematic investigation of Canadian affairs with justice and magnificence.

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4. Ibid.
Lord Durham remained in Canada only five months. However, this was long enough for him and his secretaries to formulate various opinions, ideas and factual material into his Report on the Affairs of British North America. Upon receiving his commission from the colonial office, he was given the title of "Governor-in-Chief of all British North American Provinces including New Foundland, and commissioner for special purposes in Upper and Lower Canada."¹

As his commission expressed it, Lord Durham was "Commissioner for special purposes," meaning that it was upon his shoulders to settle the long dispute and seething animosities of the Canadas. He had been originally chosen for the task because he was a person who offered a hopeful settlement for the North American colonies. Being a leading figure in the creation of the Reform Bill of 1832 he wished to see the popular rights inherent in it carried to the colonial English in some way.²

Durham understood what his primary duty was, and that it was formidable. In a dispatch dated August 9, 1838, to Lord Glenelg, the Colonial Secretary, he expressed his anxiety and hope:

¹Hall and Albion, op. cit., p. 682.
²Dietz, op. cit., p. 527.
My Lord,

The information which my residence here has enabled me to obtain as to the condition of the two Canadas is of such a nature as to make me doubt whether, if I had been fully aware of the real state of affairs in this part of the world, any considerations would have induced me to undertake so very a difficult a task as is involved in my mission. I do not, however, wish it to be understood that I consider success impossible. On the contrary, I indulge in a hope that if the difficulties and dangers that are now so apparent to me are appreciated by Her Majesty's Government, so as to lead to their adoption of measures sufficiently comprehensive and decided to meet the emergency, the objects of my mission may be accomplished. My sole purpose, therefore, in advertizing to circumstances which threaten a different result is to impress upon you Lordship my own conviction, which has been formed by persons in England can hardly conceive the disorder or disorganization which, to the careful inquirer on the spot, is manifest in all things pertaining to Government in these colonies.¹

With respect to his estimation of the momentousness of his task in Canada and the imperial support which he thought was his, Durham wrote in the same dispatch to Glenelg:

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. . . . I must, however, conclude by assuring you Lordship, that whatever hopes I entertain of the future depend altogether on the supposition that Her Majesty's Government and Parliament will not shrink from the adoption of permanent measures of remedy and prevention, proportioned to the greatness of the difficulties with which I have yet to contend, and will sanction such measures as will effectually provide for the abstraction of all legislation on British interests from the control of a French majority. I am of the opinion that this great
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object can be legitimately effected without violence to Canadian rights, and in strict accordance with the soundest principles of constitutional government.¹

But whatever were Durham's plans for the future and whatever were those recommendations he soon was to present to the colonial office, he was also confronted with maintaining rule for the present. It was this problem which eventually led him to cut short his commission and to resign.

Upon his arrival in May, 1838, at the Chateau St. Louis in Quebec, his base of operations, he found the Provinces in a state of sullen restlessness. The prisons were full of rebels and the Assembly of Lower Canada had been suspended earlier in 1838, never to meet again.²

V. THE DISMISSAL OF DURHAM

Lord Durham had a seemingly vast, if vague, commission, and he had the powers of the abrogated Lower Assembly. However, he could not condemn those persons accused of treason without a court trial. But, in order to avoid irritating the racial animosities existing between the French and English in Lower Canada, which were present even in the judicial system, he first banished, without trial, eight of the leading

¹Ibid., 331.
²Wrong, op. cit., pp. 297-298.
captive rebels to Bermuda, over which he had no jurisdiction.\(^1\)

He stipulated that if they returned to Canada they would be subject to the death penalty. Likewise, a summary execution was laid upon sixteen other rebels who had avoided capture by fleeing to the United States, including Papineau and Mackenzie.\(^2\)

Thinking that he had skillfully ended the immediate problem of rule, the consumptive and ailing Durham diligently set about to gather information to supplement his intended report. However, when news of his dictatorial action with respect to the prisoners reached England, his political enemies brought pressure to bear upon the shaky ministry of Lord Melbourne.\(^3\) As a result, Melbourne disallowed Durham's previous decrees. The Prime Minister could have supported Durham in his action, but he was uncertain of needed partisan support. Melbourne also had a small axe to grind in that Durham had taken as secretaries Gibbon Wakefield and Thomas Turton, both of whom he disapproved.\(^4\) Both Turton and Wakefield had a "past," which Melbourne feared would not only injure Durham's mission but also his Ministry. Turton

\(^1\)Ibid., p. 299. \(^2\)Ibid. \(^3\)Ibid. \(^4\)Wrong, op. cit., pp. 297-298.
was involved in a scandalous divorce case which caused a sensation in English society. Also Durham had selected Turton without consulting either the Prime Minister or the Colonial Secretary. When Melbourne protested the selection of Turton as legal advisor, Durham dismissed his plea in a high-handed manner.¹

Gibbon Wakefield had lost his reputation for similar reasons as Turton. He eloped with Eliza Pattle after duping her two uncles and quickly managed to lose her fortune. After Eliza died, Wakefield, in 1826, induced the young girl of a wealthy manufacturer to leave boarding school and contract a nominal marriage with him. He told her that it had been suggested by her father's solicitor as the only means of saving her father from financial ruin.² However, this scheme proved unprofitable, for Wakefield was arrested and sentenced to three years imprisonment and the marriage was dissolved by a special act of Parliament.³

The Governor-in-Chief of all British North America was not even officially notified that he had been replaced. Instead he found out second hand from a New York paper when

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²Ibid., p. 367. ³Ibid.
he returned from one of his fact finding forays.\textsuperscript{1} Outraged, Durham resigned on November 1, 1838, and returned to England (on a vessel ironically named the \textit{Inconstant})\textsuperscript{2} to complete that report on the affairs of Canada which has won him his place in history.\textsuperscript{3}

At the outset, the problems of Canada appeared to be political, and the Durham Report is fundamentally a political document.\textsuperscript{4} But Durham was an astute politician, realizing that politics does not function in the abstract but has its basis in everyday personal and social circumstances. Therefore, he attempted to seek out those circumstances which were disturbing the Canadas.\textsuperscript{5} In his report he said, "I soon became satisfied that I must search in the very composition of society and in the fundamental institutions of government for the causes of the constant and extensive disorder which I witnessed."\textsuperscript{6}

Although he was Governor General of all British North American Colonies, the primary object of Durham's mission

\begin{itemize}
\item[\textsuperscript{1}]Wrong, \textit{op. cit.}, p. 300.
\item[\textsuperscript{2}]Raddall, \textit{op. cit.}, p. 405.
\item[\textsuperscript{3}]Wrong, \textit{op. cit.}, p. 300.
\item[\textsuperscript{4}]Gillis, \textit{op. cit.}, pp. 155-156.
\item[\textsuperscript{5}]\textit{Ibid.}
\item[\textsuperscript{6}]Lucas, \textit{op. cit.}, II, 14.
\end{itemize}
was to adjust the outstanding problems of Lower and Upper Canada, "respecting the form and future Government" of these two provinces.\(^1\) Of the five months spent in Canada, Durham spent all but eleven days in Lower Canada. The other eleven were devoted to the Upper Province and he only interviewed delegates from Nova Scotia, New Brunswick and Prince Edward Island.\(^2\)

\(^1\)Ibid., I, 114.

\(^2\)Ibid.
CHAPTER III

ASPECTS OF THE REPORT

The scope of the Report may be said to deal in detail with Upper and Lower Canada but with suggestions applicable to the rest of British North America and to the other parts of the world which had been colonized by British citizens. It was a special report on the two Canadas, but also a general essay on how to best adjust the relations of Great Britain and her Colonies. 1

I. PREPARATION

Most historians have long recognized that The Report on the Affairs of British North America was Durham's crowning achievement. However, historical gossip often regards one of Durham's secretaries as its chief author. But evidence for this rumor is inconclusive. Charles Buller in an issue of the Edinburgh Review actually denounced as a "groundless assertion" the charge that Durham did not write the Report. 2 And while Gibbon Wakefield made no outright renunciation, never did he claim to be the author. 3

1 Lucas, op. cit., II, 14.
3 Ibid.
Besides, Durham was, according to his biographer, "too honest to accept praise for other men's work and too haughty to sign his name to other men's opinions." Whether Durham personally created every line or not is unimportant. Durham himself stated that Bulle, Wakefield, Turton, and lesser men had gathered information for the Report, and, as Dr. Kingsford, the author of History of Canada, remarked, "No public man can individually perform all the obligations of his office. It might as well be said that the general must alone fight the battle."  

Upon the completion of the Report, proof-sheets of it were first submitted to the members of the Cabinet on January 31, 1839. It was officially presented to the Colonial Office on February 4. Parliament was to meet on February 5, and Durham was anxious to have his report brought under consideration, but Melbourne said that first it had to be scrutinized by the Ministers.  


2 Reid, op. cit., II, 340-341. The most comprehensive discussion, probably, concerning this matter, is to be found in Lord Durham, by Chester New, pp. 564-76. In it he related the most recent evidence on the authorship of the Report by noted historians and took the view that Durham was the creator of the Report.  

