



***JOHN FRANCIS
ARUNDELL BARON
ARUNDELL
OF WARDOUR***

***TRADITION,
PRINCIPALLY
WITH REFERENCE
TO MYTHOLOGY
AND THE LAW
OF NATIONS***



***JOHN FRANCIS
ARUNDELL BARON
ARUNDELL
OF WARDOUR***

***TRADITION,
PRINCIPALLY
WITH REFERENCE
TO MYTHOLOGY
AND THE LAW
OF NATIONS***

**John Francis Arundell Baron Arundell of
Wardour**

Tradition, Principally with Reference to Mythology and the Law of Nations

EAN 8596547042266

DigiCat, 2022

Contact: DigiCat@okpublishing.info



TABLE OF CONTENTS

PREFACE.

MEMOIR OF COLONEL GEORGE MACDONELL, C.B.

CHAPTER I. THE LAW OF NATIONS.

CHAPTER II THE LAW OF NATURE.

CHAPTER III PRIMITIVE LIFE.

APPENDIX TO CHAPTER III.

CHAPTER IV CHRONOLOGY FROM THE POINT OF VIEW OF TRADITION.

CHAPTER V CHRONOLOGY FROM THE POINT OF VIEW OF SCIENCE

CHAPTER VI PALMER ON EGYPTIAN CHRONOLOGY.

CHAPTER VII THE TRADITION OF THE HUMAN RACE.

APPENDIX TO CHAPTER VII.

CHAPTER VIII MYTHOLOGY.

APPENDIX TO CHAPTER VIII.

CHAPTER IX ASSYRIAN MYTHOLOGY.

HEA OR HOA.

CHAPTER X THE TRADITION OF NOAH AND THE DELUGE

CHAPTER XI DILUVIAN TRADITIONS IN AFRICA AND AMERICA.

APPENDIX TO CHAPTER XI. THE PONGOL FESTIVAL.

CHAPTER XII SIR JOHN LUBBOCK ON TRADITION.

APPENDIX TO CHAPTER XII.

CHAPTER XIII NOAH AND THE GOLDEN AGE.

CHAPTER XIV SIR H. MAINE ON THE LAW OF NATIONS.

CHAPTER XV THE DECLARATION OF WAR.

INDEX.

BURNS, OATES & CO.'S LIST.

PREFACE.

[Table of Contents](#)

I shall have no hope of conveying to the reader, within the narrow limits of a preface, any fuller idea of the purport of this work than its title expresses; and as the chapters are necessarily interdependent, I can indicate no short-cut in the perusal by which this information can be obtained.

I venture to think that those who are interested in the special matters referred to will find something in these pages which may attract on account of its novelty—and some other things, new at least in their application—*e.g.* the comparison of Boulanger's theory with the narratives of Captain R. Burton and Catlin.

The frequent introduction and the length of the notes, must, I am aware, give to these pages a repellent aspect, but the necessity of bringing various points under comparison has compelled this arrangement; and I regret to say that the argument runs through the whole, and that almost as much matter requiring consideration will be found in the notes and appendices as in the text.

I trust that these imperfections may not be so great as to estrange the few, among whom only I can hope to find much sympathy, who wish to see the true foundations of peace and order re-established in the world, and who may therefore to some extent be indulgent towards efforts which have for their aim and motive the attempt to erect barriers which would render the recurrence of the evils which have lately deluged mankind difficult, if not impossible.

There are others whom the recent scenes of horror have inspired with a love of peace and order, or of whom it would be more true to say, that the horrors of the late war and revolution have deepened in them the sentiment of peace and order which they have always entertained, but who still do not desire these things on the conditions upon which alone they can be secured. From them I can only ask such passing examination as may be demanded for the conscientious rejection of the evidence I have collected, or for its adjustment with more accepted theories.

There will remain for me much ground in common with all who retain their faith in the inspiration of Holy Writ, and who wish to see its authority sustained against the aggressive infidelity of the day; and even among those who reject the authority of divine revelation, there may be still some who are wearied in the arid wastes, and who would gladly retrace their steps to the green pastures and the abundant streams. Among such I may perhaps expect to find friendly criticism.

