

U P P E R C A N A D A.

RETURN to Two Addresses of the Honourable The House of Commons,  
dated the 14th and 17th June 1836;—for,

— 1. —

EXTRACTS from a DESPATCH of the 21st April 1836 from Sir *F. B. Head*,  
Lieutenant-Governor of *Upper Canada*, to Lord *Glenelg*, with the Enclosures  
referred to in such Extracts.

— 2. —

COPY of an ADDRESS to The KING from the ASSEMBLY of *Upper Canada*,  
with the APPENDIX of Documents transmitted therewith to the Secretary  
of State.

Colonial Department, }  
29 June 1836. }

G. GREY.

(*Sir George Grey and Mr. Hume.*)

Ordered, by The House of Commons, to be Printed,  
30 June 1836.

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## L I S T.

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UPPER CANADA.

— 1. —

EXTRACTS from a DESPATCH of the 21st April 1836, from Sir *F. B. Head*, Lieutenant-Governor of UPPER CANADA, to Lord *Glenelg*, with the Enclosures referred to in such Extracts.

EXTRACTS of a DESPATCH from Lieutenant-Governor Sir *F. B. Head* to Lord *Glenelg*, dated Toronto, 21st April 1836.

I HAVE the honour to transmit to your Lordship an Address from the House of Assembly to His Majesty, as also a copy of one to The House of Commons, reprobating in unusual language my conduct as Lieutenant-Governor of this province. I have also to inform your Lordship, that the House of Assembly have deemed it their duty to stop the supplies; that in consequence of this proceeding, I have reserved all their money bills for the consideration of His Majesty, and that I have declined to grant their contingencies.

I also enclose to your Lordship a copy of my Speech on proroguing the Provincial Parliament.

The Speech I yesterday delivered on proroguing the Provincial Legislature, will sufficiently explain the attempts I have made to carry into effect the remedial measures with which I was entrusted.

If the sentiments contained in these petitions from the House of Assembly were really the sentiments of their constituents, this province might justly be said to be in a state of revolt; whereas the fact is, as I stated it to your Lordship in my last despatch, "that a burst of loyalty will very shortly resound from one end of the province to the other; as a more honest, well-meaning peasantry cannot exist than His Majesty's subjects in this noble province;" and as a proof of this assertion, I refer your Lordship to the enclosed addresses I have already received.

Your Lordship cannot but remark, that for the first time in the history of this province, the supplies have been stopped; that the whole country has been thus thrown into confusion, and that the period selected for this violence has been my arrival with your Lordship's instructions to correct all the grievances of the country.

The Assembly, in their Petition to the House of Commons, make their second complaint against me as follows:

Upon the formation of this Council, although R. B. Sullivan, Esq. was sworn in, and appeared to the public as Senior Councillor, upon whom, in the event of the absence of his Excellency, might devolve the administration of the government, yet a secret agreement was entered into, written in the Council Chamber by his Excellency himself, by which was to be defeated the apparent succession of the Senior Councillor to the administration of the government. This arrangement was denied by His Excellency to us, in his answer to our address on the subject; while, on the other hand, the facts so denied are proved by the testimony of R. B. Sullivan, Esq., and the Hon. Captain Baldwin, both of whom are still retained by his Excellency in the Council. For other instances of his deviation from candour and truth, as well as of his utter unacquaintance with the nature of our constitution, and the mode in which it should be administered, we refer to the appended documents.

If the above statement had been made to your Lordship, I should not feel it necessary to notice it; but as it is addressed to the House of Commons, and is intended to conceal the weakness of their own case by calumniating me, I will, as briefly as possible, show your Lordship the wilful misrepresentation it contains.

Despatch from the  
Lieut.-Governor to  
Lord Glenelg.

The day after my late Executive Council resigned, I gazetted Messrs. Sullivan, Allan, Baldwin and Elmsley, in their stead, and appointed a day on which they were to be sworn in. On the morning of this day Mr. Sullivan called upon me, and said that he wished to retain the place in which his name had appeared in the Gazette; yet he wished it should be clearly understood, that in case of my death it was his intention to resign. My answer to him was, "When I am dead, you may all do what you like."

On assembling in the antechamber of the Council to be sworn in, Mr. Sullivan repeated his request, begged that his intention might be committed to writing before they were sworn in, and proposed that some person should be procured to write a memorandum of his wishes. I replied, "Surely any one can write that," and I accordingly took up a pen and wrote what he desired, which was signed in presence of the other Councillors, and delivered to Mr. Allan before any of them were sworn in. As soon as it was signed, I said, "This had better not be secret; it had better be made public;" and, accordingly, the following day Captain Baldwin stood up in the Legislative Council, and made public the whole arrangement.

About ten days afterwards the House of Assembly, at the request of the Committee to whom had been referred my correspondence with my late Executive Council, forwarded to me an Address, requesting that I would lay before their House "copies of any bond or agreement between your Excellency and any of your present Executive Council, or between any two or more of the said Council, by which it is stipulated in what manner the government shall be administered, or who shall administer the government of this province, in case of the above-named occurrence."

As I have stated to your Lordship, the paper which was signed in the antechamber of the council, and there delivered to Mr. Allan, without any minute in Council being made respecting it, did not stipulate in what manner the government should be administered "in case of my death;" nor did it stipulate who, in that event "should administer the government of this province." It merely stated Mr. Sullivan's whim or intention to resign, and as that had been made public in the way I have stated, I knew quite well that the Address of the House of Assembly, asking for my "bond," was merely intended to insult me.

I accordingly replied to the Address as follows:

Gentlemen,—I have entered into no bond or agreement of any sort with my present Executive Council; and I do not possess, nor does there exist in Council, any document of such a nature between two or more of the said Council.

This was strictly correct; for I myself had entered into no bond, nor did there exist in Council any document of the nature applied for.

It was by the advice of the Council, who read the Assembly's Address to me, as well as my reply, before it was sent, that the above answer was given; and after it was transmitted I gave Mr. Sullivan permission to go before the Committee (which he did), and explain to them exactly what had taken place; which he did in the following plain, honest evidence on the subject:

*Question 1.* Are you the Senior Member and Presiding Councillor of the Executive Council?—*Answer.* Yes.

*Q. 2.* Is there any written agreement existing between yourself and any of the other members of the Executive Council, by which it is stipulated on your part in what way the government of the province should be administered in the event of the death or removal from the province of the Lieutenant-Governor?—*A.* There is no agreement in existence by which it is stipulated how the government of the province shall be administered in the event mentioned in the question. At the time the Council were about to be sworn in I expressed a wish that it might be understood that, in either of the events mentioned, it was my intention to resign my place as Executive Councillor, as it was not my desire, in any event, to fill the situation of Administrator of the Government. At my request this intention was expressed in writing, and I signed it.

*Q. 3.* Is the instrument you mention under seal, or witnessed?—*A.* It is neither under seal nor witnessed.

*Q. 4.* Into whose hands did you deliver the document?—*A.* Into the hands of the Hon. William Allan.

*Q. 5.* Did any other person know of the existence of the document?—*A.* Yes; it was not intended that my intention should be secret. His Excellency the Lieutenant-Governor was present when it was read and delivered to Mr. Allan.

*Q. 6.* Did his Excellency the Lieutenant-Governor write the document, or was it written by

by his Excellency's order?—*A.* I proposed that my intention should be expressed in writing, and I wished that the writing should be drawn up by some person other than myself, upon which his Excellency, being present, was kind enough to draw it up.

Q. 7. Was the writing intended to be legally binding upon you?—*A.* Certainly not.

Q. 8. What was the object or intention of the paper in question, if it was not intended to be legally binding?—*A.* It was intended for my own satisfaction, that it might not be said that I had it in view to fill the situation of Administrator of the Government.

Q. 9. Do you think you could constitutionally resign in case of either of the above events, and give place to another who could administer the government?—*A.* I could transmit my resignation to His Majesty's Government, and decline taking upon myself the office of Administrator of the Government. I think it is the constitutional right of any individual to decline taking office upon himself; and as to giving place to another, that is not the act of the person declining office, but of the law.

Q. 10. Do you not think, that in either of the above events taking place, you would be the Administrator of the Government, without being appointed in any way?—*A.* The Senior Executive Councillor would, upon taking the oaths of office, be invested with the administration of the government, without any further appointment.

Q. 11. Do you think, upon your resignation as above stated, the administration of the government could be assumed by any other member of the Council?—*A.* I think it could, either upon my resignation or upon my refusal to take the oath of office.

With this explanation before your Lordship, I must beg you to refer to the artful and incorrect statements made by the Assembly in their petition to The House of Commons.

1st. They say, that a "secret arrangement was entered into," although it had been, as I have stated, publicly proclaimed to the whole country, by one of the members of the new Executive Council, in his place in the Legislative Council.

2d. They say that this arrangement was denied "by his Excellency to us in his answer to our address," Although I denied no such thing; but stated that I had entered into no bond or agreement, and that I did not possess nor did there exist in Council any document of such a nature. It could not matter to me one straw, whether, when I was dead, Mr. Sullivan resigned, or whether all the Councillors resigned. I could have no object that Mr. Sullivan's intention to resign should be secret. If I had I should not have recommended it to be made public, and should not have told Mr. Sullivan to go before the Committee and explain his own story.

Enclosure 1, in No. 1.

PETITION of the HOUSE OF ASSEMBLY of UPPER CANADA.

TO THE KING'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign,

WE, Your Majesty's dutiful and loyal subjects, the Commons of Upper Canada in Provincial Parliament assembled, humbly approach Your Majesty with our renewed assurances of loyalty and attachment to Your Majesty's person and Government.

It is with pain we acknowledge how seldom it is we have to address Your Majesty in the unmixed language of gratitude and thankfulness, and we have noticed the difficulties, at this distance from Your Majesty's immediate care, which attend the fulfilment of the most benevolent intentions.

We have now to pray Your Majesty's patient and impartial attention to the history of our complaint, against a sudden, abrupt, and most ungracious denial by his Excellency, of those indispensable constitutional principles in our local government, the just preservation of which is, above all things, calculated to endear Your Majesty to Your Canadian people, and to strengthen the bond of union between this loyal and valuable portion of Your empire and the parent state.

The Report of a Select Committee of Your Majesty's faithful Canadian Commons which has, after mature consideration, been adopted by this House, (and accompanies this Address,) will amply inform Your Majesty upon all particulars; and we regret it should necessarily contain disclosures to Your Majesty equally injurious to the interests and confidence of the people, and to the character of the royal station in this province. Under feelings of solicitude lest Your Majesty's royal ear should be prepossessed against us by those who have easier and secret access to Your Majesty and Your Majesty's Ministers, we have prayed the aid of Your Majesty's Imperial House of Commons, as will appear from the accompanying copy of our Memorial, in the hope that they will aid Your Majesty in extending to us speedy and effectual measures for the redress of our wrongs, and for the maintenance of the honour and dignity of the Crown.

(signed) *Marshall S. Bidwell,*  
Speaker.

Commons House of Assembly, }  
18 April 1836.

Despatch from the  
Lieut.-Governor to  
Lord Glenelg.

Enclosure 1, in  
No. 1,

Petition from  
House of Assembly  
to The King.

Enclosure 1, in  
No. 1.

Petition from  
House of Assembly  
to The House of  
Commons.

PETITION of the HOUSE of ASSEMBLY of UPPER CANADA.

To the Honourable the Knights, Citizens and Burgesses of the United Kingdom of Great Britain and Ireland, in Parliament assembled.

May it please Your Honourable House,

WE, His Majesty's dutiful and loyal subjects the Commons of Upper Canada in Provincial Parliament assembled, after unavailing struggles for a series of years, to obtain such an administration of our local affairs as would secure to the people of this province, possessing "the very image and transcript of the British Constitution," the blessings of good government, are at length driven to appeal to the wisdom, justice, and magnanimity of your Honourable House, in the hope that your powerful intercession with His Majesty may yet redeem us from a condition every day becoming more ruinous and alarming. We are not unacquainted with the overwhelming influence of station and weight of authority which will be brought to bear against our exertions to procure redress; and without the interposition of your Honourable House we entertain a fear, grounded on the experience of the past, that His Majesty's ear will be so abused by secret despatches and personal detractions as almost to set at defiance the best directed intentions of His Majesty to arrive at the truth. And we desire to add, as a further difficulty, an inveterate disposition to adhere to what is called the Colonial System, under which our present condition has been produced, instead of accommodating it as both wisdom and justice require, to the changing state and increasing wealth and population of the country.

In answer to the Address of this House to His most gracious Majesty, in the late Session, upon the subject of our grievances, we received as our new Lieutenant-Governor, his present Excellency, Sir Francis Bond Head, who by message communicated to this House the instructions he had received from His Majesty's Government for his guidance. But these instructions leave us under the same unsatisfactory and injurious system that has heretofore prevailed; and we practically feel that the institutions of the country are so directed, their operations so abridged, and public functionaries so protected in misgovernment by their distance from their superiors, as to render illusive and abortive the most promising schemes framed in England for our amelioration. Upon the arrival of Sir Francis Bond Head to represent His most gracious Majesty among the constitutional authorities of the province we were disposed to entertain the happiest expectations, and when his Excellency from the throne invited us to render him "that loyal constitutional, unbiassed and fearless assistance, which your King expects, and which the rising interests of your country require;" and when we saw our often repeated dissatisfaction with the Executive Council removed, and the highest public confidence secured by the addition of the Hon. John Henry Dunn, Robert Baldwin and John Rolph, Esquires, we fully believed that we were about to enjoy under his Excellency, the full benefit of our Charter, by a wise, impartial and constitutional administration of our affairs. The reign of universal thankfulness and tranquillity under this change of things was, we lament to state, of short duration. The country had always supposed that the Executive Council of the province from time to time appointed by His Majesty under the 31st Geo. 3. c. 31, to advise His Majesty and His representative upon the affairs of the province, actually discharged the important duties assigned to them by the constitution, in consequence whereof all public odium of the mismanagement of our affairs has been heretofore visited on the Executive Council, while every Lieutenant-Governor has been acquitted upon the presumption of his being, as pleaded to us by Sir F. B. Head, "a stranger lately arrived among us," and therefore unintentionally misled by corrupt advisers. But it has now come to light that the Executive Council have been almost limited in their duties to a Land Board and Board of Audit, while the affairs of the province, so unsatisfactorily managed, seldom passed under their review or were submitted for their advice. It appears from the appendix to this memorial to which we refer your Honourable House, and to which we earnestly pray a patient, candid and impartial regard, that the late Executive Council, composed of the whole Council with the aforesaid additions, after remaining three weeks in office under the old but concealed system of withholding from their advice the affairs of the province, addressed to his Excellency Sir F. B. Head the confidential representation hereto annexed, praying either that the affairs of the province might be systematically submitted for their advice, preparatory to his Excellency's final and discretionary action thereon, or that they might be allowed to disabuse the public respecting the nature and extent of the duties confided to them. And the need of this request must have been injuriously felt, from the fact, notorious to us and to the country, that every act of his Excellency's administration proved either that the late Council had betrayed public confidence, or that his Excellency followed the advice of uncertain, unsworn and irresponsible persons, neither possessing nor entitled to political confidence.

In the above constitutional, just and reasonable representation made to his Excellency in official confidence under oath, his Excellency made the reply also appended hereto, and concludes, after denying the constitutional origin and duties of the Council, with the assurance to his Council, "that his estimation of their talents and integrity as well as his personal regard for them remain unshaken, and that he is not insensible of the difficulties to which he will be exposed should they deem it necessary to leave him. At the same time should they be of opinion that the oath they have taken requires them to retire from his confidence rather than from the principles they have avowed, he begs that on his account they will not for a moment hesitate to do so." Under these circumstances, the Council feeling themselves under the alternative of abandoning either their principles or their place,

place, honourably chose the latter. The aforesaid representation and reply, his Excellency's Answer to us accompanying the same, and various other popular explanations given by his Excellency to the public, with the public proceedings on the same, together with various other documents connected with the subject, and the adopted Report of a Select Committee thereon, are all appended hereto for the more full information of your Honourable House, and the more ample communication of our wants and views. It is with pain, disappointment and humiliation, we notice the reiterated declaration of his Excellency to conduct our affairs without the advice of the Executive Council, according to his own will and pleasure, which his public acts have already proved to be arbitrary and vindictive. And this view of his own sole ministerial power and authority with a nominal responsibility to Downing Street, he has sustained before the public by misstatements and misrepresentations so palpably opposed to candour and truth as to destroy all hopes of further justice from his government; all which is more fully set forth in the documents appended hereto. Since the registration of the late Council his Excellency has formed another, composed of Robert Baldwin Sullivan, Esq., and the Hon. William Allen, Augustus Baldwin, and John Elmsley; neither enjoying nor entitled to the political confidence of the people or their representatives. Upon the formation of this Council, although R. B. Sullivan, Esq. was sworn in and appeared to the public as Senior Councillor, upon whom, in the event of the death or absence of his Excellency, might devolve the administration of the government, yet a secret agreement was entered into, written in the Council Chamber by his Excellency himself, by which was to be defeated the apparent succession of the Senior Councillor to the administration of the government. This arrangement was denied by his Excellency to us in his answer to our Address on the subject; while on the other hand, the facts so derived are proved by the testimony of R. B. Sullivan, Esq. and the Hon. Captain Baldwin, both of whom are still retained by his Excellency in the Council. For other instances of his deviation from candour and truth, as well as of his utter unacquaintance with the nature of our constitution and the mode in which it should be administered, we refer to the appended documents, wherein are also detailed other grievances of an urgent and serious nature, to all of which we humbly pray the serious, speedy and impartial attention of your Honourable House. Being denied the beneficial and constitutional operation of our local institutions for the management of our local affairs; being threatened with the exercise of the unadvised, arbitrary government of his Excellency, virtually irresponsible, and being satisfied that nothing but an open, entire and honourable abandonment of this policy, equally unconstitutional and pernicious, will ever restore our peace, welfare and good government, we have, in justice to the people, whose civil and religious interests we are solemnly bound fearlessly to vindicate, been obliged, as a last resort, to stop (most reluctantly) the supplies; and for the attainment of redress in these and other matters contained in the appended Report, we pray the aid of your Honourable House.

And, as by inclination and by duty we are led and bound to do, we shall ever pray.

Commons House of Assembly, }  
18 April 1836.

(signed) Marshall S. Bidwell,  
Speaker.

COPY of a LETTER from Capt. A. Baldwin to Lieut.-Governor Sir F. B. Head, intended to correct an error with reference to his Evidence before the Select Committee of the House of Assembly, into which the Committee appear to have fallen in taking down his words relative to the Executive Council.

Letter from  
Captain Baldwin  
to the Lieutenant-  
Governor.

Sir,

Russell Hill, April 16th, 1836.

ON looking over the Correspondent and Advocate Newspaper of the 21st April, I observed a statement of my evidence before a Committee of the House of Assembly on the late change in the Executive Council, as appended to the Report of that Committee, and seeing that the Committee must have misunderstood my answers in some points, and that they are not stated correctly, I beg leave to address your Excellency on the subject, lest any misunderstanding should arise with regard to the facts as they actually happened.

To the question put to me, "At whose suggestion was the paper drawn up?" I said "I believed at Mr. Elmsley's," and not, as stated, "At Mr. Elmsley's."

I did not state that the paper was drawn up "in the Executive Council Chamber," but that "it was written in the office of the Clerk;" for we did not go to the Council Chamber till we were called in one by one to be sworn.

I have, &c.

(signed) A. Baldwin.

## PAPERS RELATIVE TO THE

Enclosure 1, in  
No. 1.

Addresses from the  
House of Assembly  
to the Lieutenant-  
Governor.

FOUR ADDRESSES of the HOUSE of ASSEMBLY of UPPER CANADA to the Lieut.-Governor  
for Money on account of the Contingencies of the Session of 1836.

To his Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian  
Guelphic Order, and of the Prussian Military Order of Merit, Lieutenant-Governor of  
the Province of Upper Canada, &c., &c. &c.

May it please your Excellency,

WE, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada in Provincial Parliament assembled, humbly request that your Excellency would be pleased to issue your warrant on the Receiver-General in favour of the Speaker of this House, for 1,000*l.*, in part to defray the contingent expenses of this House, which sum we will make good during the present Session.

Commons House of Assembly, } (signed) *Marshall S. Bidwell*,  
10 Feb. 1836. } Speaker.

Gentlemen,

I SHALL have pleasure in complying with the request contained in your Address of this day.

To his Excellency Sir *Francis Bond Head*, K.C.H., &c. &c. &c.

May it please your Excellency,

WE, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada in Provincial Parliament assembled, humbly request that your Excellency would be pleased to issue your warrant on the Receiver-General in favour of the Speaker of this House, for 1,000*l.*, in part to defray the further contingent expenses of this House, which sum we will make good during the present Session.

Commons House of Assembly, } (signed) *Marshall S. Bidwell*,  
10 March 1836. } Speaker.

Gentlemen,

I SHALL be happy to comply with the request contained in your Address.

To his Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian  
Guelphic Order, Knight of the Prussian Military Order of Merit, Lieutenant-Governor of  
the Province of Upper Canada, &c. &c. &c.

May it please your Excellency,

WE, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada in provincial Parliament assembled, humbly request that your Excellency will be pleased to issue your warrant on the Receiver-General in favour of the Speaker of the House of Assembly for the sum of 2,000*l.*, to defray in part the further contingent expenses of the present Session, which sum we will make good during the same.

Commons House of Assembly, } (signed) *Marshall S. Bidwell*,  
14 April 1836. } Speaker.

Gentlemen,

As the Legislature is to be prorogued on Wednesday next, I regret exceedingly that I cannot deem it advisable to comply with the request contained in this Address.

To his Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian  
Guelphic Order, and of the Prussian Military Order of Merit, Lieutenant-Governor of  
the Province of Upper Canada, &c. &c. &c.

May it please your Excellency,

WE, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, humbly request your Excellency will be pleased to issue your warrants to the Receiver-General of this province, in favour of Grant Powell, Esq., Clerk to the Honourable the Legislative Council, for the sum of 1740*l.*

Of Stephen Jarvis, Esq., Gentleman Usher of the Black Rod, for certain contingent expenses of the Honourable the Legislative Council during the present Session, for the sum of 329*l.* 5*s.*

Of James Fitzgibbon, Esq., Clerk of the House of Assembly, for the sum of 5,864*l.* 1*s.* 8½*d.*, to pay the contingent expenses of his office for the present Session and late recess.

Of



Of David A. M'Nab, Esq., Serjeant at Arms, for the sum of 561*l.* 14*s.* 11*d.*, to enable him to pay certain contingent expenses of the House of Assembly for the present Session. Which sums His Majesty's faithful Commons will make good during the next Session of Parliament.

Commons House of Assembly, }  
20 April 1836.

(signed.)

Marshall S. Bidwell,  
Speaker.

Enclosure 1, in  
No. 1.

Addresses from the  
House of Assembly  
to the Lieut.-  
Governor.

Contingencies - - - - - £8,496 1*s.* 7*d.*

Item.—Of the above contingencies asked for, 2,700*l.* were, I have been informed, intended to pay Mr. O'Grady, the Editor of the "Correspondent and Advocate," and other presses patronized by the House, for the dissemination of 5,000 copies of their report, and for similar purposes.

Gentlemen,

I REGRET that the course taken by the House of Assembly in refusing to entrust me with the money for the province for the purpose of carrying on the ordinary affairs of government for the current year, forbids such a confidence on my part as your request involves.

Enclosure 2, in No. 1.

Copy of Lieutenant-Governor Sir F. B. Head's Speech on closing the Session of the Legislature of Upper Canada, on the 20th of April 1836.

Lieut.-Governor's  
Speech on closing  
the Session.

Honourable Gentlemen of the Legislative Council: and

\* - Gentlemen of the House of the Assembly :

BEFORE I release you from the legislative duties in which you have been respectively engaged I consider it necessary to recapitulate the principal events of this Session.

You are perfectly aware that for many years the House of Assembly of Upper Canada have loudly complained of what they term their "grievances," and that at the end of your last Session these complaints having been referred to a "Committee of Grievances," were, by the Assembly, "ordered to be printed in pamphlet form." In pursuance of this order a volume, containing 570 pages, was forwarded to, and received by His Majesty's Government, as containing the sum total of the complaints of the people of this province.

Whether the mere order for printing this report of the Committee could be legally considered as sanctioning it with their opinions, I have no desire to discuss; because no sooner did the said report reach His Majesty's Government, than it was determined that the grievances it detailed should immediately be effectually corrected; and, accordingly, Instructions were drawn out by His Majesty's Secretary of State for the Colonies, in which each subject of complaint was separately considered, and a remedy ordered for its correction: and I have only to refer to those Instructions to prove the generosity with which His Majesty overlooked certain language contained in the report, and the liberality with which he was graciously pleased to direct that impartial justice should be administered to His subjects in this province.

His Majesty's Government having determined that I should be selected to carry these remedial measures into effect, I waited upon the Colonial Secretary of State, (to whom, as well as to almost every other member of the Government, I was a total stranger,) and respectfully begged leave to decline the duty, truly urging as my reason, that having dedicated my whole mind to a humble but important service, in which I was intently engaged, it was more congenial to my disposition to remain among the yeomanry and labouring classes of my own country, than to be appointed to the station of Lieutenant-Governor of Upper Canada. His Majesty's Government having been pleased to repeat their request, I felt it impossible not to accede to it; and I accordingly received the instructions which had been framed; and having had the honour of an interview with His Majesty, during which, in an impressive manner which I can never forget, he imposed upon me His royal commands to do strict justice to his subjects in this province, I left England with a firm determination to carry the remedial measures with which I was entrusted into full effect.

I arrived at this capital on the 23d of January last, and on the 27th I delivered a speech, in which I informed you I would submit in a message the answer which His Majesty had been pleased to give to the several addresses and representations which proceeded from the two branches of the legislature during the last Session. I added, that as regarded myself, I had nothing either to promise or profess, but that I trusted I should not call in vain upon you for that assistance which your King expected, and which the rising interests of your country required.

In thus officially coming before the legislature of this country from our gracious Sovereign, with a full measure of reform, I had expected that my appearance would have been hailed and welcomed by both Houses of the Legislature, more especially by that, from which had proceeded the Grievance Report; and I must own, I never anticipated it could seriously be argued for a moment that I was intruding upon the privileges of either House.

Enclosure 2, in  
No. 1.

Lieut.-Governor's  
Speech on closing  
the Session.

Having made myself acquainted with the outline of public feeling in this province, by conversing calmly with the men of most ability of all parties, I communicated the result to Lord Glenelg, in despatches dated the 5th of February, of which the following are extracts :

"Under these circumstances I consider that the great danger I have to avoid is the slightest attempt to conciliate any party; that the only course for me to adopt is, to act fearlessly, undisguisedly, and straightforwardly for the interests of the country; to throw myself on the good sense and good feeling of the people, and abide a result which I firmly believe will eventually be triumphant."

"Whatever may be the result, I shall steadily and straightly proceed in the course of policy I have adopted: I shall neither avoid, nor rest upon any party; but after attentively listening to all opinions, I will, to the best of my judgment, do what I think honest and right; firmly believing that the stability of the throne, the interests of this province, and the confidence of the people, can now only be secured by such a course."

To the Speakers of both Houses, as well as to many intelligent individuals with whom I conversed, I declared my sincere determination to do justice to the people of this province. It was, however, with deep regret I observed, that from the House of Assembly I did not immediately obtain the assistance I expected in carrying the instructions of His Majesty's Government into effect; for I received various addresses requesting papers and information which I feared might excite troublesome and by-gone discussion.

On the 5th of February I received an address of this nature, to which, in as conciliatory a tone as possible, I replied at considerable length; and being now determined to urge, and, if possible, to lead the House of Assembly on towards reform, I concluded my reply in the following words:

"The Lieutenant-Governor takes this opportunity of appealing to the liberality and good sense of the House of Assembly for consideration; that as a stranger to this province, totally unconnected with the political differences which have existed in the mother country, he has lately arrived here, entrusted by our most gracious Sovereign with instructions, the undisguised object of which is, firmly to maintain the happy constitution of this country inviolate; but to correct cautiously, yet effectually, all real grievances.

"The House of Assembly is deeply interested in the importance and magnitude of the task he has to perform; and he is confident it will, on reflection, be of opinion, that the Lieutenant-Governor of this province had better look steadily forward to its future prosperity and improvement; that he had better attract into Upper Canada the superabundant capital and population of the mother country by encouraging internal peace and tranquillity, than be observed occupying himself solely in reconsidering the occurrences of the past.

"The Lieutenant-Governor does not assert that the latter occupation is totally useless; but he maintains that the former is by far the more useful, and that to attend to both is impossible."

This appeal did not produce the effect I had anticipated; but I received another address from the House of Assembly in behalf of eight Indians of the Wyandot tribe; and I had scarcely entered this new and questionable ground, when a counter-petition was forwarded by eleven members of the same tribe, in which they spontaneously declared, "We have the fullest confidence in the justice and fatherly protection of our beloved Sovereign and his representative the Lieutenant-Governor."

Another new set of grievances was now brought forward by the House of Assembly, in the form of an Address to the King on Trade and Commerce, which I immediately forwarded to His Majesty's Government, although the principal complaints in the Grievance Report still remained unnoticed and unredressed.

During these discussions I purposely refrained from having much communication with the old supporters of the government; because I was desirous to show those who termed themselves reformers, that I continued, as I had arrived, unbiassed and unprejudiced; and desiring to give them a still further proof that I would go any reasonable length to give fair power to their party, I added three gentlemen to the Executive Council, all of whom were avowed reformers.

With the assistance of these gentlemen—with His Majesty's instructions before us—and with my own determination to do justice to the inhabitants of this country, I certainly considered that the triumph of the reform which had been solicited was now about to be established, and that the grievances under which the people of this province were said to labour, would consecutively be considered and redressed. But, to my utter astonishment, these gentlemen, instead of assisting me in reform, before they were a fortnight in my service, officially combined together in an unprecedented endeavour to assume the responsibility I owed to the people of Upper Canada as well as to our Sovereign, and they concluded a formal document which they addressed to me on this subject, by a request that if I deemed such a course not wise or admissible, they, who had been sworn before me to secrecy, might be allowed to address the people! and I must own, that the instant this demand reached me, I was startled, and felt it quite impossible to assent to the introduction of new principles, which, to my judgment, appeared calculated to shake the fabric of the constitution, and to lead to revolution instead of reform.

Without discussing the arguments of the Council, I will simply observe, that had I felt ever so much disposed to surrender to them my station of Lieutenant-Governor and to act subserviently to their advice; had I felt ever so willing obediently to dismiss from office  
whomever

whomsoever they should condemn, and to heap patronage and preferment upon whomsoever they might recommend; had I felt it advisable to place the Crown lands at their disposal, and to refer the petitions and personal applications of the inhabitants of the remote counties to their decision; I possessed neither power nor authority to do so. In fact, I was no more able to divest myself of responsibility, than a criminal has power to divert from himself upon another the sentence of the law; and though, under the pretence of adhering to what is called "the image and transcript" of the British Constitution in this province, it was declared that the Executive Council must be regarded as a *cabinet*, I had no more power to invest that body with the attributes of a cabinet than I had power to create myself King of the province—than I had power to convert the Legislative Council into an hereditary nobility; or than I had power to decree that this *Colony* of the British Empire should henceforward be a KINGDOM.

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From total inability, therefore, as well as from other reasons, I explained to my Council, in courteous language, that I could not accede to their views; and it being evidently necessary for the public service that we should separate, I felt it was for them rather than for me to retire. I received their resignations with regret; and, that I entertained no vindictive feelings, will be proved by the fact, that I immediately wrote to Lord Glenelg, begging his Lordship most earnestly not to dismiss from their offices any of these individuals on account of the embarrassment they had caused to me.

On the day the Council left me I appointed in their stead four gentlemen of high character, entitled by their integrity and abilities to my implicit confidence; and with their assistance I once again determined to carry promptly into effect those remedial measures of His Majesty's Government which had been solicited by the Grievance Report.

However, a new and unexpected embarrassment was now offered to me by the House of Assembly, who, to my astonishment, not only requested to be informed of the reasons why my Executive Council had resigned, but who, I have learned, actually suspended all business until my reply was received!

As the Lieutenant-Governor of this Province is authorized by His Majesty, in case of death or resignation, to name, *pro tempore*, the individuals he may think most proper to appoint to his Council, I might constitutionally, and perhaps ought to have declined to submit to either branch of the legislature my reasons for exercising this prerogative; but actuated by the earnest desire, which I had uniformly evinced, to comply with the wishes of the House of Assembly, I transmitted to them the correspondence they desired, with a conciliatory message which ended as follows:

"With these sentiments, I transmit to the House of Assembly the documents they have requested, feeling confident that I can give them no surer proof of my desire to preserve their privileges inviolate than by proving to them that I am equally determined to maintain the rights and prerogatives of the Crown, one of the most prominent of which is that which I have just assumed, of naming those Councillors in whom I conscientiously believe I can confide.

"For their acts I deliberately declare myself to be responsible, but they are not responsible for mine, and cannot be, because, being sworn to silence, they are deprived by this fact as well as by the constitution, of all power to defend themselves."

The House of Assembly referred the whole subject to a Committee, which, contrary to customary form, made its existence known to me by applying directly to me, instead of through the House, for other documents and informations, which I immediately forwarded, without objecting to the irregularity of the application; and the House, to my great surprise, prematurely passed its sentence upon the subject in an address, in which it declared to me its "deep regret that I had consented to accept the tender of resignation of the late Council."

The following extract from my reply to this unexpected decision will sufficiently explain the amicable desire I still entertained to afford all reasonable satisfaction.

"The whole correspondence I forward to the House of Assembly, with an earnest desire that, regardless of my opinion, the question may be fairly discussed."

"In the station I hold I form one branch out of three of the legislature; and I claim for myself freedom of thought as firmly as I wish that the other two branches should retain the same privilege.

"If I should see myself in the wrong I will at once acknowledge my error; but if I should feel it my duty to maintain my opinion, the House must know that there exists a constitutional tribunal competent to award its decision, and to that tribunal I am ever ready most respectfully to bow.

"To appeal to the people is unconstitutional as well as unwise—to appeal to their passions is wrong; but on the good sense of the House of Assembly I have ever shown a disposition to rely, and to their good sense I still confidently appeal."

Having thus thrown myself upon the integrity of the House of Assembly I might reasonably have expected that a favourable construction would have been placed upon my words and acts, and that the disposition which I had evinced to afford the most ample information, and to meet, as far as my duty would admit, the expectations and desires of the Assembly, would have been duly appreciated; the events, however, which soon after transpired, and the addresses which were presented to me in this city and from other places in the vicinity, conveyed to me the unwelcome information that efforts were being made, under the pretence of "the constitution being in danger," to mislead the public mind, and to induce a belief that I, as Lieutenant-Governor, had declared an opinion in favour of an arbitrary and irresponsible government, that I had shewn an entire disregard of the

sentiments.

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sentiments and feelings of the people whom I had been sent to govern, and that, therefore, the inhabitants of this country could never be contented or prosperous under my administration. Several petitions, purporting to be addressed to the House of Assembly and apparently forwarded by members of that House to individuals in the country, with a view to obtain signatures, having been returned to the Government Office, I had ample opportunities of becoming acquainted with the fact that there existed an intention to embarrass the government by withholding the supplies, and that even the terms had been prescribed to the people of the province in which they were expected to address their representatives for that object.

Now it will scarcely be credited that while I was thus assailed, while placards declared that the constitution was in danger, merely because I had maintained that the Lieutenant-Governor, and not his Executive Council, was responsible for his conduct, there existed in the Grievance Report the following explanation of the relative duties of the Lieutenant-Governors and of his Executive Council.

"It appears," say the Grievance Committee, "that it is the duty of the Lieutenant-Governor to take the opinion of the Executive Council only in such cases as he shall be required to do so by his instructions from the Imperial Government, and in such other cases as he may think fit. It appears by the following transactions that the Lieutenant-Governors only communicate to the Council so much of the private despatches they receive from the Colonial Office as they may think fit, unless in cases where they are otherwise specially instructed."

Gentlemen of the House of Assembly:

Having at your request transmitted to you the correspondence which passed between my late Executive Council and myself, and having reminded you that there existed "a constitutional tribunal competent to award its decision, and that to that tribunal I was ever ready most respectfully to bow," it is with surprise I learn that you have deemed it necessary to stop the supplies.

In the history of Upper Canada this measure has, I believe, never before been resorted to; and as I was the bearer of His Majesty's especial instructions to examine and, wherever necessary, to correct the "grievances" detailed in your report of last Session, I own I did not expect to receive this embarrassment from your House.

The effect of your deliberate decision will be severely felt by all people in the public offices, by the cessation of improvement in your roads, by the delay of compensation to sufferers in the late war, and by the check of emigration.

In the complaints you have made to His Majesty against me (in which you declare that my "ear is credulous," my "mind poisoned," my "feelings bitter," that I am "despotic," "tyrannical," "unjust," "deceitful," that my conduct has been "derogatory to the honour of the King," and "demoralizing to the community," and that I have treated the people of this province as being "little better than a country of rogues and fools"), you have availed yourselves of a high legislative privilege entrusted to you by your constituents, to the exercise of which I have consequently no constitutional objection to urge, but for the honour of this province in which I, though unconnected with the country, am as deeply interested as its inhabitants, I cannot but regret that while I was receiving from all directions the most loyal addresses, you, in your legislative capacity, should have characterized His Majesty's Government which has lately acted towards Upper Canada so nobly and disinterestedly by the expression of "Downing-street Law."

Honourable Gentlemen, and Gentlemen:

Having now concluded an outline of the principal events which have occurred during the present Session, I confess that I feel disappointed in having totally failed in the beneficent object of my mission.

I had made up my mind to stand against the enemies of reform, but I have unexpectedly been disconcerted by its professed friends. No liberal mind can deny that I have been unnecessarily embarrassed; no one can deny that I have been unjustly accused; no one can deny that I have evinced an anxiety to remedy all real grievances, that I have protected the constitution of the province, and that by refusing to surrender at discretion the patronage of the Crown to irresponsible individuals I have conferred a service on the back-woodsman, and on every noble-minded Englishman, Irishman, Scotchman and U. E. loyalist, who, I well know, prefer British freedom and the British Sovereign to the family domination of an irresponsible cabinet.

It now only remains for me frankly and explicitly to declare the course of policy I shall continue to adopt as long as I may remain the Lieutenant-Governor of this province, which is as follows:

I will continue to hold in my own hands for the benefit of the people, the power and patronage of the Crown, as imparted to the Lieutenant-Governor of this province by the King's instructions; I will continue to consult my Executive Council upon all subjects on which, either by the Constitutional Act or by the King's instructions, I am ordered so to do, as well as upon all other matters in which I require their assistance. I will continue to hold myself responsible to all authorities in this country, as well as to all private individuals, for whatever acts I commit, either by advice of my Council or otherwise, and will continue calmly and readily to afford to all people every reasonable satisfaction in my power. I will use my utmost endeavours to explain to the people of this province that they want only wealth and population to become one of the finest and noblest people on the

the globe, that union is strength, and that party spirit produces weakness, that they should consequently forgive and forget political as well as religious animosity, and consider as their enemies only those who insidiously promote either; that, widely scattered as they are over the surface of this extensive country, they should recollect with pride the brilliant history of "the old country," from which they sprung, and, like their ancestors, they should firmly support the British standard, which will ever afford them freedom and disinterested protection; that by thus tranquillizing the province, the redundant wealth of the mother country will irrigate their land, and that her population will convert the wilderness which surrounds them into green fields; that an infusion of wealth would establish markets in all directions, as well as good roads, the arteries of agriculture and commerce; that plain, practical education should be provided for the rising generation, as also the blessings of the Christian religion, which inculcates "Glory to God in the highest, and on earth peace, good-will towards men."

Taking every opportunity of offering these recommendations to the inhabitants of this province, I shall in no way attempt to enforce them; on the contrary, I shall plainly promulgate that if the yeomanry and farmers of Upper Canada are not yet sufficiently tired of agitation, if they do not yet clearly see what a curse it has been to them, it will be out of my power to assist them; that if they insist on turning away the redundant wealth as well as the labourers of the mother country to the United States, I shall be unable to prevent them; in short, that if they actually would rather remain as they are than become wealthy, as they might be, my anxiety to enrich them must prove fruitless.

On the other side, whenever they shall be disposed to join heart and hand with me in loyally promoting the peace and prosperity of the province, they shall find me faithfully devoted to their service. In the mean while I will carefully guard the constitution of the country, and they may firmly rely that I will put down promptly, as I have already done, the slightest attempt to invade it.

With inward pleasure I have received evidence of the invincible re-action that is hourly taking place in the public mind, and for the sake of the province rather than for my own I hail the manly British feeling which in every direction I see, as it were, rising out of the ground, determined to shield me from insult and to cheer and accompany me in my progress towards reform.

I have detained you longer than is customary, but the unprecedented events of this Session have made it necessary to do so.

Enclosure 2, in  
No. 1.

—  
Lieut.-Governor's  
Speech on closing  
the Session.

Enclosure 3, in No. 1.

UPPER CANADA.

ADDRESSES from different parts of the Province to Lieutenant-Governor  
Sir Francis Bond Head, K.C.H., referred to in the accompanying Despatch.

Address from  
the Provinces to  
Lieut.-Governor.

|  | Signatures. |
|--|-------------|
| 1. City of Toronto - - - - -           | 1,640       |
| 2. County of Hastings - - - - -        | 716         |
| 3. District of Niagara - - - - -       | 754         |
| 4. District of Prince Edward - - - - - | 864         |
| 5. Kingston, and vicinity - - - - -    | 570         |
| 6. Newmarket, and vicinity - - - - -   | 114         |
| 7. Town of Niagara - - - - -           | 96          |
| 8. Youge Street - - - - -              | 155         |
| 9. Township of Ancaster - - - - -      | 147         |
| 10. Township of Stamford - - - - -     | 192         |
| 11. Bytown, two addresses - - - - -    | 281         |
| 12. Township of Georgina - - - - -     | 60          |
| 13. Township of Guelph - - - - -       | 167         |
| 14. Peterboro', and vicinity - - - - - | 1,026       |
| TOTAL - - - - -                        | 6,782       |

—No. 1.—

To his Excellency Sir Francis Bond Head, K.C.H. &c. &c. &c., Lieut.-Governor of  
Upper Canada, &c. &c.

May it please your Excellency,

WE, the undersigned inhabitants of the city of Toronto and its immediate vicinity, beg leave to express to your Excellency our deep regret at the difficulties which have recently arisen on the subject of the constitutional duties of the Executive Council of this province.

We view with the strongest feelings of disapprobation and indignation the efforts which have recently been made and are now making to take advantage of these difficulties, for the purpose of embarrassing your Excellency in the administration of the government of this

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province, and for the purpose of creating an excitement and disturbance in the colony which is calculated to produce the most injurious and fatal effects, and to be subversive of the peace, welfare and good government of the country.

We feel the highest satisfaction at the sentiments expressed by His Majesty's Government on the affairs of the colony, as contained in the royal instructions to your Excellency, which were laid before the legislature immediately after your arrival in this city.

We have the highest confidence in the talents and integrity of your Excellency, and in the sincerity of your repeatedly declared desire to carry into effect the liberal intentions of His Majesty's Government towards the people of this province, and we view with unqualified admiration the candour, the conciliatory manner and the manly firmness with which your Excellency has met the demonstrations which have recently been made to embarrass your Excellency in the administration of your government, and to create an excitement and disturbance in this prosperous and highly favoured country.

Ardently attached to the Government and institutions of the great empire of which these colonies have the advantage of being an integral part, we are determined by all lawful means in our power to preserve and perpetuate the connexion, and to oppose and counteract every effort which may now be making, or which hereafter may be made, either openly or insidiously, to dissolve or weaken that connexion, and to introduce into the institutions of this province changes which are incompatible with the principles of the British form of Government.