3 New, op. cit., p. 491.
Before Parliament had the Report, a section of it was printed in The Times on February 8, and announced that more would follow. This publication of the Report forced Melbourne's hand, and he told Durham that the whole Report would be presented before the House on the 11th. He said that the Government had no choice but to present it all since the newspapers undoubtedly had a complete copy. ¹

Melbourne realized that parts of the Report were very frank, and there were those in the Government who would suppress it. Therefore, Melbourne was probably pleased when The Times forced his hand. Durham wanted the Report presented in full, and the shaky Melbourne ministry was dependent upon the popular Lord Durham's support. ²

II. MAIN PROPOSALS

The Durham Report contained two main proposals: legislative union of Upper and Lower Canada, and responsible government. Durham recommended that the two provinces should be united, because under existing conditions he considered reunion to be a necessary preliminary to responsible government, and secondly because he considered that reunion would result in a greater and a stronger whole, with more possi-

¹Ibid., p. 492. ²Ibid.
ilities for the future, and further thought that interests
of the inhabitants of both provinces, especially of the French
Canadians, demanded reunion. The form of reunion which he
recommended was union, not federation, and not only political
union, but a complete amalgamation of peoples, races, lan-
guages, and laws. He recommended absolute unity; but a unity
easier to put on paper than to actually carry out. 1

Durham was not an original thinker as concerned
Canada; instead he may be considered the popularizer of old
colonial ideas which were gaining impetus. 2 The reforms and
recommendations which he advocated had long been current in
Canada and other English provinces. His only original idea
was to prove abortive. Upon leaving England he had contem-
plated a federal union, but he changed this view and proposed
a legislative union instead for the Canadas.

On my first arrival in Canada, I was strongly in-
clined to the project of a federal union, and it was
with such a plan in view, that I discussed a general
measure for the government of the Colonies, with depu-
tations from the Lower Provinces, and with various
leading individuals and public bodies in both the
Canadas. 3

1 Lucas, op. cit., I, 124.
2 Donald G. Creighton, Dominion of the North, A History
3 Lucas, op. cit., II, 304.
But the period of gradual transition is past in Lower Canada . . . and now the only efficacious government would be that formed by a legislative union.1

Lord Durham's two main proposals, legislative union and responsible government, were in face the result of an amalgamation of opinions. As D. G. Creighton, the Canadian historian has put it, "The two principal political philosophies of the Canadas are combined and reconciled"2 in the Report.

The Tories of Upper Canada and especially the merchants of Montreal desired the reunion of the two provinces in order to create the St. Lawrence area into a great commercial empire. But they saw the anti-commercial French Canadians as a threat to this aspiration.3 Being a progressive, enlightened Whit, Lord Durham shared the same ideas of material and economic improvement. This led him to accept the commercial view regardless of the wishes of the French and included union as one of his major recommendations.4

His other major proposal, that of responsible govern-

1Ibid., pp. 306-307.
2Creighton, op. cit., p. 247.
3Ibid., p. 248.
4Ibid.
ment, was once again due in large part to a political philosophy current in Upper Canada. It came from the reformers of Toronto, led by Dr. William Baldwin and his son Robert.\(^1\) Just as Durham was so enthusiastic about the democratic operations of cabinet government, the Baldwins also based their colonial ideas on responsible British cabinet techniques.\(^2\) The Baldwins wrote to Durham concerning their ideas for Canadian responsible government and "in all probability Durham was converted by the Baldwins, especially Robert."\(^3\)

Durham's estimate of the French Canadian problem and how it was akin to his recommendation for legislative union will be discussed in detail below. But at present the purpose is to discuss Durham's recommendation for responsible government.

As was pointed out above,\(^4\) the Constitutional Act of 1791 had given to both the Canadas a representative government without responsible government. Durham considered responsible government to be that in which the executive officers would be subordinate to the legislature. He wrote that:

The wisdom of adopting the true principles of repre-

\(^1\)Ibid.  \(^2\)Ibid.  \(^3\)Ibid.  \(^4\)See Chapter II.
sentative government, and facilitating the management of public affairs, by entrusting it to the persons who have the confidence of the representative body, has never been recognized in the government of the North American Colonies. All the officers of government were independent of the Assembly. . . .

To Durham the previous policy of Great Britain was a contradiction for he said, "It is difficult to understand how any English statesman could have imagined that representative and irresponsible government could be successfully combined." By responsible government he meant a political system in which the executive is directly and immediately responsible to the legislature and in which the ministers are members of the legislature and chosen from the majority party of the elected representatives.

He thus advocated a colonial policy based on the British Cabinet system. He wrote:

It needs but to follow out consistently the principles of the British constitution, and introduces into the Government of these great Colonies those provisions, by which alone the working of the representative system can in any country be rendered harmonious and efficient. We are now to consider the policy of establishing representative government in the North American Colonies. . . . 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.

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1 Lucas, op. cit., II, 77.  
2 Ibid., II, 79.  
3 Ibid., p. 278.
Lord Durham was aware that his view of responsible government might be interpreted as granting independence. But he contended that Imperial matters and colonial domestic concerns could be clearly separated. In those of purely colonial concern the colony should no longer be a dependency; and in reference to internal questions the Governor, as the Crown's representative, should act on the advice of the Colonial Cabinet, not on advice given to the Crown by ministers of England.

In explaining responsible colonial government Durham outlined its extent and limitations. He wrote:

I know that it has been argued, that the principles which are productive of harmony and good government in the mother country, are by no means applicable to a colonial dependence. It is said that it is necessary that the administration of a colony should be carried on by a person 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 name 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 thus leave to them the execution of the laws, of which we have long intrusted the making solely to them.¹

Those areas in which the Imperial Government would be supreme and thereby still maintain its connection with the colony were very few according to Durham.

¹Ibid., pp. 280-281.
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. ¹

Durham maintained that such an arrangement would foster the Imperial Connection, and that this connection:

... is certainly not strengthened, but greatly weakened, by a vexatious 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. ²

Sir Charles Lucas in his commentary on the Durham Report pointed out that Lord Durham had an intensely British cast of mind. He noted that even though the Report could be applied to the whole sphere of settlement in the British Empire, its recommendations pertained immediately to a particular set of Provinces in a certain stage of development. Durham saw responsible government a British institution for a British community, and not applicable to non-British communities. Durham saw as a necessary preliminary

¹Ibid., p. 282.
²Ibid.
to self government the subjugation of every element that was not British. With this in mind, one can better understand Durham's proposal to anglicize the French Canadians.

III. THE REPORT AND THE FRENCH CANADIANS

As the recommendations for responsible government would lead a reader to believe, the Durham Report is a democratic document. However, there is a weak link in its construction and that is the portion dealing with the French-Canadians in Lower Canada.

From the outset Durham was suspicious of the French. Charles Buller related that:

He saw what a narrow and mischievous spirit lurked at the bottom of all the acts of the French Canadians, and, whilst he was prepared to do individuals full justice . . . he had made up his mind that no quarter should be shown to the absurd pretensions of race and must aim at making Canada thoroughly British.

Lord Durham himself expressed his opinion of the French in the Report. He believed that:

There can hardly be conceived a nationality more destitute of all that can invigorate and elevate a people, than that which is exhibited by the descendents of the French in Lower Canada owing to their peculiar language and manners. They are a people with no history, and no literature.

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1Lucas, *op. cit.*, I, 310-311.
2Reid, *op. cit.*, II, 166.
3Lucas, *op. cit.*, II, 294.
Durham said that the newspapers were written by French natives brought in by party leaders to add their talent to the political press. As concerned the arts, Durham pointed out that even though the French on the continent successfully cultivated the drama, "the French of Lower Canada, cut off from every people that speak its own language, can support no national stage."¹

The French, said Durham:

... cling to ancient prejudices, ancient customs, and ancient laws, not from any strong sense of their beneficial effects, but with the unreasoning tenacity of an uneducated and unprogressive people.²

And that they,

... remain an old and stationary society, in a new and progressive world. In all essentials they are still French; but French in every respect, dissimilar to the French in the present day. They resemble the French of the provinces under the old regime.³

To Durham, the problem of Responsible Government and the French of Lower Canada were closely intertwined. In order to bring good government to Canada the social dilemma of English vs. French had to be rectified. On his arrival in Canada he said he expected to find:

... a contest between government and a people; I found

¹Ibid., p. 295.  ²Ibid., p. 30.  ³Ibid., p. 31.
two nations warring in the bosom of a single state; I found a struggle not of principles, but of races, and I perceived that it would be idle to attempt any amelioration of laws or institutions until we could first succeed in terminating the deadly animosity that now separates the inhabitants of Lower Canada into the hostile divisions of French and English.¹

When Durham arrived in Quebec, Lower Canada was ruled by martial law. Although the rebellion was crushed, it left behind bitter memories and had not relieved the distrust amongst the French and English. In his Report Durham reminded the Colonial Office that:

The French population, who had for some time exercised a great and increasing power through the medium of the House Assembly, found their hopes unexpectedly prostrated in the dust . . . removed from all actual share in the government of their country, they brood in sullen silence over the memory of their fallen countrymen, their burnt villages, their ruined property, their extinguished ascendancy, and their humbled nationality.²

Nor had the French given up the hope that Papineau would return at the head of an army to re-establish La Nation Canadienne.³

The English of Lower Canada realized that the unsuccessful rebellion had solved nothing. They attributed the whole racial trouble to the Imperial Government. It had

¹Ibid., p. 16.
²Reid, op. cit., p. 317.
³Lucas, op. cit., p. 58.
followed a policy of ignorance which only fostered the "mischiefous pretensions of French nationality." The English would look upon any clemency or justice to the French with jealousy. Durham commented that the English minority would never again allow themselves to be placed at the mercy of the French majority, and "if the Mother Country forgets what is due to loyal and enterprising men of her own race, they must protect themselves." They asserted that "Lower Canada must be English, at the expense, if necessary, of not being British."

