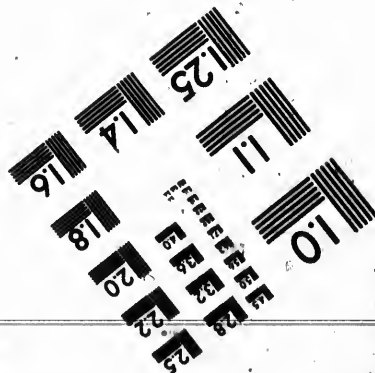
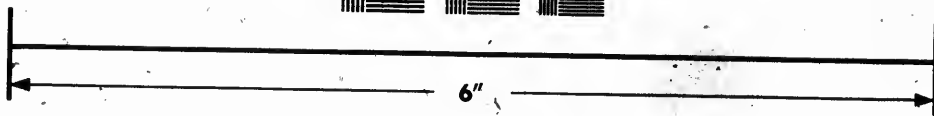
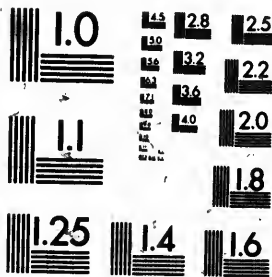


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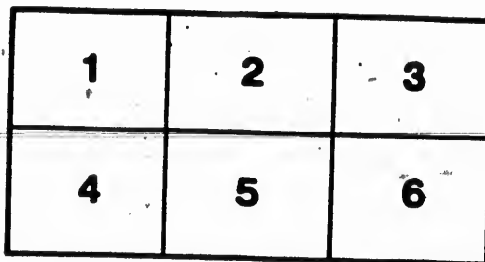
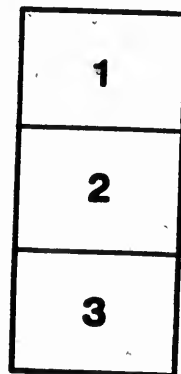
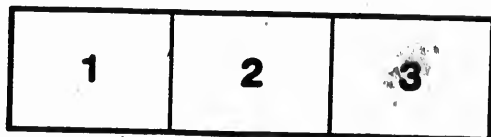
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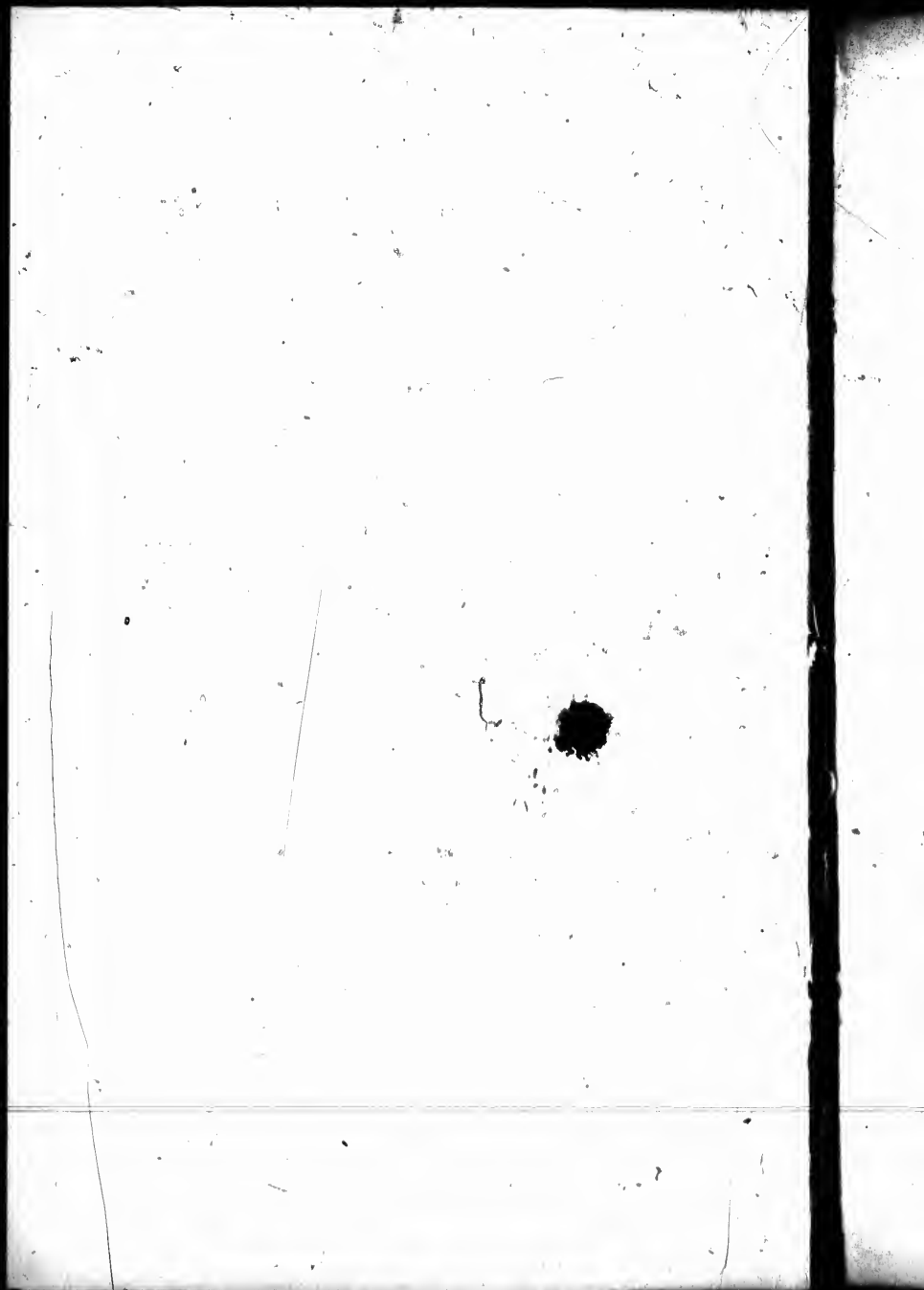
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A STATEMENT OF FACTS

RELATIVE TO

THE DISMISSAL

OF

JAMES S. HOWARD, Esq.

LATE POSTMASTER OF THE CITY OF TORONTO; U. C.

"He hoped honorable Members would regulate their conduct by the rules of British justice. Had they ever known an instance of a Government doing away with the appointment of an Officer who did no wrong, in order to give it to another?"—*Extract from Mr. Attorney-General Hagerman's Speech on the Registry Bill, March 2nd, 1839.*

TORONTO:

J. H. LAWRENCE, PRINTER, GUARDIAN OFFICE.

1839.

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A STATEMENT OF FACTS, &c.

TO THE MEMBERS OF THE LEGISLATURE, AND THE
INHABITANTS OF UPPER CANADA.

