

No. 10.
 Lord Glenelg
 to
 Sir F. B. Head,
 25th July 1836.

1. Of these Topics, the first in order of Time is the Appointment of Captain Macaulay to the Office of Surveyor General. Your Proceedings in regard to the late Surveyor General, Mr. Hurd, are entitled to my unqualified Approbation; in calling upon that Gentleman to resign, you discharged an invidious Duty with equal Firmness and Moderation. I also approve your Refusal to appoint Mr. Radenhurst as his Successor, notwithstanding the Number and Weight of the Testimonies in favour of that Gentleman. I do not inquire whether the Charges preferred against Mr. Radenhurst, of a Breach of Trust in the subordinate Office which he had so long filled, were well founded or otherwise,—that Inquiry is not necessary to the Consideration of his Claims for Advancement,—I must look at him, not in the Light of a Person called upon to exculpate himself from the Imputation of a grave Offence, but as a Candidate for a public Trust of the highest Importance; and in this View of the Matter I am bound to decide against his Claims, conceiving it to be impossible that he should enjoy public Confidence.

The Appointment of Captain Macaulay appears, in so far as his personal Character and Qualifications for the Office are concerned, to have been entirely unexceptionable. But as Captain Macaulay deliberately tendered the Resignation of that Office, without any Explanation of his Motives, but (to quote his own Language) “on Grounds which, as a Wellwisher of the Government, were “with him paramount,” I cannot hesitate to accept that Resignation, and to impose on you the Duty of making another Choice.

2. The Proceedings which led to the Resignation of the Executive Council next demand my Attention. In the Address of the 4th of March from that Body to yourself, I understand them to maintain, that the Constitutional Act of 1791 imposed on the Governor, the Duty of communicating with the Council on every Act of his Administration, and required him on every Occasion to abstain from the Exercise of his Powers until he had first weighed and had either adopted or rejected their Advice. Their Address must further be understood as an Assertion that the People at large believed such to be the System actually observed by yourself and your Predecessors; and in the event of your not being disposed to adhere to it, the Members of the Council demanded your Permission to disabuse the public Mind on this Subject.

From the Construction thus given to the Act of 1791 I must altogether dissent; nor do I know that it would be possible to refute it, in Terms more complete and satisfactory than those employed in your Answer of the 5th March. I find it moreover very difficult to believe that the People of Upper Canada at large, supposed such Powers to be habitually and practically exercised by the Executive Council. In so contracted a Society as that of Toronto it is impossible that the Public should not have been better informed on a Question of such general Interest, and respecting which the Means of obtaining correct Intelligence could not have been really wanting.

When I advert to the Length of Service of Messrs. Robinson, Markland, and Wells in the Council, and to their constant Acquiescence in the Practice which they at length denounced as unconstitutional, I have no Difficulty in declaring my Opinion that you judged and acted rightly in calling upon them to resign their Seats at the Council Board. You will inform them that His Majesty has been pleased to accept their Resignations.

With regard to Messrs. Dunn, Baldwin, and Rolph, who had very recently taken their Seats at the Board, there is, I think, room for a much more favourable Interpretation of the Terms of the Address of the 4th of March. Differing as I do from them as to the Construction of the Act of 1791, and doubting the Prevalence of the Opinion which they requested Permission to contradict, I am yet willing to believe that they signed the Address under the Influence of no Motives but such as might have been reconciled with their Duty to the Crown and with their cordial Co-operation with yourself in the proper Business of the Executive Council. Some Indulgence may perhaps have been due to the Novelty of the Situation in which they found themselves placed, and to Distrusts which a more intimate Acquaintance with you, might perhaps, have promptly dispelled. I admit, however, unreservedly, that so long as they continued to assert the Right of Intervention, in every Act of the Executive Government, it was impossible that you should receive them as Members of your Council. Messrs. Baldwin and Rolph having adhered to that Demand, your Breach with