SIR CHARLES METCALFE

DEFENDED

AGAINST THE ATTACKS

OF HIS LATE COUNSELLORS.

BY EGERTON RYERSON.

TORONTO:
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INTRODUCTORY NOTICE.

The Rev. Egerton Ryerson takes this method of informing the Public, that he proposes to offer some remarks in defence of Sir Charles Metcalfe, against the attacks of his late Advisers, and to prove *by their own testimony*, given on different occasions, that His Excellency is entitled to the verdict of the country, on every count of the indictment got up against him.

Sir Charles Metcalfe may say to the People of Canada, as Themistocles said to the Athenians, who were incensed against him—"*Strike* but HEAR ME." And if the Public have heard six or seven hundred pages of accusations against Sir Charles, in the form of speeches, addresses, editorials and communications—it is believed they will do His Excellency the justice of hearing one hundred and fifty pages of calm reasoning in his defence.

Mr. Ryerson (unsolicited by any human being) has been prompted to this course by the recent "*Address of the Toronto Reform Association to the People of Canada.*" If that address (sound in general principles) be true in *fact* and in *insinuation*, then is Sir Charles Metcalfe all that is tyrannical and base, and the British Government is a compound of despotism and treachery; Sir Charles should be dethroned, and the Imperial Government should be hated and despised: and no general declarations of respect for the one or the other, can prevent such feelings from possessing the mind of every reader who imbibes the spirit of that most insidious and calumnious address. The legal and constitutional connexion between the people of Canada and their Government may remain; but the *moral* connexion—the connexion of confidence and affection, the only connexion of strength and happiness—must cease to exist.

Mr. Ryerson's reply to the accusers of His Excellency, will be contained in *ten* or *twelve* numbers—to be first published in the *British Colonist*, afterwards in pamphlet form, occupying from 100 to 150 pages. The first number will appear in the *Colonist* of Friday next, the 31st instant, preceded by a prefaratory address to the inhabitants of Canada West, on the present crisis, and stating the circumstances and considerations under which the author comes before the public on this momentous occasion.

Mr. Ryerson avails himself of this occasion to say, that the distinguished title which was conferred upon him some time since, has never

been adopted by him, nor used in his household—that he thinks the old name is better known and more appropriate than the new one—that he likes new names no better than he likes novel doctrines.

Mr. Ryerson has not thought proper, under present circumstances, to accept the office of Superintendent of Education; nor has any political office ever been offered to him. And he is ready to relinquish any situation which he now fills rather than not accomplish this imperative undertaking. For if a *Leonidas* and *three hundred* Spartans could throw themselves into the Thermopolæ of death for the salvation of their country, it would ill become one humble Canadian to hesitate at any sacrifice, or shrink from any responsibility, or even danger, in order to prevent his own countrymen from rushing into a vortex, which he is most certainly persuaded, will involve many of them in calamities more serious than those which followed the events of 1837.

Those editors of Canada West, who wish BOTH SIDES of the differences between Sir Charles Metcalfe and his late Advisers, to be fully understood by the Canadian public, are respectfully requested to insert this notice.

Should any editors honour Mr. Ryerson or his productions with notices, he requests as a favour, that they will have the goodness to forward, at his expense, to his address at Cobourg, the papers in which those notices may be inserted, as he may have occasion to refer to them.

Cobourg, May 27, 1844.

PREFATORY ADDRESS.

FELLOW-CHRISTIANS AND FELLOW-SUBJECTS OF WESTERN CANADA:

Permit one, the study of whose life has been the welfare of his native country, to address you a few words at this portentous crisis of our provincial history.

By the events of 1837, and the safety and welfare of your families, I warn you to pause before you tie yourselves any closer to that knot of a certain class of lawyers, who, with the decoy of two or three honest stool pigeons, figure in the Toronto Reform Association.

In 1834, I gave a similar warning shortly after the then called "Constitutional Reform Association" was established in Toronto. In 1837, my warning predictions were realized to the ruin of many and the misery of thousands. What took place in 1837 was but a preface of what may be witnessed in 1847.

The principles of the Association of 1844 are constitutional; so were the principles of the Association of 1834.

The present Association includes names of the highest respectability; so did the former Association include the most respectable as well as the most learned names of that day.

The former Association, with the profession of sound principles, distilled and breathed out a subtle poison against all that constituted the health and stability of Colonial Government, which developed itself in the convulsions of 1837. The present Association, with the avowal of constitutional principles and the assertion of sound maxims, breathes, in its recent "Address to the People of Canada," the deadliest hatred against the Representative of Sovereignty, and the darkest insinuations against all the exercises and ramifications of Imperial and Colonial Government—engendering and exasperating a spirit which may be neither under self-control nor legal control before 1847.

In 1834, I stated that I did not believe there was one out of one hundred of the members and disciples of that Association who contemplated any thing beyond what was lawful and constitutional, but there were active and leavening elements in their proceedings, which, like the use of spirituous liquors, or the indulgence of the sensual appetites, would urge them to deeds and to projects at which they then shuddered. I say the same in regard to the supporters of the present Association.

But the spirit of the former Association was only a shade of the *virus* which circulates throughout several of the speeches and the recent "Address" of the present Association.

And if such a man, for example, as Mr. WILLIAM HUME BLAKE—*Queen's* Professor of Law in King's College—who, two years ago, spoke against accepting the Solicitor-Generalship of Canada West (should it be offered to him) because he would not be in a government with such men as Messrs. Sullivan and Hincks, can now not only *organize* with such men, but hold up Sir Charles Metcalfe under the character of Warren Hastings, and exhibit the King and Government, and even People of Great Britain, in colours of the deepest depravity and barbarism; what may not he and others like him be found doing against the British Sovereign's Representative in Canada two years hence?

I therefore solemnly warn all who have the safety and best interests of themselves and families at heart, to pause before they enlist under the banners of the "Toronto Reform Association." And I warn those who have been drawn into it, to disentangle themselves before they become inveigled to their ruin.

There is a political as well as physical intoxication, and an enthusiasm of political as well as religious MILLERISM; and there is as much danger of the world of nations coming to an end in 1844, as there is of the principle of Responsible Government coming to an end unless perpetuated by the Toronto Association.

I have hitherto been a silent but deeply attentive spectator of passing events. I accorded with the general measures of the late administration. I entertained for some members of it the esteem and regard of personal friendship. Their resignation introduced questions which I had not investigated in the pages of history. I viewed it with regret and concern. From their explicit and earnest explanations I believed they were right. I felt that on the question placed by them before the House of Assembly, it came to the only constitutional decision. I believed Sir Charles Metcalfe had mistaken his way, or been advised into error; yet the peculiar character of his written statement, and the conscious integrity it evinced, excited a belief that something still remained unexplained, and my curiosity was awakened. Statements of certain members of the Assembly, who voted with the majority and whom I saw after the prorogation, satisfied me that all had not been told. I at length observed in Mr. Sullivan's explanatory speech—evidently written out by himself, and first published in the Montreal press, statements omitted by Mr. Baldwin, and equivalent to what the Governor General had asserted as the *real* ground of difference between him and his Council. I subsequently saw a more explicit statement to the same effect by Mr. Hincks. I was

convinced that the fundamental question at issue between the Governor General and his late Counsellors had not been brought before the House; that he was a misrepresented and an injured man. But I supposed the ordinary means of public discussion would elicit the truth; and I trusted that a mutual understanding and reconciliation would follow. I was at one time inclined to suggest that remedy, and what appeared to me an honorable and feasible means of applying it. I desired to remain on terms of amity with both parties. The organization of the Toronto Association by one of the parties concerned, damped my hopes of such a consummation; its subsequent proceedings have extinguished them; its last address has put neutrality out of the question. While God gives me a heart to feel, a head to think, and a pen to write, I will not passively see honorable integrity murdered by grasping faction, and spotless character and generous humanity hewn down by party combination. I would not do so in 1838, when an attempt was made to degrade and proscribe and drive out of the country all naturalized subjects from the United States, and to stigmatize all reformers with the brand of rebellion, —as much as I have always disliked the peculiar institutions of the United States, and as much as I had then been recently maligned by many Reformers,—although there were then no Messrs. *Baldwin* and *Hincks* who *could* or *dared* speak for them, and no Mr. *Sullivan* who *would* speak for them. I relieved the name of an injured James S. Howard from the obloquy that hung over it, and rescued the character and rights of exiled Bidwell from ruthless invasion, and the still further effort to cover him with perpetual infamy by expelling him from the Law Society. In behalf of these classes and individuals, every member of the Toronto Association was as silent as the grave and as powerless as he was silent. I will not see—to say the least—an equally noble character in the person of Sir Charles Metcalfe branded with all that is base and infamous by a kindred spirit and a kindred combination. His exalted station does not strip him of the rights of justice; nor does his being the representative of royalty deprive him of the allegiance of humanity. I have surveyed every step of the ground involved. I have weighed every argument and examined every fact. I know the country whom I address. I know the men with whom I have to do; and formidable though they be, I fear them not. Justice has more power over the human conscience than party combinations; and one smooth pebble of truth possesses more virtue than a thousand Goliath spears of political Philistinism.

I was about entering upon the peaceful work—a work extensive and varied beyond the powers of the most untiring and vigorous intellect—a work down to this time almost entirely neglected—of devising and constructing (by the concurrence of the people, through their District

Councils) a fabric of Provincial Common School Education—of endeavouring to stud the land with appropriate school houses—of supplying them with appropriate books and teachers—of raising a wretched employment to an honourable profession—of giving uniformity, simplicity and efficiency to a general system of elementary educational instruction—of bringing appropriate books for the improvement of his profession within the reach of every schoolmaster, and increased facilities for the attainment of his stipulated remuneration—of establishing a library in every district, and extending branches of it into every township—of striving to develope, by writing and discourses in towns, villages and neighbourhoods, the latent intellect, the most precious golden wealth of the country—and of leaving no effort unemployed within the limited range of my humble abilities, to make Western Canada what she is capable of being made, the brightest gem in the crown of her Britannic Majesty. Such was the work about to be assigned to me; and such was the work I was resolving, in humble dependence upon the divine aid, to undertake; and no heart bounds more than mine with desire, and hope, and joy, at the prospect of seeing, at no distant day, every child of my native land in the school going way—and every intellect provided with the appropriate elements of sustenance and enjoyment—and of witnessing one comprehensive and unique system of education, from the a.b.c. of the child up to the matriculation of the youth into the Provincial University, which, like the vaulted arch of heaven, would exhibit an identity of character throughout, and present an aspect of equal benignity to every sect and every party upon the broad basis of our common Christianity.

But I arrest myself from such a work—leave it perhaps to other hands, and the glory of its accomplishment to deck another's brow, and if need be to resign every other official situation; and unsolicited, unadvised by any human being—inwardly impelled by a conviction of what is due to my Sovereign, to my country, to a fellow man, I take up the pen of vindication, of reasoning, of warning and appeal, against criminations and proceedings and impending evils, which, if they be not checked and arrested, will accomplish more than the infamous *Ostracism* of an *Aristides*, render every other effort to improve and elevate Canada abortive, and strew in wide-spread desolation over the land the ruins of the throne and its government.

In this momentous matter, I ask you not to take my word for one particle of what may be asserted. My appeal throughout will be to unchallenged documents and indisputable published facts, which cannot be successfully denied by numbers or resisted by combinations. I know of old what party assassination of motives and character is. I have met it. I can do so again. I have lived it down. I heed it not. Long before

any one of the Toronto Association had a political existence as a public man in the ranks of civil rights, I battled the cause of equal privileges, from the right to a bit of ground to bury our dead, to the full recognition of religious equality ; and if need shall require, I trust in God I shall be found doing so again, when that Association, like its kindred predecessors, with their Mackenzie township auxiliaries, shall be smouldering under the funeral piles of the insurrections of which they have been the primary cause.

But of the need of such an advocacy there cannot be a moral possibility while Sir Charles Metcalfe holds the sceptre of government. He has spent his forty years public life in a colony, and has therefore all the habits and feelings of a colonist. He has spent all that time not in the atmosphere of an exclusive ecclesiastical hierarchy, but in a country where equal civil and religious rights are recognized, and has therefore all the habits and feelings of religious equality—an adaptation of experience and views for the government of Canada not possessed by any other statesman of his rank in the British Empire. And I am as satisfied as I am of my own existence that no one of the Toronto Association has a more fixed desire and determination to employ his utmost power to place the University of King's College upon terms of equal advantage and footing for all Trinitarian churches, than Sir Charles Metcalfe himself. Sir Charles Metcalfe's spirit, like his charities, is limited to no one sect or party, but expansive as the wants and interests of humanity ; AND IF HE CANNOT GOVERN CANADA, IT CANNOT BE GOVERNED AS A BRITISH PROVINCE.

The Toronto Association has alleged again, and again, and again, and again that, because many persons who have heretofore opposed Responsible Government have come forward to support Sir Charles Metcalfe in the present crisis, therefore, he is opposed to Responsible Government. As well might it be alleged that the Queen is hostile to the Parliamentary Reform Bill, because the leading persons and the whole party who opposed that bill are now the members and supporters of her government. Responsible Government is as much the established and recognized government of Canada (as I shall hereafter prove) as the Reform Bill is the established law of Great Britain and Ireland ; and no governor or party can make it otherwise, were they so disposed. This was avowed by Mr. Sherwood and others of the same party at the commencement of the late session of the Legislature. The attempt to proscribe men from the equal benefits of a law or system to the introduction or establishment of which they may have been opposed, is more unjust, more un-British, and more anti-Christian than the attempts which have been heretofore made to proscribe from equal rights and situations of

public trust all Reformers and all persons who had been represented as having connived at the late insurrectionary movements. When a law or system is once established, all parties and persons are entitled to its equal protection and benefits; and proscription of any kind or from any quarter, is as unconstitutional as it is execrable. Many in both Canadas were opposed to their *union*,—Frenchmen in Lower Canada and Conservatives in Upper Canada; but both classes are now equally entitled to all the advantages, as they are equally subject to all the disadvantages of the *Act of Union*. So are they equally entitled to all the protection and advantages of Responsible Government.

The late Lord Sydenham first offered office to leading Frenchmen of Lower Canada. They refused unless his Lordship would agree to the repeal of certain clauses of the Union Act. He refused; they thereby excluded themselves from power under his administration; and Lord Sydenham employed those who would support the Union Act inviolably, and used various means to accomplish his end. This condition no Frenchman repeated when offered office by Sir Charles Bagot. Mr. Baldwin joined Lord Sydenham's government not from confidence in Lord Sydenham's Council, but on the ground of an avowed confidence in Lord Sydenham himself. When Mr. Baldwin withdrew from Lord Sydenham, his Lordship stated to the Reformers that if they would not support him he must appeal to and employ those who would. All the Upper Canada Reform Members of the Assembly, except three or four, supported Lord Sydenham against Mr. Baldwin, and thus prevented the rule of the opposite party, and by their measures and avowed action upon the principle of Responsible Government, prevented convulsions in the country, and paved the way for the subsequent assimilation with them of Mr. Baldwin and his friends and the leading Frenchmen of Lower Canada.

Mr. Baldwin has now split with Sir Charles Metcalfe, and persuaded his colleagues and many others to join him; split not upon a mere question of local policy, but upon the allegation against Sir Charles that he has violated the fundamental principle of Responsible Government. His Excellency alleges that what has been charged upon him as a violation of Responsible Government, is the maintenance of an essential prerogative of the Crown in the working of that system, and that he recognizes the system itself, both theoretically and practically, as much as Mr. Baldwin does.

Now, as it is not a question of local *policy* between two parties in the country, or between one party and the Governor General, but a question of constitutional law as to what is and what is not the constitutional prerogative of the Crown, or the right of the subject, in the system of Responsible Government; and as it is avowed in the Resolutions of the

House of Assembly of September, 1841, that the "Governor is responsible to the Imperial authority alone;" and as the question of the constitutional prerogative of the Crown involves beyond all doubt an Imperial interest of the highest and most sacred character; the Imperial authority *is* unquestionably the legitimate tribunal of appeal in *such* a question—the only constitutional judge whether the right of power in dispute between the Governor General and Mr. Baldwin is the legitimate property of the Crown or the subject, the same as the Court of Queen's Bench is the legal tribunal of decision on any question of property between man and man. Mr. Baldwin practically renounces the Imperial authority by refusing to appeal to it, and by appealing through the Toronto Association to the people of Canada. If the people of Canada are the tribunal of judgment on one question of constitutional prerogative, they are so on every question of constitutional prerogative. Then the Governor is no longer responsible to the Imperial authority, and Canada is an independent country. Mr. Baldwin's proceeding, therefore, not only leads to independence, but involves (unconsciously, I admit, from extreme theoretical views) a practical declaration or independence before the arrival of the 4th of July! And all the declarations and vehemence of the Toronto Association to the contrary cannot make it otherwise, or resist the force of this necessary conclusion.

Are the people of Western Canada prepared for this? If not, then pause before you commit yourselves any further with the Toronto Association. Nay, I am persuaded that Mr. Baldwin and his associates will shrink from this conclusion. Far be it from me to charge them with *intending* such a conclusion, any more than I would charge Antinomians with *intending* to make the Divine Being the author of sin. I push it as the legitimate consequence of their own proceeding. If they dread the conclusion, let them abandon the premises which involve it.

Then, one branch of the Imperial authority—the Crown, with the advice of a Ministry jealous of their rights—has decided in favour of Sir Charles Metcalfe's construction of constitutional prerogative. There is no reason to believe that the British Parliament will decide differently from her Majesty and her advisers. Are the people of Canada, then, prepared to resist the decision of the Imperial authority? It is no longer a question between Mr. Baldwin and Sir Charles Metcalfe, but between Mr. Baldwin and the Imperial authority.

The strength of the Empire will, of course, be employed (if need be) to support the decision of its authorities. Are the people of Canada prepared for such a collision? If not, avoid, I beseech you, the precipice towards which the Toronto Association is drawing you.

Sir Charles Metcalfe's humanity and liberality have prevented him from inflicting upon the whole country the evils which the conduct of a few individuals was calculated to produce. He has not formed a high party Government as he might have done. True to his avowed principles of justice and liberality, he has calmly waited (by the permission of the home Government) several months, that the people might understand the error imposed upon them—that they might become aware of their position, and interests, and danger, and accede to his constitutional offers and wishes of forming a just and liberal Government. If they persist in maintaining an unconstitutional stand against the constitutional decision of the Imperial authority—as did some persons in Lower Canada, in the first instance, against the constitutional Act of Union—then must Sir Charles soon do, as did Lord Sydenham, appeal to those who will support him, and employ whatever power may be necessary to sustain the constituted authorities of the land; and upon the Toronto Association and those who allow themselves to be goaded on by it, will rest the responsibility of the state of things which may ensue.

Sir Charles Metcalfe is no adventurer—no fortune-seeker; but a fortune-spender—a fortune-spender in the country from which it is attempted to *ostracise* him—a fortune-spender in public charity. No Governor of Canada has ever expressed liberal views of Responsible Government to the same extent, or manifested the same patient and inflexible determination, to establish liberal counsels, and administer Government upon principles of equal justice to all classes, without regard to sect or party—the prayer of Canada in all past time. The attempt, therefore, to destroy the public character of such a man, and banish him from the country, is the more suspicious on the part of its originators, and the more alarming to any right thinking mind. And be it remembered that no honest ruler was ever cut down by party—no monarch was ever dethroned,—no government was ever subverted, except by the assertion of sound political principles, falsely applied; ambitiously, and sometimes cruelly wielded. It was so in the days of OLIVER CROMWELL; it was so in the time of the FRENCH REVOLUTION; it is so with the TORONTO ASSOCIATION.

It is at such a crisis and under such circumstances, I respectfully and earnestly appeal to the inhabitants of Western Canada; and while I shall vindicate the character of a calumniated and injured man, I will shew that the very facts alleged in the impeachment against him, are, when fully considered in all their bearings, those which ought to endear him most to the people of Canada as the faithful and generous friend of their common rights and interests.

If a Wesley, a Fletcher, a Robert Hall, a Chalmers, have come before the people of Great Britain at eventful epochs of public affairs, and if I have heretofore been fully justified for coming before the Canadian public on less important occasions, no apology is necessary to justify my undertaking the task to which I now address myself.

E. RYERSON.

May 27, 1844.

CONTENTS—No. 1.

Importance of the Question—proper disposition of mind for the examination of it—a Question of Facts*—position of Parties—Question stated in the words of Mr. Baldwin—distinguished from several other collateral questions and circumstances—nine propositions to be proved.*

Every man in Canada is deeply interested in the decision of the question at issue, between His Excellency Sir Charles Metcalfe and his late Counsellors. Every man in Canada should, therefore, make himself acquainted with that question in all its bearings. He cannot do so without hearing and investigating both sides. He cannot investigate both sides fairly and correctly without maintaining a feeling of impartiality—a desire to do right between man and man—a determination to yield to evidence, on whatever side it may preponderate. Dr. Watts has well observed—"While you are in search after truth in questions of a doubtful nature, or such as you have not yet thoroughly examined, keep up a just indifference to either side of the question, if you would be led honestly into the truth."

The question at issue is not one of political or philosophical speculation. Like the momentuous question of the truth of Christianity, discussed between believers and sceptics, it is a question of *facts*,—a question which every man in Canada is competent to understand, however limited

his acquirements, and however humble his condition. It is true, these facts involve principles, and principles of vital importance; but still, the facts are the antecedents, and the principles the consequents. The matter of enquiry and decision, therefore, is a simple question of facts.

In this question, as it now stands, the late Counsellors are the plaintiffs; Sir Charles Metcalfe is the defendant: the Canadian public are the jury, and every reader is a juryman. Sir Charles Metcalfe is charged with having compelled the resignation of the late Counsellors, by invading the principles of Responsible Government,—the constitution of Canada—and the public are appealed to, to sustain the prosecution, by supporting the prosecutors. If Sir Charles Metcalfe has violated the established constitution of Canada, then should he be condemned; if he has not, then is he entitled to the verdict of the country.

In the first place, then, let the question be disentangled from all the adventitious circumstances with which it has been, or may be associated, in the mind of the reader.

It should, therefore, be borne in mind, that the question at issue has no connection with the measures, or policy, or motives or characters of the late Counsellors. Their measures may have been well or ill-advised; their policy may have been beneficial or injurious; their motives may have been patriotic or selfish; their characters may be virtuous or vicious, according as the reader may desire or believe. With them we are not now concerned. The issue on which they have gone before the country, has been thus stated by the Honourable Mr. Baldwin:—"He (Mr. B.) and his colleagues had lately the misfortune to ascertain, that the Head of the Government entertained views widely differing from them, both as to the position, duties, and responsibilities of their office. Had the difference been merely a theoretical one, they might, and probably would have felt it their duty, to avoid any occasion of disturbing the apparent harmony existing, and have left it to a future occasion, to point out to the Head of the Government the true state of the case; but, when they found that difference resulted not only in appointments to office contrary to their advice—but appointments and proposals of appointments made without giving them even an opportunity of tendering their advice,—they felt the difference in the views entertained by the Head of the Government and the Administration were not theoretical. These were not, however, the only grounds,—not the only practical results. When they found that difference of opinion had led to the reservation of a bill for the sanction of Her Majesty—a most important bill, towards which, from the time of its first introduction until it had passed both Houses of the Legislature, they knew not that such a course would be pursued. When they found such views were entertained by the Head of the Government, they felt it

was not consistent with the principle which had been introduced into the administration of affairs, that such a state of things should exist."*

This is the statement of the case by Mr. Baldwin himself. The reader will observe, that Mr. Baldwin does not ground the resignation of himself and his colleagues, upon a certain case or cases in which His Excellency refused to take their advice, or acted against it, but upon certain VIEWS that he held, and the MANNER in which he made certain appointments, and reserved a certain bill; which *views* and *manner* of making appointments, are alleged to be "inconsistent with the PRINCIPLE which had been introduced into the administration of affairs,"—that is *the principle of Responsible Government.*

Be it observed, furthermore, that it is not whether Sir Charles Metcalfe's views of public policy in the particulars referred to, or those of his late Counsellors, are the more judicious and beneficial; but are *his Excellency's views* and *acts constitutional* or unconstitutional? If his *views* and *acts* are not unconstitutional, then is he an injured as well as innocent man, and as such deserves the acquittal and sympathy and support of all good men. If his views and acts are *unconstitutional*, then would he, if a Sovereign, instead of the Representative of a Sovereign, be dethroned either by decapitation, as was Charles the First, or by forced abdication, as was James the Second; but as it is, he must be dethroned by removal.

It is not then upon *their own* views and acts that the late Counsellors have come before the country, but upon the views and acts of the *Governor General.* They come forth in the two-fold capacity of accusers and witnesses against the Representative of their Sovereign. They allege, that in their own persons, Sir Charles Metcalfe has both by avowals and acts, violated the established constitution of the people of Canada, and they claim protection and support from the people in *defence* of their invaded rights and privileges. The Governor-General pleads not guilty on *both counts*, and (to use his own words, in his reply to the late Counsellors,) "protests against its being supposed that he is practically adverse to the working of the system of Responsible Government, which has been established—which he has hitherto pursued without deviation, and to which it is fully his intention to adhere." In denying the charges preferred against him, his Excellency alleges that what he resisted was unconstitutional, and what he insisted upon was strictly constitutional—that he is the protector rather than the invader of the constitutional rights and privileges of the people of Canada.