Durham was in complete agreement with the British Canadians. He saw Canada as a preserve of the Anglo-Saxon race and imagined that only Britishers were capable of developing it. He noted that:

It will be acknowledged by everyone who has observed the progress of Anglo-Saxon colonization in America that, sooner or later the English race was sure to predominate, even numerically, in Lower Canada, as they predominate already by their superior knowledge, energy, enterprise, and wealth. The error, therefore, to which the present contest must be attributed is the vain endeavor to preserve a French Canadian nationality in the midst of Anglo-American Colonies and States.

After recommending Responsible Government, Durham pointed out that this would be useless unless the race prob-

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1Reid, op. cit., p. 319.  
2Ibid., p. 320.  
3Ibid.  
4Lucas, op. cit., p. 70.
lems were settled in Lower Canada, and in accord with British interests.

The fatal feud of origin would be aggravated by any change at the moment which would give the majority more power than they have hitherto possessed. A plan must be proposed that would both ensure tranquil government of Lower Canada and put an end to the agitation and set the national character of the Province forever. I entertain no doubts that the national character of Lower Canada must be that of the British Empire. It must be henceforth the first and steady purpose of the British Government to establish an English population; with English laws and language in the Province and trust its government to none but a decidedly English Legislature.¹

Durham advocated the anglicization of the French Canadians. He saw them as an obstacle to British progress. He would admit that at that time the French were in the overwhelming majority in Lower Canada, but what of the future? He reasoned that:

The pretensions of the French Canadians to the exclusive possession of Lower Canada, would debar the yet larger English population of Upper Canada and the townships from access to the great natural channel of that trade which they alone have created, and now carry on. The possession of the mouth of the St. Lawrence concerns not only those who happen to have made their settlements along the narrow line which borders it, but all who now dwell, or will hereafter dwell, in the great basin of the river.²

Durham saw Canada ripe for colonization and saw it filled with immigrants from the British Isles, yearly in-

¹Ibid., p. 288. ²Ibid., p. 289-290.
creasing its numerical superiority over the French. In this light he asked:

Is it just that the property of this great majority and of this vast tract of country . . . be impeded by the artificial bar which the backward laws and civilization of a part, and only a part, of Lower Canada, would place between them and the ocean? Is it to be supposed that such an English population will ever submit to such a sacrifice of its interests?\(^1\)

Having great faith in the "marked activity of colonization" of the British, Durham was sure that his race would predominate if English immigration was not checked. If this was true (he wrote):

... it is but a question of time and mode; it is but to determine whether the small number of French who now inhabit Lower Canada shall be made English, under a Government which can protect them, or whether the process shall be delayed until a much larger number shall have to undergo, at the hands of its uncontrolled rivals, the extinction of a nationality strengthened and embittered by continuance.\(^2\)

To Durham then this was the time to begin anglicization.

But the reference to "the small number of French who now inhabit Lower Canada" is misleading. Durham himself in the Report comments that the French had increased sevenfold since 1759. This would bring their number to over four-hundred thousand, while at the same time, the population of Upper Canada was nearly the same.\(^3\)

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1\(^{\text{Ibid.}}, p. 290.\)  2\(^{\text{Ibid.}}, p. 292.\)  3\(^{\text{Ibid.}}, p. 307.\)
Besides the numerical superiority of future British immigration Lord Durham advocated French anglicization because he thought them to be hopelessly inferior. He even said that the English had "the decided superiority of intelligence on their side." Durham saw the French as an oddity in North America, "the language, the laws, the character of the North American Continent are English; and every race but the English appears there in a condition of inferiority." But he would do the French a favor, for "It is to elevate them from that inferiority that I desire to give the Canadians our English character." He would free the French from their "present state of rude and equal plenty" which they had so long enjoyed and endeavored to preserve. Not only the "humbler classes" did he hope to help but also the educated French, "whom the distinction of language and manners keeps apart from the great Empire to which they belong." However, to many French it was an Empire to which they only nominally belonged.

The difference of language was most important to Durham. He saw it as a constant invitation to racial strife, "and from the start kept them (the two races) asunder."

\[\text{\textsuperscript{1}Tbid., p. 291.}\] \[\text{\textsuperscript{2}Tbid., p. 292.}\] \[\text{\textsuperscript{3}Tbid.}\] \[\text{\textsuperscript{4}Tbid.}\] \[\text{\textsuperscript{5}Tbid., p. 38.}\]
The difference of language produces misconceptions yet more fatal even than those which it occasions with respect to opinions; it aggravates the national animosities, by representing all the events of the day in utterly different lights.\(^1\)

Durham realized that the French language could not be abolished in a short time in Canada. But he was adamant that it must be proscribed if the French were ever to become part of the Empire. He said:

\[\ldots\text{justice and policy alike require that, while people continue to use the French language, their government should take no such means to force the English language upon them as would, in fact deprive the great mass of the community of the protection of the laws. But I repeat that the alternation of the character of the province ought to be immediately entered on and firmly, though cautiously, followed up.}\(^2\)

In Durham’s mind there was but one way to make Lower Canada part of that Great Empire—make it English. With words that ring with determination he wrote:

\[\ldots\text{in any plan which may be adopted for the future management of Lower Canada, the first objective ought to be that of making it an English Province; and that, with this end in view, the ascendancy should never again be placed in any hands but those of an English population. Indeed, at the present moment this is obviously necessary: in the state of mind in which I have described the French Canadian population as not only now, but as likely for a long while to remain, the trusting them with an entire control over this province, would be, in fact, only facilitating a rebellion. Lower Canada must be governed now, as it must be hereafter, by an English population: and thus the policy which the necessities of the moment force on us, is in accordance}\]

\(^1\text{Ibid., p. 40.}\)\(^2\text{Ibid., p. 296.}\)
with that suggested by a comprehensive view of the future and permanent improvement of the Province.\(^1\)

In addition to Durham's British patriotism and disgust with what he thought to be French inferiority, the motive of practical politics influenced him to place the French Canadians in a minority. Two days after he departed from Canada, a second rebellion broke out in Lower Canada.\(^2\) Sir John Colborne quelled the insurrection immediately, but the Melbourne government and British electorate were shocked at the hostile spirit of the French Canadians against whom they had long been prejudiced.\(^3\)

Durham intended to sell his concept of Responsible Government to the British Ministry through a system of federation of all the Canadian Provinces. However, he saw that the new rebellion had caused too much unrest in the minds of the Government to create a legislature controlled by the French of Lower Canada.\(^4\)

Melbourne himself made Durham's course clear, for he said:

> We cannot suffer the French to govern or to have much influence in Canada again, and they being the majority in Lower Canada, this will make it difficult to establish anything like a popular government. . . . It is laid down by all as a fundamental principle that the French must not be reinstated in power in Lower Canada.\(^5\)

\(^1\)Ibid. \(^2\)New, op. cit., p. 469. \(^3\)Ibid., p. 490. 
\(^4\)Ibid. \(^5\)Ibid.
For Durham to propose a federal scheme in which the French Canadians were again a united and organized political entity, would have brought disrepute on his main proposal of responsible government. In order to salvage responsible government, Lord Durham recommended the legislative union of Upper and Lower Canada, not a federal union.¹

Evidencing these racial prejudices and political opinions, he wrote in the Report:

The only power that can be effectual at once in coercing the present disaffection, and hereafter obliterating the nationality of the French Canadians, is that of a numerical majority of a loyal and English population; and the only stable government will be one more popular than any that has hitherto existed in the North American Colonies.²

Lord Durham had thought that a federation of all the Provinces would gradually become a complete legislative union. He hoped that it might conciliate the French, "by leaving them the government of their own Province and their own internal legislation," while providing for the "protection of British interests by the general government, and for the gradual transition of the Provinces into an united and homogenous community."³

But there was not time for such a scheme. He wrote

¹Ibid.
²Lucas, op. cit., p. 299.
³Ibid., p. 305.
that the period for gradual transition was past; that any power which the French possessed in a federal government would be used against the "policy and the very existence of any form of British government." And he emphasized once again that "tranquility can only be restored by subjecting the Province to the vigorous rule of an English majority; and that the only efficacious government would be that formed by a legislative union."2

The problem that Durham thus faced was to create a form of government that would both form the basis of Responsible Government and obliterate the French. He reasoned that:

... if the population of Upper Canada is rightly estimated at 400,000 the English inhabitants of Lower Canada at 150,000 and the French at 450,000 the union of the two provinces would not only give a clear English majority, but one which would be increased every year by the influence of English emigration.3

And once the French had been placed in the minority, he thought, they would eventually "abandon their vain hopes of nationality."4

Thus by a process of Imperial gerrymandering Durham attempted to dictate the national character of Lower Canada.

