

In 1847 Sir Francis Head's policy in Upper Canada was attacked in the *Edinburgh Review*, the writer, in an article of some length, blaming him for disregarding FitzGibbon's advice.

Sir Francis' reply contained the following statement, the gross falsehood of which FitzGibbon was fortunately able to prove :

" It is therefore necessary that I should disabuse the public by reluctantly stating, what was perfectly well known throughout Upper Canada, namely, that the gallant militia colonel in question, from excessive zeal and loyalty, gradually became so excited that on the day after the defeat of the rebels, it was necessary to place him under medical treatment ; that during his illness I in vain endeavored by every possible act of personal kindness to remove from him the strange idea that I was his enemy ; and that, although he eventually recovered, this idea continued to haunt him so incessantly that when, a year afterwards, on his visiting England, I was, from feelings of regard, about to call upon him, I was earnestly requested by a Canadian, now in Toronto, not to do so." (Letter from Sir Francis Bond Head in the *London Sun*.)

## CHAPTER X.

HE year 1837 closed in gloom and sorrow for FitzGibbon, but the beginning of the new year had brighter days in store for him.

The people saw with regret the way in which he had been set aside by Sir Francis. The loyal among them knew that to him they owed their escape from the rebel designs on the city, and were anxious to show their gratitude in some tangible form.

On January 23rd, 1838, the matter was brought up in the House of Assembly, and the following resolutions passed unanimously :

" *Resolved*,—*That* James FitzGibbon, Esquire, having rendered signal services to this province in a military capacity on various occasions, when he was a regular officer of the regular forces of the empire during the late war with the United States of America, and subsequently in several civil capacities, and also very recently as Colonel of Militia on the breaking out of the rebellion in the Home District, it is a duty incumbent on this House to recognize, by some public expression, his brave and faithful conduct, and to use such means as may be in its power to procure to be granted to him by his sovereign some lasting token of the royal bounty, as an

acknowledgment of the estimation in which these services are held by the people whom it represents.

" *Resolved*,—*That* this House do humbly address Her Majesty, praying Her Majesty will be graciously pleased to grant to the said James FitzGibbon five thousand acres of the waste lands of the Crown in this province, as a mark of \Her Majesty's royal favor, for the honorable, efficient and faithful services of that gentleman during a period of twenty-six years."

Upon these resolutions, an address to the Queen was passed by the House, and sent to the Legislative Council, which House also passed it with only one dissenting vote.

With what feelings of gratitude did the soldier receive this spontaneous act on the part of the Legislature ! He had asked no reward for his services, had expected none, had endured his anxieties and trials as well as he could, and, although he had felt Sir Francis Head's treatment of him keenly and resented it indignantly, he had no expectation of relief from his troubles reaching him in so gratifying a manner. Whatever the Lieut.-Governor thought ' of him, the people were grateful. He forgot all the clouds, turned his back on all his troubles ; his sanguine nature anticipated the sunshine ; he saw his debts paid, his children provided for, and himself an honored and valued citizen of the place he had done his best to save from fire and sword.

The address was forwarded to the Secretary of

State for the Colonies, accompanied by a letter from the Lieut.-Governor, the following copy of which he ordered to be sent to FitzGibbon :

" UPPER CANADA, TORONTO,

" *March* 8th, 1838.

" MY LORD,-I have the honor to transmit to your Lordship a joint address to the Queen from the Legislative Council and House of Assembly of Upper Canada, praying that Her Majesty would be graciously pleased to grant to James FitzGibbon, Esquire, five thousand acres of the waste lands of the Province, as a mark of Her Majesty's royal favor for the honorable, efficient and able services of that gentleman during a period of twenty-six years. ...

" I beg leave respectfully, but most earnestly, to join in this recommendation, and I can assure your Lordship that a braver, a more loyal and devoted servant than Colone FitzGibbon cannot exist in Her Majesty's dominions.

"In time of war as well as in peace, he has admirably performed his duties, and I am confident that the boon which is solicited in his favor by the Legislature of this province, would be most gratefully acknowledged by Her Majesty's loyal subjects in Upper Canada.

" I have the honor to be, etc., etc.,

"(Signed) FRANCIS BOND HEAD.