Gentlemen:

In Sir GEORGE ARTHUR's Proclamation on the destruction of the "*Sir Robert Peel*" steamboat, His Excellency remarked that "It need not be said to men who understand the character and institutions of England, that *injury* offered to *one* British subject is felt by *ALL*—and that the mutual ties of duty and affection which bind a free and loyal people and their Sovereign together, give the strength of the whole Empire to an *injured individual*." It is upon this principle that I bring an individual case under your consideration; and it is upon the reality and strength of this principle that I crave and hope for your favourable attention to the following statements and documents:—

Many of you are aware that, at the time of the insurrection in Dec. 1837, I was suddenly removed from the office of Postmaster in this city. From that time I have quietly allowed my reputation to remain in suspense, having an unwillingness to disparage or pain the Government by an exposure of the facts of the case. I have also been assiduously seeking an investigation of those facts, as a certain means of securing reparation for the wrongs I have received; and, having no doubt but that such an investigation would be granted me, I have awaited it with all possible forbearance as well as sought it with all necessary activity. At length, however, the fact has burst upon me, that I am not to be reinstated in office nor to have an opportunity of clearing my character. To the loss and inconvenience inflicted on me I am obliged to submit,—but in the destruction of my character I cannot passively acquiesce. I therefore beg permission to lay before you the

transaction by which I have been made a victim. In so doing I am not without hope that I may possibly throw into sight a clue by which some of the causes of our public disorders may be detected. I shall therefore herewith furnish all the documents bearing upon the matter,—and merely add so much of comment as is requisite to show the circumstances to which they relate and the objects for which they were drawn up.

It is important to a full view of the case that you should know, that, in the year 1820, I was brought into Post-Office engagements under the then Postmaster of Toronto, now the Honourable William Allan, a member of His Excellency's Executive Council. I was his only assistant in the several offices of Collector of Customs, Inspector of Licences, and Treasurer of the District. As his Deputy in these capacities I held regular commissions; and have conclusive proofs that my discharge of duty was satisfactory to himself, the Government, and the public. Upon Mr. Allan's resigning the office of Postmaster in the year 1829 I was offered the situation, and from that period to the hour of my being abruptly suspended continued to perform its duties without a complaint either from the head of the department or the Executive Government. In confirmation of this statement it will be enough to say that in the year 1835 the Deputy Postmaster General, unsolicited, proposed to me to be promoted to the rank of Post-Office Surveyor.

Thus I continued in the service of the Crown till the close of the year 1837. I spent eighteen years in the Post-Office department. Those years were the prime of my life; in them I became unused to private business, and unfitted for it. Contented and unambitious, I felt settled in my office; relying upon the understood good faith of the British Government, Imperial and Provincial, I felt entitled to expect an enjoyment of my well-earned situation so long as I efficiently discharged its obligations. With this expectation I invested the greater part of my property in premises built expressly for the Post-Office business.

At the time of the rebellion, Mr. Berczy, the Post-Office Surveyor, informed me that I and Mr. Ballard (my senior

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Clark) were suspected of being radicals, and advised me to address himself or the Governor's Secretary on the subject, without bringing his name into question. Conscious that I was beyond the reach of any sincere suspicion of the kind, I at once resolved to grapple with what might be intended calumny, and hastily wrote the following note :

Post Office, Toronto, 9th Dec. 1837.

Sir,—I beg to avail myself of the first leisure moment, to inform you that at or about 9 o'clock this morning, for the first time, I learned that there were suspicions entertained, that I was either implicated in the calamitous and fearful events which have befallen our country and city within the past few days, or that my opinions were of such a nature as to warrant such a suspicion. The object therefore of this communication, written as you may suppose under the most painful feelings, is to solicit through you, as my present superior officer, such an investigation as His Excellency the Lieutenant Governor may deem proper, so as at once to afford me relief from the painful state of feeling which the existence and currency of such a supposition has created.

I have the honor to be,

Sir, &c. &c. &c.

(Signed)

J. S. HOWARD.

CHARLES BERCZY, Esq.

Post Office Surveyor.

This note was enclosed by Mr. Berczy to Mr. Joseph, and an acknowledgment of it received by the former gentleman, who read to me an extract from that acknowledgment, but would not allow me a copy of it, though applied to for that purpose no less than five times. On the day after this incident, Mr. Berczy came to me, put his hand on my shoulder, and said that the Attorney General desired him to tell me that *there was nothing against me, but I had associated too much with those people.* I continued to ask Mr. Berczy what was to be done in my case. At length he became heated at my impatience to obtain investigation, and apparently feeling himself responsible for what had arisen, burst forth into violent accusations. For instance he charged me with entertaining opinions favourable to an elective Legislative Council—said that my son (between 10 and 11 years of age) read Mackenzie's and O'Grady's papers

rather than others—scribed to me an opinion that the Lieutenant Governor was a mere citizen, &c. &c. After this, one of the Executive Council came in and expressed his regret that any thing unfavourable to me had been said, and his having told the Lieutenant Governor that Her Majesty had not a better subject than myself. Upon which Mr. Berczy, appealing to this Councillor, said that his report of me had represented me as a Reformer, but a most efficient public officer. Suspicious enough all this was at the time, but combined with what has since come to light is perfectly clear.

Upon arriving at the office on the following morning, Mr. Berczy informed me *with great sorrow* that I was to be removed from my situation, and shortly afterwards I received the following note:

Government House, Dec. 13, 1837.

SIR,—I have it in command to inform you, that His Excellency the Lieutenant Governor has thought proper to remove you from the Post Office at this place. Mr. Berczy has been directed to take charge of the office, for the present.

I have the honor to be,

Sir, &c. &c. &c.

(Signed)

J. JOSEPH.

J. S. HOWARD, Esq.

I said to Mr. Berczy, "Sir, I am convinced this is a plot to deprive me of my office, and one of long standing, irrespective of the events of the last few days." He assured me of his innocence.

Thus removed by the Lieutenant Governor without an open charge against me, and without an investigation, notwithstanding my request for it, I had only to appeal to my superior in the department, Mr. Stayner, Deputy Postmaster General. He wrote me that he had heard nothing from the Lieutenant Governor, and felt it his duty immediately to address His Excellency for information.

I also petitioned Sir Francis Head before his retirement from the Government, to leave my character in such a position that his successor might be able to reach the merits of my case. My petition is here subjoined:

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To His Excellency Sir Francis Bond Head, Bart. Lieutenant
Governor of Upper Canada, &c. &c. &c.

The Petition of JAMES SCOTT HOWARD, humbly sheweth :

That your petitioner was informed by the Post-office Sur-
veyor of Upper Canada, on the morning of the 9th of Decem-
ber last, that he your petitioner was "suspected of being a
radical;" that feeling deeply under the false insinuation, and
prompted by his own desire to court enquiry, as well as the
suggestion of him the Surveyor, he addressed that gentleman
on the subject, soliciting such an investigation into the opinions
or conduct of your petitioner as your Excellency might have
deemed proper.

