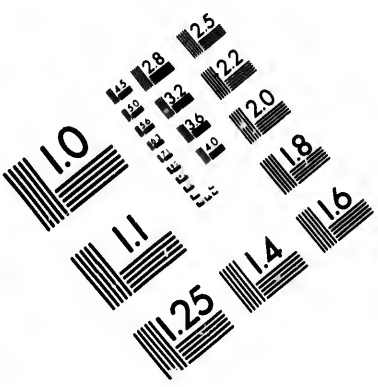

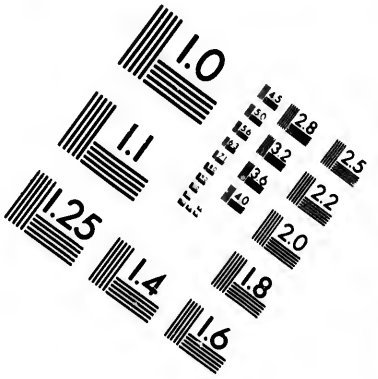

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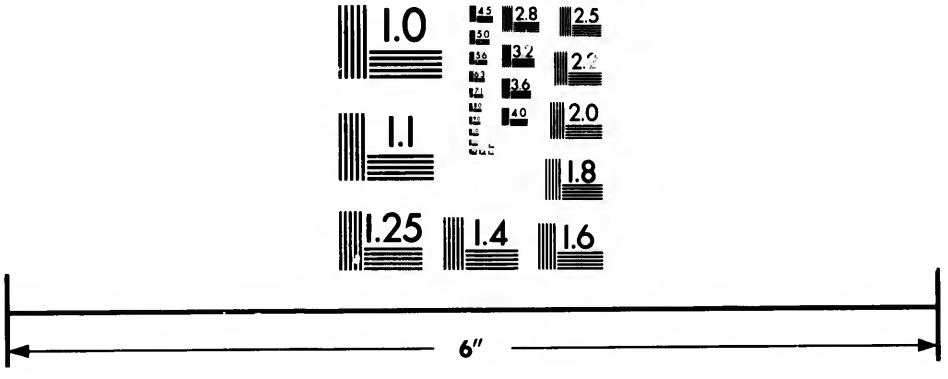

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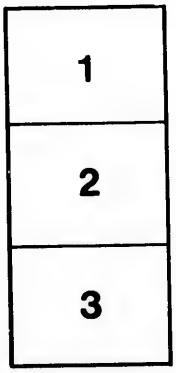

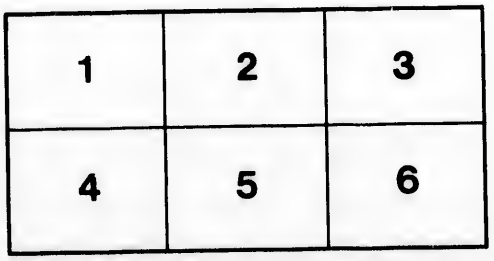

"THE QUEBEC POLITICAL CRISIS"

(NOTES AND PRECEDENTS.)

—:o:—

The Opposition Pamphlet, better known as the "Dansereau Brochure,"

EXAMINED AND REFUTED

BY THE LIGHT OF BRITISH CONSTITUTIONAL HISTORY AND PRECEDENT.

QUEBEC.
1879.

"THE QUEBEC POLITICAL CRISIS."

(NOTES AND PRECEDENTS.)

The Opposition Pamphlet, better known as the "Dansereau Brochure," examined and refuted by the Light of British Constitutional History and Precedent.

———o———

As we write, the Province of Quebec is passing through a political crisis, which transcends in gravity and importance anything of the kind that has yet presented itself in Canadian annals. This crisis has entailed a very serious and disturbing deadlock in our provincial affairs, which not only impedes the usual march of the public service, but redounds with disastrous effect upon private interests, as well as upon a very considerable proportion of our educational and charitable institutions, public works, roads, railways and colonization undertakings generally. It is therefore the more needful that the issues and principles involved, as well as the responsibility for the actual state of things, should be clearly defined and thoroughly understood. It may be briefly stated that those issues and principles vitally affect the sacred right of government by the people and for the people and imperil the stability of those cherished responsible institutions for which our forefathers battled and died. Indeed, since the establishment of Responsible or Representative Government in this great dependency of the British Empire, we look in vain for a parallel, either in point of danger to that system of government or in encroachment upon popular rights, to the case which has just arisen in our midst and for which we are indebted, beyond the possibility of question, to a foul conspiracy between the Opposition leaders in the popular branch of the Legislature and a factious, perverse and partisan majority in the Crown-nominated and irresponsible

