impartiality of her laws. It was in spite of the law of primogeniture, and not in consequence of it, that she had continued to flourish. And he believed, that it was because the natural tendency of this law was counteracted by various causes, constantly in operation, that it had not long ago been considered an intolerable evil. Could any sensible and unprejudiced person believe that England, at this moment, was more happy and prosperous than she otherwise would have been, on account of the immense accumulation of landed property in the hands of a comparatively few persons? Did not this law tend to produce such an accumulation? And were not thousands and thousands, in consequence of it, left without any home which they could really call their own, in a state of precarious and miserable dependence, and occasionally of extreme want, suffering, and wretchedness? of dependence, not upon their own honorable industry and careful frugality, but upon the caprice or charity of the wealthy few, or upon the certain, and sometimes sudden, influence of causes beyond their control or even comprehension? At the same time, this aristocratic tendency of the law of primogeniture to aggrandize a few and reduce the multitude to a servile and beggared, and frequently a distressed condition, was restrained and counteracted in England by various circumstances; so that the evil was mitigated and less felt than it otherwise would be. There was a vast and immense amount of wealth there, not vested in land, which was not subjected to the exclusive and unjust principles of this law, but which was divided equally among the children. The question, however, was not whether the law was well adapted to that country but whether it was necessary or expedient in this.

He thought he had shown that it was not an essential part of the English constitution; and he was quite clear there was no reason to speak of it as a fundamental principle of our constitution. He argued that it was not originally a part of our laws.—When the province of Quebec was divided into two provinces, the laws of Canada were in force here, and so continued, until our Provincial Parliament, most unwisely as he thought, by one comprehensive and indiscriminating act, with a few exceptions, introduced the laws of England, some of which adopted laws, had already been, and others ought to be, repealed, being found unsuitable to this province. By that statute, the law of primogeniture was first established here. Before that, we had the same law as they now have in Lower Canada, by which intestate property, whether of lands or personal estate, was divided equally among all the children or other relatives. His bill, therefore, would introduce no new, unconstitutional, theoretical principle. It would merely restore the old law and the old system.

He believed that this was the only one of His Majesty's North American provinces whose prejudices conjure up so many dreadful consequences for this bill; for there certainly was *nothing* in that august body but loyalty, pure loyalty.

He hoped, then, that he had brought the bill to rest upon its own merits; and that honorable members, instead of being in horrors at its supposed unconstitutional spirit, and instead of dwelling on the objections which might be urged against the establishment in our mother country of such a law, would be prepared to listen with unprejudiced minds to the arguments in favor of its adoption here.

He argued that the principles of the bill were precisely such as the natural affections of every parent would at once dictate. In whose bosom had nature planted an aristocratic preference of the eldest son, and a contempt and disregard of his other children? Who would give all he had to his strongest, and oldest, and most capable child; and leave the others, who were more helpless, and more worthy of compassion, protection, and assistance, destitute, and unprovided for, as if they were bastards and intruders and unworthy of a father's care? He did not believe that such a wretch, (for a father with such aristocratic feelings deserved no better appellation,) could be found. The voice of nature, in every parent's bosom, would argue, with a pathos and eloquence irresistable, in favor of this bill.

Justice too, austere and inflexible justice, would confirm the claims of natural affection: for nothing could be more just than that a parent should provide for his own offspring, who owe their existence to him. Justice to them and justice to the community, who may otherwise be burthened with their support, equally require it.

A bill that is founded upon plain principles of natural affection and natural justice, and that will merely substitute these principles, in place of the arbitrary rules of an artificial and unnatural system, ought to require no further argument.