That your Excellency has thought fit to remove your
petitioner from the Post Office of this place, by an instrument
bearing date the 13th of December last, without any charge
being preferred against your petitioner that he is aware of, or
of affording him an opportunity of vindicating himself.

That your petitioner begs leave to represent, that in conse-
quence of such removal under existing circumstances, the cha-
racter of your petitioner, hitherto without a stain, is suffering
severely, that his prospects are blighted, and that if some relief
is not afforded to your petitioner, the result cannot prove other-
wise than ruinous in every point of view.

That your petitioner having been given to understand that
your Excellency was about to retire from the government of
this province, humbly solicits that your Excellency will be
pleased to take such steps as may to your Excellency seem
proper, so as to place the suffering character and circumstances
of your petitioner in their proper position, prior to the arrival
of your Excellency's successor in the government.

And your petitioner as in duty bound will ever pray.

(Signed)

J. S. HOWARD.

Toronto, 1st February, 1838.

Sir Francis in reply referred me to my official superior,
and upon my receiving what Mr. Stayner called "the
substance" of His Excellency's charges, and my then
petitioning for the evidence upon which those charges were
grounded, he finally closed the door in my face by telling
me that Mr. Stayner was my official superior, to whom he
begged me to address any further communication I might wish
to make on the subject of my removal. At length, after hav-
ing sent copies of all the documents to the Queen's Govern-

ment, I received from Mr. Stayner a copy of the letter in which Sir Francis Head had accounted for his proceedings. That copy I now give :

Government House, Toronto, Jan. 22, 1838.

Sir,—I am commanded by His Excellency the Lieutenant Governor to transmit to you a copy of communications, which by His Excellency's direction were addressed to Mr. Howard and Mr. Bercezy, by which you will perceive that Mr. Howard has been removed from the Post Office in this city, and Mr. Bercezy required to assume the temporary charge of that department. It is His Excellency's opinion, that the situation of Postmaster, especially at a time when the province is endangered by open rebellion, ought as a matter of course to be held by a person of not only undoubted loyalty, but by one who would zealously and cordially exert himself in every way to detect and frustrate the designs of the disaffected. Mr. Howard has long been supposed to have a bias in favour of the political opinions of the republican faction in this province, and he certainly has never shewn a disposition to oppose them on any public occasion. As a proof that he was confided in by the principal leaders of the revolutionary party, letters were directed to him under a blank cover, to be delivered to persons who were so strongly suspected of treason, as to have been committed for examination during the rebellion; and one of these letters, on being opened, was found to contain highly seditious if not treasonable matter. On the occasion of the outbreak of the recent insurrection, when told by his superior officer that he should take arms in common with the judges and other law officers and public functionaries, in defence of the province and during the threatened attack on the city, he declined, alleging that he was a man of peace. It further appears on investigation, that almost every individual connected with the Post Office department, in all its various ramifications (so far as the appointments were at the command of Mr. Howard) belonged to the revolutionary party. It may be perfectly true (and His Excellency cannot assert the contrary) that Mr. Howard is not himself a disloyal man, but the circumstances above mentioned have produced in the mind of the Lieutenant Governor the conviction, that it would not be right to suffer the secret correspondence of traitors to pass through the hands of a person who was open to the suspicion of a friendly bias towards them or any of their adherents, and it appeared to His Excellency highly objectionable that the Post Office at the seat of government should be in the hands of an

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individual in whom the most implicit confidence could not be placed by the Lieutenant Governor. It was for these reasons that His Excellency considered it his duty to suspend Mr. Howard from so responsible and confidential an office, and to desire Mr. Berczy to take charge of that department, until you should be able to make such arrangements as you might deem desirable for the proper conduct of so important and responsible an establishment.

Mr. Berczy was selected for the intermediate direction of the Post Office, because His Excellency had the fullest confidence in his zeal, his ability, and his integrity.

I have the honor to be,
&c. &c. &c.

(Signed)

J. JOSEPH.

T. A. STAYNER, Esq. &c. &c. &c.
Quebec.

Such were the accusations upon which my removal was professedly grounded; but by whom they were advanced, or by what testimony they were sustained, I had no means of ascertaining. Without any tribunal at which to plead my cause—without an opportunity of confronting my slanderers, I could see no course open to me but addressing the Earl of Litchfield, the highest officer in the Post-Office Department, and Lord Glenelg, the Secretary of State for the Colonies. I therefore forwarded the following letter to the former of those noblemen, and a copy of it to the latter:

Upper Canada, Toronto, March-16, 1838.

MY LORD,—I had the honor, on the 22d February, of forwarding to your Lordship a statement of a transaction in which I consider myself to be greatly aggrieved; together with copies of documents connected with the several points of the case. It gives me pain so soon again to obtrude upon your Lordship's attention, but the recent receipt of other important papers requires me immediately to put them into your possession.

Your Lordship will perceive by Enclosure No. 1, what are the charges made against me as Postmaster by His Excellency Sir F. B. Head—charges into which I request a full and impartial investigation. I beg leave to assert the entire baselessness of the presumption attempted to be raised against me; and will now submit to your Lordship's consideration the facts upon which I purpose resting my defence.

The first statement by which I am accused is this: "Mr. Howard has long been supposed to have a bias in favor of the political opinions of the republican faction in this province, and he certainly has never shewn a disposition to oppose them on any public occasion." My Lord, I am ready by oath, or any other means to be suggested by yourself, to prove that I do not hold, that I never have held, any republican principles. My private associates, my official acquaintances, may all be examined to ascertain if I have in any one instance said a word favorable to such principles. Never have I by voting, or attending a meeting, or giving a signature, or rendering a contribution, afforded countenance to them. That I have not acted in politics at all I confess—your Lordship will decide whether postmasters are required so to do. If in this matter I have omitted a duty, it has been not only from a sense of propriety, but with the example of the English postmasters, all of whom I understand to be divested of the elective franchise.