branch—to block the wheels of an Administration, supported by a majority of the people's representatives, whom they had otherwise been powerless to defeat, and to force its resignation or its dismissal by the Lieutenant Governor. To the eternal shame of the conspirators, be it said that they have not only not disavowed the action of the Legislative Council; but they have formally approved of and openly gloried in it, thus rendering it impossible for any self-respecting men, to meet them half-way, by coalition or otherwise, to put an end to the deadlock and give the Province a strong government. They have even gone further and brazenly admitted through their chief organ, *La Minerve*, "that *the removal of the Joly Cabinet is the corollary of Mr. Letellier's dismissal*, and that there is nothing extraordinary in the Council asking for the dismissal of men marked with the stain of the original sin." In other words, they claim that Mr. Joly's retirement from office should follow the outrageous act by which Mr. Letellier was removed and which has just been so severely condemned by the London *Times*, the great organ of public opinion in England. It cannot be doubted that, to force this conclusion upon Her Majesty's present representative, in this Province; to place him in a difficult position; and ultimately to drive him, if possible, into a repetition of the conduct for which his predecessor was punished, have been all along the objects of the plotters, failing the power to defeat the Government in the Assembly; and this, in face of the announcement made by their organ, *La Minerve*, on the 31st July last, that "the dismissal of Mr. Letellier and the maintenance of the Joly Ministry are *two distinct things*; that *the retirement of the one does not entail the fall of the other; and that Parliament would be free to maintain the Ministry which had its confidence.*" Neither can it be doubted that they have criminally looked to His Honor Lieut.-Governor Robitaille, to degrade his high and impartial office, by assuming the role of a partisan and seconding their efforts to obtain power in opposition to the clearly defined wishes of a majority of the people's representatives. The refusal of the supplies by the Council, after they had been voted by the Assembly, has been the means adopted and believed to be essential to this end, as well as to furnish His Honor with a colorable pretext for rejecting the advice of his constitutional advisers and ultimately oust-

ing them from office, after they had been unmistakeably sustained on twenty-two different occasions by majorities in the popular branch, when their administrative conduct or their right to continue to administer the public business had been called in question. To Lieut.-Governor Robitaille's credit, it must be recorded that up to the present he has failed to take the alluring bait so temptingly held out to him, and that his relations towards his Ministers (AS FAR AS THEY KNOW) have been guided by the utmost cordiality, impartiality and honorable fair play. In these particulars, his conduct has been all that could be desired, but perseverance in it is confidently expected by the public, as well as necessary to the maintenance of that public respect for his office, which is only begotten of the impartial discharge of its delicate duties.

We have pointed out that the actual crisis has been provoked by issues which are fraught with great danger to the stability of our present system of responsible government; and it is from this stand-point that it should be viewed and condemned by all patriotic citizens, whether Liberal or Conservative, and not from that of the merits or demerits of the Joly Government. To support the Legislative Council in their unconstitutional action would virtually amount to an abandonment by the people of some of their dearest rights. It would invest the Council with powers which that Chamber does not and should not possess; unconstitutionally place all Governments in this Province at the mercy of a Crown-nominated and irresponsible body, whose partisan support is, owing to the character of its composition, already secured to government but by one of the great parties of the State, and finally render impossible the assertion of the popular will as expressed in the elective Chamber by majorities of the people's duly chosen representatives. By the action of the Council the ground of the dispute has been altogether shifted. The quarrel is no longer between Mr. Joly and any section of the people's representatives; it is now between the people and the people's rights and the Council and the Council's usurpation of the right to govern against the people's will, as expressed through their elective Chamber and to force upon the Queen's representative advisers from the ranks of the minority, unsupported by popular approbation. It therefore behooves all good citizens to look only at the question in this its true light and to lend the moral

and physical weight of their countenance and support to those who are actually championing their liberties and battling for the cause of Responsible Government. The imminence of the danger threatening that cause, and the outrageous character of the Council's encroachment, coupled with its far-reaching and sinister consequences, if unresisted or allowed to become a successful precedent, cannot be over estimated at this juncture. It is time for the people therefore to be up and doing, if they wish to protect themselves. Eternal vigilance is said to be the price of liberty, and it is scarcely necessary to add that that glorious British constitution as it now stands, under which we live and which is admitted to be the freest under the sun, was only won through long years at the price of such vigilance on the part of the British and Canadian peoples.