The measure was recommended by a wise policy. Lord Bacon had said that married men were better subjects than those who were unmarried, for they had given hostages to fortune. A man with a family had a peculiar interest in the peace of his country and in the stability of his government, which protected him and those who were dear to him. In the same manner a freeholder had a peculiar interest in the public tranquility, and in the permanency of those institutions which secured his property. If one only out of six (or any number of) children inherited the whole of their father's land, the others would feel less interest to prevent and suppress intestine convulsions, or to repel an enemy, than if they had succeeded to a share of the patrimonial property. What interest, indeed could they have in maintaining a system of law, that was unjust in principle and injurious to them in its operation? Nothing, in his opinion could be more desirable, as a matter of domestic policy, than to encourage among the lower orders, who constituted the mass of the community, and who composed the physical force of the country, the acquirement of a permanent landed estate. Instead of a peasantry, let us have a yeomanry; and the country, on the one hand, would be more free, and all its liberal and popular institutions be supported with more spirit, and, on the other, the government, within the just limits of its constitutional power and influence, would be vastly stronger. Mr. Bidwell here referred to the late revolution in France, and spoke with admiration of the conduct of the French people, their jealous love of liberty and detestation of despotism, their enthusiastic and heroic resistance of a cruel but otherwise contemptible tyrant, and, more than all, their wonderful moderation, forbearance, and self restraint in the moment of victory, although they were under the direction and control of no regular authority, were intoxicated with success, with arms in their hands, and smarting under a deep sense of the most unprovoked cruelties, and the most atrocious injuries. The law of primogeniture had been abolished in France during the time of Napoleon; and he could not believe that this moderation and forbearance, which formed such a striking contrast to the fury and horrors of their former revolution, were caused by the equal division of property among the people, by which it had become the interest, not merely of a few wealthy aristocrats, but emphatically of the people, of the great body of the nation, to prevent, as far as possible, tumult and disorder, and all violation of the rights of property. And so much were the French people, after a trial of both systems, attached to their present law, in preference to the law of primogeniture, that, even in the house of Peers, notwithstanding the natural prejudices of that body in favor of any measure of an aristocratic tendency, a proposition, emanating, he believed, from the Government, to restore the law of primogeniture, was rejected. He had understood that the present law of France not only parted the property equally in cases of intestate, but absolutely prevented a man from [illegible] and justice, and encouraged promote a disparity of property in the country. He was sure the country would be more free, more moral, more happy, if there was a pretty equal diffusion of property, than if it were principally accumulated in the hands of a few. He wished there might be none very wealthy, and none very poor.

He took notice of the objections to the bill which were contained in a report made last session by a Committee of the Legislative Council. A number of those objections, which were urged against the details of the measure and the mode of carrying it into execution, would be entirely obviated by the amendments which he had mentioned to the bill. The committee, indeed, admitted that by proper provisions, those difficulties might be removed. No argument, therefore, could be derived from them against the measure itself. And they deserved no further notice, for the occasion for them no longer existed, as they were now, at all events, sufficiently guarded against, in the measure in its present shape.

That Committee could not perceive any difference between the state of society and the circumstances of the people in this Province and those of England, which would render it more expedient to abolish the law of primogeniture here than there. In that country, a great proportion of its wealth was embarked in commercial pursuits, or invested in the funds, and was therefore exempt from the operations of the law of primogeniture; but in this country, where men were chiefly engaged in agricultural pursuits, and laid out the greatest part of their gains in the improvement of their farms, there was comparatively but little personal property, and of course but little property not under the operation of this law. The evils and injustice of this exclusive law reached, therefore, a greater proportion of cases here than in England.

That country was oppressed by a burthensome and redundant population. One of the arguments which was regularly urged in favor of the law of primogeniture there was, that a contrary system would promote more than the existing law, an increase of their population. Just so far, however, as it would produce such an effect, it would be expedient and wise to adopt it here, where it was a capital object to promote and favor an increase of our population.

The accumulation of landed property had already been felt to be a very great evil in this country. One of the arguments in defence of the assessment law was its strong and manifest tendency to resist and destroy this accumulation, and to divide the land more equally. The same policy recommended his bill: for it had the same tendency, though its operation was more gradual and less violent. He could not see how any one could consistently support the principle of the assessment law, and yet oppose this bill, on the ground of its influence being adverse to the formation of a landed aristocracy.

Almost the whole of the arguments against the bill, in the report of the committee of the Legislative Council, rested on the assumption, that the bill would produce a minute and inconvenient subdivision of property. Estates, it was supposed, would in a short time, be frittered away, so that the share of each individual would be too small to be of any value, and great confusion, uncertainty, and vexation would be the inevitable, and not very distant result. Now all this was mere assumption. And although numerous cases were supposed, to illustrate the argument, they were chiefly imaginary cases, and certainly were extreme cases. Such were the instances taken from the county of Kent in England, where the law of Gavel Kind prevailed. There were various incidents also to that law, which rendered it unpopular; such as its peculiar rules of Dower, Tenancy by the Curtesy, alienation of Manors, &c. The evils, besides, of this minute and vexatious subdivision would be effectually guarded against by the provision he had mentioned for the sale of the property, and a distribution of its avails, instead of a division of the property itself, in those cases, which, after all, must be rare, where such evils could reasonably be apprehended. Moreover, the experience of other countries furnished a complete and satisfactory answer to this objection to the bill. The principle of the equal division of intestate estates prevailed in the United States. It existed among them while they were British Colonies. It had been long tried, and its effects well ascertained.—These evils of a minute subdivision of property would be as great there, and as certain consequences of the law, as if their form of Government were like ours. But none of these inconveniences were found to follow. On the contrary, notwithstanding the operation of this law, there was a manifest tendency there to an accumulation of property in the hands of a few, and to a gradual creation of an aristocracy.—Indeed there was a constant tendency, in the natural course of things, in all countries, to accumulation, rather than to the subdivision, and diminution of estates. In the U. S., which, probably, as it respected agricultural operations, would not suffer in comparison with this province, he should refer to the Netherlands. Here he cited an opinion given by an English lawyer, Mr. Humphreys. That gentleman, in the preface to the 2d edition of his work on real property, says he has left out the comparison between primogeniture and equal partibility, because, since the former publication, he has perused the civil code of the Netherlands, and has traversed the country in almost every direction. The one establishes equal partibility; the other exhibits a country cultivated like a garden, with a peasantry thoroughly at its ease.