" To the LORD GLENELG, etc., etc."

**It** is difficult to describe the effect of such a complete contradiction of his former behavior. The over-strained laudation of services he had pre-

viously ignored or denied, disgusted the honest-hearted soldier.

Sir Francis was now as civil as he had before been uncivil. He professed himself ready and anxious to do anything and everything in his power to further the wishes of the Assembly, to ensure the address to the Queen being received with favor by the Colonial Office ; assured FitzGibbon he had always valued 'his services and abilities and had " noticed him in his despatch." He bade him go to the Surveyor-General's office and pencil his name on five thousand acres of any vacant land he desired, " provided he did not ask for town lots."

These attentions, paid after the two Houses had passed the address, are probably the foundations for Sir Francis' assertion in his letter in the *Sun*. A man of FitzGibbon's character was not likely to receive such false blandishments with much cordiality.

On March 12th, FitzGibbon was appointed Judge Advocate on the militia general court-martial for the trial of alien invaders, or such persons as should be brought before it charged with levying war against Her Majesty in the Province.

The court met at the Garrison in Toronto on the 13th March. FitzGibbon ably discharged the duties of his post. At this court-martial General Sutherland, the American officer who had been actively engaged with the rebels on Navy Island, was arraigned. In a volume published by him later, he gives a full account

of his own trial from his point of view Among the documents quoted is a letter from FitzGibbon in his capacity of Judge Advocate. Sutherland took exception to his acting as such, but as he did likewise to the appointment of the majority of the commission, it may be taken for what it was worth.

At the end of March the Home Government accepted Sir Francis Head's resignation, and the evening before his departure he invited FitzGibbon to dine with him.

Reluctant as he was to accept the invitation, FitzGibbon did so. The Lieut.-Governor's evident desire to conciliate him and his own naturally forgiving disposition made it seem the right thing to do.

The only other person present was the Lieut.-Governor's private secretary. Again Sir Francis reiterated his wish to see the boon asked for in the address granted, and he parted with FitzGibbon promising to use his best efforts on his behalf upon his return to England.

In May, when his despatch of December 19th, 1837, was published in Toronto, the " mention made of FitzGibbon " *in* it was greeted by an indignant protest from the citizens.

A public meeting was called and resolutions passed by a crowded gathering, embodying their strong sense of the injustice done FitzGibbon by the Lieut.-Governor.

Alderman Powell was called to the chair, and in spite

of the effort of an enthusiastic gentleman by the name of McMillan, who wished the chairman to divide the honors of December 7th with the colonel, further resolutions were carried, to apply to the Provincial Government for a grant of one acre, of land within the city limits, and that steps should be taken to place subscription lists in the banks and other houses of public business in order to raise funds to defray the cost of building a suitable house for the man to whose exertions and forethought the citizens owed the preservation of their homes.

There are very few files of the daily papers of this date now extant in our libraries, what there are being but odd numbers scattered over several years, the fullest being those of the Reform organs. From the wholesale abuse and ridicule levelled at FitzGibbon, whole columns of these rebel papers being devoted to him, the widespread admiration and enthusiasm felt for him by the loyal may be more truly realized than from the partial praise of friends.

The assent to the address from the Legislature had not been received, and the more cautious of FitzGibbon's admirers and friends feared a second and more local petition would neutralize the first (from those authorized to speak for the Province at large), for which reason it was considered advisable to drop it.

In June, the answer was received, and the following letter was sent to FitzGibbon :

" GOVERNMENT HOUSE,  
" TORONTO *June* 23rd, 1838.

" SIR,-I am directed by the Lieut.-Governor, as it is a matter in which you are particularly interested, to inform you that he has received a despatch from the Right Honorable the Secretary of State, acknowledging the receipt of the joint address to the Queen from the Legislative Council and Assembly of this Province, praying that a grant may be made to you of five thousand acres of the waste lands of the Crown, and stating that on its being laid at the foot of the throne, Her Majesty had been pleased to express her gratification at the honorable testimony borne to your services by both branches of the Provincial Legislature.