Dishonest and designing men have been at work not only to corrupt the people's representatives and to purchase their support for the outrage committed by the Council, but to seek to warp the public mind in regard to that outrage, and to lull it into a false sense of security as to the real issues involved in the present struggle, by distorting the record and appealing to obsolete or garbled precedents. We have before us, as we write, an unscrupulous pamphlet, bearing the title of "The Quebec Political Crisis—Notes and Precedents" which has been issued in some mysterious way for these illegitimate purposes, and which from beginning to end is a tissue of falsifications, misapplications, and fallacious reasoning, intended to justify the action of the Council and to furnish a color of argument for steps on the part of the head of the Executive, looking to the destruction of the Joly Government. As the Quebec *Morning Chronicle* remarked in its issue of the 9th October:

"The book is full of specious reasoning, illogical references and allusions, which do not always apply to the existing order of things. It is strangely inconsistent in argument, and the extracts which are introduced, apparently to fortify certain lines of issue, are curiously garbled and only half-stated. This we take it, is not manly warfare. Neither is it fair to twist anything which a public writer may say of one department of the Legislature in order to convey an impression which was never intended by that writer. This style of business may suit some minds, but it is totally at variance with every principle of justice and fair play, and it is likely to be so regarded by every high-minded man into whose hands the booklet may fall."

And, again, in its issue of the 10th October:

"We showed yesterday how specious and fallacious was the reasoning indulged in in this *brochure*, and how misleading it was and how prone it was to deceive the unwary and the unsuspicious. We exposed the false system on which it was framed,

and exhibited in a convincing way the main plank in the platform of the Opposition, and pointed out to our readers the fact that the Legislative Council was disposed to do nothing unless a Government was formed of members of the CHAPLEAU-CHURCH party. This is the gauntlet which MR. DANSEREAU has thrown down. This, he would have us believe, is the policy of his friends, the political faith of his *confreres*."

And, again, in its issue of the 13th October, under the caption of "Caught at an Old Trick:"

"It appears that MR. DANSEREAU'S pamphlet first saw the light in the columns of *La Minerve* newspaper. It was published serially therein, and was afterwards thrown into pages, stitched and scattered broadcast over the country. The French copy is fuller of mistakes than the English edition, but both err rather seriously in misstatement and perversion of fact. This, however, was to be expected from the source from which the precious broadside emanated, and nobody is much surprised thereat."

* * * * * * * * * *

"In the meantime, it may be well for us to show up again MR. DANSEREAU and his "leetle game." We have already exposed his crude and fallacious reasoning, his illogical deductions, and his singularly primitive way of making quotations. We took occasion, the other day, in our review of his last work, to point out the fact that he had shamelessly garbled a number of quotations from constitutional authorities, and by means of an ingenious system of roguery, made these same extracts prove a good deal of his specious reasoning, absurd as it is. The Montreal *Herald* has also caught MR. DANSEREAU at his old tricks and exposes him cruelly in its issue of Friday last."

The remarks of the Montreal *Herald* were as follows:

"*La Minerve's* mode of establishing its points is very simple. We can exhibit it in the space of what the printers call a few "ems," thus: * * * *
It will be admitted that no adversary was ever more succinctly confuted than those who have been overthrown by this application of this contrivance to each point of the controversy. Nor will it be thought wonderful, what we regretfully admit, that it has perfectly worsted our allies, and has established, for the first time, that it is the second Chamber, not the representative branch of the Legislature, which is supreme in every well ordered State enjoying responsible government. We have shown the machine—the little joker, as we may well call it—we proceed to explain how it worked. Hearn, a well-known constitutional writer, is cited to the following effect:—"When a vote hostile to the Government has been given in the House of Lords, it ought to obtain from the House of Commons another vote of a directly opposite character. Since Parliament is composed of two parts, and as questions of administration do not like those of legislation admit of compromise and delay, if there is a divergence of opinion between these two parts, it is necessary to find a prompt means of arranging the difference." * * * * * * *
Now you will see the operation of this ingenious contrivance. Where the dotted lines stand in *La Minerve*, we have the following words in Hearn: "*Accordingly the rule is that when the opinions of the two Houses are divided, the opinion of the House of Commons prevails.*" It was Hotspur who affirmed that "out of the nettle danger he would pluck the flower safety." And what great general was it who was said to organize victory out of defeat? Neither of these eminent men, however, could have so completely turned the tables on adverse quotation, as *La Minerve* has done in the passage quoted by us and in several others, where the same strategy has been used with equally powerful effect."

Now, as this precious production, presumably, of the distorted ingenuity of Messrs. Dansereau, Senecal & Co., has been circulated broadcast among the public in order that it may poison the public mind with the view of preparing the Province for a return to the suicidal regime and

taxation policy of the DeBourchervilles, Angers, and Chapleaus, which the Quebec *Chronicle*, very truthfully characterizes as "only equalled by the dark days of Bigot, when the country was eaten up by the contractors and wire-pulling cormorants of that age," we propose in these pages to supply the requisite antidote by examining and weighing *seriatim* the arguments used and the precedents cited by its authors in support of their untenable position.