At the same time, I do not disguise from myself that, in its present mood, the world is much more anxious to be cut adrift from tradition than to be held to its moorings; and that it will impatiently learn that fresh facts have to be considered before its emancipation can be declared, or before it can be let loose without the evident certainty of shipwreck. Although the exigencies of the argument have compelled research over a somewhat extended field of inquiry, the exploration has no pretensions to being exhaustive, but at most suggestive; not attempting to work

the mine, or, except incidentally, to produce the ore, but only indicating the positions in which it is likely to be found.

In the main position of the mythological chapters, that the heroes of mythological legend embody the reminiscences of the characters and incidents of the biblical narrative, I do nothing more than carry on a tradition, as the reader will see in my references to Calmet, Bryant, Palmer, and others.[1] I should add, that I limit the full application of De Maistre's theory to the times preceding the coming of our Lord.

My attention was first drawn to the coincidences of mythology with scriptural history by the late Colonel G. Macdonell.[2] Colonel Macdonell's coincidences were founded upon a peculiar theory of his own, and must necessarily have been exclusively upon the lines of Hebrew derivation. There is nothing, however, in these pages drawn from that source. I may add, for the satisfaction of Colonel Macdonell's friends, that as Colonel Macdonell's MSS. exist, and are in the possession of Colonel I. J. Macdonell, I have (except at p. 243, when quoting from Boulanger,) expressly excluded the consideration of the influence of the Hebrew upon general tradition, which, however, will be necessary for the full discussion of the question.

Whatever, therefore, Colonel Macdonell may have written will remain over and above in illustration of the tradition. But whether on the lines of Hebrew or primeval tradition, these views will inevitably run counter to the mythological theories now in the ascendant. These views, indeed, have been so long relegated to darkness, and perhaps appropriately, on account of their opposition to the

prevalent solar theories, “flouted like owls and bats” whenever they have ventured into the daylight, that it will be with something amounting to absolute astonishment that the learned will hear that there are people who still entertain them: “itaque ea nolui scribere, quæ nec indocti intelligere possent, nec docti legere curarent” (Cic. Acad. Quæes., 1. i. § 2).

I can sincerely say, however, that although my theories place me in a position of antagonism to modern science, yet that I have written in no spirit of hostility to science or the cause of science.

I have throughout excluded the geological argument, for the first and sufficient reason that I am not a geologist; and secondly, by the same right and title, that geologists, *e.g.* Sir C. Lyell, in his “Antiquity of Man,” ignores the arguments and facts to which I have directed special attention.

Nevertheless, I find that competent witnesses have come to conclusions not materially different from those which have been arrived at, on the ground of history, within their own department of geology. I have more especially in my mind the following passage from a series of papers, “On Some Evidences of the Antiquity of Man,” by the Rev. A. Weld, in the *Month* (1871), written with full knowledge and in a spirit of careful and fair appreciation of the evidence. He says:—

“These evidences, such as they are, are fully treated in the work of Sir C. Lyell, entitled ‘Antiquity of Man,’ which exhausted the whole question as it stood, when the last edition was published in the year 1863. It is worthy of note that though the conclusion at which the geologist arrives is

hesitating and suggestive, rather than decisive, and though nothing of importance, as far as we are aware, has been added to the geological aspect of the question since that time—except that the reality of the discovery of human remains has been verified, and many additional discoveries of a similar character have been made—*still the opinion, which was then new and startling, has gradually gained ground*, until we find writers assuming as a thing that needs no further proof, that the period of man's habitation on the earth is to be reckoned in tens of thousands of years."—*The Month* (May and June 1871), p. 437.

Among various works, bearing on matters contained in these pages, which have come to hand during the course of publication, I may mention—

"The Mythology of the Aryan Nations," by the Rev. G. W. Cox, referred to in notes at pp. 158, 165, 396.

The third edition of Sir John Lubbock's "Pre-historic Times."

Mr E. B. Tylor's "Primitive Culture," referred to in notes at pp. 41, 136, 300.

Mr St George Mivart's "Genesis of Species."

Mr F. Seebohm on "International Reform."

Sir H. S. Maine's "Village Communities."

The Archbishop of Westminster's paper, read before the Royal Institution, "On the Dæmon of Socrates."

"Orsini's Life of the Blessed Virgin," translated by the Very Rev. Dr Husenbeth.