" His Lordship adds, that if it should be the pleasure of the two Houses to mark their sense of your services by a pecuniary grant, it will afford Her Majesty much satisfaction to give her assent to any Act which may be passed for that purpose ; but Her Majesty is advised that, consistently with the terms of the recent Provincial Act on the subject of the alienation of the waste lands of the Crown, and the principles on which that Act proceeds, Her Majesty could not make you the proposed compensation in the form of a grant of land.

" I have the honor to be, Sir,  
"Your most obedient, humble servant,  
" JOHN MACAULAY.

" COLONEL FITZGIBBON, etc., etc."

Thus the Act passed to put an end to the promiscuous granting of lands—an Act forced through the Houses by the clamors of the Reformers—defeated the unanimous vote of the same Legislature to reward

the man who had been instrumental in putting down the rebellion raised by the principal Men among these Reformers.

The joke was a grim one, but it did not lessen the severity of FitzGibbon's disappointment. His hopes had been so buoyed up by anticipations of release from debt and dreams of better days, that the reaction was great. But his friends had not given up his cause. A bill authorizing the House to legalize the grant passed both Houses. This, it was hoped, would receive the ready assent of the Governor-in-Council. They were again disappointed, the bill being reserved for the consideration of the Crown.

Fearful lest it should meet with the same fate as the address, FitzGibbon was advised to cross the Atlantic, and by bringing the influence of such friends as he had in London to bear upon the Government, ensure it being granted. It was, however, useless. The Home Government had had their eyes opened to the abuse of privileges by former officials in Upper Canada, and they were determined that no more Crown lands should be granted to individuals for public services.

FitzGibbon had two interviews with Mr. Labouchere, the Under Secretary of State, but without any satisfactory result. Reluctant to give up all hope of obtaining the consent of the Crown, he lingered on in London. I have been unable to ascertain where or in what part of the great metropolis he lodged during the six months he remained there. The only

mention of his private life in the letters of that date extant is an incidental assertion that he " was very hard up, and lived in quiet, cheap lodgings, as inexpensively as possible."

The letter given below belongs to this time. His intercourse with the Brock family had never been broken off. The kindly services he had been glad to render them in return for their brother's kindness to him, were again returned with kindly interest by the friendship and affection of Sir Isaac's brothers and nephews. Savery Brock, in particular, remained a loving friend until death parted them. Among the correspondence of FitzGibbon's later years are one or two letters, written in the shaking, uncertain hand of extreme old age, their expressions of love and friendship as strong and true as in their palmier days. Nor did the feelings find expression only in words. Savery Brock lent his friend money without interest until better days dawned, and FitzGibbon was able to pay it back in full. Whether the visit to Guernsey, mentioned in this letter, was paid or not, we have no record :

" GUERNSEY, *July* 1st, 1839.

" My DEAR FITZGIBBON,-I have received your letter of the 26th ult. The packets, Government steamers, leave Weymouth every Wednesday and Saturday evening (nine o'clock) for this island, and are about seven hours running over. Every Tuesday and Friday evening at seven o'clock, from South-

ampton, starts a very fine steamer, the *Atlanta*, that makes her passage in ten or eleven hours.

" On Monday, Wednesday, Thursday and Saturday, a steamer quits Southampton at seven o'clock, and comes over in twelve hours—all good boats. The railroad to Southampton trains quit London every day about noon, and reach Southampton in time for the steamboats. With these accounts, you cannot be at a loss to come over here, and you may be assured of a hearty welcome by me. I have a bed for you, and nothing can give me more pleasure than seeing you.

" Let me hear from you on receipt of this. I am anxious to learn that you have got over your difficulties. I suggest nothing. You know how parties run, and the Ministers will not be sorry to be informed on many points by you. They will, I think, grant you the land in question. I know they ought to do so, for without a few such men as you are, they would have no land to grant.

" I send this to the Colonial Office to hunt you out, as you have not given me your address or the address of Mr. Price.

" Yours faithfully,

" JOHN SAVERY BROCK.

"COLONEL FITZGIBBON.

" Should you come here direct from London, I advise you to come by Southampton if from Ireland, by Bristol, then by Weymouth ; but I know you, will come and see me."