It will be recalled that the reasons of the Legislative Council for suspending their assent to the Supply Bill were embodied in a series of resolutions, moved by Hon. Mr. Ross, and seconded by Hon. Mr. La Bruère, and that upon those resolutions an address to the Lieutenant Governor was founded, inviting him to change his present advisers, whose conduct and pretended faults of omission and commission they, the partisan majority of that irresponsible House, condemned under some seven or eight different heads; although that same conduct had been already exhaustively discussed, pronounced upon and vindicated on twenty-two different occasions in the people's chamber by the rejection of as many votes of non-confidence.

The refusal of Her Majesty's representative to accept the Council's advice as to his present advisers; his message to that House expressing his ardent desire to see the deadlock put an end to by their voting the supplies; and the Council's contemptuous disregard of His Honor's wishes in the matter by a further adjournment from the 30th September to the 27th October, are all circumstances of recent occurrence and will therefore also be readily recalled.

The Opposition pamphlet, or Dansereau *brochure*, starts out with a reference to His Honor's previous message in reply to the Council's address and insists that as the ministry is supposed to have suggested this answer, of which they assumed the responsibility, the wish expressed by the Lieutenant-Governor that his advisers should find *means to re-establish harmony between the two branches of the Legislature*, is equivalent to a promise made by the Government to act in this sense. It accordingly takes the Government to task for its failure to comply with this promise.

We think it can be satisfactorily shown that Mr. Joly and his colleagues took every available means within their power, short of proving recreant to the trust reposed in them by a majority of the Assembly and three-fourths of the population out of the Assembly and yielding the uncontestable privileges of the popular branch of the Legislature to the arrogant usurpation of the nominative branch by resigning their portfolios to re-establish harmony between the two Houses. They went even to the length of proposing a conference for this purpose to the Council, which the latter contemptuously rejected, thus showing the determination of that Chamber to hearken to no reason, to accept no half measures, short of the complete and abject submission of the people's House to their will and unconstitutional dictation. Under the circumstances, the plain and only constitutional course left to a Government, rightfully jealous of the preservation of the popular rights and the privileges of the popular branch of the Legislature, was to obtain a renewal of the Assembly's confidence to counterbalance the hostility and uncompromising attitude of the Council, and this course Mr. Joly accordingly took when he was again supported by the Assembly; subsequently proposing and carrying an adjournment of that Chamber to the 28th October, for reasons which will be hereafter set forth more fully in these pages.

In the connection, it is well to make special note of the fact, that, while the Opposition pamphlet, in one page, characterizes the motion of Mr. Gagnon, M. P. P., for Kamouraska, expressing this continued confidence of the Assembly in the Joly Government, as vague and as inadequately contradicting the various hostile averments of the Council, in another page (8) it unconsciously sells itself by the admission that they did *conflict* with the resolutions of the Council.

It is also not uninteresting to remark, as illustrative of the irresponsible and unrepresentative character of the Legislative Council, that Hon. Mr. LaBruère, the seconder of the hostile resolutions adopted in that Chamber, is *not even qualified to sit therein*, not being possessed of the property qualification required by law for that purpose; and this circumstance is notorious.

In the same connection, we may be also permitted to reproduce the following communication to the Quebec *Morning Chronicle*, which appeared in the columns of that journal on the 2nd September last :—

HOW THE LEGISLATIVE COUNCIL REFLECTS THE POPULAR WILL.

(*To the Editor of the "Morning Chronicle."*)

SIR,—In view of the pig-headed, factious and vexatious opposition of the Legislative Council to the assertion of the popular will as constitutionally expressed by a majority of the people's representatives in the Legislative Assembly, it may not be uninteresting to your readers to have an opportunity of appreciating the style in which the Council, as at present composed, reflects that will at this juncture. I have gone, for the instructive purpose, to the trouble of analysing the recent vote on Dr. Ross' resolutions, the adoption of which has resulted in the present deadlock between the two branches of the Legislature; and find the following :

The vote on the resolutions stood as follows :—

FOR :—Beaudry, *DeBoucherville*, *Dionne*, Dostaler, *Gaudet*, *Gingras*, *Hearn*, *De la Bruère*, *Laviolette*, LeMaire, *DeLery*, Prud'homme, *Roy*, *Savage* and Ross.—15.

AGAINST :—Starnes, Archambault, Bryson, Proulx, Webb, Wood, and Remillard.—7.