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1Ibid., p. 306.  
2Ibid.  
3Ibid., p. 307.  
4Ibid.
Some of the deficiencies which Durham thought the French were suffering from may have been true. But if he had learned to know the French better he would have realized that they could not be easily anglicized and the pride of their distinct social institutions would outlast many an assault, even to the present day.¹

CHAPTER IV

POST REPORT: 1840-1860

I. THE UNION ACT AND DURHAM REPORT

The outstanding purpose of Durham's mission was to solve Canada's chronic political and social ills; to lay the basis for a new system of government after the rebellions. Durham, however, could only recommend. It was up to Parliament to adopt and to implement his report the way it saw fit. Accordingly, this was done by the Union Act of 1840. But the Union Act fell far short of what Durham sketched out, and in places was in direct opposition to his scheme.

The Union Act created one legislature in which both sections were given equal representation of forty-two members each. In addition, Upper Canada and Lower Canada became known as Canada West and Canada East respectively. French was proscribed as an official language and Canada East was forced to share the heavy debt of Canada West.\(^1\)

\(^1\)Wrong, op. cit., p. 306.

\(^2\)Mc Innis, op. cit., p. 234.
Upper Canada had a debt of £1,200,000 while Lower Canada was considered solvent with a £95,000 debt.\textsuperscript{1}

As has been noted, Durham was adverse to simply joining the two legislatures. He advocated complete amalgamation based on population. He thought that the English element in Canada East would naturally vote with their British brethren of Canada West. This would be enough to give the English in Canada a working majority to control the legislature. This majority would be constantly increased through immigration, as time passed, the French would find themselves a lesser minority, forced to function in a British political atmosphere. However, the Union Act provided differently. Representation in the new legislature was not to be based on population but on equal representation. This amounted to federation which Durham had discarded. He thought it would have once again made the French a distinct political and racial entity to disrupt British interests and could prolong French assimilation.

However, Durham looked too hard at the issues of race. Not long after Union the French formed political alliances with some of the British reformers of Canada West. The

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\textsuperscript{1}Brebner, \textit{op. cit.}, p. 261.
Kennedy, op. cit., p. 279.

Sprenger, op. cit., p. 226.

Iower, op. cit., p. 253.

The union would be followed by the opposition of a majority of both sections that subsequently faced into conservative-Republican and Unionist stability and the necessity to maintain their cultural integrity worked to bring about responsible government and representational equality.
ative and radical.\textsuperscript{1} But the French, whether conservative or radical, were always cognizant of their language, laws, and customs and attempted to maintain their ethnic identity within the Union.

The persistence of French dissidence to the Union Act can be traced throughout the history of the Canadian Legislative Assembly. The Canadian \textit{Legislative Journals} offer a running commentary of attempts to alter the Union Act of 1840. The French thought the unilingual provision of the Act insufferable and fought to establish French on the same legal basis as English. Secondly, the \textit{Canadiens} looked upon the legislative union itself as an attempt at political genocide; a union which was illegally accomplished and forced upon them. Lastly, the French resisted the provisions for equal representation until about 1850. At that time the population factor turned in favor of Canada West. Then the \textit{Canadiens} demurred from agitation on this point.

Durham had written that the French must be assimilated. A means to this end was to be the proscription of their language. Even though not all of Durham's recommendations were heeded, this particular suggestion was incorporated within the Union Act.

\textsuperscript{1}Brabner, \textit{op. cit.}, pp. 263-264.
II. RESISTANCE TO THE SOLE USE OF ENGLISH

Durham's efforts to anglicize the French Canadians penetrated to the very roots of their civilization. He saw the language difference as a wedge in Canadian society, depriving Canada of racial uniformity. Furthermore, he thought the French language used in Canada destitute of any literary quality and if the French were to be assimilated, the substitution of English was essential. However, Durham realized that to substitute English for the French language would be a long and arduous task. Durham recommended that the English language should not be forced upon the Canadiens, which would deprive that community of its basic rights. But he nevertheless maintained that anglicization of Lower Canada must be immediately begun. And for anglicization to be successful and thorough, the French language had to be gradually extinguished.

When the Union Act was passed, it contained provisions to implement the policy of lingual anglicization which Durham recommended. This principle prevailed in Section 41 of the Act which declared:

That all writs, proclamations, instruments for summoning and calling together the Legislative Council and Legislative Assembly of the Province of Canada, and for proroguing and dissolving the same; and all writs of Summons and Election; and all writs and public instruments what-
soever relating to the said Legislative Council and Legislative Assembly or either of them, and all returns to such writs and instruments; and all journals and entries, and written and printed proceedings, of what nature soever, of the said Legislative Council and Legislative Assembly, and of each of them respectively; and all written or printed proceedings and reports of Committees of the said Legislative Council and Legislative Assembly, respectively shall be in the English language only.\(^1\)

The Re-union Act followed Durham's Recommendation in that it made no outright total abrogation of the use of French, but its language provision did attempt to make inroads against its use. The Union Act provided that English was to be the official governmental language. All government papers, reports and records were to be kept in English, although French or English was allowed to be used in debate.\(^2\)

Perhaps no part of the constitution of 1840 gave greater offense to the Canadiens and even further united them than Section 41. In it they quickly saw Durham's policy to denationalize their province.\(^3\) By an analysis of the Legislative Journals of Canada, it is possible to follow the resistance to the sole use of English as proposed in the Union Act.

\(^1\) The Assembly of the Province of Canada, Journals of the Legislative Assembly of the Province of Canada (Toronto: Hullo Campbell, 1845), IV, 91. Hereafter cited as Legislative Journals.


On December 20, 1844, Mr. Papineau, a member of the Legislative Assembly, from Canada East, proposed a resolution, seconded by Assemblyman Moffatt. This resolution was the basis of an address to Queen Victoria to repeal the unilingual law. It stated that the Queen's attention should be drawn to the fact that French was the native language of a great many of her subjects; that it was the language of their laws and prayers, and it pointed out that the two languages had enjoyed equal stature before the Re-union. The resolution continued that during the first session of the new Parliament it was necessary to translate every public document into French and the same necessity prevailed in the court system; that the language distinction was of dubious value and in fact gave injury to the French subjects and which they construed as a racial affront.  

After the presentation of this motion before the Assembly, it was ordered that the consideration of the resolution to the queen be postponed until a later date. However, at the same time, it was likewise ordered that five hundred copies of the motion be printed in both English and French for the use of the House members.  

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1*Legislative Journals*, IV, 91.
2Ibid.
By this latter order it would seem that the resolution of Mr. Papineau was a bit anti-climatic, for the Union Act laid down the principle that all "written and printed proceedings of what nature soever" of the Legislative Assembly be in English. According to the Constitution, the order to print the resolution in both languages would be in direct violation of the Union Act, Section 41. But, as was pointed out in the resolution for bilingualism, it was necessary from the very beginning to translate such records into French as well as English. Therefore, the point of importance was not only to legalize such action but also to mollify French antagonisms to this lingual discrimination, which incidently, L. H. LaFontaine successfully defied in 1842.1

On January 31, 1845, the Legislative Assembly again took under consideration the Address to repeal Section 41 of the Union Act. After it was read again, the question of concurrence was put, and the Legislative Assembly unanimously agreed to it. It was then resolved that a committee of Misters Papineau, Smith, Moffatt, LaFontaine, and Morin be appointed to prepare and report the draft of the address to the Queen concerning the resolution for bilingualism, based on Mr. Papineau's motion.2

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1Brebner, op. cit., p. 265.
2Legislative Journals, IV, 223-224.
By February 21, 1845, the committee had completed its work. On that day Papineau presented to the House the address prepared by the committee. The Address to Her Majesty was read once again by the Clerk of the House, and it was agreed to by the Assembly.¹

The address prepared by the appointed committee embodied practically verbatim the motion of Papineau. The Address of the Legislative Assembly read as follows:

To The Queen's Most Excellent Majesty

Most Gracious Sovereign,

We, Your Majesty's dutiful and loyal subjects, the Commons of Canada, in Provincial Parliament assembled, most humbly beg leave to approach Your Majesty, for the purpose of renewing the expression of our faithful attachment to Your Majesty's Person and Government, and of representing, —

That sensible of the advantages we enjoy from Your Majesty's care and protection, which this House trusts may long be continued to us under Your Majesty's parental sway, it is, at all times, the duty of this House to submit for Your Majesty's most gracious consideration such matters as may have a tendency, with any class of Your Majesty's subjects, to diminish that contentment which, this House is well assured, Your Majesty desires should exist in every portion of your dominions.