The next point advanced against me is the following: "As a proof that he was confided in by the principal leaders of the revolutionary party, letters were directed to him under a blank cover to be delivered to persons who were so strongly suspected of treason, as to have been committed for examination during the rebellion; and one of these letters, on being opened, was found to contain highly seditious if not treasonable matter." I understand this passage, my Lord, to refer to two letters sent to me by Messrs. John and Joseph Lesslie of Dundas in this province, for their brothers Messrs. James and William Lesslie of Toronto. If I was in this case "confided in by the leaders of the revolutionary party," I did not deserve the confidence, for the two letters were spontaneously handed to the Post-office Surveyor by myself. Besides, my Lord, one of them was from Mr. John Lesslie, at the time and for several years preceding the Postmaster of Dundas—the other was from Joseph Lesslie, a mere youth. The letter said to contain "highly seditious if not treasonable matter," was from the younger of these persons, who notwithstanding the detection of the said correspondence, has not up to this hour been arrested or even spoken to on the subject by the authorities. I have the honor to forward for the use of your Lordship, the best account I can procure as to the nature of the letters, which are Enclosures Nos. 2 & 3. That Messrs. James and William Lesslie of Toronto were committed for examination, is I believe quite true; but these are not the gentlemen who placed the mentioned confidence in myself; and I am informed that they were committed without any deposition against them, without a magistrate's warrant, without

ed is this: "Mr. as in favor of the this province, and to oppose them on by oath, or any to prove that I do ican principles. nces, may all be ance said a word by voting, or at- rendering a con- I have not acted I decide whether is matter I have use of propriety, ers, all of whom chise.

following: "As al leaders of the n under a blank ongly suspected mination during ng opened, was ble matter." I two letters sent Dundas in this William Lesslie by the leaders the confidence, the Post-office the was from ears preceding Joseph Lesslie, hly seditious if these persons, rrespondence, ken to on the orward for the cure as to the 2 & 3. That ore committed se are not the ce in myself; thout any de- rant, without

a hearing—and that they were afterwards released without an accusation. I can only add upon this point, that if any of these gentlemen were of the revolutionary party, it was and is without my knowledge.

I am further charged with declining to take up arms to resist the insurgents in this neighbourhood. My Lord, I have understood that Her Majesty's Ministers had proposed a provincial act exempting all Postmasters from militia duty. But besides this, I did not strictly decline bearing arms—my superior never doing more than incidentally alluding to it in a loose and cursory conversation. I beg also to submit, that during the whole time of the rebellion, I was obliged to be in continuous Post Office duty, which was greatly increased beyond what is ordinary. I also vigilantly and effectually preserved all the property, carrying it from time to time to the Upper Canada Bank, which was the best fortified place at hand.

The only remaining imputation on me is this: "It further appears on investigation, that almost every individual connected with the Post-office Department, in all its various ramifications, (so far as the appointments were at the command of Mr. Howard,) belonged to the revolutionary party. Allow me, my Lord, to assert that I never made any appointment with reference to political opinions. The only person whom I suppose to hold opinions offensive to His Excellency was letter-carrier to my predecessor, the Hon. W. Allan, who is now one of the Executive Council. He has for four years been unconnected with the Department. Of the persons appointed by myself, not one to my knowledge has been arrested or suspected. My principal clerk (and the only one in my employ when I was removed from office) has been continued and is now engaged in his then situation. I respectfully beg your Lordship's attention to affidavits and documents from all my clerks, from Nos. 4 to 10 inclusive; the deposition of my late carrier, now absent from the country, would have accompanied these, had I obtained at an earlier date the charges preferred against me; but should your Lordship deem it of importance it can yet be procured.

My Lord, I have no means of protecting myself and my family but by this appeal to yourself; no other do I desire. By birth, by preference, by a sense of duty, by habit I am attached to the British crown, and have no fear of injustice from it. For eighteen years I have to the best of my ability served in the Post Office Department, and have received promotion till I declined it when proffered by the Deputy Postmaster General. I believe that I have given entire satisfaction

to my official superiors and the public. Of this, when the suitable occasion arrives, I can submit proof. Unless exonerated from the present crimination, I am disqualified from ever serving Her Majesty, or even any one of her loyal subjects. I have no private profession, I am 39 years of age, and in fact am ruined unless shielded by the justice of your Lordship. If I am a victim of misinformation or suspicion, pray, my Lord, afford me relief. If I am guilty of any participation whatever in the crime or opinions of rebels, let me by enquiry be deprived of power to profess innocence.

I have the honor to remain,

My Lord;

Your Lordship's most obedient humble servant,
(Signed) J. S. HOWARD.

To the Right Hon. the EARL OF LITCHFIELD,
Postmaster-General, London.

This letter was accompanied by the following depositions and documents:

(A.)
Gore District, } Personally appeared before me, Geffery
to wit. } Lynch, Esq. one of Her Majesty's Justices of
the Peace for the said District, John Howard of the township
of Puslinch, and deposed that he acted as Clerk in the Post
Office of Toronto, from 12th of July, 1830, to 26th Dec. 1831;
that during that period the strictest impartiality was observed
in the discharge of its duties; that the Postmaster, James Scott
Howard, was in no way to the knowledge of your deponent
connected with the prevailing parties existing in the province,
nor did he interfere in politics or even vote at elections.

(Signed)

JOHN HOWARD.

Sworn before me at Guelph,

(Signed)

GEFFERY LYNCH, J. P.

(B.)
Gore District, County of } Personally appeared before me,
Saltfleet, to wit: } John Williamson, Esq. one of Her
Majesty's Justices of the Peace for the said District, John
Ballard of the township of Saltfleet, and deposed that he served
in the Post Office at Toronto in the capacity of senior assistant,
from January 1830 to January 1832; that during that period,
and under the direction of James Scott Howard, Postmaster,
the duties of the office were performed with the strictest impar-
tiality, and without reference to the opinions or views of any

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individual frequenting it, and that to the knowledge of your deponent the said J. S. Howard never interfered in the party disputes or politics which have agitated the country, or even voted at elections.

(Signed) JOHN BALLARD.

Sworn before me at Stony Creek,
(Signed) JOHN WILLIAMS, J. P.

(C.)

Home District, County of } Personally appeared before me,
Simcoe, to wit: _____, one of Her
Majesty's Justices of the Peace for the said district, Benjamin
Moses Hayter, and deposes, that he served four years and ten
months in the Toronto City Post Office, in the capacity of
junior assistant; that during that period, and under the direction
of James Scott Howard, postmaster, the duties of that office
were conducted with the most strict impartiality, and without
the slightest reference to the opinions or views of any individual
frequenting it; that to the knowledge of your deponent, the
said J. S. Howard never interfered in party disputes or politics
or voted at elections; that during the recent rebellion, and up
to the time of your deponent's leaving the office on the morn-
ing of the 8th of December (which was in consequence of ill-
health,) the said J. S. Howard and the senior clerk, J. Ballard,
and your deponent, were severally and collectively engaged in
the duties of the office, with but slight intervals, and that they
took all possible care of the property of the office and the
public, by depositing it on each emergency in the Bank of
Upper Canada, thereby increasing the duties of the office and
subjecting themselves to much inconvenience; that to the
knowledge of your deponent, the said J. S. Howard had no
connection with the "political faction who were in open rebel-
lion against the government," nor did he by virtue of his office
or otherwise "subserve or aid them in the execution of their
treasonable plans;" and finally, that he is not aware that any
individual connected with the office belonged to the revolution-
ary party.