Now to commence with Hon. Mr. De Boucherville, who voted against the passage of the Supplies, represents or is supposed to represent the division of Montarville, which is composed of the counties of Verchères, Chambly and Laprairie, two of which are represented by supporters of the Joly Government in the Assembly, Messrs. Larose and Préfontaine, both of whom were only quite recently elected; so that, in any case, the ex-Premier, in his own division, represents only the minority. The next I come to is Mr. Dionne, who sits for the Grandville division, which is composed of the counties of Temiscouata, Kamouraska and L'Islet, or, I should more correctly say, a part of L'Islet. Here again, the Legislative Councillor places himself in opposition to the will of the majority of his division, for Kamouraska and L'Islet are both represented by Liberals, Messrs. Gagnon and Dupuis—Temiscouata being the only county of the three represented by a Chapleau supporter, Mr. Deschesnes. The Lauzon division is similarly misrepresented by Mr. DeLery, as its three component counties, Levis, Beauce and Dorchester are represented in the Assembly by two Liberals, Messrs. Paquet and Poirier, and one Conservative, Mr. Audet, Mr. Gaudet, for the Kennebec division, has not even the satisfaction to say that he reflects in the slightest shape the popular will of the hour, for, in voting against the granting of the Supplies, he voted directly in opposition to the wishes of every constituency in that division, namely : Lotbinière, Megantic and Arthabaska, which have chosen for their representatives in the people's House Messrs. Joly, Irvine and Watts. Messrs. John Hearn for Stadacona, and La Bruère, Rougemont, are both in the same unenviable position as Mr. Gaudet—all the constituencies in the Stadacona division, (Quebec Centre, East and West) and part of Banlieu being represented by Liberals, Messrs. Rinfret, Shehyn and Murphy; and in the Rougemont division, (St. Hyacinthe, Rouville and Iberville) being also represented by Liberals, Messrs. Mercier, Bouthillier and Molleur. The same remarks may also be made of Mr. Laviolette's vote, which was in direct opposition to the wishes of his division (DeLorimier) which is composed of St. John's, Napierville, and parts of Chateauguay and Huntingdon, all of which are represented by Liberals, Messrs. Marchand, Lafontaine, Laberge and Cameron. Mr. Gingras' vote might be challenged on similar grounds. He sits for the Laurentides division, which is composed of Quebec county, represented by Mr. Ross; Chicoutimi and Saguenay, represented by Mr. Price; Montmorency, represented by Mr. Chas. Langelier, and Charlevoix, represented by Mr. Gauthier, the only supporter of the Opposition in the crowd. Mr. Savage represents the Gulf division, which is composed of Gaspé, Bonaventure and Rimouski, represented by Messrs. Flynn, Chauveau and Tarte, two Liberals and one Conservative, and yet he also voted for the resolutions. Mr. Roy, for the Sorel division, did the same partisan thing, though that division is composed of Richelieu, represented by Mr. Mathieu (Conservative), Bagot, by Mr. Blais (Liberal), and part of St. Hyacinthe by Mr. Mercier (Liberal).

To sum up, if the eight members of the Council above designated had honestly desired to give effect to the will of the people as constitutionally expressed by the majority of the representatives of that people in the Assembly, and the wishes of the very large majority of the population of their several divisions, as championed by those representatives, the vote on Dr. Ross' resolutions would have been exactly reversed, the Supplies would have been carried, the session over and the country at peace, instead of being distracted by an uncalled for deadlock between the two Houses, with all its attendant inconveniences and expense to an already tired and half-beggared Province.

While, on the subject of the Council and, as an example of the patriotism which actuates its members, it may be well also to note the fact, for the information of your city readers in particular, that among the Hon. Members of that body who voted with the vindictive DeBouchervilleclique and threw out the Government bill passed by the Assembly to ratify certain resolutions passed by municipal corporations, &c., &c., relative to the North Shore Railway, were our two eminent fellow citizens, Hon. Jno. Hearn and Hon. J. Elie Gingras, whose professions of desire on all occasions to advance the interests of the city and district of Quebec, are too well known to be here dwelt upon. Yet among other things, which the bill in question proposed to legalize was the extension of the North Shore Railway to deep water in Quebec; a work of the greatest advantage to this port and one undertaken by Mr. Premier Joly last winter, in deference to unanimous public opinion, for the purpose of affording some slight measure of relief to our unemployed and starving workmen and their families. *Verbum sap.*

I am, Sir,
Your obedient Servant,
AN ELECTOR.

Quebec, 1st September, 1879.

These are not the only weak points in the enemy's armor. Indeed, their name is legion; and, to point them out more lucidly, we propose to follow the order pursued by the Opposition pamphleteer when he does what he is pleased to style "proceeding to set forth the different points of constitutional practice involved in this complicated situation; because consequences as various as they are grave, result therefrom, as shown by the following series of questions."