"Hints and Facts on the Origin of Man," by the Very Rev. Dr P. Melia, 1872, who says (p. 59), "Considering the great length of life of the first patriarchs, Moses must have had

every information through non-interrupted tradition. If we reflect that Shem for many years saw Methuselah, a contemporary of Adam, and that Shem himself lived to the time of Abraham, ... that Abraham died after the birth of Jacob, and that Jacob saw many who were alive when Moses was born, we see that a few generations connect Moses not only with Noah, but also with Adam." I quote this passage as it is important to place in the foreground of this inquiry the unassailable truth that (apart from revelation) the historical account of the origin of the human race, to which all others converge, is consistent with itself, and bears intrinsic evidence of credibility.

An analogous argument with reference to Christian tradition was sketched in a lecture by Mr Edward Lucas, and published in 1862, "On the First Two Centuries of Christianity."

With reference to other parts of these pages, much supplemental matter will be found in—

"Historical Illustrations of the Old Testament," by the Rev. G. Rawlinson, M.A., Camden Prof., where, at pp. 19, 20, will be found direct testimony to what I had conjectured from indirect evidence at pp. 270, 271—viz., that the Polynesian islanders "have a clear and distinct tradition of a Deluge, from which one family only, *eight in number*, was saved in a canoe."

Also, but from a different point of view, in "Legends of Old Testament Characters," by Rev. S. Baring Gould, M.A.

The articles in the *Tablet* "On Arbitration instead of War," to which I have referred in chap. xiv. at p. 380, have

recently been collected and reprinted by Lord Robert Montagu, M.P.

If I have exceeded in quotation, I must direct my readers, for the defence of this mode of composition, from the point of view of tradition, to a work which I trust some in this busy age still find leisure to read, Mr Kenelm Digby's "Mores Catholici," i. 40.

I must, moreover, add a passage from the general preface to the recent republication of Mr Disraeli's works, which I came upon too late to introduce into the body of this book, but which I feel sure the reader, even if he has met with it before, will not be reluctant to re-peruse:—

"The sceptical effects of the discoveries of science, and the uneasy feeling that they cannot co-exist with our old religious convictions have their origin in the circumstance that the general body who have suddenly become conscious of these physical truths are not so well acquainted as is desirable with the past history of man. Astonished by their unprepared emergence from ignorance to a certain degree of information, their amazed intelligence takes refuge in the theory of what is conveniently called progress, and every step in scientific discovery seems further to remove them from the path of primæval inspiration. But there is no fallacy so flagrant as to suppose that the modern ages have the peculiar privilege of scientific discovery, or that they are distinguished as the epochs of the most illustrious inventions. On the contrary, scientific invention has always gone on simultaneously with the revelation of spiritual truths; and more, the greatest discoveries are not those of modern ages. No one for a moment can pretend that

printing is so great a discovery as writing, or algebra as language. What are the most brilliant of our chemical discoveries compared with the invention of fire and the metals? It is a vulgar belief that our astronomical knowledge dates only from the recent century, when it was rescued from the monks who imprisoned Galileo; but Hipparchus, who lived before our Divine Master, and who, among other sublime achievements, discovered the precession of the equinoxes, ranks with the Newtons and the Keplers; and Copernicus, the modern father of our celestial science, avows himself, in his famous work, as only the champion of Pythagoras, whose system he enforces and illustrates. Even the most modish schemes of the day on the origin of things, which captivate as much by their novelty as their truth, may find their precursors in ancient sages; and after a careful analysis of the blended elements of imagination and induction which characterise the new theories, they will be found mainly to rest on the atom of Epicurus and the monad of Thales. Scientific, like spiritual truth, has ever from the beginning been descending from Heaven to man. He is a being who organically demands direct relations with his Creator, and he would not have been so organised if his requirements could not be satisfied. We may analyse the sun and penetrate the stars; but man is conscious that he is made in God's own image, and in his perplexity he will ever appeal to our Father which art in Heaven."

MEMOIR OF

COLONEL GEORGE MACDONELL, C.B.

Table of Contents

The following notice appeared in the *Times*, May 23, 1870—"In our obituary column of Saturday we announced the death of Colonel George Macdonell, C.B., at the advanced age of ninety. This officer, who was a cadet of the ancient and loyal Scottish house of Macdonell of Glengarry, was the son of an officer who served under the flag, and who, as we have been told, was on the staff, of Prince Charles Edward Stuart at the battle of Culloden, where he was severely wounded. His son, the Colonel now deceased, was born in 1779, or early in the following year; obtained his first commission in 1796, and was nominated a Companion of the Bath in 1817. He saw active service in the war in North America with the 79th Foot, and received the gold medal for the action at Châteaugay; and had he not accepted the retirement a few years since, he would have been, at his death, almost the senior officer in the army holding Her Majesty's commission. The late Colonel Macdonell, who adhered to the Roman Catholic religion professed by his ancestors, and for which they fought so gallantly under the Stuart banners, married, in 1820, the Hon. Laura Arundell, sister of the Lord Arundell of Wardour, but was left a widower in May 1854." His son, Colonel I. J. Macdonell, now commands the 71st Highlanders.