The original of the above affidavit was transmitted to Immieff
for execution, and was returned to me endorsed by the lady of
Capt. O'Brien, to the effect that she had seen the dying young
man a few hours before his death—that he had expressed great
anxiety for the return of Mr. O'B. in order that he might swear

humble servant,
HOWARD.

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to its contents. It was returned to me, accompanied by a letter from his father, of which the following is an extract:—

Innisfil, March 5, 1838.

Dear Sir—It grieves me to inform you that Ben died last night at 12 o'clock. I had your letter two days before his death; he read it very attentively, and expressed his ready wish to swear to its contents, which he would have done but that Capt. O'Brien was in Toronto, and did not return at the appointed time. I might have got some other magistrate, but did not think he was so nigh his end. You see what Mrs. O'Brien has written, which from a dying youth will be as good as an oath.

(Signed)

MOSES HAYTER.

A deposition similar to the foregoing was placed in the hands of my senior clerk, John Ballard, and which he more than once promised to execute, but to my surprise he returned it unexecuted, accompanied by a letter, of which the following is a copy:—

(D.)

Toronto, March 9th, 1838.

DEAR SIR,—I have felt considerable uneasiness on the subject of the deposition now returned unexecuted. Should the executing of it lead to results in any way injurious to me, my family must suffer, particularly in the present unsettled state of affairs in this country. I must therefore decline doing so. I am, as you know, the only individual left in the department, to whom you have applied for depositions: I am peculiarly situated—I may say awkwardly so. I wish to give satisfaction to my present superior, and also to oblige you: but should the latter be the means of doing me harm, no consideration of having done an act of kindness or of justice would compensate for the loss and inconvenience myself and family might endure.

I remain, &c. &c. &c.

(Signed)

J. BALLARD.

(E.)

Gore District, } Personally appeared before me, Alexander
to wit: } Proudfoot, Esq. one of Her Majesty's Justices
of the Peace for the said District, Herbert Sullivan, of the
township of Trafalgar, and deposed, that he was engaged in
the Toronto Post Office as second assistant, commencing the
26th day of November, 1837; that from that period up to the

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6th of December, the date of his leaving the office, and which he did of his own accord, he saw nothing on the part of James Scott Howard, postmaster, indicating a subserviency towards the "political faction who were in open rebellion against the government;" nor did he, to the knowledge of your deponent, by virtue of his office or otherwise, "aid them in the execution of their treasonable plans;" further, that by the said J. S. Howard, and all connected with the office, every pains were taken for the security of the money and property of the office; and that he is not aware of any person connected with the office "belonging to the revolutionary party."

(Signed) HERBERT SULLIVAN.

Sworn before me,

(Signed) ALEXANDER PROUDFOOT, J. P.

It may be well here, in confirmation of my views that interference in politics was unadvisable in the case of Postmasters, to submit the following extract from a letter of Mr. Stayner's, dated 23rd June, 1832: "I am pleased to hear you say that you have nothing to do with party work. It is wise that you carefully adhere to this course. People in our department cannot too carefully abstain from identifying themselves with factions or parties of any kind. If we have opinions, we should, as far as possible, keep them to ourselves." It may be appropriate also to notice the circumstance that Mr. Ballard, the only Clerk remaining with me when Sir Francis Head made the statement "that almost every individual connected with the Post-Office, &c. belonged to the revolutionary party," was continued in the Post-Office, and has recently been promoted by the Government to the Commissariat Department.

At the time of my writing to the Earl of Litchfield and Lord Glenelg, I forwarded to Thomas Thornely, Esq., a member of the British House of Commons, a complete copy of every thing that had passed and requested him to communicate with the minister of the Crown on the subject. After the subject had been considered at the Colonial office, Mr. Thornely received a letter from Sir George Grey, of which the following is an extract: "That on receipt of Mr. Howard's first representation, Lord Glenelg immediately directed Sir George Arthur to enquire into the case, and to afford Mr. Howard an opportunity

of vindicating his conduct. The additional documents subsequently received from the Postmaster General on this subject will also be transmitted to Sir George Arthur, and Lord Glenelg will be happy to forward to him at the same time any representations in writing which you may wish to make in his behalf. It is, however, impossible for Her Majesty's Government to adopt any final decision on the case, until that investigation shall have taken place." He also received a letter from Lord Glenelg of which the following is an extract: "I have referred for the consideration of Sir George Arthur all the documents connected with the recent dismissal of Mr. Howard, the Sub-Postmaster of Toronto, and have accompanied them by a copy of the letter addressed by you to me. I am confident that Mr. Howard's case will receive the most ample consideration from Sir George Arthur." I now of course expected to be summoned to bear an examination and establish my innocence. No such summons, however, reached me, and at length I was startled to hear that the subject had been before Sir George Arthur's Council and a report made upon it without any intimation being made to me as to what was passing. Aware, as I was, of this astonishing fact, I did not notice it, but addressed a note as follows to Sir George Arthur's Secretary:

Yonge Street, July 16, 1838.

SIR,—I beg to acquaint you, for the information of His Excellency the Lieutenant Governor, that, by a letter received from a member of the British House of Commons on the subject of my removal from office by Sir F. B. Head, and who held interviews and communications with the Earl of Litchfield, Postmaster General, and Lord Glenelg on the matter,—as also by an extract of a letter from Sir George Grey,—I find, as I had reason to expect, every disposition manifested to afford me justice touching that transaction. That immediately on receipt of my first representations, sent home in February, they were forwarded to His Excellency with a view to institute enquiry, and that my subsequent representation, with its accompanying documents, forwarded to their Lordships in March, were about to be forwarded also to His Excellency, so as to afford me an opportunity of vindicating my conduct.

The object therefore of this communication is, to request that His Excellency will be pleased to afford me any informa-

tion in relation to the matter of which he may be possessed, or that he can consistently with propriety convey. I am induced to make this application, in order to obtain relief from the imputations which my deeply injured character is now sustaining.

I have the honor to be,

Sir, &c. &c. &c.

(Signed)

J. S. HOWARD.

The Hon. JOHN MACAULAY,
Secretary.

In reply, Mr. Macaulay invited me to meet His Excellency, which I did on July 20th, 1838, when he told me that he had received a despatch upon my case—that the Government were determined to uphold the Lieutenant Governors in their acts—that the strongest circumstance against me was my not taking up arms. I explained to Sir George that the duties of the Post Office were, during the rebellion, of paramount importance, and that my utmost energies, both bodily and mental, were called for in their discharge. He informed me that the Council did not see fit to recommend my reappointment, though I might not be considered disqualified to hold some other public situation; that Sir Francis Head had left nothing on record against me, but that as to investigation the state of the country would not admit of it. Of course this did not convince me, for I had entertained an opinion that one thing most important in the then state of the country was a conviction that justice might confidently be expected.