It has sometimes been said, that, though the principle of the bill was just and good, there was no necessity for such a law, as any one who chose could make a will, and thereby prevent the injustice of the present system. But, in the first place, he denied that every person could make a will. A married woman or a person under the age of 21 years could not make a will, however strongly they might wish to direct their property in a more equitable mode of descent. In the next place, a great proportion of those who had a legal capacity to divide their property, neglected to do it; some were prevented by superstitious notions; some by indecision as to the particulars of their wills; some by a reluctance to do any thing which brought them as it were, near to the close of life; some, by a habit and temper of procrastination, and some, by a consciousness of their ignorance and inability to draw a will properly, or by the expectation of some change in their property or family. From these, and other causes, many persons died without a will, who would by no means have been satisfied with the rule of descent which the law applied to their property.

Again, it should be remembered, that in many cases, where wills were made, they would, from various causes, fail to accomplish the testator's intentions. In the first place, it was not in general an easy matter, to draw a will correctly. It requires no ordinary Professional skill. To employ a person possessing the necessary qualifications was expensive certainly, and frequently inconvenient. Others, therefore, were employed. The consequence was, that many wills were altogether void; others were defective and incomplete, and so uncertain and ambiguous, as to lay a foundation for disputes and law suits. And here it should be observed, that in case of doubt on the construction of a will, the Courts were bound to lean in favor of the heir. A will might be good as it respected personal property, and void as to lands. Such was the case of a will having but two witnesses. If a man, who has provided for his eldest son during his life, should, by such a will, leave the homestead to his youngest son, and the principal part of his goods and chattels to his eldest son, the latter would take the goods by virtue of the law of primogeniture. Wills, too, were often made on a death bed; and then they were made hastily, and amidst circumstances of gloom, and pain, and distraction, & weakness of mind & body. A disposal of property, made under such circumstances, could rarely be just or prudent. Besides, when a will was made with all suitable deliberation, and with all necessary care and skill, it was subject to occurrences, which might render it nugatory, or even make it operate contrary to the Testator's intention. A chance in his family by death, marriage, birth, &c. the purchase or sale of a lot of land, or the alteration which time alone might produce in the value of property, might have this effect. It was difficult also to foresee all the contingencies, which might arise after his death. He illustrated this remark by a case just mentioned to him, where a father, by his will, left his property among his children equally. The eldest son became profligate and soon spent his share. The youngest son died before he was of age. He wished his property not to go to his eldest brother, to be squandered away; but he was under age, and could not prevent it. The elder brother took it all, and soon spent it. In this case the father, no doubt, thought that he had guarded carefully against the unjust operation of the present law; yet his wishes and intentions, in a certain degree, were nevertheless frustrated. These considerations showed, that the necessity for a more just law of descent was not superceded by the right which men possessed of disposing their estate by will, and which afforded only a partial and uncertain relief.

While the evils and injustice of the present law had too often been witnessed, no one had seen any good effects from it. The attempt to build up an aristocracy in this province, by giving all to the eldest son, and thus making an aristocrat of him and democrats of his brothers and sisters, was ridiculous and absurd. Many of our hon. Legislative Councillors, the aristocratic branch of the Provincial Legislature, selected from the whole province, in the manner prescribed by the constitution, were not oldest sons, and therefore not aristocrats, according to the doctrine of primogeniture aristocracy; which single fact disproved the alleged constitutional necessity of such a law, and debrother; and, from that moment, there must be an end of all cordial affection.

By the present law, the personal property was equally divided; so was the real estate, when there were only females. Suppose any one should propose to alter the law in this respect, and in both of these cases to give all to the eldest child. Would not such an attempt be universally scouted? But he could not see, if the principle of the law of primogeniture was good in one case, why it was not good in another.