Returning to his lodgings after the second fruitless visit to the Colonial Office, FitzGibbon had almost given way to despair, when his eye fell upon

a letter of introduction given him years before by an officer of the Guards (Sir John Eustace), who had served with him on the Niagara frontier in 1814. The letter, which was a sealed one, had been entirely forgotten, and only the overturning of other papers in the morning had brought it thus opportunely to light. Although FitzGibbon had little hope of this letter being of any use to him, he determined to deliver it at once. The address took him to a distant part of the city, 35 Upper Berkeley Street, Portman Square. Sir Augustus d'Este was not at home. FitzGibbon left the letter and his card, then, having nothing to do, went for a long walk across the park into the country to the west of London.

Returning to his lodgings some time after four, he was surprised to find his call had been returned at two o'clock. Sir Augustus d'Este, not finding him in, had left a note expressing his disappointment, and a hope that he should be more fortunate the following day at the same hour, when he meant to do himself the pleasure of calling again.

From the first hour of their meeting until his death, Sir Augustus d'Este was one of FitzGibbon's best and most valued friends. He helped him with interest, with valuable introductions, and, above all, with a devoted love and admiration that found expression in long lover-like letters and many a kindly service. The dress sword worn by FitzGibbon in later years, and shown in the portrait which forms



the frontispiece to this volume, was given him later by Sir Augustus, with the loving words that he hoped its having been worn by himself would not lessen its value in the eyes of his friend.

The scabbard is crimson velvet, with the armor of various dates in gold raised in relief upon it ; the hilt a gold-winged dragon ; the handle ivory, capped by a helmet of gold ; the blade, which is a scimitar in shape, is a beautiful specimen of enamelled steel in blue and gold, the designs representing-different coats of arms and mottoes. The belt is of crimson leather embroidered with gold thread, and linked together by lions' heads—the buckle an interlaced dragon's head of the same metal. The velvet of the scabbard is frayed at the edges, proving that it was no mere ornament, but had been worn by its noble donor.\*

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\* Sir Augustus d'Este was the son of H.R.H. Prince Frederick Augustus (Duke of Sussex), the sixth son of George III., and the Lady Augusta Murray, second daughter of the Earl of Dunmore.

They were privately married in Rome, on April 4th, 1793, and, lest there should be any doubt raised of its legality, though not from any apprehension of the first ceremony being insufficient, they were again married by banns, in the Parish Church of St. George's, Hanover Square, London, on December 6th, 1793. Yet a decree afterwards passed the Court of Doctors' Commons declaring the marriage unlawful and void. This decree separated the husband and wife.

Prince Frederick Augustus, in his will, dated " Berlin, September 15th, 1799," expressly declares that " I feel myself still not less bound by every obligation of law, conscience and honor, to consider her as my lawful and undoubted wife in every respect, as if that decree had never taken place, and that I consider, and

FitzGibbon remained in England until nearly the close of the year, when he returned to Toronto.

Soon after the meeting of the last session of the last Parliament of Upper Canada, in January, 1840, an address was voted by one of the Assemblies praying that His Excellency the Governor-General, the Right Honorable Charles Poulett Thomson, would " be pleased to inform the House if the royal assent had been given to the bill passed last session, entitled 'An Act to enable Her Majesty to make a grant of land to James FitzGibbon, Esquire.'" (See Appendix IX.) The reply to this address was practically the same as to the former, and though further discussion of the matter resulted in an Act being passed by both Houses to repeal the Act providing for the disposal of public lands of the Province so far as to enable Her Majesty to consent to the grant to FitzGibbon, it also was

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ever shall acknowledge, our son, Augustus Frederick, who was born after both these marriages, as my true, lawful and legitimate son."

In 1830, papers fell into his son's hands which convinced him beyond a doubt of the legality of his claims. He was, however, unsuccessful in establishing them, and refused to accept any other title from the Crown than the simple one of knighthood. He died unmarried. His sister, Lady Augusta, married Chief Justice Wilde, but left no children.

Sir Augustus gave FitzGibbon a complete copy of all the documents and papers connected with his case.

The marriage was doubtless annulled on the ground of absence of license from the Crown, that, according to the law of Great Britain, being necessary.

reserved for Her Majesty's consideration and received no further attention.