Supposing that the Report of the Council had been made before the latter part of my case had been received by His Excellency from Lord Glenelg, I addressed the subjoined letter to Sir George's Secretary:

Yonge Street, 25th July, 1838.

SIR,—With reference to my application to the Lieutenant Governor, of the 16th instant, and the interview which His Excellency was pleased to honor me with on Friday last, I have to request that you will be good enough to inform me whether the decision of the Council on the case of my removal from office, as adverted to by His Excellency, was transmitted to the Secretary of State for the Colonies prior to the receipt of my representation of the 16th of March, and if so, whether

it is His Excellency's intention to make an additional Report on the subject.

I beg to represent, for the information of His Excellency, that it is not merely my character which is sustaining injury by this act, or the withdrawal of the income derived from my appointment, for however grievous and painful these must be to a mind-conscious of its integrity and innocence, I might still, however unfitted by eighteen years' service in the department, have embarked in some other pursuit, and have sought for my family an asylum in some other land; but to effect this even, I am prevented, by the circumstance of my capital being locked up; for in full faith of retaining an office, the duties of which I believe it will be admitted by every person were performed faithfully, I laid out in grounds and buildings for its accommodation two thousand and four hundred pounds, and now I can either not sell or must do so at an immense sacrifice.

Many months have now elapsed since my removal from office—I am yet held in painful suspense. I therefore hope His Excellency will be pleased to cause me to be furnished with copies of the report of the Council, and Lord Glenelg's despatches in reference to the case, so that I may in some measure know how to govern my future course.

I have the honor to be,

&c. &c. &c.

(Signed)

J. S. HOWARD.

The Hon. JOHN MACAULAY,
&c. &c. &c.

This letter was mislaid, and I had to send a copy—still no answer was returned, and I forwarded a memorial to the following effect, applying for a then vacant situation in lieu of that of which I had been deprived:

To His Excellency Major General Sir George Arthur, K.C.H.
Lieutenant Governor of Upper Canada, &c. &c. &c.

The memorial of James Scott Howard, humbly representeth:

That your memorialist has been engaged in the service of his Sovereign for the last eighteen years; ten of which he served under the Honorable William Allan, in the respective offices of Deputy Collector of Customs of the Port of York, Deputy Treasurer, and Deputy Inspector of Licenses for the Home District, and Assistant Postmaster; that for eight years he discharged, as principal, the duties of the last office, with (as he trusts he may add) the most scrupulous regard for the

interests of the Department and the public; and to the entire satisfaction of his superior officer.

That your memorialist, in the year 1829, shortly after assuming the entire management of the office, purchased ground and erected a house thereon in George Street, for an office, at an expense of eight hundred pounds.

That in the course of time, the business of the office increased far beyond what could have been contemplated, so as to render it necessary to seek enlarged accommodation for the department and the public. With this view, and in faith of retaining the office, your memorialist purchased ground from the Upper Canada Bank, with the full understanding that the Post-office establishment was to be kept in the building to be erected thereon, as your Excellency may perceive by reference to a copy of the cashier's letter which accompanies this. That your memorialist was encouraged in the prosecution of the work by the Deputy Postmaster General, your Excellency will observe by the following extract of a letter from that gentleman, under date of the 23d April, 1833:—"I am pleased to hear you are going to have another office, and hope you will make it a complete one, suited to the rising importance of your town; Mr. Macaulay has made an excellent office at Kingston, and you may obtain some useful hints from him. The Buffalo office appeared to me to be very well planned,—perhaps you might manage to run over and look at it." That his outlay in the latter instance amounted to sixteen hundred pounds, making a total of two thousand four hundred pounds.

That your memorialist, while in the sedulous and faithful discharge of his duty, was most prematurely and suddenly removed from the direction of the Post Office in this city, on the 13th of December last, by your Excellency's predecessor in the Government.

That in consequence of this unexpected and final act towards your memorialist, the deepest stain has been inflicted upon his hitherto irreproachable character; his family have been deprived of their wonted support, and his prospects in life completely blighted.

That your memorialist has used every legitimate means in his power to obtain justice, or an investigation into the unfounded suspicions or presumptions attempted to be raised against him, but hitherto without effect. That while the aggravations of the case of your memorialist derive additional force and effect from the fact of his capital being thus locked up, he begs respectfully to represent that his long servitude, embracing the prime of his life, has in a degree unfitted him

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for other pursuits, were it even at his immediate disposal. That nearly a year has now elapsed, since his removal from office—that his family are in suffering circumstances, and therefore prays that a British subject in a British territory may no longer be allowed thus innocently to suffer.

That in view of the foregoing circumstances, and that as your memorialist has been given to understand that he was not considered as disqualified to serve Her Majesty in some other capacity, he, humbly prays that as the office of Inspector General is now become vacant, it may be either granted to him, or some equivalent made for the losses which he has sustained; and your memorialist as in duty bound will ever pray.

(Signed) J. S. HOWARD.

Toronto, 10th Sept. 1838.

Copy of Letter from the Cashier of the Bank of Upper Canada, as referred to in the foregoing Memorial.

Upper Canada, York, 27th March, 1833.

JAMES S. HOWARD, Esq. Postmaster.

SIR,—The President has submitted to the Board the application you made to him, under date of the 16th and 22d instant, relative to the purchase of a part of the Bank lot fronting on Duke Street, to the extent of sixty feet, including the full depth, and I am directed to say, that they have consented to sell you the said sixty feet, commencing from the corner of the lot next to Sir William Campbell's, for the sum of five hundred pounds, conditioned, that you pay £125 down, and the remainder in three annual payments of £125 each, with interest.

The security of a bond and mortgage will be required for these payments, if you are to have a deed at once—but this bargain is made with the full understanding and perfect confidence of your erecting a reputable brick building, such as the President stated he had seen a plan of at your house, and that it was your intention to erect; and also with the confidence that the Post Office establishment is to be kept in it.

I am, Sir, &c. &c. &c.

(Signed) THOS. G. RIDOUT,

Cashier.

This application was induced by His Excellency's own remark, that "I might not be considered disqualified for another public situation." The answer was as follows:

Government House, Toronto, Sept. 22, 1838.

SIR,—I have the honor to acknowledge your letter of the 10th instant, accompanying a memorial, which, according to your request, I have laid before the Lieutenant Governor, together with your letter dated 25th of July last, and I am commanded to state in reply to these communications, that the Despatch from the Secretary of State referring to His Excellency's consideration your memorial of 16th March last, was reported on by the Executive Council on the 27th June, and replied to by the Lieutenant Governor on the 3d July.

I am directed to inform you, that His Excellency does not consider, that he can with propriety comply with your request, to be furnished with copies of his correspondence with the Secretary of State respecting your case.