Convinced that the prerogatives of the Crown are only a sacred trust for the protection of the rights and liberties of the people, and that by sustaining the one we are taking the most effectual means of securing the other, we beg to assure your Excellency that we shall make use of all lawful and constitutional exertions to uphold your Excellency in the administration of the government of this province, and to support you in your determination to carry into effect the liberal intentions of his Majesty's Government towards the people of this colony.

Number of signatures attached to this Address - - 1640.

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—No. 2.—

To his Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian Guelphic Order, and of the Prussian Military Order of Merit, Lieut.-Governor of the Province of Upper Canada, &c. &c. &c.

WE, the inhabitants of the county of Hastings have seen the correspondence lately published between the late Executive Council and your Excellency, and have read with pleasure your Excellency's determined, talented and firm arguments in that correspondence relative to the charter of our liberties, our constitutional act, and cannot but express our regret at the premature and hasty resignation of said Councillors, particularly at a moment when your Excellency was preparing for their consideration measures of reform for the better administration of good government in this province, and would beg your Excellency still to continue in the same resolution of upholding and supporting the best interests of our agriculturists and advancing the prosperity of our province.

Number of signatures attached to this Address - - 716.

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—No. 3.—

To his Excellency Sir *Francis Bond Head*, Lieutenant-Governor of Upper Canada, &c. &c. &c.

May it please your Excellency,

WE, the undersigned inhabitants of the district of Niagara, who profess loyalty to our Sovereign, deem it our duty to come forward at the present crisis of affairs in this province, and declare our attachment to the constitution of the country, and approval of the conduct of the representative of our king.

We have read the document signed by the late Executive Council to your Excellency, and your Excellency's reply. We have also read the Petition of the Council of the City of Toronto to your Excellency, and your Excellency's answer thereto. We now do most willingly and cheerfully come forward to record our approbation of the firmness of character exhibited by your Excellency; and we are pleased to hear that your Excellency will "maintain the happy constitution of the country inviolate," and will "cautiously, yet effectually, correct all real grievances." We are also pleased to find that your Excellency consults the "interests of the farmer," in preventing the patronage of the province passing into the hands, (which it would do) "of a few families, which might possibly promote their own views to the rejection of the interests of the distant counties."

We regret that any differences should have arisen between your Excellency and the Executive Council at this time; but we hesitate not to declare, that we approve of the conduct of your Excellency; and we believe that if those invested with power would lay aside all private feelings, and "forgive and forget" all political animosity, that His Majesty's wishes, as expressed in your instructions, would be promptly executed.

Number of signatures attached to the Address - - 754.

No.

—No. 4.—

Enclosure 3, in  
No. 1.

To his Excellency Sir *Francis Bond Head*, К. С. Н., Lieutenant-Governor of the Province of Upper Canada, &c. &c. &c.

Address from  
the Provinces to  
Lieut.-Governor.

WE, His Majesty's loyal and devoted subjects, the inhabitants of the district of Prince Edward, in approaching your Excellency, beg leave to express in the most unequivocal manner, our firm attachment to the king and constitution, and to the continuance of our connexion with the mother country, a connexion which has raised this province to its present prosperous and flourishing condition.

We fully coincide with your Excellency in your interpretation of the Constitutional Act; and are convinced had you yielded to the demands of your late Executive Council, and transferred to them the power and responsibility which are invested in yourself, your thus consenting to place the patronage of the Crown in the hands of a few leading individuals, would bring about a change injurious to the best interests of both Crown and people.

Impressed with these sentiments, we rejoice to know that your Excellency has expressed your firm determination to maintain inviolate the constitution of this province, and, at the same time, to proceed in the reformation of any abuse that may exist, and fully relying on these your Excellency's determination,

We have the honour to be, &c.

Number of signatures attached to this Address - - 864.

—No. 5.—

To his Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Guelphic Order of Hanover, and of the Prussian Order of Merit, Lieutenant-Governor of the Province of Upper Canada, &c. &c. &c.

WE, His Majesty's faithful and loyal subjects, inhabitants of the town and township of Kingston, in the midland district, most respectfully crave leave to address your Excellency at this time of political agitation.

Assembled in general meeting duly convened, we beg to assure your Excellency that we view the increase and prosperity of this province as mainly attributable to its connexion with the parent state, and that our duty, as well as our interests require that such connexion should be defended at all hazards.

That we owe allegiance to His Majesty, and obedience to those prerogatives with which the constitution has invested him for the good of the people.

That while Upper Canada continues to be a British colony, the Lieutenant-Governor as the representative of, and responsible to His Majesty, is, by the Act of 31 Geo. 3, made wholly and solely responsible for the acts of his government, and that it was never contemplated by that Act to invest an Executive Council with such responsibility.

That while we perceive with regret the differences which have occurred between your Excellency and the late Executive Council, we cannot but rejoice at your determination to uphold the present constitution, assured that while you preserve the prerogatives of the Crown, you will maintain inviolate the rights and liberties of the people.

That during the short period since your Excellency's accession to the government of this province, your upright manly and uncompromising conduct has been such as to call forth the respect of all classes of His Majesty's subjects in this province, and to assure them, that your Excellency is eminently qualified and manifestly desirous to promote the true interests of this rapidly rising portion of His Majesty's empire.

May your Excellency long continue to rule over us with the candour and honesty, the firmness and dignity which has already characterised your administration of the government of this province.

Kingston, 30th March 1836.

Number of signatures attached to this Address - - 570.

—No. 6.—

To his Excellency Sir *Francis Bond Head*, К. С. Н., &c. &c. &c., Lieutenant-Governor of Upper Canada, &c. &c. &c.

May it please your Excellency,

WE, the undersigned inhabitants of the village of Newmarket and the adjacent country, beg leave to express to your Excellency our deep regret at the difficulties which have recently arisen on the subject of the constitutional duties of the Executive Council of this province.

We view, with the strongest feelings of disapprobation and indignation, the factious efforts which have recently been made, and are now making, to take advantage of those difficulties for the purpose of embarrassing your Excellency in the administration of the government of this province, and for the purpose of creating an excitement and disturbance

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turbance in the colony, which is calculated to produce the most injurious effects, and to be subversive of the peace, welfare and good government of the country.

We feel the highest satisfaction at the sentiments expressed by His Majesty's Government on the affairs of this colony, as contained in the royal Instructions to your Excellency, which were laid before the legislature immediately after your arrival in the city of Toronto.

We have the highest confidence in the talents and integrity of your Excellency, and in the sincerity of your repeatedly declared desire to carry into effect the liberal intentions of His Majesty's Government towards the people of this province; and we view with unqualified admiration the candour, the conciliatory manner, and the manly firmness with which your Excellency has met the factious demonstrations which have recently been made to embarrass your Excellency in the administration of your government, and to create an excitement and disturbance in this prosperous and highly favoured country.

Ardently attached to the government and institutions of the great empire of which these colonies have the advantage of being an integral part, we are determined, by all lawful means in our power, to preserve and perpetuate that connexion, and to oppose and counteract every effort which may now be making, or which hereafter may be made, either openly or insidiously, to dissolve or weaken that connexion, and to introduce into the institutions of this province changes which are incompatible with the principles of the British form of Government.

Convinced that the prerogatives of the Crown are only a sacred trust for the protection of the rights and liberties of the people, and that by sustaining the one we are taking the most effectual means of securing the other—we beg to assure your Excellency that we shall make use of all lawful and constitutional exertions to uphold your Excellency in your administration of the government of this province, and to support you in your determination to carry into effect the liberal intentions of His Majesty's Government towards the people of this colony.

Number of signatures attached to this Address - - 114.

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—No 7.—

To his Excellency, Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian Guelphic Order, and of the Prussian Military Order of Merit, Lieutenant-Governor of the Province of Upper Canada, &c. &c. &c.

May it please your Excellency,

WE, the inhabitants of the town of Niagara, subjects firmly attached to the parent empire, and appreciating the blessings of the British constitution, beg leave respectfully to address your Excellency at the present political crisis.

The limited experience we have had of your past administration in this colony convinces us that Upper Canada has acquired in you an uncompromising representative of His Majesty, and we sincerely trust that no schism in your Councils, nor undue interference from any quarter, will ever divert you from those defined constitutional principles you have already adhered to for the credit of the country, the lasting honour of yourself, and the dignity of His Majesty's Crown.

In the present political strife, we consider ourselves called upon as subjects of His Majesty, and firmly attached to his supremacy, and those principles consolidated in the colonial constitution, to express our undisguised sentiments.

We have recently had called to our attention the appointment of your first Executive Council, and we consider that you correctly exercised the prerogative that is vested in you, and that in accepting their resignation, and calling other individuals to your cabinet, you evinced a discretion and dignity worthy of your exalted situation.

We are well assured that at present there exists no excited state of public feeling in this district, nor, to any alarming extent, elsewhere, occasioned by the proceedings between your Excellency and your Council.

We sincerely regret that the measures of conciliation suggested, and the unwearied parental forbearance exercised on the part of the British Government, through His Majesty's representatives in both provinces, for our mutual prosperity should have been so unfortunately misplaced, and those remedial measures recommended for our benefit paralyzed in their effect.

We ever desire to see the Constitutional Act of this colony upheld by the King, and shielded by the people, from all vital innovations in its original spirit, and transmitted unimpaired to latest posterity.

In conclusion, we, the inhabitants of this town, the first established in this colony, and sufficiently tried for loyalty and sufferings, beg leave to express our admiration of that decisive course your Excellency has adopted in the recent difficulties you have contended with, in reconciling public opinion, and resisting any improper interference; and we unanimously declare ourselves pledged with our influence and hearts to serve King and country, and persevere in maintaining an administration based so firmly on constitutional principles.

Number of signatures attached to this Address - - 96.



(No. 8.)

To his Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian Guelphic Order, and of the Prussian Military Order of Merit, Lieutenant-Governor of the Province of Upper Canada, &c. &c. &c.

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WE, the loyal inhabitants of Youge Street, sensible of the many distinguished privileges we enjoy by our connexion with the British empire, beg leave hereby to tender you our most sincere thanks for, and approbation of, your very independent and faithful conduct since assuming the government of this happy and thriving colony; and particularly for the able, clear and distinct manner in which you have elucidated the nature and bearings of our well tried constitution, to the dismay and discomfiture of a few political partisans, who seek to destroy its nicely balanced powers, by making every thing subservient to a dominant political faction, than the which no greater calamity could befall our adopted country.

Addresses from  
the Provinces to  
Lieut.-Governor.

Fully engaged in our various pursuits in the social interchanges of private life, and the quiet enjoyment of agricultural employment, we have neither leisure nor disposition to take part in all the political excitement which is kept alive by a few selfish, designing and ambitious men, for the gratification of private ends; but possessing an inviolable attachment to the mother country, to the genius and spirit of her institutions and laws, and desiring to see her exercise a paramount influence in the administration of our government, we *firmly rely upon her strong arm* to protect us against all such innovations and changes as would destroy our happy constitution. That you may stand firmly by it, and with all that promptitude and decision you have so fearlessly and manfully evinced, is the most fervent prayer of His Majesty's loyal subjects of Youge Street.

Number of signatures attached to this Address - - 155.

(No. 9.)

To his Excellency Sir *Francis Bond Head*, Knight, Lieutenant-Governor of Upper Canada.

WE, the undersigned freeholders and householders of the township of Ancaster and its vicinity, beg leave to assure your Excellency that we have witnessed with great pain and indignation the attempts made to embarrass and impede your Excellency's administration in this province, which, under the wise and paternal instructions of His most gracious Majesty, augured so favourably for its future prosperity. We are convinced that it is but a small number of the respectable inhabitants of this province who would thus interpose to frustrate your Excellency's beneficent intentions, and many of those have been misled by the unceasing efforts of a few designing men, who have long endeavoured to distract and agitate this province, and retard its future advancement in wealth, greatness and renown.

We therefore consider it our imperative duty to assure your Excellency that we should ever strive to uphold, by every means in our power, that happy form of government which Great Britain has guaranteed us by the Constitutional Act, and are determined to maintain inviolate the existing connexion between this province and the parent State.

Individually and unitedly we congratulate your Excellency on your arrival among us, and fervently pray that, by the assistance of Divine Providence, you may be the instrument of diffusing throughout the province the blessings of good government and peace, of which your conduct since the commencement of your administration is a happy harbinger and certain pledge.

Number of signatures attached to this Address - - 147.

(No. 10.)

To his Excellency Sir *Francis Bond Head*, Lieutenant-Governor of the Province of Upper Canada, &c. &c. &c.

WE, His Majesty's dutiful and loyal subjects resident in the township of Stamford, in the said province, beg leave respectfully to address your Excellency, to state that we accord with your Excellency in the desire which you have shown to maintain our glorious constitution (the envy of all nations) inviolate; anticipating the happiest results when your Excellency shall deem it expedient to carry into effect those measures of reform which may be deemed necessary, and to which you referred in your Excellency's Message to the Legislature.

We are aware that there exists a certain faction in this province, whose aim is doubtless to mutilate or overthrow that constitution, and render nugatory the best intentions of His Majesty towards the people of this colony; and for the purpose of those persons of this township who are attached to His Majesty's Government having an opportunity of expressing their approbation thereof and your Excellency's conduct, a meeting was advertised for the 6th instant, when from the industry of the radical faction bringing together

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a large number of people from other townships, equally discontented or disaffected, their wishes could not then be realized, which party are handing about petitions at the present time for signature, for the purpose of thwarting the representative of His Majesty in carrying into effect his anxious wishes for their welfare and happiness. In such a crisis as this we feel ourselves called upon to testify our loyalty and attachment to our beloved Sovereign and our excellent constitution, and to express our sincere acknowledgements to your Excellency for the calm and deliberate manner in which you have endeavoured to convince that faction their views of the constitution are erroneous, and that any infringement thereof or alteration required by them (which we have seen in the public prints), must tend ultimately to militate against the best interests of the inhabitants of this province. We regret that in so short a period of your administering the government of Upper Canada any differences should have arisen between your Excellency and the late Executive Council, and trust that when a thorough knowledge of what is required of the present one is entertained, they will cordially and conscientiously aid your Excellency in the discharge of the important duties pointed out in His Majesty's instructions for the government of this province.

Stamford, 7th April 1836.

Number of signatures attached to this Address, 192.

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(No. 11. A.)

To his Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian Guelphic Order, and of the Prussian Military Order of Merit, Lieutenant-Governor of Upper Canada.

May it please your Excellency,

WE, the undersigned inhabitants of Bytown and its vicinity, beg leave to offer your Excellency our sincere congratulations on your arrival in this province, and on commencing the discharge of those high and important duties attached to the eminent situation in which our revered Sovereign has been pleased to place you.

The recent events in your Excellency's Council have been received by us with deep regret, as happening at so early a period after your arrival among us; and fearing that some temporary inconvenience might be felt by your Excellency being deprived of the assistance of those who had been deemed qualified to act as advisers in cases where your Excellency might think proper to consult them. But when we reflect that some of the Council had been selected by your Excellency's predecessors, and that your Excellency has been pleased to express your regret that a difference of opinion should be deemed by them a sufficient ground for withdrawing their services, it would ill become us, either in reference to your Excellency's predecessors, (of whose services to the country we entertain a grateful recollection), or to your own opinions so candidly expressed, to indulge in blaming those members of your Council who have acted as they have thought incumbent upon them to do. We cannot, however, allow this opportunity to escape, without conveying to your Excellency our grateful thanks for the candid, firm and open declaration of the line of political conduct your Excellency has been pleased to avow; and we hail the clear and open exposition of the principles of our happy constitution which your Excellency has been pleased to set forth as the surest pledge we can receive of the sentiments you entertain; and that under your Excellency's administration those principles so dear to every loyal subject will be maintained with unsullied purity.

With unqualified sentiments of approbation of the line of conduct heretofore pursued by your Excellency, we beg leave to convey to you at the same time the assurance of our high estimation of the many privileges we enjoy under the protection of the British Government, privileges so dear and justly appreciated by every well-wisher of this province, that in their support, and (if need be) in their defence, your Excellency may implicitly rely upon the zeal and good feeling of the inhabitants of Bytown and its vicinity.

Number of signatures attached to this Address - - 211.

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(No. 11. B.)

To his Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian Guelphic Order, and of the Prussian Military Order of Merit, Lieut.-Governor of the Province of Upper Canada.

May it please your Excellency,

WE, the undersigned inhabitants of Bytown and vicinity, fully appreciating the blessings of the British Constitution, under which we live, beg leave to address your Excellency at the present eventful crisis.

The principles of our constitution, which your Excellency has so clearly defined, and the firmness which you have exhibited in upholding them, are sources of unmingled pleasure to us; we accordingly return your Excellency our most grateful thanks, and we earnestly pray that you will never depart from them.

We

We think we see in the conduct of certain individuals, whom your Excellency was pleased to elevate to your Council (acting as they manifestly did, under the guidance of the leader of a political faction), signs of an already deeply rooted conspiracy against that frame of government which has fostered and encouraged this infant colony; but we have the utmost confidence, that by a continuation of the decision which your Excellency has already exhibited, evincing as it does an intimate foreknowledge of our real interests, we shall be spared from democratic tyranny, and still have the happiness to remain a part of the British Empire.

We deprecate the conduct of those who, pretending to represent the sentiments of the people, either from ignorance or treachery, or both, make use of language towards your Excellency, as the King's representative, not only grossly insulting towards His Majesty, but highly degrading to themselves, and abusing their legislative privileges, by distributing through the province, at the expense of a much injured and deceived people, a seditious petition for signature, calling upon themselves to stop the supplies; thus more clearly proving the existence of the conspiracy before referred to.

Your Excellency may however be assured that the body of the people will not fail in their allegiance, should the day of trial arrive; and we pledge ourselves to support your Excellency in the maintenance of the just prerogatives and authority of His Majesty over this province.

Number of signatures attached to this Address - - 70.

(No. 12.)

To his Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian Guelphic Order, and Knight of the Prussian Military Order of Merit, Lieut.-Governor of the Province of Upper Canada.

WE, the undersigned inhabitants of the township of Georgina, beg respectfully to state to your Excellency the surprise and regret with which we view the sudden resignation of the late Executive Council, at a period when their services were most required.

We also beg to state the concern with which we observe that printed petitions, addressed to the House of Assembly, are in circulation for signature throughout the country, praying that House, in consequence of such resignation, to adopt measures unconstitutional in themselves, injurious to the interests of this province, and tending ultimately to its separation from the parent State.

Aware of the rational liberty we enjoy under our present constitution, and of the advantages this colony derives from its connexion with Great Britain, we should look with alarm upon such attempts of factious demagogues, and their deluded followers, but that we rely, under Providence, upon that steady and fearless execution of your duty, which your Excellency has already shown for the preservation to us of these blessings unimpaired.

Number of signatures attached to this Address - - 60.

(No. 13.)

To his Excellency Sir *Francis Bond Head*, К. С. Н., &c. &c. &c., Lieut.-Governor of the Province of Upper Canada.

WE, His Majesty's dutiful and loyal subjects, inhabitants of the township of *Guelph*, in the district of *Gore*, and province aforesaid,

Respectfully represent,

THAT we view with extreme regret the strenuous exertions now making by a portion of the residents of this province, to embarrass your Excellency's government and thwart the gracious intentions of our beloved Sovereign, as expressed in your Excellency's communication to the two Houses of the Legislature.

That we respectfully beg to make known to your Excellency the satisfaction we feel in the determination expressed by your Excellency, to uphold inviolate our excellent constitution, perfectly satisfied that it secures to all classes of His Majesty's subjects that true, equal and perfect liberty which ever emanates from the spirit of the British Constitution.

That we beg to assure your Excellency of our firm determination to support, by every means in our power, your Excellency's administration in the enforcement of the laws, and the carrying into effect His Majesty's most gracious intentions.

Guelph, 5th April 1836.

Number of signatures attached to this Address - - 167.

Enclosure 3, in  
No. 1.

Addresses from  
the Provinces to  
Lieut.-Governor.

(No. 14.)

Enclosure 3, in  
No. 1.

To His Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian Guelphic Order, and of the Prussian Military Order of Merit, Lieut.-Governor of Upper Canada, &c. &c. &c.

May it please your Excellency,

Addresses from  
the Provinces to  
Lieut. Governor.

WE, the undersigned inhabitants of Peterboro' and its vicinity, beg leave most respectfully to approach your Excellency, with an offer of our sincere thanks for your uncompromising, manly and straightforward conduct since you assumed the administration of the government of this province; we feel from it a most cheering confidence for the future, and earnestly hope that your Excellency may see no cause to alter the course you have so ably struck out for conducting the affairs of the government.

We view with sorrow and disapprobation the vile attempts which have been made to embarrass your Excellency, and again thank you, Sir, for the able and firm manner in which you have met them. We are perfectly willing, and will be at any moment ready to support your Excellency, whenever it is necessary that our energies should be called forth for that purpose.

Number of signatures attached to this Address - - 1,026.

— 2. —

COPY of an ADDRESS to The KING from the ASSEMBLY of *Upper Canada*, with the Appendix of Documents transmitted therewith to the Secretary of State.—  
See APPENDIX (H.), p. 69.

To the Honourable the Commons House of Assembly.

Report of Com-  
mittee to Commons  
House of Assembly.

THE Committee to whom was referred the correspondence between his Excellency the Lieutenant-Governor and the late members of the Executive Council of this province, having examined the various documents referred to them, and having carefully considered the subject discussed in the correspondence, submit the following Report.

The Committee are deeply convinced of the truth of Lord Glenelg's opinion, that "the present is an era of more difficulty and importance than any which has hitherto occurred in the history of this part of His Majesty's dominions;" and not less are they convinced that the difficulty has been increased instead of being diminished since the date of Lord Glenelg's despatch. It is at such a crisis that we are called to the discussion of a question of vital importance to the people of this province, a question which, in the opinion of the Committee, is no less than this: whether we have, as we have been taught to believe, a constitution "the image and transcript of that of Great Britain," or have only a mutilated and degraded constitution.

The increasing dissatisfaction which has been produced by the mal-administration of our provincial affairs, under Lieutenant-Governors Gore, Maitland and Colborne, has been so well known and so general, that even the Colonial Office seems to have been awakened to a sense of the necessity of ameliorating our condition, by holding out the encouraging prospects of relief and reform. To our complaints, too long neglected and unredressed, attention was at length to be paid. Sir John Colborne (with whose measures, maxims and advisers His Majesty's subjects had long been dissatisfied), was removed, and a Lieutenant-Governor was sent out, to administer the affairs of the province in such a way that the people should have reason to be attached to the parent State, from sentiments of affection and gratitude, as well as from principles of duty. As he was a stranger to the province, to its affairs and history, to the wants, sentiments and habits of its inhabitants; and as the measures complained of under Sir John Colborne's administration had been attributed in a great degree, if not altogether, to evil advisers, much anxiety was felt that the new Lieutenant-Governor should call to the Executive Council persons in whose sound constitutional principles, integrity and prudence the country could put confidence. The appointment of Messrs. Dunn, Baldwin and Rolph, therefore, afforded general and lively satisfaction, not unmingled, however, with serious apprehensions that the influence and presence of the old Councillors who were supposed to have advised Sir John Colborne, would embarrass his Excellency and the new Councillors in the pursuit of a more impartial, conciliatory and constitutional system of government. The House and the country were not then aware that this Executive Council had been used as a mere screen for the acts of the Lieutenant-Governor; on the contrary, it was generally understood that they were consulted on the affairs of the province.

That the principles of the British Constitution were not put in practice as it regarded this Council in one respect was well known, and had been the subject of earnest complaint on the part of your honourable House; we allude to the fact that persons had been appointed or continued as Councillors whose political opinions or principles were in opposition to those of the people and their representatives, and in many cases to the express wishes and intentions

tions of His Majesty's Government; as for instance, the contemptuous treatment given to Lord Goderich's despatch, as well as to its noble author. But the country were ignorant how much the affairs of the province had been conducted by the arbitrary will of the Lieutenant-Governor himself, with no other counsel than the secret suggestions and recommendations of unsworn, irresponsible and unknown advisers.

Report of Com-  
mittee to Commons  
House of Assembly

Much and justly as the people of this province had been dissatisfied with the condition of our public affairs, they were nevertheless not aware of the extent to which the unconstitutional proceedings of the Lieutenant-Governors of this province had been carried.

Every day, however, discovers new cause of complaint on the one hand, and the contemptuous indifference with which all complaints are regarded on the other.

From the documents referred to the Committee it pretty plainly appears that the Lieutenant-Governor had not consulted the Council at all after the new Councillors were sworn in [See the representations of the Council hereunto appended, marked (A.);] although during the interval between that event and their resignation, three weeks of anxious expectation on the part of the people and their representatives had elapsed, and during that time his Excellency had made various appointments, which he could not make advantageously or properly without information and advice from some one.

His Excellency also refused to give the royal assent to a Bill demanded by justice and humanity, and passed for more than ten years almost unanimously by repeated and different Houses of Assembly, although, during the present winter, Lord Gosford had informed the legislature of Lower Canada that the royal assent would be given by the King in Council to a similar Bill which had been passed by the Parliament of that province, and reserved for the signification of His Majesty's pleasure. Upon this refusal to assent to a Bill which had thus received the sanction and approbation of both Houses of Parliament in Lower Canada, and both Houses of Parliament in Upper Canada, and been approved of by His Majesty's Government, after deliberate consideration, it is plain that the Executive Council had never been consulted, and indeed all the measures subsequently adopted so disappointed expectation, as plainly to indicate either that the Council were not consulted, or that the old members, with the umpirage of the Lieutenant-Governor, predominated.

Your Committee are forced to believe that the appointment of the new Councillors was a deceitful manœuvre to gain credit with the country for liberal feelings and intentions, where none really existed; for it was notorious that his Excellency had really given his confidence to and was acting under the influence of secret and unsworn advisers. Under these circumstances the Council seem to have been led (in conformity, indeed, with a suggestion of his Excellency himself), to examine the nature and extent of their duties under the Constitutional Act, and having discussed the subject with his Excellency personally at the Council Board, they united, ten days afterwards, in an unanimous and respectful representation, in writing, to his Excellency, in which, after adverting to the critical state of public affairs and the general discontent with the past administration, which no one can doubt, they state their views of the Constitutional Act, (31st Geo. 3. c. 31), as it respects the Executive Council, and draw from it the following conclusion:

"*Firstly*.—That there is, according to that statute, an Executive Council.

"*Secondly*.—That they are appointed by the King.

"*Thirdly*.—That they are appointed to advise the King and his representative upon 'the affairs of the province.' No particular affairs are specified; no limitation to any particular time or subject."

They represent, that, according to our constitution, the Lieutenant-Governor should consult the Executive Council upon the affairs of the province generally, and not merely occasionally, although (except in certain cases where their concurrence is by statute expressly required), his Excellency would still be at liberty to reject the advice when given; and they recommend that, with the exception of those matters of so weighty or general a character as not properly to fall under any particular department, and therefore fitted for the deliberation of the Council collectively, the affairs of the province should be distributed into departments, to the heads of which shall be referred such matters as obviously appertain to them respectively.

We have been careful to state the exact propositions of the late Council, as contained in their representation, because it is important to know what are the real points in controversy; and because his Excellency, in various public documents, has given (to use the mildest terms) a very erroneous account of these propositions. He describes them as attempting to divest him of his responsibility, and of his power and patronage, although nothing was proposed by the Council, except that which we have above stated.

Your Honourable House will observe that the late Executive Council, in their representation to his Excellency, have placed their duties upon the most moderate scale. It is merely proposed that the affairs of the province should be submitted for their advice, before the Lieutenant-Governor exercises his own discretionary power upon them; and if the general business were, as recommended, distributed into departments, it would obviously facilitate the reference of any matter by his Excellency for information or advice. Yet this simple proposition, in the opinion of your Committee so reasonable to a candid, and so acceptable to any *well constituted mind*, is repelled by his Excellency with seeming indignation; and the Councillors, in a most arbitrary manner, coerced from their office; and, after their resignation, literally traduced. Upon such official conduct (whatever the station from which it comes), your Committee cannot forbear freely to animadvert; for the country will in vain look for talented and honourable men to fill the public stations, and

Report of Committee to Commons' House of Assembly,

aid the conduct of public affairs, if subjected to ignominy and reproach, without vindication by the representatives of the people, whose highest interests in the King's Councils they have undertaken to serve.

It is therefore with pain your Committee notice, in the conclusion of his Excellency's reply to the late Council [hereto appended, marked (B.)], the discreditable alternative offered them. It appears from Mr. R. Baldwin's letter, that when he and his colleagues accepted the invitation to join the Executive Council, their political principles were made known, and very fully explained to Sir Francis Head; and when jointly waiting upon him more formally, to receive a united invitation, it appears he accepted their services with the avowed retention of the opinions they had hitherto publicly entertained and acted on, even declaring with great apparent frankness and magnanimity, that their seats in the Council would afford them a better opportunity of confidentially presenting and urging their views. With such a latitude professedly given them, it became their duty, in the opinion of your Committee, upon assuming their office, to advise his Excellency upon the affairs of the province, and, in their opinion, as to the constitutional manner in which it might be best administered, in the terms of their oath, "for the good of the King and this province, and for the peace, rest and tranquility of the same." Such is the substance of Mr. Baldwin's manly and honourable letter.

Animated with these loyal and patriotic feelings, and conversant with the condition and expectation of the country, it appears they joined in the representation, dated the 4th of March 1836 [hereto appended, marked (A.)], embodying their united views in a manner unreserved, candid and respectful.

To this representation Sir F. Head sent a reply, also hereto appended [marked (B.)], concluding with the following words: "The Lieutenant-Governor assures the Council, that his estimation of their talents and integrity, as well as his personal regard for them, remain unshaken, and that he is not insensible of the difficulties to which he will be exposed, should they deem it necessary to leave him. At the same time, should they be of opinion that the oath they have taken requires them to retire from his confidence, rather than from the *principles* they have avowed, he begs that, on his account, they will not for a moment hesitate to do so."

It appears to your Committee that, however sensible the Council might be to the honour of being confidential advisers of the King and his representative in this province, and however anxious to avert the embarrassments his Excellency justly apprehended, yet having entered His Majesty's service with known principles, and as a duty communicated them officially, they could not honourably retire from these principles, to which, as their representation testified, they properly attached so much importance and truth. Hence, upon this delicate subject Mr. Baldwin nobly observes [See his Letter in the Appendix, marked (C.)]:

"Having, in the representation alluded to, but reiterated in a more formal manner, in conjunction with my colleagues, under the sanction of the oath (which I had in the mean time taken), the same principles and opinions which his Excellency knew me to entertain previous to his honouring me with a seat in his Council, however desirous I might be of giving my best support to his Excellency's government, or of not hastily abandoning the important duties of my situation, which had been most unwillingly assumed, I could not for a moment hesitate when the alternative presented to me was the abandonment either of my principles or my place."

Your Committee cannot hesitate to remark, that this proposition of Sir Francis Head, in the secret Council Chamber, to retain them in his service if they would retire from their principles, was highly objectionable, derogatory to the honour of the King, and demoralizing to the community.

Among the criminating views urged by his Excellency against the late Council, since the date of the correspondence, will be found a complaint against their concluding prayer, as follows, "that should such a course not be deemed wise or admissible by the Lieutenant-Governor, the Council most respectfully pray that they may be allowed to disabuse the public from a misapprehension of the nature and extent of the duties confided to them."

This request might, in the opinion of your Committee, have been answered by a frank avowal of the alleged intention, "after a few moments more afforded for reflection," to consult them to such an extent as to render their prayer "practically useless;" but being in the strange misapprehension of his Excellency "sworn to be *dumb*," and therefore kept by him religiously mute, from giving him any advice, the late Council appear to your Committee to have had before them only two courses, viz., either to obtain a more cordial and constitutional intercourse with his Excellency, or discreditably to keep up the prevailing public deception respecting their duties. If the Council would have recanted, and kept the great secret; viz., that there were no secrets—they might, as the reply shows, have dishonourably retained his Excellency's confidence.

But for what honest purpose could it be desired not to undeceive the public, who had so long, under a misapprehension of the nature and duties of the Council, directed their reproach against them as the presumed concurrent advisers of misgovernment? If it is wrong that the Council should advise upon the "affairs of the province," is it right falsely to make the people ascribe to them such duties? Was it criminal, as is pretended, for them to ask leave to communicate to the public, not any particular matter, or their advice upon it, but merely to correct a public misapprehension of the nature and extent of the duties confided to them? Was it generous or just for his Excellency, under the pretence

of

of the oath they had taken, to compel the new Councillors to subject themselves unjustly to the same reproach as had been heaped upon the old ones, for supposed acts they had never done, and for supposed advice which had never been asked or given? Was it magnanimous or honourable for a Lieutenant-Governor, who professed to take upon himself all responsibility for all mismanagement of our affairs, to screen himself from censure, by allowing it to be unjustly imputed to a "dumb" "defenceless" Council? Would it not have been more manly to say, "*I am the only responsible person. You shall not be blamed for my acts; therefore disabuse the public, that they may never charge against you what is wholly chargeable against me.*" But, on the contrary, his Excellency condemns them, almost as violators of their oath, for desiring to undeceive the country, and for betraying so much sensitiveness about mere character and reputation, as to undervalue the honour of innocently braving all the odium of his Excellency's unadvised misdoings in his government. This is a species of political gallantry, from which the Council seem humbly to have wished to be relieved; a wish, however, which his Excellency indignantly resents.

Report of Committee to Commons House of Assembly.

Your Committee are unable to discover, in the conduct of the late Council, any grounds for the reiterated assertion of his Excellency, that they wished to deprive him of his responsibility and patronage.

The responsibility of the Governor should, in the opinion of your Committee, consist, in a great measure, of selecting good Councillors, and acting with their good and rejecting their bad advice. The advice of the Executive Council, given in the terms lately proposed by them, would inform the judgment, but not impair the responsibility of his Excellency.

A jury are not the less responsible for their verdict, because they hear evidence, the counsel and the judge. And to your Committee it seems puerile to urge, that should an Executive Council give advice to a Lieutenant-Governor, he should have no responsibility in acting on it.

The same may be said about the patronage.

This patronage chiefly consists of appointments to all public offices throughout the country; and as his Excellency professes himself to your Honourable House, to be a stranger lately arrived amongst us, unacquainted even with the political differences of the mother country, and, necessarily (as all his successors from England must be) wholly ignorant of this province, it seems rational and prudent, that before making any such appointment to office, he should receive the advice of the Council, in conjunction with whom he could make better inquiries and arrive at safer conclusions than by his own unaided judgment.

When, therefore, his Excellency contends that he will not take advice upon the affairs of the province, because it takes away his responsibility, and that he will not consult the Council about appointments to office, because it will take away his patronage, it practically amounts to a declaration that he will carry on an arbitrary government; not because it is the best calculated to advance the peace and prosperity of the country, but for the selfish purpose of displaying the extent of his power; for it is not pretended that the constitution prevents him from consulting with the Council on all matters, if he was only desirous of doing so.

But the Lieutenant-Governor deliberately declares himself to be responsible for his Council, as well as himself, to His Majesty's Government in England. This kind of responsibility (undeniably existing) we have witnessed in the examples of all preceding Governors; and experience, dearly bought, has proved that liability to a patron in Downing Street, 4,000 miles off, is unavailing for any practical purpose. And even assuming this responsibility to continue, it does not lessen the manifest expediency and wisdom of guarding against even unintentional errors in the conduct of our affairs, by the intervention of sworn advice from Councillors selected by the Lieutenant-Governor himself, for their talents and integrity.

The counsel given would produce here safe and happy government, and instead of destroying responsibility in England, would only lessen the necessity of a frequent appeal to the Throne, and to the British Parliament, for the redress of grievances, even of the most subordinate kind.

Your Committee cannot forbear to notice the Lieutenant-Governor's charge against four of the late Executive Councillors, whom he accuses with "having changed their opinions." Sir Francis Head is the last person who should have promulgated such a reflection against any of the late servants, particularly against those to whom he had introduced gentlemen avowing the opinions, which, it is insinuated, they imbibed. How could they suppose that his Excellency was angrily opposed to the principles he had infused into the Council? But it seems he formed the Council of persons who, he thought, entertained opposite and discordant sentiments; and because, instead of quarrelling and wrangling among themselves, they discovered in their proceedings a happy and useful concord in public business, he dismisses them for their unanimity, and then ungraciously charges one part with holding unconstitutional views, and the other part with being converts to them. And all these attacks are made upon them by his Excellency, who at the same time declares them to be defenceless, "because, being sworn to silence, they are deprived by this fact, as well as by the constitution, of all power to defend themselves." Nevertheless, to your Honourable House, and in answer to popular addresses, he is continually urging constructions and statements against the Council, which ought in fairness, and on every principle of honour, to be allowed to be answered or never to have been made.

Your

Report of Committee to Commons House of Assembly.

Your Committee feel surprised at the public answer of his Excellency to the address of the city corporation. Your Committee have procured a certified copy of this address and answer from his Excellency's private secretary, which they hereunto annex, marked D., in which he expresses "*astonishment*" that those principles "*suddenly appear from a 'quarter from which he certainly least expected it,'*" from the Executive Council itself." It is but just to the late Council to remark, that the announcement of such principles from a Council into which his Excellency had himself knowingly introduced them with Mr. Baldwin and his coadjutors, could not, in "*candour*," be a matter of "*astonishment*;" nor can your Committee consider it done "*suddenly*," after an amicable verbal discussion with him in Council ten days before, or that it could be "*certainly least expected*" from sworn advisers known to him to entertain these principles, and bound by his Excellency's invitation to the frank interchange of opinions, as well as by every obligation of honour and duty, to express them to him. It is therefore plain, that the principles are regarded with "*astonishment*" by his Excellency, when there was no reason to feel it; are denounced as obtruded by the late Council "*suddenly*," after they had been debated for *weeks*; are condemned as emanating from a "*quarter*" into which he had *himself* knowingly introduced them; and are said to have been "*least expected*" from men whom he had *himself* in Council sworn *fearlessly* to advise him according to their honest convictions.

The late Council are charged by his Excellency, in the last-mentioned document, with resting their claims in the appended representation, very nearly on the following grounds: "1st. That the responsibility they assume being a popular one, daily increasing, is consequently the law of the land." And, 2dly. That though the powers they require are nowhere expressed in the Constitutional Act, they were evidently intended to have been inserted."

Your Committee have compared the above professed epitome of the grounds taken by the late Council with the representation itself, from which it is avowedly deduced; and the grounds, thus charged by his Excellency against the Council as assumed by them, are so utterly and so obviously at variance with *candour* as to defy any courteous commentary without injustice to the constitutional question at issue.

In the answer of his Excellency, accompanying the documents between himself and the Council, he states, that "with every desire to consult my Council, I was preparing for their consideration important remedial measures, which I conceived it would be advisable to adopt, and had they but afforded me those few moments for reflection, which from my sudden arrival among you, I fancied I might fairly claim as my due, the question which so unnecessarily they have agitated, would have proved practically to be useless."

It is singular that this latent intention of his Excellency is not even hinted in his reply to the Council, but is reserved for disclosure as a means of criminating them after their resignation was effected by the alternative of "abandoning their principles or their place." Considering the relation which ought to exist between a Governor and the Executive Council of the province, it was not, in the opinion of your Committee, dealing ingenuously with them, to take most important steps without their advice or even knowledge; and it must have been a humiliating position for gentlemen, distinguished as his Excellency admits, for "their talents and integrity," to imagine that his Excellency was "preparing important remedial measures," not in dignified and constitutional co-operation with his highly gifted Council, but by the aid of unsworn and irresponsible persons unentitled to confidence. Such conduct did not redeem the pledge to the late Council, upon accepting office, of his "implicit confidence;" and when, after three weeks' merely nominal councillorship, they resign, it is alleged, "had they afforded him a *few moments* for reflection, the question which so unnecessarily they have agitated, would have proved practically to be useless." If such is the truth; if it was intended (after a *few moments for reflection*) to consult the late Council to such an extent as to render their representation "practically useless," why did his Excellency require them to "abandon their principles or their place?" Why did he, in his own language, "drag the question into day-light, in order that it might be openly, fairly and constitutionally discussed," when it was his avowed intention shortly to render the agitation of it "practically useless?" Under such a prospect it was inexcusable *misrule* to fill the country with consternation and dismay, upon a matter respecting which he had the *power*, and *professes* to have had the *intention*, to satisfy public expectation; and after importuning the Honourable J. H. Dunn, and R. Baldwin, Esq., under an overwhelming pressure of recent domestic affliction, and Doctor Rolph amidst professional avocations, in voluntary retirement from public life, to join the Council, in order to aid the King's Government, it was most *ungenerous* to almost expel them his Council, merely for offering a suggestion which, after a few moments more reflection, he intended so far to follow as to render their representation "practically useless."

It should be particularly observed that the representation of the late Council was signed by all the Councillors, was the deliberate, unanimous, conscientious opinion of gentlemen of different political parties, of those who had long been in office, and of those who had just been appointed; not as to a mere theoretical question, but as to a question practically affecting their own duties under the constitution of the country; was not a movement to serve any political party, but was calculated to meet the views and wishes of all parties, and that being in writing, his Excellency could take his own time to consider it. Finally, as this was a matter of no ordinary importance, and as the Councillors had delivered their views in writing signed by all (a proper and constitutional proceeding on such great questions in the judgment of the Committee, and certainly the most respectful to his Excellency) it would have been



been no great stretch of courtesy to the unanimous and confidential advice of his Councillors, if, in case he differed from them, he had referred it with his observations to His Majesty's Government, instead of indulging his arbitrary spirit, and requiring them to resign for the mere expression to him in confidence of their sentiments. It may be observed that, without being obliged to concede the principle maintained by him, or to compromise his character or his dignity, he might frankly have consulted them in the meantime of his own accord, on all important matters, and have obtained thereby advice and information which would have been highly useful to him, and which, in fact, he necessarily must seek somewhere. By this means he would have prevented the present excitement, and the discussion which has been forced upon the country of forms of government and fundamental principles of the constitution, a discussion which common prudence will admonish all settled governments to avoid. That he might have consulted them upon all the affairs of the province, even if he was not obliged to do it, there can be no doubt. Such a course, if not enjoined is evidently not forbidden by the constitution, or by the royal instructions, or by any law or authority whatever. It is not borrowed from a republican government or republican institutions, but is a British usage, and according to British principles. It seems, however, from his own declaration, that he was waiting for an opportunity to force this discussion upon the country; or, in his own language, "to drag this new theory into daylight, in order that it might be discussed." The Committee and the House are therefore "dragged" into the discussion of it, not by the Executive Council, not by any factious or party proceeding, but by his Excellency himself, who, it appears, notwithstanding his short arrival in the country, rather courted the discussion of it than otherwise; for it will be observed that he stated in answer to the corporation as follows:—

"Finding that this new theory was rapidly gaining ground, I resolved to offer it no secret opposition, nor in any way to exert my influence to oppose it; but I determined the very first time it should come well within my reach that I would drag it into daylight," &c.

The Committee cannot but remark, that hitherto the Executive Council have sustained the public censures for the misconduct of our affairs, upon which it has always been supposed they have given a concurrent advice, and upon that account past Lieutenant-Governors, as well as the British Government, have sustained their office in dignity, and been treated personally with respect. It is therefore with great concern we learn from various public documents emanating from his Excellency upon this subject, that he desires to relieve the Council from all participation of popular displeasure, inevitable in a country with liberal institutions, and to assume it himself. The representation of the late Council fully expresses the odium which its members had silently endured; and it appears to your Committee repugnant to the British constitution, and inconsistent with the necessary preservation of respect for the Kingly office, to bring his representative into personal collision with the people in every period of excitement, and render him the ostensible person for accusation and complaint. Should such a doctrine prevail, the royal station in the colony will be seriously impaired in its dignity, and be almost unavoidably introduced in parliamentary debate, and become the point upon which will be concentrated every manifestation of popular indignation. If all the odium which has been poured upon the old Executive Council had been charged, as his Excellency proposes, upon the Lieutenant-Governors, their residence would not be tolerable, and their very authority would become weakened or destroyed.

In the conclusions of the late Executive Councillors, the Committee fully concur, and cannot but express their surprise that his Excellency should not be convinced by the clear and unanswerable argument contained in their representation to him. His Excellency, however, in one of his appeals to popular feeling, broadly declares that the Act of 31 Geo. 3, chap. 31, creates no Executive Council, and says, "If any one tells you that it does, read the Act for yourselves."