The following extract from the debate in the House on January 25th, taken from the columns of one of the most bitterly antagonistic Radical papers, the *Toronto Mirror*, shows with what feeling the question was discussed. The editorial column of the same issue, containing some virulent abuse of 'Fitz-Gibbon, leads one to suppose that the report of the proceedings in the House would not be more partial to his cause than the necessity of the case obliged.

" Mr. Burwell brought forward a resolution praying Her Majesty to grant from the casual and territorial revenue to James FitzGibbon, Esquire, £2,500 for important services rendered to this province by that gentleman.

"Mr. Boulton opposed the resolution. He respected Colonel FitzGibbon, but considering the present state of the country and the embarrassed state of our finances, he thought £1,000 quite sufficient to compensate him for any services rendered. A bill passed this House granting him five thousand acres, which, at four shillings an acre, the price paid by Government for United Empire rights, would amount to £1,000.

"Mr. Burwell believed, under Divine Providence, the safety of the country was owing to the gallant colonel, but for him the city would have been taken. The sum proposed was only equivalent to the land.

"Mr. Gowan wished to know how the gallant colonel had saved the country, before so large a sum should

be taken from the pockets of the people to reward him.\*

" Mr. Thomson said the financial affairs were in a very embarrassed state, but at the rate they were going on, it would not appear so. He called upon the Chairman of Finance to inform the House if their affairs were in a flourishing state. He would recommend to members to pay their honest debts. Sums were advanced by people for the repair of roads and bridges, and they were allowed to suffer.

"Mr. Rearms reminded them of the poor man who asked a bishop for a guinea, which was refused ; he then asked him for a crown, which was likewise refused ; and last of all, he asked for a penny. That was also refused. He then asked the humane bishop for his blessing. ' Yes,' said the bishop, ' kneel down, and I will give it.' Because the blessing cost him nothing, he was willing to give it, but he would not give the money. The £2,500 proposed would be given to the colonel on account of his great and meritorious services, and his attention and anxiety when preserving the city and the lives and property of the people of the Province. There was not a dissenting voice against the 5,000 acres of land voted to him, and the despatch said he could not get it ; and now they were going to remunerate him in money. Would they raise a man high in his expectations, and then depress him ? Would it be honorable to do so ? He saved us from ruin, and £2,500 was very little for his services to the city of Toronto.

" Mr. Merritt said that at the time the disturbance

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\* Mr. Gowan had evidently not forgotten FitzGibbon's address to the Orangemen, nor his influence in preventing the processions and demonstrations which he (Gowan) had made every effort to revive



took place here, the gallant colonel had preparations made quietly, and but for that Mackenzie would have been in and taken the town.

"Mr. Gowan said. if he was to judge of the preparations by the event, he could not go with him. It was all done by surprise. There were other individuals who deserved reward as well as Colonel FitzGibbon He thought £1,000 quite sufficient a reward for the services performed. Several other persons distinguished themselves in 1837, and they were not to get anything.

" The Speaker (Colonel Macnab) did not think it was generous to make enquiries as to the services rendered. A grant was made at a time when his services were fresh in the memory of every member. They addressed the Government to give him 5,000 acres of land, and he was deeply grateful for the consideration which this House laid on him ; and what did they do ? They made good their pledge by passing an Act of Parliament, and it passed unanimously in both Houses. To that bill the Queen's assent was withheld ; but they were told they could make good their pledge by an appropriation from the casual and territorial revenue. Have they got that sum in the casual and territorial revenue ? You may grant it. You pledged yourselves, and you cannot retrace your steps without disgracing yourselves. It would be unjust to hold up this hope, and then cut it off. They might give the 5,000 acres, or give a sum of money. In the last American war he served his country faithfully. In the late rebellion he commanded the militia and he (the Speaker) served under him, and he was active and zealous.

" Mr. Rykert said the House was pledged, and he would support the resolution,

" Mr. Gowan had no objection to the £1,000, as the House was pledged. He moved that £1,000 be granted to Colonel FitzGibbon in order to compensate him for his meritorious services.

"Mr. Cook thought he was deserving, but plenty of land could be had at five shillings an acre.

"Mr. Kearnes moved the House to rise, report progress, and ask leave to sit again.