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* Speech in the House of Assembly, explaining the causes of the resignation of the late Counsellors, November 29, 1843.

Such are the allegations on which the Canadian public are called upon to decide; and it is to the testimony by which those allegations are sustained, that I invite the attention of the reader in the following pages. As a man, he is bound to do to another as he would be done by in similar circumstances. As a juror, it is his duty, whether sworn or not, to render a verdict according to *evidence*, without "fear, favour, or affection." This is all I ask in the present case, and this I am persuaded will not be refused.

In this investigation neither the reader nor the writer has any thing to do with the *motives* or *merits* of the parties concerned; but with the *facts* at issue between them. We are not fathoming motives, or comparing characters, but weighing evidence and drawing conclusions. I am hostile to neither party; I impugn the motives of neither party; but I have a duty to discharge to my Sovereign and my country. A living American writer has remarked, "When an idea is advanced, we do not stop to inquire the intention of him who propounds it, but we regard the idea itself intrinsically, and determine its character accordingly, irrespective of the assertions or protestations of its author." And it is an equally just observation of an English periodical writer, that "good intentions are no justification for indiscreet conduct, which may bring scandal on a great cause, and which must inevitably place a sharp weapon in hostile hands."

Nor is the prevalence of the impressions in favour or against one party or the other, to be taken into account. First and even general impressions are not always correct. After the insurrection of 1837, unfavourable impressions were made far and wide against the late Postmaster of Toronto and Mr. Bidwell. But subsequent investigations corrected those impressions. The former has been appointed to office, and Sir F. Head's proceedings against the latter have been cancelled by Sir C. Metcalfe. If impressions have not been made far and wide to the disadvantage of the Governor General, it is a most extraordinary phenomenon. His accusers, respectable in standing and considerable in number, made their statements in the Assembly, without any one present authorised or qualified to correct or reply to them; they have held public meetings, formed organizations, made and published and circulated speeches to the extent of not less than several hundred pages, and all to the same effect; while the very position of his Excellency precludes him from the power or the privilege of defence, except through his advisers in Parliament. All he can do, is, as he has done in his replies to addresses, to deny the charges, reiterate the assertion of his views, and complain of the injustice done him. Nor do I in this publication pretend to write a *defence* of his Excellency —though I do profess to *defend* him, as far as an examination of the evidence adduced again him will authorize me to do so. His defence, properly speaking, must be left to other hands, and for another place.

In the following pages I propose to shew—

1. That the proceedings of the late Counsellors in their resignation, and against Sir C. Metcalfe, are informal in every respect.

2. That they have failed to establish the allegations which they have made against his Excellency.

3. That the statements of his Excellency are fully sustained by the testimony of his accusers and adversaries, especially that of Messrs. Sullivan, Hincks, Boulton, and Brown,—Editor of the *Globe* newspaper.

4. That the question at issue between the late Counsellors and Sir C. Metcalfe, according to the statement of several of themselves and others on different occasions, is not that which Mr. Baldwin stated to the House of Assembly, and on which the vote of the Assembly was predicated.

5. That Sir C. Metcalfe's statements of his views of Responsible Government involve all that is contained in the Resolutions of the House of Assembly, September 3, 1841, and that the criticisms of Messrs. Baldwin, Hincks, Brown, and others, on certain of his Excellency's replies, are unfair and unjust.

6. That his Excellency's avowed practical policy in the administration of the government is precisely that which was professed by the late Counsellors twelve months ago, and which has been demanded by all shades of Reformers during many years.

7. That the policy of government now advocated by the late Counsellors is that which they have heretofore repudiated, and which must prove injurious to the intellectual and moral improvement, the happiness and best interests of the people of Canada.

8. That the proceedings of several late Counsellors, since the prorogation, have been unprecedented,—enervating, if not destructive of legal government—calculated, though not intended, to weaken and sever the connexion between Canada and Great Britain.

9. That in at least seven different instances have the late Counsellors departed from British constitutional usage—that the present course of hostility against the Governor General and her Majesty's government, by some of them, must be attended with injurious if not fatal consequences—that it is the duty and the interest of the people of Canada to maintain those views which they have always professed, and which Sir Charles Metcalfe has most explicitly and fully avowed.

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Proposition stated—Importance of adhering to established usages in such cases—Ministerial Responsibility stated—Just—Nature of it explained by De Lolme—Illustrated in the case of Orford and Somers, who were held responsible for acts which they did not actually advise—Other examples—Resignation of Ministers—Different grounds of it distinguished—Sworn to secrecy—Why—Crown's consent necessary to a ministerial explanation—Why—Case of late resignations examined on the broadest ground—No proof of their permission to explain as they did—No proof against Sir Charles—A precedent—Mode of official communication—Sir Robert Peel's mode of negotiating with the Queen and of explaining to Parliament—Late Counsellors' mode of proceeding un-British, unfair, unjust—Proved and illustrated—Mr. Hincks' evasions exposed—Whole course of proceedings unprecedented—Principles involved in this proceeding unconstitutional—Consequences alarming—Fatal to Sir Charles, if not averted—Illustrated in the proceedings and address of the Toronto Association—Why the late Counsellors did not pursue a constitutional course—Contemptuous and despotic treatment of Sir Charles Metcalfe—Possible results.

The first proposition that I propose to establish in defence of Sir Charles Metcalfe is, *that the proceedings of the late Counsellors, in their resignations and against his Excellency, are informal, or technically unconstitutional, in every respect.*

The importance of adhering to established forms and usages (however arbitrary in themselves) will be readily appreciated by every jurist and man of experience in civil or ecclesiastical courts. It will be equally appreciated in affairs of state by every man acquainted with parliamentary usages, though it may not be so strongly felt by one who has little knowledge of the science of government and legislation. In such a proceeding as that of the resignation of Ministers, and their accountability to Parliament, an adherence to established usage is of the very last importance, as it is an essential security of the crowns of Sovereigns, and involves the characters of kings and statesmen and the peace of nations. The responsibility of ministers for executive acts is peculiar to the British constitution; and the correctness of procedure in case of their resignation must, therefore, be determined by British practice. Had that practice been observed in the late resignations, the perplexity in which the matters of difference are now involved would have been prevented, and the foundations of our government would not have been thus shaken.

That every reader may fully understand this question, let it be observed that the power of the Cabinet Council, as distinct from that of the Sovereign, is unknown in the British constitution, which consists of King, Lords, and Commons only—that the Sovereign, not possessing the inherent attribute of ubiquity, acts through instruments, the chief of whom, constituting a cabinet, are called ministers, and are responsible to Parliament for the acts and measures of the Executive. And they are *justly* responsible; because they are incumbents of office *by their own consent*, and are consenting parties at least to the acts and measures in the execution or adoption of which they are *voluntary* instruments or advisers. "It is true," says De Lolme, "the King cannot be arraigned before judges; because if there were any that could pass sentence upon him, it would be they, and not he, who must finally possess the executive power; but, on the other hand, the King cannot act without Ministers; it is therefore those ministers,—that is, those indispensable instruments,—whom the Commons attack. If, for example, the public money has been employed in a manner contrary to the declared intention of those who granted it, an impeachment may be brought against those who have the management of it. If any abuse of power is committed, or in general any thing done contrary to the public weal, they prosecute those who have been either the *instruments* or the *advisers* of the measure."*

"It was upon these principles," (adds De Lolme, in a note) "that the Commons, in the beginning of the eighteenth century, impeached the Earl of Orford, who had advised the Treaty of Partition, and the Lord Chancellor Somers, who had affixed the great seal to it."

By referring either to *Smollet's History of England*, or to *Burnet's History of His Own Times* for 1701, the reader will find that the Earl of Orford did not *advise* the treaty at all, but *consented* to certain parts of it—that Chancellor Somers, as Privy Councillor, had advised against it, but as Chancellor he obeyed the Royal command in affixing the great seal to it. Yet the Commons held both Orford and Somers responsible, and declared that, "by advising his Majesty to conclude the Treaty of Partition, whereby large Territories of the Spanish Monarchy were delivered up to France, they were guilty of a high crime and misdemeanor."

Now, though in point of fact, neither Orford nor Somers knew any thing of the treaty until after it had been determined upon by the King—though both of them objected to it as a whole—yet they were held responsible even as *advisers*, upon the constitutional evidence that they both remained in office, and one of them affixed the great seal to a blank, which was afterwards filled up by others at the command of the King,

* Constitution of England, chap. viii. pp 81–82, Hughes' Edition.

with the articles of the Partition Treaty. And such has been the doctrine of ministerial responsibility in England from that time to this.

It will be seen, in this case, that the Commons did not inquire or care (and has not done so for 150 years) whether the King determined upon the measure before or after taking advice of his ministers; whether they had or had not an opportunity of tendering him advice before he decided on the measure; with the conduct of the King, or his mode of intercourse with his ministers, the Commons had nothing to do; it was enough that the ministers assented to an act or measure by voluntarily remaining in office. George the Third would scarcely allow of any ministerial interference with his exercise of ecclesiastical patronage — especially the appointment of Bishops — though ministers remaining in office were responsible. George the Fourth made two military appointments while the Duke of Wellington was Cabinet Minister and at the head of that department, and of which the Duke knew nothing until he saw them announced in the papers. Yet neither the Duke nor Mr. Pitt ever came down to the Lords or Commons with an impeachment against his Sovereign, that he entertained views which led to acts "*inconsistent with the principle* which had been introduced into the administration of affairs" since 1688; and therefore that the Parliament must either sacrifice that principle or support them. Neither house of Parliament would have suffered such an impeachment of the Sovereign to be made within its walls; and such a manœuvre on the part of any minister to excite sympathy and strengthen himself, by damaging his Sovereign, who might not take or ask his advice, would cause him to be spurned from every hustings in England, whatever might be his merits in other respects. But more on this subject hereafter.

Having stated the responsibility of ministers, let us now consider the grounds of their resignation, and mode of justification before Parliament. They may resign on various grounds. For example, they may fall in a minority in one or both houses of Parliament; then the ground of their resignation can be explained without divulging any secret. Sometimes one or more ministers may resign on account of a difference or differences with their colleagues; then almost any mode of explanation may be safe, as both parties are in the same house, and on the same footing, and are equally responsible for their statements and opinions. Again, ministers may resign because of a difference with their Sovereign. That difference may be evinced by the Sovereign's disregarding their advice, either by rejecting it or by deciding without it. This ground of resignation involves matters of more delicacy than either of the former; and, accordingly, British usage requires the use of more forth and procaution in explaining it.

Every Minister is sworn to secrecy, except in as far as he may be released by his Sovereign. Any minister who should divulge the councils of his Sovereign without his permission, would be liable to a prosecution for perjury. One of the many reasons for this obligation to secrecy, is, the security of the reputation, if not the very Crown, of the Sovereign. If incensed or disappointed ministers could tell what they please about the opinions and acts of their Sovereign, then might they excite such hatred against him as would lead to his dethronement; or, if a Representative of a Sovereign, to his removal; and thereby inflict upon his character indelible disgrace and infamy. The Sovereign's character, as well as his Crown, should therefore be sacred. An oath is essential to its safety, especially in so many hands.

No Minister, then, can lawfully divulge any thing that has transpired in the councils of his Sovereign, without the permission of the Crown. Should the Crown refuse to permit a resigning minister to explain the grounds of his resignation, then is that minister presumed to be blameless upon the fundamental maxim of British jurisprudence, that every man is judged innocent until he is proved guilty. The Crown's refusal, therefore, to a retiring minister of the privilege of explaining the cause or causes of his withdrawal from the Government, would be tantamount to a justification of him, and would be so received by Parliament; and if with such a permission, a minister should refuse to answer for his conduct, parliamentary judgment would go against him by default.

Why, then, it may be asked, cannot a minister state his case without the permission of the Crown? I answer, not only on account of the safety of the Crown, but in order that Parliament may form a judgment on the case, the nature of which is such, from the facts involved in it being secret, that no witnesses can be admitted or produced on either side. Every case of ministerial resignation, when brought before Parliament, must therefore be, what in common courts of law is called "a case of facts"—that is, a case the *facts* of which the litigant or differing parties admit—drawing them up and stating them in order by mutual consent—leaving the court to pronounce judgment in the case according to the facts thus mutually agreed upon.

When a minister resigns, the official connexion which had existed between him and his Sovereign, is dissolved by mutual consent, and the cause or causes of it are to be stated by the same consent. As the Crown is not responsible, and as the minister is responsible, the latter must appear in the position or capacity of *defendant*, answering for his conduct in the shape of what is called an *explanation*—that explanation consisting of facts agreed upon between his Sovereign and himself, and stated by him under the sanction of his Sovereign—leaving the high court of Parliament to judge of his conduct according to the facts thus stated.

These essential preliminary remarks bring us to the proceedings of Sir Charles Metcalfe's late Counsellors in their parliamentary explanations of the causes of their resignation. That I may do them the fullest justice, and give them every possible advantage, I will examine the case on the broadest grounds—say nothing about the real or alleged difference between Responsible Government in a colony and in a sovereign state; but assume Sir Charles Metcalfe to be Sovereign of the British Empire, and Mr. Baldwin and Mr. Lafontaine to be Sir Robert Peel and the Duke of Wellington, and the Canadian Legislature to be the British Parliament. They are now British Ministers, in a British Parliament—and their proceedings must be judged according to the law of British ministerial and parliamentary practice since the revolution of 1688. Judged by that law, I shall show that they have committed errors—errors which involve not only the violation of the principles of Responsible Government, but, if successful, the political ruin of one of the noblest characters in the British Empire.

Did, then, our Canadian Sir Robert Peel and Duke of Wellington come before Parliament with what has been above defined to be a case or cases of facts, and with the royal permission to state those facts? If so, where is the *proof*? The answer is, their assertion. But no man, or company of men, can be witnesses in their own case. Their assertion, therefore, is no *proof*; and the reiteration of it a million times leaves it assertion still—does not transmute it into proof. In all cases of dispute or difference, the plaintiff and defendant, whether they respectively consist of one or many individuals, are assumed to be on an equal footing. Their mutual statements are equal, and therefore balance each other—amount to nothing—are not taken into the account. It will be admitted that the Crown is at least equal to its advisers. Where then is the proof of the ministerial allegations against the Crown? And where is the proof that they had the Crown's permission to make those allegations? Without enumerating particulars, I will notice, as an example, two of those *explanatory* allegations. The late Counsellors assert that the Crown holds views incompatible with the constitution, as established by the resolutions of September, 1841, and that in its acts, it has deviated from that constitution as thus established. The Crown protests against the sentiments and acts thus ascribed to it. Assuming then for the moment, contrary to all precedent, that the Crown, instead of being incapable of doing wrong, is capable of violating the established constitution, both theoretically and practically, and can be arraigned for it before a Canadian Legislature, where is the *proof* of its guilt? If a horse-thief or murderer is entitled to be adjudged innocent until he is proved guilty, is not the Crown entitled to at least an equal privilege? Would a jury convict an alleged thief or murderer upon the assertion of the *Crown*, who is the prosecutor in such cases? And is

the Crown to be convicted upon the assertion of *its prosecutors!* And would the Crown give permission to accuse itself—and to accuse itself of opinions and acts against which it protests? Where, then, is the ministerial "case or cases of facts?" And where is their permission to state those facts?

But this is only the commencement of what I have to say on this extraordinary business. To make the case more plain, and perfectly intelligible to every reader, I will select a British precedent—the very last which has occurred in England, of a minister resigning on account of difference of opinion with his Sovereign. I allude to the resignation of Sir Robert Peel in 1839, (for Lord John Russell and his colleagues resigned in 1841 on account of their difference with a parliamentary majority, and not on account of any difference between them and their Sovereign.)

And here, to remove every obscurity from the question, I beg to make a preliminary remark on the mode of official communication between the Crown and its servants, or between public officers and individuals. In all such cases—in all enlightened governments—no communication is considered official which is not in *writing*. Cabinet consultations, ordinarily, may be verbal, for the Cabinet is a body not known in law. It is with the acts of the Government, and not with the modes of intercourse among its members, that the Parliament has to do. And of those acts, written documents are the only legitimate proof. If the reader, for example, were to have even interviews with the Sovereign or his ministers, on any subject, all this would be only preparatory and preliminary to official correspondence and action. It would still be necessary for him to commit the material parts of his verbal statements to writing, and get a written answer; and nothing more than what was written would ever be recognised as official or binding. If private conversations were admitted as official, endless misunderstandings and confusion would ensue. When Lord Ashburton came to America to negotiate on the boundary question, his Lordship and Mr. Webster had several days' private conversations, and learned each other's views, and agreed on every material point, before they even commenced their official correspondence on the subject. Their private conversations were for themselves alone; their written correspondence was for the public as well as themselves. The conversations of official men are often reported through the press, and are sometimes referred to in official correspondence; but they are of no authority any further than the parties to whom they are attributed choose to admit.

This mode of official intercourse is the dictate of prudence as well as usage, and especially in any matter which may by possibility become the subject of public discussion and official proceeding.

How then did Sir Robert Peel proceed on a similar occasion, only one more simple, and therefore requiring less precision and explicitness? He does not ask his Sovereign to come to any understanding with him as to whether she would in future make or "not make appointments prejudicial to his influence"—he leaves each case to stand upon its own merits and to be decided as it might occur; but he advises her Majesty to remove certain ladies of her bedchamber. She declines, and asserts her right to retain them—a right which Sir Robert does not question. He then respectfully declines accepting a seat in her Majesty's councils.

But does he stop there? No. British practice and common sense required him to do much more. He then reduced his verbal advice to writing, with the reasons for it, and transmitted the whole to her Majesty, so that she might examine and weigh every word and reason, and that there might be no misconception on any point, though the whole case was a very simple one. Then her Majesty replies in writing, as follows:

"BUCKINGHAM PALACE, *May* 10, 1839.

"The Queen having considered the proposal made to her yesterday by Sir Robert Peel, to remove the ladies of her bed-chamber, cannot consent to adopt a course which she conceives to be contrary to usage, and which is repugnant to her feelings."

Sir Robert Peel then applied in writing for permission to explain his conduct to Parliament. Lord Melbourne was commanded by her Majesty to convey her compliance with Sir Robert's request. His Lordship wrote a note to Sir Robert to that effect. Here then was the whole negotiation between her Majesty and Sir Robert Peel *in writing*—consisting of four papers—all of which were read in the parliamentary explanation, stating Sir Robert's proposal and the reasons for it on the one side, and her Majesty's refusal and the two reasons for it on the other, and the permission of her Majesty to have the whole laid before Parliament. And be it observed, that Sir Robert communicated his Sovereign's sentiments *in her own words*, by reading her own note. And after Sir Robert Peel had completed his explanation, Lord John Russell, who had been taken back into her Majesty's counsels, concluded his reply by saying, that he "had not the slightest ground to complain of the statement made by Sir Robert Peel."

Such then is the British practice of Responsible Government—a practice which the late Counsellors have said was the *ultimatum* of their demand for Canada. Have they adhered to it? Have they respected it in any one particular? They had a long personal interview with the Governor General on Friday, in which they stated their views and heard his Excellency's objections. They proposed another interview the fol-

lowing day, on the same subject. Now, would it not have been not only according to British usage, but courteous and fair towards his Excellency, for them, in the mean time, to have committed to paper their remonstrances and proposals, and transmitted them to him, so that he might not misunderstand any one of the various points at issue—that he might weigh them, and make up his judgment deliberately upon them? Apart from usage, apart from his position as the representative of Royalty, was it giving his Excellency any more than fair play for them to have done so?

They then had a second long interview with his Excellency on Saturday, in which all the points of difference were again discussed at great length, and which concluded with a determination on their part to resign. Now, would it have been any thing more than respectful, or decent, or fair, for them to have done on Saturday evening what they ought to have done on Friday evening—to have embodied in writing the substance of what they wished his Excellency to understand as the representations and proposals which they had made in the long conversations which they had had with him, and on which they had desired his decision? But neglecting again to perform this act of courtesy and justice towards his Excellency on Saturday evening, ought they not, in common fairness, when they resolved to tender their resignations on Sunday, to have accompanied those resignations with a full and explicit statement of the grounds of them, and which they desired permission to state to Parliament? Why throughout the whole of this protracted and extraordinary ministerial negotiation, did they not furnish the Crown with a single scratch of a pen, that would tangibly, and permanently, and truly indicate their views and intentions? For such a proceeding they can plead neither British usage nor common justice—though party manœuvring may be pleaded for it, as I will hereafter prove.

Should it be alleged that they have had little or no experience of British practice and usage in such cases, I admit the plea. I admit that all public men in Canada are entitled to indulgence in their mode of working the new system. I admit that the late Counsellors appear to disadvantage when compared with Sir Charles Metcalfe, in affairs of government;—that they have not, like him, been born and educated under the British system of Responsible Government;—that they have not, like him, mingled with British statesmen of all shades for nearly half a century;—that they have not, like him, worked different systems of Colonial government in both hemispheres;—and that their acts are, therefore, entitled to an indulgent interpretation. But do they ask it? Will they allow it? Nay—they ask, they demand approbation—they claim support and reward. They even refuse to come before the country upon the merits of their *policy*—they claim *exclusive* identity with the *principle*

of Responsible Government itself, the same as some parties claim *exclusive* identity with loyalty and apostolicity—they declare that Responsible Government has been assailed and stabbed in their persons, and that that system lives or dies with their victory or defeat; for, as Mr. Baldwin expressed it at a public dinner in Toronto, December 28, 1843, "he well knew that no victory could be obtained, on the present occasion over himself and his late colleagues, as public men, that would not in effect, both by friends and enemies, be treated as *a victory over the principle of Responsible Government itself.*"

Now, who can believe this? Who does not know that whatever persons may be in the councils of the Crown, the principle of Responsible Government must and will be acted upon! It requires but little reflection and foresight to perceive, that whatever passions Mr. Baldwin and his colleagues may lash into a tempest for a moment, the illusive and fabulous pretensions on which they have made war upon the Crown, in the person of Sir C. Metcalfe, will and must issue in their own confusion, if not in the misfortune of incautious hundreds exasperated by them, as in the dismal transactions of 1837 and 1838. But of the obvious and legitimate consequences of present proceedings, I will treat hereafter.

As the late Counsellors, then, take their stand upon the British practice of Responsible Government, why have they disregarded it in every preliminary step of their resignation and explanation? As one erroneous step, if unretraced, leads to a course of error; so the late Counsellors commencing wrong, have fallen into a succession of errors, each ensuing one more serious than its predecessor.

I have shown that they provided not the necessary materials; that they took not the necessary measures to prepare "a case of facts" for their explanation; that their mode of proceeding was the reverse, in every respect, of the proceeding of Sir Robert Peel in a much more simple case of "antagonism" with his Sovereign, I will now proceed to prove that their explanation was unauthorised in every respect, and is fraught with dangerous consequences.

In the course of his explanation (Nov. 29,) Mr. Baldwin stated, in reply to Mr. Viger, that "he had the permission of his Excellency to make the explanation which he had offered to the house; and if he had not, he should have come down to the house and told them that he had been refused, and called upon them to construe every thing in his favour, and nothing against him." That Mr. Baldwin was sincere in making this assertion, I have not a shadow of doubt. But the very liability of his statement to be challenged (as it was by Mr. Viger,) shows the culpable impropriety of his not having reduced to writing the whole of the negotiation with his Excellency. The present question, however, is not what Mr. Baldwin thought, but what is the *fact?*

Mr. Baldwin's verbal application, and the Governor-General's verbal reply, must of course have been intended and ought to be interpreted in the ministerial or official sense of such communications—as preliminary to their being committed to writing. That such was his Excellency's understanding, is obvious from the fact, that he directed the substance of the intended explanation to be laid before him in writing. Why did he require this, if it were not that he might express his approval or disapproval of it? Upon any other supposition, his Excellency might, with equal propriety, have demanded before hand the substance of any speech or speeches that Mr. Baldwin and his colleagues intended to deliver on any subject. The written explanation which they laid before his Excellency, was, of course, their intended "case or cases of facts." Did his Excellency consent to it? Nay; he more than prohibits it—to use his own words, "the Governor-General protests against THE EXPLANATION which those gentlemen propose to offer to Parliament," &c. Now, Mr. Baldwin gave in his speech the substance, almost verbatim, of the explanation which he and his colleagues had laid before his Excellency. Mr. B. says he had been authorised by his Excellency to make *that explanation*; his Excellency *protests* against *that explanation*; and, according to Mr. Hincks, his Excellency's *protest* had been received at least an hour before Mr. Baldwin made his explanatory speech.

To make the case, if possible, more plain, I will suppose that you, Mr. Reader, are Governor of a town, city, or province, and that I come to you as the representative of a portion of the people whom you govern, to procure your assent to certain measures relating to their roads, schools, or churches; that you do not accede to any of the proposals or applications laid before you; that I request your permission to explain to my constituents what has taken place between us on these subjects; that you say, yes, but desire me to furnish you, in writing, with the substance of what I intend to state in explanation to my constituents; that I do so; that you, on reading it, perceive that I have given a very different version of several points from what you think is correct; that I attribute sentiments and acts to you which I declare to be inconsistent with the rights and interests of my constituents; and that I omit what you conceive to be the very grounds of your dissent from several requests made to you; that you forthwith send me a written protest against my intended explanation, generally, and point out several particulars which you think are essentially inaccurate; yet I, with *your protest* and *statement* in my pocket, give that identical explanation against which you protest to my constituents, and then inform them, in conclusion, that I have your authority for the explanation which I had made—would you, Mr. Reader say that I had treated you justly?—that my statement was authorised by you?—that it

was true? The exact parallel between this imaginary case and the real case of the Governor General and his late Counsellors, can be readily perceived by every reader.