I take this opportunity of adding a few facts, not without interest, to the above brief summary of a not uneventful life, as they might otherwise pass unrecorded. In the sentiment of the Gaelic saying—"Curri mi clach er do cuirn" (Wilson, "Archæol. Scot.," p. 59)—"I will add a stone to your cairn."

Colonel Macdonell's father, as stated in the above account, was wounded at Culloden in the thigh, but was able to crawl on all-fours, after the battle, eighteen miles, to a barn belonging to a member of the Grant family. He there remained in concealment for six months, leaving nature to heal the wound; but the search in the neighbourhood in time becoming too hot, he had to decamp, and walked with a stick all the way to Newcastle, where he was not greatly re-assured by meeting a soldier who had just been drummed out of his regiment as a Catholic, with the word "Papist" placarded on his back. He, however, escaped all dangers, and reached Hull, and subsequently Versailles or St Germain, where he remained three years, or at least till the events following the Peace of Aix-la-Chapelle dispersed the Prince's adherents. He then returned to England under the Act of Indemnity, entered the royal army, and was present with General Wolfe at the taking of Quebec. If I remember rightly, he had the good fortune to take an aide-de-camp of Montcalm's prisoner, with important dispatches.

Colonel Macdonell's maternal uncle, Major Macdonald (Keppoch), was taken prisoner at the battle of Falkirk. He was said to have been the first man who drew blood in the war. By a curious revenue of fortune, he was carried back into the enemy's ranks by the horse of a trooper whom he had captured. He was executed at Carlisle, and the circumstances of his execution supplied Sir Walter Scott, I believe, with the incidents which he worked up into the narrative of Maclvor's execution in "Waverley." His sword is in the possession of Mr P. Howard of Corby Castle, near Carlisle.

Fortune, however, had in store another revenge; for the Duke of Cumberland being present, many years afterwards, at a ball at Bath, by a most unhappy selection indicated as the person with whom he wished to dance a beautiful girl who turned out to be no other than the daughter of Major Macdonald (afterwards married to Mr Chichester of Calverley) the circumstances of whose execution have just been referred to. She rose in deference to royalty, but replied, in a tone which utterly discomfited, and put his Royal Highness to flight—"No, I will never dance with the murderer of my father!"

With these antecedents, it is needless to add that Colonel G. Macdonell was a warm admirer of the Stuarts, and not unnaturally extended his sympathy and adhesion to the kindred cause of legitimacy in France; and the one event to which he always looked forward, and confidently predicted—the restoration of the monarchy in the person of Henri V.—is now, if not imminent, at least "the more probable of possible events." There was, however, a belief which somewhat conflicted in his mind with the above anticipation—namely, his unshaken conviction that the Dauphin did not die in the Temple. He was frequently at Holyrood when the palace was occupied by Charles X., and he accompanied the Duchess de Berri to the place of embarkation for her unfortunate expedition to France. Colonel Macdonell also acted as the medium of communication between the French Royalists and the English Government; and on one important occasion conveyed intelligence to Lord Bathurst or Lord Sidmouth respecting the movements of the secret societies in Spain in 1823 some hours before it reached

them by the ordinary channel. Part of the communication was made on information supplied by the Abbé Barruel; and in reply, Lord Sidmouth said—"Well, I remember Edmund Burke telling me that he believed every word that Barruel had written, and I fully accept the authority."

Colonel Macdonell was under the impression that he was unwittingly and remotely the cause of the break up of the Ministry of "all the talents." As this is an obscure point in history, it may be worth while to give the following facts. The impression produced by Marengo and Austerlitz had led to the Army Reform Bill of 1806, in which the points discussed were almost identical with those which lately excited the public mind. The disasters which accompanied our descent on Egypt in 1807, and the consequent evacuation of Alexandria, created considerable discontent and re-opened the question, and as further reforms on minor points were contemplated, suggestions from officers in the army were invited.