In humble imitation of this great authority, we affirm confidently, that according to that statute there must be an Executive Council appointed by the King for the affairs of this province, and to any one who is led by the strong as-ertions of his Excellency to doubt it, we say "Read the Act for yourselves," especially such passages as this [section 34] "together with such Executive Council as shall be appointed by His Majesty for the affairs of such province;" and such passages as this, [section 29] "with the advice of such Executive Council as shall have been appointed by His Majesty, His heirs or successors, within such province for the affairs thereof;" and such passages as this, [section 7] "before such Executive Council as shall have been appointed by His Majesty, his Heirs or successors, within such province for the affairs thereof;" and such passages as this, "as such Governor, Lieutenant-Governor, or person administering the government, shall, with the advice of the said Executive Council, judge to be expedient under the then existing circumstances;" all of which passages are found in the Act. On this subject the Committee refer to the conclusive argument of the Executive Councillors in the communication which seems to have disturbed his Excellency so much amidst his alleged preparation of "important remedial measures," and conclude that, according to the Constitutional Act, there must be an Executive Council; that they are appointed by the King, and that they are appointed to advise upon the affairs of this province generally, and not merely upon particular affairs, or upon particular occasions, are propositions which are demonstrable from the express terms, as well as from the spirit and evident intention of that Act (as has been shown by the late Executive Councillors), and may, moreover, be inferred from the absence of every thing of a contrary import in the Statute.

In other Statutes besides that just referred to, both imperial statutes and provincial Statutes, the Executive Council is noticed, and their duties are alluded to in terms equally comprehensive.

Report of Committee to Commons House of Assembly.

hensive, [See the Provincial Statute, 34 Geo. 3, chap. 2, sec. 33, and the British Statutes, 6 Geo. 4, chap. 114, sec. 30, and the 7th and 8th Geo. 4, chap. 62, sec. 1.] From these Statutes it will be seen that an Executive Council is "the Council of the Province," "appointed for the affairs thereof," and not his Excellency's Council, or appointed for particular affairs or any particular purpose. They are not, as he says they are, appointed to serve *him*, they are the Council of the province, "appointed for the affairs of the province." The distinction of his Excellency between the Council serving him, and not the people, is calculated to awaken much concern, and seriously impair that identity of interest and purpose which (under the presumption of our enjoying the British Constitution) we always supposed to exist between The King and the People. Indeed it has been a universal belief, founded, as your Committee believe, in unerring principles, that both the Privy Council at home and the Executive Council in this province are the servants of, or instruments for, the dispensing of good government. Any attempt to put up any conflicting interests between The King and the People, by creating a belief, that in serving the Crown, they do not serve the country, is erroneous in theory and mischievous in practice.

His Excellency repeatedly asserts, that no Executive Council was created by the British Act 31 Geo. 3, c. 31, and says, "as regards even its existence, the most liberal construction which can possibly be put upon the said Act, only amounts to this: that as an Executive Council was evidently intended to exist, the remnant of the old one ought not to be deemed totally extinct until its successor was appointed."

In opposition to this sweeping and positive declaration, the Committee must remark, that there was no such thing as "an old Council" of this province; and though there had been a Council created for the affairs of the old Province of Quebec by the British Act, 14 Geo. 3, c. 83, this Council was called a *Legislative Council*, and not an *Executive Council*; and your Committee also deem it worthy of remark, that this Council is spoken of in the same terms in the said 14 Geo. 3, as is the Executive Council of this province in the 31st of the King, viz., "a Council for the Affairs of the Province of Quebec;" and, moreover, the very first clause of 31 Geo. 3, c. 31, repealed so much of the previous Act as in any manner related to the appointment of that *Legislative Council*, or to the power given to them; not "a remnant" of that old Council, therefore, existed; every vestige of it was annihilated, and your Committee are quite perplexed to understand how the *Legislative Council* of Quebec, after its absolute and unconditional repeal, could survive, in even a remnant (as his Excellency says) till its successor was appointed. If this is good reasoning on the part of his Excellency, the *Legislative Council* of Quebec, had no successor been appointed, would be now in operation; and, by similar logic, by rescinding the instructions, his Excellency might undertake to revive it. But the last clause of 31 Geo. 3, c. 31, affords a conclusive answer to all his Excellency's assertions, that an Executive Council was not created by that Act; for it provides, that during the interval between the commencement of that Statute in the province, and the first meeting of the Provincial Legislature, the Lieutenant-Governor, "with the consent of the major part of such Executive Council as shall be appointed for the affairs of the province," may make laws for the government thereof in the same manner as the old *Legislative Council* for the Affairs of the Province of Quebec, could have made ordinances and laws for that province. The Council thus authorized to assist in making laws, were an *Executive Council* not then appointed, but which were to be appointed, and were to be appointed *before the first meeting of the Provincial Parliament*; and were to be appointed, not for that particular purpose only, but "for the affairs of the province" generally. And yet, according to his Excellency's opinion, this Statute did not establish an Executive Council at all; while, in his reply to the late Council, he says, "to enable the Lieutenant-Governor to perform the arduous duties of his office, the constitution has wisely provided him with an Executive Council, competent to supply him with that local knowledge in which he may be deficient, and to whom he may apply for council and advice."

The Committee, without hesitation, affirm, that this Act as much creates or requires the appointment of an Executive Council for the affairs of the province, as it creates or requires the appointment of a Governor, Lieutenant-Governor or person to administer the government of this province. His Excellency, when he is promulgating and defending the novel doctrine, that he is sole minister as well as representative of The King in this province, would do well to consider upon what law his own authority rests before he makes these rash assertions. The official character and authority of a Lieutenant-Governor are no more necessary under the Constitutional Act, or created by it, than is an Executive Council for the affairs of the province; and if the representative of the King can thus attempt, by such bold assertions upon such slight grounds, to explain away an important part of that law, which is the "great charter of our liberties," (from which his Excellency himself, in one of his appeals to the people, tells them, "they should never allow a single letter to be subtracted," (your Committee append the Address and answer which they have received, duly certified by his private secretary, marked E.), your Committee can only hope that his example will have as little weight as his arguments.

It was in a very different spirit and with very different views from Sir Francis Bond Head, that Lieutenant-Governor Simcoe regarded this great charter of our liberties: that great and good man, whose memory is embalmed in the affections and gratitude of the people of this province, was a member of the British Parliament when our Constitutional Act was passed; and having served with distinguished honour in the colonies during the war, which had not long before terminated, and having been acquainted with those brave and loyal people who were about to seek in this province an asylum under British laws and

British

British institutions, he was, no doubt, freely consulted about the form of government to be given to them.

Report of Committee to Commons House of Assembly.

The following extract from Lord Rawdon's observations in the House of Lords, in the discussion on the passage of the 31st of the King, will give an idea of the estimation in which Governor Simcoe was held.

His Lordship said, "that the gentleman whom he had heard was to be honoured with the appointment of Governor, was one of all others the fittest and most to be wished for by the country; his intelligent mind, his generous and liberal manners, his active spirit, and peculiar abilities for that situation, rendered him, in an eminent degree, the properest person that Ministers could have selected for that appointment; and certain he was, that the choice would redound to their honour and credit.

"If Canada was to be governed under the present Bill, it would be well for this country and well for Canada, that Colonel Simcoe was the Governor."

When the British Nation conceded to the United States the right of forming a free government for themselves, after their own choice, it is scarcely credible that they intended to confer a constitution less acceptable upon the loyalists, who had fought, bled and sacrificed their property and homes in defence of the unity of the Empire; and it does seem humiliating to your Committee, after the lapse of half a century, to find a new Lieutenant-Governor drawing so unfavourable a contrast between our local institutions and those from which they were borrowed, as to subject us to his arbitrary government, by superseding the functions of that important branch of the Constitution, called the Executive Council.

The Government of this province was, in fact, the subject of one of the most interesting and memorable debates ever witnessed in the British Parliament; and while Mr. Fox urged the extension of the elective principle in the new constitution farther than it existed in the British Constitution, no one proposed that the form of government should be less popular or less free. Governor Simcoe heard the debates on the subject, and, in fact, took part in them; he was the bearer of the Act to this country; was the first Lieutenant-Governor of the province; and was well qualified, and appears to have been authorized by His Majesty's Government to explain to the people the new constitution which was established for their benefit. This enlightend British statesman and legislator, who certainly knew what the principles of the British Constitution were, on the very opening of the first Session of the first Provincial Parliament, addressed the Legislature from the Throne, and in The King's name, in the following terms:—

"I have summoned you together under the authority of an Act of the Parliament of Great Britain, passed last year, *which has established the British Constitution, and all the forms which secure and maintain it in this distant country.*"

"The wisdom and beneficence of our most gracious Sovereign and the British Parliament have been eminently proved, not only in imparting to us the *same form of government*, but also in securing the benefit, by the many provisions that guard this memorable act; so that the blessings of our invaluable constitution, thus protected and amplified, we may hope will be extended to the remotest posterity.

"The great and momentous trusts and duties which have been committed to the representatives of this province, in a degree infinitely beyond whatever till this period have distinguished any other colony, have originated from the British Nation upon a just consideration of the energy and hazard with which its inhabitants have so conspicuously supported and defended *the British Constitution.*"

Still more striking was the following language used by him, as the King's representative, from the throne, in the speech with which he closed that Session:

"At this juncture I particularly recommend to you to explain, *that this province is singularly blest, not with a mutilated constitution, but with a constitution which has stood the test of experience, and is the very image and transcript of that of Great Britain.*"

Such were the emphatic words of this great and good man. Were they, after all, a mere delusion? an empty-sounding unmeaning, mockery? So they are now regarded by his Excellency, who, in an answer to an Address from the inhabitants of the city of Toronto, declares that it would be *unreasonable* to expect that the people of this province should be *ruined* in vainly attempting to be the "exact image and transcript of the British Constitution," and that "the constitution which his Britannic Majesty George the Third granted to this province, ordained no such *absurdities.*" That this is strong language the Committee admit; but it is language they have read with pain. The "absurdities" in which his Excellency's doctrines have involved him, must be apparent to every one, from this "vain attempt" to depreciate the authority and tarnish the memory of Simcoe, the first and ablest of our Governors, by holding him out, either as being unable, from want of knowledge or discernment, to judge whether our constitution was "an exact image and transcript of that of Great Britain," or as being an artful and unprincipled deceiver, attempting in the name of the King to palm off on a *confiding* and *deserving* people a "*mutilated constitution,*" by a mere high sounding flourish of words. In despite, however, of his Excellency's sneers, this testimony of Governor Simcoe stands recorded on the journals of your Honourable House, a solemn assurance in the name of the King, that his subjects in this province shall have all the blessings of the *British Constitution*, secured and "*amplified*" to them and their children; a pledge that we trust will yet be made good to them, to the disappointment of any Lieutenant-Governor who may *deride* their expectations, and oppose their wishes and constitutional rights.

Report of Committee to Commons House of Assembly.

Sentiments similar to those of Governor Simcoe have been expressed by succeeding Lieutenant-Governors, and by persons of all classes and creeds who have ever treated on the subject, although some have demurred, that while we were entitled by the 31st of the King to all the blessings of the British Constitution, that while it was held out to us in theory and by profession, it was denied (in some respects) in practice, yet all have agreed that it was guaranteed to us by the Constitution; and those who have heretofore complained of the want of it in practice, have been charged with disaffection, and denounced as demagogues, grievance-mongers and disturbers of the public peace by Lieutenant-Governors and their adherents. The records and public documents of the province are filled with expressions (sometimes explicitly and at other times incidentally mentioned) calculated to impress the belief that we were entitled to the full enjoyment of all the blessings flowing from the Constitution of Great Britain; and what is peculiarly striking is, that amidst all this multitude of witnesses in favour of our right to the British Constitution, with all its blessings and benefits, that not even a hint to the contrary was ever heard from any of them; and it has been reserved for Sir Francis Bond Head, in 1836, to discover that our constitution is different from the British Constitution, and that it would be *foolish* and *ruinous* for us to introduce the British Constitution if we could, and that any attempts to do it would be *vain*. Whatever evils we suffer under our present nondescript constitution, which even Sir Francis admits are so great and oppressive as to require "*important remedial measures*" without "*delay*," which "*our Sovereign has ordained*," and "*which he is here to execute*," we should console ourselves, according to his opinion, with one animating and delightful reflection, namely, we are not, and cannot be *curserd* with the *British Constitution*. According to his doctrine, the Constitutional Act *ordained* no such *absurdities*, and the Royal Instructions were equally *gracious* and careful to protect us from that terrible evil and calamity, the British Constitution.

It has been observed by his Excellency in one of his public expositions, that Simcoe "could not alter the charter committed to his charge," or render it, what his Excellency asserts it is not, the very "image and transcript of the British Constitution."

Your Committee in imitation will say, Neither can Sir Francis Head, by his detractional assertions, impose upon us a "mutilated constitution," nor has he the right to impose upon Upper Canada the arbitrary government of Russia or Constantinople, in place of the genuine transcript of which Simcoe was the bearer. But although Simcoe could not alter the law, and was too great and good a man to do it, yet he never had a successor who had equal pretensions to expound the meaning, elucidate the provisions, and explain the scope of the new constitution. He who fought with U. E. loyalists in the American war and knew the worth and claims of the men for whom the constitution was generously designed; he who sat and spoke in the senate in which the law was passed, who was moreover entrusted with the duty of putting it into operation, and who, from the throne, solemnly declared the magnanimous gift of the British Constitution to those who had been driven by their loyalty to seek an asylum under it, was surely better and more competent authority respecting that law and constitution, than a gentleman nearly half a century afterwards, who cannot see that the law creates an Executive Council, but can see the vestige of a Legislative Council surviving its absolute repeal, until a successor was appointed; and that "in government, *impartiality* is better than *knowledge*." The Instructions, indeed, are in his eyes an *important document*; for, according to his Excellency's views, the Executive Council was regularly constituted and declared in "*the King's Instructions*," and of course could not have existed before it was so constituted. A quotation is made by his Excellency from these Instructions from which he argues, that the Council are only to be consulted occasionally. A copy of these Instructions has been furnished to your Honourable House by the Lieutenant-Governor; your Committee found with surprise not only that his Excellency had given a *garbled* extract in his quotation, but also that these Instructions "*in which an Executive Council was constituted and declared*," according to his Excellency's opinion, were actually dated in 1818! The Executive Council of this province was, therefore, in his Excellency's opinion, regularly constituted and declared in 1818!

Upon reference to the whole of these Instructions, however, it will be found they are not less liberal and comprehensive than the Constitutional Act, had they been *honourably* interpreted and acted upon. Your Committee deem it important that the Instructions which have been so long kept in secret should be made public, especially as they seem to be viewed by his Excellency to be of as much, if not of more, importance than the Constitutional Act, and therefore beg to append them to this Report, marked F.

By section 8, as quoted by his Excellency, it was declared, "that *to the end* that our said Executive Council may be assisting to you in *all affairs* relating to our service, you are to communicate to them such and so many of our Instructions, wherein their advice is mentioned to be requisite, and likewise all such others from time to time as you shall find convenient for our service to be imparted to them."

Upon an examination of the Instructions themselves, it appears that this is a *garbled* extract; for in the instructions the words are, "You are to communicate such and so many of *these* our Instructions," &c. Your Committee cannot but notice that the omission was calculated to favour the inference which his Excellency was wishing to draw. From this extract it appears that the Executive Council was to be *assisting* to the Lieutenant-Governor "*in all affairs* relating to the King's service," an expression which his Excellency, in doctrine and practice, has construed to mean "*a few affairs* relating to the King's service."

As the Council were to be assisting "*in all affairs*," the communication to them of the Instructions, or any part of them, could not be intended to limit a duty, already so largely and

and expressly prescribed, especially as the communication was to be made, "*to the end, that they may be assisting in all affairs,*" but was merely to give the Council such and so many of the King's Instructions as were necessary to enable them effectually to advise upon those affairs respecting which the King had in His Instructions imparted His precise pleasure; for without such a communication of the Instructions, the Council might, from ignorance of them, adopt a course unintentionally opposite to them. It appears, therefore, to your Committee, that even according to the Instructions so *illiberally* and *unfairly* construed by his Excellency against our just rights, the Executive Council were generously intended by His Majesty's Government to advise upon "*all affairs,*" and that the instructions were communicated merely to enable them to do it.

Report of Committee to Commons House of Assembly.

The oath taken by the Executive Councillors (of which a copy, hereunto annexed, duly certified in the Appendix, marked G.) is equally comprehensive. It is the same as the Privy Councillor's oath. Your Committee would ask, does not the Privy Councillor's oath prescribe his duties?—Are there any important duties incumbent on him which he is not sworn to fulfil? The oath being the same, the Executive Councillors are therefore bound by their oath to perform the same duties that the Privy Councillors (including His Majesty's Cabinet Councillors) are bound by their oath to discharge. His Excellency, nevertheless, in one of the communications which he has made to the people of Toronto, and which was plainly intended for *popular effect*, says, that it is, in his *judgment*, "*an oath of non-responsibility to the people*"; so that, according to his Excellency's views, *His Majesty's Cabinet Councillors are sworn not to be responsible to the people!* It may be worth while to notice for a moment the resemblance between the Executive Council and His Majesty's Privy Council: both are appointed by the King, and both are removable at pleasure. The members of both are indefinite; the King may increase or diminish them at His pleasure. Privy Councillors are appointed without any commission, merely by nomination and taking the oath of office; so are Executive Councillors. In some cases the King is required by express enactment to do certain acts "*with the advice of the Privy Council,*" that is, not contrary to their advice; in like manner the Lieutenant-Governor is expressly required in some cases to act only "*with the advice and consent of the Executive Council.*" The Privy Council is appointed for the affairs of the Kingdom; the Executive Council is appointed for the affairs of the Province. The oath of office of the Executive Councillors is copied from that of the Privy Councillors; so that the former are sworn to perform the same duties as the latter.

Finally, the King is no more bound by any express law to consult the Privy Council on all affairs of his Government, than the Lieutenant-Governor is bound by express law to consult the Executive Council on all affairs of his government: neither is the King any more forbidden to act without advice or upon the suggestions of secret and irresponsible advisers in the government of his kingdom, than the Lieutenant-Governor is forbidden to govern the province upon like advice. And his constitutional advisers, the members of the Privy Council, are no more responsible for the advice they give to him, than the members of the Executive Council are responsible for the advice given by them to the Lieutenant-Governor.

Where, then, is the difference between the Privy Council in the United Kingdom and the Executive Council here? Is not the advice of such a council as necessary for the Lieutenant-Governor as it would be for the King, if he were here? Is the *representative* of sovereignty so much *wiser* and *better* than the Sovereign *himself*; so much more thoroughly acquainted with the affairs of the country in which he is a stranger to its history, and to the habits and opinions, interests and sentiments of the people, than the King is acquainted with the people among whom he was born and educated? Has the Lieutenant-Governor, who expects after a few years to leave us, and whose future prospects and hopes, as well as past associations, give him a personal interest in a distant land, so much more at stake in the welfare of this country, than His Majesty has in the prosperity and happiness and affection of His people, and in the honour and dignity of His Crown? In short, do history and experience teach us that a Lieutenant-Governor, at a distance of more than 4,000 miles from his superiors, is so much more immaculate and infallible than his Royal Master; that he does not require the same councils which the constitution considers, and which an experiment of ages proves to be necessary for the King himself?

Even his Excellency admits that His Majesty should, according to the constitution, be surrounded by advisers responsible to the country, and that the King must consult them in *all* the affairs of the Kingdom.

There is not an argument in support of the necessity of such a system that is not equally, if not more, applicable to this colony, where the relative weight and influence of the popular branch upon the government is so small compared with those of the similar body in the parent country.

That the affairs of the Kingdom should be conducted by the King, with the advice of known and responsible Councillors, is not a rule or proposition laid down in any statute, but is a principle that is an essential part of our constitution, and if that part is destroyed, the constitution is materially changed; it is no longer the British Constitution. This principle therefore has been established by the necessity of the cases; and the same necessity upon which it rests in the mother country exists here.

Your Committee will admit that this principle (in practice) has been hitherto disregarded in the government of this province, and what sort of government have we had? In what condition has it put us? Let the records of your Honourable House, the statements of Executive Councillors of different political opinions, the King's Instructions to Sir Francis

Report of Committee to Commons House of Assembly.

Bond Head, and his own admissions answer. It has brought us (according to the Instructions) to "an era" of "great difficulty and importance;" and we find even Sir Francis Bond Head addressing the people in the following terms: "The *grievances* of this province *must be corrected*—*impartial justice must be administered*: the people have asked for it—their *Sovereign has ordained* it; I am here to execute his *gracious commands*—delay will only increase *impatience*. Those, however, who have long lived upon agitation, already too clearly see their danger; and with surprising alacrity, they are now taking every possible measure to prevent me from rooting up the tree of abuse, because they have built and feathered their nests in its branches."

Without remarking upon his Excellency's style, the Committee would observe, that in the estimation of the Lieutenant-Governor himself, the abuses of the government have become so extensive and deeply rooted, that agitators can actually live upon the exposure of them; although, how he would have been prevented from rooting up this tree of abuse, by receiving the advice and assistance of the council, the Committee are at a loss to perceive.

It is to perpetuate and defend the system that has produced such effects, that his Excellency exerts all the energies of his mind, and all the power and influence of his high office and exalted station. It is to this system that his Excellency has avowed such an ardent and unalterable attachment.

That a Lieutenant-Governor should secretly countenance and cherish a system which leaves him entirely unchecked in the exercise of almost unlimited power, for which he is virtually irresponsible, is not surprising; and more than one Lieutenant-Governor, no doubt, while professing to maintain amongst us the principles of the British Constitution, has secretly adopted this unconstitutional system, because it extended his power, and enabled him to indulge his arbitrary will; but that his Excellency, at the very moment he admits and expatiates upon the abuses and grievances which it has produced, should announce his determination to continue it, and should gravely declare that the people of this province would be *ruined*, if they attempted to secure to themselves "*the very image and transcript of the British Constitution*," and that such a Constitution "would be productive of the most vicious effects," is indeed astonishing.

The views of your honourable House on the right and necessity of a responsible government, and of our provincial administration being conducted on the principles of the British Constitution, have been more than once clearly and fully expressed, sometimes to His Majesty, and sometimes to the Lieutenant-Governor; sometimes directly, and at others indirectly, as reference to your Journals will amply show; but in the Address to His Majesty, during the last Session [which address is hereto appended, marked (H.)], this principle was again urged; and further, a distinct, but respectful intimation was also made, that the House would enforce their rights, by the constitutional method of withholding the supplies for the support of the government.

The following Extracts from the Evidence of James Stuart, esq., late Attorney General of Lower Canada, before a Committee of the House of Commons, 21st June 1834, afford the opinion of an able lawyer, thoroughly conversant with colonial government:—

*Question 1152.* The Executive Council of late have practically had very little to do with the government of the colony?—*Answer.* It ought to have a great deal more to do with it. The insignificance to which it has been reduced, I conceive to have been the cause of much mischief in the colony.

*Q. 1153.* You consider it of utility to have a permanent administration?—*A.* I consider it should be placed on the footing of the Privy Council in this country, and consulted by the Governor on all important occasions.

To the following question, put by the same Committee in England to Sir James Kempt, he gave the following answer:—

*Q. 134.* If there was no Executive Council, and the Governor were left to govern without any such Council, would it, in your opinion, remove very much of the state of irritable feeling existing between this part of the Legislature and the King's Government in the colony?—*A.* I have not given my attention sufficiently to this question to be able to answer it; but my impression is, that an Executive Council is necessary for the good government of a colony.

The Right honourable E. G. Stanley, a Member of the Imperial Parliament, and lately His Majesty's Principal Secretary of State for the Colonies, who also spent some time in this province, thus expresses himself respecting the Executive Council, in a letter addressed to Dr. W. W. Baldwin—[The autograph letter is among the records of your honourable House]—"I do, however, think that something might be done with great advantage, to give a *really responsible character to the Executive Council*, which at present is a perfectly anomalous body, hardly recognised by the Constitution, and effective chiefly as a source of patronage."

Mr. Stanley also says,—

"The remedy is not one of *enactment*, but of *practice*, and the constitutional mode is open to the people of addressing for the removal of the advisers of the Governor, and refusing supplies, if necessary, to enforce their wishes."

It will be observed that Mr. Stanley says, "the *remedy* is not one of enactment, but of practice;" that is, the Constitutional Act is sufficient in enactments for every thing required;

required ; all that is necessary is, that the provisions of the Constitution should be honestly put in practice.

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While his Excellency declares that the Executive Council have no responsibilities, and are not recognised by the 31st Geo. 3, c. 31, Sir John Colborne, in a message to your honourable House, on the 20th February 1835, in terms almost directly contradicting the puerile views of his successor, states, "That the *responsibilities* under which the Executive Council discharge their important and confidential duty, depend upon the *principles of our Constitution, and upon the law of the land.*"

The public documents and records of the province abound with expressions proceeding from Lieutenant-Governor Sir Peregrine Maitland, recognising in the fullest manner the possession, by the people in this province, of the *British Constitution*.

Your Committee beg to give the following as a specimen, in answer to John Hurston and others, in the Newcastle district, published in the Official Gazette of March 2d, 1826:—"That I may rely on your steady and cordial support in maintaining that *unrivalled constitution*, of which the excellence has been proved by the *experience of ages*, and which those who can best appreciate it, as you do, will ever be found ready to vindicate and defend."

Again, in another reply of the same date,—

"You set, gentlemen, a just value on your *possession of a constitution, the most perfect in the world*; and it is no small satisfaction to me to reflect, that with the vivid recollection which you retain of *its blessings*, in the happy country you have left, your firm and loyal support will never be wanting," &c.

Your Committee would affirm, that the *principles* of our constitution, as well as the law of the land, alike require their advice to be given "upon the affairs of the province."

Your Committee have appended to their Report [*see Appendix, marked (I.)*], the Address passed in the last Session of the late Parliament (with the yeas and nays), to His Majesty, against the interminable interference from Downing-street in the management of our local affairs, which should be conducted by the Lieutenant-Governor and the Executive Council, in harmony with the Provincial Legislature. Although the late Parliament differed from the present in its views and policy, yet it was unanimous in the adoption of the above remonstrance. These views are corroborated by J. Stephen, esq., late Counsel to the Colonial department, and now, it is said, Under Secretary of State for the same. In his examination by the Canada Company of 1828, he was asked, "Is it your opinion, that upon all those questions, complicated as they are with regard to the tenure and transmission of property, the Colonial Legislature, with the advantages of their local knowledge, are much more competent to decide than the British Legislature?"

To which he answered:—

"I cannot suppose any man at all conversant with the subject hesitating respecting the answer to that question; except there be a well-founded distrust of the disposition of the Colonial Legislature to do right, no plausible reason can, I think, be suggested for taking this work out of their hands. They are incomparably better qualified for it than you can be. What should we think of the Canadian Assembly passing Acts for the improvement of the law of real property and conveyancing in this country! Yet, I suppose, they understand our system of tenures at least as well as we do theirs."

Now it must be presumed that Mr. Stephen, whose views against the unconstitutional interference of the British Parliament with the appropriate duties of our local Legislature, are so liberal and enlightened, would be equally opposed to any usurpation of the duties of the Executive Council; for assuredly resident gentlemen, selected by his Excellency at pleasure for their talents, integrity and public estimation, are "incomparably better qualified for it" than distant strangers, with even the best intentions. It is enough for them in Downing-street to attend to the matters reserved in the 31st Geo. 3, respecting Navigation and Commerce.

These views of the sufficiency of our own institutions, and the expediency of making them subservient, as they were intended, to the purposes of our local concerns (with the sole exception of those special matters, expressly reserved, by the 31st Geo. 3, for the paramount authority of the parent State), are confirmed by the evidence of the Right hon. Edward Ellice, a Member of the British House of Commons. In giving evidence before the Committee of 1828, he was asked, "You have said that your application was referred to the consideration of the Executive Council; of whom does the Executive Council consist?" to which question he answered, "The Council consist of the Chief Justice and other persons, *whose duty it is to advise the Governor with respect to the administration of the country.*"

The same distinguished person, alluding to some difficulties he had experienced in obtaining some change of tenure in property he holds in Canada, says, "It arose probably from a very general cause of difficulty in that country—a dread on the part of the local authorities to act upon their own responsibility, complaining of defective instructions from home; and this, aggravated by perpetual reference backwards and forwards from the Government to the Colonial Secretary, in the hope that they might at last agree upon the means of executing the provisions of the law."

This transatlantic system, popularly called *Downing-street law*, to distinguish it from the free and constitutional operation of our local Government, is further condemned by the same statesman in the following illustrations collected from his evidence before the same Committee.



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Alluding to the imposition in Canada, by the British Government, of customs duties, he says, "I am aware that the greatest possible objections exist in principle to their doing so; but I am also aware that, in point of fact, they have got over those objections, and by the Canada Trade Act have imposed duties to an extent quite equal to the expense of the civil government of both provinces, without consulting either of the Provincial Legislatures."

"The Canada Trade Act, for this purpose, had been passed three years before the arrangement with the Canada Company."

Again—"Certainly the Canadians complain with apparent reason of some part of the conduct of Government. An English receiver is appointed, insufficient securities being taken in England: the Assembly suggest the regulation of his office, and subsequently, I understand, Bills were sent up in the terms of a Bill passed in other colonies for this purpose: they are told this is an encroachment on the prerogative of the Crown, and their Bills are rejected. The receiver had previously failed in debt to the public about 100,000*l.*; and when they say, 'As you made the appointment yourselves,' took your securities in England, and rejected our advice, it is fair you should pay the defalcation, Government insist upon their laying fresh taxes on their constituents for it. In the same manner they allege they have sent up Bills for the regulation of the office of sheriff; that these also were rejected, and two following sheriffs have failed; the one a defaulter of suitors' money to the extent of 27,000*l.*, and another for a less amount. These are not theoretical, they are practical evils, and form just grounds of complaint."

Again—"The Governor was instructed to supply the want of an Appropriation Bill by his own warrants on the receivers, to whom the taxes are paid under the provisions of the Canada Trade Act; but it would be difficult to find out by what law such instructions are sanctioned. This has been the course of proceeding from 1822 to 1828, and it is much to be deplored that Government should have persevered so long in measures which, however much they may plead the excuse of pressing emergency in the first instance, were illegal and offensive to the rights and feelings of the people. If no remedy was obtainable in Canada, an appeal should have been sooner made to Parliament, and that sore should not have been allowed to fester till the English and the French population have been almost brought into collision, and a wider separation between them in opinion and all matters of internal government and legislation been rather encouraged than checked. Assembly after Assembly have been called together, in which the local authorities have wisely persevered in attempts to carry their measures by a minority at no time exceeding 10, and seldom half that number, in a body of 50 representatives. And the Committee must always recollect the continuance of these dissensions has inflamed trivial differences on immaterial points at first into serious additional causes of difference and misunderstanding, which it is not easy now to foresee the means of allaying or removing."

Again—"I wish to add, that in any thing that may have fallen from me in the course of these examinations, I have not had the least intention of imputing blame to any persons connected with the Executive Government in either province. I believe they have acted under instructions from this country, and that the difficulties they have had to contend with, and the discussions in which they have been involved with the Colonial Legislatures, were the inevitable consequences of a determination to persevere in the system of government I have described to the Committee, and which could scarcely have been avoided while that system remained unreformed and unimproved." And to the following question, "Do you conceive it would be possible to form a representation upon the principle of admitting some of the great towns as independent bodies into a confederation, such as exists in the north of Germany?" To which he answered, "I am afraid it is too late to attempt the introduction of new principles of that kind in America. You must either improve the *system* that exists on the model of our *institutions* at home, or copy from the simple forms in practice in the United States. No other method will be congenial to the habits of the English or American *inhabitants of Canada*."

The political condition of Lower Canada, as above depicted by the Right hon. Edward Ellice, is too applicable to our own country. "It is with grief," as a Resolution of your honourable House has expressed it, "the country has seen the improvident contract under which the Huron tract of a million of acres of choice lands has been assumed to be given, at an almost nominal value, to a Company in London; while the annual instalment paid by them is expended by the Provincial Executive without the consent of Parliament, and the large amount realized by the Company from sales at a very advanced price, are withdrawn from the colony, and transmitted to England. This improvident transaction, unsanctioned by any domestic enactment, ought to be held invalid, particularly as it was a transaction based in no degree upon the good of the Colony, whose lands are thus wastefully assigned. The Charter and all the Statutes connected with it are a violation of the 18th Geo. 3, and our Constitutional Act."

The law passed by the British Government for the sale of our clergy reserves, is a further illustration of the system of government over us by a Lieutenant Governor, in unchecked connexion with Downing-street. Under this law, enacted by the British Parliament without our knowledge or consent, more than 60,000*l.* have been raised by the sale of clergy reserves, abstracted from the country, and paid into the military chest, instead of being applied to the purposes of education and internal improvement. In a subsequent part of this Report, this subject will be again adverted to; but at present your Committee simply mention the fact, and also that within a short period 57 rectories have been erected and endowed. The British Act, it is presumed, inserted the condition "by and with the advice  
and



and consent of the Executive Council" as a security to the country against any abuse of the power it gave; but such a precaution is of no practical avail with an insufficient Executive Council; and it is plain that the above-mentioned outrage upon the whole community could not have occurred had we enjoyed what is sought for and denied, a well-constituted Executive Council possessing the confidence of the country.

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Now it has been simply proposed, adopting Mr. Ellice's views, to improve our system here, on the model of the institutions in England, by proposing that the Executive Council shall advise the Lieutenant-Governor on our affairs as freely as His Majesty's Council advises the King; but the industrious classes are told by his Excellency that "the wish, if gratified, would be ruinous," and that the 31st Geo. 3. "has ordained no such absurdities."

In giving an aggregate account of the opinion entertained upon the constitutional duties of the Executive Council, by the most thinking men of all political parties, your Committee, although desirous of abridging their Report as much as possible, will not omit to notice a document from Lower Canada, which is headed a "Declaration of the causes which led to the formation of the Constitutional Association of Quebec, and of the objects for which it has been formed," in which we meet with the following pertinent remarks:

"In every well-regulated government it is essential that the executive authority should be aided by the advice of able and well-informed individuals, acting together and in a body, by which sound discretion, uniformity, consistency and system are imparted to its measures. Among Colonial Governments, which are generally administered by persons labouring under the disadvantages of a deficiency of local information, assistance of this nature is indispensable for the attainment of the ends of good government. This body of advisers ought to be found in the Executive Council of the province; but its members are too few in number, and its composition too defective to answer the purposes of its institution." Under the foregoing view, it will be observed that the association contemplate, by constitutional means "to obtain such a composition of the Executive Council as may impart to it the efficiency and weight which it ought to possess."

The above Quebec "Association" is not composed of the Reformers in Lower Canada, with whom Mr. Speaker Papineau's name is usually connected (although the Reformers there entertain the same views), but of gentlemen of wealth and influence, known by the name of Constitutionalists or Conservators, directly opposed to that party. It is therefore the testimony of persons avowedly determined to sustain the constitution against any of the modifications held by the other party to be necessary and expedient.

Your Committee would here subjoin the following all-important and liberal views of policy, expressed by the Canada Committee of the House of Commons, in the year 1828, arising from a thorough understanding of the state and wants of these Colonies, set forth in the voluminous and unquestionable testimony of persons best conversant with the subjects of the Committee's inquiry:

"Your Committee lament that the late period of the session in which they were appointed, has rendered a minute investigation into all parts of the subject submitted to their inquiry impossible. They believe too that if the legislative assemblies and the Executive Government of Canada be put on a right footing, that means will be found within the province of remedying all minor grievances. They are disposed, nevertheless, to recommend that the prayer of the Lower Canadians for permission to appoint an agent in the same manner as agents are appointed by other colonies which possess local legislatures, should be granted, and that a similar privilege should be extended to Upper Canada, if that colony should desire it.

"At an early period of their investigation, your Committee perceived that their attention must be directed to two distinct branches of inquiry: First, to what degree the embarrassments and discontents which have long prevailed in the Canadas, have arisen from defects in the system of laws and the constitutions established in these colonies. Second, how far those evils were to be attributed to the manner in which the existing system has been administered."

"Your Committee have clearly expressed their opinion that serious defects were to be found in that system, and have ventured to suggest several alterations that have appeared to them to be necessary or convenient. They also fully admit that from these, as well as from other circumstances, the task of government in these colonies (and especially in the Lower Province) has not been an easy one; but they feel it their duty to express their opinion that it is to the second of the causes alluded to that these embarrassments and discontents are in a great measure to be traced. They are most anxious to record their complete conviction that neither the suggestions they have presumed to make, nor any other improvements in the laws and constitutions of the Canadas, will be attended with the desired effect, unless an impartial, conciliatory and constitutional system of government be observed in these loyal and important colonies."

The remedy here proposed as an antidote to the evils existing in the government of the Canadas, emanates from a spirit breathing forth the purest patriotism, the result of a thorough understanding of all the bearings of the subject-matter of inquiry, and is at once an appeal to the best feelings of our nature.

Had there existed any defects in the system of our laws and constitution, the Committee would at once have recommended an amendment or revision of them; but aware that nothing was wanting but an open, ingenuous and equitable administration of those statutes,

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statutes, they are brought to the only plain and obvious conclusion that could be attained.

All colonial ministers, since the date of that Report, have professed an intention to be guided by its recommendations; the famous Despatch of Lord Goderich, of 8th November 1832, is professedly based upon it, and *his present Excellency has it pointed out to him as one of his text books.*

It is to your Committee passing strange that, notwithstanding the above Report is held forth to us, sanctioned by such authority, a temerity of conduct, bordering on a recklessness of consequences, should be allowed by its noble possessor to give cause for suspicion and distrust towards the intentions of His Majesty's Government. Had his Excellency, instead of the course he has been pleased to pursue, been implicitly guided by the recommendations contained in the above extract, he had then established confidence, and an assurance of equitable administration; but when, instead of which, he has taunted the province upon its infant condition, and appears, in the illustrations he has given, to have had in his mind's eye the fable of the young frog and the ox, what assurance have we, that governed in the "manner" we are, we shall ever arise from our present degraded condition?

And your Committee are led to the conclusion, from a careful observation of things, that the policy apparently intended to be pursued by the present head of our government and that of Rehoboam, as recorded in the 12th chapter of the First Book of Kings, to be very similar.

The Executive Council therefore are established by law, under constitutional responsibilities, to advise "upon the affairs of the province," and to be assisting to the Lieutenant Governor "in all affairs relating to the King's service;" and in favour of this proposition we have, in whole or in part, the concurrent testimony against his Excellency of the above overwhelming authorities, viz.—

1. The Constitutional Act.
2. Various British and Provincial Statutes referring to and recognizing the Executive Council of the province "appointed for the affairs of the province."
3. Governor Simcoe, and succeeding governors.
4. The Royal Instructions.
5. The Privy Councillor's Oath.
6. The general resemblance between His Majesty's Privy Council and the Executive Council of this province.
7. The nature and genius of our government, and the general principles of the Constitution.
8. The House of Assembly.
9. James Stuart, Esq.
10. Sir James Kempt.
11. The Right Honourable Lord Stanley.
12. His Excellency Sir P. Maitland.
13. His Excellency Sir John Colborne.
14. The late Executive Councillors.
15. The Report of the Canada Committee of 1828.
16. The Right Honourable Edward Ellice.
17. T. Stephen, Esq., late Counsel to the Colonial Office.
18. The Quebec Association.
19. The absence of any express provision of law or authority forbidding it.
20. The universal admission of all classes, parties, creeds and orders from 1792 until the arrival among us of Sir F. B. Head.
21. Lieutenant-Governor Hunter.
22. The debates in the British Parliament on the passage of 31st of the King.

In reference to the objection of His Excellency that "it must be evident to every *well-constituted mind*, that in an infant state of society it would be impossible *practically* to secure a sufficient number of impartial persons to effect a change of ministry as often as it might be necessary for the interests of the people to do so," (by the above, it will be observed that his Excellency, as in many other instances, has abandoned the constitutional object, and is endeavouring to sustain his positions on the principle of expediency) your Committee would state, that on general principles, the interests of the people could only require the removal of a council when there were other and better persons ready to fill their places; and until such other and better persons could be found, it is evident neither the people nor their interests would require or look for a change.

The moral and intellectual resources of this country are suited to its wants, and notwithstanding his Excellency's sneers, would lose nothing by a comparison with any other country; and in the opinion of your Committee it would be even easier to form councils from among the inhabitants of this province, adequate to its exigencies, than in England itself, for the vaster affairs of the empire. A really great man in this country would soon find the means to organize our institutions for the practical purposes of good government and peace of society.

Your Committee deny the pretended all-sufficiency of the Governor's liability to impeachment for mismanagement of our affairs, for the following reasons:

- 1st. Because, although such impeachment might be a punishment for maladministration after it was done, yet it affords no daily check or guard against it by means of advice or caution:

caution ; and it seems to your Committee that the impeachment should at most be only resorted to after a Governor had acted wrong, with every local means afforded him to do what was right.

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2d. Because the impeachment or complaint must be made by the injured person at a great distance, requiring a delay, expense and watchfulness, out of the reach of the power or means of the sufferer, who (if belonging to "the industrious classes,") might make out in writing a very informal or insufficient case, however clear its merits, or be unable to retain counsel and agents here and in England to conduct his suit. Limitation to such a remedy would practically be a denial of justice.

3d. Because the complaint would be made to a Minister in Downing Street, who is the patron of the Governor accused ; and besides, the Governor has numerous friends on the spot to exercise every influence and interest in his behalf.

The weight of this reason is increased by the difficulty of proving any act to have been done from corrupt motives. Even if a presumptive case could be made out against a governor, it would be contended that a clear and positive one must be established before the consequences of impeachment could be visited on the accused ; and how very many acts of misgovernment there are, in their nature vexatious and injurious, against which it would be difficult to fix the charge of corrupt motive, while it was palliated, evaded or explained away as an error of judgment, the deceptive assurances of others, a misapprehension of circumstances, a mistaken policy, or the like. For instance, it would be in vain to proceed against the executive authorities for the erection (as hereinafter mentioned) of 57 rectories, and certain corrupt exchanges of lands, although opposed to the well-known sentiments and interests of a vast majority of the religious community. It would be equally vain to attempt to institute such proceedings for many appointments to office, as Surveyor-General, Colonels of Militia, the Commissioners of the Courts of Requests and other offices. It would therefore obviously place the country in a desperate condition, if the *only hope of preventing wrong being done*, was founded on an institution of an impeachment for it *after it was done*, before a patron of the wrong-doer, 4,000 miles off, defended by a person intrenched in power here, and sustained at home by family connexions, and the preservation of what is called *the Colonial system*. The House of Assembly of Lower Canada instituted a complaint of this nature against Lord Aylmer in a most solemn manner, and with great unanimity, for most arbitrary and unconstitutional misgovernment ; but it only ended in his promotion to a higher post of honour. Although therefore an impeachment might be resorted to in extreme cases, yet it by no means supersedes the necessity of all local and constitutional checks, calculated to prevent cause for so difficult, painful and undesirable a course. This precaution against the occurrence of evil, instead of merely contriving how it can be punished by impeachment 4,000 miles off, is the more needed from the fact that this impeachment would yield no redress to the persons injured, even if it punished the persons injuring them. If all our local governors were impeached, and all their estates confiscated, it would not repair the injuries of the most notorious nature ; besides thousands of just complaints murmured only in secret, and either endured with patience, because the remedy proposed would be worse than the injury, or because, what is notoriously true, to prefer a complaint, however just, against a governor, ensures a black mark against his name as a troublesome, a factious, or undeserving man, whose future hopes are blasted, and his oppressions multiplied at every favourable opportunity, in various ways, that elude all proof and conviction. What could be done to redeem the injustice against Gourlay, Willis, the late Robert Randal, Francis Collins, and others ? And if an insufficient blustering pretender to learning should be made a Judge, and an innocent person be convicted thereby and executed, he could not by impeachment be restored to life. Your Committee therefore desire again to reiterate their conviction that this alleged liability to impeachment for misgovernment, was never intended, and ought not, to supply the place of an efficient state of these institutions, wisely provided by law, not to punish but to prevent wrong ; a course as desirable for the parent State as for the Colony ; and although his Excellency has been pleased to state to the citizens, in answer to their address, his unwillingness to be deprived of "the only consolation which supports any honest man in an arduous duty, viz. the reflection that he is ready to atone for every error he commits, and that he is subject to arraignment if he offends ; yet this consideration, either as a motive or a remedy, is so false in morals and so puerile in political affairs, as not to need further commentary. No better guard against both corrupt and unintentional misgovernment can be devised with our present constitution, than an efficient Executive Council, composed of persons of established character, to advise the Lieutenant-Governor upon public affairs.

