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and that the criticisms of Messrs. Baldwin, Hincks, Brown, on certain of his Excellency's replies are unfair, and unjust.

6. That his Excellency's avowed 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 the connection 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.

NUMBER II.

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 foundation of our government would not have been 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 con-

stitution, 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 on him, it must be they, and not he, that 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, that 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 anything 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 *Barnet's History of his own Times* for 1801, the reader will find that as Orford did not *advise* the treaty at all, but *consented* to certain parts of it—that Chancellor Somers, of the Privy Council, had advised against it, but as Chancellor he had 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 anything of the Treaty until after it had been determined on 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, with the articles of the Partition Treaty. And such has been the doctrine of ministerial responsibility in England from that time till this.

It will be seen in this case, that the Commons did not enquire or care (and has not done so for 150 years) whether the King determined upon the measure before or after

^{*} Constitution of England, chap. viii, pp 81, 82—Hughes' Edition.