"Mr. Backus said the casual and territorial revenue was not yet surrendered ; he hoped some communication would be laid before the House upon that subject. He was for granting the land.

" Mr. Thomson said they should be careful how they granted money out of the ordinary revenue of the Province.

" Mr. Merritt said it was nonsense to argue about the price of U. E. rights. Some land was worth two dollars an acre.

" Mr. Rykert said they should not retract their vote ; they should give a sum equivalent to the land.

" Committee rose, reported progress, etc., etc."

This debate called forth a further storm of rage and indignation from the Reform press. Part of the editorial columns of the paper from which the above is taken contained, as has been stated, the most virulent abuse of the " gallant colonel."

Lord Seaton interested himself in FitzGibbon's behalf, and wrote to Lord John Russell on the subject. In the following letter to FitzGibbon he enclosed the reply he had received :

" I acquainted Lord John Russell that I presumed he had received a report of your conduct at the time

of Mackenzie's menaced attack on Toronto ;. that you had constantly exercised your influence over your countrymen settled in Canada, with great advantage to the public, and that the local authorities had made use of your influence in times of difficulty and danger.

"I regret that my application has not produced a more satisfactory result, but I shall have great pleasure in being able to render you any assistance in my power.

" I remain, very faithfully yoUrs,  
" SEATON."

The letter enclosed was but a repetition of the former refusal of the Colonial Secretary to allow the alienation of public lands.

During Lord Sydenham's administration nothing was done. The union of the two provinces absorbed the attention of the Legislature and the Governor to the exclusion of private questions, and though FitzGibbon in a private letter, thanking him for the offer of an appointment for his son in Quebec, drew His Excellency's attention to his case, he felt how small a matter his embarrassments were in comparison with the larger interests of the Province, and made no further effort to obtain redress.

FitzGibbon's eldest son had given up the business post he held in Dublin, and returned to practise at the bar in Toronto, bringing with him a cousin who had recently been left an orphan. She became as a daughter to her uncle, and to her tender care the

comfort of FitzGibbon's declining years was largely due.

After the death of his wife, on March 22nd of this year (1841), FitzGibbon removed his family to Kingston, that being the next stopping-place of the perambulating Government of the day. He was there appointed commissioner for administering the oath to members of the Legislature, June 5th, and Clerk of the Legislative Council on June 10th.

The house on Queen Street was left in charge of the gardener for a time. There were still five acres about it free from mortgage or incumbrance, all that remained of the eighteen acres purchased in 1826. Knowing its value, FitzGibbon made every effort to retain it. Although deeply in debt, he was willing to pay high interest rather than lose this one bit of landed property, and from appearances all he was ever likely to hold. The house was a good one as houses were in those days ; the garden was well kept and the fruit and flowers plentiful ; the lawn included a bowling alley, which was a source of much pleasure to his sons as well as to friends and neighbors.

Of FitzGibbon's life in Kingston we can glean very little. Casual mention of his name in letters, references to him in the local papers, reminiscences of pleasant chats and walks with him by the one or two of his friends who survive him, and two indifferently well executed portraits, are all that we have.

The portraits have unfortunately been cut down

and the name of the artist lost.\* , We have only a shadowy outline of the story of how they came to be painted.. How or where he found the artist is uncertain ; but, knowing FitzGibbon's kindly interest in the poor, who were struggling to earn a living, his sympathy in the sufferings of his fellows, and his quick observation of whatever crosses his path, as well as the ever-present wish to do some, little good to his neighbor, we can understand how An expression of suffering or despair on an intelligent face would attract his attention and induce him to follow and learn whether a hand might not be stretched out to help.

" I do not know who the artist was," writes his daughter-in-law, years afterwards, " but I always understood that the colonel found him in a garret starving, that he fed him, visited him, and when strong enough, found him work, beginning with his own portraits, for which he paid seven pounds ten each. I believe what the man was able to earn through the colonel's influence provided him with funds to take him to New York, where he afterwards did better and commanded good prices for his portraits."