4th. Because there are such changes of Colonial Ministers, that there might be half a dozen in succession before a suit could be conducted to a conclusion ; and the justice done by one Minister is often undone by another. For instance, in Lower Canada, Mr. Gale, who gave such evidence before the Canada Committee of 1828 as to oblige the Right Honourable Mr. Spring Rice to pronounce him unfit for any office of trust, was appointed a Judge by Governor-General Aylmer, whose active partisan he had been.

When the news of this appointment reached England in the autumn of 1834, Mr. Rice had become Colonial Secretary, who addressed a despatch to Lord Aylmer, saying he could not confirm Mr. Gale's appointment. Mr. Rice was soon succeeded by Lord Aberdeen ; and therefore Lord Aylmer, disregarding the commands of Ex-minister Rice, and the known sentiments of the people and their representatives, procured from the successor of Mr. Rice a confirmation of Mr. Gale's appointment, who is still on the Lower Canada

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Bench, although Mr. Spring Rice, on the 9th March 1835, being again in power, in a speech in the House of Commons, reiterated the denunciation of Mr. Gale as an improper person to occupy that station.

Your Committee find the same doing by one Minister and undoing by another, in the affairs of our own province, which is unhappily misgoverned by the same policy under the same Constitutional Act; for instance, the late Attorney-General and Solicitor-General were dismissed from office, according to Lord Goderich's despatch, because they opposed the avowed policy of His Majesty's Government in making certain concessions to the wants and wishes of the people; nor did his Lordship seem at all to notice the personal indignity they had audaciously offered to himself even as a Minister of the Crown; but no sooner was Lord Goderich succeeded by Lord Stanley, than the decision of the former in favour of the rights and liberties of the people, was by the latter cancelled, and the Solicitor-General put back again into office, to the great dissatisfaction of the country, and the Attorney-General sent as Chief Justice to Newfoundland to create new scenes of trouble and dissension there.

5th. Because when, in the year 1831, His Majesty suggested a further provision for the Civil List, which the Colonial Minister required to be made *for seven years or for the life of the King*, the terms of the proposition were not candidly submitted to the House of Assembly, but were suppressed for the purpose of securing a *keen bargain*; and for his boasted adroitness in managing it, his late Excellency was officially commended. This undue and impolitic concealment, so unworthy a great and magnanimous government, was practised with the aid of executive influence to carry a measure injurious to the constitutional liberties of the people; but the uselessness of any complaint against a government for such unworthy policy is apparent when we see, as in this case, that such liberal instructions are violated, and the mischief accomplished with impunity, although it merits disgrace.

Your Committee cannot, therefore, regard as satisfactory our mere nominal right to appeals to Downing Street, where the justest decisions in favour of our rights by one Minister, are with seeming indifference and impunity reversed by another.

6th. Because this pretended responsibility to Downing Street has been in full operation for nearly half a century, and we have therefore against its sufficiency the uniform testimony afforded by our misgovernment during nearly the whole of that period.

By this system we have been stripped of the public lands and resources, and reduced to our present condition, and having thus suffered in the past, we cannot look for better in the future, if we submit to a continuance of the same system as has brought such a visitation upon us.

7th. Because although his Excellency professes to be responsible to Downing Street for the Executive Council as well as for himself, yet it is, according to his Excellency, "unreasonable that one man should have to bear another person's blame."

The professed responsibility of his Excellency for the acts of the Council, in case of default on their part, is novel indeed. Your Committee can understand well enough how the adviser becomes responsible for the acts of the advised; but how the actor can become responsible for the advice on which the act was founded, is beyond their comprehension.

A comparison of our constitution with that of the parent State justifies the language used by Simcoe respecting it. In England they have a King; in Canada we have his representative. In England they have a House of Lords created by the King; in Canada we have as a substitute a Legislative Council created by the King. In England they have a House of Commons elected by the people; in Canada we have a House of Assembly elected by the people. In England the King has a Privy Council to advise him upon the affairs of the empire; in Canada he has an Executive Council to advise him and his representative upon the affairs of the province.

This is emphatically the "very image and transcript of the British Constitution." But it becomes a mutilated constitution, and a sorry one indeed, when Sir Francis Head obliterates the Executive Council, or makes it, in his own language, "mute," "defenceless," "irresponsible," "sworn to be dumb." That the King, Lords and Commons, and Cabinet Council perform certain acts in England that are not authorized to be done by the Lieutenant-Governor, Legislative Council, and House of Assembly and the Executive Council of the province, your Committee do not deny; for instance, the Parliament of Great Britain legislate for the empire, and for the regulation of trade and commerce, &c. with other nations, and the Cabinet Council advise the King relative to the negotiations going on abroad, as well as for the welfare of the local affairs of the kingdom, and the appointment of certain high and important offices; while in Canada the legislative duties of the Parliament are more of a local nature; and so with the matters to be advised and consulted by the Executive Council, it must be clear that it no more follows, because the Executive Council are not to be advised on precisely the same matters that pass under the revision of the Cabinet Council, that they are not to advise at all, than it follows that the legislature here are not to legislate on any matter because they are not allowed to legislate on all, or precisely the same matters that are considered in the British Parliament.

It will be observed that his Excellency allows that "if the Lieutenant-Governor stood in the place of the Sovereign," an Executive Council, or some such body, would be "evidently necessary, and should be appointed," with whom he should advise; he further states, that "this is not the case," but that "the Lieutenant-Governor is therefore the responsible minister of the colony," if, as his Excellency says, he is the responsible minister of the colony, "it must be evident to every well-constituted mind" (on the principle of a responsible Ministry in England) that he ought ere this to have retired from his office, for nothing

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is more clear than that he does not possess the confidence of the people's representatives. The responsible minister in England would be disgraced by attempting to continue in office for one single day after losing the confidence of the House of Commons; so if he be merely a Minister, he does not do as other ministers do; but it is beyond contradiction that he is something more than a minister. Whoever heard of a minister in England doing and performing the acts that the Lieutenant-Governor is authorized to do and perform here, both by the 31st of the King and the Royal Instructions? By reference to the Instructions it will be observed that the Government of the Province is spoken of as the Government under the Lieutenant-Governor no less than five times; in section 9, the words "*in your Government*" are used; in section 45, the words "*throughout your Government*" are used; in section 62, speaking of both provinces, the words "*their respective Governments*" are used; section 63 is as follows: "And you are upon all occasions to send to us by one of our Principal Secretaries of State, a particular account of all your proceedings, and of the condition of affairs *within your Government*."

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The above most surely supposes discretionary power in the administration of the affairs of the province, for if nothing was to be done but what was contained in instructions sent out from home, there would be no use of transmitting a particular account of proceedings, as they would know for months before they could be performed; but the 59th section is quite conclusive on the point, and goes clearly to show that the Lieutenant-Governor is something more than a mere minister, and which clause ought in common fairness to have been quoted by his Excellency with those he did quote in answer to the Council. By it, then, his Excellency, *with the advice of the Executive Council*, may take order, do and perform all such matters and things as are for the peace, welfare and prosperity of the country; in short, may even *declare and commence war*. It is as follows: "If anything shall happen which may be of advantage or security to our province *under your Government*, which is not here contained (or by your commission provided for), we do hereby *allow* unto you, with the *advice and consent* of our said Executive Council, to take order for the present therein."

It will be observed that no minister is even authorized to do what his Excellency may do; he calls together the Parliament, and opens and closes it with a most gracious speech from the throne; he prorogues or dissolves Parliament; he gives the Royal Assent to Bills, by which they become laws; he appoints to and dismisses from various offices; no petition or remonstrance is received and acted upon by the King (not even from the House of Assembly) except transmitted through him; he may even declare and commence war.

Your Committee will not believe that any one possessing "a well-constituted mind," will deny that he stands in need of the best advice possible to be obtained, to enable him "impartially" to perform all those duties, and which the Constitution has wisely provided.

It was recommended, as a remedy for prevailing and increasing grievances, that the Executive Council should be allowed to advise the Lieutenant-Governor upon public affairs before he acted on them; and this might be hoped to be a remedy, because if good advice were given, it would (it must be presumed) be adopted; and if bad advice were given, it would be rejected or corrected. This doctrine is pronounced by his Excellency to be so unconstitutional, vicious and theoretical, as to prevent his retaining the late Council in his confidence, unless they retired from such principles. Your Committee, in giving a free and frank report upon this important question, are obliged to express their belief, that his Excellency was not so much shocked at the doctrine, as he was averse to its practical bearing against his own arbitrary pleasure; and they have come to that conclusion for the following reasons:—

1st. Because his Excellency compares his late Council to "a sterling fund, upon which he can constitutionally draw whenever embarrassment requires it."

The objection, therefore, is not made so much against having councillors, as against taking their counsel till *driven by embarrassment to do so*; of which embarrassment he claims to be the sole judge; although it does seem to your Committee inexpedient and unreasonable that his Excellency should pursue his own unadvised pleasure in every thing in government that is gracious, acceptable and popular, and only bring his Executive Council into the field whenever the pursuit of such unadvised pleasure has produced embarrassment, odium or difficulty.

2d. Because the Lieutenant-Governor admits, that "to enable him to perform the arduous duties of his office, the Constitution has wisely provided him with an Executive Council, competent to supply him with that local knowledge in which he may be deficient, and to whom he may apply for counsel and advice." Thus he admits the wisdom of the institution, and the purposes for which it was provided; but he avowedly wishes to make an experiment (at the expense of the country) of the extent to which he can carry on his government without their aid.

3d. Because he admits "the advantage of such a Council to a Lieutenant-Governor is so self-evident, that he must be weak and self-sufficient indeed who does not continually have recourse to it."

Thus the advantage is fully admitted; but his obvious repugnance is against availing himself of that advantage oftener than he may please; and with his late Council, for the three weeks they were in office, *he did not please to do it at all*; he admits the advantage of such a help, but he repels the proposition to receive it before "embarrassment requires it," when it might be too late to remedy the evil.

4th. Because he admits that the Executive Council "strengthens his judgment;" but he betrays repugnance against the proposition to strengthen his judgment when he happens to think

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think it strong enough without it, or to confer dignity on his proceedings when he thinks them dignified enough without it; but he wishes the strength to be reserved until embarrassment requires it.

5th. Because he states that the Executive Council should constitutionally "serve him (the Lieutenant-Governor), not them" (the people).

But the repugnance betrayed is against being served by them in the public affairs until he thinks "embarrassment requires it."

6th. Because he had promised his late Council "to treat them with implicit confidence;" but his repugnance is against its being so *implicit* as to be received upon public affairs before "embarrassment requires it."

7th. Because his Excellency mentions the willing approval by the late Council of the very first suggestion he made to them, namely, "that no important business should be commenced in Council until they, as well as the Lieutenant-Governor, had become mutually acquainted with their respective duties." Thus, important business, it is admitted, was to be commenced, but the complaint is that it was commenced too soon, viz. "before embarrassment requires it."

8th. Because in his answer to the citizens he says, respecting the present Executive Council, "I shall consult them as unreservedly, as I had promised to consult those who have just resigned."

Thus it appears he had promised to consult them *unreservedly*, but he claims the *reservation* to consult them only at his pleasure, viz. "when embarrassment requires it."

9th. Because his Excellency asks the citizens, "Why then should my Council, whose valuable advice (if it were not forced upon me) I should be most anxious to receive, be required to demand of me my responsibility?" Thus it appears that the objection is not against a Council, but against their advice being "forced upon him," when he thinks he needs it not; viz. before "embarrassment requires it."

From all which your Committee are obliged to report their belief, that his Excellency was not so much shocked at the doctrine of the late Council, as he was averse to its practical bearing against his own unadvised arbitrary pleasure, to draw upon their sterling fund only when "embarrassment requires it."

His Excellency, in his reply, objects to the views of the late Council, because "it would be evidently unjust towards him that he should be liable to impeachment for any acts but his own." But in the representation of the late Council, furnished your Honourable House by his Excellency, there is nothing which places things on such a foundation; they merely proposed to give advice upon public affairs preparatory to his Excellency's discretionary action upon those affairs. The acts of his Excellency would not be the less his own because he received good advice before acting; nor would he, under such advice, be less liable to impeachment, while he certainly would be less likely to deserve or incur it.

Your Committee regret to notice in his Excellency's answer to the city corporation, that he charges them with "begging leave to name for him other individuals for the station" (the Executive Council), because when so exalted a public functionary as the representative of His most Gracious Majesty is betrayed into misquotations or misrepresentations, manifestly not justified by the document from which they are professed to be taken with candour and truth, it is calculated to impair the weight and dignity of the high station, and induce by its pernicious example a laxity on such subjects in the public morals; for it is plain the City Council in their Address (in the Appendix marked D.) name no individuals, but leave his Excellency in the free exercise of the Royal prerogative to select any suitable Councillors from the province at large.

In the same public document his Excellency further remarks, "The members of the late Council rest their claims very nearly on the following grounds, that the responsibility they assume, being a popular opinion daily increasing, is consequently the law of the land; and, secondly, that though the powers they require are nowhere expressed in the Constitutional Act, they were evidently intended to have been inserted." Your Committee are obliged to report that the above extract, given as the grounds assumed by the late Council in their representation, is neither candid nor warranted by facts.

The late Council plainly deduce their duties from the 31st Geo. 3, even without reference to the less desired, but not less forcible principles of constitutional right and civil liberty. How then can they be truly said to make the law of the land the consequence of popular opinion, or that their powers were only intended to be inserted in the statute, when they quote the statute in which the powers are actually inserted?

In the answer to the citizens of Toronto, his Excellency says, "With respect to my late Council, I regret, quite as much as you can do, their resignation; but before they took the oath of secrecy (which appears to my judgment to be an oath of non-responsibility to the people) I addressed to them a note which clearly forewarned them, as follows:—'I shall rely on your giving me your unbiassed opinion on all subjects respecting which I may feel it advisable to require it.'"

Your Committee here notice, 1st, an alleged regret, 2nd, an alleged arrangement.

It seems impossible to reconcile this alleged regret on the part of his Excellency at their resignation with his own act obliging them to resign. The late Council were called upon "to retire from his confidence" if they did not "retire from their principles;" but they *could not retire from their principles*, and were therefore obliged to *retire from his confidence*. To present to the late Council a dishonourable condition upon which to remain in the King's service, and then allege regret at their declining that condition, by tendering their resignation, obliges your Committee to report their belief, either that his Excellency really felt no such

such regret as is alleged, or that he did not feel the repugnance honourably expressed by Mr. Baldwin "to the abandonment of principles for the sake of place."

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2d. There is an alleged arrangement. Now your Committee cannot but notice a want of candour in this matter. The terms "on all subjects respecting which I may feel it advisable to require it" (advice), are obviously indefinite, and could not, your Committee think, have been anticipated by any to mean "*no advice at all*." If his Excellency intended the above as a mental reservation, enabling him to convert his Council into ciphers or mutes, he should not have coupled it with expressions implying the reverse; for in the letter from which this alleged arrangement is deducted, his Excellency assures them of his "implicit confidence." But it appears to your Committee that the circumstance of adding three new councillors, with the assurance to them of his "implicit confidence," amounted to an arrangement, a declaration of an intention to advise with them freely. "Implicit confidence" cannot be manifested by placing none; and when his Excellency's letter to Mr. Baldwin was publicly read by a Member in both Houses of Parliament, no one construed it to mean an arrangement not to consult the Council at all. Instead, therefore, of admitting that the late Council, as alleged by his Excellency, "altogether in a body disputed the arrangement," your Committee consider that they had rather cause to complain that the arrangement was broken by him; for the detention of them three weeks unconsulted in the Council in the most urgent season of business, was a palpable violation of the promise to repose "implicit confidence."

In his reply to the same address he adds, "I shall consult them (the new Council) as *unreservedly* as I had promised to consult those who have just resigned." This language shows that "he had promised unreservedly to consult his late Council," and such the public universally understood to be the case. But as his Excellency accepted the services of the late Council, and "with pleasure" promised to give them his "implicit confidence" and to "consult them unreservedly," your Committee notice with pain the inconsistency of such declarations with the attempt to criminate the late Council by misrepresenting them as having first voluntarily entered into an opposite arrangement, and then altogether in a body disputed it.

Your Committee addressed a letter on the subject to Mr. Robert Baldwin and Dr. Rolph, both of whom they have also examined. (See Appendix marked F.)

From the letter and evidence your Committee collect that no "such arrangement" as is alleged by his Excellency to have been "since disputed" ever was made, ("to give advice only when required"); that no such "forewarning" was given them, or professed to be given, or expressed, or implied; but on the contrary, that the Councillors were told that his Excellency's doors were open for them to give advice on any subject at any time, that the letter now construed by his Excellency into such a limitation, was not the same in words or substance as the one arranged and promised to be given; that *although it is dated the day before the Councillors were sworn in, it was not delivered till afterwards*, when the changed features of the letter appear to have struck with surprise the persons to whom it was addressed, and which letter, from motives of delicacy explained in the evidence, was not returned, as its disingenuous application was not anticipated.

That the proposition out of which the letter grew *was not made till the negotiation was over*, and the three new Councillors attended, by previous desire of his Excellency, to receive formal united invitation, and that *it then originated not with his Excellency, but with Mr. Baldwin*.

The statement, therefore, of his Excellency, appears in the same discreditable light, as the discrepancy between his denial to your Honourable House of any agreement between any members of the present Council respecting the contingent administration of the government in case of the Lieutenant-Governor's death or absence from the province, and the admission of the facts so denied by two of his present Councillors, Robert B. Sullivan, Esq. and the Honourable Captain Baldwin. Indeed it is, if possible, worse, because the mistake is intended to criminate the late Council after their dismissal.

Your Committee feel bound to notice one other of his Excellency's *reasons*, by which he attempts to show that we would be ruined if we had the image and transcript of the British Constitution imparted to us. His Excellency, when replying to the citizens of Toronto, asks with apparent triumph, "supposing it were to be argued that four-fifths of the members of your House of Assembly ought immediately to be dismissed, because, in proportion to the population of Great Britain and Ireland, there exists five times as many members here as in the English House of Commons, would you not think it very irrational that this *noble but thinly peopled* colony should be made the exact image and transcript of the British Constitution merely because Colonel Simcoe happened to use these words." &c. Without remarking on the strange idea of his Excellency making the people of a colony into a constitution, your Committee beg merely to give an extract from the remarks of Lord Grenville in the House of Lords in the discussion on the passage of the Act 31st Geo. 3, as a reply to the remarks of his Excellency, and the application:

"They did not mean to give Canada exactly the same Constitution, as for instance, 558 representatives. That was impossible in the nature of things; but their great object had been to adhere as nearly as possible to the purity and principles of the English Constitution in every part of the Bill."

His Lordship also said, "It was undoubtedly a mistake to suppose that any government was free only as it approached to democratic principles. Absolute monarchy, absolute aristocracy, absolute democracy, had, in the history of mankind, been tried in the scale of experience, and had been found wanting. Our own Constitution, which was compounded



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of these three, was the first in the world, and the envy of every surrounding nation. It was for that reason that they were now about to communicate the blessings of the English Constitution to the subjects of Canada, because they were fully convinced that it was the best in the world. The Legislature of Canada consisted of three parts, representing that of this country."

It is said in the reply, that "in government, impartiality is better than knowledge, and it must be evident to every well-constituted mind, that in an infant state of society, it would be impossible practically to secure a sufficient number of impartial persons to effect a change of ministry as often as it might be necessary for the interests of the people to do so."

Upon the truth of this maxim, "in government impartiality is better than knowledge," your Committee forbear to offer any extended comment; but they cannot conceal their disgust at the offensive manner in which it is applied against the moral character of the people of this province. He appears to your Committee to have assumed the government with most unhappy prejudices against the country; for he alleges, certainly with very limited means of personal observation, that there is a lack of "*impartial persons*" to form a new Council on any occasional change; and your Committee lament to hear that his Excellency is surrounded by, and gives his credulous ear to, irresponsible and unworthy advisers, who poison his mind against the moral and intellectual merits of the people he is appointed to govern. In his reply to the address of the citizens, he expresses his estimate of the knowledge and taste of the public by condescending to "plainer and more homely language" (and both plain and homely enough it is); but besides thus reflecting upon Canadian understandings, his Excellency further impeaches their good morals, by declaring there are not "*impartial persons*" enough in the country to enable him to seek adequate changes in the Council. It thus goes to England with the highest official authority, that this is little better than a country of *rogues and fools*. In Canada his Excellency, with the temerity of a stranger and the assurance of an old inhabitant, presumes to testify that there is not a sufficient number with heads and hearts yielding knowledge of impartiality to aid the good management of our own local and internal affairs. Should the history of this colony be ever collected from the secret despatches in Downing Street (of which we have had frequent specimens), posterity will form a very erroneous and unjust estimate of the talent and virtues in the country; low indeed are we placed in the scale of human nature.

While engaged in preparing this Report, the attention of the Committee has been suddenly called to the documents referred to them on the 4th of April, respecting the erection and endowment of parsonages throughout the province, and the exchanges of different portions of the clergy reserves for other property, (which are hereto appended, marked P.)

From these documents it appears, that, within the past year fifty-seven rectories or parsonages, "according to the establishment of the Church of England," have been constituted in this province by the Government under the Great Seal of the province, and have been endowed out of the clergy reserves, in each case varying in general from 400 to 800 acres of highly valuable land, chiefly in old townships, and in some cases within towns.

To these rectories or parsonages ministers have been or are to be presented, as are their successors in future, by the Government, and they are, according to the thirty-ninth clause of the Constitutional Act, "to hold and enjoy the same and all rights, profits and emoluments thereunto belonging or granted, as fully and amply, and in the same manner, and on the same terms and conditions, and liable to the performance of the same duties, as the incumbent of a parsonage or rectory in England;" and the next clause of the Act provides for the exercise of "spiritual and ecclesiastical jurisdiction and authority," "according to the laws and canons of the Church of England;" under which clause of course Ecclesiastical Courts will be established, as no others can fully exercise such "spiritual and ecclesiastical jurisdiction."

Upon an examination of the instruments by which these rectories or parsonages are constituted, it appears that power is reserved to the Government of "hereafter erecting and constituting one or more parsonages or rectories" within the respective townships in which they are now by these instruments constituted.

According to the Act, the Government may endow these parsonages "from time to time" so that if the bold experiment succeeds which is now attempted, we may expect that the present parsonages will receive further endowments, and that the number of these parsonages will be multiplied amongst us beyond all present calculation.

It further appears that different clergymen of the Church of England have received from the Government, in exchange for their own private property, large quantities of the clergy reserves; for instance, the Rev. James Cogle surrenders 35 acres of lands in the township of Hope, with a messuage or dwelling-house, and receives in exchange 1,020 acres, 400 of which are in the township of Hope, 300 in Cavan, 100 in Emily, and 220 in Seymour.

The Rev. Benjamin Cronyn surrenders four acres of land, with a dwelling-house, outhouses, offices and buildings, and receives in exchange 1,892 acres, of which 1,396 are situate in the township of London, and the remainder in Nissouri.

The Rev. Francis Evans surrenders 50 acres of a clergy reserve, and 50 acres in Woodhouse, without any house or building, and he receives 800 acres in Walpole.

The Rev. Philip Meyerhoffer surrenders the rear part of Lot No. 17, in the fifth concession of Markham, containing 70 acres, without any house or building, and he receives Lot No. 19, in the same concession of the same township, containing 200 acres.

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All comment upon such transactions is superfluous. But most astonishing of all, Rear-Admiral Vansittart has been permitted to share in these good things for the benefit of the church, and has received in exchange for a house, two acres and two lots of land in Blandford, and 26 acres in Oxford East; 3,690 acres of valuable land!

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The land thus conveyed to them in exchange becomes their own property, and will not belong to their successors.

And all these endowments, and all these grants in exchange for messuages and lots of land, are in addition to the large regular allowance that is annually paid to them by the government out of public moneys of the province, without the knowledge or consent of the people and their representatives!

Thus, in one year, in contempt of all our humble remonstrances and earnest protestations against Church Establishments and Government patronage of religious bodies, *fifty-seven Government Parsons* have been established in this province, and endowed out of the clergy reserves, established and endowed under the Great Seal to give it peculiar solemnity, and if possible to make it irrevocable.

In this way has the Government opened a new source of political influence and power, and not only established a State Church amongst us, with "spiritual and ecclesiastical jurisdiction and authority," but a State Church of which the Government is the universal and sole patron, having the exclusive right of making the presentations or appointments of the ministers of these different parsonages.

It is with difficulty that the Committee suppress the strong feelings of disgust, indignation and astonishment, which these practices and proceedings of the Government are calculated to excite.

Year after year have the people of this province, and their representatives, been straining every nerve to procure the appropriation of the clergy reserves to some useful public purposes, in which all His Majesty's subjects might impartially and equally participate. Year after year have they solemnly and indignantly protested against the establishment of any State Church in this province. The people, from one end of the province to the other, again and again have petitioned the Provincial Parliament, the King, and the Imperial Parliament on the subject. These petitions proceeded not only from the people indiscriminately and repeatedly, but also from different public bodies. The explicit and distinct representation on this subject of the Methodist Conference, in 1831, in their Address to His Majesty, cannot be forgotten, inasmuch as it produced a most offensive reply from Sir John Colborne, which caused much excitement and dissatisfaction at the time; and inasmuch as the observations contained in the Address on the subjects of applying public funds to the support of religious bodies or teachers, and of appropriating the clergy reserves to purposes of general interest, were distinguished for wisdom and truth.

And so late as 1832, petitions were transmitted to England, expressing similar sentiments on these subjects, subscribed by more than 18,000 of His Majesty's subjects in this province. In fact, all parties and all denominations on this matter have been agreed, and have so remained, with a unanimity and perseverance that is really surprising.

Equally decided and uniform have been the exertions of your Honourable House to effect the same object; and this has been the case, not only when one party prevailed, but also when its opponent had the ascendancy. They have repeatedly addressed His Majesty; they have also repeatedly exercised the powers given to them by the Constitutional Act, to repeal those parts of it which relate to the appropriation of the clergy reserves; although these bills, like many others ardently desired by the country, have been contemptuously rejected in the Legislative Council. So numerous and urgent have been these representations to His Majesty's Government, that the appearance, at least, of a favourable disposition on this subject was at length obtained from the Cabinet Minister.

In 1832, the House of Assembly were informed by his Excellency Sir John Colborne, in a message, dated 25th January 1832, that he had His Majesty's commands to make to it the following communication:

"The representations which have at different times been made to His Majesty and His Royal Predecessors, of the prejudice sustained by His faithful subjects in this province, from the appropriation of the clergy reserves, have engaged His Majesty's most attentive consideration.

"His Majesty has, with no less anxiety, considered how far such an appropriation of territory is conducive either to the temporal welfare of the ministers of religion in this province, or to their spiritual influence. Bound no less by his personal feelings than by the sacred obligations of that station to which Providence has called him to watch over the interests of all the Protestant churches within his dominions, His Majesty could never consent to abandon those interests, with a view to any objects of temporary and apparent expediency.

"It has, therefore, been with peculiar satisfaction, that, in the result of his inquiries into this subject, His Majesty has found that the changes sought for by so large a proportion of the inhabitants of this province, may be carried into effect without sacrificing the just claims of the Established Churches of England and Scotland. The waste lands, which have been set apart as a provision for the clergy of those venerable bodies, have hitherto yielded no disposable revenue. The period at which they might reasonably be expected to become more productive is still remote.

"His Majesty has solid grounds for entertaining the hope that, before the arrival of that period, it may be found practicable to afford the clergy of those churches such a reasonable

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and moderate provision as may be necessary for enabling them properly to discharge their sacred functions.

“ His Majesty, therefore, *invites* the House of Assembly of Upper Canada to consider how the powers given to the provincial Legislature, by the Constitutional Act, to vary or repeal this part of its provisions, can be called into exercise most advantageously for the spiritual and temporal interests of His Majesty's faithful subjects in this province.”

Surely this was a pledge of no ordinary solemnity on the part of the Government not to proceed in opposition to representations which had at different times been made to His Majesty “ by so large a proportion of the inhabitants of this province.”

To establish and endow these rectories, in opposition to these representations, was as flagrant a violation of good faith as can well be imagined.

In Lord Glenelg's Instructions to his Excellency, it is distinctly intimated, that the disposal and appropriation of the clergy reserves are to be left, for the present at least, to the Legislature of the province. Under these circumstances, how can the proceedings of the Government in the formation and endowment of these rectories, and the exchange of lands (evidently a system of jobs) be reconciled with a decent regard to good faith and justice, to the interests of the province, or to the well-known and often declared wishes of the people? The reflections which such a question suggests are painful and mortifying.

Measures most deeply affecting the peace and happiness of the people, their opinions and feelings, are adopted, not only without their consent, but in opposition to their known and unanimous wishes. To continue our complaints seems equally wearisome and useless.

Lord Glenelg declares, in his Instructions to his Excellency, that “ Parliamentary legislation on any subject of exclusively internal concern, in any British colony possessing a representative assembly, is, as a general rule, unconstitutional; and that to withdraw from the Canadian to the Imperial Legislature the question respecting the clergy reserves, would be an infringement on that cardinal principle of colonial government which forbids parliamentary interference, except in submission to an evident and well-established necessity.”

These are the professions of the Government, but what has been its conduct?

In 1827, an Act was passed by the Imperial Parliament, without even a pretended necessity, and without the consent or knowledge of the people of this province, or their representatives, authorizing the sale of a part of the clergy reserves in this province (not exceeding one-fourth), and withdrawing from the Canadian to the Imperial Legislature the question respecting the application of these funds to other purposes than their original object, such as the support of education, &c.

The same Act also authorizes the Government to accept in exchange for any part of the clergy reserves, from any person, any lands of equal value.

Under this Act *more than sixty-one thousand pounds*, abstracted from the small amount in circulation, to repay the hard-earnings of the people of this province, have been raised by the sale of land, and *paid into the military chest*, over and above all the expenses of selling the lands, &c., as appears from the official statement of the Hon. Peter Robinson, the Commissioner appointed by the Crown for these sales; an evil so great and palpable, that it was foreseen and pointed out by the Right Hon. Edward Ellice in 1828, who, in his examination before the Committee of the House of Commons on the Affairs of Canada, after describing the general and deep feeling which exists in this province, about the appropriation of these reserves, says, “ Surely the framers of that Act must have overlooked the additional objection of draining, from the small capital of the country, any part of it for this invidious purpose.”

Notwithstanding this caution, and although the law was a plain infringement of the principles of our constitution, recognised and admitted by them, the present *Ministry* are acting upon it, not only in selling these services, and “ draining from the small capital of the country for this invidious purpose, annually,” a large sum, but also in making these exchanges.

What practical commentary is this upon the professions of a Colonial Secretary! Did the writer of Lord Glenelg's Instructions suppose that the people of this province were destitute of common sense and discernment?

The whole of the transactions to which we have adverted, respecting the clergy reserves, and the erection and endowment of parsonages, prove the necessity of having a responsible Government, and illustrate the importance of the great constitutional principles, for which the people and their representatives for a long time, and the Executive Council more recently, have been contending.

Your Committee have deemed it proper to notice this matter in the Report, as being a true commentary on the effect and working of the system heretofore acted upon, and now clung to by his Excellency, as if his very existence depended upon it, and who unblushingly declares, that without that system we are ruined. Now your Committee would ask, will any man pretend to say, that the endowing these parsonages was in accordance with the feelings, wishes and interests of the people, or will they pretend to say that our Executive Council, possessing the confidence, and having an identity of interest with the great body of the people, would have advised such a step? A few seasons more of as favourable picking, and the remaining clergy reserves in the province will not be worth the asking, let alone contending for.

Until

Until the representative of the King in this province shall be surrounded by advisers sharing the views and possessing the confidence of the people, and their representatives, and shall freely and candidly and cordially consult them upon the affairs of the province, we must expect the same evils and the same grievances which have only increased from year to year, amidst the complaints of the people and the promises and professions of the administration. The necessity of insisting upon a constitutional and responsible government must be apparent to every candid man.

Your Honourable House lately addressed his Excellency on the subject of a supposed understanding or arrangement between two or more of the Members of the present Executive Council, as to the administration of the government in the event of his Excellency's death, which Address and Answer are hereto appended, marked (K.); in which answer his Excellency was pleased to intimate rather indignantly, that he knew of no such agreement, and in fact that no document of such a nature existed. The Hon. Robert Baldwin Sullivan, the presiding Member of the Executive Council, and the Hon. Captain Baldwin, however, informed the committee, as will appear by the minutes of their evidence, marked (L.), hereto appended, that a paper had been signed, whereby Mr. Sullivan had declared his intention, in the event of his Excellency's death, not to administer the government, although by the Royal Instructions, in such a case, the administration would devolve upon him, as presiding Councillor; but to resign his office, in order to avoid the administration of the government, *and that this paper was not only in existence, but was drawn up by his Excellency himself* in the Council Chamber, signed and delivered to Mr. Allan (the next senior member), in the presence of his Excellency and the whole Council.

The respect which your Committee feel for his Excellency's high office, forbids their dwelling upon the mortifying subject of the contradiction between his Excellency's answer and those gentlemen's testimony; and they will only say, that it must of course destroy all confidence in future in his Excellency's assertions, especially as his Excellency retains Mr. Sullivan as his principal and confidential adviser, notwithstanding the evidence so given by him.

Neither do they think it necessary to dwell upon this arrangement, to bargain away, contrary to the Royal Instructions, the future government of this province; for such it evidently was, notwithstanding Mr. Sullivan's attempt and natural anxiety to explain it away; an arrangement as unconstitutional and delusive as could have been proposed; for, in the event of Sir Francis B. Head's death, the government would necessarily devolve on the presiding councillor, and he could not have resigned to any one but His Majesty. To resign to his inferior would have been "a new theory." Neither could he have released himself from the government by refusing to take the oath of office. The Committee observe that such an oath is not required by the 31st of the King or the King's Instructions, and at all events the power to administer the government, in the event of his Excellency's death, does not depend on it, for if it did, we might be for a time without a government; and if one could decline taking an oath, all might, and we might in such an alternative be left without a government. An arrangement so inconsistent with the rights and honour of the Crown, and with the safety and protection of the people, was probably never before thought of in a British colony, and is a striking evidence of the strange notions entertained by his Excellency and the present Council about our constitution.

In some of the old colonies, the people chose their own governors, but never before was a successor to a governor then living chosen by the Council; that very Council who, in his Excellency's estimation, is such a mere cipher, such a mute and irresponsible body.

To obtain a fuller elucidation of this humiliating subject, your Committee were desirous of obtaining the further evidence of the Honourable Messrs. Allan and Elmsley, and although the Legislative Council, in compliance with the Address of your Honourable House, granted permission to these honourable gentlemen to attend your Committee, yet they have refused to do so, under excuse of some informality in addressing them; although in an executive matter, so materially affecting their characters as councillors, your Committee had hoped all minor considerations would have been discarded. But Mr. Sullivan's statement needs no confirmation, and the participation of the others in this singular and unconstitutional proceeding remains uncontradicted, with an opportunity afforded them, if innocent, of exculpation. This conduct justifies, in point of fact, the declaration by your Honourable House of an entire want of confidence in the present Executive Council, communicated by address to His Excellency. It is to your Committee a matter of profound regret that when his Excellency was surrounded by the late Council, with every means of conducting his administration in a manner efficient and satisfactory, calculated to allay all existing discontent, and preserve the peace, welfare and good government of the province, he should so hastily, rashly and wantonly disappoint public expectation, and fill the province with greater distress and apprehension than ever prevailed from the alien question.

Your Committee, while on this humiliating subject, feel bound also to remark on the positive contradiction between the evidence of the honourable Mr. Sullivan and the honourable Captain Baldwin, as reference thereto will prove; while Mr. Sullivan expressly affirms that the writing was drawn up solely at his own request, Captain Baldwin stated that it was at the suggestion of the Honourable Mr. Elmsley.

The Committee beg leave also to remind your Honourable House again of your Address to His Majesty during the last Session, hereunto appended, marked (H.), respectfully but earnestly urging that the principles of the British Constitution, respecting the advisers and confidential officers of the Government in this province, might be enforced, and intimating an intention on the part of the House, if these just and reasonable wishes were longer dis-

regarded,

Report of Committee to Commons House of Assembly.

regarded, to withhold the supplies from a government conducted in such a manner and by such officers. Your Honourable House has distinctly but respectfully declared to his Excellency its regret at the removal of the late Executive Council, and its entire want of confidence of the present members of it, and has humbly requested him to take immediate steps for their removal. Nevertheless they are retained, and the wishes of the representatives of the people, constitutionally expressed, are disregarded. No alternative is left to the House, in the opinion of the Committee, but to abandon their privileges and honour, and to betray their duties and the rights of the people, or to withhold the supplies; the constitutional right of which is clearly acknowledged in Lord Henley's despatch, and also in his Excellency's reply to the late Council; and in the language of Lord Stanley, on the very subject of procuring a removal of advisers in this province, "it is the constitutional mode of enforcing our wishes." All that we have done will otherwise be deemed an idle bravado, contemptible in itself, and disgraceful to the House, and although, in consequence of the law granting a perpetual Civil List, which was obtained by Sir John Colborne's withholding a despatch that he had been directed to communicate to the Legislature, showing that the government only wanted the grant for seven years, or during the life of the King, which act received the approbation of His Majesty's Government, the refusal of the supplies cannot have its just constitutional influence, yet it will testify the feeling and the determination of the House more forcibly to His Majesty's Government, and will avail more than any thing else. It becomes the more necessary when it is observed that Lord Glenelg assumes in his Instructions to his Excellency, that until the last Session there generally "subsisted a spirit of amicable co-operation between the Executive Government and the Legislature;" although so far from any such harmony subsisting, the majority of the House of Assembly, in both the ninth and tenth Parliaments, were denounced by the adherents of the provincial Administration in unmeasured terms of abuse, and were represented as being opposed with even indiscriminate hostility to the arrangements and institutions of the Government.

Your Committee, therefore, distinctly recommend to your Honourable House to withhold the annual supplies.

His Excellency, in answer to the Address of your Honourable House respecting the present Executive Council, observes, "I might say that I had hoped the House would have refrained from any such decided expression of its opinion on the subject until it had received the Report of the Committee to whom the subject was referred, and for whom the Government office is now occupied in furnishing the documentary evidence they desire; but I am unwilling to discuss the question."

Your Committee hope there is not now, and never will be hereafter, another such a direct and violent breach of the privileges of the Commons' House of Assembly; indeed, the assumption of power to chide the whole House for not awaiting a report from a select committee, can meet with a parallel only in the very worst periods of English history. Surely such conduct was never intended, and will never be countenanced by the British Government. Observing the marked forbearance of your Honourable House, your Committee dismiss this painful and humiliating subject, simply referring to the recent case of a similar nature in Jamaica, which is set forth in the following communication to his Excellency the Governor of that island, during its last session.

"May it please your Excellency,

"We are ordered by the House to wait on your Excellency with the accompanying resolutions, which have been agreed unto by the House:—

"1. Resolved, That the first message of his Excellency the Lieutenant-Governor, of yesterday, is a direct breach of the privileges of this House, inasmuch as the subject-matter of that message was then pending between the other branches of the Legislature.

"2. Resolved, That this House cannot, consistently with its own dignity, or with due regard to its own rights and privileges, which are the firmest bulwarks of the liberties, franchises and immunities of the people, proceed to do any other business until reparation shall be made for this breach of privilege."

This, your Committee conceive, is a just illustration of the resentment which such conduct deserves, and generally receives.

The attention of your Committee has been recently drawn to a political address from the grand jury at the present assizes in this city to his Excellency, and his Excellency's answer. (See certified Copies in the Appendix, *marked U.*) This grand jury, selected by Mr. Sheriff Jarvis, holding office during the pleasure of Sir Francis Head, style themselves "*Grand Jurors representing the Home District!*" There is no known law or constitutional usage under which the above gentlemen can claim the representative character; and it has ever been a subject of grievance and regret that the Executive Government have given a countenance to the political pretensions and sycophantic offerings of grand juries in this country. While they mix up with their judicial duties the party feelings of the day, and present to the Lieutenant-Governor, with evident acceptability, their political oblations, there can be no prospect of that cool, dispassionate and impartial conduct towards all classes of the people, required by their oath, and prescribed by the law. The mixture of such matters in the public ordinances of religion, or in the public administration of criminal justice, must be revolting to every "*well-constituted mind*," and is certain to contaminate what the dearest interests of society require to be pure and untainted. The imposition of political duties upon the Chief Justice as Speaker of the Legislative Council, against the repeated remonstrances of the people and their representatives, is felt to be itself a practical evil, and has

no

no doubt also contributed to destroy that decorum in other branches of the Judiciary, which might otherwise keep them aloof from voluntarily blending party politics with the duties of the grand jury room. With the grand jury originate indictments for alleged political offences, and the practice of tampering with their own consciences by inflaming themselves with such unseasonable discussions, is calculated to revive the scenes acted in the administration of Sir P. Maitland.

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It is a striking fact, that the foreman of this grand jury, selected by Mr. Sheriff Jarvis, is a military gentleman on full pay, on a temporary leave of absence, and who, although a son of the late Dr. Macaulay, is personally known only to a few as an occasional visitor from military service. Your Committee, without meaning any personal reflection upon that gentleman, cannot but remark upon the conduct of Mr. Sheriff Jarvis in making such a selection, which appears to have been done to second the avowed intentions of the Lieutenant-Governor to appoint him Surveyor-General, with the further plan of introducing him into the Legislative and Executive Councils. The same gentleman, it appears, has recently presided at political meetings in this city; and, as a military man, he seems unconscious of the impropriety of re-acting the same scenes in the sphere of a grand juror.

His Excellency's answer welcomes the adulation of the grand jury, and outstepping the limits of the Address, he descants against "the ignominious tyranny" of the Executive Council of the province, which he styles "a secret Metropolitan Cabinet;" thus deriding and vilifying the institutions of the country, while in obvious allusion to those who differ from him upon this "great constitutional question," he boasts of having "*repelled enemies*." Affairs assume a serious character when the representative of His Majesty arrays against himself as "*enemies*" whom he has "*repelled*," the great body of the people, who have long sought for a better constituted and more efficient Executive Council for the practical ends of government. These hostile and inimical feelings indulged by his Excellency against so numerous a class of the community, blast all our hopes of that impartial and conciliatory policy and constitutional system which have been promised by the British Government.

The Committee have been obliged unavoidably, though reluctantly, to extend their Report to a great, perhaps an inconvenient, length. They think the subject one of vital interest, and the present era an all-important crisis in our affairs. The despotic unconstitutional principles announced and defended by Sir Francis Bond Head, and his avowed determination to adhere to them; the tyrannical and unjust conduct pursued by him towards the late Council, the bitterness of feeling which he is known to entertain towards all who think it their duty to oppose him; the intention which his public acts evince to perpetuate and aggravate the system, and to cherish and favour the party, so much complained of, yet so much fostered, under his predecessor, destroy all hope that his administration of the government can be just, satisfactory or useful to the country, or conducive to the honour and interests of the Crown, and make it, in the opinion of the Committee, a necessary though most painful duty on the part of your Honourable House, respectfully but most earnestly to pray that His Majesty's Government will seriously consider our situation, and afford us such relief as the exigency of the case requires. Respect for the Crown requires that this object should be sought in the ordinary way, by an address to His Majesty only; but considering the usual manner in which our representations have been viewed and treated at the Colonial Office, we recommend that a Memorial should be also addressed by your Honourable House to the House of Commons; a body who understand and feel the value and importance of those principles for which we are contending. The Committee have prepared an Address to the King and a Memorial to the House of Commons in conformity with these views, which they beg leave most respectfully to submit herewith; and recommend that a copy of this Report, with the Appendix and Memorial to the House of Commons, be presented to his Excellency with the Address, and a request that he will be most graciously pleased to transmit the same to His most Gracious Majesty the King.