I infer, therefore, that the explanation given by the late Counsellors, was, both technically and morally, unauthorised, and was therefore unparliamentary and unconstitutional.

The only proof that Mr. Baldwin has ever appealed to that he had authority to make his explanation, is this "protest" of his Excellency. How far this proves his authority, the reader can judge. But in this reference Mr. Baldwin blinks the real question, which is not whether his Excellency intended that Mr. B. should give *an* explanation; (this his Excellency desired as much as his late Counsellors;) but whether he authorised *the* explanation which Mr. Baldwin gave. Against *that* explanation his Excellency *protests*; and therefore he could not have authorised it.

Mr. Hincks, in his reply to Mr. Viger's pamphlet, argues in the following words and italics: "It is true that no disclosures can be made without permission; but whenever a difference arises between the head of the government and his ministers, parliament and the public have a right to the fullest information. What is the object of making explanations at all? That the public may be able to judge whether the retiring ministry have acted right or wrong. They are the parties upon trial; and they have a right to expect permission *to state every thing necessary for their complete justification* It would be as unprecedented as it would be useless for the Sovereign or his Representative *to limit the explanations* of Ministers, because any attempt to do so would be invariably met, as Mr. Baldwin declared in the house he would have met it, viz., "by a refusal to say one word until the required permission should be granted." (See pp. 7–8.)

Now, with this reasoning I entirely agree as far as it goes; but it *omits* the very points at issue. We are not inquiring what ought to be in the abstract, but what was the *fact* in this case? To prove what *ought to be* and what *was*, are two different things. It is with *facts*, not with *expediency*, that we have now to do. This fallacy of shifting the ground argues badly for the cause in which it is employed. But there is still another fallacy in this attempt at reasoning—another shifting of the ground—another *shirking* of the question. It is not whether ministers ought "to state every thing necessary for their complete justification;" but whether the *Crown has not a voice* in deciding that point as well as the retiring ministers! It is admitted by Mr. Hincks that ministers cannot explain at all without the permission of the Crown; can they then

explain *any more* than they are permitted? Certainly not. Have not the late Counsellors given explanations which have not only not been permitted, but against which the Crown has protested? I am not now inquiring, whether they gave any explanations not necessary to their justification—that will be considered in another place; all such evasions of the question argue the untenableness of the proceeding of the late Counsellors. I am now inquiring,—*Did the Crown consent to the explanation which they gave?* The protest of the Crown is proof demonstrative that it did not; and a hundred columns of speeches and as many evasions, cannot prove it otherwise.

When they found that the Crown dissented from their intended explanation, what was their duty? Undoubtedly to defer their explanation, until the Crown and they should agree upon the facts to be explained. But suppose that no such agreement could have been come to? I answer, in the first place, ministers should have tried whether such an agreement could not have been come to. Secondly, if the Crown and they could not have agreed upon the facts to be explained, they would have refused to explain; and the Parliament would have applied for the correspondence which had taken place between the Crown and its late advisers. Thus the whole affair would have been fairly brought before Parliament. Thus the House of Commons, not satisfied with the statements made, applied to the Crown and obtained all the letters which had passed between the King and his Ministers, the Earl of Orford and Lord Chancellor Somers.

Had the late ministers furnished the Crown, in writing, with their advice and negotiation (as did Sir Robert Peel), then there could not by any possibility have been a difference between the Crown and them as to the grounds of their resignation, and consequently no difference as to their intended explanation. This they carefully avoided doing. When they determined to resign, instead of preparing the "case of facts," they thought it "necessary for their complete justification," to give such a version of the affair as would tell best upon the Parliament and the country; (how far it was correct I shall inquire in the sequel;) and they bring it before Parliament, not with the sanction of the Crown, but in the face of the Governor General's solemn protest against its fairness and truth! Such a proceeding cannot be paralleled in the history of Responsible Government throughout the world.

So much as to the *facts* of this proceeding. Now, as to the *principles* and *consequences* involved.

Was it not a practical wresting from the Crown the sceptre of its prerogative, and the essential shield of its character and safety?

If the late Counsellors denied the Crown even a consenting voice to their "case of facts"—their parliamentary explanation—can they allege that they regarded its prerogative much in any thing else?

If they claimed to use the authority of the Crown as a "tool" to sanction a party, as well as an exparte explanation, can they prove that they did not seek to use it as a "tool" for the promotion of other party purposes?

If they practically asserted their right to do as they pleased in regard to their "explanation," regardless of the protest of the Crown, is it improbable that they asserted the right of equal discretion in regard to all other acts, whether the Crown consented or protested?

If they practically asserted the right to deal with the *character* of the Crown as they pleased—to attribute to it what sentiments or acts they pleased in the teeth of its own solemn protests—is it unlikely that they sought to dispose of the *patronage* of the Crown? The greater includes the less—and who will not say that character is greater than patronage?

I state these questions not as facts; but as legitimate inferences, and as subjects of serious reflection. The facts at which they point will be hereafter examined.

And what are the *consequences* involved in such a precedent and proceedings? Does it not remove from the Crown the only safeguard of its honour, and strip it of the last weapon for the defence of its character? Suppose the Governor to be the reader, and the reader to be one of an association of seven or eight employed in deliberations on public matters; that differences arose, and the reader stood alone; that a dissolution of their association followed; that the other seven should draw up a statement for publication of those differences, and in it ascribe various execrable sentiments and acts to the reader, which he wholly disclaimed; yet they persist and publish, and reiterate. The reader might thus be beaten down by numbers, and party exertions; but would such a proceeding be just before God, or before man? In that case an individual would be ruined; but in the present case, more than the life of a Governor—his character—is involved. If his confidential advisers can become his accusers—against his own solemn protests—then is the oath of secrecy a mockery, and the prerogative a bauble; then in point of fact (and no forms of phraseology can make it otherwise) is the Governor subordinate, and the Council supreme, and may his character at any time be made a foot ball for their gratification. He may come to Canada with an almost angelic reputation of forty years growing brilliancy; and in twelve months, it may be, invested with the attributes of the worst Asiatic despot, and at length, assailed by its own confidents, sink down pierced with more wounds than those under which Cæsar fell.

And what have we witnessed in Canada during the last few months, and what do we now see but a practical illustration of the truth of these remarks? The voluminous speeches of the "Toronto Reform Association," are so many witnesses of the melancholy reality which I have imagined.

Within the last few days, I have read an "Address to the People of Canada, by the Reform Association, adopted at a general meeting, held at Toronto, the 16th day of May, 1844," and said to have been written by one of the late Counsellors. After reading this most calumnious address, I asked myself, if this address be true, what is the *real* character of Sir Charles Metcalfe—the man in all past life lauded more for sincerity, love of liberty, and justice, than any other Governor in the British Empire? If this address be true, the world has been deceived in Sir Charles; for he has, after all, proved to be an enemy to the British Constitution—a tyrant—a hypocrite—a deceiver—a liar—a more outrageous invader of constitutional rights than Charles the First, and a more daring despot than James the Second—and were he a Sovereign, instead of a Governor, would forfeit his Crown, if not his head!

And whence the *authority* for these awful charges and denunciations? We answer, his Excellency's late confidential and constitutional advisers. And this address and the kindred speeches of members of the same Association, are the early results of disclosures which those advisers declared they made under the authority of the Governor-General! Disclosures against every part of which, affecting his own sentiments and conduct, he with a martyr-like firmness and Aristidean integrity, most earnestly protests. And those disclosures, or rather, accusations, and these speeches, and this address, are the *first fruits* of *their* working of the system of Responsible Government—those who *claim* to be the *only* workers of it. What may not the *last fruits* be?

And this, too, in the face of the facts that the British principle of Responsible Government requires the sanction of but one minister to render any act of the Crown valid; that the Resolutions of the House of Assembly of September, 1841, on Responsible Government, have recognised no more than a *plurality* of advisers of the Crown, and not a government by heads of departments; that Sir Charles Metcalfe has half as many advisers as British Sovereigns have had for the whole of the Empire; that those advisers are responsible for all his acts; that the late Counsellors have declared so; yet the Sovereign is thus treated in the person of his Excellency! And why? The *advisers* of the Crown are too small game—to *advise* the Crown is too small a prize. The *patronage* of the Crown is the *magnum bonum* sought. It cannot be obtained until the Crown is made a "tool." The Crown cannot be made a tool until it becomes

powerless. It cannot become powerless until it is rendered hateful. Hence this address of the Toronto Association—sound in the assertion of general principles, but fallacious in its application of them, and false and abominable in the statement of facts, as I shall by and by show.

Now, had the late Counsellors adopted the fair and constitutional course either before or at the time of their resignation, this state of things could not have existed. Had they submitted their statements and recommendations to Sir Charles Metcalfe, in writing, no misunderstanding or discrepancy of representation could have occurred respecting them, and no misinterpretation in the explanation of ministers—no protest from the Governor-General against it.

But, then, their ulterior policy would have been defeated. What we have defined as "a case of facts," would have confined them to their own sentiments, and advices, and demands; and upon *them* the issue would have been taken. The prerogative of the Crown would have remained unquestioned and inviolate. They could not have impeached it as they pleased—they could not have turned attention from themselves to the Crown — they could not have done, as Diogenes Laertius said that Aristotle sometimes did, act the part of a cuttle-fish, which darkens the water around, that it may escape the danger; they could not have made Sir Charles the virtual defendant in the case, instead of themselves; they could not have *transferred* themselves from the *policy* to the *principle* of Responsible Government; they could not have omitted (as I shall prove in the next number, by two of themselves, they did) the cardinal point of difference between the Crown and them. Hence they avoided "the case of facts," as at that juncture, an inconvenient element of Responsible Government, and made out a case both for themselves and the Governor-General, and affixed his authority to it, and put his case, as stated by himself, into their pocket—never hinted that such a thing was in existence, but claimed the patronage of the prerogative for the very impeachment of the Crown itself, as well as for party government. The prerogative in the hands of Sir Charles Metcalfe, was only fit to be put into their pockets; but the prerogative in their own hands must sanction (to use Mr. Hincks's words) "*everything* necessary for *their complete* justification"—whatever it might be, whether truth or not—whether impeachment of Sir Charles or praise of themselves;—as advisers of the Crown, *they* were entitled to the *whole* of its patronage—not even Sir Charles himself had a right to a *crumb*, as he was no longer of *their party*!

Such is the source of their unprecedented proceedings; and such is the stream which has already issued from it—a stream which, if not turned into the legitimate channel of British responsibility, may undermine the very pillars of the throne and sweep away the best bulwarks of our con-

stitution; and, what is still more affecting to a humane mind, overwhelm in its darkest waters of disgraceful obloquy, nay of perpetual infamy, the hard-earned and hitherto unsullied reputation of one of the most upright, most generous, and most universally admired characters in the British dominions.

A comparison of the present and former language of the late Counsellors towards Sir Charles Metcalfe affords a melancholy illustration of Tacitus' remark — *Proprium humani ingenii est, odisse quem lasseris.* (It belongs to human nature to hate the man whom you have injured.)

Thus much then on the single point relating to the *mode* of proceeding on the part of the late Counsellors in their resignation, and the consequences of it. I shall next examine the still more important subjects of their explanatory statements and omissions.

CONTENTS—No. 3.

Proposition stated—Who meant by "late Counsellors"—Retirement from office expected to be short—Four anomalies in their proceedings, which disprove their charges—Erroneous proceeding of the House of Assembly — Should be retraced — Fifth anomaly disproving the charges of late Counsellors—Charges examined in detail and refuted, and the nature and effects of them exposed—Claim of the Toronto Association compared with the avowal of Lord John Russell—Contrast—Remarks.

Having proved, I trust to the satisfaction of the candid reader, that the proceedings of the late Counsellors, in their resignation, and against Sir Charles Metcalfe, were informal in every respect, and unconstitutional in several respects; I now proceed to shew, *that those gentlemen have failed to establish the allegations which they have made against his Excellency.*

When I use the term "late Counsellors," I do not mean to include each of them individually. Several of them are known to have been reluctantly acquiescing parties in the proceedings of the leaders; the circumstances in which they were placed were perfectly novel; they had not examined British precedents; the whole complex affair transpired in less than three days, so that they had not time for cool, minute, thorough, independent examination; they felt themselves bound in party hands;

they submitted themselves into the hands of their captains; since that prorogation they have acted with the silent dignity of retired ministers of the Crown; they have neither been party organizers, nor political disorganizers; some of them, I believe, have viewed the steps into which a temporary pressure led them with concern, if not with misgiving and regret, and would be happy of an honorable and safe escape from their present dilemma. To such parties I do not refer; their assent was general; and their conduct has since been unexceptionable. I refer especially to those Counsellors who made allegations against the Governor General in the Legislature; who have repeated them with sundry additions and exaggerations at public meetings—to Messrs. BALDWIN, SULLIVAN, and HINCKS.

It may be also remarked, that the retirement of the late Counsellors was expected to be of short duration—some of them intimated that they thought it would be only a few days. Had such an expectation been realized, a feat would have been performed worthy of the days of chivalry—a resignation—a restoration—a victory of the Crown itself—and all this in less time than the sixteen days required by Cincinnatus to subdue the Æquid Volsci and re-establish the safety of Rome. However, the former only has been as yet accomplished.

The first anomaly that strikes the mind of an attentive observer of their proceedings is, the position in which they place themselves, before the Legislature and the country. Their *constitutional* position is that of *defendants*; their *real* position is that of *plaintiffs*. They come before the jury of the Canadian public to answer for *their own* views and conduct; they answer, by arraigning the views and conduct of the *Governor General*. Now, a Canadian jury cannot constitutionally sit in judgment on the views and conduct of the Governor General; for the Resolutions of September, 1841, declare "that the Head of the Executive Government of the Province, being within the limits of his government the Representative of the Sovereign, *is responsible to the Imperial authority alone.*" No man can be justly or constitutionally arraigned before a tribunal to which he is not amenable. Cromwell had a *shadow* of constitutional pretension for arraigning Charles the First before even his Rump Parliament; but the late Counsellors have the constitutional Resolutions of 1841, positively *against* their arraigning the views and conduct of the Governor General before any other tribunal than that of "the Imperial authority alone." Whatever therefore may be their intentions (with which I have nothing to do), their proceeding involves a *direct* blow against a fundamental principle of the Resolutions of 1841, and an *indirect* blow against the colonial connection of Canada with Great Britain. If the Governor General can be arraigned before the Canadian Legislature

for his views and conduct, he cannot be "responsible to the Imperial authority" *at all*; for "no man can serve two masters." The very arraignment, therefore, of the views and conduct of the Governor General before the Colonial Legislature, *assumes* independence of the mother country. Nor is that all. It assumes the power of the Assembly over the Monarchy, and involves the destruction of monarchical government itself. For, as De Lolme says—in the passage quoted in the preceding number—"the king himself cannot be arraigned before judges; because if there were any that could pass sentence upon him, it would be *they*, and *not he*, who *must finally possess the executive power*." The arraignment of the views and conduct of the Governor General before the House of Assembly *assumes* that they are his "judges;" or, in the words of De Lolme, that "*they*, and not *he*, possess the executive power." If, therefore, the late Counsellors did not desire to be supreme themselves, and make the Governor subordinate, their proceeding involves his subordination to the House of Assembly.

Such are the inferences which flow irresistibly from their anomalous proceeding. Such is the first anomaly it presents. Another is, the nature of their defence. It consists, as the House of Assembly seems to have understood from the resolution introduced by Mr. Price, which was adopted in their behalf, of a charge against the Governor-General that he had denied "their *right to be consulted* on what the house unhesitatingly avows to be the prerogative of the Crown—appointments to office." They place themselves before the house and the country, not upon their policy of government, (which Sir Charles declares to have been the point of difference,) but upon "their right to be consulted," which his Excellency denies to have been the question at issue, and of which he says in his reply to them, that he "is astonished at finding that the resignation is *now* ascribed to an alleged difference of opinion on the theory of Responsible Government." They keep out of sight of the house the new *policy* of government which they had been urging upon the Governor General, and claim its vote in their behalf, by alleging that his Excellency had invaded its rights. A new mode, indeed, for a defendant to claim an acquittal and even approval of a jury, upon the ground of a general charge against the plaintiff, supported by the evidence of the defendants own *assertion*. Who would not prefer the position of the defendant to that of the plaintiff, according to this mode of proceeding?

But what appears more anomalous still, is the nature of the charges which they prefer against his Excellency. They are *general*. They contain no *specifications* which can be met. They throw upon his Excellency the onus of not only proving a negative, but of proving a *general* negative. Mr. Baldwin, in his "*explanation*," ascribes to the Governor-

General certain anti-Responsible Government *doctrines*, and alleges against his Excellency certain anti-Responsible Government *acts* as proof that he held these doctrines; but Mr. Baldwin *specifies* no acts—not even the names of the parties to whom they refer. Assuming that his Excellency, instead of Mr. Baldwin, was on his trial before the House of Assembly, and that Mr. Baldwin was a legitimate witness in his own case, and that his Excellency was permitted to come to the bar and answer for himself, how could he disprove the charges preferred against him, when the *specifications* included in those general charges, were not stated? If the reader were arraigned as an infidel and a robber—an infidel not in the doctrine of Responsible Government, but in that of the Divine Government, and a robber, not of another's property, but what is more valuable, another's rights—the rights of many others; and suppose the only testimony against him was the assertion of his accuser; and suppose that nothing was stated either in the indictment or in the evidence as to the specific nature of his scepticism, or the time, place, or even parties in relation to which his robberies were alleged to have been committed; but that it was stated in general terms that he had committed robberies, and that on certain occasions he had expressed sceptical sentiments; how could the reader rebut such charges? How could he prove an *alibi*? How could he prove that the facts alleged as robberies, were legal transactions, and not wrongs against any man? All this he might do, were specifications on each count of the indictment stated. But according to the procedure supposed, he could no more save himself from condemnation, however innocent he might be, than the selected victim could escape the Inquisition. How then could the Governor-General defend himself, or be defended, against the general charges alleged by Mr. Baldwin? He could only do as he has done, deny them in general terms, by declaring that he "subscribes entirely to the resolutions of 1841," and that he has never deviated from them.

And under such circumstances, how could the Court of Parliament decide against him? If a man can be arraigned and condemned on general charges, and on the evidence of his accuser's assertion, what man's character, or liberty, or even life, is safe? And is the high Court of Parliament to condemn the Governor-General on an indictment which would not be entertained by any magistrates' Quarter Sessions against the humblest individual in the land? The resolution of the Assembly expressing "the deep regret felt by the House at the retirement of certain members of the Provincial Administration, *on the question of their right to be consulted on* what the House unhesitatingly avows to be the prerogative of the Crown —appointments to office; and further, that *their advocacy of this principle* entitles them to the confidence of the House," involves most unequivocally,

that his Excellency had invaded that "right" and denied this "principle," against his own most positive and solemn declaration—and repeated declarations—to the contrary.

Had Mr. Baldwin come down to the house with what I have heretofore shown he should have done, "a case of facts," and had any one or more of those facts involved the fact or facts on which the resolution of the House of Assembly was predicated, then upon that evidence—the mutually admitted statement of the differing parties—could the resolution have been fairly and justly adopted. But as it was, the house had before them nothing but the *assertion* of one of the differing parties against the assertion of the other; and for them to have decided in favour of the one or the other upon such evidence, or rather, such absence of all evidence, was as unprecedented as it was unjust, and was such a decision as no inferior court in the land would have been disposed or dared to make.

It has been stated that one of the movers of the resolution in question, has said, that he saw the house wavering, and that he pressed it to a vote before the members had time to draw back. It is not surprising that a thorough "party man"—a man who prefers party to justice—should pursue such a course, and exult in its success. Nor is it surprising that the house was "wavering" under such circumstances; it would have been surprising had it been otherwise. As the case was a new one, and as the members of the Assembly could not possibly have acquainted themselves with the minutiæ of British Parliamentary practice in such cases, it is not surprising that they were led on by party to adopt such a course. But it will be surprising if, after a calm review of the whole affair, and a minute investigation of all the facts of the question, they do not waver back to the position of doing justice between man and man—of doing to the Governor-General as they would be done by in similar circumstances—of acting in harmony with the practice of British Responsible Government. It has been said, "to err is human, to forgive divine." Those members of the Assembly who have in this case done what is "human," are not asked to do what is "divine." No crime has been committed; no forgiveness is sought or needed. But they are asked—and I have no doubt but a just and honest country will ultimately require it to be done—to retrace what is "human" so far back to what is "divine," as to do justice to an upright, a generous, and an unjustly implicated man.

Pope has said, for a man to acknowledge his error is only to confess that he is wiser to-day than he was yesterday. What is true of individuals, is true of collections of individuals; and I am much mistaken, if the members of the House of Assembly—after the lapse of so many days—will not be wiser next session than they were the last. I am also inclined to believe that several, if not all, of the late Counsellors—after their

unexpectedly long retirement from the cares and perplexities of office—will be found more judicious, more experienced, better qualified, and more disposed to appreciate and adhere to the British principles and practice of Responsible Government, than they were last session.

But there is another anomaly still in this proceeding—another *prima facie* evidence that the late Counsellors have failed to establish the allegations which they have made against the Governor-General. It is the perplexity—the cuttle-fish muddiness—in which they have involved the whole affair. Who in Canada, for weeks after their resignation, could comprehend their real differences with the Governor-General! And not a few are still unable to define them. The "Toronto Reform Association" has schooled its pupils tolerably well into the mystery—at least so far as ringing the changes on certain words and phrases, and vociferous denunciations, evince proficiency; but even with such a school of public instruction on the subject, many are unable to perceive any thing more than confused and undefined images of East India nabobism and West India negroism—the staple eloquence of the Association. Now, such obscurity—such confusion—is never witnessed in any question of defined and proved facts. The inference, therefore, is inevitable, that their facts were neither specific nor proved.

That such was the light in which they were viewed, not only by unexperienced Canadian minds, but by the most acute and experienced statesmen, is obvious from a recent letter written by the Hon. Joseph Howe, of Nova Scotia, and published in several of the Canadian papers. Mr. Howe was reported to have said in one of his speeches in the Nova Scotia House of Assembly, that "the difficulties in Canada had arisen from a *bungling administration*." Mr. Howe, in a letter addressed to Mr. Hincks, and dated Halifax April 29, 1844, explains as follows:—"The conflicting statements put forth by the Governor-General and his ex-Counsellors, rendered it difficult for some time to judge what the real points at issue were—the facts of the case, upon which alone an opinion could be formed, not being admitted on both sides. It was in reference to this contrariety of statement that I said in answer to some speaker who sought to show that the Canadian and Nova Scotia cases were strictly analogous, that the matter had been so "bungled" in Canada, that it was difficult to say whether such an inference could be fairly drawn. This is all that was said or intended; and the observation was only meant to apply to the then involved state of the controversy, and used without any desire to charge blame upon either of the parties whose opposing statements rendered it difficult at the moment to form a correct decision, and most desirable to keep the simple fact upon which the retirements were based, free from any theoretical dispute about general principles which it did not necessarily involve."

Now, if the acute mind and practised eye of the father of Responsible Government in British North America, could only discover in the Canadian "case of facts," "conflicting statements"—"opposing statements"—a "matter so bungled"—"theoretical disputes about general principles," could even *he* have discovered any *proof* of the allegations against his Excellency? Yet upon this case of "conflicting statements," and a "matter so bungled," do the late Counsellors demand a verdict of the country against Sir Charles Metcalfe as an enemy of Responsible Government! Would the reader, as a juryman, convict a known pickpocket upon such "bungled" and "opposing statements?" much less the Representative of his Sovereign against his own declarations.

From the foregoing reasoning I infer, therefore, that not only is the proceeding of the late Counsellors anomalous—as I have heretofore shewn it was unconstitutional—but that upon every principle and legal and equitable practice, they have failed to establish their allegations against Sir Charles Metcalfe.

So much for their charges in general. Let us now examine them in detail. This is rather difficult, as they are so "bungled" together. I will, however, attempt to separate two or three from the mass. The first appears to be—as stated by Mr. Baldwin in his explanatory speech—"that his Excellency entertained a widely different view of the position, duties and responsibilities of the Executive Council, from that under which they accepted office"—that is the view expressed in the Resolutions of September, 1841.