Representing, that the French is the native language of a very large class of Your Majesty's subjects in this Province; of this class the great mass indeed speak no other language. In it the largest portion of their laws and the books on their system of jurisprudence are written; their daily intercourse with each other is conducted; it is the language in which alone they can invoke

¹Ibid., p. 289.
the blessings of Heaven on themselves and all that is
dear to them. A language indispensable to so many of
Your Majesty's faithful People, cannot, they will be-
lieve, be viewed by their Sovereign as foreign, when
used by them.

That Your Majesty's Royal predecessors placed the language
spoken by the two great classes of Your Majesty's sub-
jects in this Province, on the same footing; affording,
in this respect, equal justice and facility to all.

That this principle was never departed from until the
Act reuniting these Provinces was passed.

That this House do not question that the best intentions
and designs influenced the minds of those who enacted
the provision which declared: __________

"That all writs, proclamations, instruments for summoning
and calling together the Legislative Council and Legis-
lative Assembly of the Provinces of Canada, and for pro-
roguing and dissolving the same; and all writs of Sum-
mons and Election and all writs and public instruments
whatever relating to the said Legislative Council and
Legislative Assembly or either of them, and all returns
to such writs and instruments; and all journals and
entries, and written and printed proceedings, of what
nature soever, of the said Legislative Council and
Legislative Assembly, and of each of them respectively;
and all written or printed proceedings and reports of
Committees of the said Legislative Council and Legis-
lative Assembly, respectively, shall be in the English
language only."

But, that in the very first Session of the Legislature
under the Act, it was indispensable to translate into
French every public record and document. That the de-
bates were not and could not, unless a portion of the
Representatives of the People were silenced, be carried
on without its use; that in Courts and judicial proceed-
ings it was found equally necessary as before the Union,
and for every other practical purpose, it is as much
used as it ever has been.

That the only distinction which exists then, is, that the
French is not permitted to be the legal language of
Parliamentary records; a distinction of little value per-
haps in itself, one which cannot produce any beneficial result of the feelings or habits of the People using it; while it gives rise to a feeling among them injurious to the peace and tranquility of the Province, namely, that this limited proscription of their language conveys, however undesignedly, the imputation of unfavorable distinction towards themselves.

That desirous that the hearts of all men in this Province may be joined in unity, in their attachment to and support of Your Majesty's Person and Government, this House humbly pray Your Majesty to endeavor to remove this cause of discontent and to recommend to the Imperial Parliament the repeal of that portion of the law which has given rise to it; assuring Your Majesty's loyal Canadian people, as an additional mark of Your Majesty's solicitude for their welfare.\(^1\)

It was then ordered that the Address be engrossed and also resolved that Mr. Papineau take the address to the Upper House of the Legislature, the Legislative Council, for its concurrence.\(^2\) On February 25, 1845, the Council concurred in the address and it was adopted. It was then ordered that the following address be presented to Governor General Metcalfe:

May it Please Your Excellency,
We, Her Majesty's dutiful and loyal subjects, the Legislative Council of Canada, in Provincial Parliament assembled, beg leave to approach Your Excellency with our respectful request that you will be pleased to transmit our joint Address on the subject of the French language, in such way as Your Excellency may deem fit, in order that the same may be laid at the foot of the Throne.\(^3\)

\(^1\)Ibid., pp. 289-290.  
\(^2\)Ibid.  
\(^3\)Legislative Council of the Province of Canada, Journals of the Legislative Council of the Province of Canada (Toronto: Rollo Campbell, 1845), IV, 116.
On Tuesday, March 4th, 1845, the Governor General made the following answer to the Canadian Legislature concerning their request:

I will not fail to transmit your joint Address to Her Majesty's Secretary of State, to be laid at the foot of the Throne for Her Majesty's gracious consideration.¹

Since the Address involved a change in the Canadian Constitution it was an Imperial question. Even though the Governor agreed to transmit the message, there was no guarantee that it would be immediately acted upon in England. And as the Canadian Legislative Journals indicate, it was some time before the Address for bilingualism was considered.

In a dispatch dated February 3rd, 1846, nearly a year after Governor Metcalfe agreed to send the Address, Downing Street replied as follows to the new Governor General, Earl Cathart:

My Lord,

I have laid before the Queen the joint Address of the Legislative Council and Assembly of Canada, on the subject of the alternation of the Act for the Re-Union of Canada, so far as respects the use of the French Language.

I have also laid before the Queen your Despatch of the 8th of March, 1845, No. 287, which transmits the above Address.

From regard to the wishes thus expressed by Her loyal subjects, Her Majesty is inclined to entertain the prayer of that Address, and authorize you to make a

¹Ibid.
communication accordingly to the Legislative Bodies at
the opening of the Session.

Inasmuch, however, as it would not be practicable to ob-
tain from Parliament, with convenience, the change is
required in the Act of Re-union so early as to take
effect upon the proceedings of the coming Session in
Canada, and as it is obviously far from desirable that
reiterated application should be made for the alterna-
tion of a Constitutional Statute of so much importance,
Her Majesty's Government do not propose to take any step
of that nature until I shall have become acquainted with
the proceedings of the Provincial Legislature, and shall
have learned whether they may give occasion for insert-
ing in one and the same amending Bill, together with a
Provision relating to the exclusive use of the English
Language, another modification of the provisions of the
Act of Re-union which might possibly become necessary
under the powers conveyed to Your Lordship in my Des-
patch of this date, relating to the Civil List.

I have, Etc.
(Signed) W. E. GLADSTONE
Lieutenant General

This despatch was presented to the Legislative
Assembly on March 24, 1846, to inform the Assembly of the
progress of their address. No other reference is made to
the request for the use of French embodied in the address of
1845 until June 8, 1847. At this time, on the motion of a
Mr. Laurin, it was resolved and ordered that the Governor
be asked to lay before the Legislative Assembly:

... all Documents and Correspondence between His
Excellency and the Secretary for the Colonies, respect-

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1Legislative Journals, V, 13-14.
ing the Address of the Legislature of this Province on the subject of the use of the French Language in all Public Documents.¹

In reply to this order by the House, on June 18, 1847, the Governor sent a memorandum stating:

There has been no further correspondence since the last Despatch from the Secretary of State for the Colonies, which was communicated to Parliament during the last Session.²

And so the matter stood, the Canadian Legislature awaiting the assent of the Mother Country, and no further reference is made to bilingualism until 1849. In this year, January 18, the opening day of the eighth Provincial Parliament, the answer to the request for the repeal of Section 41 of the Union Act came. The Governor at this time was Lord Elgin. He had made an appeal to the British government to assent to a change in the law which discriminated against French as an official language.³ The French must have been greatly pleased when Elgin read his speech in both French and English when he opened the Legislature. In that speech and by his action he made official the use of French when he read:

It affords me much pleasure to state, that in compliance with the desire of the local Legislature expressed in a joint Address of the two Houses of the Provincial

¹Ibid., VI, 11. ²Ibid., p. 55. ³Wittke, op. cit., p. 128.
Parliament has passed an Act repealing the Clause in the Union Act which imposed restrictions on the use of the French Language.¹

After nine years of restriction, the French language regained equal status with English. Four years had elapsed since the Provincial Parliament had petitioned England for a change. That which was foreshadowed in the Durham Report and made law by the Union Act, Section 41, was no longer an open wound to French nationalism. And that restriction of French advocated by Lord Durham was to be ironically overcome by his son-in-law, Lord Elgin.

III. RESISTANCE TO LEGISLATIVE UNION

The French not only resisted certain aspects of the Union Law such as section 41, but some were also restive over the entire act. After they removed the enigma of the unilingual law, both Canadian and Canadien voiced their dislike of Union in the sessions of the Assembly. The Legislative Journals once again offer first hand reasons for their hatred, and reasons for the Union's abolition.