Colonel Macdonell (then only lieutenant), wrote to Mr Windham, the Secretary at War, to point out that any broken attorney might create considerable embarrassment at any critical moment, seeing that, as the law then stood (an Act of George I. had extended the obligation of taking the sacrament to privates), any soldier could obtain, if not his own, his comrade's discharge by pointing him out as a Papist. The danger was recognised, and Mr Windham brought in a bill directed to meet the case, but its introduction revived the larger question of the repeal of the Tests' Acts and of the Catholic claims; and the discussion eventuated in Lord Howick's bill, which was met by the

King's refusal, and the consequent resignation of the Ministry. This may explain the statement (mentioned in the obituary notice in the Times of the Marquis of Lansdowne), that he (Lord Lansdowne) could never understand how the Ministry came to be dissolved. "He had heard instances of men running their heads against a wall, but never of men building up a wall against which to run their heads."[\[3\]](#)

It has been mentioned that Colonel Macdonell entered the army when quite a boy; and there were few men, I fancy, living, when he died last year, who could boast, as he could, of having served in the Duke of York's campaign in the last century, but I am not able to state in what regiment. He was for some time previously in Lord Darlington's regiment of Fencibles. He was at one period in the 8th, and at another in the 50th regiment, in which latter, I think, he went out to the West Indies and Canada.

It was in Canada, however, that his principal services were rendered, which indeed were considerable, and have never been adequately acknowledged.

When the Americans invaded Canada upon the declaration of war in 1812, it is hardly necessary to remind the reader that almost all our available troops were engaged in the Peninsula, and that Canada was pretty well left to its own resources.

Under these circumstances it will be recognised as of some importance that Colonel Macdonell was able to raise a regiment among the Macdonells of his clan who had settled there. But the conditions made with him were not fulfilled, and the command of the regiment, almost immediately after it was raised, was transferred to the command of a

Protestant and an Orangeman, which caused a mutiny which was with difficulty suppressed. Now, it must be borne in mind that the regiment was only raised through his personal influence with the clan, and through that of its pastor, Bishop Macdonell, and that the adherence of the Catholic Macdonells went far to determine the attitude of the French Canadians also. There were not more than 1200 regular troops in Upper Canada during the war.[4]

Before referring to the actions in which Colonel Macdonell was engaged, I will add the following particulars as to the Highland settlement which Colonel Macdonell gave me. In 1798, the submission of the Highland chiefs to the House of Hanover having been of some standing, and their adherence being, moreover, cemented in a common sentiment of abhorrence of the French Revolution, they were willingly induced to raise regiments among their clans. This was done by Glengarry, Macleod, and others. At the peace these regiments were disbanded, but finding that complications of various sorts had necessarily arisen during their absence respecting their lands and holdings at home, and, in point of fact, that they had no homes to return to, the greater part remained temporarily domiciled at Glasgow, the place of their disbandment. I infer that they remained under the charge and direction of Bishop Macdonell, who had accompanied them in their campaigns as chaplain, and was the first Catholic priest officially recognised in the capacity of regimental chaplain. At Glasgow (previously only served as a flying mission), he hired a storehouse, which he opened as a chapel, but stealthily only, as two of the congregation were always posted as a guard at the entrance on Sunday.

He found only eighteen Catholics at Glasgow at that time, i.e., I suppose, previously to the disbandment of the Highlanders. Through Bishop Macdonell's influence with Lord Sidmouth—who, although a strong opponent of the Catholic claims, always acted in his relations with him, he said, in the most honourable and straightforward way—the emigration of the Highlanders to Canada was shortly afterwards arranged.

Colonel Macdonell was subsequently partially reinstated in his command of the Glengarry regiment. The important services rendered by Colonel Macdonell in Canada, to which I have alluded, were—1. The taking of Ogdensburg at a critical moment, on his own responsibility, and contrary to orders, which had the effect of diverting the American attack from Upper Canada at a moment when it was entirely undefended; and, 2. Bringing the regiment of French Canadian militia, then temporarily under his command, from Kingston, by a forced run down the rapids of the St Lawrence without pilots (passing the point where Lord Amherst lost eighty men), in time enough (he arrived the day before, unknown to the Americans) to support De Saluberry at the decisive action at Chateaugay. De Saluberry indeed had only 300 French Canadians under his command, which, with the 600 brought up by Colonel Macdonell, only made up a force of 900 (with about 100 Indians), with which to check General Hampton's advance with some 7000 (the Americans stated the force at 5520 infantry and 180 cavalry, James, i. 305) in his advance on Montreal. In point of fact, Colonel Macdonell must be considered, on any impartial review of the facts, to have

won the day (*vide infra*), yet he was not even mentioned in Sir G. Prevost's dispatch.