Such is the first charge. Let us now examine its import, and the principle assumed and involved in the mode of its presentation. Mr. Baldwin does not condescend to inform the high court of Parliament *to what extent* Sir Charles's "view" is different from that of the late Council; nor what meaning he attaches to the *relative* terms "widely different." Days have been when the different modes of cutting men's hair were held to indicate religious views as "widely different" as orthodoxy and heresy. And who is assured that Mr. Baldwin's "view" of more than one question is not so squared and nicely adjusted that a hair's breadth deviation from it is "widely different"—so "widely different" as to prevent co-operation at all? There are as many different ideas attached to the terms "widely different" as there are different intellectual constitutions. Some religionists now-a-days regard a difference in the form of ecclesiastical polity to involve a "view" and a fact as "widely different" as that which exists between *a* church and *no* church; and who is certain that Mr. Baldwin does not hold that the least deviation from his opinion constitutes the "wide difference" between Responsible Government and no Responsible Government? Then again, Mr. Baldwin does not inform the court in

what respects Sir Charles is heretical in his view of the "position, duties and responsibilities of the Executive Council." Suppose that the reader were arraigned before the assizes for holding a treasonable "view" of the doctrine of a subject's allegiance, and in consequence inculcating treasonable doctrines and practices, and that Mr. Baldwin were Attorney General or Queen's Counsel in the case; and that Mr. B. had stated in the first count of the indictment that the reader "entertained a widely different view of the position, duties and responsibilities" of a subject's duty, from that which was involved in the oath of allegiance and required by the laws of the land; and suppose the Judge or the Jury, or both, were to ask the counsel for the Crown *to what extent* the prisoner at the bar held and taught a view of civil duty different from that enjoined by the laws of the land? And that Mr. B. should reply, "My Lord and gentlemen, his view is *widely different*"—and the court were to rejoin, *in what respects* is it different! And the Crown Counsel were to reply again, "*widely different*, my Lord and gentlemen"—what would be thought of such an indictment? And what would be thought of such a counsel for the Crown? And what would be thought of a verdict of *guilty* on such a charge? Yet such is the charge on which the verdict of the Province is demanded against the Representative of the Sovereign—a verdict which involves (to use the words of Captain Irving, for which he received the "loud cheers" of the Toronto Association, to whom he addressed them) "his Excellency's retirement in dear old England, *where tyrants have no power*." (Loud cheers.)

But what is the *principle* assumed and involved in this charge? It assumes and implies, that any view which Mr. Baldwin may please in general terms to declare "widely different" from his view of the "position, duties, and responsibilities of the Executive Council," is to be adjudged heretical and unconstitutional. Although the real or full import of his proscriptive declaration may, like the secret doctrines of the Greek philosophers or Egyptian priests, be confined to his own bosom, or communicated to none but the initiated. I think the Canadian people are hardly prepared for such political vassallage as this, and that Mr. Baldwin is too modest a man to assume the prerogative of political Pope of Canada; and that after due consideration, therefore, he will abandon this mode of dealing with the character and rights of the Representative of his Sovereign.

Had Mr. Baldwin confined himself to *facts*, "free (as Mr. Howe says) from any theoretical dispute about general principles," he would have avoided this burlesque upon all constitutional legislation, and this great injustice against Sir Charles Metcalfe.

A second charge is, that "that difference of opinion has led not merely to appointments to office against their advice, but to appointments, and proposals to make appointments, of which they were not informed in any manner, until all opportunity of offering advice respecting them had passed by." This charge, like the former, be it remembered, is only the assertion of one party, and denied in all its essentials by the other. In the first place, how could the late Counsellors know, and therefore with justice or reason state, that an alleged opinion of Sir Charles Metcalfe on the abstract theory of Responsible Government led him to make appointments against their advice? Mr. Baldwin says, that "he had never asserted or held that the Governor General had not the right to appoint whom he pleased against that advice, and he appealed to the past for the correctness of what he now asserted.' Might not this admitted and undoubted right have been exercised by his Excellency from a simple judgment of the case involved, and not from any heretical opinion on the system of Responsible Government? They *could not* know it unless the Governor General had informed them. He denies the opinion attributed to him; he could not therefore have informed them of the fact embodied in their charge. Mr. Baldwin, in his Toronto dinner speech, supposed that the Governor General had a phrenologist to enable him to judge of the qualifications of candidates for office. Perhaps the late Counsellors had something more than a phrenologist amongst them—perhaps there was among them a discerner of spirits, who could judge the *heart*, as well as the head and acts of the Governor General himself! Their charge is a groundless inference at best; is condemned by the counter assertion of the Governor General; and shows the desperate means they were driven to employ in order to implicate his Excellency. How would the reader like to be judged and condemned on such evidence?

Then to notice the other parts of this charge. Why has it been charged against the Governor General again and again, that he made appointments *against* the advice of the late Council, when, as Mr. Baldwin asserts, it is his undoubted right to do so? The reason is obvious—to damage the Governor General as much as possible, right or wrong.

Again, another part of the charge is, that his Excellency *made offers* of appointments without the advice of the Council. Allow the truth of this, does it authorise their conclusion or charge, that the Governor General has, therefore, violated the principle of Responsible Government? Are *offers* of appointments, *appointments?* And is it not with the latter that the Parliament has to do? What has the Parliament to do with *offers* of appointments, any more than it has to do with the dinner or counsel hours of his Excellency and his advisers. It is with the ACTS of the Executive, and not *conversations* of any kind—be they *offers* or *refusals*,

on the part of the Governor or his advisers—that Parliament is concerned. Who ever heard before of Parliament being called upon to determine the *manner* and the *topics* of conversation between the Sovereign and individuals? Will any one deny that one or more of the Counsellors have talked with individuals about their appointment to office—have proposed it, have concerted it, have promised it as far as they were concerned; and all this before the Governor General had ever been spoken to on the subject? And is not the prerogative of the *Sovereign* equal to that of *one of his advisers?* Or in this respect also are the Counsellors to be supreme and the Governor General subordinate? Such is the *theory* involved in their pretensions and charges. *They* can talk and bargain with individuals for their appointment to office; but if the *Governor General* makes even a verbal offer, he violates the constitution! And why would they deny the Crown a privilege which they exercise themselves, if it were not to make it a "tool?" I have heretofore shewn that British Sovereigns have done more than make offers of appointments without consulting any minister; yet no one ever questioned the *right*, whatever he might think of the *policy* or the *expediency* of such a course. Offers of office either by the Crown or its advisers involve, of course, the condition of a compliance with constitutional forms—in the former case, the instrumentality of at least one responsible minister—in the latter, the sanction of the Crown.

But suppose, contrary to all precedent and to common sense, that Parliament could interfere with the conversations of the Sovereign with individuals, what, in parliamentary law, would be deemed an *offer* of office, and what would be regarded as *proof* of an offer of office having been made? Would a *private conversation* be deemed either an *official act*, or *official proof?* Is any thing short of written correspondence deemed official in such cases? How utterly destitute then of the very shadow of proof, as well as propriety, is this charge of the late Counsellors against the Governor General?

Another item of it is, that his Excellency made appointments without giving his late advisers an opportunity of tendering their advice. This likewise, be it recollected, is the mere assertion of one of the parties against the denial of the other—unproved, therefore, and such as no judge would suffer even to go to a jury. But the charge is as vague, and therefore as senseless as it is proofless. They do not state what they mean by "*an opportunity* of tendering their advice"—whether it should include ten days, or ten hours, or ten minutes—whether it should imply their meeting his Excellency in council, or meeting themselves in committee of council, or one of them advising with his Excellency, nor do they state *how many* appointments—*what kind* of appointments—*when* they were

made—*who* were appointed; nay, the late advisers state not one single circumstance which would render it possible for man or angel to rebut their charge. How would the reader like to have his character and rights thus dealt with? I venture to say, that any court, or even election committee of the Assembly, would dismiss such a charge with costs, as frivolous and vexatious.

But there may have been important *political* reasons for this very vagueness, which, in the eye of reason and law, would vitiate the whole charge. It seems to have been presumed that the house would not observe the irregularity and unfairness of the proceeding itself, although there might have been ground to apprehend that minute specification in regard to the charge would be too well understood by the house. For example, had it appeared that there was but a plurality of appointments made in the manner stated, out of the scores of appointments which had taken place; that one or more of them had transpired months before, without the Counsellors either leaving office or remonstrating respecting them; that the salary attached to each but little exceeded the sum which the Governor General has given in a single subscription out of his own private purse; the late advisers might have found it difficult, upon any one or more of these cases, to have justified their proceeding. They, therefore, kept them out of sight. Had the specification of them been favourable to their objects, we should doubtless have had them in ample detail. But the indefinite and imposing term "APPOINTMENTS" served the purpose of party better than the specification of cases, and the general and startling phrase, "without an opportunity of tendering advice," would be more effective than an unsophisticated statement of facts. On the former, a *party vote* could be carried; on the latter, only an honest verdict could be expected; and thus the character of the Governor General, no less than his prerogative, must be *secondary* to *party*.

I have not, however, done with this charge. I have shewn its indefiniteness, its unfairness, its injustice, its destitution of proof, its suspicious character; yet it has been the rallying cry and the watchword of the party that invented it. I will, therefore, proceed to prove the *impossibility* of its truth. Mr. Hincks, in his pamphlet in reply to Mr. Viger, p. 18, says —"Every member of the late council was as well aware as the Governor can be, that it is 'physically impossible to make formal references to the council of every matter that comes up for decision;' [quoting Sir Charles' reply to the Gore District Council]" nor did any of them desire that any such system should be practised. Every act of the Governor, however, must be communicated by his *Secretary*, and that Secretary should be a *responsible minister*, thoroughly acquainted with the policy of the administration of which he is a member, and capable of advising the Governor

on every subject not of sufficient importance to be referred to the Council. If the Secretary recommends any step prejudicial to the administration, which, for his own sake he would not do, his colleagues of course hold him responsible to them."

Such then is the exposition of the practical working in detail of Responsible Government by the party of the late Counsellors themselves. Now, can an appointment be officially made by the Governor-General except through the Secretary of the Province—a member of the Legislature, a responsible adviser of the Crown? They know it cannot—any more than the Governor-General can talk without a tongue, or see without eyes. The Provincial Secretary is the keeper of the *Provincial Seal*, with which every commission must be stamped—the same as the Lord Chancellor is the keeper of the Great Seal of State in England. The Secretary's office is the *medium* through which every official appointment must be made; and the Secretary is (to use De Lolme's words) "the necessary instrument" by whom it must be made.

Now, suppose the Governor-General were to send an order to the Secretary directing him to affix the Provincial Seal to a commission for an appointment respecting which the Council had never been consulted, and on which they had had no opportunity of tendering their advice, the Secretary would have four courses before him. He could not positively disobey orders; but he could tender his own resignation, and request the Governor to appoint some other person to perform that act; or he could go to his Excellency and advise and remonstrate against it; or he could affix the official seal to it forthwith, for which he would be responsible to his colleagues; or he could inform them, and they could either consent to it, or go in a body, or send one or more of their number to the Governor, and tender their advice against it. Taking, therefore, the extremest and least favourable view of the Governor-General's mode of making an appointment, it is *impossible* for him to do it without giving his Council an opportunity of tendering their advice according to the very working of the system of Responsible Government, as above explained by one of the late Counsellors. What is impossible cannot be true. Their charge, therefore, against the Governor-General—their great charge—their charge repeated ten thousand times—is shown to be not only undefined and unproved, but utterly groundless and false.

But it has been alleged by Mr. Hincks and others, that his Excellency has carried on correspondence with individuals in the Colony, even on public affairs, through his *Private Secretary*, and not through his responsible official Provincial Secretary. To give the adversaries every advantage they can ask, let this charge be admitted in its full extent: and will the *legitimate* conclusion from their charge be but a proof of what Sir

Charles has complained of, that the late advisers made demands incompatible with the inviolableness of the prerogative, and calculated to reduce it to the office of a party tool. Had not each of the late advisers a *private* as well as an *official* correspondence? Did they not carry on their private correspondence, either in their own handwriting or by means of a private secretary? Did not that private correspondence often relate to public affairs —to offices, colleges, &c.? Did not that private correspondence sometimes contain declarations, or, in common parlance, pledges, of what they would do in relation to particular appointments or measures, to the utmost of their power? Had they not a *right* to this private correspondence—and that on any subject, public or private, they choose to write about? They might exercise that right indiscreetly—as a man might eat and drink indiscreetly—but the *right* was there, and the exercise of it was a matter of their own concern, although it might sometimes prove inconvenient both to the writer and his colleagues. And has not the Governor-General a right equal to one of his advisers? Is he the only member of the government who has no right to express his personal views and feelings on any subject? If any member of the Council can even pledge himself to a particular act or measure to the utmost of his power, cannot the Governor-General do the same—although the power of the latter, as well as the former, may be limited by constitutional restrictions? Can any Counsellor write to whom and through whom *he pleases*, without the sanction or knowledge of the Governor-General? and has his Excellency no right to correspond with any body on any matter relating to the country, except *through them?* If so, then in this respect also, as well as in others that I have stated, they claim to be supreme, and make his Excellency subordinate.

And this is not all. They thereby *deprive every man in Canada* of all epistolary communication with the Governor-General, *except through themselves.* If even a stray letter should happen to find its way to the government house, without stopping for examination as to its orthodoxy, at the Secretary's office, it would have to go there for acknowledgment, and consequently for censorship. Here again their supremacy would appear, both over the Governor and over every man—and every man's business in the country. And this usurpation on the one hand and degradation on the other of every man in Canada as well as the Governor-General, is dignified with the absurd name of "Responsible Government," and vice-regal non-acknowledgment of it is called an invasion of constitutional liberty!

Nor even is this all. The chairman of the Toronto Association (See *Globe Extra*, pp. 12, 13,) at a meeting held 25th March, exclaimed against persons not supporters of the administration having interviews with the

Governor-General, and against any but the "the leading members of the majority of the Legislature" advising with his Excellency; and concluded by declaring that "he maintained that *no person had a right* to be consulted by the Crown but the *administration*." It has been seen that the right of *epistolary* communication between the Governor-General and any inhabitant of Canada, except through the Counsellors, has been denied; The right of *personal* intercourse between them *is* now interdicted except through the same channel. Thus the Governor-General, like the Grand Lama of India, may be worshipped, but he must be approached by the permission of the priests who have him in custody, and give forth answers of their dictation; or, like an inmate of the Kingston Penitentiary, communicate neither verbally nor by writing with any person, except by the permission and through the medium of his keepers. If this does not imply an oligarchy—and an oligarchy of the worst kind, over both the Crown and the people—I know not what an oligarchy means.

Mr. BLACK—an able constitutional lawyer of Quebec, and representative of that city—argued in favour of the Governor's receiving the advice of the Council upon the same ground that a judge should hear both sides of a case. Mr. Black said that the Governor would receive abundant information from various quarters on one side of a case—especially one involving an appointment—his Council could give him the necessary information on the other side. But the doctrine of the late Counsellors would preclude and prohibit his Excellency from receiving any information, either verbally or written, except what they might please to lay before him. He would thus of necessity, and therefore in fact, be a "*tool*" in the hands of his advisers.

But even all this does not reach the full demands of the Toronto Association statesmen. They require that the Governor-General shall consult his advisers only after a *certain mode*. The chairman of that Association says, "He maintained that the *mode of consultation* ought to be, by the heads of departments going to the Governor, and saying what the country wanted, and what they recommended to be done. Not by the Governor going to the heads of departments, and telling them what he wanted to be done. (Loud cheers.) He (Mr. Boulton) had been a hundred times in Downing-street, during the reign of several Sovereigns, but he had never known an instance of a King going there and giving directions as to what he wanted done. (Laughter.) No, the Minister goes to the Sovereign and says, I propose to appoint such a person to office, and then the question is, shall he be appointed by the Crown or not." [*Globe Extra*, p. 13.]

Now, I have also been in Downing-street during the reign of successive Sovereigns, and although I have never seen the Sovereign come there and give directions as to what he wanted to be done, I have known some-

thing still more shocking to the non-prerogative men of the Toronto Association. I have frequently known the King to send to Downing-street, and command heads of departments to go to the Palace, in order that he might tell them what he wanted. I once had an appointment to meet a head of department in Downing-street, and when I arrived at the appointed time, I was told that the *King had commanded* his Lordship down to Brighton—*sixty miles* from London! I recollect of hearing it as a public rumour in Kingston last autumn, that the Governor-General very seldom came down to the Council Chamber—in our Canadian Downing-street—but that the heads of departments were under the disagreeable necessity of going all the way to the Government House—upwards of a mile—whenever they wished to "tell him what they wanted to be done." But had the Governor-General commanded them to go sixty miles, to learn what he wanted them to do, what a death-blow would have been given to Responsible Government, and what an address would have come forth from the Toronto Association!

Why, Lord JOHN RUSSELL himself—the practical and profound statesman, the patriarch of civil liberty—is but a novice compared with these giant expositors of the Toronto Association—he is a more hopeless heretic in their political creed than Sir Charles Metcalfe himself. In the late debate on the state of Ireland, Lord John Russell referred to her Majesty and her *instructions* in the following words:—"The Sovereign I have served—and a Sovereign more anxious for the benefit and happiness of the Irish people, it would be impossible to serve. Never did I RECEIVE, when I was in the office of Secretary of State for the Home Department, any INSTRUCTIONS FROM THE SOVEREIGN, but such as bespoke an equal regard for all her Irish subjects—for Protestant, for Catholic, and for Presbyterian." Here Lord John Russell speaks of *receiving* advice from his Sovereign—as well as of giving advice to her—nay, even of "*receiving instructions* from the Sovereign," and of receiving instructions not merely in respect to an appointment to office, but in respect to the principles and spirit of the government of all Ireland!

The truth is, that in England statesmen of all parties, and the entire nation, cherish some regard for the opinions and wishes and feelings of the Sovereign, and a universal determination to maintain unimpaired the safeguards of the throne. But while in England the Sovereign can even be the guest of the political opponents of the cabinet; in Canada he must not hear opinions from any but the "leaders of the majority," even at the Government House. In England, the Sovereign can send for a minister even at the distance of sixty miles; in Canada, he must not even go to a minister at his department. In England, the Sovereign can even give instructions to a minister; in Canada, he must not even express a want.

Nay, he must know no wants but those which his advisers see fit to express, and the length and breadth of their wants will be the interests of themselves and their party. And this we are told is British Responsible Government! And because Sir Charles Metcalfe will not bow down to this, he is to be impeached and ostracised as an enemy to the constitution and people of Canada, and driven back (to use the expressive words of Captain Irving, amid the cheers of the Toronto Association) "into retirement in dear old England, where *tyrants have no power*," and where "*he will writhe under the reproach and remorse that is ever inflicted by a secret monitor on all those who disregard, or wantonly sport with the happiness of their fellow creatures, or trample on the rights and liberties of those they were unfortunately doomed to govern.*" [Loud cheers.]

There are several minor circumstances referred to in the statements of the late Counsellors, which will be noticed when I come, in the next number, to discuss the *converse* of the proposition discussed in this article, namely, "That the statements of his Excellency are fully sustained by the testimony of his accusers and adversaries—especially those of Messrs. Sullivan, Hincks, Boulton, and Brown (Editor of the *Globe* newspaper.)"

I will conclude this number with three general remarks. The reader will have seen, that I have judged the accusers of Sir Charles Metcalfe out of their own mouths. I have given their statements and doctrines in their own words, and examined the import, truth, application, and tendency of them, upon the most obvious and universally received principles of true interpretation and sound evidence; and that on every ground they are shown to be improved, unjust and unfounded.

The second remark is, that if the Governor General be placed under the confinement of all the bands and bolts and bars which the Toronto Associationists have forged and insisted upon fastening around him, it can no longer be boasted that no slave lives under the British flag—that the moment he plants his foot on British soil his manacles fall off, and he is a free man. Canada will be an exception. There will be at least one slave in Canada—and that slave will be the nominal Representative of the British Sovereign.

The last remark relates to the duty of members of the House of Assembly. I think it has been made apparent in this and the preceding number, that the whole proceedings of the late Counsellors, in their resignation and charges against the Governor General, were at utter variance with British practice, and that the proceeding of the house therefore was irregular and unprecedented. I submit therefore to every honest and patriotic member of the house, whether it is not his duty to employ his best endeavours to have this whole affair thoroughly investigated; whether a select committee ought not to be appointed to examine the prece-

dents of British parliamentary practice in such cases; whether, if the mode of proceeding be found to have been unparliamentary and dangerous, what has been done ought not to be rescinded, and the late Counsellors be required to prepare "a case of facts" on which the house might safely and justly decide; or whether a select committee ought not to be appointed, with power to send for persons and papers, to inquire into the real causes and circumstances of the late ministerial resignations, and report thereon. The stability of the throne, the privileges of parliament, the rights of the subject, the peace and welfare of the country, demand the most searching investigation of this whole affair. Justice and truth love the light of noon day; party dreads any other light than the blaze of its own organization. In a calm, determined, impartial legislative inquiry into this whole question, I doubt not but misunderstandings would be corrected, explanations given, and concessions made, which would eminently conduce to promote honourable reconciliations, establish "unity, peace and concord," and heal the wounds of our bleeding country. Johnson has well said, "Discord begins in mutual frailty, and ought to end in mutual forbearance."

CONTENTS—No. 4.

Third proposition stated—Anomaly—Testimony of Messrs. Baldwin and Hincks to the accuracy of the Governor General's statement of facts—Their absurd distinctions—What proved—Sir Charles Metcalfe's statements quoted—Late Counsellors guilty of four fallacies in their explanation—Sir Charles' statement of their most plausible demand and his resistance of it examined and justified—The facts stated by Sir Charles and admitted by the late Counsellors, but entirely omitted in their explanation—The great disputed fact stated, and the evidence on each side examined—Conclusive in favour of Sir Charles Metcalfe.

The last proposition which I discussed was, "*that the late Counsellors have failed to establish the allegations which they had made against his Excellency.*" The proposition to which I now invite the attention of the reader is, "*That the statements of his Excellency are fully sustained by his accusers and adversaries — especially those of Messrs. Sullivan, Hincks, Boulton, and Brown (Editor of the Globe newspaper).*"

The very discussion of two such propositions is an anomaly in the history of Responsible Government. I know not of an instance in the history of England, since the revolution of 1688, of the Crown and its ex-advisers being at issue before the nation on a statement of facts. It is incompatible with the first principles of Responsible Government. The exhibition of such a scene in Canada should, therefore, speak with a thunder-like voice to the entire population, that something is radically and essentially wrong in the proceedings of the late Counsellors—that whatever may have been the merits or demerits of their administration in other respects, they have in their proceedings with the Representative of the Sovereign, inflicted a more serious wound upon the character of the system of Responsible Government in a colony than has ever yet been experienced in the history of Canada—not even excepting the stopping of the supplies by the U. C. House of Assembly in 1836. And had not the conclusion, authorised by the unconstitutional proceedings of the late Counsellors, been paralyzed by the British and constitutional mode in which Mr. Howe and two of his colleagues proceeded in their resignations in Nova Scotia, it is difficult to foretel what might have been the fate of the very system of Responsible Government itself in Canada. To place that unrivalled system upon a safe British foundation is one primary object with me in this discussion. To write for or against any party in the Province is alien to my feelings, as well as unworthy of my character. I have never written for or against the appointment of any man or party to office. It is of no consequence to me what man or party is in power. All I have to do is with the fundamental principles and constitutional spirit of our government. And when those principles and that spirit are violated by any party, or even any Governor, I will not hesitate to do, as I have done throughout my public life, remonstrate against what is constitutionally wrong, politically dangerous, and morally unjust.

The anomaly to which I have referred has been strongly felt by the late Counsellors. Hence they have manifested no small degree of ingenuity and zeal to conceal and suppress it—to represent that the difference between the statement of the Governor General and their own was trivial—that the two statements harmonized in every essential particular. And their own attestation on this ground to the "Protest" of Sir Charles Metcalfe, is my first proof of the correctness of his statements. Sir Charles Metcalfe denies the correctness of their statements; they acknowledge the correctness of his. The two parties do not assent to the statements of the late Counsellors; the two parties do assent to the statements of the Governor General. His statements, therefore, are the only *real constitutional* "case of facts" before the country. What I thus assert, I will now prove.

Mr. BALDWIN, in his speech before the Toronto Association, 25th March, uttered the following words, as given in the *official* report: "Again, it had been said that there had been a discrepancy between the STATEMENTS of Mr. Lafontaine's note, and that of the Head of the Government; but a careful perusal of those documents will show, that *no discrepancy* exists as to the FACTS alleged in that note."

Mr. HINCKS, in his reply to Mr. Viger's pamphlet, referring to the statements of the Governor General and his late Counsellors, says—"there is no difference with regard to FACTS;" and adds afterwards—"there is *an apparent*, although no real difference between the Governor General and the late Ministry with regard to the 'stipulation,' which never could have existed had there been a responsible minister in Parliament during the *discussion*, as was fully expected when the *explanations* were made. AS TO OTHER POINTS THERE IS NO DISPUTE." (pp. 10, 11.)

These admissions of Messrs. Baldwin and Hincks are proof demonstrative of the correctness of Sir Charles Metcalfe's statement of FACTS. Indeed, Mr. Hincks admits that there is no *real* difference between the Governor General and his late Counsellors as to the "*stipulation*" which has been so lustily denied by the Toronto Associationists and their organs; and that "as to the other points there is no dispute."

Messrs. Baldwin and Hincks' alleged *harmony* between the statement of *facts* by the Governor General and his late advisers, is not the question now under consideration. Of that every reader can judge, who has perused the preceding (third) number of my present argument. In their statement of facts, they made several allegations against the Governor General which I have shewn were not only denied by his Excellency, but were unproved and unfounded. They now tell us very gravely that there was no difference between their FACTS and those of Sir Charles Metcalfe! It it thus that they not only contradict themselves, but become the unintentional and conclusive witnesses of the integrity of *his Excellency's* FACTS.

Their very attempt to claim company with his Excellency in their statement of *facts*, is not only a refutation of their charges against him—not only a testimony to his statement of facts—but argues *their own* conviction of the fatal consequences to the *constitutionality* of their whole explanatory proceedings did any discrepancy exist between their facts and those of the Governor General. The existence of that discrepancy I have shewn in a variety of particulars—and those particulars, too, of fundamental importance. The late Counsellors, therefore, stand condemned, themselves being judges.