The first instance of outcry in the Assembly against Union occurred nearly ten years after the Union Act was passed. The question then may arise of why the long wait since the

¹Legislative Journals, VIII, 4.
French were outraged at the outset? One answer is that it was not until 1848 that the Canadiens were accepted as a political necessity. Charles Poulett Thompson, Lord Sydenham, the first governor of the newly created Canada, would have nothing to do with responsible or ministerial government.¹ He was there to rule for the crown and not to heed advice of Colonial ministers or party factions. Like Durham he was suspicious of the French. In a statement to Russell he wrote:

The French Canadians have forgotten nothing and learnt nothing by the rebellion and the suspension of the Constitution, and are more unfit for responsible government than they were in 1791 ... actuated by the old spirit of the assembly and without any principle except that of inveterate hostility to British rule and British connexion.²

The French held aloof during Sydenham's administration. They felt the Union Act had been forced upon them and their basic rights proscribed. Thus anyone taking a position in the Governor's councils was considered vendu (sold).³ Since their defeat in 1837, the French had been sulking. They correctly assumed that the whole Durham-Sydenham program had as its main objective their subordination and assimilation.⁴

¹Lower, op. cit., p. 254.
²Kennedy, op. cit., p. 194.
³Wrong, op. cit., p. 310.
⁴Ibid., p. 262.
It was Sydenham's successor, Charles Bagot, Governor from 1842 to 1843, who recognized the French as a fact of Canadian political life. He said that, "You cannot govern Canada without the French,"\(^1\) and set out to bring men, both French and British, into his "cabinet" that commanded a majority in the Assembly. For the first time in Canadian history Canada had a cabinet. The French now showed signs of co-operation in government and won recognition on their own terms.\(^2\)

But Bagot's new found principle and the Canadiens' cooperativeness were short lived. Before the arrangement could be properly tested, Bagot died, and Sir Charles Metcalfe, his successor, turned back the clock. Metcalfe was of the same mold as Sydenham and would have nothing to do with a cabinet government. He would not be prodded by his "ministers."\(^3\) Thus the French once again became sullen and their leaders withdrew political participation.

In 1847, Lord Elgin became Governor of Canada. He re-established Bagot's principle of Cabinet government in the responsible sense. In a despatch to the Lieutenant-

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\(^1\) Ibid.

\(^2\) Lower, op. cit., p. 263.

\(^3\) Wrong, op. cit., p. 316.
Governor of Nova Scotia he set forth his ideas concerning this system:

A refusal to accept advice tendered to you by your council is a legitimate ground for its members to tender to 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 favor. 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.¹

He believed that Canada should be entitled to that "system of parliamentary government which has long prevailed in the mother country."²

Elgin's attitude toward the French was directly contrary to Durham's. He recognized that attempts to suppress and to denationalize the French only engendered their unity. In a despatch to Lord Grey, the Colonial Secretary at that time, he wrote:

Let them feel, on the other hand, that their religion, their habits, 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 the British flag on American ground may not be that of a French-Canadian?³

Therefore, when Governor Elgin met with his newly elected

¹Kennedy, op. cit., p. 252.
²Ibid.
³Ibid., p. 257.
Assembly in 1847, he put into effect the above principle. He abandoned the technique of trying to detach influential men from their party in order to form a ministry loyal to the Governor. Instead, he invited the leader of the French and the leader of the British to form a Cabinet. He attempted to pacify the consciousness of ract by creating a dual ministry, a procedure which existed for the life of the Union. Accordingly, the first, lasting ministry of Canada has been called the Baldwin-La Fontaine Ministry.¹

With his mind inclined to responsible government, Elgin set out to give justice to French Canada and to initiate responsible reform. The specific issue that was decisive concerning this was the Rebellion Losses Bill of 1849. The bill, as constructed by the Baldwin-La Fontaine Ministry, would not only compensate loyalists that suffered from the rebellion of 1838 but also French and British "rebels." When the bill was passed in the Assembly, Elgin was faced with fierce opposition from the Tories who petitioned him to refuse his assent.²

The issue was clear. Elgin was to act on a purely Canadian measure that had been initiated by his responsible ministers. He assented to the bill, bringing upon himself

¹Ibid. ²Ibid., p. 258.
the scorn and ridicule of Canadian loyalists and Tories in England. In Canada his opponents stoned his carriage, while in England on the floor of Parliament, the Rebellion Losses Bill was denounced as an act beyond colonial governmental competency.1

However, John Russell and Earl Grey defended Governor Elgin's course of action and acknowledged the right of Canada to legislate on such a matter. At the time also, Sir Francis Hincks, an important and knowledgeable figure in Canadian politics, was in London. In The Times, Hincks defended Elgin's principle by stating that it was "very unsafe for parties at a distance of three thousand miles to interfere in Canadian affairs."2 Thus, with the stormy acceptance of the Rebellion Losses Bill Elgin began to implement a new policy between a colony and the mother country. To many responsible government was tantamount to independence as evidenced by the repressive policy of Sydenham and Metcalfe. But times and attitudes were changing, and by 1849 Lord Elgin accomplished the controversial acceptance of the responsible concept. In a letter to Lord Elgin, Earl Grey stated his acquiescence to responsible government. He wrote:

There is no middle course between this line of policy, &

1Ibid., p. 260. 2Ibid.
that wh. involves in the last resort an appeal to Parlt. to over-rule the wishes of the Canadians, & this I agree with both Gladstone & Stanley in thinking impractically. If we over-rule the Local Legislature we must be prepared to support our authority by force, & in the present state of the world & of Canada, he must in my opinion be an insane politician who wd. think of doing so ... 1

The first resolution brought up in the Assembly to abolish the Union Act occurred in 1850. It not only put forth the Union's repeal but also other factors of discontent. This appeal offered no reasons for abolition but simply petitioned that Union be replaced by a true federal system. The motion was moved by a Mr. Perry on August 10, 1850 and stated:

That the progress of intelligence, the advancement of population and wealth and the consequent necessity for improvement not only in the Laws, but in the Constitution of this Province, have occasioned the promulgation of various plans and changes professedly designed to promote the interests of the People, and to develop the vast resources of this country, each of which is advocated by large numbers of the People:

That the following are among the most prominent of these proposed changes: A modification of the Constitution of the Country: the making application to the Imperial Parliament for a repeal of that part of the Union Act which requires two-thirds Vote to increase the Representation of the Province; the extension and equalization of the Elective Franchise ... and the doing away with the Property qualification of Members of Parliament, providing the time for holding General Elections and for the annual meeting of Parliament, and shortening its duration;

making the Legislative Council elective, and extending the elective principle generally, even to the Head of the Government; limiting the power of the Executive to expend public money without the previous sanction of Parliament; a restriction of the veto power, and the full right to legislate upon our local affairs without interference or check by the Imperial Government; repeal of the Permanent Civil List, repeal of the Act uniting Upper and Lower Canada; a Federal Union of all the British North American Provinces, with enlarged and independent powers of Government; and the power conceded to the People of this Province to alter, remodel, and improve their Constitution as they may think needful and proper. . . .

It was during the next session of the Assembly that a more lucid and cogent appeal was put forth against the Union Act. In this resolution of ten items are embodied all the major factors of discontent which are against the Union Bill. The resolution was proposed by a Mr. Boulton and seconded by the French Canadian, Mr. Papineau, on July 7, 1851. It asked the House to resolve itself into a Committee of the Whole in order to consider the following questions:

1. That when the British Government pressed the Union of the Provinces of Upper and Lower Canada in 1840, much against the wishes of the People, the proceeding was justified as affording the readiest means of relieving Upper Canada from her financial difficulties, and restoring tranquillity to Lower Canada; and it was urged that by the establishment of a general Government more closely assimilated to that of Great Britain, the use of the same laws and the English language would unite the People by community of interest, and strengthen the feeling of attachment already existing to British Institutions and British connection.

1Legislative Journals, IX, 280-281.
2. That the assent of the Representatives of the People of Upper Canada to the measure, was predicated on the continuance of the Seat of Government within the limits of the Upper Province.

3. That the assent of the People of Lower Canada was not sought, and could not have been expected upon any terms short of full justice to Lower Canada interests.

4. That the stipulation made on behalf of Upper Canada has been wholly disregarded; that the Union has signally failed in securing those objects to obtain which it was professedly brought about, and in their stead much jealously and bitter feeling have been engendered between two countries, from whose proximity of position and mutual dependence, the kindliest feelings should have been encouraged, and which, but for the uncalled for and unhappy interference would undoubtedly have prevailed.

5. That the People of Upper Canada are linked by the strongest ties of attachment, interest, and origin to the Mother Country; and although in Lower Canada these relations are necessarily modified by the great preponderance of inhabitants of French extraction, there is every ground for assurance that a judicial adaption of Laws and Institutions to the local and social requirements of the two sections of Canada respectively, would perpetuate the existing connexion with Great Britain, and ensure to the Colonies that protection and support best calculated to secure their happiness and promote their advancement.

6. That the rapid increase in wealth and population of the two sections of the Province, . . . demand ready access to and the constant attention of the Government; . . . and the social customs widely different, the frequently conflicting principles of Law and civil rights which obtain in the two sections of the Province, are well calculated to impede the action of Government and retard the advancement of the country.

7. That since the Union, every attempt to legislate for the People as a whole has been productive of dissatisfaction in one or other section of the Province,
and each day's experience shows more clearly the unpracticability of carrying out the scheme of the Union under its original conditions; that the provisions adapted to one section of the Province have been found wholly inapplicable or inoperative in the other, and that the system is gradually obtaining of legislation separately for Eastern and Western Canada, as two distinct and independent Provinces.

8. That the practical effort of the Union on this separate legislation is, too frequently, to place the governing power in the hands of the minority in one section of the Province, and thereby to create growing dissatisfaction with a system of Government which offers under no circumstances a reasonable prospect of harmonious action.