They submit the whole with a deep and solemn sense of the great responsibility which now rests upon the House of Assembly. The state of our public affairs, apparently growing worse instead of being improved; the dissatisfaction and anxiety of the people; the determination of the Government to defend and enforce arbitrary principles, and to oppose the application and the operation in this province of acknowledged and essential principles of the British Constitution, and the comparisons which are every day made between our condition on the one hand, and on the other hand the prosperity of all classes, the activity of business, and the improvements of all kinds in the adjacent country, are considerations which cannot be disregarded. Blessed with a fine and healthy climate, a productive soil, unequalled natural facilities for internal communication, and an industrious and enterprising population, we ought to see the country flourish and improve at least as much, and the people as happy, prosperous and contented under the British Constitution (if we were permitted to enjoy it in its full and beneficial operation), as could be realised under a different form of government.

The Committee are not willing to believe the contrary; but that a system which has long rendered unavailing the natural advantages of the country and paralyzed its youthful energies, should now of a sudden produce contrary effects, is not to be expected.

Great as is the constitutional question for which the country contends, it is simple in its nature. We have, under the 31st Geo. 3, an Executive Council, constituted by the Royal Instructions; this Executive Council we desire to see discharging the duties belonging to such a Council; as it is the duty of Parliament to legislate, so it is the duty of the Executive Council to advise. It has been simply proposed that our public affairs should

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pass under their review preparatory to the final and discretionary action of the Governor upon them; and assuredly the people, upon whose affairs and highest interests the advice is given, should be allowed to see the representative of the King surrounded by men alike possessing his confidence and that of the country.

The great question now before your Honourable House and the country, is not whether we are to have the constitution and form of government of the United States introduced and established among us, but it is simply whether we (His Majesty's subjects in Upper Canada) shall enjoy acknowledged principles of the British Constitution.

Whether we shall have the same rights and privileges that are enjoyed by our fellow subjects in the United Kingdom, and which has always heretofore been admitted in theory, but denied in practice?

Whether the advisers of the Lieutenant-Governor, the Executive Council, are to be gentlemen of sound principles, known and possessing the confidence and esteem of the people, whom they are sworn to serve as well as His Majesty, or to be persons unknown, unsworn and irresponsible, and consequently under no restraint or accountability for the advice they give, or means (honourable or dishonourable) they use to accomplish their ends?

If we have at the head of our local affairs, not a representative of the King, but a mere minister, culpable for all misdoings in our government, there is no reason why he should longer be held (as heretofore) above the law of the land. If, on the one hand, we ask for the beneficial operation of the Executive Council, the answer is, "I am only in the place of a minister, answerable for my own acts and those of my Council into the bargain." And when, on the other hand, you desire to proceed against him for any wrong, the character is shifted from a mere minister into a representative of the King, who can do no wrong, and is above all law. One day he is a minister in order to assume power and act wrongfully; another day he is the representative of the King, to oust the courts of justice of their jurisdiction; he assumes one character for *licence*, and another for *defence*.

Your Committee desire to remark, that our other institutions have often in times past been subjected, like the Executive Council, to similar attempts to cripple or abridge their constitutional rights and character. Your Honourable House was at one time denied the privilege which necessarily and constitutionally appertains to Parliament, viz., the right to inquire into public abuses; and they were not established on their present broad, firm and acknowledged basis, without appeals to England and litigation in our courts of law. During the ninth Parliament, occurred the arbitrary outrage upon the rights and property of Mr. Forsyth, by Governor Maitland, with military force, under the legal advice of the Attorney-General (since promoted to the Chief-Justiceship of this province), and supposed to have been under the advice of the then Executive Council. This flagrant wrong became the subject of inquiry before a Committee of your Honourable House; and Messrs. Givens and Coffin were attempted to be sustained by Governor Maitland in their refusal to obey a summons to give evidence; in fact they had his express orders not to attend. Thus, in illustration of the alleged sufficiency of Downing-street responsibility by Governors, it appears that an outrage is perpetrated first, and then Executive authority, influence and power exerted to prevent investigation. Nor was this all; for Sir P. Maitland further tried to poison what justice might be expected from His Majesty, by writing a secret calumniating despatch, giving a bad character to Mr. Forsyth, and traducing as factious the Assembly that interposed in his behalf. The ninth Parliament proceeded to the arrest and imprisonment of the refractory officials; and although Sir George Murray, then Principal Secretary of State for the Colonies, rebuked Sir P. Maitland for his long and artful despatch against our Parliamentary privileges, yet he was never disgraced or punished; and even in the tenth Parliament the Attorney-General (since Chief Justice of Newfoundland) reacted the same dispute of the privileges of the provincial Parliament; and it was not until the present Speaker of your Honourable House was prosecuted for his warrant, and that an adjudication of the Court of King's Bench, after elaborate argument, had placed the question out of the reach of further denial, that the right was acknowledged. When therefore it is considered with what trouble and vexation, and against what Executive influence and calumny the privileges of Parliament have been asserted and maintained, it is less surprising that the constitutional duties and functions of the Executive should factiously be denied. The privileges of Parliament were not more obvious and certain, or more important than the duties and functions of the Executive Council for the peace, welfare and good government of the country; and it only needs, on the part of the people and their representatives, the same firm and constitutional exertions to ensure the same success in the present all-important contest.

All which is respectfully submitted.

(signed) *Peter Perry*, Chairman.  
*T. D. Morrison.*  
*John P. Roblin.*  
*Hiram Norton.*  
*Charles Duncombe.*

Committee Room, House of Assembly, }  
14 April 1836.

(Truly extracted.)

*James Fitzgibbon,*  
Clerk of Assembly.

A P P E N D I X.

SCHEDULE of DOCUMENTS forming Appendix to Report.

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- (B.) Reply thereto, 5th March 1836 - - - - - p. 49
- (C.) Robert Baldwin's Letter to Peter Perry, 16th March 1836, with Copies annexed of Note from Lieutenant-Governor to Robert Baldwin, 19th February, and latter's receipt thereof, 20th February - - - - - p. 52
- (D.) Address from Common Council to Lieutenant-Governor, and His Excellency's Reply thereto, p. 55
- (E.) Address from Public Meeting, Toronto, 25th March, and His Excellency's Reply - p. 56
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- (G.) Oath taken by Executive Council - - - - - p. 69
- (H.) Address from House of Assembly to the King on the subject of Legislative Council and responsible Governments, 15th April 1835 - - - - - p. 69
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## Appendix.

Representation of  
Examining Council  
to Lieut-Governor.

(A.)

TO His Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian Guelphic Order, Knight of the Prussian Military Order of Merit, Lieutenant-Governor of the Province of Upper Canada, &c. &c. &c.

Executive Council Chamber at Toronto,  
Friday, 4 March 1836.

May it please Your Excellency,

THE Executive Council, impressed with the oath they have taken to discharge the duties necessarily resulting from their appointment "to advise the King and his representative in the government of this province," in the terms of the Constitutional Act, "upon the affairs of the province," deem it incumbent upon them most respectfully to submit the following representation :—

The Executive Council recognize the truth of the opinion expressed by Lord Glenelg, that "the present is an era of more difficulty and importance than any which has hitherto occurred in the history of this part of His Majesty's dominions." This unhappy condition they ascribe, in a very great degree, to the hitherto unconstitutional abridgement of the duties of the Executive Council. It appears from the proceedings of the House of Assembly and from the reiteration of established opinion in the country, that neither will public expectation be satisfied, nor contentment be restored, until the system of local government is altered and conducted according to the true spirit and meaning of the Constitutional Act. The delay of this just and indispensable course has already excited in the great mass of the people a lamentable jealousy and distrust, and has also induced the discussion of constitutional changes; the desire for which, unless speedily arrested, by affording the unrestricted operation of the 31st Geo. 3, c. 31, will not only become more fixed, but rapidly increase to a greater and irretrievable extent.

The policy and measures which have led to the present condition, seldom passed under the review of the Executive Council, or were submitted for their advice. Nevertheless, its members have been undeservedly subjected to the heaviest reproach throughout the country, from a prevalent belief that they have been called upon to fulfil the duty imposed upon them by the Constitution, as advisers upon public affairs. But amidst the obloquy thus thrown upon them, they have studiously avoided any attempt at exculpation, by disavowing in their defence any participation in the conduct of the affairs which they were erroneously supposed to have approved. The consequence of this silent endurance of political odium, has been the perpetuation of the misbelief that the Executive Council are conversant with the affairs of the province, upon which they are appointed to advise; and although an opposite practice has generally prevailed between former Lieutenant-Governors and their Council, yet it has ever been notoriously contrary to the state of things presumed by the community to exist.

Public opinion respecting the Executive Council and their duties, has been founded upon the terms of the 31st Geo. 3, c. 31, to which statute the people used to express a firm attachment; an attachment which the Council believe never would have been impaired had the Constitution been administered either according to its letter or its spirit.

In several clauses of 31 Geo. 3, c. 31, the Executive Council is mentioned in general terms. In the 34th clause the terms are, "together with such Executive Council as shall be appointed by His Majesty for the affairs of such province;" and not as it would otherwise have been expressed, "together with such Executive Council as shall be appointed by His Majesty *for that purpose*." In the 38th clause the terms are, "with the advice of such Executive Council as shall have been appointed by His Majesty, his heirs or successors, within such province, for the affairs thereof;" and not, as it would otherwise have been expressed, "with the advice of such Executive Council as shall have been appointed by His Majesty, his heirs or successors, within the province, *for that purpose*."

The same may be said of similar terms used in the latter part of the seventh clause.

With respect to which clauses it may be further remarked, that had it been contemplated that the Executive Council were to act only in the matters therein specified, the words "on the affairs of such province" might have been omitted, without in the least impairing the legal effect. In the construction, therefore, of this statute, the above expression cannot be treated as surplusage, but must be taken to impose the duty which it imports.

From the language of this statute, therefore, it appears,

First. That there is an Executive Council.

Second. That they are appointed by the King.

Third. That they are appointed to advise the King and his representative upon "*the affairs of the province*;" no particular affairs are specified; no limitation to any particular time or subject.

As the Constitutional Act prescribes to the Council the latitude of "the affairs of the province," it requires an equal authority of law to narrow those limits, or relieve the Council from a co-extensive duty.

Every representative of the King, upon arriving from England to assume the government of this country, is necessarily a stranger to it, and the law has provided for a local Council as a source of advice, which when given, is followed or not according to his discretion.

In certain cases specified in the 38th clause of the 31st Geo. 3, c. 31, the concurrence of the Council is required to give effect to certain Executive acts. But these exceptions prove



prove the general rule, viz., that while the advice is to be given upon the affairs of the province generally, it is only in the particular cases that it must harmonize with the pleasure of the Crown, to give that pleasure effect. Indeed, if the law could be construed to limit the advice to the particular cases, it would follow that the Council could not legally and constitutionally advise upon any others; a proposition which, besides its manifest repugnance to the terms of the Act, is contrary to received opinion and usage.

But while the Constitution has assigned to the Council this duty, it is only to a very subordinate and limited extent that they have heretofore had an opportunity afforded them to perform it. It is submitted, that the exigency of the statute can only be answered by allowing the affairs of the province to pass under their review for such advice as their consciences may suggest, preparatory to the final and discretionary action of the King's representative upon those affairs.

The Council meeting once a week upon land matters, while the affairs of the country are withheld from their consideration and advice, is as imperfect a fulfilment of the Constitutional Act as if the Provincial Parliament were summoned once a year, to meet the letter of the law, and immediately prorogued upon answering the speech from the throne. In both cases the true meaning and spirit of the Constitutional Act require, that the Parliament should have a general and practicable opportunity to legislate, and the Executive Council to advise, upon the affairs of the country. In the former case, the representative of the King can withhold the royal assent from Bills, and in the latter, reject the advice offered; but their respective proceedings cannot be constitutionally circumscribed or denied because they need the expression of the royal pleasure thereon for their consummation.

The extent and importance of the affairs of the country have necessarily increased with its population, wealth and commerce, and the Constitution has anticipated the difficulty, by a division of labour and responsibility from the active attention of the Executive Council to their duties. With the exception of those matters of so weighty or general a character as not properly to fall under any particular department, and therefore fitted for the deliberation of the Council collectively, it is recommended, that the affairs of the province be distributed into departments, to the heads of which shall be referred such matters as obviously appertain to them respectively. Upon this principle (recognised by the existing Constitution of this province and of the mother country) the people have long and anxiously sought for the administration of their government under the representative of the King; and the Council most respectfully, but at the same time earnestly represent, that public opinion upon the subject is so fixed, and becoming so impatient, as to preclude the possibility of denying or delaying the measure, without increasing public dissatisfaction, and leading to the final adoption of other views, as already too universally manifested, uncongenial to the genius of the Constitution, and most dangerous to the connexion with the parent State.

The remedy, it is feared, is now proposed too late for all the advantage desired; but the longer it is withheld, the more alienated and irreconcilable will the public mind become. The present comparative calm and thankfulness arise from a belief that the Council will second this exigency, in establishing a system of government according to the principles recognised by the Charter of the liberties of the country—an expectation which the Council are most anxious to realize.

Should such a course not be deemed wise or admissible by the Lieutenant-Governor, the Council most respectfully pray that they may be allowed to disabuse the public from a misapprehension of the nature and extent of the duties confided to them.

(signed) *Peter Robinson.*  
*George H. Markland.*  
*Joseph Wells.*  
*John H. Dunn.*  
*Robert Baldwin.*  
*John Rolph.*

(B.)

REPLY of His Excellency the Lieutenant-Governor to the Communication of the Executive Council.

THE Lieutenant-Governor transmits to the Executive Council the following observations in reply to the document which in Council they yesterday addressed to him:—

“The Constitution of a British Colony resembles, but is not identical with, the constitution of the mother country; for in England, besides the House of Commons, which represents the people, there exists a hereditary nobility, the honours and wealth of which, as well as the interests of the Established Church, are represented by a House of Lords, while the Sovereign (who by law can do no wrong) is surrounded by a Ministry upon whom devolves the entire responsibility of the measures they suggest, and who are consequently removable at pleasure. But in the colonial portion of the British Empire, which, however rising, is, generally speaking, thinly inhabited, the people are represented by their House of Assembly, which is gifted not only with the same command over the supplies as in England, but which possesses within the colony most of the powers of the British House of Commons. The Legislative Council is intended, as far as the circumstances of a young colony can permit, to resemble the British House of Lords; and if the Lieutenant-Governor

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of a colony stood in the place of the Sovereign, and if, like His Majesty, he could do no wrong, it would evidently be necessary that a ministry, executive council, or some other body of men, should be appointed, who might be responsible to the country for their conduct.

"This, however, is not the case; His Majesty delegates His sovereign protection of His colonies to no one; but he appoints a Lieutenant-Governor, who is responsible to Him for his behaviour, who is subject to impeachment for neglecting the interests of the people, and who is liable, like the English Ministry, to immediate removal; and the history of the British Colonies clearly shows, that there is no class or individual of His Majesty's subjects to whose representation, prayer or petition, the King is not most willing to attend.

"The Lieutenant-Governor is therefore the responsible minister of the colony; and as not only his character, but his continuance in office, depend on his attending to the real interests of the people, it would be evidently as unjust towards him that he should be liable to impeachment for any acts but his own, as it would be unjust towards the people that a responsibility so highly important to their interests should be intangible and divided. It is true, his knowledge of the country is not equal to that of many intelligent individuals within it; but in government, impartiality is better than knowledge; and it must be evident to every well-constituted mind, that in an infant state of society it would be impossible practically to secure a sufficient number of impartial persons to effect a change of ministry, as often as it might be necessary for the interests of the people to do so.

"This difference between the constitution of the mother country and that of its colony is highly advantageous to the latter; for, as in all small communities private interests and party feelings must unavoidably be conflicting, it is better, as well as safer, that the people should be enabled to appeal in person, or by petition, to the Lieutenant-Governor himself, whose duty it is to redress their complaints, and who is liable to dismissal if he neglects them, than that they should appeal to a series of provincial ministries, composed of various individuals.

"To enable the Lieutenant-Governor to perform the arduous duties of his office, the constitution has wisely provided him with an Executive Council, competent to supply him with that local knowledge in which he may be deficient, and to whom he may apply for counsel and advice.

"Before he entrusts himself to these gentlemen, they are, by order of His Majesty, required solemnly to swear, not only to give to the Lieutenant-Governor their best counsel and advice, but they are also sworn to secrecy.

"Their individual opinions can never be divulged, *even to the King*: and as a proof that His Majesty does not hold them responsible for the acts of his Lieutenant-Governor, they can retain, and often do retain, their office of sworn advisers, although Governor after Governor may have been dismissed.

"The advantage of such a Council to a Lieutenant-Governor is so self-evident, that he must be weak and self-sufficient indeed who does not continually have recourse to it; but although it strengthens his judgment and confers dignity on his proceedings, yet it in no way shields him from disgrace, should his acts be found contrary to the interests of the people. In such a case, it would be vain as well as unconstitutional for a Lieutenant-Governor to attempt to shield himself from responsibility by throwing it upon his Council; for by his oath he cannot even divulge which of his advisers may have misled him.

"Supposing, for instance, that with the concurrent advice of his Council, he was illegally to eject by military force an individual from his land, the Lieutenant-Governor would be liable to arraignment; and whether he had acted by the opinion of the law officers of the Crown, by the advice of his Council, by information derived from books, or from his own erring judgment, it has been wisely decreed that the injured subject should look to him, and him alone, for retribution, and that he, and he alone, is answerable to his Sovereign for the act of injustice which has been committed.

"Being therefore subject both to punishment and disgrace, it is absolutely necessary, as well as just, that the Lieutenant-Governor of a colony should have full liberty to act, (though at his peril,) in every case as he may think best for the interests of the people, according to the commands of His Majesty, and of His Majesty's Ministers.

"To consult his Council on the innumerable subjects upon which he has daily to decide, would be as utterly impossible as for any one but himself to decide upon what points his mind required or needed not the advice of his Council. Upon their sterling fund he must therefore constitutionally draw whenever embarrassment requires it; and on their part, if they faithfully honour his bills, however often he may present them, they conscientiously fulfil to their Sovereign, to him, to their country, and to their oath, the important duty which they have sworn in secrecy to perform.

"Having concluded the above outline of the relative responsibility of the Lieutenant-Governor and his Executive Council, as it regards His Majesty's colonies in general, it may be observed with respect to this province in particular, that when His Majesty, by conquest, first obtained possession of the Canadas, the government thereof devolved upon its military commander, until, by an Act passed in the 14th year of Geo. 3, a Council was appointed for the affairs of the province of Quebec, 'to consist of such persons resident therein (not exceeding 23, nor less than 17,) as his Majesty, his heirs and successors shall be pleased to appoint, which Council so appointed and nominated, or the major part thereof, shall have power and authority to make ordinances for the peace, welfare and good government of the said province, *with the consent of his Majesty's Governors.*'

"This

" This power of the Council was further restricted by certain important limitations, specified in clauses 13, 14, 15, 16 and 17 of the said Act; however, in the year 1791, a new Act was passed, commonly called 'the Constitutional Act,' because it settled the constitution of the Canadas, which were then divided into the Upper and Lower Provinces.

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" By this Act, the military domination of the General and his Council was changed for a new and better system; and as evidently both could not exist together, the very first clause in the Act declared, " That so much of the late Act 14 Geo. 3 as in any manner relates to the appointment of a council for the affairs of the said province of Quebec, or to the power given by the said Act to the said Council, or to the major part of them, to make ordinances for the peace, welfare and good government of the said province, with the consent of his Majesty's Governor, Lieutenant-Governor, or Commander-in-Chief for the time being, shall be and *the same is repealed.*"

" The Act then proceeds to state, that there shall be within each of the said provinces respectively a Legislative Council and an Assembly, the duties and privileges of which are minutely declared in 33 consecutive clauses; but in no part of the said Act was an Executive Council directly or indirectly created. Nevertheless a vestige of the ancient one was, for the purpose of a court of appeal [*Vide* Clause 34], recognised, with an expression which seemed to intimate that an efficient Executive Council would very shortly be created.

" For instance, in section 38 the Governor is, by authority of His Majesty's Government, and with the advice of the Executive Council, 'empowered to erect parsonages and rectories;' but in section 39 no mention whatever is made of the Executive Council, but, on the contrary, it is declared, that the Governor or Lieutenant-Governor, or person administering the government, should present the incumbent 'to every such parsonage or rectory.'

" In the 50 clauses of the Act in question, the Executive Council which, in section 34, is merely described as 'such Executive Council as *shall be* appointed by His Majesty,' is scarcely mentioned, and, as regards even its existence, the most liberal construction which can possibly be put upon the said Act only amounts to this: that as an Executive Council was evidently intended to exist, the remnant of the old one ought not to be deemed totally extinct until its successor was appointed."

" However, this latent intention of His Majesty to create a Council for each of the provinces of His Canadian dominions, was soon clearly divulged in a most important document, commonly called '*The King's Instructions*,' in which an Executive Council was regularly constituted and declared, as follows: 'Whereas We have thought fit that there should be an Executive Council for assisting you, or the Lieutenant-Governor, or persons administering the government of the said province of Upper Canada for the time being, We do, by these presents, appoint the undermentioned persons,' &c. &c.

" In subsequent clauses it was equally precisely defined upon what affairs of the province the Lieutenant-Governor was to act '*with the advice of the Executive Council*;' but with the view distinctly to prevent the new Council being what the old one had been (which indeed under the new constitution was utterly impossible), in short, to set that question at rest for ever, it was declared in section 8, 'that to the end that our said Executive Council may be assisting to you in all affairs relating to our service, you are to communicate to them *such and so many* of our instructions *wherein their advice is mentioned to be requisite*, and likewise all such others from time to time as you *shall find convenient* for our service *to be imparted to them.*'

" The Lieutenant-Governor having now transmitted to the Executive Council his opinion of their duties, in contra-distinction to that contained in their communication to him of yesterday's date, will not express the feelings of regret with which, under a heavy pressure of business, he unexpectedly received a document of so unusual a nature, from gentlemen upon whom he had only recently placed his implicit and unqualified reliance.

" But he feels it incumbent upon him frankly and explicitly to state, that to the opinions they have expressed he can never subscribe. On the contrary, that so long as he shall continue to be Lieutenant-Governor of this province, he will never allow his Executive Council officially to assume that heavy responsibility which he owes to his Sovereign, as well as to the people of this province, to whom he has solemnly pledged himself to *maintain the happy constitution of this country inviolate, but cautiously, yet effectually, to correct all real grievances.*

" The Lieutenant-Governor maintains, that the responsibility to the people of this province, (who are already represented by their House of Assembly) which the Council assume is unconstitutional, that it is the duty of the Council to serve *him*, not *them*; and that if upon so vital a principle they persist in a contrary opinion, he foresees embarrassments of a most serious nature; for as power and responsibility must in common justice be inseparably connected with each other; it is evident to the Lieutenant-Governor that if the Council were once to be permitted to assume the *latter*, they would immediately, as their right, demand the *former*, in which case, if the interests of the people should be neglected, to whom could they look for redress? For in the confusion between the Governor and an oligarchy composed of a few dominant families, shielded by secrecy, would not all tangible responsibility have vanished?

" The Council cannot have forgotten, that previous to their first meeting in the Council Chamber, which happened only a few weeks ago, the Lieutenant-Governor had assured

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them in a note (which was even publicly read in the House of Assembly), that although he had no preliminary conditions to accede to or require, it was his intention to treat them with implicit confidence; and the Council must also remember how willingly they approved of the very first suggestion he made to them, namely, that no important business should be commenced in Council until they, as well as the Lieutenant-Governor himself, had become mutually acquainted with their respective duties.

"The Lieutenant-Governor assures the Council, that his estimation of their talents and integrity, as well as his personal regard for them, remain unshaken, and that he is not insensible of the difficulties to which he will be exposed, should they deem it necessary to leave him. At the same time should they be of opinion that the oath they have taken requires them to retire from his confidence, rather than from the principles they have avowed, he begs that on his account, they will not for a moment hesitate to do so.

"Government House, }  
 Toronto, March 5, 1836. }

"F. B. Head."

(C.)

Letter from Robert Baldwin, Esq. to Peter Perry, Esq.

Dear Sir,

Front Street, 16 March 1836.

MYSELF and my colleagues having felt it our duty to tender our resignations, and the Lieutenant-Governor having been pleased to accept them, I waited on his Excellency to request his permission to make public, in the usual parliamentary way, the steps which led to the formation of his Excellency's late Cabinet, and the circumstances which occasioned its dissolution; to which his Excellency, in the handsomest manner, frankly accepted, most graciously assuring me that his confidence in me personally was such, that he presented me with a *charte blanche* to sate the whole, from the commencement of the negotiations to the acceptance of our resignations.

None of the members of the late provincial administration having the honour of a seat in the Commons, I know of no way in which such information can be more respectfully communicated, than in a letter addressed to you, for the purpose of being read in your place, or of the House being put in possession of its contents in whatever other way your more intimate acquaintance with parliamentary forms may suggest.

I therefore beg leave to state, that his Excellency, having done me the honour to send for me, explained the position in which he found himself placed on assuming the government of the province, and declaring himself most anxious to do the best he could to insure to the province good and cheap government, expressed himself most desirous that I would afford him my assistance by joining his Executive Council, assuring me that in the event of my acceding to his proposal, I should enjoy his full and entire confidence.

I informed his Excellency of my extreme reluctance to again embark in public life, and proceeded to state that, notwithstanding such reluctance, and reserving to myself the option of declining to accept the seat which his Excellency had tendered to me on private grounds merely, I yet felt that as his Excellency had done me the honour of sending for me, I would not be performing my duty to my Sovereign or the country, if I did not, with his Excellency's permission, explain fully to his Excellency my views of the constitution of the province, and the change necessary in the practical administration of it; particularly as I considered the delay in adopting this change as the great and all-absorbing grievance, before which all others, in my mind, sunk into insignificance; and the remedy of which would most effectually lead, and that in a constitutional way, to the redress of every other real grievance, and the finally putting an end to all clamour about imaginary ones; and that these desirable objects would thus be accomplished without in the least entrenching upon the just and necessary prerogatives of the Crown, which I considered, when administered by the Lieutenant-Governor through the medium of a provincial ministry, responsible to the provincial Parliament, to be an essential part of the constitution of the province. That these opinions were not hastily formed, that they were, on the contrary, those which I had imbibed from my father, who, though now for some years, as well as myself, unconnected with public life, had formerly held a much more distinguished position in the politics of the country than I could pretend to, and that they were opinions which the experience of every year had more and more strengthened and confirmed; that I felt convinced that the prompt adoption of those views was the only means of consolidating the connexion with the Mother Country, to the preservation of which no one was more devotedly attached or ready to make greater sacrifices than myself. That they were nothing more than the principles of the British constitution applied to that of this province, and which I conceived necessarily to belong as much to the one as the other. That the call for an Elective Legislative Council, which had been already formally made from Lower Canada, and had been taken up, and appeared likely to be responded to in this province, was as distasteful to me as it could be to any one; as all that to me appeared necessary or desirable, was the constitution as it stood, fully and fairly acted upon. And that I was convinced that had such a course been adopted some years ago, we should not now have had the public discussing the expediency of an alteration in the constitution by the introduction of a provision for an Elective Legislative Council. That I feared it might not be too late; but as I was not sufficiently aware of the exact state of the question to speak decidedly, I sincerely hoped that by the prompt adoption of a responsible provincial administration, under the King's representative, the question might even yet be set at rest; and in reply to an objection of his Excellency, that the adoption of such a course would be placing the Lieutenant-Governor in a position similar to that of the King, which was inconsistent with

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the fact of his responsibility, I explained, that as far as regarded the internal affairs of the province, the Lieutenant-Governor was, in point of fact, as far as this province and its Parliament were concerned, as completely irresponsible as the King himself; as there certainly neither existed, nor, in my opinion, ought to exist, any legal or constitutional means of calling him to account in this country for any act of his government. That his responsibility was to the King and Parliament of the Empire; and was perfectly proper and necessary for the preservation of the paramount authority of the Mother Country, and the protection of her interests in matters properly and constitutionally belonging to the exercise of that authority. But that what the constitution required was, that there should be persons within this country itself who could be made responsible to the provincial Parliament here for the administration of the internal affairs of the province.

To another objection of his Excellency, that the adoption of my views would deprive the Lieutenant-Governor of all power, and convert him into a cipher, I distinctly denied any such as a consequence of my principles; as I fully admitted the Lieutenant-Governor to be constitutionally clothed, as the royal representative, with the same powers within the province, with respect to its internal affairs, as those possessed by the King himself with respect to the affairs of the Empire at large, which appeared to me to be all that he could desire, and at all events all that the constitution had given him. That he had always the same constitutional right to accept or reject the advice of any of his Executive Councillors, and that, as in England, the only alternative for them was to resign, when they and the Lieutenant-Governor differed on any point which they conceived of sufficient importance to call for such a step; in which event the Lieutenant-Governor was perfectly free to call to his Council whom he pleased.

His Excellency very candidly declared his entire dissent from such views and opinions; he nevertheless, with the most gracious expression of satisfaction at the very full and candid manner in which I had opened them to him; renewed his solicitation for my acceptance of a seat in the Executive Council, suggesting, as an inducement for such acceptance, the increased facilities which, by my place in the Executive Council, would be afforded towards the more efficiently representing and urging my views. His Excellency declaring that his doors should at all times be open to me, and that he should be most happy to listen and give his most serious consideration to any subject which I might at any time think it important to lay before him, his Excellency always reserving the right to decide for himself; his Excellency at the same time remarking, that he had no objection to the Council, each continuing to entertain and urge his individual opinions, as the opinions of one would be neutralised by those of another.

I then informed his Excellency, that upon the principles which I had opened to him there were two grounds upon which I could not consistently comply with his Excellency's wishes; first, that no provincial administration would, in my opinion, be capable of affording his Excellency that assistance and support which his government would require, unless sufficiently possessed of the confidence of the provincial Parliament to insure majorities in it; and that I did not feel that that confidence could be obtained without further assistance: and, secondly, that although in private life I was on perfectly good terms with all the gentlemen who then composed his Excellency's Executive Council, and on most friendly terms with one of them, yet that, as public men, I had in them no confidence whatever, and had formerly, when in public life, denounced them, and those with whom they acted, as politically unworthy of the confidence of the country; and therefore that I felt that I could not take office with them.

At length, after a consultation, held, by his Excellency's permission, with Dr. Rolph and my father, I finally, on the two grounds above mentioned, declined to accept a seat in the Executive Council.

It is proper that I should here remark, that though these principles were fully opened to his Excellency at my first interview, some parts of the conversations above adverted to (though I believe none that could be considered essential to the full exposition of the principles themselves), passed during the subsequent interviews which I had the honour of having with the Lieutenant-Governor in the course of the negotiation.

Having been subsequently again sent for by his Excellency, and requested to state more explicitly what the assistance was to which I had before alluded, I replied, that I considered the assistance of Dr. Rolph, Mr. Bidwell, my father and Mr. Dunn, in the Executive Council most desirable, and that of Dr. Rolph as absolutely necessary, to insure that public confidence in his Excellency's government, without which I was convinced his Excellency, with the best intentions in the world, would fail to accomplish those desirable objects which he had in view.

His Excellency, after an interview which he informed me he had had with Mr. Bidwell, again opened the negotiation by a renewed tender of a seat in the Executive Council, giving me at the same time to understand, that, if accepted, he was prepared to afford me the assistance of Dr. Rolph and Mr. Dunn, should these gentlemen have no objection to join me.

Upon this, with his Excellency's permission, I again consulted with Dr. Rolph, Mr. Bidwell, and my father, and I feel it due to the two latter to take this opportunity of stating, that I received the fullest assurance of their most cordial support to a cabinet composed of Dr. Rolph, Mr. Dunn and myself, and the expression of their opinions that, in the present conjuncture of public affairs, their being taken into the cabinet ought not to be further urged; which disinterested course on their part, so consistent with the position which they hold in the public confidence, the country, I am persuaded, cannot fail to appreciate.

Appendix.

Letter from Robert Baldwin, Esq. to Peter Perry, Esq.

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ciate. This renewal of the negotiation was, however, ultimately closed by my again finally declining to accept office, in consequence of his Excellency not feeling himself justified in consenting to the removal of those gentlemen who were already in the Council.

Upon this, his Excellency sent for my father, to whom he made a similar tender of a seat in the Executive Council, and his fullest confidence in the event of his accepting it; and I am authorized to say, that Dr. Baldwin, on that occasion, informed his Excellency, that his views and principles were similar to those which had been already fully laid before his Excellency by me; and that he felt it impossible to take office in conjunction with the three gentlemen who then formed his Excellency's Executive Council.

His Excellency then sent for Dr. Rolph, to whom he made a similar tender of his confidence. Dr. Rolph having obtained his Excellency's permission to consult Mr. Bidwell, Mr. Dunn, my father and myself, it was in the course of that consultation pressed upon me, that as the principle of responsibility, although long before the public, had never yet been practically acted upon, and that taking it for granted (as it was but justice to his Excellency to do) that his Excellency, although mistaken in his views of the constitution of the country, might yet be sincerely desirous of governing according to that constitution, and that in that case all that would be found necessary was to convince him that the views and principles which I had opened to him were just and constitutional to insure their adoption, or the procurement of his Excellency's influence to obtain their adoption; and that, notwithstanding what his Excellency had said with respect to the opinions of one member of the Council being neutralized by those of another, which appeared to arise more from a want of sufficient practical acquaintance with the working of the political machinery of government, which time and experience would necessarily correct, than from any other cause; it would perhaps not be performing our duty to his Excellency, or the country, were we, after his having gone thus far to meet our views, peremptorily to refuse all concession on our part. To this reasoning having given a most reluctant consent, I empowered Dr. Rolph, in accordance with the course deemed by him most respectful to his Excellency, to state to the Lieutenant-Governor that I was willing, with his Excellency's permission, to re-consider his Excellency's proposal, and to consider the negotiation re-opened, upon the footing on which it stood previous to its having been last closed with me; to which his Excellency having at once acceded, and the negotiation having been thus re-opened, after some further consultation upon the subject with Mr. Dunn, his Excellency was finally informed, that Mr. Dunn, Dr. Rolph and myself had, though reluctantly, consented, in compliance with his Excellency's wishes, and as a mere experiment, and one which we feared would fail, to accept seats in his Excellency's Executive Council, without the retirement of the three gentlemen who were already members of it.

Afterwards, on our all waiting on his Excellency, previous to our being sworn, I pointed out and insisted upon the necessity, that, lest compromise of principle might be imputed to us, in consequence of the course we had taken, which in the public eye must necessarily appear equivocal, some announcement should be made of the unfettered terms upon which his Excellency was pleased to receive us into his confidence, which, at his Excellency's suggestion, was finally arranged to be in the shape of a note to that effect, to be addressed to me (as the person first sent for) by his Excellency, and of which I was to be at liberty to make any use that I might deem necessary or proper, which note was, at my request, in accordance with the gracious permission which I had received, read publicly by a member of each House of Parliament in his place, this being the only manner in which it appeared to me the information which it was necessary that the public should be in possession of could be communicated consistently with the respect due to a communication from the representative of the King.

Copies of this note, and of my acknowledgment of the receipt of it, I subjoin.

These negotiations, partly retarded by my absence in the country, were in progress from the 8th until the 20th ultimo, on which day we were sworn into office.

Having thus explained the circumstances which led to our appointment, I have only to add with respect to our retirement from office, that the principles, the facts, and the views which were afterwards embodied in the formal representation of the Executive Council, were (at least ten days before being thus formally presented to his Excellency) at very considerable length amicably discussed between the members of the Executive Council and his Excellency, and afterwards continued the subject of deliberate consideration among the members themselves for another week, when, on the 4th of this month, the formal representation alluded to was unanimously adopted and presented to his Excellency, with respect to which I shall only add, that the course of local Government, and the reasons for it set forth in the representation from the Council, were thus officially suggested to the more formal consideration of his Excellency, from a solemn conviction that it was the only system which would operate "for the good of the King and of this province, and for the peace, rest, and tranquillity of the same."

To this representation the Executive Council, on the following Thursday, being the next regular Council day, received his Excellency's reply.

In this reply his Excellency having intimated his wish "that should the Executive Council be of opinion that the oath which they had taken required them to retire from his Excellency's confidence, rather than from the principles they had avowed, they would not on his account for a moment hesitate to do so," the members of the Council, on Saturday last, waited on his Excellency, and tendered their resignations, which his Excellency was graciously pleased to accept, with respect to which I would here take the liberty of remarking, that, having in the representation alluded to, but reiterated in a more formal manner,

in conjunction with my colleagues under the sanction of the oath which I had in the meantime taken, the same principles and opinions which his Excellency knew me to entertain previous to his honouring me with a seat in his Council, however desirous I might be of giving my best support to his Excellency's Government, or of not hastily abandoning the important duties of my situation, which had been most unwillingly assumed, I could not for a moment hesitate, when the alternative presented to me was the abandonment either of my principles or my place.

Appendix.

Letter from  
R. Baldwin, Esq. to  
Peter Perry, Esq.

I have the honour to be, dear Sir,  
Your most obedient, humble servant,  
Peter Perry, Esq., M.P. (signed) Robert Baldwin.

Dear Sir, Government House, Feb. 19, 1836.  
I HAVE great pleasure in learning that you, Dr. Rolph and Mr. Dunn accept the invitation I have made to you by joining the Executive Council.  
The confidence I shall repose in you will be implicit; and as I have no preliminary conditions either to accede to or require from you, I shall rely on your giving me your unbiassed opinion on all subjects respecting which I may feel it advisable to require it.

I remain, dear Sir, your's faithfully,  
R. Baldwin, Esq. (signed) F. B. Head.

MR. ROBERT BALDWIN has the honour to acknowledge the receipt of his Excellency's the Lieut.-Governor's note of the 19th inst., and will transmit a copy to Mr. Dunn and Dr. Rolph without delay.  
Front Street, 20 Feb. 1836.

(D.)

ADDRESS of the COMMON COUNCIL of the City of Toronto.  
To His Excellency Sir Francis Bond Head, K.C.H., &c. &c. &c.

May it please your Excellency,  
WE, His Majesty's dutiful and loyal subjects, the Mayor, Aldermen and Commonalty of the city of Toronto, most respectfully beg leave to state, that at the present most difficult and important era in the history of this province, when this council had fondly hoped that the appointment of your Excellency to the government of this country, with the accession to the Executive Council appointed for the affairs thereof of gentlemen of integrity and talent, known to possess liberal constitutional principles, would have secured to its inhabitants that wise, just and liberal policy so imperiously demanded, to strengthen the bonds of union between the Mother Country and this colony; this council have with extreme regret and surprise witnessed their just anticipation destroyed by the dissolution of the late Executive Council, and the appointment of another in their stead, composed of gentlemen who, however worthy in their individual private capacity, are incapable, from their well-known political views, of giving satisfaction to the people, and that this council, as the representatives of the inhabitants of the capital of Upper Canada (from this as well as other causes not necessary to be here explained on account of their general notoriety) have no confidence whatever in the present provincial administration, not deeming them competent to advise with the representative of our most gracious Sovereign upon the peace, welfare and prosperity of the province.

Address from  
Common Council  
to Lieut.-Governor.

We therefore most humbly pray your Excellency to be pleased to dismiss your present advisers, and call to your Council gentlemen possessing the public confidence, as the only measure in the opinion of this Council calculated to insure the tranquillity of the province at the present crisis.

#### HIS EXCELLENCY'S REPLY.

Mr. Mayor and Gentlemen:—The particular interest which I take in the welfare of this capital, of which I am myself an inhabitant, induces me to reply at some length to the Address I have just received from you, in which you state,

Reply of  
Lieut.-Governor to  
Common Council.

1st. That you have no confidence in what you term "the present provincial administration"; and,

2dly. That you beg leave to name for me other individuals for that station.

With respect to a "provincial administration," although no such power exists in this or any other colony of the British Empire, I may remark, that very shortly after the late addition to the Executive Council, I observed that great efforts were making to delude and persuade the public mind that the new Council were entitled to claim the responsibility, power and patronage of the Lieutenant-Governor, and that such an arrangement would be highly advantageous to the people.

Finding that this new theory was rapidly gaining ground, I resolved to offer it no secret opposition, nor in any way to exert my influence to oppose it; but I determined the very

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first time it should come well within my reach, that I would drag it into daylight, in order that it might be openly, fairly and constitutionally discussed.

From several places I subsequently received Addresses on the subject, which I did not deem it advisable to notice. but to my astonishment there suddenly appeared from a quarter from which I certainly least expected it, namely, from the Executive Council itself, a document (a copy of which had been inscribed in the minutes of the Executive Council, signed by all the six Councillors) openly declaring, that what had secretly been promulgated respecting the powers of the Executive Council, was actually the law of the land!

The question being fairly before me, I deliberately opposed it, accepted the resignation of the six Councillors, and, at the request of the Assembly, I laid before that House the communication I had received from the Council, with my reply.

The subject was thus formally brought before the public; and having performed this duty, I felt comparatively indifferent as to the result; for if the power and patronage of this province, which have hitherto been invested in the Lieut.-Governor, really belong to his Council, I consider that without reluctance they ought at once to be delivered up, and secured to them.

The House of Assembly, however, cannot alter the Constitutional Act of this province, neither can I; and as regards popular meetings, I need hardly observe, that if the inhabitants of the whole province were simultaneously to petition me to alter a single letter of that solemn Act, I have neither power nor inclination to do so.

If it should prove that the practice which has hitherto been pursued is erroneous, I will not for a moment hesitate to acknowledge it; and in that case I should feel it my duty at once to recall to my Council the six members who have resigned; but I cannot be blind to the fact, that the Constitutional Act, which is open to every body, does not create any Executive Council at all.

The members of the late council rest their claims very nearly on the following grounds:—

1st. That the responsibility they assume, being a popular opinion daily increasing, is consequently the law of the land; and,

2d. That though the powers they acquire are no where expressed in the Constitutional Act, they were evidently intended to have been inserted.

I conceive that these arguments do not even require to be refuted; and, with respect to what General Simcoe, or any other Governor, may have asserted, I must also be permitted to assert, that the rights, liberties and property of the inhabitants of this province would be insecure indeed if they rested on any such declarations.

The constitution of this province is the sacred charter of the land; and it is no less my duty, than the interests of its inhabitants, that I should firmly maintain it, as I ever will, inviolate.

If that charter constitutes a "Provincial Ministry," it need only be shown to me to be secured; but I deliberately repeat, that it contains the creation of no such a power, and in my opinion, were it now to be created, it would be productive of the most vicious effects; for, if the power and patronage of the Crown were to be delivered over to a tribunal sworn to secrecy, they would very soon fall into the hands of a few metropolitan families, who might possibly promote their own views, to the rejection of the interests of the distant counties; whereas, while these powers continue invested in the individual appointed by His Majesty to be the Lieutenant Governor of this province, he (being a stranger) can have neither interest nor inducement to abuse them.

No one can be more anxious than I am that this plain constitutional question should be gravely and calmly discussed, for it will be impossible for me to attempt to correct the grievances of the country, until I can prevail upon the legislature to follow me cheerfully in the noble object we have in view; and I certainly do feel most deeply, that, for the sake of the people, those who are invested with power ought manfully to determine to lay aside all private feelings—to forgive and forget all political animosity, and to allow His Majesty's wishes and my instructions to be promptly executed.

With respect to the want of confidence you express in the Council I have just selected, I will only observe, that in my judgment they appear to be sensible steady men of business, of high moral worth; and I cannot but recollect that one of these gentlemen was, only a few weeks ago, actually the mayor of your own city, selected by yourselves as being peculiarly entitled to that public confidence which you now declare is denied to him.