Both Messrs. Baldwin and Hincks have attempted to make a distinction between the "facts alleged" in the statements of Sir Charles Metcalfe

and his late advisers and their respective "*views*," and "*explanations*," and "*arguments*." Mr. Baldwin says—"There is, indeed, much difference in the views of the respective parties, but that was what led to the disruption—the Head of the Government protesting against 'the explanation,' not against the existence of any fact stated by Mr. Lafontaine,—we also protest against his Excellency's explanation." Mr. Hincks says, that the answer of his Excellency to the ex-Counsellors, "is not a protest against explanations being made, but against the *arguments* made use of by Mr. Lafontaine and his colleagues."

Now, I would ask any man of common sense—nay, any boy that can read English—what the "explanation" and "arguments" of the late advisers consisted of but a *statement of facts*; and what a "protest" against that "explanation" and those "arguments" was, but a denial of that statement of facts? The late advisers have asserted long and loud, that they resigned upon certain facts, and yet they tell us that a protest against their explanation is not a protest against any fact stated by them! From the sense in which Mr. Hincks appears to use the word "arguments," we are left to infer that the explanation of the late advisers consisted of a string of syllogisms (curious materials for an explanation of facts!), and that Sir Charles Metcalfe protested against the materials employed in the explanation, but not against an explanation being made. It is by such solecisms—they do not rise to the rank of sophisms—that the accusers of Sir Charles attempt to enlist the public against him.

Mr. Baldwin says, the "difference in the *views* of the respective parties led to the disruption." No one doubts this. Of course no disruption would have taken place had no difference of views existed. But that is not the question. The three-fold question is, first, what statement of views did his Excellency consent that his late advisers should make? I have shewn in the second number of these articles, that he did not authorise them to make the statement which they made, and that their doing so without such authority is fraught with dangerous consequences. The second question is, was their statement of allegations proved? I have shewn in the third number, that it was neither proved, nor true. The third question is, is his Excellency's statement correct? I have adduced Messrs. Baldwin and Hincks as witnesses as to the unexceptionable accuracy of its FACTS.

Were I addressing a jury of twelve men in a court of justice, I might confidently rest the whole case here; but addressing, as I am, the jury of the country through the press, I will proceed further, and notice Sir Charles Metcalfe's statements in detail, as I have those of his late advisers. His Excellency's general statement is contained in the following words:

"The Governor-General protests against the explanation which those gentlemen propose to offer to Parliament, as omitting entirely the actual and prominent circumstances which led to their resignation, and as conveying to Parliament a misapprehension of his sentiments and intentions which have no foundation in any part of his conduct, unless his refusal to make a virtual surrender of the Prerogative of the Crown to the Council for party purposes, and his anxiety to do justice to those who were injured by the arrangements attending the Union, can be regarded as warranting such a representation, and which is calculated to injure him without just cause, in the opinion of the Parliament and people, on whose confidence he places his sole reliance for the successful administration of the Government."

I have already examined the late advisers' representation of his Excellency's "sentiments and intentions" in several respects. His Excellency's statement that they had "omitted the actual and prominent circumstances which led to their resignation," has never, as far as I have read their speeches and writings, been *denied* by any one of them. On this most important point they have been profoundly silent; and well they might be, as will soon appear.

Let us now consider "the actual and prominent circumstances which led to their resignation," as stated by the Governor-General. His Excellency says—"On Friday, Mr. Lafontaine and Mr. Baldwin came to the Government House, and after some other matters of business, and some preliminary remarks as to the course of their proceeding, demanded of the Governor-General that he should agree to make no appointment, and no offer of an appointment, without previously taking the advice of the Council; that the lists of candidates should in every instance be laid before the Council; that they should recommend any others at discretion; and that the Governor-General, in deciding, after taking their advice, should not make any appointment prejudicial to their influence." This demand, as a whole, the Governor-General interpreted as implying "that the patronage of the Crown should be surrendered to the Council for the purchase of parliamentary support." To this demand, "The Governor-General replied, that he would not make any such stipulation, and could not degrade the character of his office, nor violate his duty, by such a surrender of the Prerogative of the Crown." His Excellency's *facts* are admitted by Messrs. Baldwin and Hincks—though they do not like his interpretation of those facts, namely, that they involve "the surrender of the patronage of the Crown to the Council for the purchase of parliamentary support." But how many of those facts did the late Counsellors state in their parliamentary "explanation?" They stated only *one*, and omitted the others, which his Excellency declares were "the circum

stances which led to their resignation." That they stated but one of these facts in their explanation, is clear, not only from an examination of it, but from the resolution of the House of Assembly founded upon it, which expressed "the deep regret felt by this House at the retirement of certain members of the Provincial Administration, on the *question of their right to be consulted* on what this House unhesitatingly avows to be the Prerogative of the Crown,—appointments to office; and further to assure his Excellency that their *advocacy of this principle* entitles them to the confidence of this House, being in strict accordance with the principles embraced in the Resolutions adopted by this House on the 3rd September, 1841."

It will thus be seen that the late advisers presented their claim to the confidence of the House, not upon the recommendations which they had made of certain persons to office, but upon the "question of their right to be consulted:" not upon their advocacy of a certain kind or line of policy, but upon their alleged advocacy of a certain *principle*, which his Excellency (the other party in the "case of facts," avers was never a subject of dispute.

Now, before examining minutely the several facts embraced in his Excellency's statement, I must make a remark or two on the *fallacy* of the kind of omissions which the Governor-General alleges against the explanation of his late advisers. A good writer on historical investigation remarks, that "a statement of facts is fallacious when any of the alleged facts are not true—when it includes facts not relating to the subject—and when important facts are omitted. This last error is most frequently exemplified in those cases in which facts are collected on one side of a question, or in support of a particular doctrine. To the same class we may likewise add those instances in which statements are received as facts, which are not *facts*, but *opinions*."

Into every one of these four kinds of fallacies have the late Counsellors fallen in their "explanation." They drag in certain alleged "opinions" of the Governor-General, which he denies, and which, did they exist, have no more to do with the working of the system of Responsible Government than the colour of his Excellency's hair. The system of Responsible Government requires that every appointment to office should be made through a responsible minister. While there is a responsible minister who keeps the seal of state,—while every commission must be stamped by that seal, and consequently endorsed by that minister—there is Responsible Government, whatever may be the opinions of the Sovereign or Governor as to its excellence or folly. The system of Responsible Government is no more depending upon the opinion or will of the Sovereign than it is upon the light of the moon, or the opinion of any other

individual in the realm. Sir F. Head denied that any other individual but himself was responsible for any act of his government, and affirmed that he was responsible to the Imperial authority alone. Here was the denial of local Responsible Government. Sir Charles Metcalfe affirms throughout that his advisers are responsible to the representatives of the people of Canada for every act of his government relating to the internal affairs of the Province, and that these advisers should possess the confidence of Parliament. Here is the essence of Responsible Government, whatever may be the Governor-General's or any other man's opinion as to its virtues or vices. In thus lugging in certain alleged opinions of the Governor General (but disclaimed by him,) in a professed statement of facts relative to their own proceedings, and in making irrelevant statements about those opinions, "public rumors," &c., the late Counsellors fell into the *second* and *fourth* of the above mentioned fallacies. In resting their case upon a statement denied by the other party, and therefore unsupported as a fact by any evidence, they are guilty of the first mentioned fallacy. In "omitting important facts," they are chargeable with the third kind of fallacy. To the two last mentioned fallacies I now invite the reader's attention.

I have heretofore proved, that it was *impossible* for the Governor-General to make appointments in violation of the principle of Responsible Government, as long as he had a responsible Provincial Secretary, and as long as that Secretary was the keeper of the Public Seal of the Province. I have also adduced His Excellency's denial that he had ever deviated from that principle; and now, (considering each part of his statement separately,) in reference to that particular of his statement in which he says, that the late Counsellors "demanded of the Governor-General, that he should agree to make no appointment, and no offer of appointment, without previously taking the advice of the Council." "The Governor-General replied that he would make no such stipulation." They allege to the House of Assembly, that the Governor-General has denied them the right of consultation; and the house, on that statement, (denied, be it remembered, by His Excellency,) adopts a resolution of confidence in them, "on the question of their right to be consulted on appointments to office." This is their whole case. Let the fallaciousness of it now be exposed,—the statement of His Excellency established, and his conduct justified.

In the first place, their demand exceeds what is required in the practice of Responsible Government. They demand that no step shall be taken in regard to an appointment, without His Excellency agreeing first to consult his "COUNCIL;" whereas, Responsible Government, (according to the interpretation of Mr. Hincks, which I quoted in the last number, and according to other authorities, which I shall give in another place,) requires, that he shall consult *a Responsible Minister*.

In the second place, they demanded what no Ministers, or Minister of the Crown have ever demanded of the Sovereign, since the establisnment of Responsible Government in England, in 1688. They cannot adduce an instance of a Minister ever having asked the Sovereign to give such a pledge or assurance, as they demanded of the Governor-General. Indeed, in all their statements and speeches, and declamation on this subject, they have not, to my knowledge, adduced a single *precedent* in justification of such a procedure. They assert many things, but they prove nothing.

In the third place, their demand implied the confession of what the Governor-General denied as a fact, and what involved the degradation of his character and office. Suppose, Mr. Reader, that you were living on terms of friendly and confidential intercourse with a neighbour, and had been so living for a long time; and that that neighbour should come to you, and ask you to enter into an agreement or explicit understanding with him, that you would neither slander nor defraud him; what would you think of his proposal or demand? Would you accede to it? or would you tell him that if your past conduct did not afford him sufficient assurance of your integrity and honesty, you had no security to give: and, because you would not agree to such an insulting and degrading proposal, would he be justified in representing you as a calumniator and a rogue? So, the late Counsellors go to the Governor-General, and make a demand or proposal that he would agree to what he declares "he has hitherto pursued without deviation," and because he refuses to comply with their demand or proposal, they represent him as adverse to the system of Responsible Government, and ask a vote of the house and of the country to support them, for such an "advocacy of that principle."

But, let the reader take a well-known fact, instead of a supposition, as an illustration. There is, perhaps, not an old resident in Canada who does not well remember the celebrated ALIEN BILL;—a bill which required all persons who had settled in Canada since 1783, to take the oath of allegiance within twelve months, on pain of forfeiting their privileges as British subjects. What was the people's interpretation of the demand or proposal contained in that bill? Would they accede to it? They were told that no good subject would object to taking the oath of allegiance to his Sovereign as often as it might be required:—that it was necessary on several accounts. Did they believe such reasoning? Did they not declare, with an ardour and an enthusiastic determination which defies description, that they would never take an oath which implied, that they were all aliens to a government to which they had already sworn and long professed allegiance—that they would never submit to such a degradation of their character and rights? Did they not make their voice heard across the Atlantic, to the disallowance of the bill? And is Sir

Charles Metcalfe to be denounced or honoured for acting upon the same principle? He is called upon to express, in a peculiar and unprecedented form, his allegiance to a system which he avows he "has hitherto pursued without deviation, and to which it is fully his intention to adhere;" and his refusal thus to degrade his character and office, is interpreted as practical hostility to that system of Government. How did the opponents of the alien bill like such an interpretation of their refusal to comply with the "stipulations" of that measure? It is by such a fallacy and such a proceeding that the late Counsellors have sought to persuade, the people of Canada that the Governor-General is an enemy of the established system of Canadian Government, and that they are its patriotic defenders! Whereas, in resisting such a causeless and unprecedented demand, he consulted what is due to the character and rights of the Sovereign, as much as did those who resisted the causeless and unprecedented demand involved in the Alien Bill, consult what was due to the character and rights of the subject.

Then, as to the "actual and prominent circumstances which led to their resignation," which His Excellency says his late Advisers had entirely omitted. He says, they demanded "that the lists of candidates should, in every instance, be laid before the Council." They say nothing about this demand in their explanation. Did they make it? Mr. Hincks, in his reply to Mr. Viger's pamphlet, confesses that they did make this demand. He says, "The reference to the lists of candidates was called for. The object was that these lists should be deposited with the responsible Secretary of the Province, and not with the Private Secretary to the Governor." Is there anything in the resolutions of September, 1841, which authorizes such a demand? Can a precedent for it be found in British history? Is the name of any individual the rightful property of the Council, unless that individual choose to make it so? Is the Governor-General, any more than any other man of honour, at liberty to make use of the name and communications of an individual, to any greater extent than may be authorized by that individual? And may not many an individual, for many reasons, not wish to have his name brought under the notice of the council at all, except by the sanction of the Governor-General? May not many an individual desire that his name may not be brought before the Council, or under the notice of the Governor, unless recommended by a certain Counsellor, to whom he may address a private and confidential communication? Whatever may be said as to the convenience of such a practice, it is perfectly clear that it is not a *sine qua non* in Responsible Government; and that such a demand could not be acceded to without the sacrifice of individual rights, apart from any considerations of Prerogative. Here is a demand which, beyond doubt,

"called upon the Head of the Government to enter into a stipulation as to the terms upon which a provincial ministry may deem it prudent either to accept or continue in office"—a demand which the House disclaimed in a negative form, in the words just quoted. This demand also points to the assumption on which I dwelt in the preceding number,—that the late Councellors wished to cut off all communication between the Governor-General and any individual in the Province, except through themselves;—thus making the Crown a "tool," and infringing on individual rights. As the statement of such a demand did not answer their purpose, they omitted it in their "explanation."

Again, His Excellency says that "He appealed to the number of appointments made by him on the recommendation of the Council, or the members of it in their departmental capacity, and to instances in which he had abstained from conferring appointments on their opponents, as furnishing proofs of the consideration which he had evinced towards the Council in the distribution of the patronage of the Crown." Here the Governor-General states several important facts. Messrs. Baldwin and Hincks admit his statement of *facts*. Yet not one of these facts is even alluded to in their "explanation." No; *such* facts were rather inconvenient, as well as stubborn things, in *their* explanation. They did not, therefore, consider them (to use Mr. Hincks' words) "necessary for their complete justification." From these facts it appears:—1st. That the principle on which the patronage of the Crown ought to be distributed, was a prominent topic of discussion between His Excellency and his late Advisers; whether it should be confined to one party, (the old exclusive doctrine of high Canadian ultraism, and now adopted by the late counsellors;) or whether, as Mr. Howe, of Nova Scotia, declares,—"The Sovereign is bound to bestow all offices for the general good, without reference to party." But this vitally important question—the very essence of the first "antagonism" between the Governor-General and his late Counsellors, as I shall hereafter prove out of their own mouths—this question, on which they now dwell with the strongest emphasis—the question so largely debated between the Governor-General and them—they did not even mention it in their explanation—they kept it entirely out—"it was not necessary for their complete justification"—it might have caused their complete condemnation. 2. It also appears from His Excellency's statement, that he had evinced the utmost regard to the recommendations of the council in making, and in abstaining from making appointments; the instances in which his own judgment compelled him to dissent from their advice appear to have been "few and far between;"—yet all this did not satisfy the demands of party ambition, so long as a Mordecai, not paying the desired homage, could now and then find

——— to some subordinate clerkship—the whole hated race of opponents and rivals must be excoriated from all hope of a morsel at the hands of the Executive, not only by the constitutional checks of advice and resignation, but by the unconstitutional bondage of the throne,—in the form of a "stipulation" or understanding, that the influence of one party (and that party being judge) should be the rule of Royal action,—thus pulling from its head the crown of its own free agency, and then told that it might exercise a discretion, within, of course, the limits of its own enslaving engagement to the contrary, as I shall hereafter *demonstrate*. But those facts not being "necessary for the complete justification" of the late Counsellors—although essential to a "case of facts" were altogether omitted by them in their explanation. 3. Lastly, it is clear from His Excellency's admitted statement of *facts*, that there were two methods of making appointments to office—that these two methods were pursued with the concurrence of the late counsellors, the one "on occasions of adequate importance," by the recommendation of the council—and the other, not "on occasions of adequate importance" by the recommendation of individual members of the council, in their departmental capacity;" a distinction which was made by Sir Charles Metcalfe, in his reply to the address of the Gore District Council—a distinction which has ever since been the opposition watchword of the Toronto Association party—yet a distinction on which the late Counsellors themselves acted!

His Excellency states, likewise, the following *facts*:—"He at the same time objected, as he always had done, to the exclusive distribution of patronage with party views, and maintained the principle, that office ought, in every instance, to be given to the man best qualified to render efficient services to the State; and where there was no such pre-eminence, he asserted his right to exercise his discretion." These *facts* be it remembered are admitted by Messrs. Baldwin and Hincks. Let the reader consider their import. They plainly imply that "the exclusive distribution of patronage with party views "had been demanded;" for His Excellency "*objected*" to it—which he could not have done, had there been no demand. Of this demand, also, the late Advisers, in their explanation, gave the House no information. This statement, likewise, as well as one already quoted, clearly shows that the principle on which the patronage of the Crown should be distributed, was a leading, if not the leading topic of discussion between the Governor-General and his late Counsellors,—on which they observed a death-like silence in their explanation, speaking only of their right of consultation which the Governor-General says he never denied.

His Excellency states furthermore, that "Three or more distinct propositions were made to him, over and over again, sometimes in different

terms, but always aiming at the same purpose, which, in his opinion, if accomplished, would have been a virtual surrender into the hands of the Council of the prerogative of the Crown." This is another fact admitted by Messrs. Baldwin and Hincks, but of which nothing was said in the explanation. Mr. Hincks, in his reply to Mr. Viger, quotes this paragraph, and founds on it the following singular conclusion: "Nothing can more clearly show that the ministers were not very tenacious about the adoption of their own suggestions." It appears from these words of Mr. Hincks, that the late advisers had the amazing liberality to propose three distinct propositions, and even in different terms, provided they could accomplish the self-same purpose, of obtaining "a virtual surrender into the hands of the Council of the prerogative of the Crown."

I next solicit the reader's attention to the *facts* contained in the following paragraph of the Governor General's answer to his late Counsellors: "In the course of the conversations, which both on Friday and Saturday followed the explicit demand by the Council regarding the patronage of the Crown, that demand being based on the construction put by some of the gentlemen on the meaning of Responsible Government, different opinions were elicited on the abstract theory of that still undefined question, as applicable to a colony,—a subject on which considerable difference of opinion is known every where to prevail; but the Governor General, during those conversations, protested against its being supposed that he is practically adverse to the working of the system of Responsible Government which has been here established, which he has hitherto pursued without deviation, *and to which it is fully his intention to adhere.*"

I beg the reader to mark distinctly the *facts* stated in the paragraph thus quoted—*facts*, be it recollected, which have been admitted by Messrs. Baldwin and Hincks. The first *fact* referred to by the Governor-General for the third time, (and which he says in another place "became the *principal* topic of discussion" on Saturday,) is "the explicit demand made by the Council regarding the patronage of the Crown." The second *fact* is, that that *demand* was "based on the *construction* put by *some* of the gentlemen on the meaning of *Responsible Government.*" I shall hereafter show, that in this last mentioned fact is involved all the *mystery* which for a long time hung, and to some extent still hangs, over the questions at issue between the Governor-General and his late Councillors. Partly from a "pressure from without," explained in Mr. Parke's letter to one of his constituents, and partly from other conjectural causes, they have introduced a *new* element into the system of Responsible Government—an element which I will prove they did not pretend twelve months ago formed any part or parcel of it—an element which invests it with all the danger which its opponents have always ascribed to it—an element which

clothes it with the character of old high party exclusion and domination, instead of the attribute of (to use Lord Durham's words) "equal and impartial justice to all classes of her Majesty's subjects"—an element against the introduction and surges of which Sir Charles Metcalfe has set his face with the firmness of the wave-beaten rocks of his native Isle, while he retains all that was ever acknowledged by Sir Charles Bagot, all that was contemplated in the resolutions of September, 1841, all that is compatible with the safety of the Crown in England, or its supremacy in Canada—an element which plucks from the Crown its prerogative of patronage without its own consent; which makes it a "tool" instead of an umpire—an instrument instead of an agent—a slave instead of a Sovereign. Before I shall have completed the present discussion, I purpose to make the all-important fact here alleged, as plain and as unquestionable as that two and two make four. It will then be seen that it was this *new* element, and not Responsible Government proper which formed the point of "antagonism" between Sir Charles Metcalfe and his late advisers—this new wheel in the old and long worked machinery.

It is not surprising, therefore, when an unheard of "demand, based by some of the gentlemen on the meaning of Responsible Government," was made, that the Governor-General should speak of "the abstract theory of that still undefined question, as applicable to a colony"—a remark which though guarded by his Excellency in a way that cannot by any decent criticism be tortured into a suspicion that "he is practically adverse to the working of the system of Responsible Government which has been here established, which he has hitherto pursued without deviation, and to which it is fully his intention to adhere"—has nevertheless been seized upon by the speechifying portion of the late advisers and the Toronto Associationists, and interwoven with the entire texture of their "still undefined" vocabulary—though Mr. WILLIAM HUME BLAKE, Professor of Law, and champion of the Toronto Association, declared in his memorable Warren Hastings speech, that Responsible Government itself is not only an undefined, but an *undefinable* question. Yet the unqualified declaration of Mr. Blake is perfect orthodoxy, because he is of the party; but the qualified remark of Sir Charles Metcalfe, made in a particular connexion and in reference to a peculiar interpretation, is absolute heresy, because he is not of the party! Such is the spirit of party—a creature too multitudinous in its members to admit of the moral influence of individual responsibility, and too heterogeneous in its materials to warrant the hope of consistency.

Such then are the FACTS of Sir Charles Metcalfe's statement, which are admitted by Messrs. Baldwin and Hincks, and denied by none of their colleagues. I will now examine the most important, and the only disputed

fact alleged by his Excellency. He says that the late Counsellors "*demanded that the Governor-General should agree, that in deciding, after taking their advice, he would not make any appointment prejudicial to their influence.*" The Governor-General considered this as equivalent to agreeing "*that the patronage of the Crown should be surrendered to the Council for the purchase of parliamentary support,*" and replied, "*that he would not make any such stipulation, and could not degrade the character of his office, nor violate his duty by such a surrender of the prerogative of the Crown.*"

It should be remarked that Sir Charles Metcalfe does not call this demand a "stipulation" in the legal, or if you please, parliamentary sense of that term, but in a moral sense, as an understanding between man and man—in a sense which he had defined by the preceding statement. He says "*such* stipulation," "*such* a surrender of the prerogative of the Crown."

On the contrary, the late Counsellors say, that they "distinctly explained to his Excellency, that they considered him free to act contrary to their advice." They therefore say that they did not require any "stipulation" as to the mode in which he should distribute the patronage of the Crown.

This is a simple statement of the question. Many of the warmest supporters of the late Counsellors have declared, that if it could be shown that they required any such "stipulation," or understanding with his Excellency as to his future course of proceeding, they violated their duty, they infringed the prerogative, and ought not to be sustained. Let us now see whether it is not as clear as day that they did demand such an understanding, or what is equivalent between man and man to a stipulation. In discussing this question, I shall first examine the evidence which the late Counsellors adduce in proof of their assertion. I shall then adduce the evidence which has been furnished in support of the Governor-General's statement.

Here let it be observed that the naked conflicting statements of the two parties decide nothing on either side. As no man can be a witness in his own case, the assertions of the parties are not testimony. There is therefore from such statements no *proof* for or against either party. Such a case, without the shadow of proof either for the plaintiff or defendant, no judge would submit to a jury; and if he did, no jury could come to any legal decision in favour of either party, as they would be bound by oath to give a verdict according to *evidence*, and as there would be no evidence in the case.

To what evidence, then, have the late Counsellors appealed in proof of their statement? I answer, a resolution of the House of Assembly, seconded by Mr. Lafontaine, and voted for by his colleagues! That is, they adduce their own assertion on one Saturday to *prove* the truth of their own assertion of the previous Saturday!!! Was their assertion any stronger evidence on Saturday the 2nd of December, than it was on Saturday the 25th of November? If it was not evidence on the latter day, how came it evidence on the former day? Such is the evidence (!!) by which the late Counsellors propose to annihilate the statement of the Governor-General. Mr. Hincks says, "The votes of the ex-ministers for Mr. Boulton's resolution, which was seconded by Mr. Lafontaine, afford the best evidence that can be offered, that they did not require a 'stipulation,' in the ordinary acceptation of that term."—(*Reply to Mr. Viger, p.* 11.) The last part of this sentence is significant on another point—it implies that the late Counsellors did require a "stipulation" in *some* acceptation of that term. But more on this point presently. Mr. Baldwin says, "Again, an attempt had been made to mislead the public into the belief that the disruption turned wholly on a demand by the ministry for a *stipulation*—as it is called—of an unconstitutional character. (Hear, hear.) But he (Mr. Baldwin) thought that his learned friend, Mr. Lafontaine, having seconded Mr. Boulton's addition to the address, was a sufficient proof that all they asked was that mutual understanding which Mr. Boulton's resolution not only recognised, but indeed declared to be absolutely necessary. (Cheers.)"—(*Toronto Association Speech, 25th March.*) Here then is the assertion of the late Counsellors as evidence in proof of their assertion! What a curious institution the administration of justice would be, were it conducted on such a principle! What admirable logicians! How profoundly learned in the law of evidence! It is by the same sort of logic that Mr. Hincks proposes to sweep the Governor-General's whole *protest* by the board. In his reply to Mr. Viger, Mr. Hincks says, (p. 10,) "We assert with perfect confidence, that the present Governor-General considers Responsible Government, *as understood* by the majority of the House of Assembly, by Mr. Viger himself, by Mr. Buchanan, and Mr. Wakefield, his own great champions, *to be inadmissible*, as requiring 'a virtual surrender of the Prerogative of the Crown to the Council for party purposes.' What then becomes of the protest?" Sure enough, after Mr. Hincks's "assert with perfect confidence," what becomes of the protest?" Is it annihilated? No, it still survives. Is it in the nether world? No, it still exists in this. Where is it then? Why, after looking for it a moment or two, I find it just where it has been from the beginning; and I suppose it will require something more than the blast of Mr. Hincks to extinguish it, as little as he

may think of the protest of the Representative of his Sovereign in comparison of his own "assert with perfect confidence."