The portraits of FitzGibbon are more than life-size, which gives the likeness a startling effect and the

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\* From the occurrence of the name Krcebel in the public accounts of the Legislature in 1842 to 1845, it is not unlikely that he was the artist of FitzGibbon's portrait,

impression that they are coarse representations of the original, the crudeness of the drawing giving the face an unnatural fulness, and both nose and upper lip a greater length than the face of a photograph taken twenty years later possesses.

A lithograph print taken from one of these portraits was published in the *Anglo-American Magazine* for September, 1854. The smaller size robs it of some of the defects of the painting. FitzGibbon found no fault with it. In a letter to his nephew, Gerald FitzGibbon, dated January, 1855, he says :

" I have just received a Canadian magazine from Toronto, to which is prefixed a print of my rough old face, to my great surprise ; and having in it, also, a brief biographical sketch of my military life, but not a word of my having saved Toronto, which, however, may be reserved for a future number. . . . I thought I had been entirely forgotten by the provincials, but it is not quite so."

Sir Charles Bagot, Lord Sydenham's successor, took up FitzGibbon's cause with interest. He read the facts from an outsider's point of view, and lost no time in drawing the attention of the House to a case in which he " considered the colonel an extremely ill-used man." As a result, an Order-in-Council was made, recommending an issue of land scrip to FitzGibbon to the amount of the Government price of the land, which he might have procured had the bill granting the land received the royal assent.

Unfortunately, the value of the land scrip at the



time this Order-in-Council was made was about half what the land was worth. By accepting this way out of the difficulty, and being obliged to sell at once, the Government would have had to disburse two thousand pounds in order that FitzGibbon might receive one thousand, the purchaser or speculator pocketing the difference. The upset price of the land having been fixed by the Government at ten shillings an acre, it would be obliged to redeem the scrip at that price, irrespective of the sum received for it by FitzGibbon. To this FitzGibbon objected, both for his own sake and because it gave an opportunity for that which savored of jobbery.

The session closed, however, without the message being sent down to the House. A few days after, FitzGibbon met Sir Charles Bagot in his official capacity. The Governor took the opportunity to express his regret that he had not been able to bring the matter to a satisfactory termination for FitzGibbon ; he " wished to send the message down but had been overruled."

Sir Augustus d'Este, about this time, drew up a short, concise, but clear statement of all that had occurred in connection with the business, and had taken an opportunity of reading it himself to Lord Stanley, then Secretary for the Colonies. He writes (in March):

" MY DEAR FITZGIBBON,— On the 28th, the last day of last month, I was in the chair upon the occa-

sion of a dinner which was given to Sir Charles Metcalfe, previous to his departure, by the Colonial Society. After dinner, I requested the favor of being allowed to call upon him, which request was readily granted, and 'yesterday, March 1st, I read over to him almost the whole of the accompanying statement, which had been prepared for and presented to Lord Stanley. I also furnished him with a copy of it, which he promised to read over during the voyage.

" When you have read the statement, you will be aware of the exact extent of Sir Charles Metcalfe's knowledge concerning your services and their contemplated acknowledgment by the two Governments. Hoping that you will approve both of the statement and of the measure of my reading it over to your new Governor-General, I shall for the present conclude, renewing the assurance of the sincere regard of,

" My dear FitzGibbon,

" Yours most truly,

" AUGUSTUS D'ESTE."

When speaking of his friend elsewhere, FitzGibbon says : " To him also I was indebted for a special introduction to Sir Charles Metcalfe, whose conduct towards me during the short remainder of his most valuable and exemplary life was extraordinary even for that extraordinary man."

The new Governor did, indeed, take a deep interest in the soldier and his difficulties. When he found the Government would neither pay over the sum granted to FitzGibbon, nor advance any portion of it to enable him to meet the most pressing of his debts, he insisted upon advancing sufficient out of his own

pocket, generously doubling the amount named by FitzGibbon.

Lord Metcalfe sent FitzGibbon's memorial to the Council, but it went no further, and another session passed without any settlement. The resignation of a number of the Executive Council necessitated the prorogation of the House, and yet another session passed without any settlement being reached. Lord Metcalfe, however, obtained a report from the Council, which he forwarded, with a favorable recommendation, to the Colonial Office. (See Appendix X.)