1. Can the Legislative Council refuse the supplies?

2. Does the refusal by the Council place the Government under the obligation to resign or to settle the difficulty?

3. Can the Government continue its administration without supplies?

4. Can the Government borrow money in default of the supplies?

5. Can the Lieutenant Governor authorize expenditure without the supplies having been voted?

6. Should the Lieutenant Governor have been consulted on the adjournment of the Legislative Assembly?

7. Could the Lieutenant Governor legally sanction the bills after the adjournment of the House?

8. Can the Lieutenant Governor constitutionally grant to Mr. Joly a dissolution of the House?

I--CAN THE LEGISLATIVE COUNCIL REFUSE THE SUPPLIES?

Although we cannot admit the correctness of the assumption that the Legislative Council of Quebec occupies to all intents and purposes a similar position to the House of Lords in England, seeing that, in the mother-country the Crown, acting by the advice of its Ministers, enjoys and has occasionally exercised the prerogative of creating new Peers in sufficient numbers to defeat or to "swamp out" (as it is styled,) when necessary, the factious opposition of the Lords to popular measures, while the numerical composition of our UpperHouse is fixed and unalterable and no such neutralizing expedient is provided for the factious opposition of our Council, we are willing to concede the discretionary right of the latter to refuse the supplies. Indeed, although the wisdom, expediency and propriety of its use by either House, and especially by the Upper Chamber may well be doubted, that right seems to be theoretically unquestioned and unquestionable. We are consequently at a loss to understand the special pleading on its behalf of the Opposition pamphleteer and the multitude of more or less garbled, half-stated and misapplied authorities which he quotes to needlessly prove the affirmative of the foregoing proposition, while admitting, in the very same pages, that the House of Lords *has never refused the supplies*, and that the Legislative Council has not done so either at present, but on the contrary has merely suspended them. He consequently makes a distinction between *refusing* and *suspending* or postponing the supplies, while endeavoring to palliate the arbitrary character of the action of the Council in so doing. Now all the recognized constitutional authorities of England lay it down distinctly that the Lords have no middle course open to them in the matter of the supplies, they must either assent to or refuse, accept or reject them as a whole; they cannot even alter or amend them in the slightest degree. As Delorme says: "*The Lords are expected*

simply and solely either to accept or reject them." And May says, at page 582 of his "Parliamentary Practice," 7th edition, "the functions of the House of Lords in matters of supply and taxation are now reduced to *a simple assent or negative*"; and the authorities on this head might be multiplied almost *ad infinitum*.

But a musty precedent of the reign of Queen Anne is raked up to give a color of justification to the action of the Legislative Council in suspending and delaying the supplies. We are told in Cox, p. 38, that:—

"During a dispute in Queen Anne's reign, A. D. 1705, between the Lords and Commons about the Aylesbury Men, the Lords who had the money Bills, would not pass them until the discussion had terminated. (Burnett A. D. 1705,") and it is asserted that this is the only explanation that can be given to this phrase of Hume's, volume 7, relative to the year 1705: "This important matter being settled, Parliament granted a subsidy of £50,000 sterling, and adjourned."

The above is indeed the only instance in British Parliamentary History, in which the Lords attempted the dangerous innovation of suspending the passage of the Supplies, and it may be well to see what constitutional writers think and say on the subject. Bagehot p. 99.

"From the Reform Act, the function of the House of Lords has been altered in English History, Before that Act, it was, if not a directing Chamber, at least a Chamber of Directors. The leading nobles, who had most influence in the Commons and swayed the Commons, sat there. Aristocratic influence was so powerful in the House of Commons, that there never was any serious breach of unity. When the Houses quarreled it was as in the great Aylesbury case, *about their respective privileges and not about the national policy. The influence of the nobility was then so potent*, that it was not necessary to exert *it. The English constitution, though then on this point very different from what it now is*, did not even then contain the blunder of the Victorian or of the Swiss Constitution."

We can boldly assert that the connection sought to be traced between the action of the Lords on this Aylesbury case, in 1705, and *Hume's* phrase that "this important matter being settled, Parliament granted a subsidy of £50,000 sterling and adjourned," is supported by no authority. On the contrary, Cox, p. 61 says:—

"Another dissolution of Parliament in 1705 was occasioned by a dispute between the Houses with respect to the important case known as the "Aylesbury Men." On appeal from the Queen's Bench, the House of Lords decided that an elector might bring actions at law against returning officers for refusing his vote at a Parliamentary election. Certain electors of Aylesbury were committed by the House of Commons for contempt of their jurisdiction. The House of Lords, in an address to Queen Anne, condemned the proceedings of the Commons; and she, to put an end to the dispute, prorogued and dissolved Parliament."