But what does the resolution appealed to contain? Let the reader ponder its import, especially that of its concluding sentences. It is as follows:

"That this House, in dutiful submission to their gracious Sovereign, and with the utmost respect for the exalted station and high character of his Excellency, is most anxious to guard against any misconstruction which possibly might be placed upon the affirmative declaration of their opinion upon this delicate and vitally important constitutional question, and therefore most humbly beg leave to disclaim, in a negative form, any desire that the Head of the Government should be called upon to enter into any stipulation as to the terms upon which a provincial administration may deem it prudent, either to accept or continue in office; that mutual confidence, which is essential to the well being of any government, necessarily presumes that they are understood, while a due respect for the prerogative of the Crown, and proper constitutional delicacy towards her Majesty's Representative, forbid their being expressed."

Such is the evidence to which Messrs. Baldwin and Hincks appeal in support of the assertion that the late Counsellors had not required from the Head of the Government any understanding or stipulation as to the terms upon which the provincial administration had deemed it prudent to continue in office. Let it be noted, that the resolution says nothing of what has been, or has not been, but of what *ought not* to be. The question at issue involves a *fact*, as to what the late Counsellors did, or did not do; the evidence they adduce relates to expediency, as to what they ought not to do. Would such evidence be received in a court of justice? If it ought not to be received by a jury of twelve men, ought it to be received by the jury of a whole country? Would the reader like to be condemned on a witnesses opinion, or rather the opposite party's assertion, of what ought not to be, instead of testimony as to a fact? We inquire what the late Counsellors did, on Saturday, the 25th November. In reply, they tell us what they voted ought not to be done, on Saturday, the 2nd December: This, Mr. Baldwin calls "sufficient proof;" and Mr. Hincks says it is "the best evidence that can be offered." I dare say it is "the best evidence that can be offered" by Messrs. Baldwin and Hincks; but *their* "*best* evidence" in this case does not deserve even the name of evidence.

Now, during the week of their resignation, the late Counsellors might have found—as I have reason to believe they did find—that the House would not sustain them in any attempt to extract even an understanding,

much less a formal "stipulation" as to the terms upon which the administration should in future be conducted. They therefore found it necessary to place themselves upon as strong ground as possible in respect to this point. Hence when it was pressed upon them, they made a virtue of necessity, and agreed to support a general resolution expressing their "DESIRE" as to what "should be," and should not be; and this "negative" disdainer of "desire," they now appeal to as the "best evidence that can be offered" as to what they had not done.

The statements of the late Counsellors, and any inferences which those statements might authorise, would be entitled to the greatest respect under ordinary circumstances, and when no other parties but themselves were concerned; but when they adduce any statement of their own to commit the Representative of their Sovereign with having stated what was untrue, their professed evidence should be carefully sifted and weighed —and under this process it is seen that their evidence, in the present case, is, in all respects, "found wanting."

Thus much then for their own evidence, or rather the absence of the very shadow of evidence in support of their assertion. Let us now consider the evidence in support of the Governor General's statement.

In the first place then, what did Messrs. Baldwin and Lafontaine go to the Governor General for? What did they go to him two days in succession for? Was it to resign? No. Was it merely to offer advice? No. Was it not to make a demand? Was it not to come to an understanding as to the terms upon which they might "deem it prudent to continue in office?" Was it not to extract from the Governor General, *such* a "stipulation" as would induce them to "deem it prudent to continue in office?" And was not such a proceeding at variance with both the letter and spirit of Mr. Boulton's resolution, to which they appeal in their own justification? And does not such a proceeding go far to establish the truth of the *Governor General's statement*?

That such was the object of their waiting upon his Excellency we have ample proof in the testimony of many of their own supporters, and even of themselves. Two witnesses and one fact will be sufficient on this preliminary point. Mr. Sullivan, in his explanatory speech, November 30, alleges "the impossibility (of himself and his colleagues) staying in office *after understanding his Excellency's views.*" It appears then, that before understanding his Excellency's views it was possible for them to have remained in office; and that it was upon "his Excellency's *views*" that the late advisers resigned. And how come they to know his "views?" Why, Messrs. Baldwin and Lafontaine went to ascertain them—views, which (as the concluding phrase of Mr. Boulton's resolution expresses it)

"*a due respect for the prerogative of the Crown, and proper constitutional delicacy towards her Majesty's Representative,* FORBID THEIR BEING EXPRESSED." Again, the Editor of the *Examiner*—one of the secretaries of the Toronto Association—has the following words and italics: "When waited upon by Mr. Lafontaine, in behalf of himself and colleagues, in order that they might come to *some understanding* as to the principle upon which the government was to be conducted, as far as regards appointments to office, his Excellency positively refused to recognize it as a constitutional principle that he should consult them at all upon this important department of the administration of public affairs; evidently claiming its patronage *ad libitum* without the advice, council, or concurrence of his responsible advisers." [March 13.] With the latter part of this statement, I have at present nothing to do. I have heretofore shewn its falsity, and proved that it was *impossible* for the Governor-General to make any appointment, without the concurrence of at least one "responsible adviser," and that His Excellency has denied that the right of the Council to advise him was a subject of dispute between him and his late Counsellors. But their demanding a declaration of His Excellency's views even on that subject, was as unconstitutional (according to Mr. Boulton's resolution,) as their demanding "*some* understanding" with His Excellency, as to the future policy of appointments, or on any other subject. They were to remain, or to retire from his counsels according to his ACTS, as they were responsible to the Legislature, not for his views but for his ACTS; and they had no more business with his views, as to what might be or should be, than they had to do with his purse. To seek "some understanding" with him, as to what his views were or might be, was, according to Mr. Boulton's own resolution, unconstitutional; to resign upon these views was unconstitutional; to represent these views to parliament—especially in the teeth of His Excellency's protest—was not only unconstitutional, but unjust and dangerous, as I have shewn in the second number of this argument.

Then, as to the *fact*—a fact trumpet-tongued in its import, and bearing on the character of the present crusade against Sir Charles Metcalfe,—the fact is this:—The late Counsellors admit that they would have remained in office had the Governor-General's views (which they went to ascertain) as to his future policy accorded with their demands or wishes. That is, they would have assumed the responsibility of his past acts, had he given them assurance or pledge, or "stipulation," as to the character of his future acts!! Can such a proceeding be paralleled in the entire history of England, since 1688? Had the Governor-General's views of future policy proved orthodox, according to the "terms" of the late-born party expediency creed of the ex-Counsellors, then—can it be

believed?—then all his past acts would have been defended by them—the very acts which they now pronounce unconstitutional—acts which extended over a period of months—acts against which they now vociferate from Essex to Gaspe—these very acts for condemning which they now demand the support of the Province,—yes, those identical acts, (and the reservation of the Secret Societies Bill among the rest,) would have been white-washed—would have been assumed as constitutional—would have been defended as worthy of the support of the Province, had the Governor-General only "come (to use the *Examiner's* words) to *some understanding*, as to the principle upon which the government was *to be* conducted, as far as regards appointments to office!!

Now, does not this single fact prove to a demonstration, that they violated the last part of Mr. Boulton's resolution? Into the pit which they dug for another, have they not fallen themselves? And I appeal to the honest reader of any party, whether their resigning or not resigning can change the nature of the Governor-General's acts, which were performed before they resigned? And whether they are not, in all honour, and consistency, and truth, and decency, bound to defend those acts out of office as well as in office? Their continuance in office was, (to use a figure in Mr. Boulton's Toronto Association speech,) an endorsement of every note in the shape of a government act,—during the period of their incumbency, they were the only indorsers known in the law of Responsible Government—as long as they remained in the emoluments of office, they excluded all other endorsers; and, it appears by their own confession, that they would have continued to have endorsed every note of the Governor-General's past acts, as well as of his future acts, had he consented to have endorsed their notes, (which they presented to him,) of "some understanding as to the principle upon which the Government was to be conducted, as far as regards appointments to office." And, because he would not endorse in advance for them, they have *repudiated* what, by their continuance in office, they had endorsed for him. Every note of His Excellency's acts would have been as good as the Bank of Responsibility itself, had he consented to endorse the "*stipulation*" note for them; but his refusal to do so has made him a heretic in theory and a despot in practice, and that too for months while they were his voluntary and paid endorsers!! Now, statute-law will not allow an endorser to *repudiate* his name from a *discounted* note, whatever may become of the drawer of it; nor will responsible law allow Advisers of the Crown to repudiate notes which have been discounted, while they voluntarily continued in the office, and received the pay of constitutional endorsers. They are not, indeed, liable to imprisonment; but *repudiators* of all countries will receive, as they have always received, the *repudiation* of the moral world.

In what a humiliating contrast does this proceeding of the late Counsellors stand to the conduct of every English statesman who has ever retired from the counsels of his Sovereign! How painfully does it contrast with the honourable and constitutional conduct of the ex-Counsellors in Nova Scotia! Hear the commencement of Mr. Howe's *explanatory* speech, as reported in the Nova Scotia papers:—"Mr. Howe rose and opened his address to the house by *reading* his note of resignation of the offices of Executive Councillor and Collector of Excise, addressed to his Excellency the Lieutenant Governor. He therefore stood relieved from the weight of responsibility which had rested on him for the last three years and a half. He spoke in the highest terms of Lord Falkland's courtesy—it would always live in his grateful remembrance. He conceived while a Councillor he was bound to support the government, and regard the interests of the country. The responsibility was great and weighty; but he had other responsibilities—to his constituents—to the country—to this house. He would now endeavour to discharge his duty, so that his position would be understood. HE WOULD SUPPORT LORD FALKLAND'S GOVERNMENT UP TO THE TIME OF HIS RESIGNATION—that act also he was ready to defend."

Thus far, then, as to the fact that the late Counsellors demanded an understanding or "stipulation" from Sir Charles Metcalfe as to his future conduct. I think this fact can be no longer doubted. I will now adduce testimony to show that the demand they made did involve what the Governor-General alleged—"that the patronage of the Crown should be surrendered to the Council for the purchase of parliamentary support." This is clearly implied in the passage in the speech of the chairman of the Toronto Association, which I quoted in the last number. He maintained that the Governor-General should consult with *no other* parties than the "administration," or "theleading members of the majority"—and that their advice should be his rule of action. Thus excluded, and thus included, he could only be a "tool" in the hands of his keepers. Mr. Sullivan, in his explanatory speech, while he denies some of the statements of Sir Charles Metcalfe, which I have shown to be true, defends the very policy which his Excellency says was the point of "antagonism" between him and his late advisers—the distribution of patronage. He says, "As to that part of his Excellency's letter which mentioned the injustice of giving office only to persons of the same political opinions with the existing government; he said he had watched the course of different administrations in Canada for the last twenty years; he had been a member of administration for eight years, and yet during the whole length of that time, he did not remember ever to have seen any

of the many different parties in power patronising their enemies: in fact, if the proposition were made, he had no doubt it would have been laughed at as a piece of childish folly." Here Mr. Sullivan (and the only one of the late advisers that did so in explanation) admits and publicly avows the "principles" on which he and his colleagues had contended with Sir Charles Metcalfe that the government should be conducted, "as far as regards appointments to office." Had his Excellency agreed to that principle, would it not have been virtually surrendering the patronage of the Crown into the hands of the Council for party purposes? There is an historical inaccuracy in Mr. Sullivan's remarks which I must correct. There has been but one party in power in Upper Canada during the last twenty years, until the last three or four years. The policy of that party in regard especially to appointments to office, has been the subject of complaint and remonstrance by the U. C. House of Assembly and the people in every variety of representation, and has been alleged by many as one occasion of the insurrection in 1837. Yet Mr. Sullivan and his colleagues repudiate the hitherto acknowledged reform doctrine of equal justice to all classes," and denounce Sir Charles Metcalfe as an enemy to Responsible Government for maintaining it, and they now avow the old high ultra doctrine of party domination and party exclusiveness, as the *examples* of their policy in appointments to office. But more on this subject in another place.

In a passage quoted in a former part of this paper, it has been seen that Mr. Hincks has admitted that the late Council did require "a *stipulation*" of Sir Charles Metcalfe in *some* acceptation of that term—though Mr. Boulton's resolution condemns a required stipulation or *expressed* understanding in any sense of the term. Let Mr. Hincks explain himself, and be my witness more at length. He says—"The system previously pursued by the Governor had been very unsatisfactory, and was calculated to destroy the political influence of the ministry, and they were compelled to remonstrate, and *come to an understanding with his Excellency on certain points.* Almost the only point on which there is even an *apparent* misunderstanding between the Governor-General and the ex-ministers, is that regarding the 'stipulation.' That, however, would long since have been cleared up had there been a responsible minister in Parliament. We believe there is *no real* difference between them. The ministry have never denied that they gave the Governor-General to understand that they could not *afford him any assistance in the administration if the system of making appointments prejudicial to their influence was to be continued.* This may be termed requiring a 'stipulation.' We deny that it is so. Will any one pretend that if at the present time, it being perfectly well known to every one that the

Governor has avowed his determination not to be influenced in any way by party considerations, his Excellency were to invite Mr. Viger to form an administration, *he might not with perfect propriety ask his Excellency whether such were his views as to the mode of administering the government, as if so, it would be out of his power to render him any assistance?* There surely would be no 'stipulation' in all this, and we could very easily find plenty of English *precedents* for 'stipulations' of this kind. Now, in our judgment, Mr. Viger, if called upon, as we have supposed, would not only be justified in taking such a course, but he would neglect his duty to the country if he failed to do so. If then a gentleman called on to form an administration would be justified *in coming to such an understanding with the head of the government as to his views of public policy*, surely the members of an administration are equally warranted in doing so, especially after a change in the head of the government, and when they have reason to think there is a wide difference between him and them *as to the policy to be pursued.* As to the other points there is no dispute." [*Reply to Mr. Viger, p.* 11.]

In this extract, Mr. Hincks has admitted the whole fact in language that cannot be misunderstood; and in the passages I have italicised, he contradicts the whole doctrine of Mr. Boulton's resolution adopted by the House of Assembly, and substantially asserts what the Governor-General resisted and what the House disclaimed. Mr. Hincks says he "could very easily find plenty of English precedents for the kind of 'stipulation'" which the late advisers demanded of the Governor General. I defy him to find one. Sir Robert Peel, neither in 1839 nor in 1841, demanded any "such stipulation" of her Majesty—all he knew or asked to know of her "views of public policy," was from her ACTS, in acting or not acting upon his advice. According to the doctrine of the late Counsellors, as stated by Mr. Hincks, the Sovereign must explain his political creed at the formation of every new ministry, and of course, at the very outset, must square, by an explicit "understanding," "his views of public policy" with theirs as to the "mode of administering the government," or they would inform him, that, "it would be out of their power to render him any assistance!" What a *Proteus* would the Sovereign thus become under a succession of ministries; and what a degradation would thus be stamped upon the very name of royalty. And how does such a doctrine appear when compared with Mr. Boulton's resolution?

Again, Mr. Hincks says that the late Counsellors went to his Excellency not only to "remonstrate" (that was their right, and duty if they deemed it necessary), but to "come to an understanding on certain points." It is also clear that one of those "points" relative "to the policy to be pursued" was, as to whether he would "come to an understanding"

with them not to "make appointments prejudicial to their influence." What is such an "understanding" but a "stipulation?" And what is the *effect* of it but "the surrender of the patronage of the Crown to the Council for the purchase of parliamentary support?" That is the doctrinal demand of the late Counsellors (Mr. Hincks being witness); this is the allegation of the Governor General; and the former proves the truth of the latter. This is what I undertook to establish.

Under the operation of such a "stipulation" or "understanding," the Counsellors could say concerning each of eleven candidates out of twelve for any office, "if your Excellency appoint such a one, you will prejudice our influence, and you have given us to understand that you would not make appointments prejudicial to our influence; we must hold your Excellency to your word." He would thus have no discretion, but must either be their "tool," or violate the honour of his word. It is thus, that their required "understanding" or "stipulation"—the condition on which they suspended their continuance in office—did imply the supremacy of the Council and the nullity of the Crown. How true then is the statement of the Governor General in his reply to the address of the Gore District Council, that "The resignation of those gentlemen proceeded from my refusing to agree to certain stipulations which it was unconstitutional for them to demand, and a compliance with which was impossible on my part, as, in my judgment, it would have involved a surrender of the patronage of the Crown to them for party purposes,—an act to which I could never agree. In no other respect was the question of Responsible Government involved in their resignation."

But under the constitutional operation of Responsible Government, the advisers could say to the Crown, in case of any proposed appointment, "we are not prepared to justify it; it is with the Crown to exercise its rights and do its pleasure; but in view of it, we must tender our resignation, and leave others to assume the responsibility of it." It would then be with the Crown to consider not merely whether it desired to make such an appointment, but whether it was more anxious to make it than to retain its present advisers: and whether, if other advisers were called to its assistance, they would be sustained by parliament. Thus the Crown would be free; and yet the parliament would have a check upon its acts. This is the constitutional check of Responsible Government. The former was an unconstitutional demand of the late Counsellors. This leaves the prerogative inviolate; the former makes it a "nullity." This Sir Charles Metcalfe acknowledges; the former he resists. Ought he not then to be supported?

I have still another witness, although I do not *need* his testimony. I will give it for the edification of the reader, and as an ILLUSTRATION of

my argument. Mr. GEORGE BROWN, Editor of the *Globe*, and organ of the Toronto Association, thus delivered himself in a speech on the 25th of March :—"The Cabinet Minister of England is no hireling—he is not the head clerk of a public office, whose advice is asked when wanted, to be unheeded when given,—he is not the plastic non-entity condescendingly to be consulted on matters of 'adequate importance' (loud cheers); but he is the life, the moving power of every wheel in the whole machinery of government—he is the very Government itself. Still the minister does not one single act in his own name, or for his own benefit—all is in the name of the Sovereign. The Cabinet Council, as a party or as a power in the state, is perfectly unknown—it is the executive of the Crown—the mouth-piece of the Sovereign. Though the ministers alone are responsible, they appear in no shape as a party. The Sovereign and the Cabinet together form one power in the State—Royalty is practically embodied in the British Constitution." (Cheers.)

It appears, then, that the British world has been sadly astray in saying, "King, Lords and Commons." Mr. GEORGE BROWN will teach them better. They should say, "King and Cabinet *together*, Lords and Commons." In this partnership of power between the "Sovereign and the Cabinet," Mr. George Brown will teach them how little is permitted to the former, and how much is the property of the latter. The Cabinet Minister is not only the "mouth-piece" of the Executive, but the "moving power," the "life," "the very Government itself," and the Sovereign is less than "tool"—a mere name to be used by the Cabinet Minister to endorse and give prompt to his acts. Such is the "loud cheers" doctrine of the Toronto Associationists. And no wonder, then, that Mr. GEORGE BROWN's newly imported patriotic ire burst forth against Sir Charles Metcalfe, for "trying to strike a deadly blow at the *power and efficiency* of the Provincial Executive Council," because he resisted their pretensions to be not only the "mouth-piece," but the "life," the "moving power," the "very government itself," and himself to be a name in form, and a nullity in practice. The words of JUNIUS—oddly enough quoted by one of the Toronto Association orators—were never so appropriate in Cabinet encroaching days in which they were written, as on the present occasion :—"We have nothing to fear from prerogative, but every thing from undue influence."

Before the completion of this discussion, I trust the People of Canada will more fully appreciate the sentiment of *Junius*, and the conduct of SIR CHARLES METCALFE, as the equal-justice protector of their constitutional rights and public liberties.

No. 5.

Dr. Paley's refutation of Hume's celebrated sophism against miracles is the shortest argument in that most admirable work—*The Evidences of Christianity.* Dr. Paley's exposition of it does not occupy three pages; and his mathematical demonstration of its falsity occupies less than one page. The most important argument, therefore, in that unrivalled work is the shortest. So, if my argument in this paper should be much shorter than that which I have advanced in each of the preceding papers, its importance will not be in proportion to its length, but in proportion to its brevity.

The fourth proposition which I propose now to demonstrate is—"*That the question at issue between the late Counsellors and Sir Charles* METCALFE, *according to the statement of certain of themselves and others of their own party, on different occasions, is not that which Mr.* BALDWIN *stated to the House of Assembly, and on which the vote of the Assembly was predicated.*

The subject of discussion involved in this proposition, is as novel as that which was embraced in each of the three preceding propositions. It is without example in the hundred and fifty years history of Responsible Government. It is so, simply because the proceeding of the late Counsellors is without precedent. This proposition is confessedly a bold, as well as a startling one. But it is no more bold than true, and no less true than important.

In the discussion of this proposition, the first thing necessary is, to ascertain precisely what *the* question was which Mr. Baldwin stated to the House of Assembly, and on which the vote of the Assembly was predicated. The reservation of the Secret Societies Bill was a circumstance; but it was not *the question.* And of that circumstance—explained by his Excellency in a manner which has only been attempted to be cavilled at, but never answered—it may be sufficient to say in the language of the Hon. Joseph HOWE, of Nova Scotia, in his letter to Mr. Hincks—"As regards the bill for suppressing Orange Lodges, it appears to me that circumstances may arise, after a government measure has been introduced, to render its postponement desirable." The Governor General has stated those circumstances—one of which was, that after understanding its provisions in all their bearings (by a full parliamentary discussion), to an extent that he could not have done from a bare perusal of them, he felt himself prohibited from affixing her Majesty's approbation to a bill (without submitting it to her Majesty) which went not only to remove and proscribe from office, but to erase from the list of jurors, a class of persons whom her Majesty had not thus reduced very nearly to the state

of aliens and slavés—though still subjects of taxation—in any other colony or portion of the empire. Sir Charles Metcalfe has expressed his unqualified disapprobation of Orange Lodges; and the object—the *entire* and *sole* object, as I can state by permission upon the *best* authority—of the *only* private interview that his Excellency ever had with the Grand Master of Orange Lodges in Canada, which took place a few days before the *twelfth* of last July (as the date of the surreptitiously published letter will shew), was to prevent any Orange display on that day, that there might be no blood shed, or riot, or renewed cause of religious and political strife—a work of charity and humanity, which, by the betrayal of private confidence, and the pilfering of private property, and upon authority that ought not to excite suspicion against any body, has been represented by the Toronto Associationist organs as a *plot* too silly for idiotism, and too base for Mackenzie himself. It was the characteristic practice of Mackenzie to publish every private letter he could obtain, and from the most worthless sources, in order to implicate and degrade the most upright and respectable men in the land; and how exactly do the *Globe* and the other *Associationist organs* follow in his wake in respect to even the Representative of the Sovereign. A man who will, in violation of the conventional law of civilized nations, pilfer a letter from the sacred drawer of confidential privacy, *in order to injure and destroy character*, is not above taking his neighbour's purse—and the receiver is as bad as the thief. These Mackenzie attempts to destroy even the moral integrity of the Governor General, will meet with a Mackenzie reward; and time will shew that Sir Charles is no more a supporter of the Orange Association than he is of the Toronto Association; but he will take other than means unknown to British legislation and government for the discountenance of both. The time may come when it may be the felt and bounden duty of the government not to appoint to office, or continue in office, a member of either association. But the "important disclosure" of the private letter itself "discloses" nothing but the writer's opinion of his own recommendations; it attributes nothing to his Excellency which could not have been attributed to him, had a copy of the Toronto Association address been enclosed to him for his perusal.

But to return from the notice of this circumstance to the consideration of *the question*. This can at once be ascertained from the resolution of the house voted for by the late Counsellors themselves. It is as follows: "That an humble address be presented to his Excellency the Governor General, humbly representing to his Excellency the deep regret felt by this house at the retirement of certain members of the Provincial administration, ON THE QUESTION OF THEIR RIGHT TO BE CONSULTED on what the house unhesitatingly avows to be the prerogative of the Crown,—

appointments to office; and further, to assure his Excellency that their ADVOCACY OF THIS PRINCIPLE entitles them to the confidence of this house, being in strict accordance with the principles embraced in the resolutions adopted by this house on the 3rd September, 1841."

The subject of inquiry now is, was this the question of "antagonism" between Sir Charles Metcalfe and the late Counsellors; or was the PARTY *distribution of the patronage of the Crown*,—or what is usually called *party government*, the real question of "antagonism" between them? The late Counsellors allege the former; Sir Charles Metcalfe asserts the latter. In the preceding paper, I have examined the evidence on both sides of this question, and have, I trust, established the truth of his Excellency's statement beyond reasonable contradiction. The present proposition is a corollary, or obvious consequence of the preceding one; and on this ground I might rest it upon every just principle of reasoning. But in a question of so great importance, I will adduce additional evidence.