With this moral before your minds, you surely cannot but admit, what a political tempest would continually exist, how the interests of the farmer would be blighted, were the power and patronage of this thinly peopled province to be transferred from His Majesty's Lieutenant Governor into the hands of what you term a "Provincial Ministry" at Toronto.

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(E.)

ADDRESS from a Public Meeting held in the City Hall.

To His Excellency Sir Francis Bond Head, K.C.H., &c. &c. &c.

Address from  
 Public Meeting to  
 Lieut.-Governor.

May it please your Excellency,  
 WE, His Majesty's dutiful and loyal subjects, the inhabitants of the city of Toronto, assembled under the authority of the mayor of the city, beg respectfully to submit to your Excellency this our Address, containing the expression of our sentiments and feelings in  
 reference



reference to the late changes in the Executive Council, and of the opinions which have been expressed by your Excellency as to the nature of the constitution of this province.

That Colonel Simcoe, the first as well as the ablest and most enlightened Lieutenant-Governor of this province, who was a Member of the Parliament of Great Britain when the Statute 31 Geo. 3. chap. 31, commonly called the Constitutional Act, was passed, was the bearer of that Act to this Colony, and was authorized, undoubtedly, by His Majesty's Government to declare to His faithful subjects in this province, the nature of the Constitution then about to be put into operation for their benefit, and who assured the people of this province from the throne, on the opening of the first Session of the Provincial Parliament, that the said Act had "established the *British Constitution*, and all the forms which secure and maintain it in this distant country," and "that the wisdom and beneficence of our most gracious Sovereign and the British Parliament has been eminently proved, not only in imparting to us the same form of government, but also in securing the benefits of it by the many provisions that guard that memorable Act; so that the blessings of an invaluable constitution thus protected and amplified, they might hope would be extended to the remotest posterity;" and that the same Governor, upon closing that Session, especially enjoined upon the members of the Legislature from the throne to explain to the people of the country, "that this province was singularly blest, not with a mutilated Constitution, but with a Constitution which has stood the test of experience, and was the very image and transcript of that of Great Britain."

That it is an essential and inalienable feature of the British Constitution thus assured to us, that the King shall be assisted in all the affairs of government by the advice of known and responsible councillors and officers who possess the confidence of the people, and of the majority of their representatives, and that our fellow subjects in the United Kingdom would indignantly resent any attempt to deprive them of this part of their constitution, as an infringement upon their most sacred rights and liberties, and a step taken to degrade them to the condition of slaves.

That the recent appointment by your Excellency of the Honourable John Rolph, Robert Baldwin and John Henry Dunn as Executive Councillors, gave universal gladness and satisfaction throughout the province, those gentlemen having been long known, beloved and respected for the talents, acquirements and virtues which adorn their characters, the liberal and patriotic principles that they entertain, and the important services which they have respectively rendered to the people of this province, and that the selection of them by your Excellency, as your advisers, disposed His Majesty's subjects to hope that a new and happy era had at length arrived in the history of this province.

That we have learned with surprise and sorrow, that those gentlemen, together with the former members of your Excellency's Council, have found themselves under the necessity of resigning their seats; and that your Excellency appears to us to have taken offence for no other reason than the respectful expression of an opinion in favour of the government being conducted on the acknowledged principles of the British Constitution; an opinion supported by unanswerable arguments, and which they were bound by every obligation of honour and duty, as faithful Councillors, to express to your Excellency.

That our most sincere respect and gratitude are due to those gentlemen and their late colleagues in your Excellency's Council, for the noble efforts which they made in the honourable and upright discharge of their duties, to secure to the people of this province the practical benefit and faithful application of constitutional principles of the highest importance to their liberty and prosperity; and that we are solemnly called upon at such a crisis to declare our firm and unalterable determination to resist every attempt to *mutilate* and deform our constitution by the denial of those principles, or the refusal of the full benefit and practical operation of them, and that the people of this province will never, in our humble opinion, be content with a system that is only a mockery of a free and *responsible* government.

That we feel it our bounden duty to declare to your Excellency, that the gentlemen whom your Excellency has called to your Council, since the resignation of your late Council, do not in any degree possess the confidence of the people of Upper Canada.

We further humbly express our disappointment and regret at the remarks which your Excellency has, by evil and unknown advisers, been induced to animadvert upon the circumstances under which your Excellency caused your late Council to resign; and that respect which it is equally our duty and inclination to pay to the representative of our most gracious Sovereign, forbids our declaring on this painful occasion any other feeling than that of an earnest hope that the persons, whoever they may be, who have been guilty of such an abuse of your Excellency's confidence, may be for ever discarded by your Excellency.

In conclusion, we beg leave to state to your Excellency, that, as subjects of the British Empire, we claim all the rights and privileges of the British Constitution; and, as subjects of a British colony possessing the powers of self-government, given to it by the parent State, we claim our right that the Representative of the Crown shall be advised in all our affairs by men known to, and possessing the confidence of the people; and, as the true friends of His Majesty's Government, and to the permanency of our connexion with the parent state, we earnestly entreat your Excellency to regard our opinions and remonstrances (firmly, though we hope respectfully, expressed), and to adopt measures to calm the present extraordinary state of public excitement, aggravated by the high hopes created in the public mind by the removal of Sir John Colborne, and the appointment of your Excellency to the head of the administration.

Toronto, March 25, 1836.

By order of the Meeting,  
(signed.) *T. D. Morrison*, Mayor.  
*James Lesslie*, Secretary. Chairman.

Appendix.

Address from Public Meeting to Lieut.-Governor.

## Appendix.

His Excellency's  
Reply to Address  
from Public  
Meeting, Toronto.

## HIS EXCELLENCY'S REPLY.

GENTLEMEN,—Having reason to believe that the Meeting from which you are deputed, was composed principally of the industrious classes, and being persuaded that the liberal principle of the British Government, in whatever climate it may exist, is the welfare and happiness of the people, I shall make it my duty to reply to your Address with as much attention as if it had proceeded from either of the branches of the Legislature, although I shall express myself in plainer and more homely language.

1st. I have no wish to deny "that Colonel Simcoe was the first as well as the ablest and most enlightened Governor of this province; that he was a Member of Parliament when the Statute 31st Geo. 3, chap. 31, commonly called the Constitutional Act, was passed; and that he was the bearer of that Act to this colony." But I ask you, Can this possibly alter the solemn Act itself? for surely your own plain good sense will tell you, that Colonel Simcoe had no more power, either during his voyage or on his arrival here, to alter the charter committed to his charge, than I had power to alter the instructions which I lately delivered from His Majesty to both Houses of your Legislature; and so, if Colonel Simcoe, instead of saying that the constitution of this province "was the very image and transcript of that of Great Britain," had thought proper to compare it to the arbitrary governments of Russia or Constantinople, it would in no way have injured your liberties, or have altered one single letter of the written charter of your land.

2d. I have no wish to deny "that in the British constitution the King is assisted in all the affairs of government by the advice of known and responsible Councillors, and officers who possess the confidence of the people," and who form His Majesty's Cabinet; but Colonel Simcoe, who yourselves state "was authorized undoubtedly by His Majesty's Government to declare to His faithful subjects in this province the nature of the constitution," created no such Cabinet, nor any cabinet at all; and from his day down to the present hour there has never existed any ministry in the colony, except the Governor, who is himself the responsible minister of the Crown.

Supposing it were to be argued that four-fifths of the members of your House of Assembly ought immediately to be dismissed, because, in proportion to the population of Great Britain and Ireland, there exists five times as many members here as in the English House of Commons, would you not think it very irrational that this noble but thinly-peopled colony should be made "the exact image and transcript" of the British constitution merely because Colonel Simcoe happened to use these words? Would you not immediately appeal to your Constitutional Act on the subject?

Would you deem it just that a young rising province like this should be afflicted with the same expensive machinery requisite for the government of the Mother Country, 4,000 miles off?

Would you not very fairly argue, that as the whole population of this immense country exceeds only by one-third that of the single parish of St. Mary-le-bone in London, and as the whole of its revenue does not equal the private fortune of many an English commoner, it would be unreasonable to expect that the people of this province should be ruined in vainly attempting to be the "exact image and transcript" of the British Constitution?

But the Constitution which His Britannic Majesty George the Third granted to this province, ordained no such absurdities; and you have only to read that Constitution, to see quite clearly the truth of this assertion.

The yeomen and industrious classes of Upper Canada should never allow a single letter to be subtracted from or added to this great charter of their liberties; for if once they permit it to be mutilated, or what may be termed improved, they and their children become instantly liable to find themselves suddenly deprived of their property, and, what is better than all property, of their freedom and independence.

By this Act, you are of course aware that a House of Assembly, a Legislative Council, and a Lieutenant Governor are appointed; but it creates no Executive Council; and if people tell you that it does, read the Act, and you will see the contrary.

Now as regards the House of Assembly, you must know, that being your representatives, they are of course answerable to you for their conduct; and as regards the Lieutenant-Governor, I publicly declare to you, that I am liable to dismissal in case I should neglect your interests.

But, contrary to the practice which has existed in this or in any other British colony, contrary to Colonel Simcoe's practice, or to the practice of any other Lieutenant-Governor who has ever been stationed in this province, it has suddenly been demanded of me, that the Executive Council are to be responsible for my acts; and because I have refused, at a moment's warning, to surrender that responsibility which I owe to the people, whose real interests I will never abandon, I find that every possible political effort is now making to blind the public mind, and to irritate its most violent passions.

But I calmly ask, what can be the secret reason of all this? Is it usual for one person to insist on bearing another person's blame? or for a body of men to insist on receiving the punishment incurred by an individual superior to them in station? Why, therefore, should my Council, whose valuable advice, if it were not to be forced upon me, I should be most anxious to receive, be required to demand from me my responsibility? What reason can exist for attempting to deprive me of the only consolation which supports any honest man in an arduous duty, namely, the reflection that he is ready to atone for every error he commits, and that he is subject to arraignment if he offends? Why should it be declared that responsibility would be more perfect with my Council than with me? Are they purer  
from

from party feelings, or less entangled with their family connexions than I am? How can gentlemen who have sworn to be dumb, be responsible to the yeomanry and people of this rising province? How could they possibly undertake to administer this government with mouths sealed by an oath which forbids them to disclose to any one the valuable advice they may conscientiously impart to me?

The answer to these questions is very short. The political party which demand responsibility for my Council know perfectly well that the power and patronage of the Crown are attached to it; and it is too evident, that if they could but obtain this marrow, the empty bone of contention, namely, responsibility to the people, they would soon be too happy to throw away; and from that fatal moment would all those who nobly appreciate liberty, who have property to lose, and who have children to think of, deeply lament that they had listened to sophistry, had been frightened by clamour, and had deserted the representative of our gracious Sovereign, to seek British justice from his mute, but confidential advisers. This supposition, however, I will not permit to be realized; for never will I surrender the serious responsibility I owe to the people of this province: and I have that reliance in their honesty—I have lived so intimately with the yeomanry and industrious classes of our revered Mother Country, that I well know, the more I am assailed by faction, the stronger will be their loyal support; and that if intimidation be continued, it will soon be made to recoil upon those who shall presume to have recourse to it.

The grievances of this province *must* be corrected—impartial justice *must* be administered; the people have asked for it: their Sovereign has ordained it. I am here to execute His gracious commands; delay will only increase impatience. Those, however, who have long lived upon agitation, already too clearly see their danger; and with surprising alacrity they are now taking every possible measure to prevent me from rooting up the tree of abuse, because they have built and feathered their nests in its branches. They asked, however, for the operation, and to amputation they must very shortly submit; for “what’s worth doing, should always be done well.”

I have come here for the avowed purpose of reform, but I am not an agitator; and by command of our gracious Sovereign, I will maintain the constitutional liberties of His subjects in this province, and at the same time encourage, to the utmost of my power, internal wealth, agriculture, commerce, peace and tranquillity.

With respect to my late Council, I regret, quite as much as you can do, their resignation; but before they took the oath of secrecy, (which appears to my judgment to be an oath of non-responsibility to the people), I addressed to them a note, which clearly forewarned them, as follows:—“*I shall rely on your giving me your unbiassed opinion on all subjects respecting which I may feel it advisable to require it.*”

Three weeks after they had joined the Council, they altogether, in a body, disputed this arrangement; and accordingly we parted on a matter of dry law.

No one can deny that my view of the subject agrees with the practice of Colonel Simcoe, and of all the succeeding Governors of this province, down to the day of Sir John Colborne’s departure; but that is no proof whatever that the practice has been right; and if you would prefer to form your own opinion of the law, read the Constitutional Act.

With respect to my new Council, whose high moral character I cannot but respect, I shall consult them as unreservedly as I had promised to consult those who have just resigned; and if any competent tribunal shall pronounce that they are responsible for my conduct, no one will be a greater gainer than myself by the decision.

In the meanwhile I shall deal openly and mildly with all parties; and I trust that I can give you no better proof of my own intention to be governed by reason than the explanation I have just offered to yourselves, the citizens and industrious classes who attended the Toronto Meeting.

(True Copies.)

(signed) J. Joseph.

(F)

In the Name and on the behalf of HIS MAJESTY.

GEORGE P. R.

INSTRUCTIONS to our right trusty and right entirely beloved Cousin and Councillor *Charles Duke of Richmond*, Knight of the Most Noble Order of the Garter, General of our Forces, Our Captain-General and Governor-in-Chief in and over Our Province of Upper Canada in America, or, in his absence, to the Lieutenant-Governor or Commander-in-Chief of Our said Province for the time being. Given at Our Court at Carlton House, the ninth day of May 1818, in the fifty-eighth year of Our Reign.

Charles Duke of Richmond, K. G.

(Instructions.)

1. WITH these Our Instructions you will receive Our Commission, under Our Great Seal of Our United Kingdom of Great Britain and Ireland, constituting you Our Captain-General and Governor-in-Chief in and over Our Provinces of Upper Canada and Lower Canada, bounded as in Our said Commission is particularly expressed. In the execution therefore of so much of the office and trust We have reposed in you as relates to Upper

Appendix.

His Excellency’s  
Reply to Address  
from Public  
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Canada, you are to take upon you the administration of the Government of the said province, and to do and execute all things belonging to your command according to the several powers and authorities of Our said Commission, under Our Great Seal of Our United Kingdom of Great Britain and Ireland, and of the Act passed in the thirty-first year of Our reign therein recited, and of these Our Instructions to you, and according to such further Powers and Instructions as you shall at any time hereafter receive under Our signet and sign manual, by Our order in Our Privy Council.

2. And you are with all due solemnity before the members of Our Executive Council to cause Our said Commission to be read and published, which, being done, you shall then take and also administer to each of the members of Our said Executive Council the several oaths, and subscribe to the declaration therein required.

3. You shall also administer, or cause to be administered, the oaths mentioned in Our said Commission to all persons, except as hereafter mentioned, that shall be appointed to hold or exercise any office, place of trust, or profit in our said province, previous to their entering on the duties of such office, and you shall also cause them to make and subscribe the aforesaid declaration; but in cases where any such office, place of trust, or profit in Our said province of Upper Canada, shall be conferred on any of Our subjects who may profess the religion of the Church of Rome, you shall, so often as any such person shall or may be admitted into any such office, place of trust or profit, administer, or cause to be administered, to him the oath prescribed in and by an Act of Parliament passed in the fourteenth year of Our reign, intituled, "An Act for making more effectual Provision for the Government of the Province of Quebec in North America;" and also the usual oath for the execution of such office, place of trust or profit in lieu of all other tests and oaths whatsoever.

4. Whereas We have thought fit that there should be an Executive Council for assisting you Our Lieutenant-Governor or person administering the government of our said province of Upper Canada for the time being; We do by these Presents nominate and appoint the undermentioned persons to be of the Executive Council of Our said province of Upper Canada, viz., William Dummer Powell, Esq., Our Chief Justice, or the Chief Justice of Our said province for the time being, Jacob Lord Bishop of Quebec, James Baby, Samuel Smith, the Rev. John Strachan, D.D., and William Clause, Esq.: And whereas by an Order passed in the province of Quebec, the Governor and Council were constituted a Court of Civil Jurisdiction for hearing and determining appeals in certain cases therein specified: And whereas by an Act passed in the thirty-first year of Our reign, it is declared, that the Governor, Lieutenant-Governor, or person administering the government of the said province, together with such Executive Council, shall be a Court of Civil Jurisdiction within Our said province for hearing and determining appeals within the same, in the like cases and in the like manner, and from and subject to such appeal therefrom as such appeals might have been before the passing of the above recited Act, heard and determined by the Governor and Council of Quebec; in order, therefore, to carry the said Act into execution, Our will and pleasure is, that you do in all civil causes, on application being made to you for that purpose, permit and allow appeals from any of the Courts of Common Law in Our said province unto you, and the Executive Council of the said province of Upper Canada in manner prescribed by the above-mentioned Act; and you are for that purpose to issue a writ as nearly in the accustomed manner before the passing of the above-mentioned Act in respect of such appeals as the case will admit, returnable before yourself and the Executive Council of the said province, who are to proceed to hear and determine such appeal, wherein such of the Executive Council as shall be at that time Judges of the Court from whence such appeal shall be so made to you and to Our said Executive Council as aforesaid, shall not be admitted to vote upon the said appeal; but they may nevertheless be present at the hearing thereof to give the reasons of the judgment given by them in the causes wherein such appeal shall be made: Provided nevertheless, That in all such appeals the sum or value appealed for do exceed the sum of 300*l.* sterling, and that security be first duly given by the appellant to answer such charges as shall be awarded; in case the first sentence be affirmed, and if either party shall not rest satisfied with the judgment of you and such Executive Council as aforesaid, Our will and pleasure is, that they may then appeal unto Us in Our Privy Council, provided the sum or value so appealed for unto Us do exceed 500*l.* sterling, and that such appeal be made within fourteen days after sentence, and good security be given by the appellant, that he will effectually prosecute the same and answer the condemnation, as also pay such costs and damages as shall be awarded by Us, in case the sentence of you and the Executive Council be affirmed: Provided nevertheless, where the matter in question relates to the taking or demanding any duty payable to Us, or to any fee of office or annual rents, or other such like matters or things where the rights in future may be bound. In all such cases you and the said Executive Council are to admit an appeal to Us in Our Privy Council, though the immediate sum or value appealed for be of a less value. And it is Our further will and pleasure, that in all cases where by your Instructions you are to admit appeals unto Us in Our Privy Council, execution shall be suspended until the final determination of such appeal, unless good and sufficient security be given by the appellee to make ample restitution of all that the appellant shall have lost by means of such decree or judgment; in case upon the determination of such appeal, such decree or judgment should be reversed and restitution awarded to the appellant. You and Our Executive Council are also to admit appeals unto us in Our Privy Council, in all cases of fines imposed for misdemeanors, provided that the fine so imposed amount to or exceed the sum of 100*l.* sterling,

sterling, the appellant first giving good security that he will effectually prosecute the same, and answer the condemnation if the sentence by which the fine was imposed in your government shall be confirmed.

5. And that we may be always informed of the names and characters of persons fit to supply the vacancies which may happen in Our said Executive Council, you are, in case of any vacancy in Our said Council, to transmit to Us through one of Our Principal Secretaries of State, the names and characters of such three persons, inhabitants of Our said province of Upper Canada, whom you may esteem best qualified for fulfilling the trust of such Executive Council.

6. And in the choice and selection of such persons proposed to fill such vacancy in Our said Executive Council, as also of the chief officers of justice, you are always to take care that they be men of good life, well affected to Our Government, and of abilities suitable to their employment.

7. And whereas We are sensible that effectual care ought to be taken to oblige the members of Our Executive Council to a due attendance; it is Our will and pleasure, in order to prevent the many inconveniences that may happen for want of a quorum of the Council to transact business as occasion may require, that if any of the members of Our said Executive Council residing in Our said province shall hereafter wilfully absent themselves from the province, and continue absent above the space of six months together, without leave from you first obtained under your hand and seal, or shall remain absent for the space of one year without Our leave given them under Our royal signature, their places in the said Executive Council shall immediately thereupon become void. And We do hereby will and require you that this Our royal pleasure be signified to the several members of Our said Executive Council, and that it be entered in the Council Books as a standing rule.

8. And to the end that Our said Executive Council may be assisting to you in all affairs relating to Our service, you are to communicate to them such and so many of these Our Instructions wherein their advice is mentioned to be requisite, and likewise all such others from time to time as you shall find convenient for Our service to be imparted to them.

9. You are to permit the members of Our said Executive Council to have and enjoy freedom of debate, and vote in all affairs of public concern which may be debated in the said Executive Council.

10. And whereas by the aforesaid recited Act, passed in the thirty-first year of Our reign, it is provided, that the seats of the members of Our Legislative Council shall become vacant in certain cases mentioned in the said Act, it is Our will and pleasure that if any member of Our said Legislative Council shall at any time leave Our said province and reside out of the same, you shall report the same to Us, by the first opportunity, through one of Our Principal Secretaries of State, and you are also in like manner to report whether such member of the said Council is absent by your permission or by the permission of Our Lieutenant-Governor or Commander-in-Chief of the said province for the time being; and you are also in like manner to report, if it shall come to your knowledge, that any such member shall at any time take or have taken the oath of allegiance or obedience to any foreign prince or power, or shall be attainted for treason in any Court of Law within any of Our dominions, that We may take such measures thereupon as We shall think fit; and you are to take especial care that the several provisions of the said Act respecting the several cases in which persons may or may not be entitled to receive writs of summons to the said Legislative Council, and to hold their places therein, shall be duly executed.

11. And for the execution of so much of the powers vested in you by our said Commission, and by virtue of the said Act, as relates to the declaring that you assent in Our name to Bills passed by the Legislative Council and House of Assembly, or that you withhold our assent therefrom, or that you reserve such Bills for the signification of Our royal pleasure thereon; it is Our will and pleasure that you do carefully observe the following rules, directions and instructions:—viz.

That the style of enacting all the said laws, statutes and ordinances be by Us, Our heirs and successors, by and with the advice and consent of the Legislative Council and Assembly of Our province of Upper Canada, constituted and assembled by virtue and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America,' and to make further provision for the Government of the said Province," and that no Bill in any other form shall be assented to by you in Our name. That each different matter be provided for by a different law, without including in one and the same Act such things as have no proper relation to each other.

That no clause be inserted in any Act or Ordinance which shall be foreign to what the title of it imports, and that no perpetual clause be part of any temporary law.

That no law or ordinance whatever be suspended, altered, continued, reviewed, or repealed in general words, but that the title and date of such law or ordinance shall be particularly mentioned in the enacting part.

That in case any law or ordinance respecting private property shall be passed without a saving of the right of Us, Our heirs and successors, and of all persons or bodies politic or corporate, except such as are mentioned in the said law or ordinance, you shall declare that you withhold Our assent from the same; and if any such law or ordinance shall be passed without such saving, you shall in every such case declare that you reserve the same for the signification of Our royal pleasure thereon.

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That in all laws or ordinances for levying money, or imposing fines, forfeitures or penalties, express mention be made that the same is granted or reserved to Us, Our heirs and successors, for the public uses of the said province and the support of the government thereof as by the said law shall be directed; and that a clause be inserted, declaring that the due application of such money, pursuant to the directions of such law, shall be accounted for unto Us through Our Commissioners of Our Treasury for the time being, in such manner and form as we shall direct.

12. And whereas We have by Our said Commission given you full power and authority, subject as therein is specified and to these Our Instructions in that behalf, to issue writs of summons and election, and to call together the Legislative Council and Assembly of Our said province of Upper Canada; and for the purpose of electing the Members of the Assembly of Our said province of Upper Canada, have also given you full power and authority to issue a proclamation, dividing our said province of Upper Canada into districts or counties, or circles, and towns or townships, and declaring and appointing the number of representatives to be chosen by each of such districts or counties, or circles, and towns and townships; Now Our will and pleasure is, that you shall issue such proclamation as soon as may be, allowing nevertheless a reasonable time between the issuing thereof and the time of issuing the writs of summons and election above mentioned.

13. That all laws assented to by you in Our name, or reserved for the signification of Our royal pleasure shall, when transmitted by you, be fairly abstracted in the margins, and accompanied with very full and particular observations upon each of them; that is to say, whether the same is introductory to a new law declaratory of a former law, or does repeal a law then before in being; and you are also to transmit in the fullest manner the reasons and occasion for proposing such laws, together with fair copies of the journals and minutes of the proceedings of the said Legislative Council and Assembly, which you are to require from the clerks or other proper officers in that behalf, of the said Legislative Council and Assembly.

14. And whereas in the said Act it is provided that in certain cases Acts passed by the Legislative Council and Assembly of the province shall, previous to any signification of Our assent thereto, be laid before both Houses of Our Parliament of this Kingdom; and whereas it is also provided in the said Act, that in certain cases provision may be made by the Acts of the Legislative Council and Assembly of the province, assented to by Us, Our heirs and successors (thereby reserving the power of giving such assent to Us, Our heirs and successors only), you are to take especial care that in every such case you are to declare that you reserve such Bills for the signification of Our pleasure thereon; and you will likewise reserve for such signification every other Bill which you shall consider to be of an extraordinary or unusual nature, or requiring Our especial consideration and decision thereupon, particularly such as may affect the property, credit or dealings of such of Our subjects as are not usually resident within Our said province, or whereby duties shall be laid upon British or Irish shipping, or upon the produce or manufactures of Great Britain or Ireland.

15. And whereas laws have been formerly enacted in several of Our plantations in America for so short a time that Our royal assent or refusal thereof could not be had before the time for which such laws were enacted did expire, you shall not assent in Our name to any law that shall be enacted for a less time than two years, except in cases of imminent necessity or immediate temporary expediency; and you shall not declare Our assent to any law containing provisions which shall have been disallowed by Us, without express leave for that purpose first obtained from Us, upon a full representation by you to be made to Us, through one of Our Principal Secretaries of State, of the reasons and necessity of passing such law.

16. Whereas We have thought fit by Our Orders in Our Privy Council to disallow certain laws passed in some of our colonies and plantations in America for conferring the privileges of naturalization on persons being aliens, and for divorcing persons who have been legally joined together in holy marriage; and whereas Acts have been passed in others of Our said colonies to enable persons who are Our liege subjects by birth or naturalization to hold and inherit lands, tenements and real estates, although such lands, tenements and real estates had been originally granted to or purchased by aliens antecedent to naturalization; It is Our will and pleasure that you do not upon any pretence whatsoever give your assent to any Bill or Bills that may hereafter be passed by the Legislative Council and Assembly of the said province under your government for the naturalization of aliens, nor for the divorce of persons joined in holy marriage, nor for establishing a title in any person to lands, tenements or real estates in Our said province originally granted to or purchased by aliens antecedent to naturalization.

17. You are to give warrants under your hand for the issuing of public monies for all public services, and We do particularly require you to take care that regular accounts of all receipts and payments of public monies be duly kept; that the same from time to time be duly audited by our Executive Council, and that copies thereof, attested by you, be transmitted every half-year, or oftener, if there should be occasion, to Our Commissioners of Our Treasury or to Our High Treasurer for the time being, and duplicates thereof by the next conveyance; in which accounts shall be specified every particular sum raised or disposed of, to the end that We may take such measures as We may deem necessary for the examination of the said accounts, and that We may be satisfied of the right and due application of the revenues of Our said province of Upper Canada, and with the probability of the increase or diminution of it under every head and article thereof.

18. Whereas

18. Whereas by an Act of the Parliament of Great Britain, passed in the fourth year of Our reign, intituled, "An Act to prevent Paper Bills of Credit hereafter to be issued in any of His Majesty's Colonies and Plantations in America from being declared to be a legal Tender in payment of Money, and to prevent the legal Tender of such Bills as are now subsisting from being prolonged beyond the Periods limited for calling in and sinking the same," it is enacted, that no paper bills or bills of credit should be created or issued by an act, order, resolution or vote of Assémbly, in any of Our colonies or plantations in America, to be a legal tender in payment; and that any such act, order, resolution or vote for creating or issuing such paper bills, or bills of credit, or for prolonging the legal tender of any such then subsisting and current in any of the said colonies and plantations, should be null and void; and whereas by another Act of Our said Parliament, passed in the thirteenth year of Our reign, intituled, "An Act to explain and amend the above recited Act," passed in the fourth year of Our reign as aforesaid, it is enacted, that any certificates, notes, bills or debentures which shall or may be voluntarily accepted by the creditors of the public within any of the colonies of America as security for the payment of what is due and owing to the said public creditors, may be made and enacted by the General Assemblies of the said colonies respectively, to be a tender to the public treasurers in the said colonies, for the discharge of any duties, charges or debts whatsoever, due to and payable at or in the said public treasuries of the said colonies, in virtue of laws passed within the same, and in no other case whatsoever: It is Our will and pleasure, that you do in all things conform yourself to the provisions of the said recited Acts, both with respect to the not assenting to any bills which may be presented to you for the purpose of issuing or creating paper bills or bills of credit to be a legal tender in payment; and the assenting to any bills by which such certificates, notes or debentures which may be voluntarily accepted in payment by the public creditors, shall be made a legal tender to the Treasury for taxes, duties and other payments to the public treasury.

19. You shall not remit any fines or forfeitures whatsoever above the sum of 10*l*., nor dispose of any forfeitures whatsoever, until, upon signifying unto the Commissioners of Our Treasury or Our High Treasurer for the time being, the nature of the offence and the occasion of such fines and forfeitures, with the particular sums or value thereof, which you are to do with all speed, you shall have received Our directions thereon; but you may in the mean time suspend the payment of the said fines and forfeitures.

20. And you are on every occasion to transmit to Us, through one of Our Principal Secretaries of State (with all convenient speed), a particular account of all new establishments of jurisdiction, courts, offices and officers, powers, authorities, fees and privileges, granted and settled within Our said province of Upper Canada; as likewise an account of all expenses (if any) attending the establishment of the said courts and offices.

21. It is Our further will and pleasure, that all commissions to be granted by you to any person or persons to be Judge, Justice of the Peace or other necessary officer, be granted during pleasure only.

22. You are not to suspend any of the Members of the said Executive Council, or to suspend or displace any of the Judges, Justices, Sheriffs or other officers or ministers within Our said province of Upper Canada, without good and sufficient cause; and in case of such suspension or removal, you are forthwith to transmit your reasons for the same to one of Our Principal Secretaries of State.

23. And whereas frequent complaints have been made of great delays and undue proceedings in the courts of justice in several of Our plantations, whereby many of Our good subjects have very much suffered, and it being of the greatest importance to Our service and to the welfare of Our plantations be every where speedily and duly administered, and that all disorders, delays, and other undue practices in the administration thereof be effectually prevented, We do particularly require you to take especial care that in all courts where you are authorised to preside, justice be impartially administered; and that in all other courts established within Our said province, all Judges and other persons therein concerned do likewise perform the several duties without delay or partiality.

24. You are to take care that no court of judicature be adjourned but upon good grounds, as also that no orders of any court of judicature be entered or allowed which shall not be first read and approved of by the Justices in open court; which rule you are in like manner to see observed with relation to all proceedings of Our Executive Council of Upper Canada, and that all orders there made be first read and approved in such Council before they are entered upon the Council Books.

25. You are to take care that all writs within the said Province of Upper Canada be issued in Our name.

26. You shall take care, with and by the advice and assistance of Our Executive Council, that such prisons as may at any time be necessary be erected, and that the same or any other already erected be kept in such a condition as may effectually secure the prisoners which now are or may hereafter be confined in them.

27. You shall not suffer any person to execute more offices than one by deputy.

28. You shall not, by colour of any power or authority, hereby or otherwise granted or mentioned to be granted unto you, give, grant or dispose of any place or office within Our said province, which now is or shall be granted under the Great Seal of this kingdom, or to which any person is or shall be appointed, by warrant under Our signet and sign manual, any further than that you may, upon the vacancy of any such office or place, or upon the suspension of any such officer by you as aforesaid, put in any fit person to officiate in the interval till you shall have represented the matter unto Us, through one of Our Principal

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Secretaries of State, which you are to do by the first opportunity, and till the said office or place is disposed of by Us, Our heirs or successors, under the great seal of this kingdom, or until some person shall be appointed thereunto, under Our signet and sign manual, or until Our further directions be given therein. And it is Our express will and pleasure that you do give reasonable support to the patent officers in the enjoyment of their legal and established fees, rights, privileges and emoluments, according to the true intent and meaning of their respective patents.

29. And whereas several complaints have been made by the officers of Our customs in Our plantations in America, that they have frequently been obliged to serve on juries, and personally to appear in arms whenever the militia is drawn out, and thereby are much hindered in the execution of their employments; Our will and pleasure is, that you take especial care and give the necessary directions that the several officers of Our customs be excused and exempted from serving on any juries, or personally appearing in arms in the militia, unless in cases of absolute necessity, or serving any particular offices which may hinder them in the execution of their duties.

30. And whereas nothing can more effectually tend to the speedy settling of Our said province of Upper Canada, the security of the property of Our subjects and the advancement of Our revenue, than the disposal of such lands as are Our property, upon good and reasonable terms, and the establishing of a regular and proper method of proceeding, with respect to the passing of grants of such lands; It is Our will and pleasure that all and every person or persons who shall apply for any grant or grants of land, shall, previous to their obtaining the same, make it appear that they are in a condition to cultivate and improve the same; and in case you shall, upon a consideration of the circumstances of the person or persons applying for such grants, think it advisable to pass the same, you are in such case to cause a warrant to be drawn up, directed to the Surveyor-General, or other officer, empowering him or them to make a faithful and exact survey of the lands so petitioned for, and to return the said warrant within six months at farthest from the date thereof, with a plot or description of the lands so surveyed thereunto annexed; and when the warrant shall be returned by the said Surveyor or other proper officer, the grant shall be made out in due form, and the terms and conditions required by these Our Instructions, be particularly and expressly mentioned therein. And it is Our will and pleasure that the said grants shall be registered, within six months from the date thereof, in the Register's office, and a docket thereof be also entered in Our Auditor's office; copies of all which entries shall be regularly returned by the proper officer to Our Commissioners of Our Treasury.

31. And for the further encouragement of Our subjects, it is Our will and pleasure that the lands to be granted by you, as aforesaid, shall be laid out in townships, and that each inland township shall, as nearly as circumstances will admit, consist of ten miles square, and such as shall be situated upon a navigable river or water shall have a front of nine miles, and be twelve in depth, and subdivided in such manner as shall be found most advisable for the accommodation of the settlers, and for the making the several reservations for the public uses, and particularly for the support of the Protestant clergy, agreeably to the above-recited Act, passed in the 31st year of Our reign.

32. And because great inconveniences have heretofore arisen in many of Our colonies in America, from the granting excessive quantities of land to particular persons, who have never cultivated or settled the same, and have thereby prevented others more industrious from improving such lands; in order therefore to prevent the like inconveniences in future, it is Our will and pleasure that you observe the following directions and regulations in all grants to be made by you as aforesaid, (that is to say):

That no town-lot shall be granted to any one person being master or mistress of a family in any township so to be laid out which shall contain more than one acre; that no park-lot shall be granted to any one person being master or mistress of a family in any township so to be laid out which shall contain more than 24 acres; that no farm-lot shall be granted to any one person being master or mistress of a family in any township so to be laid out which shall contain more than 200 acres.

It is Our will and pleasure, and you are hereby allowed and permitted to grant unto every such person and persons such farther quantity of land as they may desire, not exceeding 1,000 acres over and above what may heretofore have been granted to them; and in all grants of land to be made by you as aforesaid you are to take care that due regard be had to the quality and comparative value of the different parts of land comprised within any township, so that each grantee may have as nearly as may be a proportionate quantity of lands of such different quality and comparative value, as likewise that the breadth of such tract of land to be hereafter granted be one-third of the length of such tract, and that the length of such tract do not extend along the banks of any river but into the main land, that thereby the said grantees may have each a convenient share of what accommodation the river may afford for navigation or otherwise.

33. And as a further accommodation to Our subjects who shall become settlers as aforesaid, it is Our will and pleasure that the said townships and the respective allotments within the same, together with the lands to be reserved as aforesaid, shall be seen and laid out by Our Surveyor-General of Lands for the said province, or some skilful person authorised by him for that purpose, which surveys, together with the warrants and grants and the respective allotments, shall be made out for and delivered to the several grantees free of any expense or fee whatever other than such as may be payable to the different officers according to the table of fees established upon grants of land made in the said province.

34. And



34. And in order to prevent any persons disaffected to Us and Our Government from becoming settlers in Our said province of Upper Canada, it is Our will and pleasure that no warrant for surveying lands be granted by you or the Lieutenant-Governor, or person administering the government for the time being, unless the person or persons so applying for the same do, at the time of making such application, besides taking the usual oaths directed by law, also make and subscribe the following declaration in your or his presence, or in the presence of such person or persons as shall by you or him be appointed for that purpose (that is to say);—

“I, A. B., do promise and declare, that I will maintain and defend to the utmost of my power the authority of the King in His Parliament, as the supreme legislature of this province.”

35. Whereas the reserving of such bodies of land within Our province of Upper Canada, where there are considerable growths of timber fit for the use of Our royal navy, is a matter of the utmost importance to Our service; it is Our will and pleasure that no grants whatever be made of lands in any district or tract of Our said province of Upper Canada until Our Surveyor-General or his deputy, lawfully appointed, shall have surveyed the same, and marked out as reservations to Us, Our heirs and successors such parts thereof as shall be found to contain any considerable growth of masting or other timber fit for the use of Our royal navy, and more especially upon the rivers; and you are hereby intrusted to direct Our Surveyor-General of Lands in Our said province from time to time with all due diligence to complete the surveys and mark out the reservations as aforesaid, in the most convenient parts of Our said province; and you are from time to time to report the number, extent and situation of such reservations; and you are further to direct Our Surveyor-General not to certify any plots of ground ordered and surveyed for any person or persons in order that grants may be made out for the same, until it shall appear to him by a certificate under the hand of Our Surveyor-General of Woods, or his deputy, that the land so to be granted is not part of, nor included in, any district marked out as a reservation for Us, Our heirs and successors as aforesaid for the purpose hereinbefore mentioned; and in order to prevent any deceit or fraud being committed by the persons applying for lands in this respect, it is Our will and pleasure that in all grants to be hereafter made for lands within Our said province of Upper Canada, the following proviso and exceptions be inserted; that is to say, “And provided also, that no part of the parcel or tract of land hereby granted to the said \_\_\_\_\_ and his heirs, be within any reservation heretofore made and marked for Us, Our heirs and successors by Our Surveyor-General of Woods or his lawful deputy; in which case this Our grant for such part of the land hereby given and granted to the said \_\_\_\_\_ and his heirs for ever as aforesaid, and which shall, upon a survey thereof being made, be found within any such reservation, shall be null and void and of none effect, anything herein contained to the contrary notwithstanding.”

36. And whereas it is necessary that all persons who may be desirous of settling in Our said province should be fully informed of the conditions and terms upon which lands will be granted within Our said province of Upper Canada in the manner prescribed in and by the said Act passed in the thirty-first year of Our reign; you are therefore, as soon as possible, to cause a publication to be made by proclamation or otherwise, as you shall in your discretion think most advisable, of the said terms and conditions respecting the granting of lands; in which proclamation it may expedient to add some short description of the natural advantages of the soil and climate, and its peculiar convenience for trade and navigation.

37. And it is Our further will and pleasure that all the foregoing Instructions to you as well as any which you may hereafter receive relative to the passing grants of land, in conformity to the said Act passed in the thirty-first year of Our reign, be entered upon record for the information and satisfaction of all parties whatever that may be concerned therein.

38. And whereas it hath been represented to Us, that many parts of the province under your government are particularly adapted to the growth and culture of hemp and flax; it is therefore Our will and pleasure that in all surveys for settlements the Surveyor be directed to report whether there are any or what quantity of lands contained within such surveys for the production of hemp and flax.

39. And whereas it has been represented to us that several parts of Our said province of Upper Canada have been found to abound with coals; it is Our will and pleasure that in all grants of land to be made by you a clause be inserted reserving to Us, Our heirs and successors all coals and also all mines of gold, silver, copper, tin, iron and lead which shall be discovered upon such lands.

40. You shall cause a survey to be made of all considerable landing places or harbours in Our said province, in case the same shall not already have been done, and report to Us by one of Our Principal Secretaries of State how far any fortifications be necessary for the security and advantage of the said province.

41. Whereas the establishment of proper regulations on matters of ecclesiastical concern is an object of very great importance, it will be your indispensable duty to take care that no arrangements in regard thereto be made, but such as may give full satisfaction to Our new subjects in every point in which they have a right to any indulgence on that head; always remembering that it is a toleration of the free exercise of the religion of the Church of Rome only to which they are entitled, but not to the powers and privileges of it as an established church, that being a preference which belongs only to the Protestant Church of England.

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42. And upon the principles, therefore, and to the end that Our just supremacy in all matters ecclesiastical as well as civil may have its due scope and influence ;

It is Our will and pleasure, First, that all appeals to a correspondence with any foreign ecclesiastical jurisdiction, of what nature or kind soever, be absolutely forbidden under very severe penalties.

Secondly, That no episcopal or vicarial power be exercised within Our said province by any person professing the religion of the Church of Rome, but such only as are indispensably and indisputably necessary to the free exercise of the Romish religion ; and in those cases not without a license and permission from you, under the seal of Our said province, for and during Our will and pleasure, and under such limitations and restrictions as may correspond with the spirit and provisions of the Act of the fourteenth year of Our reign, " for making more effectual provision for the Government of the Province of Quebec ;" and no person whatever is to have holy orders conferred upon him, or have the care of souls, without a license for that purpose first had and obtained from you.

Thirdly, That no person professing the religion of the Church of Rome be allowed to fill any ecclesiastical benefice, or to have and enjoy any of the rights or profits belonging thereto, who is not a Canadian by birth, (such only excepted as are now in possession of any such benefices) and who is not appointed thereto by Us or under Our authority ; and that all right or claim of right in any other person whatever to nominate, present or appoint to any vacant benefice, other than such as may lay claim to the patronage of benefices as a civil right, be absolutely abolished ; no person to hold more than one benefice, or at least not more than can reasonably be served by one and the same incumbent.

Fourthly, That no person whatever professing the religion of the Church of Rome be appointed incumbent of any parish in which the majority of the inhabitants shall solicit the appointment of a Protestant minister ; in such case the incumbent shall be a Protestant, and entitled to all tithes payable within such parish ; but, nevertheless, the Roman Catholics may have the use of the church for the free exercise of their religion, at such time as may not interfere with the religious worship of the Protestants ; and in like manner, the Protestant inhabitants in every parish where the majority of the parishioners are Roman Catholics shall notwithstanding have the free use of the church for the exercise of their religion, at such times as may not interfere with the religious worship of the Roman Catholics.

Fifthly, That no incumbent professing the religion of the Church of Rome appointed to any parish shall be entitled to receive any tithes for lands or possessions occupied by a Protestant, but such tithes shall be received by such persons as you shall appoint, and shall be reserved in the hands of Our Receiver-General as aforesaid for the support of a Protestant clergy in Our said province, to be actually resident within the same, and not otherwise, according to such directions as you shall receive from Us in that behalf ; and in like manner all growing rents and profits of a vacant benefice shall during such vacancy be reserved for and applied to the like uses.

Sixthly, That all persons professing the religion of the Church of Rome who are already possessed of, or may hereafter be appointed to, any ecclesiastical benefice, or who may be licensed to exercise any power or authority in respect thereto, do take and subscribe before you in Council, or before such person as you shall appoint to administer the same, the oath required to be taken and subscribed by the aforesaid Act of Parliament passed in the fourteenth year of Our Reign, intituled, " An Act for making more effectual provision for the Government of the Province of Quebec in North America."

Seventhly, That all incumbents of parishes professing the Romish religion, not being under the ecclesiastical jurisdiction of the Bishop of Quebec, shall hold their respective benefices during their good behaviour, subject, however, in case of any conviction for criminal offence, or upon due proof of seditious attempts to disturb the peace and tranquillity of Our Government, to be deprived or suspended by you.