The Quebec *Mercury* goes further and flatly denies that Hume ever wrote the words above attributed to him;

while generally condemning the inaccuracy of the Opposition pamphlet, in the following, which appeared in its issue of the 10th instant :—

"CURRENT LITERATURE.—We have to acknowledge the courtesy of a friend in sending us a number of "The Quebec Political Crisis," a pamphlet purporting to contain "Notes and Precedents." The accuracy with which the latter are taken may be inferred from the fact that on page 12 it produces what it calls "a phrase of Hume's," which purports to be part of a history of Queen Anne's reign, and never was written by Hume, whose labors on his history stopped at an earlier date. In quoting Queen Anne's reign, the writer forgets to mention that Queen Anne brought the Peers to subjection by the terror of the creating power vested in the Crown. The work shows much ill-applied industry and contains an array of quotations not in themselves uninteresting, but so misapplied as to be of no benefit whatever in the existing discussion of the Canadian and Provincial constitutions."

So grave and perilous a proceeding has the withholding of the Supplies been considered at all times, that *even* the House of Commons, *in whose sole gift they are*, have hesitated to resort to it as a means of compelling compliance with their wishes.

Burnet says in his History of his own Time, A.D. 1705 :

"In no instance since the Revolution of 1688 have the Commons, by refusing the Supplies, endeavored to coerce the other powers of the State; the demands of the Crown for the public service have been complied with, and the annual estimates voted without any deductions but a few of insignificant amounts."

May, in his Constitutional History of England, remarks at p. 480 :

"Nor have the Commons, by *postponing grants*, or in other words, by 'stopping the Supplies,' endeavored to coerce the other powers in the State. No more formidable instrument could have been placed in the hands of a *popular assembly* for bending the executive to its will. It had been wielded with effect when the prerogative of Kings was high, and the influence of the Commons low; *but now the weapon lies rusty in the armory of constitutional warfare.* In 1781, Mr. Thomas Pitt proposed to delay the granting of the Supplies for a few days in order to extort from Lord North a pledge regarding the war in America. *It was then admitted that no such proposal had been made since the Revolution, and the House resolved to proceed with the Committee of Supply by a large majority.* In the same session, Lord Rockingham moved, in the House of Lords, to postpone the third reading of a land tax bill, until explanations had been given regarding the causes of Admiral Kempenfelt's retreat, *but did not press it to a division.*

"The precedent of 1784 is the *solitary instance* in which the Commons have exercised *their* power of delaying the Supplies. They were provoked to use it by the unconstitutional exercise of the influence of the Crown; *but it failed them at their utmost need*—AND THE EXPERIMENT HAS NOT BEEN REPEATED. Their responsibility, indeed, has become too great for so *perilous* a proceeding. The establishments and public credit of the country are dependent on their votes, and are not to be lightly thrown into disorder."

Yet, as some mortals do not hesitate to enter, where angels fear to tread, the factious and partisan majority in the irresponsible Legislative Council of this Province, basing their outrageous action upon a virtually antediluvian

precedent, which even has no analogy or application to their case, have not hesitated, contrary to modern British precedent and the present spirit of the British Constitution, to do what the people's representatives, the guardians of the public purse, the all powerful British House of Commons, have studiously eschewed. These conspirators have not hesitated to attempt to coerce not only the responsible branch of the Legislature, but Her Majesty's representative in the choice of his constitutional advisers, with which they have nothing whatever to do, as well as to cast into disorder the establishments and public credit of the country by a proceeding as novel at the present day as it is unconstitutional, while seeking to revive, in their greed of power, the unfortunate state of things which existed in Canada, thanks to the *viellards malfaisants* of the Council, previously to 1837. They cannot even plead the miserable excuse of an infringement of their privileges as put forward by the British Lords for their obstructive action in 1705, and by the Legislative Council of Canada in 1856, when the latter also refused the Supplies, (though their action in so doing elicited the formal protest of the leading Conservative members of that Chamber at the time) basing their refusal upon an alleged infringement of their privileges in that they had not been consulted as to the fixing of a place for the permanent seat of government. On the contrary, in opposition to all precedent, they go out of their sphere, as well as their attributes, to coerce the other powers of the State, and to condemn "the national policy."

While on the subject of the Canadian precedent above alluded to, it may be disposed of at once by stating that the Legislative Council of that day was a body ELECTED BY THE PEOPLE, which it is not now, and that there is a wide difference between the rights and the action of such a body and that of an irresponsible, Crown-nominated and partisan Chamber, such as the same House is at present.