With regard to your petition for appointment to an office of some importance which is about to become vacant, or to receive some other equivalent for the losses you have sustained, by reason of your removal from the situation of Sub-Postmaster of this city, His Excellency is desirous that you should fully understand the grounds on which he feels himself constrained to decline your application. Whatever may be your merits in many other respects, and His Excellency is far from entertaining an unfavorable view of them, it is clear that by your conduct as a person holding an office of high trust, at a moment the most critical, when every loyal subject was bound by his allegiance to stand up openly and boldly in defence of the rights of the Crown, then actually assailed by an insurgent force at the very doors of the citizens of Toronto; and when you declined appearing in arms with the loyal portion of the community,—you forfeited the confidence of the Government and the public, and put it out of the power of His Excellency to encourage your expectation of returning to Her Majesty's service.

It does not appear necessary to enlarge upon a subject, to which it is indeed painful to advert, and I am commanded in conclusion to assure you that His Excellency entertains no personal feeling on the occasion, but is solely guided by a sense of what is due to the public welfare, and the interests of Her Majesty's service.

I have the honor to be,

Sir, &c. &c. &c.

(Signed)

JOHN MACAULAY.

J. S. HOWARD, Esq.

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I again wrote to Lord Glenelg, representing to his Lordship the position in which the case now stood, and removing the suspiciousness in which Sir George Arthur had endeavoured to involve my not taking up arms. Here is my letter to His Lordship:

Toronto, Upper Canada, Sept. 28, 1838.

My Lord,—I had the honor, on the 11th instant, of addressing your Lordship, and of bringing afresh to your view the case of my removal from office, a copy of which communication I duly addressed to the Lieutenant Governor's secretary, with a request to have it laid before His Excellency. Having received from the Lieutenant Governor, since that date, a reply to my letter of the 25th of July last, and the memorial which I presented to His Excellency on the 10th instant, I feel it to be a duty incumbent upon me, on account of the distressed condition of my family, as well as the claims of justice, again to trouble your Lordship, and to forward for your consideration a copy of the Lieutenant Governor's reply referred to, which I have now the honor to inclose, numbered 1.

I beg to state to your Lordship, that it was with much surprise I learned by this document, that the Lieutenant Governor considered it as "out of his power to encourage my expectations of returning to Her Majesty's service," particularly so as His Excellency, in the interview which he favored me with on Friday, the 20th July last, did "encourage those expectations" by plainly intimating that though the Council did not think proper to recommend my being reinstated in my former office, yet I may not be considered disqualified to hold some other situation under the Government—that my friend in England would no doubt be furnished with a copy of the report of the Council, and that I would hear in about two months; to which I replied, that if I was unfit to hold that situation I was equally disqualified from holding any other situation under Her Majesty—at least the charge of incompetency might be brought against me. His Excellency also stated that, with regard to an investigation and "affording me an opportunity of vindicating my conduct," that was not a proper time for the purpose, as the state of the country would not justify it.

Your Lordship will not fail to observe by the Lieutenant Governor's communication, that though no investigation has been instituted, the charges preferred against me by Sir Francis Head have been abandoned, and that the case is now reduced to the simple point of my not appearing in arms to

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resist the insurgents. The untenableness of the position taken by His Excellency cannot but be apparent to your Lordship, when the following facts are brought to bear against it.

Firstly—That my family and property being within 2½ miles from the city, on the line of road occupied by the insurgents, were not only harrassed by them; headed by Mackenzie, but would in all probability, had I quitted my ordinary post to attack them, or have "appeared in arms," been invaded and perhaps destroyed.

Secondly—That had I even "appeared in arms," I am so near-sighted as not to be able to recognise an individual within a few yards distance; in support of which statement, I beg your Lordship's attention to document No. 2.

Thirdly—That by the Post Office Bill framed by His late Majesty's ministers in 1835, and sent out for the adoption of the Colonies, Postmasters are exempted from militia duty in the following clause: "And to the end that the persons employed in or about the business of the Post Office may not be hindered or impeded in their respective duties or employments in or relating to the same: Be it enacted, that no deputy or officer, or other person employed under the Post Office within this Province, shall be compelled or compellable to serve upon any jury or inquest, or to appear and serve at any assize or session, or to bear any public office, either ecclesiastical, parochial, municipal, civil or military, or to serve in the militia; but the said deputy and officers and other persons aforesaid shall be wholly and absolutely exempted therefrom."

Fourthly—That the Legislature of this Province also considered the duties of Postmasters of so paramount a nature as to exempt them by statute from militia duty.

Fifthly—That Sir Francis Head himself did not on the morning of the 7th December deem it proper for me to leave my ordinary post, may fairly be presumed from the fact of his actually forwarding me instructions through the Post Office, Surveyor affecting my duty as Postmaster, as your Lordship will discover upon reference to the accompanying document, numbered 3.

Sixthly—That upon reference to the accompanying certificate, (numbered 4) your Lordship will find my standing, as it respects loyalty to my sovereign, vouched by a gentleman of no ordinary standing and worth, and that by Sir Francis Head's order I was placed on the retired battalion, on account of my duties as Postmaster.

Seventhly—That my senior assistant, who was "suspected of being a radical," and who did not "appear in arms," still retains the rank in the office which he held under me.

Eightly—That during the disturbance and the excitement produced thereby it was absolutely necessary for me to remain at my post in order to keep open the communications with the various parts of the country—that my ordinary duties were rendered much more arduous and perplexing from the confused state into which the contents of the office were thrown in their transfer to and from the Bank of Upper Canada, and that I vigilantly and carefully preserved all the property, so that out of the numerous letters and papers then in office it cannot be said that one was found missing.

From the foregoing facts and documents your Lordship cannot but observe the extreme inconsistency of Sir Francis Head, as well as the manifest injustice of punishing me for not leaving a post to which I was bound by my oath of office and by my bond to my Sovereign, to assume duties from which by statute as well as the Militia General Order of Sir Francis Head already alluded to I was exempted, and to which I had not been called by any authority.

My Lord, when I reflect upon the unmerited treatment and injury inflicted upon me, I can hardly credit the fact that a British subject and a faithful servant of Her Majesty and the public should, under British jurisdiction, be so dealt with; and while investigation is withheld, I can only conjecture myself to be the victim of some concealed individual who (possibly to obtain favour or office) has poisoned the ear of the Executive. But, my Lord, as the case is now narrowed down to one point, and is fairly laid before you, I trust I may confidently hope that your Lordship will consider it due to justice and humanity to cause my immediate restoration to office, and that I may be remunerated for the loss I have sustained by a year's suspension.

I have the honour to be, &c.

(Signed)

J. S. HOWARD.

The Right Hon. Lord GLENELG,
Secretary of State.

With this letter I sent the following certificates, completely—as various parties consider—demolishing the last covey from which my character was assailed :

Copy.