Colonel Macdonell received the Companionship of the Bath for the taking of Ogdensburg, and the gold medal for his conduct in the action at Chateaugay.

I append the following accounts of the affairs at Ogdensburg and Chateaugay, adding a few particulars in correction and explanation—Alison, "History of Europe," xix. 121 (7th ed.), says—"Shortly after Colonel M'Donnell (Macdonell), with two companies of the Glengarry Fencibles, and two of the 8th, converted a *feigned* attack which he was ordered to make on Fort Ogdensburg into a real one. The assault was made under circumstances of the utmost difficulty; deep snow impeded the assailants at every step, and the American marksmen, from behind their defences, kept up a very heavy fire; but the gallantry of the British overcame every obstacle, and the fort was carried, with *eleven guns, all its stores, and two armed schooners* in the harbour." The difficulties, as I have understood from Colonel Macdonell, were not so much from the impediments of the snow, as from the dangerous state of the St Lawrence at the time, the ice literally waving under the tramp of his men as he passed them over (ten paces apart). The stroke of the axe, by which they judged, told it indeed to be only barely safe, and it had never been crossed by troops before at that point, as it was deemed insecure, being within three miles of the Gallops Rapids. (Among the guns were some taken from General Burgoyne.)

A fuller account of the taking of Ogdensburg may be read in Mr W. James' "Full and Correct Account of the Military

Occurrences of the late War between Great Britain and the United States of America,” vol. i. p. 135-141: London, 1818; he adds, “Previously to dismissing the affair at Ogdensburg it may be right to mention that Sir G. Prevost’s secretary, or some person who had the transcribing of Major (Colonel) Macdonnell’s (Macdonell’s) official letter, must have inserted by mistake the words ‘In consequence of the commands of his Excellency.’ Of this there needs no stronger proof than that Major (Colonel) Macdonnell (Macdonell) while he was in the heat of the battle, received a private note from Sir G. dated from ‘Flint’s Inn at 9 o’clock,’ repeating his orders not to make the attack; and even in the first private letter which Sir G. wrote to Major Macdonnell (Colonel Macdonell) after being informed of his success, he could not help qualifying his admiration of the exploit with a remark that the latter had *rather* exceeded his instructions—(Note.—Both of these letters the author has seen”), vol. i. 140. Colonel Macdonnell’s explanation to me of his taking this responsibility on himself was simply that he saw that the fate of the whole of Upper Canada depended upon it. Colonel Macdonell had received information that 5000 American troops were moving up in the direction of Ogdensburg, and they, in fact, came up a week after it was taken, under General Pike; but seeing the altered aspect of affairs, they moved off, and fell back upon Sackett’s Harbour, anticipating a similar attack at that point.

Colonel Macdonell always spoke with much emotion of the gallant conduct of a Captain Jenkins, a young officer under his command, who, although he had both arms shattered by two successive shots, struggled on at the head

of his men until he swooned. He survived some years, but died of the overcharge of blood to the head consequent on the loss of his limbs.

As Ogdensburg was a frontier town on the American side of the St Lawrence, Sir G. Prevost authorised payment for any plunder by the troops, but Colonel Macdonell received a certificate from the inhabitants that they had not lost a single shilling—which must be recorded to the credit of the Glengarry Highlanders under his command.

As I have already said, although Colonel Macdonell commanded the larger force, and by an independent command, at the action of Chateaugay, his name is not mentioned in Sir G. Prevost's dispatch, nor in Alison, who apparently follows the official account (xix. 131, 7th ed.) In Alison, De Saluberry is called, by a clerical error, De Salavary—such, after all, is fame! saith Hyperion. Although his troops, raw levies, broke, and Colonel De Saluberry was virtually a prisoner when Colonel Macdonell came up to the support, it was through no fault of his disposition of his men—(Colonel Macdonell always spoke of him as an excellent officer, who behaved on the occasion in the most noble and intrepid manner).