9. That it is idle to expect that an ambulatory Governor and Council, alternate Parliaments, and shifting Offices, holding their sittings for broken and unequal periods in different parts of the Province, can fulfill any one condition essential to the harmonious working of a vigorous, stable, and impartial Government; that such a system is calculated, on the other hand, to unsettle men's minds; it opens the door to speculation and trickery, must necessarily be attended with loss of time and waste of public money, and result in serious injury to the general interests of the Province.

10. That an humble Address be presented to Her Majesty, embodying the foregoing Resolutions, and praying that Her Majesty will be graciously pleased to take the present state of Her loyal Province of Canada, into her most serious consideration, with a view of security to the British and French population respectively, the enjoyment of such Laws and Institutions as are most conformable to the customs, usages and habits of each, and best calculated to ensure their social and moral welfare.

The proceeding measures were voted upon and the result was a tie, 28 to 28. The Speaker of the House then cast the deciding vote in the negative and the ten resolutions were defeated.\footnote{Ibid., X, 140-141.}
A similar cogent and reasonable attack against Union was made by Mr. Mackenzie on June 5, 1857. However, in the legislative sessions of 1853, 1855, and 1856, motions were also made for the repeal of the Union Act. They are indicative of the fact that resistance to union was persistent but offer no further reasons for its abolition and all met with defeat. On the other hand, the motion of Mr. Mackenzie in the session of 1857 gives a clear and complete résumé of Canadian grievances. It may also be regarded as the political history of Canada since Durham's mission as witnessed by a Canadian of that era.

Mackenzie listed the grievances of both British and Canadian. He summarized Durham's mission and the Union Act in the following terms:

That twenty years since, the people of Upper and Lower Canada were governed upon principles adverse to freedom and justice. The Colonists, who had long continued to entreat the authorities of Great Britain to respect their constitutional charters, but without even a prospect of success, resisted by force, in several places, the illegal seizure and misapplication of their public revenues, which had been on many occasions squandered, in defiance of law, by authority of Governors sent out from Europe, and sworn to enforce the law, but who were encouraged by the Colonial Ministers and the British Parliament in openly setting the law at defiance.

That, in 1838, under authority of an Act of the British Parliament, a Nobleman of high rank and character was sent to Canada to inquire into the causes of existing discontents to redress, or endeavor to provide for the redress of grievous wrongs and to report to the Queen relative to his mission. His Report was ordered
by Her Majesty in Council to be laid before Parliament as the basis of future legislative and executive action. It frankly acknowledged that the Colonists had been cruelly wronged, and strongly recommended a constitutional system of Colonial rule, responsible to public opinion.

That in seeming accordance with the spirit of their Commissioners' Report, the British Executive Council or Cabinet, introduced through Lord John Russell, Mr. La-bouchere, and Sir George Grey, in the House of Commons, during its Session of 1839, a Bill for Uniting Upper and Lower Canada, with a Legislative Assembly, to be equally elected on the basis of population and territory; that the constitution of Lower Canada had been faithlessly wrested from the people, laws made and repealed by nominees of the Crown, the leading men of the colony exiled or banished, the country devastated with fire and sword, many lives sacrificed, much property destroyed, that the right of Lower Canada to be consulted before uniting her fortunes with those of Upper Canada was cruelly trampled on; that in Upper Canada the corrupt, worthless Legislature which Lord Durham had reported upon to the Queen, as being utterly unfit and unworthy, as not possessing the confidence or respect of the people, and which expired soon after the death of the late king, but had voted itself a new lease of power, was continued by the British Premier in office, in order to obtain an apparent or pretended sanction of Upper Canada to a Union the people did not desire; and that the terms upon which a majority of the Members of that Legislature professed their willingness to sanction such a measure, were treated with neglect and contempt by the British Government and Legislature.¹

The resolution set out the problems of the Canadian-Imperial relationship. It likewise contained the ten resolutions of Perry and Papineau presented in 1851, and recommended the repeal of the Union Act. But however mind appealing and pertinent were its facts, the motion was over-

¹Ibid., XV, 640-643.
whelmingly defeated by 83 nays to 7 yeas.\textsuperscript{1}

In 1858 Mackenzie again proposed that the Union seemed unworkable. He stated before the Assembly:

That the principle of a Representation in the United Legislature, apportioned on the basis of population, has been sanctioned by the vote of only one Representative from Lower Canada during the present Session; that the proposition of a double majority in the Executive Council has been considered and rejected; and that the operation of the late Colonies of Upper and Lower Canada, under the authority of an Imperial enactment occasions great discontent in the minds of a large portion of Her Majesty's faithful subjects.\textsuperscript{2}

This was expanded still more when a Mr. Connor offered an amendment, seconded by George Brown, which called for justice only through dissolution of the Union Act. Its main concern was with the method of representation and stated that:

\ldots the Union of the two Canadas cannot be attended with the happy results anticipated at its formation, so long as a territorial distinction is maintained between Upper and Lower Canada, and the inhabitants of one section can with justice complain that they occupy an inferior position to their fellow-subjects in the other; that the continual rejection of the demands of the people of Upper Canada for a just influence in the Legislative, \ldots and the manner in which certain of their local institutions have been moulded according to Lower Canada views, \ldots and the maintenance in the Executive Government, as the Representatives of Upper Canada, of gentlemen who do not possess the confidence of the people of that section of the country, \ldots have produced great discontent in the minds of a large portion of Her Majesty's subjects in the Western portion of the Province, and an earnest desire for constitutional changes which would secure to Upper Canadians the control

\textsuperscript{1}\textit{Ibid.}, p. 645. \textsuperscript{2}\textit{Ibid.}, XVI, pt. 2, 886.
of Upper Canada affairs. . . . 1

At this point another amendment was proposed which would supersede that of Connor and Brown. It asked that:

. . . after seventeen years experience of the working Legislative Union between the Provinces of Upper and Lower Canada, and in view of the large responsibilities which have been undertaken by the United Provinces, this House does not deem it desirable to take any steps to weaken Union, but rather by mutual forebearance and good will to work together to cement the ties which bind the two people in political, commercial, and social harmony, . . . . 2

Accordingly the Union Act received a slight vote of confidence for this amendment was adopted by a vote of 68 to 34. 3

One of the most persistent voices against Union after 1850 was that of George Brown of Upper Canada. His constant agitation for representation by population made the French suspicious of his motives. 4 In 1860 he put forth the motion:

That the existing Legislative Union between Upper and Lower Canada has failed to realize the anticipations of its promoters, has resulted in a heavy debt, burdensome taxation, great political abuses, and universal dissatisfaction, and it is the matured conviction of this Assembly, from antagonisms developed through difference of origin, local interests, and other causes, that the Union, in its present form can no longer be continued with advantage to the People; . . . . 5

1Ibid., p. 886.  2Ibid., p. 887.  3Ibid., p. 929.

4Kennedy, op. cit., p. 279.

5Legislative Journals, op. cit., XVIII, 336.
This motion was defeated, 66 to 27, but Brown immediately offered a more explicit proposal:

That, in the opinion of this Assembly, the best practical remedy for the evils now encountered in the Government of Canada is to be found in the formation of two or more Local Governments, to which shall be committed the control of all matters of a local or sectional character, and some joint authority charged with such matters as are necessarily common to both sections of the Province.

This motion suffered the same fate, being defeated by 74 to 32.

Brown's voice was raised frequently against equal representation. George Brown made a motion in the session of 1852-53 that representation should be based upon population, without regard to a separating line between the two Canadas. By disregarding the boundary and basing representation on population, the Assembly would be controlled by Upper Canada. Likewise, a similar attempt was put forth in 1856. Both, however, were defeated.

Again in 1857, Brown brought his pet peeve before the Canadian Legislature. Although his motion was again defeated during this session, he persisted in bringing it up

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1 Ibid., p. 337.  
2 Ibid.  
3 Ibid.  
4 Legislative Journals, XI, 539.  
5 Ibid., XIV, 496.  
6 Ibid., XV, 328.
once more in 1858, and again it suffered the same fate.¹ During this session also, Alexander Galt proposed a resolution of subsequent importance in the movement for a federal scheme.² He asked the Assembly to resolve that Union be abolished; that a federation of Canadian states be created and a general confederation should be called to consider such a proposal.³ Brown moved an Amendment to this stating: "It is expedient that the Representation of the people in the Canadian Parliament should be based on population without regard to a separating line between Upper and Lower Canada." However, the Speaker ruled that this amendment was not analogous to Galt's motion, and it was not entertained.⁴ Brown and his followers persisted in their attack upon equal representation and the French Canadians were just as adamant in their support of it.

Throughout the Legislative Journals from the inception of the Union Act until after 1864, runs the pattern of abolition of the whole Act or parts of it. After 1850 a common cause of discontent was the method of representation in the

¹Ibid., XVI, 121-122.
²Kennedy, op. cit., p. 293.
³Legislative Journals, XVI, 815.
⁴Ibid.
Legislative Assembly. Durham had recommended that the legislature be British dominated, disallowing Lower Canada its proportional representation. The Union Act modified this view by creating equal representation for each province but still with the idea that the French would be out voted and eventually won over to the British methods.