Let it then be recollected, in the first place, that in the passage of Mr. Sullivan's explanatory speech, which I quoted in the last paper, he contended for a *party government*—that is, not the being governed by the party of the majority, but the governing for the benefit of the *ruling*, to the *exclusion of the ruled* party. He said that he "had watched the course of different administrations in Canada for twenty years, and during the whole of that time, he did not remember to have seen any of the different parties in power patronizing their enemies; in fact, if the proposition were made, he had no doubt it would have been laughed at as a piece of childish folly." I shall in another place consider the spirit of the doctrine, that the advisers of the Crown for the benefit of a whole country are to view and treat as "enemies" all who are not of their own party. I have now to do merely with the FACT, that such was the doctrine of the late Counsellors; that such was what they insisted upon as the advisers of the Governor General; and that they regard the very proposal of a different policy as "a piece of childish folly." Mr. Baldwin explained his views theoretically in more guarded and qualified language, but *practically* to the same effect. He admitted that he would confer an office even on an opponent, if he were obviously the best qualified of rival candidates; but that in case of the qualifications of two candidates being equal, he would always give the office to the candidate of his own party. Now, in ninety-nine cases out of an hundred, there would be more than *one* candidate of equal qualifications belonging to opposite parties; in all which cases partyism would decide. The perniciousness of this old exclusive and anti-reform doctrine is increased from Mr. Baldwin's recommendation at the Toronto dinner, and on other occasions, that "*Upper*

Canada must give a more distinctively PARTY CHARACTER *to the Representation which she returns.*" The government is to reflect the character of the representation; and the "distinctively party character" of the policy of the former must harmonize with that of the spirit of the latter. This is the first time that I ever recollect of reading of a minister or ex-minister of the Crown urging the increase of political party distinctions in a country as a theory with a view to promote good government—distinctions, which in exact proportion to their extent and violence, have been considered by all writers on political science as the most serious obstacles to just government, and only adapted to promote the selfishness of party at the expense of the general good. Party distinctions and party spirit have always been viewed as an evil both to civil and religious society. According to Mr. Baldwin's recommendation, the greatest party man is the best public man! Mr. Hincks and the Toronto Association avow as a *fact* what Mr. Baldwin individually urges as a recommendation. Mr. Hincks' address to the "Reformers of Frontenac" was not only republished in the Toronto Association organs, but ordered by a special resolution of that association to be printed and circulated in the *tract* form. In that *tract* we have the following words: "Great fault has been found with the late ministry, because they were *party men*, and because they *desired that the vacant offices should be filled up by men of their own party*, that is, men desirous of preserving British connexion and securing the peace of the country, instead of those who, in their opinion, are taking a course calculated to produce the contrary effects." "Attempts have been made, gentlemen, to induce you to believe that Responsible Government is fully admitted by the distinguished individual at the head of the government. It is true, indeed, that the term Responsible Government has been used, but that is not what we want. We must have the substance, not the shadow. The very object of Responsible Government is to controul the prerogative, by providing the Governor with advisers possessed of public confidence. If, however, the Governor is to make appointments to office, *either* without *or against* the advice of his responsible advisers, it must be obvious to every man of common understanding, that all the advantages of Responsible Government are lost. Can you imagine for a moment, gentlemen, that any set of men will remain in office if appointments are to be made prejudicial to their influence? The very idea is absurd. A government acting in such a manner as to destroy itself! And yet the Governor declares, in almost every one of his answers to addresses, that the appointments are to be made without reference to party considerations."

The facts and doctrine propounded in the above quoted passages are, be it recollected, put forth by one of the late Counsellors, and subse-

quently adopted and reprinted for wide circulation by the Toronto Association. The late Counsellors have complained much that certain Editors in Canada claimed for themselves and party to be *exclusively* the friends of British Connexion. In the first part of the above quotation, it will be seen that the Toronto Associationists do precisely the same thing—they represent the men of their own party, as *exclusively* "desirous of preserving British connection." In addition to this party inconsistency, it may be remarked that this boasted (exclusively felt) "desire" was very oddly expressed by Mr. Hincks and the Associationists during the rebellion of 1837. I can state upon unquestionable authority that a leading member of the Toronto Association, lately remarked to a friend in Toronto (referring to the rebellion of 1837), "*If we had only turned out, we could now do any thing.*" But they did not talk then of being "desirous of preserving British connection"—they would not "turn out" to preserve it: and yet they now profess to be the *only* "men desirous of preserving British connection!!!"

In the above quotation, three things should be observed: 1st. The late Counsellors and the Associationists admit and declare as a *fact*, that they had sought to fill up the vacant offices with men of their own party. 2ndly. They avow as a doctrine that the Governor General is not to make appointments *against*, any more than he is without, "the advice of his responsible advisers"—that otherwise, "all the advantages of Responsible Government would be lost." This of course makes the Governor General the "tool" of the Council; and this is declared to be essential to the existence of Responsible Government! 3rdly. They therefore represent, in the third place, Sir Charles Metcalfe as an enemy to Responsible Government because he "declares, in almost every one of his answers to addresses, that the appointments are to be made without reference to party considerations."

Such, be it recollected, is the late Counsellors own account of what they mean by *party government.* It is not merely the selection of the advisers of the Crown from the party of the majority in the Legislature. To this kind of party government Sir Charles Metcalfe has not even hinted an objection in any of the various documents which he has put forth. It is not pretended that he ever expressed the slightest objection to the *composition* of the late Council; or that he ever so much as suggested or entertained the idea of dismissing some of them and filling up their places with persons from the ranks of the opposite party. To the administration of the government *through a party* he has assented as practically and as thoroughly as her Majesty herself. But there is another—a new—and very different element, which the Upper Canada section of the late Counsellors has introduced into their system of the

government of party—that is, *governing for a party, to the exclusion of a party.* It is this new element which is the doctrine of the above quoted passages from Mr. Hincks' address, which has been adopted and republished by the Toronto Reform Association; it is this new element which is the doctrine of Mr. Sullivan, in pronouncing as "childish folly" the idea of bestowing an office upon any other than the supporters of the ruling party; it is this new element which has formed the point of "antagonism" between Sir Charles Metcalfe and his late Counsellors, from an early period of his administration; it was this new element which originated the demand for the patronage of the Crown for party purposes, and under the false but plausible pretext that it formed the essence of Responsible Government, as intimated in the above quoted passages from the address adopted by the Toronto Association, and as stated by Sir Charles Metcalfe, when he says that the "demand which was made by the Council regarding the patronage of the Crown was *based on the construction put by some of the gentlemen on the meaning of Responsible Government.*"

This is the only solution of the conflicting statements between Sir Charles Metcalfe and his late advisers which can be given without an absolute impeachment of their integrity. By Responsible Government they *really* mean this sort of party patronage government—a bastard Responsible Government—whilst his Excellency means by the phrase, the legitimate Responsible Government, which recognizes ministerial responsibility, and at the same time the purest and noblest attribute of the prerogative, to be equally just to all classes; or, as Mr. Howe of Nova Scotia expresses it, "*to bestow all offices for the general good, without reference to party.*"

Now, the question of this kind of party government, and the question of the right of the Counsellors to be consulted on appointments to office, are as different as night is from day. Which of these questions, then, was the subject of "antagonism" between Sir C. Metcalfe and his late advisers? Mr. Baldwin, in his explanation, represented the latter, and on the latter the house voted. Sir C. Metcalfe asserts the former; and I think I have above given sufficient reasons to evince the truth of his Excellency's assertion. But I will appeal again to the direct and equivocal testimony of his accusers, not only as to their construction of Responsible Government, as meaning party government, but that that party government implies the exercise of the prerogative of patronage for the exclusive benefit of one party, and that this was the primary and real subject of antagonism between the Governor-General and his late Counsellors. I appeal to the letters of Mr. Hincks to the London *Morning Chronicle*—letters republished and endorsed by the organs of the Toronto

Reform Association. Mr. Hincks gives the following interpretation of Responsible Government, and the following account of the *antagonism* referred to :—"I have established that the fact that the parties to whom I have referred in a former part of this letter, are all pledged to Responsible Government as practised in England; that is, to a *party government.* Sir CHARLES METCALFE, on the other hand, is a determined opponent of *such* a government—as a *reference to facts will prove.* It is admitted on all hands that appointments to office were in several instances made by his Excellency, without any consultation with his Council, and these appointments were, in *their opinion, prejudicial to their influence.* I put it to you, Mr. Editor, is it in accordance with British practice, which, according to Lord Durham, should be our guide, that the *patronage of the Crown* should be distributed so as to destroy the political influence of the existing ministry? It is truly absurd to put such a case. It could never be tolerated a moment by any ministry. And yet the present difficulties in Canada, as well as in Nova Scotia, have been caused by an attempt to administer colonial government on principles entirely inconsistent with representative institutions. Nothing would induce me to misrepresent the views of Sir Charles Metcalfe on this subject. I believe that HIS EXCELLENCY CONSCIENTIOUSLY DISAPPROVES of PARTY GOVERNMENT, and that from the time of his first arrival in Canada, he was determined to overthrow it. Hence his own expression, that 'he had observed 'an ANTAGONISM' between his Council and himself from the time of his arrival in the country." *(Copied from the Kingston Chronicle, January* 31.*)*

Here then it is expressly stated that the subject of antagonism between Sir Charles Metcalfe and his late advisers was the question of *party government in respect to the distribution of the patronage of the Crown;* whilst Mr. Baldwin described that subject of antagonism to be "the question of the *right of the Council to be consulted in respect to appointments to office.*" It is therefore as clear as that two and two make four, *that the question at issue between the late Counsellors and Sir Charles Metcalfe was not that which Mr. Baldwin stated to the House of Assembly, and on which the vote of the Assembly was predicated;* which is the proposition that I was to prove—a proposition the facts of which are without a precedent or a parallel in the history of Responsible Government. Comment obscures and enfeebles when the naked text itself is luminous as a sunbeam, and speaks with the voice of thunder. Yet there is a peal still louder in the recent debate of the British House of Commons—a debate which stamps with the highest authority the truth of every material fact, the correctness of every view, and the justness of the warnings which I have given in my introductory address and preceding numbers of this argument.

P. S.—Just before the completion of the foregoing *fifth* number of my defence of Sir C. Metcalfe, *for* the people of Canada, against attacks and encroachments as dangerous to their constitutional rights as they are to his character, I received the intelligence of the "great debate," or rather Imperial exposition of Canadian affairs, and of the determination of the British Government respecting them. Had I been aware that so early, so full, so unanimous, so authoritative a vindication of Sir C. Metcalfe, and so comprehensive and unquestionable an exposition and decision of the questions at issue between his Excellency and his late Counsellors, would have been given by her Majesty's Government, I might not have thus voluntarily incurred the labour and exposure of the present discussion. And the same consideration will induce me to abridge the subsequent part of the discussion as much as possible. When the authorities of the Empire speak on the question of their own constitutional rights, it is superfluous and presumptuous for me to reason and remonstrate. What I have argued was unprecedented and unconstitutional, the unanimous decision of the Home Government,—supported by Lord John Russell and Mr. BULLER, the adviser and supposed writer of much of Lord Durham's Report,—only opposed by Mr. Roebuck and Mr. Hume,—declared to be unheard of and inconsistent with even monarchical institutions, and utterly incompatible with the existing connexion between Canada and Great Britain. The liberal, the enlightened, the cautious Premier of the British Empire, has given all concerned clearly to understand, that the "power or patronage" defended by Sir Charles Metcalfe, as the inviolate property of the Crown, "was believed to be essential to the good government of Canada, and *necessary, if the time should arrive, to maintain the connexion between the two countries.*

It now remains for every man in Canada to take heed to his ways. In this crisis he is about to stamp his character for future life and posterity. The Home Government assent entirely and unreservedly to the Responsible Government Resolutions of September, 1841, but not to the anti-Responsible Government demands of the late Counsellors. A resistance to the latter, Lord John Russell regards as "necessary for the maintenance of the connexion between this country (Great Britain) and the colony." The question can now no longer be blinked or evaded. Who is for the "maintenance of that connexion," and who is against it? Who is determined to lift up the weapons of resistance against the authorities of the Empire, for the sake of spontaneous, causeless, unconstitutional, avaricious demand of party patronage, or respect those authorities whose utmost efforts have been of late years employed for the benefit of Canada, and whose utmost demand is a constitutional government of equal justice for all classes of her Majesty's Canadian subjects, and not a virtual repub-

lican government of party favouritism and party exclusion? Reader, I beseech you to examine the critical ground on which you are treading. One step too far ruined many a poor well-meaning man in 1837. How many wish they had taken more heed to their ways before that period! How many would gladly retrace the steps into which they were unconsciously led! But it is too late. It is not yet too late for even a Toronto Associationist to escape the gathering storm, and hide himself from the overhanging calamities.

I doubt not but Sir Charles Metcalfe will, with his characteristic forbearance and liberality, allow time and opportunity for these conciliations and faithful warnings of the Imperial authorities to be fully understood by every man in the Province; that when the time arrives for drawing the line of demarcation—if it must at length be drawn—by placing all administrative, and judicial, and militia offices of the country in the hands of those *only* who will maintain the constituted authorities of the Empire, no man may be taken by surprise—that no man may be dismissed from any official situation, without the clearest evidence of his having arrayed himself against the supreme tribunals of the Empire—of his having done so deliberately and wilfully—that there may be no dupes, and no room for the plea of ignorance which many made who were implicated in the movements of 1837. But I hope the religion, the good sense, the patriotism of the people will duly appreciate the liberal and admonitory counsels of the British Government—that no military provisions, nor Royal proclamations, nor removals from official situations, may be required to sustain the constitution as maintained by the sovereign authority; but that the great majority of all classes will unite to maintain a constitutional and affectionate connexion with the mother country, and a legitimate Responsible Government, upon the principles of equal justice to all classes of her Majesty's Canadian subjects.

No. 6.

The *fifth* proposition, which I am now to prove, is, "*That Sir Charles Metcalfe's statements of his views of Responsible Government involve all that is contained in the Resolutions of the House of Assembly, September 8, 1841, and that the criticisms of Messrs. Baldwin, Hincks, Brown and others, on certain of his Excellency's Replies, are unfair and unjust.*"

There is not an example in the history of England, since the commencement of the system of Responsible Government in 1688, of any British monarch ever having been called upon to explain his views of that system; of his reverence for it; of his adherence to it. I have never yet met with an instance in which the monarch attempted to state his views of that system. I have not even found in any History of England, a *definition* of that system, any more than I have met with a *definition of life*, or *matter*, or man himself. I have met with discriptions of each from their properties, powers, and operations; but have never learned the essential nature of them. So I have read descriptions of Responsible Government, but no difinition of its *essence*. I find British Responsible Government where I find the British Constitution, and the Common Law of England, not in any report, any act of Parliament, any plans of agreement adopted at a particular time between the sovereign and the people; but in the pages of British history, and in the practice of the British Government. The definition of any part of a *mixed* form of government, must necessarily be vague and general. The different parts of such a form of government, *mix* with each other, and cannot be distinguished or defined with mathematical nicety any more than you can distinguish or define the limits of the different colours in a rainbow. Responsible Government is the *practice* of that mixed form of government after a certain mode; a *practice* which incorporates itself with every part of that government, and *therefore* less capable of an accurate definition than the constituent parts of the government of which it is the operating vitality. Mr. BLAKE, Professor of Law, did, therefore, make one sensible remark in his famous Toronto Association speech, when he uttered the following words:—"But, Sir, it is said that the question of Responsible Government is *undefined*; and knowing, as we do, that it is to operate on the ever varying combination of human affairs, we admit that it *is incapable of definition,—we seek not to define it.* But we wholly deny that this principle, because *incapable of accurate definition*, is therefore of little practical importance, or interest, to the people of this Province. (Hear, hear, and cheers.)" Yet this very Association, through its orators and organs, has denounced Sir Charles Metcalfe, and sought to excite hostility against him throughout the length and breadth of the land, as an enemy of Responsible Government, because he has not accurately defined that which they themselves here admit, by the lips of Professor Blake, to be "incapable of accurate definition." Had Sir C. Metcalfe, therefore, never attempted to define what he meant by Responsible Government, he would have followed the example of every monarch which has filled the throne of England from William and Mary to Queen Victoria, and would have acted in accordance with the sentiment of Mr. BLAKE, when he says, "*we seek not to*

define it." But his Excellency has been assailed for months in this Province—and recently by Mr. Roebuck in the House of Commons in England—because he has not given an "accurate definition of the question of Responsible Government." Such is another example of the consistency of party!

Whatever Sir Charles Metcalfe has said in explaining his views of Responsible Government, he has gone beyond the example of any British Sovereign—beyond what his constitutional duty required him to do, in order to gratify the wishes and feelings of the people of Canada. The present subject of inquiry is, are his Excellency's expressed views in harmony with the Resolutions of September, 1841? I affirm that they are, for the following reasons:

1. They are declared to be so by the great statesmen in England, all of whom recognize those resolutions as the practical basis of Canadian government—all of whom declare the views of Sir Charles Metcalfe to be in harmony with those resolutions, and with the practice of British Responsible Government; that his Excellency, in the quarrel commenced by the late Counsellors, has done what a British Sovereign should and would have done in similar circumstances; that the proposal or demand made to Sir Charles Metcalfe was such as no minister had ever made to his Sovereign. Now, one of the resolutions of September, 1841, declares, "That the head of the Executive Government of the Province, being *within the limits of his Government*, the Representative of the Sovereign, IS RESPONSIBLE TO THE IMPERIAL AUTHORITY ALONE." The authority to which Sir Charles Metcalfe is "alone responsible," has declared that both his views and practice are constitutional according to the resolutions of 1841. The high court of appeals, then, by which alone the views and practice of his Excellency can be constitutionally judged, has decided that he is constitutionally right. To continue to resist him, therefore, upon the ground of those condemned allegations, is a practical denial of the authority of that court; in other words, is a virtual declaration of independence. Let the reader well ponder this all-important fact, and the proceedings of the Toronto Association and its organs.

2. The views expressed by his Excellency on the system of Responsible Government, are regarded by the Houses of Assembly of New Brunswick and Nova Scotia—including the Reformers of both Provinces—as consistent with the resolutions of 1841, and as perfectly satisfactory. Mr. HOWE—the father of Responsible Government in British North America—moved for the adoption and placing on the journals of the Nova Scotia House of Assembly, the resolutions of 1841, and Sir Charles's reply to the address of the Gore District Council, as the basis of the system of Responsible Government in that Province, and as containing all that he desired.

The Toronto Associationists demand what the Reformers in the other Provinces of British North America do not ask for, and what the Imperial authorities declare is incompatible with monarchical institutions, and with the existing connexion between Great Britain and Canada. This is another trumpet-voice fact, which I entreat the reader to consider deeply before he follows the Toronto Associationists another step.

3. But a careful examination of what Sir Charles Metcalfe has stated, will demonstrate the agreement of his views with the resolutions of 1841. First, then, let those resolutions be stated and understood. They are as follows, as quoted by the late Counsellors in their communication to the Governor-General:

"That the Head of the Executive Government of the Province, being within the limits of his Government the Representative of the Sovereign, is responsible to the Imperial authority alone; but that, nevertheless, the management of our local affairs can only be conducted by him, by and with the assistance, counsel, and information of subordinate officers in the Province;" and "that in order to preserve between the different branches of the Provincial Parliament that harmony which is essential to the peace, welfare, and good government of the Province, the chief advisers of the Representative of the Sovereign, constituting a Provincial Administration under him, ought to be men possessed of the confidence of the Representatives of the people, thus affording a guarantee that the well-understood wishes and interests of the people, which our gracious Sovereign has declared shall be the rule of the Provincial Government, will, on all occasions, be faithfully represented and advocated.

Such are the resolutions which are called the "Magna Charta" of Canada, and which Sir Charles Metcalfe is charged with having violated in practice and in theory. Let the reader consider their import. Do they involve any thing like the demands which I have shown in the preceding part of this discussion, the late Counsellors and the Toronto Associationists have made of the Governor-General? Do they imply that the Representative of the Sovereign must state beforehand his views as to his future policy in regard to appointments to office, or any thing else? Do they imply that he must come to some previous understanding with his advisers as to the principle upon which the government is to be conducted? That he is to engage to make only one kind of appointments? That he is to consult only with the leaders of the majority? That he is to have no correspondence with persons on any of the affairs of the Province, except through his "chief advisers?" That he is to make no offer of an appointment without consulting his Council? That he is not even to have a list of the names of applicants for office, except in the hands of the Secretary

of the Province? That he shall agree to make the influence of his advisers the rule of distributing the patronage of the Crown?

Again, do the above resolutions require or imply that the "chief advisers" of the Representative of the Sovereign should be *Heads of Departments?* I know that Lord Durham's Report recommends it, and that Sir Charles Metcalfe has expressed his opinion to the same effect. But do the above resolutions—our Magna Charta—the only authority recognized by the Crown or House of Assembly—require it? Do those resolutions require that the "chief advisers" of the Crown shall consist of three, or six, or nine individuals? Do those resolutions require any thing as to the mode of intercourse between the Crown and its advisers?

Furthermore, do those resolutions, interpreted by the practice of men in various and less important positions in society, imply that no act whatever—how ordinary soever—can be performed by the head of the Executive without the formally expressed opinion of the Council? Is not the fundamental principle—the public "guarantee"—in those resolutions this: That the advisers of the Crown shall consist of men who possess the confidence of Parliament,—having a right to retire from office whenever, in their judgment, the acts of the Executive are not in accordance with the wishes of Parliament, and the Parliament having a right to influence their removal whenever they countenance a policy adverse to the public interests? From this it is, I think, obvious, that the advisers of the Crown should be competent and have the right of offering advice on every act for which they are responsible—a right which the Governor General has as explicitly avowed as any of the late Counsellors. But it does not therefore follow—taking usage as an interpreter—that any act performed by the Crown without consulting its advisers, is, therefore, unconstitutional. A merchant has an agent or clerk; and strictly speaking, that agent or clerk has no right to perform any act without the sanction of his employer; yet he may perform many acts of which that employer is ignorant until after they are performed; but he is nevertheless responsible for those acts, and in most cases voluntarily adopts them after they are thus performed. And if an agent or a clerk can do so as a matter of common usage and necessary convenience, may not a Governor do so without the actual advice of his own subordinate officers? Those officers could assume the acts of the Governor in either of two ways—by *recommending* them, or by *adopting* them, after they were performed. They would act alike voluntarily in both cases; and therefore there would be no more hardship in the one case than in the other. It has been represented as a hardship for a man to be held responsible for an act that he did not advise. It would be so if his responsibility were *compulsory*. But as an adviser of the Crown, no man need be responsible for an Executive

act, — either before or after accomplishment — unless he *chooses*. He can retire from office any hour he pleases. What is done from spontaneous choice cannot be a hardship. But suppose those officers were to experience inconvenience as well as mortification from their royal master doing acts without their advice, and were to apprise him of it and inform him that on the occurrence of similar acts they should feel it their duty to retire from his counsels, and then await the developement of his future policy by his acts—this would be right and constitutional ; but for them in addition to demand of him an engagement or understanding that he would do nothing without their advice, and even nothing contrary to it when given, would be becoming *dictators* or *stipulators to*, instead of *advisers of*, the Crown—would be going out of their own province and invading that of the Crown—would be insulting its dignity, invading its freedom, and reducing it to a "tool."

In these remarks I have supposed a case as strong as that which the late Counsellors have alleged against Sir Charles Metcalfe ; and even in such a case, it will be seen that they have not acted constitutionally. But be it recollected that his Excellency denies ever having made an appointment without the knowledge of one or more of his advisers. In a despatch to the Secretary of State for the Colonies, dated December 26, 1843, his Excellency says, "*that he did not recollect of a single instance in which he had made an appointment without being previously made acquainted with their sentiments on the subject.*"

But let us now consider his Excellency's own *words* on the subject of Responsible Government—words most explicit, yet most shamefully perverted and misrepresented by his accusers. Not seeking to shield himself under the reserve of prerogative, his Excellency has unequivocally stated his sentiments from the first day of the dispute. In his protest against the late Counsellors' intended explanation, he says — "*The Governor General subscribes entirely to the Resolutions of the Legislative Assembly of the 3rd September, 1841, and considers any other system of Government but that which recognizes responsibility to the people, and to the Representative Assembly, as impracticable in this Province.*" This was as much as Lord Sydenham, who wrote those resolutions, ever said —as much as Sir Charles Bagot ever said. Such a declaration from the Crown is all it could say to any nation or people on such a subject. The late Counsellors themselves, in their intended explanation, admit that "*His Excellency disavowed any intention of altering the course of administration of public affairs which he found on his arrival in Canada.*" Yet have they, notwithstanding, held him up to the public as an enemy of Responsible Government, and as seeking to subvert the constitutional liberties of the people of Canada ! Sir C. Metcalfe has in some instances

given even a detailed exposition of his views of Responsible Government. I will select and examine the paper which has been the subject of the most unfair and unjust criticism. I refer to his reply to the address of the Gore District. One phrase of a long paragraph of this reply has been the subject of columns of criticism in the *Banner*, and *Globe*, and *Examiner* newspapers, and by Mr. Baldwin and others, whilst they have not so much as alluded to a word of all the rest of the entire paragraph. The whole paragraph (*every* word of which I beg the reader to weigh) is as follows: "But if you mean that the government should be administered according to the well understood wishes and interests of the people; that the resolutions of September, 1841, should be faithfully adhered to; that it should be competent to the council to offer advice on all occasions, whether as to patronage or otherwise; and that the Governor should receive it with the attention due to his constitutional advisers; and consult with them on all cases of adequate importance; that there should be a cordial co-operation and sympathy between him and them; that the Council should be responsible to the Provincial Parliament and the people: and that when the acts of the Governor are such as they do not choose to be responsible for, they shall be at liberty to resign; then I entirely agree with you, and see no impracticability in carrying on Responsible Government in a colony on that footing, provided that the respective parties engaged in the undertaking be guided by moderation, honest purpose, common sense, and equitable minds devoid of party spirit."