Toronto, 25th September, 1838.

I do hereby certify that James S. Howard, late Postmaster in this city, was a captain in the first Regiment of East York Militia, under my command, in the early part of the year

1837; that I recommended him to consent to his being transferred to the Retired Battalion, because his duties of Postmaster prevented his attending to the Militia duties, and also because I considered his health too delicate to enable him to undergo hardship or exposure should he be called on to serve in the field; that he consented to be transferred to the said Retired Battalion, and was transferred accordingly by Militia General Order, dated the 24th of April 1837, and another officer was appointed to succeed him.

I further certify that I have known Mr. Howard for upwards of eighteen years; have transacted much business with him, and have had many opportunities of knowing him intimately. I have ever entertained the most favourable opinion of his character in a religious and in every other point of view. That as to his loyalty to our Sovereign and country I never had the slightest doubt, either before, or during, or since the Rebellion, and that had it so happened that an appeal was made to me on this point, I would not have hesitated for one moment to pledge myself to the greatest possible extent for his perfect faith and truth in Her Majesty's service.

(Signed) JAMES FITZGIBBON,

late Colonel Commanding 1st Reg't East York Militia.

Copy.

Toronto, 27 September 1838.

I certify that I have known Mr. James S. Howard late Postmaster of this city for many years, and that he is so short sighted as to be constantly obliged to wear concave glasses.

(Signed)

C. WIDMER,
Surgeon.

These papers were sent to the Government House, with a request that they might be forwarded to Lord Glenelg. Upon seeing them Sir George Arthur's Secretary wrote me the following note:

Government House, Toronto, Oct. 1, 1838.

Sir,—I received on Saturday, and laid this morning before the Lieutenant Governor, your letter of the 28th ultimo, together with the packet which you request may be transmitted to the Secretary of State.

As His Excellency is on the point of departure for Lower Canada, a compliance with your wishes must necessarily be deferred for a few days.

In the mean while, however, I am directed to observe, with reference to my letter of the 22d ultimo; that in intimating for your information one of the principal reasons which influenced His Excellency in discouraging your application for office, it was not intended to go so far as to declare that you were to be considered as for ever unworthy of being restored to a place of trust under Her Majesty's Government; though His Excellency still remains of opinion that you cannot, with a due regard to the public interests, be re-instated in the office from which you were removed by Sir Francis Head.

The Lieutenant Governor perfectly well recollects the conversation to which you refer, and that on his saying that he was not of opinion that you were excluded from holding any other office, that you replied, if you were not qualified to hold the office from which you had been removed, you were disqualified from holding any other.

I have the honor to be,

Sir, &c. &c. &c.

(Signed)

JOHN MACAULAY.

J. S. HOWARD, Esq.

Yonge Street

Here it will be observed is a contradiction to a statement in the letter from the same party of date 22d September 1838. That statement is as follows:—"With regard to your petition for appointment to an office of some importance which is about to become vacant, or to receive some other equivalent for the losses you have sustained by reason of your removal from the situation of Sub-Postmaster of this city, His Excellency is desirous you should fully understand the grounds on which he feels himself constrained to decline your application. Whatever may be your merits in many other respects—and His Excellency is far from entertaining an unfavourable view of them—it is clear that by your conduct, as a person holding an office of high trust, at a moment the most critical, when every loyal subject was bound by his allegiance to stand up openly and boldly in defence of the rights of the Crown, then actually assailed by an insurgent force at the very doors of the citizens of Toronto, and when you declined appearing in arms with the loyal portion of the community, you forfeited the confidence of the Government and the public, and put it out of the power of

His Excellency to encourage your expectations of returning to Her Majesty's service." But, in the letter of October 1st, '38, it is said, "that, in intimating for your information one of the principal reasons which influenced His Excellency in discouraging your application for office, it was not intended to go so far as to declare that you were to be considered as forever unworthy of being restored to a place of trust under Her Majesty's Government." This prevarication fully shewed me that, let the argument have what aspect it might, His Excellency would by some means or other keep the course that he had selected—ruin though it might be to an innocent and upright man.

Of course I know not what report was sent to the Secretary of State by the Lieutenant Governor—what opinions or pretended facts and testimony; but the result of the appeal to the Imperial Executive is given in the following note from Mr. Macaulay:

Government House, Toronto, 9th February, 1839.

SIR,—I am directed by the Lt. Governor to inform you, with reference to your representation addressed to the Secretary of State for the Colonies, [29th Sept. 1838,] which was transmitted by His Excellency to his Lordship on the 26th October last, that His Excellency has recently received a communication of his Lordship's decision on your case, to the effect that having fully considered your memorial in connection with the correspondence which has taken place between you and this office on the subject, his Lordship sees no reason to interfere with the course which the Lieutenant Governor thought it right to adopt on the occasion, and that taking into view the facts as they appear, his Lordship cannot recommend to the Postmaster General your being replaced in the situation lately held by you.

I have the honour to be,

Sir, &c. &c. &c.

JOHN MACAULAY.

(Signed)

JAMES S. HOWARD, Esq.

Yonge Street Road.

This paper was sent me unsealed through the hands of Mr. Berczy, who was waiting to be confirmed in the possession of my office. I had now no other means of seeking justice to

my family, my character, and my feelings. It only remained to me to express to Mr. Berczy my views of his course, as I had to the Provincial and Imperial Governments those parts of the business with which they had to do—stating the several grounds on which I had reason to believe him the interested instrument in my removal from office and the consequent sufferings of myself and family.

The case then is left in this position: after fifteen months' endeavour to obtain enquiry, and the written promise of the Secretary of State to a member of the British House of Commons that such inquiry should be made, I am peremptorily and finally refused a hearing; at the same time I am deprived of the fruits of eighteen years' service to the British Crown, and obliged to bear a very serious deterioration of my private property in the contemplated removal of the Post-Office business, for which the premises were built. These injuries are inflicted upon me, though a loyal subject and a faithful servant of my sovereign. They are the result either of private slander to which Sir Francis Bond Head and Sir George Arthur have stooped to listen, or of some underhand scheme which has not been allowed to see the light. I cannot but suppose that the pretended charges against me are suspected to be untrue, or investigation would not have been withheld, despite the claims of justice, custom, public opinion, and the directions of the Home Government. Wronged, however, though I am, I am glad that I have never, by action or omission, injured the British authority—and suffering though I am, and probably long shall be, I never will intentionally injure that authority. Driven I may be to strange places and unknown pursuits to procure bread for my family, instead of that which another man is now eating—but this, and far more, would I bear rather than be the slanderer or the obstructor of justice that is exposed in the foregoing pages. I leave political theories to others—but of moral justice I hope always to be a friend.

J. S. HOWARD.

City of Toronto, March 20, 1839.

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