

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

However, this latent intention of His Majesty to create a Council for each of the Provinces of His Canadian dominions, was soon clearly divulged in a most important document, commonly called "*the King's Instructions*," in which an Executive Council was regularly constituted and declared as follows:—

"Whereas we have thought fit that there should be an Executive Council for assisting you, or the Lieutenant Governor, or Person Administering the Government of the said Province of Upper Canada for the time being, we do by these presents nominate and appoint the undermentioned persons to be of the Executive Council of our said Province of Upper Canada," &c. &c. &c.

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

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

But he feels it incumbent upon him frankly and explicitly to state, that to the opinions they have expressed, he can never sub-

scribe—on the contrary, that so long as he shall continue to be Lieutenant Governor of this Province, he will never allow his Executive Council officially to assume that heavy responsibility which he owes to his Sovereign, as well as to the people of this Province, to whom he has solemnly pledged himself "*to maintain the happy Constitution of this country inviolate, but cautiously, yet effectually to correct all real grievances.*"

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

The Council cannot have forgotten, that previous to their first meeting in the Council Chamber, which happened only a few weeks ago, the Lieutenant Governor had assured them in a note, (which was even publicly read in the House of Assembly) that although he had no preliminary conditions to accede to, or to require, it was his intention to treat them with implicit confidence; and the council must also remember how willingly they approved of the very first suggestion he made to them, namely, that no important business should be commenced in council, until they as well as the Lieutenant Governor himself, had become mutually acquainted with their respective duties.

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

Government House, Toronto, March 5, 1836.