Now, after much reflection and careful examination, it is my firm belief that the above paragraph contains not only the essentials of responsible government, but a more full, more explicit, more detailed, more practical recognition of that system than is contained either in the naked Resolutions of September, 1841, or in Lord Durham's Report, or even in both documents taken together. Nothing but the most downright party interest, and party feeling, and party criticism, could give it a different interpretation. Well therefore have the Toronto Associationists and their city organs kept out of sight every part of that paragraph except a single phrase; well have they snatched that phrase from its natural connection, and perverted it from its legitimate meaning. The first article of their creed is *party*; and therefore truth, and reason, and justice must succumb to party. But suppose the system of interpretation adopted in this instance by Messrs. Baldwin, Hincks, Brown and others, were adopted in interpreting even the inspired Scriptures themselves, what might not those sacred writings be made to say? Suppose even a verse—much more a *phrase*—were torn from the context, and interpreted irrespectively of that context,—nay, interpreted so as to contradict that context, what sort of a Bible would we have? What sort of doctrines would it teach,

or rather would it not teach? Yet such is the principle of interpretation practised by the accusers of his Excellency in respect to this reply—and others of his replies on which it may not be necessary in this argument for me to dwell.

Let the reader candidly consider what the Governor General *does* say and *does not* say in the above quoted paragraph.

It will be observed that he refers throughout to his council or advisers, in their collective capacity.

It will also be observed, that he carefully and clearly distinguishes between *their competency or right*, and *his obligation*; that the former extends to "advice on *all* occasions, whether *as to patronage or otherwise*;" that the latter extends to "all cases of adequate importance." Yet has the Governor General been charged throughout with having denied the *right* of advice to his late Counsellors.

It is the phrase "cases of adequate importance," which has been perverted and made so much capital of by the Associationists. Let us examine it, before we proceed to the other parts of his Excellency's reply. The accusers of his Excellency represent that he is to be the judge of the "cases of adequate importance," and therefore that in the exercise of the undefined discretion which he thus reserves to himself, he can swamp the whole system of responsible government. This I entirely deny. I deny it not merely "upon authority;" but I affirm that his Excellency *can* be the judge of the "cases of adequate" *only* in the *initiatory* part of an Executive act, but that ultimately and essentially the *Council themselves*, either in their *collective* or *individual* capacity, are the judge of "all cases of adequate importance" in which their advice shall or shall not be given.

In the preceding (fourth) number of this argument, I adverted to the fact that *two methods* had been adopted in the distribution of patronage, intimated in the following words of his Excellency's protest: "He appealed to the number of appointments made by him on the *recommendation of the Council*, OR *members of it in their* DEPARTMENTAL *capacity*." Here then, in "cases of adequate importance," the "recommendation of the Council" was given; in "cases *not* of adequate importance," the recommendation of individual "members of the Council in their departmental capacity" was acted upon: a distinction understood and acted upon by the late Counsellors themselves. Now, this distinction the Governor General expressly states in the former part of this same reply to the address of the Gore District Council, and to which he of course refers in the phrase under consideration. He says, "If you mean that every word and deed of the Governor is to be previously submitted for the advice of the Council, then you purpose what, besides being unneces-

sary and useless, [or not of "adequate importance"] is utterly impossible consistently with the due despatch of business." Here then is the very doctrine of the heretical and awful phrase "cases of adequate importance." Now, what does Mr. Hincks, in behalf of himself and colleagues, say in regard to this very doctrine? In his review of Mr. Viger's pamphlet, page 13, he says—"*Every* member of the late Council was as well aware as the Governor can be, that it is 'physically impossible to make formal reference to the Council of every matter that comes up for decision;' *nor did any of them desire such a system to be practised.* Every *act* [not conversation] of the Governor, however, must be communicated by his secretary, and that secretary should be a responsible minister, thoroughly acquainted with the policy of the administration of which he is a member, and capable of advising the Governor on every subject *not of sufficient importance* [or not of "adequate importance"] to be referred to the *Council.* If the secretary recommends any step, which for his own sake, he will not do, his colleagues will of course hold him responsible to them."

This then is the identical doctrine, expressed in almost the identical words, which the Governor General stated in his reply to the address of the Gore District Council; and the phrase, "cases of adequate importance," in the latter part of that reply, is a mere recognition of that doctrine in his Excellency's avowed course of proceeding with his Council. Neither the Governor General, nor any other person that I have heard of, has ever otherwise than professed that "every act of the Governor must be communicated by the secretary, and that secretary a responsible minister;" and I can further state upon the unquestionable authority of that secretary (as he will doubtless state in Parliament), that no act of the Governor has been communicated except by him, since the resignation of Mr. Harrison. I have heretofore shewn that it was impossible that any act of the Governor General could otherwise than be communicated by the responsible provincial secretary, as he alone kept the seal of the Province, the stamp of which was necessary to render any decision of the Governor General an *act.* That gentleman can, and doubtless will, state that such has been the invariable practice without exception.

But I am not yet done with this abused phrase, "cases of adequate importance." In a preceding number I have shewn that admitting—contrary to fact, contrary to the declaration of his Excellency—the very worst construction that his accusers have sought to put upon his mode of making appointments; supposing him to have decided upon making an appointment without knowing the sentiments of any member of the Council (the reverse of which his Excellency states to Lord Stanley) respecting it, his purpose could not become an act except through his

responsible secretary, according to the doctrine of the late Counsellors themselves, as stated by Mr. Hincks in the passage above quoted. On receiving information, or direction as to that purpose or determination, the responsible secretary could, if he thought it *not* a "case of adequate importance" to require further ceremony, make out the commission and affix the official seal to it; or, if he thought it a "case of adequate importance," he could go and state his views to the Governor General himself respecting it; or, if he thought it a "case of adequate importance," he could lay it before one or all of his colleagues; and if they thought it a "case of adequate importance," they could send one or two of their number, or go in a body to his Excellency, and offer their advice and remonstrance, and if they thought it a "case of adequate importance," offer their resignation. It is clear then, that the whole question of "cases of adequate importance," is ultimately and *essentially* in the hands of the Counsellors themselves, and only in an initiatory and subordinate degree in the hands of his Excellency.

This memorable phrase, therefore—"cases of adequate importance"—respecting which so much disreputable criticism has been employed, and so many scandalous attacks have been made upon the Governor General, is the mere mention of a fact in the working of responsible government, which, as seen above, the late Counsellors themselves have admitted, and which every man of common understanding must admit who knows any thing of the practical operations of that machinery. But party selfishness and spirit—as it does not hesitate to stretch forth the hand and lay hold of the forbidden fruit of prerogative power—will seize upon any phrase however just, and wrest it from any connexion however essential to its meaning, and place upon it any construction however arbitrary and unjust, in order to advance the interests of the great Diana of party.

Thus much then on the ever-to-be-remembered phrase, "cases of adequate importance," of which I hope we may hear no more until all other "cases of adequate importance" shall have been disposed of. Let the reader with me pause, and ponder upon the import of each of the *other* phrases in Sir Charles Metcalfe's reply to the Gore District Council. I repeat them again—"*that the government should be administered according to the well understood wishes and interests of the people;—That the Resolutions of September, 1841, should be faithfully adhered to;—that it should be competent to the Council to offer advice on all occasions, whether as to patronage or otherwise;—and that the Governor should receive it with the attention due to his constitutional advisers;—that there should be a cordial co-operation and sympathy between him and them;*—THAT THE COUNCIL SHOULD BE RESPONSIBLE TO THE PROVINCIAL PARLIAMENT AND

THE PEOPLE;—AND THAT WHEN THE ACTS OF THE GOVERNOR ARE SUCH AS THEY DO NOT CHOOSE TO BE RESPONSIBLE FOR, THEY SHOULD BE AT LIBERTY TO RESIGN."

Is it possible for the English language to express a more complete recognition of the system of responsible government than is contained in these phrases? Yet to not one of them have the accusers of Sir Charles Metcalfe, or any of the orators of the Toronto Association, made the slightest reference, any more than if they were not in existence! Is this doing as they would be done by? Is this fair? Is this telling the whole truth? Is this acting the part of candid and truth-loving men? Is it acting with a true regard to the good government and best interests of the country? Or is it not acting with an utter recklessness of every thing except the Moloch of party? Would the reader like to have his words and acts interpreted as those of the Representative of the Sovereign have been interpreted by his accusers? No Governor of Canada has ever avowedly attached so much importance to the Council, and so fully stated the necessity of constantly consulting them, as Sir Charles Metcalfe.. So much so, that in his reply to the address of the inhabitants of Russell, his Excellency says—"No Governor could dream of administering the government of this Province without constant consultation with his Council. Every Governor must be sensible of the advantage that he would derive from the aid, advice and information, of counsellors and heads of departments, in whom he can place confidence. But that is not the question at issue. If it were, or if it had been, the country would not have been troubled with the present dispute. The demand of the party now obstructing her Majesty's government is, that the Governor, who is responsible to his Sovereign and the British nation for the welfare of Canada, is with respect to the government of this country to be a nonentity, or in other words to be a subservient tool of any party that may acquire a temporary ascendency. To this I could not and never can submit. This was the meaning of the stipulations demanded of me, and which my duty to the Crown rendered compliance with impossible."

My conclusion, therefore is, "That Sir Charles Metcalfe's statement of his views of Responsible Government, involve all that is contained in the resolutions of the House of Assembly, September 3, 1841, and that the criticisms of Messrs. Baldwin, Hincks, and others, on certain of his Excellency's replies, are unfair and unjust."

Now, let the reader mark the *professed* object and *real conduct* of the leaders of the Toronto *Association*. In their late address to the people of Canada, they define their object to be as follows:

"Our object is, that the Governor should have advisers—that these should have the confidence of the people's representatives—that they

should be strictly responsible for all the acts of the Executive Government while they continue to hold office."

Such is the *professed* object of the Toronto Association. Now, has the Governor-General denied this? Has he not asserted it in most explicit terms? Why then are the Toronto Associationists at war with him? I answer, because their *real* object is as different from their *professed* object as night is from day. *They dare not state their real object in words.* Their *professed* object before the people, is Responsible Governmen in as moderate terms as Sir Charles Metcalfe himself has employed. Their *real* object—as interpreted by their stipulating demands upon the Governor-General—is Responsible Government in a sense that would make the Crown a "tool" in the hands of a party; or in a sense, as the Imperial Government emphatically declare, would make "*Canada an independent republic.*" Hence the moderation of their words in the passage above quoted; and hence the immoderation of their acts, as at war with the Governor-General and her Majesty's Government. Actions speak louder than words. The *words* of the Associationists prove what I have stated, that the Governor-General avers and maintains all that the people of Canada understand by Responsible Government; the past and present *actions* of the late Counsellors prove all that the Governor-General has alleged respecting them. If they have no other object in view than what they have above explained, they have no cause for war with the British Government. Their being at war with the British Government, proves that they have some ulterior object in view.

A few words in reply to objections. It has been objected that his Excellency had observed, shortly after his arrival in Canada, an "antagonism" between him and his late advisers on the principle upon which the patronage of the Crown should be distributed, and that he never disclosed it until the interviews which took place on Friday and Saturday the 24th and 25th of November. This is most honourable to his Excellency, and is one of the circumstances of his public life that will enhance his reputation in the estimation of the future historian. Few British monarchs have been so considerate of the feelings and influence of their advisers as not to let it be known when their feelings were hostile to the policy recommended by those advisers. Even "good Queen Anne" did not hesitate to let it be known that she regarded the advisers whom she disliked, as her "enemies;" nor did the Georges, First, Second, Third, and Fourth, conceal their "antagonism" with certain advisers and ministries, to whom personally, or to whose policy they were opposed. It was notorious throughout the nation that there was an "antagonism" between William IV. and his advisers, from 1832 to 1837; that he availed himself of the only opportunity that presented itself, in 1834, to get rid of them; that

though they were restored, and continued in office until his death, yet that during the last three years of his life especially, his "antagonism" with them was inveterate, and the papers teemed with "public rumours," and even examples of it. In England, such an "antagonism" or even the "public rumours" of it, has never been considered a sufficient ground of ministerial resignation, or even of public complaint. As long as a minister's advice, as to acts, is so far assented to by the Crown as to enable him to retain the confidence of Parliament, he continues in office and counsels the affairs of the nation, whatever may be the personal feelings of the Sovereign, or the "public rumours" of his feelings. But did Sir Charles Metcalfe subject his late advisers to such a disadvantage? Suppose he had avowed this "antagonism" against conducting the government upon party principles, as to the distribution of patronage, shortly after he arrived in Canada, would it not have damaged their influence and measures? Would it not have given a great advantage to their opponents? Did not the late Counsellors make use of his Excellency's name in every form to strengthen themselves and weaken their adversaries? When then did his Excellency acknowledge and avow this "antagonism?" Only when the late Counsellors, not content with advising him on acts and measures, announced to him formally the principle of party government in the distribution of patronage, and demanded of him to enter into a "stipulation," or, as Mr. Hincks expresses it, "*come to an understanding* on certain points," that he would not in future make "appointments prejudicial to their influence." His Excellency refused to "come to *such* an understanding;" and then, and not till then, did he express his "antagonism" to the principle of party patronage, which he had observed governing their recommendations to office, from his first arrival in the Province, but to which his formal assent was then for the first time demanded. Hitherto, without discussing or alluding to the party principle which he had noticed influencing their advice as to patronage, he had considered each case on its own merits, and sought to meet the wishes and support the influence of his advisers, as far as possible, both in abstaining from and in making appointments. But when the principle—the newly-avowed, the false and unchristian principle—was brought before him for his sanction, that the prerogative might be bound to the car of party, he avowed his "antagonism" to the principle, and asserted, on behalf of his Sovereign and her Canadian subjects, the prerogative of justice and impartiality to all classes and parties. With what commanding dignity and authority to the conscience and soul of uncorrupted man, does this parental and divine principle—this principle avowed and contended for by Reformers in Canada during the last twenty years—contrast with the selfish, the ignoble and ignobling principle laid down by Mr. Hincks as the fundamental principle of *(his)* representative government,

when in reference to this very antagonism, he says, in his *third* letter to the London *Morning Chronicle*, "I admit the good intentions of the Governor, but I am firmly persuaded that no representative government can be conducted unless on *party principles*." Where the principles of a government are party, there party must be the first interests in the state; and where party is the first interest in the state, the Lord have mercy upon all who are not of the dominant party, and away with the prerogative. This doctrine is the very antipodes of constitutional monarchy—does not even attain to the virtue of republicanism—is the very essence of oligarchy and of democracy—the democracy of Athens when *ostracism* was in the ascendant—the democracy of England when *Cromwell* seized the Crown—the oligarchy of Athens when the *Thirty Tyrants* ruled—the oligarchy of England when the *Earl of Leicester and twenty-three others* got the prerogative in their own hands, by exacting a "stipulation" to that effect from the feeble Henry III. It is the doctrine that "might gives right." But of this government "on party principles," more in another number.

It has also been objected, that his Excellency did not act courteously towards his late Counsellors, and that he sought to undermine and destroy their influence. The last part of this objection has received a partial answer in the remarks just made, but shall presently receive a more full answer. As to the courtesy of Sir Charles Metcalfe's conduct towards his late advisers, their own testimony at the time of their resignation, is an ample refutation of the insinuations which some of themselves have subsequently made for "party purposes." Mr. Hincks concluded his first letter in reply to Mr. BUCHANAN, in the following words:

"*The only feeling that I, or any of my late colleagues can entertain towards his Excellency, is one of gratitude for the* UNIFORM COURTESY *with which we were treated by him, up to the last moment that we held office.*"

And if the courtesy of Sir Charles Metcalfe was such towards Mr. Hincks as to command his gratitude, to the exclusion of every other feeling, no one will believe that his Excellency ever treated any other member of his Council with discourtesy.

Then, as to His Excellency's having sought to undermine and destroy the influence of his late advisers, let the following facts be considered:—1. His Excellency suffered no man in Canada to know that he had any "antagonism" whatever with them on any subject, down to the very eve of their resignation. 2. When they were reflected upon in an address from some part of the Home District, His Excellency repelled the reflection, to the great annoyance of the then opposition press in Canada,—threw over them the shield of his protection as "eminent individuals" possessing

his confidence and that of the country—in return for which, some of those "eminent individuals" have smitten His Excellency with the charge, not only of despotism and tyranny, but even of *wilful* falsehood. The Governor-General had said, that the late Council sought to reduce the Governor to the condition of a cypher; to which Mr. Hincks has replied, that "No one knows better than *Sir Charles Metcalfe, himself, that the late Ministry neither attempted nor desired to reduce the Governor to the condition of a mere cypher.*" 3. The Governor-General has exercised the patronage of the Crown to an amazing extent, in favour of the influence of his late advisers. They desired to strengthen their power in the Legislative Council: as a direct public compliment and favour to Mr. Baldwin, His Excellency recommended the elevation of Mr. Baldwin's venerable and venerated father to the Legislative Council. His Excellency also recommended the elevation of several others of the party of the late Counsellors, and amongst others, the famous Captain Æmilius Irving, who has characteristically returned this act of His Excellency, by not merely opposing his measures, (which he has an undoubted right to do,) but by becoming the most violent and abusive of His Excellency's assailants. Further, as a *general rule*, His Excellency has distributed the patronage of the Crown so as to favour the influence of his late advisers. The instances in which he has dissented from their advice, have been the *exceptions* to the general rule, and of minor importance. My proof of this assertion is as follows:—His Excellency asserts it in his protest; his late advisers did not deny it. In some of the addresses presented to His Excellency, the partial distribution of patronage in favour of the party of the late Council, was strongly complained of, which called forth the following remarks from His Excellency, in his reply to an address from Scarborough:—"Your complaint of the distribution of the patronage of the Crown for party purposes, during the time when the gentlemen of the late Executive Council were in office, bears testimony to the extreme attention which, whether I was right or wrong in so doing, I paid to their recommendations; and yet, strange to say, while I have been accused of subserviency to their party exclusiveness, the alleged ground of their resignation, was, that I presumed to use my own discretion, in the exercise of that branch of the Royal Prerogative; and on that pretence alone, they and their partizans have since endeavoured to excite the people to personal hostility against me, by unfounded assertions of my denial of that system of responsible government, to which I have repeatedly declared my adherence." And, as to the character of the appointments not of the party of the late Council, great efforts have been made to magnify their importance. But to these a hundred-times-reiterated statements I will oppose the testimony of the Honourable R. B. Sullivan, President of the late Council, who, in his explanatory speech

in the Legislative Council, November 30, expressed himself thus:—"THE APPOINTMENTS CERTAINLY WERE TRIFLING."—These five words, from the ex-Counsellors themselves, by the mouth of their President, more than nullify their five and twenty columns of their subsequent declarations against Sir Charles Metcalfe, for having preferred their opponents to very important situations. From their own confession, it is clear that the important appointments were given to their friends, and the only appointments of which they could complain "certainly were trifling." Had the Governor-General sought to damage the influence of the late Council, he would have certainly conferred upon their opponents other than "trifling appointments." This acknowledged fact, proves to a demonstration that His Excellency paid the greatest respect to the advice of his late Counsellors that he gave the *bread* of the Crown patronage to their friends, and only bestowed upon their opponents a few "trifling" *crumbs*. Yet, with more than a Jewish selfishness and exclusion, they cannot suffer a Gentile dog not of their party, to receive a crumb from their royal master's table. Nay, "to make assurance doubly sure," that royal master must "come to some understanding" with them, that he will hereafter not even bestow a crumb, *except by* THEIR *consent*.

It has, however, been alleged, that the Governor-General offered the important office of Speaker of the Legislative Council to an opponent of the late Counsellors. This is not true, though it has often been stated. The Governor-General offered that office to a *friend and defender* of the late Counsellors; but not to an opponent. The gentleman with whom the Governor-General first conversed respecting that office, having declined being a nominee for it, His Excellency *intended* to have conferred with a gentleman whom the late Counsellors have represented as their opponent —a gentleman who had not only been a member but speaker of the House of Assembly—who had long been a Judge of the Supreme Courts of the land—who had been elevated to the Legislative Council during the incumbency of the late Counsellors themselves—who had only differed with them on one question—the Seat of Government,—and who had made a far less elaborate and less vehement speech against them on that question than the Chairman of the Toronto Association himself. But the Honourable Judge Sherwood had left Kingston, and His Excellency's *intended* conversation with him never took place. But will the reader believe it!—and I state it advisedly, upon the best authority—the Governor-General himself, in the interviews on the memorable Friday and Saturday, stated this fact to his late Counsellors, in all the frankness of an upright and ingenuous man; and they now lay hold of what His Excellency himself informed them he had *intended* to do, as a charge against him that he has violated the constitution of Canada!

Let it also be borne in mind, that the Speakership of the Legislative Council has never yet been determined, or even held to be a *political* office, that it was determined otherwise in the appointment which Lord Sydenham had made; that it is a very grave, as well as an undefined question, whether the Speaker and Members of the Legislative Council are to be the mere nominees of the House of Assembly, through its responsible representatives in the Executive Council; whether in that case the Legislative Council would be a third estate of the Canadian realm, or the mere echo of the House of Assembly; whether under such circumstances, it would not be more honourable to be a member of the House of Assembly than to be a member of the Legislative Council; whether in such a case, the Legislative Council would be worth having; whether the Legislative Council ought not to be as independent of the House of Assembly, as the House of Assembly is of the Legislative Council; whether, in all the appointments relating to the Legislative Council, the principle of its own independence of the Assembly ought not to be recognized and acted upon; whether this grasping after patronage indicated in those declamations about the appointment of Speaker to the Legislative Council, is not another proof of the desire and effort of the late Counsellors, to get every branch of the Constitution under their own feet; whether it would not have appeared more dignified, and constitutional, and liberal for them to have avowed, that they desired to interfere as little as possible with the exercise of the Prerogative in regard to the Legislative Council; that as they had brought in a bill with a professed view to secure the independence of one branch of the Legislature, they wished to act upon the same principle in regard to the other co-ordinate branch.

There is, however, an important and conclusive fact, relative to the appointment of Speaker of the Legislative Council, which has not yet been adverted to. The appointment having been referred to in the Legislative Council after it took place, Mr. Sullivan informed that Honourable body, in explanation and justification of the proceeding, that His Excellency's advisers had laid before him the names of several gentlemen, as acceptable to them for that office, and amongst those names was that of the Honourable gentleman whom his Excellency had been pleased to appoint. This proceeding took place more than a fortnight before the resignation, during which time no dissatisfaction was expressed to His Excellency or to the Legislature on the subject. After having thus continued in office; thus by silence, (at least to His Excellency and to the Legislature) concurred in what he had done; after having explained it to the Council and to the country in satisfactory and approving terms, the late advisers, as soon as they are out of office, arraign His Excellency before the country, for a proceeding to which themselves had thus been

acquiescing and approving parties. This is another example of political *repudiation* unparallelled in constitutional history, and only equalled by those similar acts of the late Counsellors, that I pointed out in the fourth number of this argument.

There is still another act of the Governor General which has been reiterated times without number as damaging to the influence of the late Counsellors. It is the appointment of Mr. Powell, as Clerk of the Peace in Dalhousie District. This is their great case, which determined them to go to his Excellency with their demands. Now, although the merits of this or any other appointment has nothing to do with the great question at issue, yet as the late Counsellors have selected it as their strongest example against the conduct of his Excellency, I have no objection to join issue with them on this single case, and leave the country to judge between them and the Governor General. What I shall now state respecting this case is derived from a supporter of the late ministry, and from a gentleman of the Johnstown District, of the highest respectability —a free church Presbyterian, a man of most liberal sentiments, who accompanied the widowed mother of Mr. Powell, from Brockville to Kingston, on her journey there to apply for the vacant office in question, to be given to her only surviving son, on whom she and two daughters were entirely depending for the necessaries of life. It should be observed that the rival applicant for the office, who was recommended by the late Counsellors, was not in necessitous circumstances; that the father of Mr. Powell had come from Ireland into the Bathurst District with considerable property,—had been the principal founder of one of the settlements of that district,—had, like many of his generous countrymen, exhausted his means, and became embarrassed in his circumstances—was appointed sheriff of that district, and died in debt; that his eldest son succeeded his deceased father in the office, and to him the family looked for support; that that son died also, leaving a younger brother nearly of age, and nearly through his legal studies, as the only earthly prop of his mother and support of his sisters. That mother, not contented with having transmitted a written application, came in person to Kingston to lay her case before the Governor General. Her son was not a member of any secret society, and too young to be regarded as a political character. Here then were the cases of two candidates laid before the Governor General—both equally well qualified for the office applied for. In behalf of the one pleaded *political party purpose*—the "principle of government on party principles"—in behalf of the other, pleaded the wants of the widow and the fatherless. Which plea was the more likely to affect the tender and generous breast of Sir Charles Metcalfe? To which plea was he more likely to listen—to the tears of the destitute widow, or the ex-Counsellors relentless doctrine of party patronage?