

bility is better. On the one hand, the Governor will not be relieved of his responsibility to the Crown; and, on the other hand, the local Government will not be relieved of its responsibility to its own Parliament, so that while the Colonial Parliament may punish the Minister for improper advice, the Crown may punish the Governor for an improper decision. *The fact is that in these matters we ought not to be too logical.*"

Prior to Confederation, and after it until 1878, the same instructions were in force in Canada, and in pursuance of them both Sir Edmund Head and Lord Dufferin commuted sentences upon their own judgment, and in opposition to the advice of their Council. In 1876 the subject was taken up by Mr. Blake, then Minister of Justice, and the result of his representations was that when the Marquis of Lorne came out, fresh instructions were issued, in which the following words occur: "And we do hereby direct and enjoin that our said Governor-General shall not pardon or reprieve any such offender, without first *receiving, in capital cases, the advice of the Privy Council* for our said Dominion, etc."

Now, in applying this rule to the case before us, let us first consider how far, in such cases, the Governor-General is bound absolutely to act upon the advice of his Council. Is he bound, as he is in other matters, either to act upon their advice, or place them in a position which would compel their resignation? Is not this a case in which, as Lord Carnarvon says, we must not be too logical? If the doctrine of ministerial responsibility is to be thoroughly carried out, the exercise of clemency as emanating from the grace of the Sovereign, and as part of the Royal prerogative, becomes a thing of the past. Is this a desirable conclusion, and does it necessarily follow from the words of the instructions? Let us again quote Lord Carnarvon: "It has been argued," he says, "that ministers cannot undertake to be responsible for the administration of affairs unless their advice is necessarily to prevail on all questions, including those connected with the prerogative of pardon. But I am led to believe that this view does not meet with general acceptance, and there is at all events good reason why it should not. The pressure, *political* as well as social,