Again, suppose the law of primogeniture was not in force here, but a law like this bill. Would any one, he asked, would any one now seriously attempt to introduce the law of primogeniture? And, if not, why should we retain a law introduced by an indiscriminate adoption of English laws, but not suited to the state and circumstances of the province?

He maintained that the English Parliament had themselves, to a certain extent even in England, adopted and sanctioned the principle of this bill. When a man, who had an estate in land during the life of another, died before the death of the other, the Parliament had said that the estate should not go entirely to the eldest son, but be equally divided among all the children. All the inconveniences apprehended from the bill would equally result from such a law; yet we see the opinion of the Parliament on the subject. We had their authority, therefore, in favor of the principle of the present bill.

When an older son succeeded to all his father's estate, in consequence of there being no will, he was expected to divide it fairly with his brothers and sisters. If he refused to do it, he was branded as an unfeeling and dishonest wretch. What could be a stronger proof of the injustice of our law than this general sentiment? Must not a law be unjust, and in its tendency unfavorable to morals, which tempts a man to be inhuman dishonest! He really wished honorable members would think of its injustice. Let them once look at a family bereaved of a father's kind care and affection, expelled from their native home, which was endeared by a thousand tender recollections, and turned out, beggars and outcasts, upon the cold charities of the world, merely that we might have a lordly aristocracy of land holders built up in this province.

They might be told to adhere to the institutions of the mother country and to introduce no innovations. He would certainly be in favor of every institution calculated to make the people happy and the Crown respected.

Unfortunately we had some of her laws least adapted to the circumstances of the country; and some of the best we had not, at least in practice; such as Judges holding their offices during good behaviour, &c.—He asked, who would argue in favor of the adoption of the game laws, though they were a part of her institutions? So in England, land could not be sold for debt and was not liable upon a man's death to be taken in any way for debts, unless they were recurred by an instrument under seal. This was a part of the same feudal system as the law of primogeniture, quite as ancient, reasonable and just. Yet the British Parliament themselves abolished of a landed aristocracy here.

It was sometimes objected against the bill, that after all it would not meet the wants of the people. Look at wills, it was said, and see how few are drawn on the principle of this bill—but this was a mistake. In general, property was divided upon this very principle. It was divided equally among children, except when some of them had received their share or a part of it, which was in such a case deducted. He appealed to hon. members, whether they would dispose of their property in this mode? Did not they love one child as much as another? It was not to be expected that it would be exactly adapted to every case. No law could do this But it would answer in general better than any other. This, however, was not the question. It was not, whether this bill was the best of all systems that could be devised; but whether it was better than the present law. If it was, it should be adopted and established, until a better was proposed.

An objection; which had been made on a former occasion, just then occurred to his [illegible] was small, and if the bill became a law, it would lead to a division of the land, and the country would be stripped of its wood.—Gentlemen, he saw, were smiling; but he would assure them that the objection was seriously urged. For his own part, in anticipation of it, he would only say, that, if the country were small, there was a greater necessity for a division of estates; and he would ask, where was the member who wished to have large tracts of land remain a wilderness, uncleared of its wood and uncultivated? Which of these alternatives did honorable gentlemen desire? that the great body of the people should be landholders and electors? or that they should be a dependent population, hanging loose upon society, and without any considerable interest in its prosperity and peace?

He took notice of an objection which had been urged against the clause in the bill people themselves.

He did not know that the bill would pass into a law this session, or next session, or the following session. He was not sure even that it would be entertained by the House, at that time; but he was confident, that at no remote period a measure so much called for would be adopted. No man or body of men could long successfully resist public opinion, in any country, much less in a country where there could be a free discussion of public matters. They might, indeed, for a time oppose and abstruct the stream; but it would be continually accumulating and acquiring greater strength, until finally it would sweep away all opposition. When he depended upon the force of public opinion, to carry this measure into a law, he relied upon a principle, as simple, to be sure, but as certain and as powerful, as the law of gravitation. He knew that the voice of the people was in favour of this measure. The more their attention was called to the justice and evils of the present law, by discussion, and by its practical operation, the stronger would be their desire and their demand for something like the bill before the committee. He had no doubt, therefore, of the ultimate result.