Eighthly, That such ecclesiastics as may think fit to enter into the holy state of matrimony shall be released from all penalties to which they may have been subjected in such cases by any authority of the see of Rome.

Ninthly, That freedom of the burial of the dead in the churches and churchyards be allowed indiscriminately to every Christian persuasion.

Tenthly, That the Royal Family be prayed for in all churches and places of public worship, in such manner and form as is used in this kingdom, and that Our Arms and insignia be put up not only in all such churches and places of holy worship, but also in all courts of justice, and that the Arms of France be taken down in any such church or court where they may at present remain.

43. You are to permit liberty of conscience and the free exercise of all such modes of religious worship as are not prohibited by law to all persons who may inhabit and frequent the province of Upper Canada, provided they be contented with a quiet and peaceable enjoyment of the same, without giving offence or scandal to the Government.

44. It is Our will and pleasure to reserve to you the granting of licenses for marriage, letters of administration and probates of wills, as heretofore exercised by you and your predecessors, and also to reserve to you and all others to whom it may lawfully belong, the patronage and right of presentation to benefices ; but it is Our will and pleasure that the person so presented shall be instituted by the Bishop or his commissary duly authorised by him.

45. You are to take especial care that God Almighty be devoutly and duly served throughout your government, that the Lord's day be duly kept, and the services and prayers appointed

appointed by and according to the book of Common Prayer be publicly and solemnly performed throughout the year.

46. You are to take care that the churches which are or may be hereafter erected in Our said province of Upper Canada be well and orderly kept.

47. You shall recommend to the Legislative Council and General Assembly of the province of Upper Canada to settle the limits of parishes in such manner as may be deemed most convenient.

48. You are to use your best endeavour that each minister be constituted one of the vestry in his respective parish, and that no vestry be held without him, except in case of sickness, or that after notice given of a vestry he omit to come.

49. It is Our will and pleasure that you recommend to the Legislative Council and Assembly of Our said province of Upper Canada to make due provision for the erecting and maintaining of schools where youth may be educated in competent learning, and in knowledge of the principles of the Christian religion.

50. And it is Our further will and pleasure that no person shall be allowed to keep a school in the province of Upper Canada without your license first had and obtained; in granting of which you are to pay the most particular attention to the morals and qualifications of persons applying for the same; and in all cases where the school has been instituted or appointed for the education of members of the Church of England, or where it is intended that the schoolmaster should be a member of the Church of England, you are not to grant such licenses except to persons who shall first have obtained from the Bishop of Quebec or one of his commissaries a certificate of their being properly qualified for that purpose.

51. And it is Our further will and pleasure that in order to suppress every species of vice, profaneness and immorality, you do forthwith cause all laws made against blasphemy, profaneness, adultery, fornication, polygamy, incest, profanation of the Lord's Day, swearing and drunkenness to be strictly put in execution in every part of the province of Upper Canada; and that for this purpose you do direct that the constables and churchwardens of the several parishes do make presentment upon oath of any of the vices before mentioned to the justices of the peace in their session, or to any other of the temporal courts; and you are earnestly to recommend to the Legislative Council and Assembly to provide effectual laws for the restraint and punishment of all such of the aforementioned vices against which no laws are as yet provided, or in cases where the laws already made are found to be insufficient; and in order to discountenance vice and promote the practice of virtue to the utmost of your power, We do hereby strictly command and enjoin you to appoint no person to be a justice of the peace, or to any trust or employment, whose notorious ill life or conversation may occasion scandal.

52. You are not to present any Protestant minister to any ecclesiastical benefice within Our said province, by virtue of the said Act passed in the 31st year of Our reign, and of Our commission to you, without a proper certificate from the Bishop of Quebec, or his Commissary, of his being conformable to the doctrine and discipline of the Church of England.

53. And you are to take especial care that the table of marriages established by the Canons of the Church of England be hung up in all places of public worship, according to the rights of the Church of England.

54. It is our intention that the peltry trade of the interior country shall be free and open to Our subjects, inhabitants of any of Our colonies, who shall, pursuant to what was directed by our Royal Proclamation of 1763, obtain trading licenses from the Governor of any of Our said colonies, under penalties to observe such regulations as shall be made by Our Legislature of Our province of Upper Canada for that purpose. These regulations, therefore, when established, must be made public throughout all our American possessions; and they must have for their object the giving every possible facility to that trade which the nature of it will admit, and which may be consistent with just and fair dealing towards the native Indians with whom it is carried on. The fixing stated times and places for carrying on the trade, and adjusting modes of settling tariffs of the price of goods and furs, and above all, the restraining the sale of spirituous liquors to the Indians, will be the most profitable and effectual means of answering the ends proposed.

55. And whereas it is expedient for Our service that we should from time to time be informed of the state of the trade and fisheries as well as of the population of the said province of Upper Canada; it is Our will and pleasure that you do transmit to Us through one of Our Principal Secretaries of State, and to Our Committee of Our Privy Council for Trade and Foreign Plantations, for their information, yearly and every year, a full and particular account of the state of the fur and peltry trade; the nature and extent of the several fisheries carried on by Our subjects or others, either on the lakes or rivers of the said province; the state of the cultivation, particularly specifying the quantity of grain, hemp and flax produced; and of any other important branch of trade which may in your opinion be undertaken and advantageously carried on by Our subjects; the number of inhabitants, distinguishing them under the different heads of men, women and children; inserting in such account the number of persons born, christened and buried, and any extraordinary influx or emigration from our said province, specifying at the same time the number of slaves and the number of Our subjects capable of bearing arms in the militia; the number and tonnage of shipping and craft employed upon the lakes and rivers in or contiguous to the province of Upper Canada, together with any information on these or any other points of the like nature which may be proper to be communicated to us.

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56. And whereas you will receive from Our Commissioners for executing the office of High Admiral of Our United Kingdom of Great Britain and Ireland, and of the plantations, a commission constituting you Vice-Admiral of Our said province of Upper Canada; you are required and directed carefully to put in execution the several powers thereby granted to you.

57. Whereas it is absolutely necessary that We be exactly informed of the state of defence of all Our plantations in America, as well in relation to the stores of war, that are in each plantation, as to the forts and fortifications there, and what more may be necessary to be built for the defence and security of the same. You are from time to time to transmit an account thereof with relation to Our said province of Upper Canada, in the most particular manner; and you are therein to express the present state of arms, ammunition and other stores of war belonging to the said province, either in any public magazines or in the hands of private persons, together with a state of all places either already fortified, or that you may judge necessary to be fortified, for the security of Our said province; and you are to transmit the said accounts to Us by one of Our Principal Secretaries of State, and also duplicates to Our Master-general or principal officers of Our Ordnance; which accounts are to express the particulars of ordnance, carriages, balls and powder, and all other sorts of arms and ammunition now in Our public stores; and so, from time to time, of what shall be sent to you or bought with the public money, and to specify the time of the disposal and the occasion thereof, and other like accounts half yearly in the same manner.

58. And in case of distress in any other of Our plantations, you shall, upon application of the respective governors to you, assist them with what aid the condition and safety of Our said province under your government can spare.

59. If any thing shall happen which may be of advantage or security to Our province under your government, which is not herein or by your commission provided for, We do hereby allow unto you, with the advice and consent of Our said Executive Council, to take order for the present therein; provided, nevertheless, that what shall be done be not repugnant to Our Commission or Instructions, and to the said Acts passed in the fourteenth and thirty-first year of Our reign; giving unto Us by one of Our Principal Secretaries of State speedy notice thereof, that you may receive Our ratification, if We shall approve the same; Provided always, that you do not, by colour of any power or authority hereby given you, commence or declare war without Our knowledge and particular command therein, except it be for the purpose of preventing or repelling hostilities, or unavoidable emergencies, when the consent of Our said Executive Council shall be had, and speedy notice given thereof to Us by one of Our Principal Secretaries of State.

60. And whereas great prejudice may happen to Our service and to the security of Our said province by your absence or the absence of the Lieutenant-Governor for the time being; you shall not upon any pretence whatsoever come to Europe without having first obtained leave for so doing from Us, under Our signet and sign manual, or by Our order in Our Privy Council.

61. And whereas we have thought fit by Our Commission to direct, that in case of your death or absence from Our said province, and in case there be at that time no person commissioned or appointed by Us to be Our Lieutenant-Governor, or appointed by Us to administer the government within the province, in the event of the death or absence of you and of Our Lieutenant-Governor of the said province, the senior member of the Executive Council, who shall be at the time of your death or absence residing within Our said province of Upper Canada, subject to such other nomination and appointment by you under the great seal of Our said province, as in Our said Commission is in that behalf mentioned, shall take upon him the administration of the government, and execute Our said Commission and Instructions, and the several powers and authorities therein contained, in the manner hereby directed. It is nevertheless Our express will and pleasure, that in such case the person so administering the government shall forbear to assent to any acts but what are immediately necessary for the welfare of Our said province, without Our particular orders for that purpose; and that he shall not take upon him to dissolve the Assembly then in being, nor to remove or suspend any of the members of Our said Executive Council, nor any judges, justices of the peace or other officers, civil or military, without the advice and consent of the majority of the said Executive Council; and he is by the first opportunity to transmit to Us, by one of Our Principal Secretaries of State, the reasons of such alterations, signed by him and the Council; and Our will and pleasure is, that the above Instructions with respect to such senior Councillor shall also be equally observed by and binding upon such other Executive Councillor as may be nominated and appointed by you under the great seal of Our said province, by virtue of Our said Commission in that behalf.

62. And whereas by our different Commissions we have appointed you to be Our Governor and Commander-in-Chief of Our Provinces of Upper Canada and Lower Canada; Our Province of Nova Scotia; Our Islands of Prince Edward and Cape Breton, as well as of Our Province of New Brunswick; and it is Our intention that the Lieutenant-Governors commanding in Our said Provinces of Upper Canada, New Brunswick and Nova Scotia, and the Islands of Prince Edward and Cape Breton, should have and enjoy the full salaries, perquisites and emoluments, granted to them and arising from their respective governments, in as full and ample a manner as if the said governments were under distinct governors in chief. It is therefore Our will and pleasure that you shall not at any time or times, when you shall be resident and commanding in chief in either of Our said provinces of Upper Canada,

Canada, Nova Scotia or New Brunswick, or the Islands of Prince Edward and Cape Breton, have or receive any part of the said salaries, perquisites or emoluments; but that the same shall continue to be paid and satisfied to the Lieutenant-Governors of Our said Provinces and Islands respectively, in the like manner as they usually are during your absence therefrom.

Appendix.  
The King's  
Instructions.

63. And you are upon all occasions to send to Us, by one of Our Principal Secretaries of State, a particular account of all your proceedings, and of the condition of affairs within your government.

(A true copy.)

(signed) *J. Joseph.*

(G.)

COPY of the OATH taken by every Member of the Executive Council.

You do swear, that so far forth as cunning and discretion sufficeth, you will justly, truly and evenly counsel and advise the King and his representative in the government of this province, in all matters to be communed, treated and demeaned in the Executive Council, or by you as the King's counsellor, without partiality or exception of persons, not leaving or eschewing so to do, for affection, love, meed, doubt or dread of any person or persons.

Oath taken by  
Executive Council

You shall keep secret the King's counsel, and all that shall be communed, by way of counsel in the same, and shall not discover it by word or writing, or in any otherwise, to any person out of the same Council, or to any of the same Council if it touch him, or be party thereof.

You shall not gift, meed good, or promise of good, by any man, or, by promise of any other person, accept or take, for any promotion, favouring, letting or hindering, any matter or thing to be treated or done in the said Council.

You shall, with all your might and power, help and strengthen the King's said Council for the good of the King and this province, and for the peace, rest and tranquillity of the same.

You shall withstand any person or persons, of whatever condition, estate or degree, that should attempt or intend the contrary; and, generally, you shall observe, keep and do all that a good and true councillor ought to do unto his sovereign lord, or his representative in this province.

(signed) *John Beikie,*  
Clerk, Executive Council.

(H.)

ADDRESS to HIS MAJESTY on the subject of the Legislative Council.

To the King's most Excellent Majesty.

Most gracious Sovereign,

WE, your Majesty's most dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, humbly represent, that we have applied ourselves with the greatest diligence during the present Session of the Provincial Parliament, to various subjects of great interest to our constituents; and although our proceedings have been unavoidably interrupted, to a degree altogether unprecedented, by the trial of controverted elections, and although many of the members of this House have laboured under the disadvantage of having been without parliamentary experience; yet the necessary measures on the subjects to which we have alluded have been brought to a satisfactory conclusion, and completed as far as depended on this House, and have been sent to the Legislative Council. It is with no ordinary mortification and regret, however, that we find our exertions during a most laborious session, rendered unavailing in respect to most of these measures, by the rejection of them by the Legislative Council. Among such as have shared this fate, are Bills to protect the agricultural interests of this Province from a ruinous foreign competition;—to provide for the just and equal distribution of the property of persons dying intestate;—to secure an impartial trial by jury, and to take from the sheriffs, who hold their offices during pleasure, the power which they now possess of packing juries;—to relieve an excellent and meritorious class of your subjects from burdens and penalties which are imposed by the Militia Laws of this Province, and which are oppressive on them, and which in time of peace are altogether unnecessary;—to improve the system of our common and district schools, and to increase the public funds for their support;—to amend the charter of King's College, in conformity with Your Majesty's gracious recommendations, and with the wishes which have at different times been strongly expressed to Your Majesty by your faithful subjects in this province, so as to put that institution into operation on just and liberal principles;—to provide for the sale of the clergy reserves, and the application of the monies arising therefrom to objects of common benefit and great utility to Your Majesty's subjects in this province, in accordance with Your Majesty's gracious invitations, and with the well-known and often expressed wishes of Your Majesty's subjects;—to promote the peace, freedom and independence of elections of Members of Parliament, by adopting the mode of voting by ballot;—to grant 100 *l.* per annum for five years

Address to the  
King.

Appendix.  
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years to the Prantham and Bath Academies, institutions of education established by the voluntary contribution of the people, and on liberal principles.

All these measures, and others which we will not trouble Your Majesty with enumerating, have been rejected by the Legislative Council without amendment, and the labours of this House, during a session which we think we may justly declare has been distinguished for unprecedented diligence and application to public business, almost entirely baffled and rendered useless by the course pursued by the Legislative Council. If there were any reason to hope that these difficulties could be obviated, or materially diminished in future, we should not trouble Your Majesty; but the experience of years convinces us, that on many subjects of great and general interest there is such a disagreement of opinion between the Legislative Council, as now constituted, and the representatives of the people, as to bring us to the conclusion, which indeed the Legislative Council itself has expressed in relation to one of the most deeply interesting of these subjects, namely, that the Legislature of this province cannot concur in any measure that will be satisfactory to Your Majesty's subjects in this province. We are aware that Your Majesty has been officially informed by his Excellency Sir John Colborne, that "composed as the Legislative Council is at present, the province has a right to complain of the great influence of the Executive Government in it; that it consists of seventeen members, exclusive of the Bishop of Quebec; that of these, from accidental causes, not more than fifteen ever attend to their legislative duties; that thus, out of the members generally present, six are of the Executive Council, and four hold offices under the government; and that his Excellency had therefore intimated his intention of recommending to Your Majesty to increase the Legislative Council." And it was no doubt with a desire to remedy this evil, equally felt by the people and his Excellency, that Your Majesty has since added to their number. But it is our duty to assure Your Majesty that this change has not abated the evil of which we have such serious causes to complain, while it has, on the contrary, produced that further division of responsibility amongst its members which lessens the consciousness of individual accountability, without establishing any community of feeling or sentiments of respect between them and the people.

We do not wish to advert to this unpleasant and mortifying condition of our public affairs, in language that shall be disrespectful or offensive to the Legislative Council; nor do we presume to prescribe to Your Majesty what expedient should be adopted to afford relief in the premises to Your Majesty's dutiful and loyal subjects in this province, who, we are confident, desire that Your Majesty's attention should be called to it, and that we should humbly leave it to Your Majesty's wisdom to apply a suitable remedy.

In connexion with this subject, we feel bound to represent to Your Majesty, that it is the earnest desire of Your Majesty's faithful subjects, that Your Majesty's Government in this province should be conducted by the advice of those who should be actually and practically responsible for their proceedings, and who would, as a consequence, be likely to recommend and favour such public measures as may be most desired by Your Majesty's subjects, and in their opinion most conducive to their interests. We behold Your Majesty, in the administration of the affairs of the great Empire which Providence has committed to Your Majesty's hands, graciously consulting the wishes of your faithful people, as expressed by their representatives, in the choice of responsible advisers, to manage, under Your Majesty, the affairs of the Government; and we have been accustomed to regard it as an essential and invaluable feature of the glorious constitution of our Mother Country. The same principle we wish to see applied in the practice of our colonial government: until that is done, we cannot expect that the administration will give satisfaction to Your Majesty's subjects, or that there will be any real and permanent harmony between the Government and the representatives of the people. It is true, that we might withhold the annual grant for the support of the Government as a mark of our dissatisfaction with this state of things, and as a means of procuring redress; but being anxious to evince our forbearance, and desire to avoid as long as possible contention and difficulty, as well as to show our confidence in Your Majesty's paternal regard for your faithful people in this province, and gracious attention to their constitutional rights; and being reluctant to resort to a measure which we are aware must greatly embarrass the Government, until all other constitutional means of seeking redress have been tried and proved unavailing, we have preferred thus to appeal to Your Majesty for Your Majesty's gracious and effectual interference in our behalf; and have, notwithstanding our just dissatisfaction with the existing state of things, and notwithstanding the pecuniary distress which prevails in the province, granted, for the present year, the necessary supplies for the support of the Government, in the confident hope that effectual steps will immediately be taken for the removal of these obstacles to the peace, welfare and good government of the province. When it is considered that the ministers who, sometimes in rapid succession, fill the Colonial department under Your Majesty, are strangers to our province, and too distantly situated to acquire, through channels, often contradictory and interested, a true and correct knowledge of the wants, wishes and genius of Your Majesty's Canadian people, the practical need of local responsibility becomes more apparent and imperious.

(signed) *Marshall S. Bidwell,*  
Speaker.

Commons House of Assembly,  
15th day of April 1835.

On

## AFFAIRS OF UPPER CANADA.

71

On passing the above Address, the Yeas and Nays were as follows :

|   |    |
|---|----|
| Yeas.—Alway, Bruce, Chisholm, Duncombe of Oxford, Duncombe of Norfolk, Durand, Gibson, Gilchrist, Lount, MacIntosh, Mackenzie, MacMicking, Moore, Morrison, Park, Perry, Roblin, Rymal, Shaver, Shibley, Smith, Thorburn, Waters, Wells, Wilson and Yager - - - - - | 26 |
| Nays.—Brown, Caldwell, MacCrae, MacDonell of Glengary, MacDonell of Northumberland, MacLean, MacNab, Merritt, Morris, Richardson, Robinson, Rykert, Solicitor-General, Walsh, Wilkinson - - - - -   | 15 |

Appendix.

Address to the King.

( I. )

TO THE KING'S MOST EXCELLENT MAJESTY.

Most gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons House of Assembly of Upper Canada, in Provincial Parliament assembled, in full assurance of Your Majesty's earnest desire to promote the welfare of your people, beg leave humbly to address ourselves to Your Majesty upon a matter of the deepest interest to your faithful subjects in this province.

We learn with extreme apprehension and regret, that at the instance of the Lords Commissioners of Your Majesty's Treasury, Your Majesty has been advised to entertain the intention of disallowing two Acts of the Legislature of this colony, which were passed more than two years ago; the one for increasing the capital stock of the bank of Upper Canada, and the other for incorporating a second banking association in this province under the name of the Commercial Bank of the Midland District.

We humbly represent, that, although the disallowance of these Acts may appear to be authorized by the letter of the Statute of the British Parliament, passed in the thirty-first year of the reign of Your Majesty's Royal Father, intituled, "An Act to repeal certain Parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and to make further provision for the Government of the said Province;" yet it is contrary to its spirit and meaning and the principles of a free government. We believe that this provision was intended to remedy any evil which might be occasioned by the Royal Assent being given in the colony to a provincial Act, that should be found incompatible with the rights and interests of other portions of the empire; but we cannot think it was intended to give the power of interference with our internal affairs; against such an interference we respectfully, but plainly and solemnly protest, as inconsistent with those sacred constitutional principles which are essential to a free government; since it is manifest, that if Your Majesty's Ministers, at a distance of more than four thousand miles, and not at all controllable by or accountable to Your Majesty's subjects here, and possessing necessarily a slight and imperfect knowledge of the circumstances of this country, the wants, and habits and feelings of the inhabitants, and the mode of transacting business among us can dictate a different course, in relation to measures affecting ourselves only, from that which the people by their representatives, and with the concurrence of the other branches of the Provincial Legislature, have chosen, we are reduced to a state of mere dependence upon the will and pleasure of a Ministry that are irresponsible to us, and beyond the reach and operation of the public opinion of the province; and no one can rely upon our provincial laws, although they may be constitutionally and deliberately formed, but the most unhappy uncertainty and want of confidence will prevail and extend their disastrous influence over all our business transactions.

We respectfully claim the same right in behalf of Your Majesty's subjects in this province, to be consulted in the making of laws for their peace, welfare and good government, which our fellow subjects in Great Britain enjoy, in respect to the laws to which their obedience is required; and although, from the necessity of the case, power must be granted to the head of the empire of preventing colonial laws being adopted and enforced, which are incompatible with treaties between Your Majesty's Government and foreign states, or with the just rights of any other of Your Majesty's colonies; yet, with these exceptions, we humbly submit, that no laws ought to be, or rightfully can be, dictated to or imposed upon the people of this province, to which they do not freely give their consent through the constitutional medium of representatives chosen by and accountable to themselves."

The force of our humble and dutiful remonstrance against the principle of an interference of Your Majesty's Ministers with our internal affairs, we are not willing to diminish, by insisting upon the inconveniences and evils likely to follow from the exercise of the power, which the letter of the British statute, before quoted, gives to Your Majesty to disallow the provincial Acts which we have mentioned; but we cannot refrain from declaring our painful and settled conviction, that the disallowance of these Acts, after they have been for a long time in operation, so that the most frequent and ordinary, as well as the most extensive and important transactions of business in the province depend upon their continued existence, would be attended with confusion and distress beyond description, without any benefit to the province, and without any advantage whatever to any portion of Your Majesty's dominions.

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Address to the  
King.

We therefore respectfully and humbly pray, that Your Majesty, taking these matters into your favourable consideration, will be graciously pleased not to disallow these provincial acts, and not permit Your Majesty's Ministers to interfere with our internal affairs, but to leave the same entirely to the discretion and control of the Legislature of this province.

We beg to renew our assurances of entire devotion to Your Majesty's person and Government.

Commons House of Assembly, }  
3 March 1834.

Archibald M'Lean,  
Speaker.

Yeas:—Berczy, Bidwell, Boulton, Buell, Burwell, Campbell, Chisholm, Clark, Cook, Crooks, Duncombe, Elliott, Fraser, A., Fraser, D., Hornor, Howard, Jarvis, Lewis, MacDonald, A., M'Donald, D., MacNab, Merritt, Morris, Perry, Randal, Robinson, Samson, Shaver, Van Roughnet, Willson, J., Wilson, W., - - 31. Nay:—Mr. Ketchum.

(K.)

TO his Excellency, Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian Guelphic Order, Knight of the Prussian Military Order of Merit, Lieutenant-Governor of the Province of Upper Canada, &c. &c. &c.

May it please your Excellency,

Address of Commons House of Assembly.

WE His Majesty's dutiful and loyal subjects the Commons of Upper Canada, in Provincial Parliament assembled, beg leave to request that your Excellency will cause to be laid before this House, with as little delay as possible, an entire copy of what is generally termed "The King's Instructions" to the Governors of Upper and Lower Canada; and also copies of any other instruction not heretofore laid before this House, touching the duties or responsibilities of the Executive Council of this province; as also any instructions from His Majesty's Government, touching the administering the government of this Province by any Executive Councillor, in the event of the death or removal from the Province of the Governor, Lieutenant-Governor, or person administering the Government; and also copies of any bond or agreement between your Excellency and any of your present Executive Council, or between any two or more of the said Council, by which it is stipulated in what manner the government shall be administered, or who shall administer the government of this province in case of the above-named occurrence.

Commons House of Assembly, }  
23 March 1836.

Marshall S. Bidwell,  
Speaker.

GENTLEMEN,

I herewith transmit as much of the information desired by the House as I possess.

I have entered into no bond or agreement of any sort with my present Executive Council, and I do not possess, nor does there exist in Council, any document of such a nature between two or more of the said Council.

(L.)

Committee Room, House of Assembly.  
Monday, 28 March 1836.

Present:—Messrs. Perry, Chairman.

Duncombe.  
Morrison.  
Roblin.  
Norton.

*Robert Baldwin Sullivan*, Esq., called in, and interrogated.

Evidence before  
Select Committee  
of House of  
Assembly.

*Question 1.* ARE you senior member and presiding Councillor of the Executive Council?  
—*Answer.* Yes.

*Q. 2.* Is there any written agreement existing between yourself and any of the other members of the Executive Council, by which it is stipulated on your part in what way the government should be administered in the event of the death or removal from the province of the Lieutenant-Governor?—*A.* There is no agreement in existence by which it is stipulated how the government of the province shall be administered in the event mentioned in the question. At the time the Council were about to be sworn in, I expressed a wish that it might be understood that, in either of the events mentioned, it was my intention to resign my place as Executive Councillor, as it was not my desire, in any event, to fill the situation of administrator of the government. At my request this intention was expressed in writing, and I signed it.

*Q. 3.* Is the instrument you mention under seal, or witnessed?—It is neither under seal or witnessed.

*Q. 4.* Into whose hands did you deliver the document?—*A.* Into the hands of the Hon. William Allan.

*Q. 5.* Did



Q. 5. Did any other person know of the existence of the document?—A. Yes, it was not intended that my intention should be secret. His Excellency the Lieutenant-Governor was present when it was read, and delivered to Mr. Allan.

Q. 6. Did his Excellency the Lieutenant-Governor write the document, or was it written by his Excellency's order?—A. I proposed that my intention should be expressed in writing, and I wished that the writing should be drawn up by some person other than myself; upon which his Excellency, being present, was kind enough to draw it up.

Q. 7. Was the writing intended to be legally binding upon you?—A. Certainly not.

Q. 8. What was the object or intention of the paper in question, if it was not intended to be legally binding?—A. It was intended for my own satisfaction, that it might not be said that I had it in view to fill the situation of administrator of the government.

Q. 9. Do you think you could constitutionally resign in case of either of the above events, and give place to another who could administer the government?—A. I could transmit my resignation to His Majesty's Government, and decline taking upon myself the office of administrator of the government. I think it is the constitutional right of any individual to decline taking office upon himself; and as to giving place to another, that is not the act of the person declining office, but of the law.

Q. 10. Do you not think that in either of the above events taking place, you would be the administrator of the government without being appointed in any way?—A. The senior Executive Councillor would, upon taking the oaths of office, be invested with the administration of the government without any further appointment.

Q. 11. Do you think that upon your resignation, as above stated, the administration of the government could be assumed by any other member of the Council?—A. I think it could; either upon my resignation, or upon my refusal to take the oath of office.

Appendix.

Evidence before Select Committee of House of Assembly.

Committee Room, April 11, 1836.

Hon. Augustus Baldwin, called in; and Examined.

Question 1. ARE you one of the present Executive Council?—Answer. Yes.

Q. 2. Have you any knowledge of a paper signed by Mr. Sullivan in relation to the administration of the government in the event of the death or absence from the province of the Lieutenant-Governor; and were you present when such paper was executed?—A. I was present when a paper was signed by Mr. Sullivan for the purpose of Mr. Allan's becoming Senior Councillor in the event alluded to.

Q. 3. At whose suggestion was the paper drawn up and signed?—A. Mr. Elmsley's.

Q. 4. Into whose hands was the paper, after execution, delivered?—A. I think it was into Mr. Allan's hands.

Q. 5. Who drew it up?—A. Sir Francis Head drew it up.

Q. 6. What was the understood purpose of the paper?—A. That the administration might not devolve upon Mr. Sullivan in case of either of the above events.

Q. 7. What objection was there to Mr. Sullivan's administering the government thus referred to?—A. I know of none other than Mr. Allan had preferable claims from his age and long standing in society. Mr. Sullivan made no objections when the thing was suggested, but immediately said he would acquiesce.

Q. 8. Are the Committee to understand that the agreement or paper alluded to was drawn up at the Government House?—A. No, it was drawn up in the Executive Council-Chamber. We went there to meet the Governor before sworn into office.

(M.)

To his Excellency Sir Francis Bond Head, Knight, Commander of the Royal Hanoverian Guelphic Order, Knight of the Prussian Military Order of Merit, Lieutenant-Governor of Upper Canada, &c. &c. &c.

May it please your Excellency,

WE, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada in Provincial Parliament assembled, humbly beg leave to inform your Excellency, that this House, considering the appointment of a responsible Executive Council to advise your Excellency on the affairs of the province, to be one of the most happy and wise features in the constitution, and essential to the form of our government, and one of the strongest securities for a just and equitable administration, and eminently calculated to insure the full enjoyment of our civil and religious rights and privileges, has lately learned with no small degree of surprise and anxiety, that the Executive Council, so recently formed for the purpose above stated, (as we presume) consisting of six members, did, on Saturday, the 12th instant, unanimously tender to your Excellency their resignations; and that your Excellency was pleased to accept the same; and humbly to request your Excellency to inform this House, without delay, whether such are the facts, and also to communicate to this House full information relative to the cause of disagreement between your Excellency and your said late Executive Council, as far as lies in your Excellency's power to make known; as also to furnish this House with copies of all communications between your Excellency and your said late Council, or any of them, on the subject of such disagreement, and subsequent tender of resignation.

Address of House of Assembly to Lieutenant-Governor.

Commons House of Assembly, }  
14th March 1836.

Appendix.

Reply of House of  
Assembly to  
Lieut.-Governor.

## HIS EXCELLENCY'S REPLY.

GENTLEMEN,—Nothing can appear more reasonable to my mind than the surprise and anxiety which the House of Assembly express to me at the intelligence they have received of the sudden resignation of the six members of the Executive Council; for with both these feelings I was myself deeply impressed, when firmly relying on the advice, assistance and cordial co-operation of my Council, I unexpectedly received from them the embarrassing document which, with my Reply thereto, I now, at the request of the House of Assembly, willingly present to you.

With every desire to consult my Council, I was preparing for their consideration important remedial measures, which I conceived it would be advisable to adopt, and had they but afforded me those few moments for reflection, which, from my sudden arrival among you, I fancied I might fairly have claimed as my due, the question which so unnecessarily they have agitated, would have proved practically to be useless.

Had they chosen to have verbally submitted to me in Council, that the responsibility, and consequently the power and patronage of the Lieutenant-Governor, ought henceforward to be transferred from him to them; had they even in the usual form of a written petition, recommended to my attention, as a new theory, that the Council, instead of the Governor, was to be responsible to the people, I should have raised no objection whatever to the proceeding, however in opinion I might have opposed it; but when they simultaneously declared, not that such *ought to be*, but that such actually *was* the law of the land, and concluded their statement, by praying that a Council sworn in secrecy to assist me, might be permitted, in case I disapproved of their opinion, to communicate with the public, I felt it my duty calmly and with due courtesy to inform them, that they could not retain such principles together with my confidence, and to this opinion I continue steadfastly to adhere.

I feel confident that the House of Assembly will be sensible, that the power intrusted to me by our gracious Sovereign, is a subject of painful anxiety; that from the patronage of this province I can derive no advantage; and that I can have no object in retaining undivided responsibility, except that which proceeds from a just desire to be constitutionally answerable to His Majesty, in case I should neglect the interests of his subjects in this province.

With these sentiments I transmit to the House of Assembly the documents they have requested, feeling confident that I can give them no surer proof of my desire to preserve their privileges inviolate, than by proving to them that I am equally determined to maintain the rights and prerogatives of *the Crown*, one of the most prominent of which is, that which I have just assumed, of naming those Councillors in whom I conscientiously believe I can confide.

For *their* Acts I deliberately declare myself to be responsible, but they are not responsible for mine, and cannot be, because, being sworn to silence, they are deprived by this fact, as well as by the constitution, of all power to defend themselves.

(O.)

To His Excellency Sir *Francis Bond Head*, Knight Commander of the Royal Hanoverian Guelphic Order, Knight of the Prussian Military Order of Merit, Lieut.-Governor of the Province of Upper Canada, &c. &c. &c.

May it please your Excellency,

Address of House  
of Assembly to  
Lieut.-Governor.

WE, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in provincial Parliament assembled, humbly beg leave to inform your Excellency, that we have with deep regret learned that your Excellency has been induced to cause the late Executive Council to tender their resignation to seats in the Council under circumstances which still enabled your Excellency to declare that your estimation of their talents and integrity, as well as your personal regard for them remained unchanged, and that under the present excited state of public feeling in this colony, occasioned by the recent proceedings between your Excellency and the late Executive Council, and the appointment of a new Council (as appears by the Gazette Extraordinary of Monday 14th March instant,) composed of Robert Baldwin Sullivan, John Elmsley, Augustus Baldwin, and William Allan, Esquires, this House feel it to be a duty they owe alike to His most gracious Majesty, and to the people of this Colony, whose representatives they are, to avail themselves of the first opportunity to declare at once to your Excellency the entire want of confidence of this House in the last-mentioned appointments, and deep regret that your Excellency consented to accept the tender of resignation of the late Council, and humbly request your Excellency to take immediate steps to remove the present Council from such their situation.

Commons House of Assembly, }  
24 March 1836. }

(signed) *Marshall Bidwell*,  
Speaker.

(Answer to the foregoing Address.)

Gentlemen,

Appendix.

In reply to your Address, I assure you I very sincerely regret that the House of Assembly should entertain a want of confidence in the Council I appointed on the 14th instant, as I faithfully declare, that under the circumstances in which I was placed, I made every exertion to select gentlemen that I thought would be most acceptable to the House and to the people.

Reply of Lieut.-Governor to House of Assembly.

I can assure the House, that no one lamented more than I did the resignation of the late Council, three of the members of which, namely, Messrs. Dunn, Baldwin and Rolph, I had myself especially selected.

With respect to the request "that I should take immediate steps to remove the present Council from such their situation," I might say that I had hoped the House would have refrained from any such decided expression of its opinion on the subject, until it had received the report of the Committee to whom the subject was referred, and for whom the government office is now occupied in furnishing the documentary evidence they desire, but I am unwilling to discuss that question.

With respect to the "present excited state of public feeling in this colony, occasioned by the recent proceedings," I feel guiltless of being its cause, inasmuch as to the House of Assembly, as well as to people of all classes who have addressed me on the subject, I have done every thing in my power to assure them of my desire that the question should be calmly settled, according to the spirit of the Constitution, and consequently according to the interests of the people.

I can assure the House that, far from entertaining any determination to maintain my opinion merely because I have uttered it, I should be at this moment happy to abandon it, if the duty I owe to my Sovereign and to the people could permit me. My mind invites rather than repels conviction; and hoping that the House will on a subject which must surely occupy the attention of the whole country meet me with a desire to be governed by reason and truth, I will concisely once again submit to it my view of the case.

From the time of General Simcoe to the departure of Sir John Colborne, the practice of every Lieutenant-Governor of this province has been to consider their Executive Councillors as advisers, sworn not to respond, or, in other words, not to be responsible to the people.

On my arrival here, finding this had been the practice, I also pursued it; but on preparing to add three popular members to the Council, one of them, Mr. R. Baldwin, with the sincerity which forms his character, tells me he thinks my Council, in spite of their oath, *should* respond to the people.

To this project I refuse to accede, a long argument ensues, and at last I write to Mr. R. Baldwin a note, of which the following is an extract:—

"I shall rely on your giving me your unbiassed opinion on all subjects respecting which I may feel it advisable to require it."

After receiving this distinct statement of my intention *not* to alter the old practice, Mr. R. Baldwin sends a copy of the same to Dr. Rolph and to Mr. Dunn, and they, knowing my sentiments, all three join my Council.

After sitting in the Council three weeks, Mr. Baldwin's conscientious opinion again appears, convinces the other members, old as well as new, and the subject in a most formal manner is officially brought before me, with a request that if I disapprove of the opinion, the Council may be allowed to address the people. On referring to the constitutional Act, I am unable to comprehend their reasoning, and we consequently part on the same good terms on which we met; I retaining my unaltered opinion, while at least four of the Council have (since my arrival) changed theirs.

The whole correspondence I forward to the House of Assembly, with an earnest desire that, regardless of my opinion, the question may be fairly discussed.

In the station I hold, I form one branch out of the three of the legislature, and I claim for myself freedom of thought as firmly as I wish that the other two branches should retain the same privilege.

If I should see myself in the wrong, I will at once acknowledge my error; but if I should feel it my duty to maintain my opinion, the House must know that there exists a constitutional tribunal competent to award its decision, and to that tribunal I am ever ready most respectfully to bow.

To appeal to the people is unconstitutional, as well as unwise—to appeal to their passions is wrong; but on the good sense of the House of Assembly I have ever shown a disposition to rely, and to their good sense I still confidently appeal.

(P.)

UPPER CANADA.

SCHEDULE of PATENTS for LAND, constituting ENDOWMENTS to the Church of England in this Province, that have been completed.

| No. | NAME<br>of the<br>MINISTER.                         | Name of the Parsonage<br>and<br>Situation. | LAND FORMING THE ENDOWMENT.  |                                     |   | Number<br>of<br>Acres. |
|-----|---|--|--|-------------------------------------|---|------------------------|
|     |   |  | Lot.   | Con.                                | Township.   |                        |
| 1.  | The Hon. and Venerable John Strachan, D.D., &c. - - | City of Toronto -                          | { 6, 9<br>22<br>17 }   | { 2<br>3 }                          | York, from the Bay -                                      | 800                    |
| 2.  | Rev. C. Matthews -                                  | York, E. Y. S. -                           | { 14 }   | { 2 }                               | York, E. Yonge-street                                     | 200                    |
| 3.  | Rev. T. Phillips, D.D.                              | Mimico, in Etobicoke                       | { 3 & 4<br>W <sup>t</sup> p <sup>t</sup> 3<br>4 }                                    | { 1 Rg <sup>e</sup> 2<br>2, 3 & 4 } | Etobicoke - - -   | 205                    |
| 4.  | Rev. A. N. Bethune -                                | Cobourg - - -                              | { Part 15<br>1/4 15<br>27<br>E. 1/2 2 }  | { B.<br>A.<br>6<br>7 }              | Hamilton - - -  | { About<br>400 }       |
| 5.  | Rev. M. Harris -                                    | Perth - - -                                | { 17<br>4 }  | { 7<br>1 }                          | Bathurst - - -<br>Drummond - - -                          | 400                    |
| 6.  | Rev. R. F. Grout -                                  | Grimsby - - -                              | { 11, 12<br>13, 14 }   | { 6 }                               | Grimsby - - -   | 400                    |
| 7.  | Rev. R. H. D'Olier -                                | Peterborough - -                           | { 17<br>40<br>15, 16<br>4 Town lots }  | { 2<br>13<br>3<br>- }               | Smith - - -<br>Monaghan (Park Lots)<br>Peterborough - - - | { About<br>420 }       |
| 8.  | Rev. F. Evans - -                                   | Woodhouse - - -                            | { 3/4 1<br>1/4 2<br>Part 6<br>10 }   | { 3<br>1<br>4 }                     | Woodhouse - - -   | 402                    |
| 9.  | Rev. John Anderson                                  | Waterloo (Bertie) -                        | { 6 & 7 }  | { 5 & 6 }                           | Bertie - - -  | 400                    |
| 10. | Rev. Wm. Betteridge                                 | Woodstock (Blandford)                      | { 2<br>16 }  | { 1<br>5 }                          | Oxford West - - -<br>,, East - - -                        | 400                    |
| 11. | Rev. John Miller -                                  | Ancaster - - -                             | { 39, 40 }   | { 5 }                               | Ancaster - - -  | 400                    |
| 12. | Rev. H. Patton -                                    | - - Kemptville, Johnstown District.        | { 15, 16<br>16 }   | { 1<br>6 }                          | Oxford, J <sup>n</sup> D <sup>i</sup> - - -               | 450                    |
| 13. | Rev. S. Armour -                                    | Cavan - - -                                | { 17<br>10 }   | { 4<br>10 }                         | Cavan - - -   | 400                    |
| 14. | Rev. G. Mortimer -                                  | Thornhill (Home Dist <sup>d</sup> )        | { N. 1/2 27 }  | { 1 }                               | Vaughan - - -   | 105                    |
| 15. | Rev. W. Macaulay -                                  | Picton (Prince Ed. D <sup>i</sup> )        | { N. E. p <sup>t</sup> blk. }  | { D. }                              | Sophiasburgh - - -  | 400                    |
| 16. | Rev. R. Blakey -                                    | Prescott - - -                             | { 18 & 19,<br>and Commons<br>between. }  | { 4 }                               | Augusta - - -   | 450                    |
| 17. | Rev. W. H. Gunning                                  | Elizabeth Town -                           | { 19, 20 }   | { 5 }                               | Elizabeth Town - - -                                      | 400                    |
| 18. | Rev. F. Mack - -                                    | - - Wellington Square, Nelson.             | { 6<br>10 }  | { 2<br>4 }                          | Flambro' East - - -                                       | 400                    |
| 19. | Rev. J. Coghlan -                                   | Port Hope - - -                            | { Part 9<br>27<br>6 }  | { 1<br>4<br>8 }                     | Hope - - -<br>- ditto - - -                               | 36<br>400              |
| 20. | Rev. B. Cronyn -                                    | London (Township) -                        | { Part 15<br>15<br>16 }  | { 3<br>7<br>3 }                     | London - - -<br>- ,, - - -                                | 375<br>4 1/2           |
| 21. | Rev. B. Cronyn -                                    | London (Town) -                            | { Part of Town Plot of London, on which the Church of England now stands<br>12, 13 } | { C. }                              | - - -<br>London (Township) -                              | 4 2/5<br>400           |
| 22. | Rev. V. P. Meyerhoffer                              | Markham - - -                              | { 9<br>19 }  | { 5<br>9 }                          | Markham - - -<br>Vaughan - - -                            | 400                    |

SCHEDULE of Patents for Land, constituting Endowments to the Church of England, &c.—*continued.*

| No. | NAME<br>of the<br>MINISTER.                      | Name of the Parsonage<br>and<br>Situation. | LAND FORMING THE ENDOWMENT.   |  |   | Number<br>of<br>Acres.        |
|-----|--|--|---|--|---|-------------------------------|
|     |  |  | Lot.  | Con.   | Township.   |                               |
| 23. | The Rev. G. O. Stuart,<br>Archdeacon of Kingston | Kingston - -                               | Blk. C. adjoining Kingston (Town)<br>$\frac{3}{4}$ 12, 13<br>$\frac{1}{4}$ 14<br>43   | 4<br>3   | Kingston (Township) -<br>Ernest Town - -  | 18<br>700                     |
| 24. | Rev. Thomas Creen -                              | Niagara - -                                | 126, 127,<br>128, 130   | - -  | Niagara (Township) -  | 400                           |
| 25. | Rev. John Cochrane -                             | Belleville - -                             | 16, 17,<br>Part 4   | 3<br>1   | Thurlow - - -   | 418                           |
| 26. | Rev. G. Archbold -                               | Cornwall - -                               | 19, $\frac{1}{4}$ 38<br>Also a strip of land between the Town of Cornwall<br>and the second Concession of the Township of Cornwall. | 8  | Cornwall (Township).<br>- - -   | 410                           |
| 27. | Rev. J. Radcliff -                               | Warwick - -                                | 15, 25  | 1  | Warwick - - -   | 400                           |
| 28. | Rev. S. Givens -                                 | Napanee - -                                | 15, 16  | 4  | Richmond - - -  | 400                           |
| 29. | Rev. D. E. Blake -                               | Adelaide - -                               | 12<br>25<br>8 & 9   | 1<br>1<br>Front street                               | Adelaide (N <sup>th</sup> Egr <sup>t</sup> R <sup>d</sup> )<br>" (South ditto)<br>" (Village) - | 400                           |
| 30. | Rev. James Clark -                               | St. Catherines - -                         | 3   | 5 & 6  | Grantham - - -  | 400                           |
| 31. | Rev. J. Short -                                  | Beckwith - -                               | 17<br>N. E. $\frac{1}{2}$ 21<br>W. $\frac{1}{2}$ 26   | 1<br>2   | Beckwith - - -  | 400                           |
| 32. | Rev. R. Rolph -                                  | Amherstburgh -                             | 80, 81  | 7  | Malden - - -  | 400                           |
| 33. | Rev. Job Deacon -                                | Adolphustown -                             | 24, 25<br>6, 7, 8<br>6, 7, 8  | 1<br>North of<br>3d street<br>South of<br>4th street | Adolphustown (Township)<br>" (Town) -   | 164                           |
| 34. | Rev. W. Leeming -                                | Chippewa - -                               | 72, 88<br>89, 106   | - -  | Stamford - - -  | 400                           |
| 35. | Rev. A. Palmer -                                 | Guelph - -                                 | C. Div <sup>n</sup> A. res <sup>ve</sup> lot be-<br>tween C. and River Speed,<br>14, 15, Div <sup>n</sup> A. -                      | -  | Guelph (Township) -   | 86                            |
|     |  |  | Centre part of St. George's-<br>square - -  | -  | Guelph (Town) -   | { Perches<br>54 $\frac{1}{2}$ |
|     |  | Broken                                     | R <sup>s</sup> 2, 3, 4<br>3, 4  | 10<br>11   | Puslinch - - -  | 326                           |
| 36. | No Minister yet ap-<br>pointed.                  | Thorold - -                                | 98, 99<br>100, 121  | - -  | Thorold - - -   | 400                           |
| 37. | Ditto - -  | Louth - -                                  | 11, 12<br>12  | 4<br>5   | Louth - - -   | 300                           |
| 38. | Ditto - -  | Fredericksburgh -                          | 9, 10, 11   | 2  | Fredericksburgh -   | 250                           |
| 39. | Ditto - -  | Bath (Midland Dist <sup>t</sup> )          | $\frac{1}{4}$ 12, 13<br>$\frac{3}{4}$ 14  | 4  | Ernest Town - -   | 400                           |
| 40. | Ditto - -  | Williamsburgh -                            | 18, 19  | 4  | Williamsburgh - -   | 400                           |
| 41. | Ditto - -  | Richmond (Bathurt D <sup>t</sup> )         | 24<br>17  | 5<br>9   | Goulborn - - -<br>Fitzroy - - -   | 400                           |
| 42. | Ditto - -  | Clarke - -                                 | 20, 27<br>Part 34   | 2<br>2   | Clarke - - -<br>" given by S. Wil-<br>mot, Esq. -   | 400<br>15                     |
| 43. | Ditto - -  | Darlington - -                             | 25, 31  | 1  | Darlington - - -  | 400                           |
| 44. | Ditto - -  | Town of Barrie Home<br>District.           | Six town lots<br>10<br>28<br>10   | - -<br>8<br>13<br>14                                 | Barrie - - -<br>Innisfil - - -  | 420                           |

Secretary and Registrar's Office, Toronto,  
5 February 1836.

