

CANADA.

SIR,

Montreal, August 26, 1873.

I have the honour to acknowledge the receipt of your letter of the 21st of August instant, enclosing a copy of the Royal Commission, appointing Commissioners to inquire into and report upon the several matters stated in the Resolution moved by me, in the House of Commons, on the 2nd day of April last, and requesting me to furnish to the Commission a list of the witnesses I might wish to examine, in order that they may be duly summoned to appear, and to proceed with my evidence.

I have to call your attention to the fact, apparent on the face of the Commission, that it was as a member of the House of Commons, and from my place in Parliament, that I preferred these charges against Ministers of the Crown, and members of that House, which, on the 8th day of April last, entertained the charges, determined to investigate them itself, and appointed a Select Committee to inquire into it and report upon them; and to the further fact, apparent on the Journals of the House, that to the said Committee I furnished a list of some of the principal witnesses, whose evidence I believe could establish my charges, and I have always been ready to proceed to the proof thereof before the tribunal constituted by the House for the investigation.

The determination of the Commons to investigate these charges remains unaltered, and I deem it inconsistent with my duty as a member of Parliament, and a breach of the undoubted privileges of the House, to recognize any inferior or exceptional tribunal, created to inquire into charges still pending before the Commons, and so essentially affecting the privileges, dignity, and independence of Parliament.

I believe that it is a breach of those privileges, that a Royal Commission issued without the special sanction of the House, should take any cognizance of, or should assume to call on me to justify, words which I have spoken on the floor of the Commons, and for which I am responsible to them, and to them alone.

I feel that I should do no act which may be construed into an acquiescence in the attempt to remove from the Commons the conduct and control of the inquiry.

I believe that the creation of the Commission involves a breach of that fundamental principle of the constitution, which preserves to the Commons the right and duty of initiating and controlling inquiries into high political offences; that it involves also a breach of that fundamental principle of justice which prevents the accused from creating the tribunal and controlling the procedure for their trial; and that it is a Commission without precedent, unknown to the Common Law, unsanctioned by the Statute Law, providing by an exercise of the prerogative for an inquiry out of the ordinary course of justice into misdemeanour cognizable by the Courts, and consequently illegal and void.

Entertaining these views, you will not expect me to act otherwise than in conformity with them, and you will be satisfied that by my non-appearance before the Commission I intend no disrespect to the Commissioners, but am moved by the same sense of public duty which will constrain me at the earliest practicable moment to renew the efforts which I have been making since April last to bring to trial before the Commons of Canada the men whom I have impeached as public criminals.

To the Hon. Charles D. Day, Chairman,
Ottawa.

I have, &c.,
(Signed) L. S. HUNTINGTON.

No. 11.

The EARL OF KIMBERLEY to The EARL OF DUFFERIN.

MY LORD,

Downing Street, November 13, 1873.

I REFERRED to the Law Officers of the Crown your Despatch of October 4, requesting instructions for your guidance in the event of an Act being passed by the Dominion Parliament, purporting to authorize the issue of a Commission of Inquiry into the Pacific Railway question, and to give to such Commission the power of examining witnesses on oath, and I have now to inform you that in their opinion that course would be beyond the powers of the Parliament of the Dominion.

The Earl of Dufferin,
&c. &c. &c.

I have, &c.,
(Signed) KIMBERLEY.