## SUMMARY.

*Brighton, Dec.* 30.—On Monday, the marriage of Lord Falkland with Miss Fitzclarence, in one of the drawing-rooms of the Palace, after a *dejeune a la fourchette* in the Banqueting Room. The Bishop of Chichester officiated. His Majesty gave away the bride. The bride's dress was as simple as the nature of the occasion would allow, being of British lace, with a wreath of flowers in the hair, from which was suspended a lace veil of British manufacture. The bride's maids were Mademoiselle D'Este and Miss C. Boyle. The former of these ladies wore a white crape dress over a white satin slip, and a blond lace cap. Miss C. Boyle wore a white satin dress trimmed with lace, and a white satin hat. There were present at the marriage, their Majesties, the Duke of Sussex, the Princesses Augusta and Elizabeth, Prince George of Cumberland, Col. F. Fitzclarence (as bridegroom's man), Mademoiselle D'Este and Miss Boyle (bride's maids) Marchioness Wellesley, Lord and Lady Clinton, Lady Augusta Fitzclarence, the Hon. P. and B. Carey, and the whole of the Royal *suite*. Immediately after the nuptial ceremony, Lord and Lady Falkland took their departure for Cumberland Lodge. The following is a copy of the entry that was made in the marriage register of the parish: "The Right Honourable Lucius Bentinck Carey Lord Viscount Falkland, of Levin Grove, in the county of York, bachelor: and Amelia Fitzclarence of St. Jame's Palace, in the county of Middlesex, spinster, were married by special licence, this twenty-seventh day of December, in the year One Thousand Eight Hundred and Thirty."

By me—R. J. Chichester.

This marriage was solemnized between us—Falkland, Amelia Fitzclarence.

In the presence of—William R. Adelaide Aug. Frederick, Aug. Elizabeth, Landgravine of Hesse. George of Cumberland.

## HOUSE OF LORDS.

Dec. 9. Dunlop, v. Earl of Dalhousie.

Judgment.—The Lord Chancellor observed that this was a case of very great importance; and the decision of the Court of Session would appear very startling to every English lawer who was not acquainted with the peculiar Scottish principles upon which they had proceeded. It was a case in which the Court below had decided, that a sale of grain by sample in market, offered by a tenant, does not protect the purchaser (after delivery) from an action of second payment of the price, at the instance of the landlord whose rent is unpaid. He (Lord Chancellor) had looked into the authorities and precedents relied upon on both sides, and the result of the most careful deliberation which he could bestow on the subject was, an opinion, that however inconvenient to commerce the state of the law might appear, however fit such a matter might be for ligislative revidutors appealed from having the support of uniform train of decisions and authorities in the law of Scotland, he thought there was no course open to him but to propose an affirmance of the decision of the Court below. Agreed to without costs.

[We are happy to have it in our power to allay the alarm, which might otherwise have been excited throughout Scotland, by the decision which the Lord Chancellor found himself constrained to advise the House of Lords to come to in this case.—Upon the application of Mr. A. Dunlop, Provost of Haddington when the transaction occurred forming the subject of this case, his Lordship has at once undertaken to bring in a bill to amend the Law in this respect; and we have reason to believe that this Bill will be introduced by his Lordship even as early as Monday next.]—*London preferments should be held by any one person at such a distance from each other; and they felt that they could not do otherwise than advise his Majesty as they had done.*—In doing this they certainly felt that a hardship had been inflicted on the Right Rev. Prelate, who certainly considered that his elevation could not prevent his holding the living of Durham *in commendam*. The Government regretted the disadvantage which had thus fallen upon the Right Rev. Prelate, and (the Chancellor of the Exchequer) could only say that whenever any preferment opened of a higher value than the See of Exeter, it would be offered to him. *This step had been taken because it was considered absolutely necessary. He was firmly attached to the interests of the Church; he had been brought up and educated in its principles, which he would always cherish, and he regretted its abuses. But it were only when such abuses were not corrected that the Church was in danger, and not by the toleration of all classes of their fellow-subjects.*—Hear, Hear, Hear, Hear, Hear! ! ! !

*Extract from the London Gazette.*

Friday, Dec. 24, 1830.

Whitehall, Dec. 22.—The King has been pleased to order a letter to be directed to the Chapter of the Cathedral Church of Hereford, recommending unto them the Hon. and Rev. Edward Grey, A. M. (Rector of St. Botolph, Bishopsgate, London,) to be chosen into the place of Dean of the said Cathedral Church, the same being void by the death of the Rev. Edward Mellish.

The shawl manufacture is now so greatly improved in Scotland, that shawls of the most superb description daily come from the loom. As a proof, we may mention that a very magnificent one intended to be worn by the Queen at the approaching Coronation, has been forwarded to her Majesty by Messrs. James Page and Co. of this City, which specimen of Scottish manufacture her Majesty has been pleased to purchase.—*Edinburgh paper.*

At the meeting of the creditors of Sir Walter Scott, which was held at Edinburgh on the 7th instant, the following re-