The American troops at Chateaugay are variously stated at 7000 to 5700 (Alison says, "4000 effective infantry and 2000 militia, and 10 guns," xix. 131). The British, 300 French Canadian militia, under De Saluberry; 600 under Colonel Macdonell, and some Indians, without artillery.

A full, but, Colonel Macdonell said, inaccurate account (from imperfect information) will be found in Mr W. James' "Military Occurrences," above referred to.

I extract the following passages, i. 307:—"The British advanced corps, stationed near the frontiers, was commanded by Lieutenant-Colonel De Saluberry of the Canadian Fencibles, and consisted of the two flank companies of that corps and four companies of voltigeurs, and six flank companies of embodied militia and Chateaugay chasseurs, placed under the immediate orders of Lieutenant-Colonel Macdonell, late of the Glengarrys, who so distinguished himself at Ogdensburg. The whole of this force did not exceed 800 rank and file. There were also at the post 172 Indians under Captain Lamotte." Colonel Macdonell's account differed substantially. It has been already mentioned that he had brought up his troops by a forced march the night before, and held them under a separate command. I conclude with the following passage as bearing out Colonel Macdonell's version:—"The Americans, although they did not occupy one foot of the 'abatis,' nor Lieutenant-Colonel De Saluberry retire one inch from the ground on which he had been standing, celebrated this partial retiring as a retreat.... By way of animating his little band when thus momentarily *pressed*" [Colonel Macdonell's version was, that although the troops were driven back, Colonel De Saluberry literally "refused to retire one inch himself," and virtually remained a prisoner until—] Colonel De Saluberry ordered the bugleman to sound "the advance. This was heard by Lieutenant-Colonel Macdonell, who thinking the Colonel was in want of support, caused his own bugles to answer, and immediately advanced with two ['six'] of his companies. He at the same time sent ten or twelve buglemen into the adjoining woods with orders to

separate ['widely'], and blow with all their might. This little 'ruse de guerre' led the Americans to believe that they had more thousands than hundreds to contend with, and deterred them from even attempting to penetrate the 'abatis.'"

For the rest of the account I must refer my readers to Mr W. James' "History," as above; though, if a complete and accurate account of an engagement which probably saved British Canada were ever thought desirable, Colonel Macdonell's commentaries (MS.) on the above and the official accounts, would afford valuable supplementary information.[5]

TRADITION
PRINCIPALLY WITH REFERENCE TO
MYTHOLOGY AND THE LAW OF NATIONS.

CHAPTER I.

THE LAW OF NATIONS.

Table of Contents

The increasing number of essays, pamphlets, works, and reviews of works on speculative subjects, with which the literature of England at present teems, compels the conclusion that the public mind has been greatly unsettled or strangely transformed since the days when John Bull was the plain matter-of-fact old gentleman that Washington Irving pleasantly described him.

Remembering the many sterling and noble qualities whimsically associated with this practical turn of mind, it will be felt by many to be a change for the worse. But if old English convictions, maxims, and ways of thought have lost their meaning; if in fine it is true that the mind of England has become unsettled, it says much for the practical good sense of Englishmen that they should have overcome their natural repugnances, and should so earnestly turn to the discussion of these questions, not indeed with the true zest for speculation, but in the practical conviction that it is in this arena that the battle of the Constitution must be fought.

There is, as it has been truly observed,^[6] “an instinctive feeling that any speculation which affects this” (the speculation in question being the effect of the Darwinian theory on conscience), “must also affect, sooner or later, the practical principles and conduct of men in their daily lives. This naturally comes much closer to us than any question as to the comparative nearness of our kinship to the gorilla or the orang can be expected to do. *No great*

modification of opinion takes place with respect to the moral faculties, which does not ultimately and in some degree modify the ethical practice and political working of the society in which it comes to prevail."

There is perhaps no question which lies more at the root of political constitutions, and which must more directly determine the conduct of states in their relations to each other, than the question whether or not, or in what sense, there was such a thing as natural law, *i.e.* a law antecedent to the formation of individual political societies, and which is common to and binding on them all.

It may be worth while, therefore, to examine whether a stricter discrimination may not be made between things which are sometimes confounded, viz.:—The Law of Nations and International Law, natural law and the state of nature; and even if the attempt at discrimination should fail in exactitude, it may yet, by opening out fresh views, contribute light to minds of greater precision, who may thus be enabled to hit upon the exact truth.