Ah, but the schemes of mice and men! In this instance political factions did not develop along a strictly racial basis. The leaders of both French and English worked together along idealistic lines in an effort to create a representative and responsible government. Although working with some English, the French never lost sight of their heritage and now worked within Union to maintain it. What had originally been an attempt to swamp the French turned out to be a refuge for them. By 1850 the Western Province was larger in population, and the French were not about to give up their political safeguard of equal representation without something better to replace it. It was for the British North America Act of 1867 to attempt to solve the political deadlock and racial discontent caused by the Union Act and to guarantee the French their local autonomy.
CHAPTER V
SUMMARY AND CONCLUSIONS

I. SUMMARY

It was the purpose of this investigation to recount the political and social milieu in which the Durham Report found its genesis. It was likewise the concern of this investigation to give a fuller interpretation of the Durham Report than is implied in most English and Canadian history texts. The Report is understood to have brought responsible government to Canada, seemingly advancing democracy. With respect to the French Canadians, however, its intent was not a furtherance of democracy. The problem was to analyze the extent to which the Durham Report was not democratic and to what extent its main recommendations were not successful.

The research procedure consisted of selecting standard works on the history of Canada for background material. Biographies of Lord Durham and the Durham Report were the sources used in examining the main features of Durham's views regarding responsible government and the French Canadians. The Canadian Legislative Journals were used to investigate the subsequent influence of the Report on the Canadian government and the racial situation. From these
materials, it may be concluded that the Report was not entirely democratic nor completely implemented by the Imperial Government.

When one considers the Durham Report, it cannot be extolled without qualification. It is a British document, formulated by a mind with an imperial strain and Anglo-Saxon cast. Lord Durham looked at Canada as an English preserve in which "progressive" English culture and government should be fostered. To accomplish this, responsible government, as practiced in England, was the tool, leaving the mother country only a few prerogatives. To realize this it would seem that the Report is truly a liberal imperial document. And if Canada had been populated by an entirely British stock, its democratic renown would be unqualified. But what of the French? They were suspicious of British methods and looked upon the British as interlopers and oppressors. They were proud of their heritage and looked upon Quebec as their own. Durham simply saw them as an ignorant, backward force in the British scheme of enlightened colonization and recommended their Anglicization. In recommending a democratic form of government, a popular cabinet ministry elected by and responsible to the majority of the people, he willed undemocratic means.

In recommending responsible government he stated that:
It needs but to follow out consistently the principle of the British constitution, and introduce into the Government of these great Colonies provisions, by which alone the working of the representative system can in any country be rendered harmonious and efficient. We are now to consider the policy of establishing representative government in the North American Colonies...

However, when he laid his Report before Parliament, he failed to convince the Parliament of the necessity of responsible government and its practicality. Lord John Russell, while still in Parliament and then as Colonial Secretary, could not appreciate Durham's recommendation. He wondered how a Governor could serve two masters if the Queen and Colonial cabinet offered him entirely contradictory directions. Thus, when the Union Bill appeared, Russell and Sydenham swept the idea of responsible government under the rug. This would have seemed a defeat for Durham, but only a temporary one. Responsible government was a new colonial concept. It had to be tested. And once the political and racial exigencies of Canada were experienced, responsible government proved the only means of creating the semblance of a stable government. Both French and English found vent for their views. It was not as Durham had originally intended, for it was not British dominated, but rather an

1Lucas, op. cit., II, 278.
2Lucas, op. cit., I, 144-145.
ethnic co-operation in which the French were politically equal, if not the deciding factor, in governmental operation.

By 1849, responsible government found root in Canada through the efforts of Lord Elgin and the Colonial Secretary, Earl Grey. That principle was the basis of a new colonial policy which was to be extended to other British colonies. In essence it was as Durham outlined, but in implementation and practice it was contrary to Durham's recommendation. Durham's liberal cast and imperial predilections gave the Report a colonial democratic tendency but his concept of the Canadiens made it undemocratic.

In describing the French he wrote with an acrid pen and believed that:

There can hardly be conceived a nationality more destitute of all that can invigorate and elevate a people, than that which is exhibited by the decedent of the French in Lower Canada owing to the peculiar language and manners. They are a people with no history and no literature.¹

And he stated that they "cling to ancient prejudices, ancient customs and ancient laws, not from any strong sense of their beneficial effects, but with the unreasoning tenacity of an uneducated and unprogressive people."²

¹ Lucas, op. cit., II, 294.
² Ibid., p. 30.
Durham not only castigated the French for their way of life but also set forth the means of their Anglicization. Before a tranquil responsible government could be established the racial animosities had to be rectified. The French would have to be made British in outlook through the "steady purpose" of the British Government working through a Canadian legislature which was decidedly English. He would force participation upon the Canadiens by uniting the two provinces in a single legislature and allowing British good example and English immigration to do the rest. To do otherwise, he thought, would only postpone the inevitable and would allow the French to obstruct British progress and even leave the way open to another rebellion. Durham appealed to the future. Was not Canada a British possession? Was not it meant to fulfill the needs of a British population? In Durham's mind the answer was an unequivocal "yes" and all who were not already British were to be made so regardless of their own wishes.

The union of the two Canadas was to be no half measure, no "mere amalgamation." Instead, all laws, institutions, and languages were to be the same. The French were to be assimilated entirely. However, the Union Act did not go that far. It simply called for legislative union in which Lower Canada had equal representation. Durham had
been rebuffed. But the French still looked upon Union as a form of Durham's hatred for them. Being the larger in population, equal representation was only a modification of his aim. Likewise, the unilingual law of the Union Act was just another shade of Durhamism.

II. CONCLUSIONS

In 1910, the Governor of Canada, Sir Wilfred Laurier, commented on Durham's injury to the French before the Canadian House of Commons:

It is a singular fact that the report of Lord Durham was received by the French Canadians of that day with pained surprise. The reason is known to those who have studied the history of that period. Friend of liberty as he was, broad as he was of his conceptions, far-visioned as events show him to have been, Lord Durham himself did not appreciate the effect of liberal institutions. Coming to Canada at a time when the very atmosphere was reeking with rebellion, he formed a hasty judgement upon the French population of that day, which he expressed in hasty and somewhat haughty language. The thought they could not be reconciled to British rule, and stated in his report that the conditions should be such in Canada that the two provinces should be united, so that French Canada should be ruled by the stern and relentless hand of an English-speaking majority. It is not to be wondered at that when the report was made known in Canada, it not only caused, as I have said, pained surprise, but produced a feeling of injustice and wrong.1

The greatest weakness of the Report is its treatment of the French Canadians. Durham over-estimated the racial

1Lucas, op. cit., I, 118.
factor in the conflict and under-estimated the economic and constitutional. He was a statesman who could see the vivifying efforts of the Industrial Revolution in England, but in Lower Canada he witnessed sights that suggested total ignorance of progress. He saw in the aggressive British merchant-leaders of Canada the hope of the province; also they were the leaders who exaggerated his conception of French backwardness. Durham thought there was justice in his plan to anglicize the French. But it was British justice based upon British opinion.

If Lord Durham were alive today, he would probably maintain that his forecast of the future of Canada was incorrect because his recommendations were not fully carried out. Durham's Report possessed many fine colonial recommendations which were to find fruition in the Confederation Act of 1867. But his views and plans concerning the French-Canadians have never proven-out. His British predilections, his imperialism and his political views colored his vision in regard to the French of Canada. He stated that their race was hopelessly inferior to the English. For this reason he desired to repress it in order to produce a constructive, uniform British nationality.

However, he failed to realize the tenacity of the French character. The Union Act proved to be less severe to the French than Durham recommended but even the slightest attempt at Anglicization was a grievous insult. The French remained adamant and learned to operate within the Union, once again bringing about political deadlock that was solved only by dissolving the Union in 1867. In that year they acquired local autonomy within the Federal Union with guarantees for their beloved customs and institutions.

Today the French are a living force in Canadian life and are even still, at times, a restless bedfellow for the rest of Canada. While the culture of the English in Canada is varied because of the diverse origins, that of the French still has but one source. French Canada still stands with enduring vitality in the St. Lawrence province.¹ They are a factor of such consequence and vitality as to force the Canadian nation to alter its national banner, for the French Canadians object to the British Union Jack. They object to it as a symbol of British domination, which they contend English-speaking Canadians still wield over the country.²

And so the conflict remains even in modern times.

¹Wrong, op. cit., p. 302.
which Durham witnessed one hundred and twenty seven years ago. In his Report he laid the basis of responsible government and a democratic colonial policy in Canada. But the means of implementation were undemocratic with respect to the French Canadians. The French were to be submerged, assimilated, and emersed in British culture. In this he failed, for the struggle of race still continues.
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