

Report of Com-
mittee to Commons
House of Assembly.

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

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

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

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

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

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

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