When the new Parliament assembled in January, 1845, the matter was again brought to their notice, and in March, when the estimates were laid on the table, the sum of £1,000 was inserted, and recommended in payment of the long outstanding reward for his services, so enthusiastically voted him by the unanimous voice of the Assembly in 1838. The protracted anxiety and uncertainty, alternate hope and despair, so affected FitzGibbon's health, that when the seat of Government was removed to Montreal, he applied for leave of absence and remained in Kingston.

Finding the state of his health still unfitted him for a faithful discharge of his duties, FitzGibbon tendered his resignation in May, 1846. It was not accepted at once; a Committee of the House addressed the Governor-General to allow FitzGibbon to retire on a pension of three hundred pounds (Canadian currency) a year. This was at first refused, but upon

a second and third address being presented, stating that in consequence of inability of the clerk to perform his duties, he having produced medical certificates to that effect, the office was in danger of becoming a sinecure, and the work of the House not being done satisfactorily by a substitute, the petition was granted and FitzGibbon allowed to retire. Thus in June, 1846, ended twenty years' service in the Canadian Houses of Parliament, and forty-six years of active life in the country.

*(Copy of Dr. Widmer's Certificate.)*

" TORONTO, *April* 3rd, 1845.

" It is now thirty years since I became acquainted with Captain FitzGibbon, then in the Glengarry Light Infantry. The war with America had then just concluded, and the whole community of Upper Canada, civil and military, was full of applause in regard to the conduct of Captain FitzGibbon, during the course of the preceding campaigns.

" It was justly pronounced that his services had been of the highest order, and contributed to stamp his corps with the character of vigor, vigilance and valor.

" During a long series of years of peace, the same qualities which rendered him conspicuous as a military man, were productive of an effective and highly honorable discharge of the duties of the offices he held in civil life.

" And thus would the useful and faithful course of Captain FitzGibbon's career have terminated in civil engagements, but for the occurrence of the unnatural attempt of the rebels to sever the country from British

connection, in 1837. At this crisis the foresight and energy of Captain FitzGibbon saved the city of Toronto from destruction, and were the means of shortening a struggle that might otherwise have been protracted. For these services alone, the gratitude of the Government is eminently due to Captain FitzGibbon. His expectations of a release from pecuniary embarrassments have been raised by a vote of the Legislature for a grant of land grounded on the high value at which it estimated his services during the rebellion. These expectations having failed in their accomplishment, to my knowledge, has had a powerful effect in destroying the healthy tone of his mind, and has rendered him incapable of performing the active duties of his office, and almost unfitted him for the social intercourse of his friends and acquaintances.

" (Signed) C. WIDMER."

*(Dr. Winder's Certificate.)*

" These are to certify that my knowledge of Colonel James FitzGibbon, Chief Clerk of the Honorable the Legislative Council, extends over a period of thirty-three years. Gifted with a constitution naturally good, and of abstemious habits, he has nevertheless a temperament highly sanguine and nervous, and this acted upon, primarily, by an active life spent in the military and civil service of his country, and secondarily, by disappointments and distresses of no ordinary character, has produced such a state of mental irritation, prostration and despondency, anvil loss of memory, as at times to render him quite incapable of the efficient discharge of the duties of his very important office. In addition to the foregoing circumstances, I would observe that Colonel FitzGibbon has nearly attained the age of sixty-five years, forty-seven of

which have been honorably passed in the public service ; and advancing age has brought with it an increase of physical infirmities, some of them indeed of long standing, which greatly add to the causes of incapacity above mentioned.

" On the whole, then, it is my deliberate opinion, founded on facts which have come to my knowledge from so many years' personal friendship and intimacy with Colonel FitzGibbon, that he is, from causes quite beyond his control or power of avoidance, physically and mentally incapable of further public duty, and that his perseverance in the attempt to perform the arduous duties of his present official station, will greatly aggravate the constitutional maladies under which he now suffers.

" Given under my name, at Montreal, this fifth day of May, 1845.

"(Signed) WILLIAM WINDER, M.D.

Thus had the repeated disappointments, hopes deferred, and accumulation of debts and difficulties brought about the very disability to perform his duties in 1845 which Sir Francis Bond Head had falsely asserted of FitzGibbon in 1837.