D. Cameron,  
Sec<sup>y</sup> & Reg<sup>r</sup>.

Appendix.  
Schedule of late  
Endowments of  
Parsonages and  
Rectories.

THE following RECTORIES have been endowed since the receipt of the foregoing STATEMENT.

| No. | N A M E S.   |   | ACRES.  |
|-----|--|---|---------|
| 45. | Rev. John Gamble Geddes, Hamilton (Gore District.) | -- Lot No. 6, in 13th Concession, and lot No. 2, in 14th Concession, of East Flamborough -  | 400     |
| 46. | Rev. John Grier, Ameliasburgh                      | -- No. 96 and 102, in the 2d Concession of Ameliasburgh -   | 400     |
| 47. | Rev. J. G. Beek, Lindsay, Williamsburgh.           | -- Part of the centre Commons in 1st and 2d Concession; Williamsburgh, 37 1/2 acres; the centre Commons between 18 and 19, in 1st, 3d and 4th Concession of Matilda, 163 acres; lots No. 19, in 6th Concession, Matilda - | 400 1/2 |
| 48. | Rev. Edward J. Boswell, Carleton-place.            | -- No. 26, in 2d Concession, and No. 2, in 7th Concession, of Ramsay -  | 400     |
| 49. | Rev. Mark Burnham, St. Thomas.                     | -- Lot 9, in 1st Concession, and 17, in 4th Concession, Township of Southwold -   | 400     |
| 50. | Rev. A. H. Burwell, Bytown -                       | -- Lot 17 and 18, in 1st Concession, on the Ottawa, in Gloucester - about   | 400     |
| 51. | Rev. James Magrath, Toronto                        | -- Lot 23, in 2d Concession, and lot 29, in 4th Concession, East Hurontario-street, Chingua-cousy -   | 400     |
| 52. | Rev. James Padfield, March -                       | -- No. 2 and 32, in 4th Concession, on the Rideau, Nepean -   | 400     |
| 53. | Rev. Robert Lugger, Brantford                      | -- No. 3, in 2d Concession, and No. 9, in 3d Concession, of Burford -   | 400     |
| 54. | Rev. Richard Flood, Delaware                       | -- No. 22, in 1st Range, North of the Longwood Road, and No. 16, in 1st Concession, Carradoc -  | 435     |
| 55. | Rev. William Johnson, Sandwich.                    | -- No. 3, East of River au Puce; front half, No. 1, between River Puce and River Peche, in Maidstone; and lot 8, broken front, Tilbury West - about   | 400     |
| 56. | Parish Church in Chatham -                         | -- Lots 8 and 15, in 1st Concession, of Tilbury West, and lot 2, between Belle River and River Ruscum, in the Township of Rochester - about   | 400     |

RETURN of PROPERTY surrendered by certain CLERGYMEN of the CHURCH of ENGLAND, and others; showing the Value of said Property, with the Lands granted in lieu thereof, intended as Endowment.

| N A M E.               |  |   | Acres. |
|------------------------|--|---|--------|
| Rev. James Coghlan -   | -- Part of Lot No. 9 in the 1st Concession of Hope, 36 acres, with messuage or dwelling-house surrendered; value 1,060 <i>l.</i> 6 <i>s.</i> 3 <i>d.</i> | Received in lieu:<br>Lot No. 27. 2 Con. Hope - 200<br>27. 8 " " - 200<br>2. 9 " Cavan - 200<br>S. 1/2 9. 9 " ditto - 100<br>E. 1/2 16. 5 " Emily - 100<br>N. 1/2 & S. E. 1/4 } 3. 6 " Seymour 150<br>and N. }<br>part } 2. 5 " ditto - 70 | 1,020  |
| Rev. George Mortimer - | -- N. 1/2 27, West side Yonge-street, in the 1st Concession of the Township of Vaughan, 105 acres; value 750 <i>l.</i>                                   | R. 1/2 14. 3 " Puslinch }<br>16. 3 " ditto - } 336<br>30. 1 " ditto - }<br>22. 12 " Innisfil. - 200<br>27. 6 }<br>18. 7 " Essa - 800<br>12. 8 }<br>20. 8 }  | 1,336  |

RETURN of Property surrendered by certain Clergymen of the Church of England—continued.

Appendix.

Schedule of late Endowments of Parsonages and Rectories.

| NAMES.                  |  |   | Acres.  |
|-------------------------|--|---|---|
| Rev. Benjamin Cronyn -  | - - Part of Lot No. 16, in the 3d Concession of London, containing 4 acres and 34 poles, with mesuage or dwelling-house, out-houses, offices and buildings; value 1,180 <i>l</i> . | Received in lieu :<br>12. 2 }<br>part 15. 3 }<br>31. 3 }<br>15. 11 }<br>20. 12 } Con. London<br>15. 13 }<br>15. 15 }<br>12. B }<br>2. 7 }<br>20. 2 }<br>36. 2 } „ Nissowri<br>31. 3 } | 1,396<br><br><br><br><br><br><br><br><br><br><br>496<br><hr/> 1,892 |
| Rev. Francis Evans -    | - - S. W. $\frac{1}{4}$ of Clergy Reserve, Lot No. 2 in the 3d Concession, 50 acres, and the South part of No. 1 in the 3d Concession, Wood-house, 50 acres; value 600 <i>l</i> .  | Lots 2 }<br>9 } 7 „ }<br>16 } Walpole<br>38 } „ }   | 800   |
| Rev. Philip Mayerhoffer | - - Rear part of Lot No. 17, in the 5th Concession of Markham, 70 acres; value 250 <i>l</i> .  | Lot 19. 5 „ Markham   | 200   |
| Rear Admiral Vansittart | - - A house, two acres and two lots of land in Blandford, and 26 acres in Oxford, East, value 935 <i>l</i> ., for the Church at Woodstock.   | - - 3,690 acres in the Township of Bexley, District of Newcastle.   |   |

(R.)

Government House, 4th April 1836.

Sir,  
I HAVE laid your letter of the 2d instant before the Lieutenant-Governor, and have the honour to forward to you, by his Excellency's command, the document therein applied for.  
I think it right to add, for the information of the Committee, that a rejoinder to the Lieutenant-Governor's answer to the Address of the Citizens of Toronto was left at the Government-House in a sealed cover, and returned unread to Mr. George Ridout, who had brought up and read to his Excellency the Address; that gentleman, however, disclaimed all participation in the Rejoinder, and forwarded it to Mr. Jesse Ketchum, one of the subscribers.

Letter from  
J. Joseph, Esq. to  
J. Perry, Esq.

I have the honour to be, &c.  
(signed) J. Joseph.

Peter Perry, esq., M. P.,  
Chairman, &c.

(S.)

REJOINDER to the foregoing REPLY, which has this day been laid before His Excellency.

May it please your Excellency,

WE thank your Excellency for replying to our Address, " principally from the industrious classes of the city," with as much attention as if it had proceeded from either of the branches of the legislature; and we are deeply sensible, in receiving your Excellency's reply, of your Excellency's condescension in endeavouring to express yourself in plainer and more homely language, presumed by your Excellency to be thereby brought down to the lower level of our plainer and more homely understandings. But we beg leave, in justification of those classes, to assure your Excellency, that any comparison which may have passed in your Excellency's mind between them and the more unfortunate and less favoured in the parishes of the parent State, is by no means founded in truth. The industrious classes of this city have for many years been seriously impressed with the duty and importance of acquiring knowledge, for the general diffusion of which they have, by their own efforts and at their own expense, (with the aid of generous and patriotic friends,) so far successfully laboured as to be able to appreciate good writing and fair reasoning. We desire respectfully to inform your Excellency, in the plain and homely language of industrious men, that any supposed necessity for this great condescension of your Excellency, could not have existed, in any degree, had not past administrations sadly neglected our claims to the blessings of general education. Lest your Excellency should doubt our sufficient apprehension

Rejoinder from  
Citizens of Toronto  
to Reply of Lieute-  
nant-Governor.

Appendix.  
 —  
 Rejoinder from  
 Citizens of Toronto  
 to Reply of Lieu-  
 tenant-Governor.

hension of the matter (though we have practically felt and suffered from the evil,) we humbly refer your Excellency to the language of our honest and honoured representatives at the opening of the present Session of our Parliament:—"We have also been anxious in past years to make the means of education general and easily available, but it has only lately become known to the legislature that a bountiful provision in lands was made by the Crown about 40 years ago, though since deteriorated by a recent secret unfavourable exchange for inferior lands. The University of King's College was grounded on Royal Charter, sought for and granted in 1826, upon principles so exclusive and sectarian, as to render it deservedly unacceptable to the great body of the people for whose benefit it was professedly intended; and although the most reasonable modifications were suggested by a series of Resolutions in 1829, yet it is now, for the first time, that your Excellency has been enabled to announce from His Majesty's Government any specific proposition respecting it. Nor ought we to fail to notice, that large appropriations have been made out of the University fund, not to the district and township schools, undeservedly neglected, but to sustain Upper Canada College in this city, in which the sons of all the wealthiest families are educated, and which ought, therefore, to be supported without so questionable an encroachment on public funds."

To this statement we can add the untiring efforts of our representatives for the sale of the clergy reserves, and the appropriation of their proceeds to the purposes of general education, have hitherto proved unavailing; and although a philosophical apparatus, purchased out of the taxes gathered from the people in the year 1800, has ever since been unused, mouldering and decaying in a garret in the Hospital, yet when the industrious classes, after cleaning and repairing it, humbly solicited his late Excellency, Sir John Colborne, for the use of it in their Institute, it was peremptorily refused.

We therefore humbly pray your Excellency, under these mortifying and humiliating circumstances, to accept the above painful facts and extracts from the records of our Parliament as an apology for any alleged necessity for your Excellency's gracious condescension in using plainer and more homely language for the level of our understandings.

But it is because we have been thus maltreated, neglected and despised in our education and interests, under the system of government which has heretofore prevailed, that we are now driven to insist upon a change, which cannot be for the worse. In the further language of our Commons House of Assembly, we can aver that "*the uniform experience of nearly half a century, has forced the conviction, confirmed by the history of nations, that no richness of soil, or salubrity of climate, no wealth in public lands or industry and economy among a deserving people, can insure their peace, welfare and prosperity, without the possession of those suitable institutions which will yield cheap, honest and responsible government.*"

Now, your Excellency is pleased to answer us, on this occasion, by declaring, that the system of government which has prevailed from the time of Simcoe, is the best for us, although it has, by its vices, reduced us to so deplorable a condition of grievances, that even your Excellency recognizes it, this day, in the following just and sententious language to us: "*The grievances of this province must be corrected—impartial justice must be administered—the people have asked for it; their Sovereign has ordained it; I am here to execute His gracious Commands: delay will only increase impatience.*" Thus is the exigency of our affairs frankly admitted by your Excellency in both the civil and judicial departments; and surely it is the province of wisdom not merely to relieve the present exigency but to remove the causes which have produced it in the past, and will, if suffered to continue, reproduce it in the future; for the like causes will ever produce the like effects. However much, therefore, we might commend the intention of your Excellency to see that "*the grievances of this province* are redressed, and *impartial justice administered*," we are determined, by means of institutions better organized and directed, to prevent the recurrence of such wrongs; because it is wiser to prevent evil, than to hazard the correction of it after it has arisen, or has, perhaps, become inveterate.

Your Excellency is pleased to say, 'I am here to execute,' &c. But your Excellency's predecessors throughout the history of this country have made similar professions, yielding however nothing but bitter disappointment. The issue of the Administration of a Gore, a Maitland, and a Colborne, has been equally disastrous; each in its commencement holding forth expectations as flattering as those from your Excellency, but each finally aggravating our need for "*grievances to be redressed, and impartial justice to be administered.*" But the very fact, that your Excellency has begun like your predecessors, is a reason for apprehending the same result; for it would be offensive to your Excellency to assume that they were less wise, impartial and honourable than any who may ever succeed them. The hopes of amelioration from each successive Governor have been uniformly delusive; and candor obliges us to assure your Excellency, that, even in this early period of your government, our condition has become more deplorable, than ever, and the very nature and stability of our institutions involved in alarming uncertainty.

While our condition has been thus growing worse, under a succession of new Governors from England, they have been responsible to the Minister in Downing-street. With our plain and homely understandings, we cannot comprehend how a responsibility to Downing-street having failed of any good with all your predecessors, should be all availing in your present government; for it is the same responsibility in nature and degree; it is regulated by the same instructions; it is rendered to the same distant Government, 4,000 miles off, and guarded by such a system of secret Despatches, like a system of espionage, as to keep  
 in



in utter darkness the very guilt, the disclosure of which could alone consummate real and practical responsibility.

Dalhousie and Aylmer in Lower Canada, and Gore, Maitland and Colborne in Upper Canada, have severally misgoverned their respective provinces. The two former have been impeached by the people, through their representatives, and their very crimes, instead of meeting punishment, have raised them to higher honours. And although the three latter have severally retired from our country after misconducting our affairs, under a nominal responsibility to Downing-street, till they had engendered an imperious necessity "for the correction of our grievances, and the impartial administration of justice," yet in every case they have been promoted higher, in direct proportion to the complaints of the people, without any redress for their wrongs, or even censure of their oppressions. We do not mean, in our plain and homely statement, to be discourteous, by declaring our unalterable conviction, that a nominal responsibility to Downing-street, which has failed of any good with the above gentlemen of high pretensions to honour, character and station, cannot have any magic operation in your Excellency's administration, which, should it end, as it has unhappily begun, might make us drink the cup of national misgovernment to the very dregs, without (as experience proves) redress on our part, or retribution on yours. "Facts are stubborn things." It is a mockery to invite us to rest our future hopes on an ineffectual, merely nominal responsibility, that has proved a broken reed, which, it would be folly ever again to rest upon. Your Excellency has been pleased solemnly and publicly to declare, that being determined to hold an irresponsible, or, more strictly speaking, an acceptable Executive Council, you hold yourself responsible for their acts as well as your own; and, considering the sort of Council you have about you, we cannot foresee the magnitude to which your Excellency's responsibility may extend. On your Excellency's account, therefore, as well as our own, we do humbly and heartily desire to see you surrounded by confidential servants, not likely to involve your Excellency or dissatisfy the country. We do not, however, understand how the Council can be called "*non-responsible*," when your Excellency voluntarily places yourself as a substitute, answerable for their misdeeds to the Minister at Downing-street. But who can avail himself of this responsibility, in order to seek any redress? Can it be reasonably required, that one of a community, "*whose whole revenue does not equal the private fortune of many an English commoner*," shall carry his complaint 4,000 miles off, transmit the evidence, rebut any unjust offence, fee lawyers and agents, in a long, tedious, protracted litigation, in Downing-street, worse than a suit in Chancery, where, before the matter can be investigated, one Minister succeeds another so rapidly as to defy continuous inquiry?

This responsibility to Downing-street has never yet saved a single martyr to executive displeasure. Robert Gourlay still lives in the public sympathy, ruined in his fortune, and overwhelmed in his mind, by official injustice and persecution; and the late Captain Mathews, a faithful servant of the public, broken down in spirit, narrowly escaped being another victim. The learned Mr. Justice Willis struggled in vain to vindicate himself and the wounded justice of the country; and the ashes of Francis Collins and Robert Randall lie entombed in a country in whose service they suffered heart-rending persecution and accelerated death. And even your Excellency has disclosed a secret Despatch to the Minister in Downing-street, (the very alleged tribunal for justice,) containing most libellous matter against William Lyon Mackenzie, Esquire, M. P., a gentleman known chiefly for his untiring services to his adopted and grateful country. We will not wait for the immolation of any others of our public men, sacrificed to a nominal responsibility, which we blush to have so long endured for the ruin of so many of His Majesty's dutiful and loyal subjects.

It is easy to say, when wrong is done by the Executive Council of the Province to any individual or individuals, the Governor is responsible for them to the Minister at Downing-street; but for all practical ends, it might as well be said at our *antipodes*. Your Excellency asks us, with reference to your late Council, "Is it usual for one person to insist on bearing another person's blame?" It seems, may it please your Excellency, to have been usual to do so; for you insist upon being answerable for the acts of your Council against their will. But, inasmuch as it appears to your Excellency, as well as to our plain and simple minds, unreasonable for "one man to insist on bearing another person's blame," we the more earnestly insist that the Executive Council should bear their own blame, and not saddle it upon your Excellency, however graciously disposed your Excellency may be to assume it. Your Excellency is pleased to say, that "the political party which demands responsibility for my Council know perfectly well that the power and patronage of the Crown are attached to it; and it is too evident that if they could but obtain this marrow, the empty bone of contention, namely, responsibility to the people, they would soon be too happy to throw away." Respecting these strictures of your Excellency, on the purity of their motives (which we deem most patriotic and honourable) we forbear to offer any remark. "*Charity thinketh no evil*." But, confining our views to what can be gathered from the representations of your late Council, we had rather that the power and patronage of the Crown were exercised by your Excellency, after receiving the conscientious advice of your sworn advisers, known and acceptable to the people, than by your Excellency's unadvised and arbitrary pleasure; and we think the case rendered even worse by the interference of a Minister 4,000 miles off, too distant from the scene of government, and too unacquainted with our complicated localities, to form a judgment upon which he ought to decree, or with which the people intetested ought to be satisfied. What your Excellency is pleased to call "*the marrow of the bone*," is constitutionally intended to nourish, enrich and benefit the "*industrious classes*," and the whole community; and your Excellency's candour will, no doubt, pardon our reluctance wholly to confide (without the advice of your

Appendix,

Rejoinder from  
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Appendix.  
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Council) to your Excellency, as "a stranger lately arrived among us, ignorant even of the political differences of the parent State, and avowedly unacquainted with the wants and condition of this province."

We beg leave to assure your Excellency, that the "*bone*" to which your Excellency alludes, has been in the keeping of successive Governors responsible to the Minister in Downing-street, and at one time it abounded with "*marrow*," and was even the nucleus for much solid and valuable nutriment, all intended to form a source of national wealth, to be improved, husbanded and applied for our peace, welfare and good government. It is with profound, and, we greatly fear, with unavailing regret, we inform your Excellency, that while subject to the above custody and responsibility, the "*bone*" had been picked so bare, as to leave little besides the "*marrow*" behind.

Under these circumstances, we hope your Excellency will commend the "*industrious classes*" and others for so far learning wisdom from woeful experience, as no longer to confide their best present and future interests, their civil and religious liberties, and all that endears a man to his country or to the world, to a succession of Governors, nominally responsible at Downing-street, to a succession of ever changing Ministers: it is unreasonable to expect it; we should betray our country to consent to it.

We cannot altogether agree with your Excellency, that "the only consolation which should support an honest man in an arduous duty is the reflection that he is ready to atone for every error he commits, and that he is subject to arraignment if he offends." The highwayman and the pirate might and often have pleaded the same, have even been ready to make atonement by restitution, and after "arraignment" expiated their crimes according to law. But a Statesman, a Governor or a King is presumed to be influenced by higher motives and by more exalted principles. The discharge of even an arduous duty cannot and ought not to be satisfactory to us, if performed in an unconstitutional way. In some countries, the end gained, however valuable, might be so tainted by the means as to make it treason. We desire not only to be governed well, but to be governed constitutionally; at the very least, according to the present charter of our liberties. The fear of personal liability to "atonement" or "arraignment" is a very subordinate protection against the abuse of power; when the complaint is made against a person, entrenched in authority and armed with patronage, whose very breath confers influence and office, or takes them away, whose liability is to the very Minister, who is his patron, and is naturally disposed to view even his aberrations with a favourable and excusing eye. On that account, among others, we desire in our government some higher security than a disposition to atone, or a liability to arraignment, in its nature and circumstances almost impracticable, and almost always unsuccessful.

It is on this account, may it please your Excellency, we desire to see every Governor surrounded by confidential advisers, who, from their local knowledge, can supply with sworn advice, as the surest means of preventing error, or the humiliating necessity of "atonement" or "arraignment" for it. According to Holy Writ "in a multitude of counsellors there is safety;" it is, therefore, natural for us rather to wish to see the management of our affairs by your Excellency with the aid of an acceptable Council, than by your Excellency alone. Your Excellency must take advice upon assuming a new government in a country in which you are a stranger; and it has been to us a source of painful mortification and disappointment to find that your Excellency was consulting irresponsible individuals, neither possessing nor entitled to political confidence, even to the humiliating exclusion of your sworn advisers, provided by law and selected by yourself. Hence it is that there has scarcely been a single act of your administration satisfactory to the community your Excellency perhaps intended to serve.

It is against ourselves and our friends engaged in the common cause of constitutional government that your Excellency seems to direct the charge of preventing your "rooting up the tree of abuse, because they have *built and feathered their nests* in its branches." In this "tree" many indeed have "built and feathered their nests;" but, heretofore, reformers have never been allowed even to perch upon its branches, repose in its shade, or partake of its fruit. The ultra Tories, who have unhappily held your Excellency's ear and confidence, have enjoyed a complete monopoly; and it is an historical fact, that our Governors, among the rest, have built "and feathered their nests," and then carried their accumulated wealth, with themselves, out of the country. We trust your Excellency will feel on this subject how unjust it is that a community (as your Excellency observes) whose public revenues do not exceed the income of many a commoner in England, should be called upon to pay for the administration of even an irresponsible government a sum almost equal to that received by the President of the United States, with a transcendent wealth and power that put our comparative condition to shame.

We are surprised at the information your Excellency gives us, that the Executive Council of the province is "*sworn to be dumb*;" for we always thought they were sworn to advise the King and his representative upon our affairs; supposing your Excellency were so far to unseal their mouths as freely to receive their advice, we see no difficulty in its being given secretly, yet responsibly. In England ministers give their advice under an oath of secrecy, and are still responsible. There can be, therefore, no greater inconsistency in such a relation subsisting between your Excellency and your Council. Actions often indicate more strikingly than words; and although your Counsellors cannot reveal what they *say*, the whole country can see what is *done*.

We care not how dumb they are *out* of the Council, if their mouths are not sealed *in* it; and the Province is allowed to feel and enjoy the manifest fruits of their counsel, without knowledge

knowledge what it was. The Council should be responsible for giving good advice, while your Excellency would retain enough of responsibility by deciding upon it. We should not the better esteem a Judge who refused to listen to an argument before he gave a judgment, or a jury who sealed their ears against the charge of a Judge, in order to manifest their self-sufficiency in giving a verdict. The Judge condescends to hear the argument of a counsel, the jury listens to the Judge's charge, and your Excellency should, as seems to our "plain and homely" minds, listen on all subjects to the conscientious advice of the sworn advisers, selected by yourself for their "talents and integrity."

We have carefully read, as your Excellency recommended, the Constitutional Act, and although your Excellency assures us that by it "a House of Assembly and Legislative Council and Lieutenant-Governor are appointed, but that it creates no Executive Council," yet we read so clearly, in three several places, almost the very same comprehensive words, viz. "with the consent of such Executive Council as shall be appointed by His Majesty. His heirs and successors, within such province, for the affairs thereof," that we must believe some evil and irresponsible advisers have put into your Excellency's hand a mutilated copy of our constitution. We cannot reconcile your present declaration with the reply to your late Executive Council, in which your Excellency distinctly admits that the most liberal construction which can possibly be put upon that Act amounts to this, "that as an Executive Council was evidently intended to exist, the remnant of the old ought not to be deemed totally extinct, until its successor was appointed. However, this latest intention of His Majesty to create a Council for each of the *provinces* of his Canadian dominions was soon clearly divulged in a most important document, commonly called "*The King's Instructions*," in which the Executive Council was regularly constituted and declared as follows: "Whereas We have thought fit that there should be an Executive Council for assisting you, or the Lieutenant-Governor, or person administering the government of the said province of Upper Canada," \* \* \* \* "and to the end that our said Executive Council may be assisting to you in all *affairs relating to our service*, you are to communicate to them such and so many of our instructions, *wherein their advice is mentioned to be requisite*, and likewise all such others from time to time as you shall find convenient for our service to be imparted to them."

It is therefore as plain as law can be written, that the constitutional Act provided for the appointment, by His Majesty, of an Executive Council, and that the King has accordingly created such a Council, "to the end that they might be assisting to your Excellency in all affairs relating to His Majesty's service." This Council, so organised, is now as much a part of our constitution as the great Council of Parliament. The law allows the people to elect the House of Assembly, and gives the King the power of summoning whom he pleases to the Legislative and Executive Councils: all are alike created or provided for by this Act, though it does not specify by name the particular individuals to constitute either of them.

We welcome the concession of your Excellency to the merit of the able and enlightened *Simcoe*, to whose memory we would cheerfully erect a monument. We never said that that justly revered representative of the King either did or could alter the law. But we still think that an able and enlightened man, who assisted in passing the law, amidst all the debates upon it, and who was first commissioned to put it into operation amongst us, was of all men best qualified to explain that law, and its intended scope and application. *Simcoe*, with all his personal knowledge about the law and lawgivers, declared that it was intended to give us, not a mutilated constitution, but one "the very image and transcript of that of Great Britain." Your Excellency, on the contrary, after the lapse of nearly half a century, asserts, that neither the law nor the lawgivers (of whom *Simcoe* was one) ever gave, or intended to give what *Simcoe*, in the name of the King, solemnly announced from the throne.

In England, our fellow subjects have a King, with his Executive Council (commonly called his Privy Council), a House of Lords and a House of Commons. In this country we have corresponding institutions, viz., a representative of the King, with an Executive Council, a Legislative Council and a House of Assembly. We only ask that these institutions should be put into operation in a manner corresponding to what is practised in England; and, consequently, that the Executive Council, under oath, should as fully and freely advise your Excellency on affairs here, as the Privy Council, under oath, advise His most gracious Majesty. This is what the Constitutional Act implies; it is what *Simcoe* announced; it is what our liberties require; and what nothing, without our own consent, can lawfully abridge or take away.

If your Excellency will not govern us upon these principles, you will exercise arbitrary sway, you will violate our charter, virtually abrogate our law, and justly forfeit our submission to your authority.

We have the honour to be, Sir,

Your Excellency's obedient humble Servants,

(signed)

*Jesse Ketchum,*

*James H. Price,*

*James Lesslie,*

*Andrew MacGlashen,*

*James Shannon,*

*Robert MacKay,*

*M. MacLellan,*

*Timothy Parsons,*

*Wm. Lesslie,*

*John Mills,*

*E. T. Henderson,*

*John Doel,*

*John E. Tims,*

*Wm. J. O'Grady.*

Appendix.

Rejoinder from  
Citizens of Toronto  
to Reply of Lieut.-  
Governor.

(T.)

Appendix.

Sir,

Front Street, 12th April 1836.

Letter from  
R. Baldwin, Esq. to  
Peter Perry, Esq.

IN answer to your letter of this day, in which, after referring to a paragraph in the Lieutenant-Governor's Reply to the Address from the citizens of Toronto, you add, "as you and your late colleagues are charged with having first entered into an arrangement clearly forewarning you of the extent to which you would be counselled, and then altogether in a body disputing it, I write this communication, that you may give any justification of your conduct you may desire," I beg to state, that the expressions to which you allude, seem to be understood by the Committee in a sense much more extensive than could have been intended by the Lieutenant-Governor, for though, as stated in my letter to you of the 16th ultimo, his Excellency frankly avowed his dissent from my views of the constitution, so far from his giving me the least reason to suppose that I was never to offer my advice, except when called upon for it, or that my view of the practical administration of the Government under the constitution was not again to be recurred to, he himself "suggested, as an inducement to me to accept of a seat in the Council, the increased facilities which, by my place in the Executive Council, *would be afforded towards the more efficiently representing and urging* my views, his Excellency declaring that his doors should at all times be open to me, and that he should be happy to listen and give his most serious consideration to *any subject* which *I might at any time* think it important to lay before him." And indeed the whole tenor of my official intercourse with his Excellency was inconsistent with the presumption that my advice was never to be given except it was asked.

Another circumstance, which would seem to show that a sense has been put upon the Lieutenant-Governor's words which they could scarcely have been intended by him to bear, is, that his Excellency alleges "that we parted on a point of dry law," he could not therefore intend to impute to us the breach of any agreement, either express or implied.

Again, his Excellency more than once declared that he should not have been at all surprised had the representation proceeded from me. Whereas, had it been any breach of a supposed previous understanding, I was as much a party to that understanding as either of my colleagues, Mr. Dunn or Dr. Rolph, and of course equally involved in the consequences.

But not to multiply reasons, I need only add, as finally conclusive upon this subject, that his Excellency's words, understood in the sense alluded to, would be wholly inconsistent with the fact. It was never understood previous to our being sworn in, nor did any thing whatever transpire previous to that period which could have given his Excellency any ground for supposing it to be understood by us either that we were not to offer our advice whenever we thought it proper to do so, or that the subject of the adoption of my views of the constitution was to be dropped.

In fine, I can safely assert, that had his Excellency given me the slightest hint that he expected that I was never to offer my opinion except when required to do so, I should have unhesitatingly rejected the proposal to join the Executive Council on such terms; but the whole tenor of the conversations which I had the honour of holding with his Excellency previous to my being sworn in, to say nothing of the express assurances above alluded to, excluded such a supposition from once suggesting itself to my mind. I therefore feel bound to state, that any other construction put upon the terms on which I accepted office, than such as is to be gathered from the statement contained in those paragraphs of my former letter above quoted, is wholly erroneous.

I have the honour to be, Sir,

Your obedient, humble servant,

Robt. Baldwin.

To P. Perry, Esq.

Chairman of the Committee, &amp;c. &amp;c.

Committee Room, 13th April 1836.

Robert Baldwin, esq. called in, and Examined.

Evidence of  
R. Baldwin, Esq.

Q. 1. On what day were the Hon. John Henry Dunn, Dr. Rolph and yourself, sworn into office as executive councillors?—A. On Saturday, the 20th of February last.

Q. 2. Was the Lieutenant Governor's note to you, a copy of which you appended to your letter to Mr. Perry of the 16th of March last, received by you previous to your being sworn in?—A. It was not.

Q. 3. When was it received?—A. At ten o'clock in the evening of the day on which we were sworn in. But I was given to understand that an accidental circumstance had occasioned its not having been delivered at an earlier period on the same day.

Q. 4. Is it such a note as you had reason to expect from the conference mentioned by you in your letter to Mr. Perry, in which it was settled to be written?—A. I conceive not; I cannot pretend to recollect the exact terms of the draft written by his Excellency on that occasion, and then read to us; but I do not hesitate to say, that it materially differed from the note I afterwards received. Dr. Rolph happened to be with me at the time I received the note, and I at once expressed my entire dissatisfaction with its contents, and proposed taking it back to the Lieutenant Governor, and refusing to receive it. I was, however, persuaded by Dr. Rolph and Mr. Dunn, whom I called to see upon the subject on the Monday after, that as it could not be that his Excellency intended any thing disingenuous by

by us; and as the public would, no doubt, put, a liberal construction upon the letter, it was better, more particularly as we had been actually sworn in, to let it pass without further difficulty. I must, however, add, that when the draft was read over to us by his Excellency, as he did not seem quite satisfied with the wording, it was understood that he was at liberty to alter its phraseology, retaining, of course, its spirit and substance; and I certainly attributed the difference between the draft read to us and the note which I afterwards received, entirely to his Excellency's being unable, from his want of practical acquaintance with political life, fully to comprehend the difficulties which I felt in yielding to his request to join his council, and not to the slightest desire on his part to deviate from the spirit of the understanding. Such was certainly my impression at the time; but had I supposed it possible that such application of the unexpected terms in which his Excellency's note was couched, as is now attributed to his Excellency, could have been intended, I should certainly have returned the note, and insisted on such a one as I had reason to expect; or if this had been refused, have resigned on that ground alone.

Appendix.  
Evidence of  
R. Baldwin, Esq.

Q. 5. In what respect do you conceive the draft read to you and the note afterwards sent to differ?—A. The draft was more explicit as the unfettered terms upon which I took office; and although I could not say it contained no declaration of the confidence his Excellency would place in our advice when "required," it was by no means the prominent feature in the draft; and I can safely say could only have been understood both by myself and my colleagues merely as a general expression of confidence, and not as a limitation of the duties expected of us; and I feel convinced that his Excellency could have used it for no other purpose, because he had no reason to suppose that we could have understood it in any other, and to imagine the contrary would be to attribute to his Excellency that he made use of terms to us to which he applied one sense at a time when he knew us to receive them in another, without explaining the sense in which he intended them to be understood.

Q. 6. It appears from his Excellency's answer to the Address of the House of Assembly of the 26th of March, that the note which he wrote to you, of which the following is an extract, "I shall rely on your giving me your unbiassed opinion on all subjects respecting which I may feel it advisable to require it," was written during the negotiation between his Excellency and the Council previously to their taking office, and, in fact, was part of the negotiation, and implies that it contained the conditions of their taking office, and that they took office after the communication of that note. Is that the case, and is that the true inference according to your understanding?—A. For the facts I refer to my previous answers and my letter to Mr. Perry of the 16th ult., and as to the inference, it is of course a matter of opinion; but I cannot for my own part suggest any construction of the passage referred to consistent with those facts.

Q. 7. Were any steps taken having a tendency to guard against the divulgement of the proceedings in Council upon this matter?—A. The oath of office was administered to the under clerks in the council office, it having been ascertained on inquiry that they had not previously been sworn to secrecy.

Q. 8. It has been alleged that his Excellency, in his reply to the city corporation, intended to be understood as referring to the late Council, when he represented that the new theory respecting the powers of the Executive Council "had been secretly promulgated." Is such a charge warranted by the fact?—A. As far as regards myself, I distinctly assert that it is not the fact, and I have no doubt that it is not the fact as respects any of my former colleagues.

Dr. Rolph, called in; and Examined.

Question 1. ON what day were the late Executive Council, of which you were a member, sworn in?—Answer. On the 20th of February last.

Evidence of  
Dr. Rolph.

Q. Have you any knowledge of a letter addressed by his Excellency to Mr. Robert Baldwin, relative to the terms on which you and your colleagues took office? if so, state what you know?—A. I was present with Mr. Robert Baldwin and the honourable Mr. Dunn on the 19th of February last, at the Government House, when Mr. Robert Baldwin informed his Excellency that we were desirous before joining the Executive Council to receive a written assurance from his Excellency of the unfettered terms upon which we entered into office, lest it should be supposed by the public that in doing so we had compromised the principles which we have heretofore avowed and acted on. To this suggestion his Excellency acceded, and drafted a note to that effect, adding, that as the phraseology might be improved, he would without delay prepare and transmit it to Mr. Baldwin, who would send copies to me and Mr. Dunn. We were sworn into office in the afternoon of the following day, and I heard nothing more of this letter (except the uneasiness of Mr. Baldwin at not having received it) until 10 o'clock at night, when I was in company with Mr. Baldwin, and the letter was received. Upon reading it, Mr. Baldwin immediately noticed, as I did myself, the unexpected change, not only in the language, but in the substance of the letter, and Mr. Baldwin would have returned it, had I not expressed my reluctance to question the ingenuousness of the Lieutenant-Governor, and enter upon a discussion which might seriously interfere with the harmony of the Council. Had I supposed that the word "require" could have been intended to abridge the great and unlimited latitude before given by his Excellency, I should certainly not have consented to be sworn into office had the letter been received on the 19th, and I should have resigned on receiving a copy of it on the 22d from Mr. Baldwin. The sole object of the letter, and it was intended to embrace, was the admission that we joined the Council without changing our principles.

Appendix.  
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Evidence of  
Dr. Rolph.

Q. 3. It appears from his Excellency's answer to the Address of the House of Assembly of March 26th, that the note which he wrote to Mr. Baldwin, of which the following is an extract — "I shall rely on your giving me your unbiassed opinion on all subjects respecting which I may feel it advisable to require it,"—was written during the negotiation between his Excellency and the Council previously to their taking office, and in fact was part of the negotiation, and implies that it contained the conditions of their taking office, and that they took office after the communication of that note; is that the case, and is that the true inference according to your understanding?—A. I confess I understand the passage given me to read to mean that the letter sent to Mr. Baldwin was the conclusion of the negotiation on the part of his Excellency, and intended to convey to Mr. Baldwin, for the information of himself and his colleagues, the terms upon which his Excellency would accept our services, and that after the receipt of that letter we went into office on those terms and then disputed them. But such certainly was not the case: the letter in question was wholly independent of the negotiation, and not even mentioned till it was so far concluded that we waited on his Excellency on the 19th merely to receive a more formal and united invitation to his Council. We did then receive such an invitation, and the object of the letter was then suggested by Mr. Baldwin, and promised by his Excellency, for the simple purpose of enabling Mr. Baldwin and his colleagues to repel any presumption of abandoning their principles on taking office.

Q. 4. Were any steps taken having a tendency to guard against the divulgement of the proceedings in Council upon this matter?—A. The junior clerks were sworn to secrecy, as it had not before been done.

Q. 5. It has been alleged that his Excellency in his reply to the City Corporation, intended to be understood as referring to the late Council, when he represented that the new theory respecting the powers of the Executive Council "had been secretly promulgated;" is such a charge warranted by the fact?—A. It is wholly unfounded as regards myself, and every thing which passed between me and other members of Council satisfies me that it is as equally unfounded as respects them.

(U.)

To His Excellency, Sir *F. B. Head*, Knight, Commander of the Royal Hanoverian Guelphic Order, and of the Prussian Military Order of Merit, Lieutenant-Governor of the Province of Upper Canada, &c. &c. &c.

May it please Your Excellency,

Address from  
Grand Jury to  
Lieut.-Governor.

WE, the undersigned grand jurors, representing the Home district at the Spring Assize now holding, respectfully beg to assure your Excellency that the liberal policy designed to be pursued, and the paternal solicitude manifested by His Majesty's Government towards this province, as communicated to the Legislature soon after your arrival here, have been hailed by us as the harbingers of our prosperity and happiness.

We greatly regret that a system of political excitement hath of late years been organized in this province, engendering bitter animosities in the breasts of those whose welfare and happiness imperiously require that they should dwell together in amity; and producing party feuds too frequently ending in breaches of the peace. We are well aware that the prevalence of this system has already produced results unfavourable to the development of our internal resources and to the introduction among us of the redundant wealth and population of Great Britain; but the recent expressions of confidence in your Excellency's administration which we have heard, and in which we cordially concur, lead us to hope that the people will not long remain blinded to their own interests, but will be convinced that the most effectual mode of serving themselves consists in upholding the constitution, and directing their attention to the improvement of the land we live in, rather than to the consideration of abstract questions of government, and of theoretical changes in our constitution; changes in which very many well-educated members of the community discover no elements of good, but discern, on the contrary, the seeds of discord and confusion, producing in due season the dismemberment of this colony from the parent State, and the establishment therein of democratic institutions, uncongenial to the habits and sentiments of its British population.

We would have felt a difficulty, particularly as our especial duty is of a judicial character only, in thus expressing our opinions to your Excellency, were we not confident that they are participated in by a numerous body of the freeholders in the district we represent.

J. S. Macaulay (Foreman).  
E. Moodie.  
William Crookshank.  
Andrew Mercer.  
G. W. Thomson.  
Francis Boyd.  
John Ellah.  
Silas Burnham.

Thomas D. Harris.  
Alexander Burnside.  
Thomas Cooper.  
William Campbell.  
W. Laughton.  
George Gurnett.  
George B. Willard.  
E. O. Gapper.

(A true Copy,)

*J. Joseph.*

HIS EXCELLENCY'S REPLY.

Gentlemen,

Appendix,

IF the important object I have in view were to obtain applause, nothing could be more gratifying to my feelings than the approbation of so well-educated a body of gentlemen as the grand jury of the Home district; but, without offence, I must declare that the strict performance of my duty requires that I should neither be stimulated by popularity nor deterred by clamor. In maintaining the liberties of the inhabitants of this province, but little has been left by our Sovereign either to my judgment or discretion, and if it be true, "that the recent expressions of confidence in my administration which you have heard, and in which you cordially concur, lead you to hope that the people will not long remain blinded to their own interest," this happy effect has proceeded from no exertions of mine, but simply from my having repelled our enemies by pointing to the constitutional Act of this province.

Reply of Lieut.-  
Governor to  
Grand Jury.

If that noble charter had not existed, there can be no doubt but that the representative of His Majesty would have been overcome, and that the inhabitants of Upper Canada would now be under the ignominious tyranny of a secret metropolitan "Cabinet;" but your Constitution has proved to be impregnable, and at this moment no people bewail the fact more keenly than those who have lately been nearly crushed in their endeavours to undermine it.

(A true Copy.)

*J. Joseph.*

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UPPER CANADA.

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EXTRACTS from a DESPATCH of the 21st April  
1836 from Sir *F. B. Head* to Lord *Glenelg*;—also,  
COPY of an ADDRESS to The KING from the  
HOUSE OF ASSEMBLY.

(*Sir George Grey and Mr. Hume.*)

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*Ordered, by The House of Commons, to be Printed,*  
*30 June 1836.*

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[*Price 1s.*]