This view was partially exposed in an article which was inserted in the *Tablet*, September 28, 1861,^[7] entitled "International Law and the Law of Nations," and, all things considered, I do not think that I can better consult the interests of my readers, than by reproducing an extract from it here, as a convenient basis of operation from which to advance into a somewhat unexplored country:—

“It has been the fashion since Bentham’s[8] time, to substitute the phrase ‘International Law’ for the ‘Law of Nations,’ as if they were convertible terms. The substitution, however, covers a distinction sufficiently important.

“The ‘Law of Nations’ is an obligation which binds the consciences of nations to respect the eternal principle of justice in their relations with each other. ‘International law’ is the system of rules, precedents, and maxims accumulated in recognition of the eternal law. But as men may build a theatre or a gambling-house upon the foundations constructed for a religious edifice, and upon a stone consecrated for an altar, so has it been possible for diplomacy to substitute a system of chicanery for the simple laws which were intended to facilitate the intercourse of nations, and with such effect as in a great number of cases to place international law in contradiction with the law of nations—as, for instance, when in a certain case the law of nations says that it is wrong to invade a neighbour’s territory, international law is made to say that it is lawful to invade in such a case, because such-and-such monarchs in past history have done so.

“Practically the effect of the substitution is, that the sentiment of justice disappears, that wars which formerly were called unjust, are now called inevitable, so that good men, disheartened at the conflicting evidence of precedents, yield their sense of right and wrong, and defer to the adjudication of diplomatists. This is particularly satisfactory to the modern spirit which will admit nothing to be law which is superior to, and distinct from, that which the human intellect has determined to be law.

“But the sense of right and wrong in good men is that which gives its whole efficacy to the law of nations. There is nothing else in the last resort, to restrain the ambition and passion of princes, but the reprobation of mankind—nothing but the fear of invading that “moral territory”^[9] which even bad men find it necessary to conquer, ‘*dans l’ame des peuples ses voisins.*’ On the other hand, the whole mass of precedents to which diplomatists appeal, which are rarely carefully collated with those which legists have accumulated and digested, is nothing but a veil which thinly covers the supremacy of might and the right of force.

“In fact, the conventional deference which is paid to them, is at best only the hypocritical homage which force is constrained to pay to justice before it strikes its blow.

“International law, therefore, as *accumulated in the precedents of diplomatists*, is a parasitical growth upon that tree which has its roots in the hearts of nations, and which may be compared to one of those old oaks under which kings used to sit and administer justice. It was a dream of Dodwell’s that the ‘law of nations was a divine revelation made to the family preserved in the ark.’ In the grotesqueness and wildness of this theory we detect a true idea. The law of nations is an unwritten law, tradited in the memories of the people, or, so far as it is written, to be found in the works of writers on public law, like Grotius, whose authorities, as Sir J. Mackintosh remarks, are in great part, and very properly, made up of the sayings of the poets and orators of the world, ‘for they address themselves to the general feelings and sympathies of mankind.’ It is in this that the Scriptural saying about the people is so true—‘But

they will maintain the state of the world.’ And it is a just observation, that ‘the people are often wrong in their opinions, but in their sentiments rarely.’ You may produce state papers and manifestoes, written with all the dexterity of Talleyrand, and the lying tact of Fouché, but you will not convince the people. You have your opportunity. The Liberal press of Europe, at this moment, may be said to be in possession of the whole field of political literature; nevertheless, nothing will prevent its being recorded in history,^[10] that Victor Emmanuel in seizing upon the patrimony of St Peter was a robber, and his conquest an usurpation.”

I have observed that International Law is the more appropriate term from Bentham’s point of view, and as Bentham is the most redoubtable opponent of natural right and the law of nations, I will quote him at some length:—

“Another man says that there is an eternal and immutable rule of right, and that that rule of right dictates so-and-so. And then he begins giving you his sentiments upon anything that comes uppermost; and these sentiments (you are to take it for granted) are so many branches of the eternal rule of right.... A great multitude of people are continually talking of the law of nature; and they go on giving you their sentiments about what is right and what is wrong, and these sentiments, you are to understand, are so many chapters and sections of the law of nature. Instead of the phrase, law of nature, you have sometimes law of reason, right reason, natural justice, natural equity, good order. Any of them will do equally well. This latter is most used in politics. The three last are much more tolerable than