The same remarks equally apply to the case of the refusal of the Supplies by the Legislative Council of the Colony of Victoria, which is also cited in the Opposition pamphlet:

Cox, British Commonwealth, p. 556-557, says :

"The Act of the Colonial Legislature for establishing a constitution in and for the Colony of *Victoria* is very similar to the Act just noticed. Nearly corresponding

provisions are made for the constitution of a Legislative Council and Legislative Assembly, BUT BOTH ELECTIVE; for their duration for five years; their prorogation and dissolution by the Governor, &c.

"The Legislative Council in Victoria is proposed to consist of thirty-six members, ELECTED for six provinces, and the Assembly of sixty members elected for thirty-seven districts. Of members of both Houses certain property qualifications are required, which are *higher* for the former than the latter."

While on the subject of political deadlocks generally, and the Victorian case in particular, it will not be irrelevant to reproduce the following, which appeared in the Quebec *Mercury* of the 16th October of the current year, under the caption of "Remedy for Legislative Council Obstinacy at the Antipodes."

"The Australian colonies have suffered from dead-locks in politics nearly or quite as much as Canada, and a novel remedy is proposed in Victoria. According to the Constitutional Reform Bill introduced into the Assembly of that Province, any measure passed in the popular House during two consecutive sessions and rejected by the Council, shall be submitted to popular vote. The London *Spectator* is exercised over the opposition as one fraught with danger to representative government and foreign to the principles of the British Constitution. It contends that by placing the people above Parliament the latter will suffer in public estimation, and become of secondary consideration. Yesterday's Toronto *Mail* seems to apprehend no danger to the Conservative cause from the idea in this country! The *Mail* says:—"The plebiscite already obtains here to a slight extent in connection with prohibitory legislation, but has not been thought of as a means of relief from Upper Chamber obstructiveness. It may not be quite in harmony with the spirit of the British constitution, but neither is Australian life and surroundings; and if our brethern of the Southern hemisphere wish to do a little political experimenting, there is no particular harm in it. Other Anglo-Saxon countries will, at all events, have the gratuitous benefit of their experiment." We opine that the Province of Quebec will likely be the first to follow their example in the way of teaching its Upper House common sense."

It is asserted, however, that if the Lords have never refused to pass the Supplies, they have frequently rejected money bills, and an attempt to justify the conduct of the Legislative Council on the strength of these precedents is made. It is undoubtedly true that, in the past, the Lords did encroach upon the rights of the Commons in this particular, but that little game has been long since put an end to. On the 6th July, 1860, the Commons adopted the following resolutions:—

1o. That the right of granting aids and supplies to the Crown, is *in the Commons alone*. 2o. That the power of the Lords to reject bills relating to taxation, is justly regarded by this House with peculiar jealousy, as affecting the right of the Commons to grant the supplies and to provide the ways and means for the service of the year. 3o. That to guard for the future against an undue exercise of that power by the Lords, and to secure to the Commons their rightful control over taxation and supply, this House has in its own hands the power so to impose and remit taxes and to frame bills of supply, that the right of the Commons as to the matter, manner, measure and time, may be maintained inviolate."

And MAY says at p. 583 "Parliamentary Practice":

"The significance of these resolutions was illustrated in the next Session, when the Commons, without exceeding their own powers, were able to repel the recent encroachments of the Lords, and to vindicate their own financial ascendancy. They again resolved that the paper duties should be repealed; but instead of seeking the concurrence of the Lords to a separate Bill for that purpose, they included the repeal of these duties in a general financial measure, for granting the property tax, &c., and other ways and means for the service of the year, which the Lords *were constrained to accept.* The financial scheme was presented, for acceptance or rejection as a whole; and, in that form, the *privileges of the Commons were secure.* And the budget of each year has been since comprised in a general or composite Act. Nor was there anything novel or unprecedented in this proceeding."

In a high moralizing strain, the Opposition pamphlet tells us that the House of Lords have never refused a supply bill, pure and simple, because English Governments have always had so high a sense of honor, that they have abandoned the field before being forced to such an extremity; and adds in the way of a homily upon the disadvantage of weak governments and their inability to work beneficially for the country, and to secure the adoption of their measures:—"Can any one quote a precedent showing an English Ministry so clinging to power? Has a Ministry which abandoned all its measures ever been allowed to remain in power? Such conduct is regarded there as dishonorable, and such as no intelligent man could support." Now let us see what some of the highest authorities say on these grave points:

Bagehot—p. 132:

"The elective is now the most important function of the House of Commons. It is most desirable to insist and be tedious, on this, because our tradition requires it. At the end of half the Sessions of Parliament, you will read in the newspapers, and you will hear even from those who have looked close at the matter and should know better. "Parliament has done nothing this Session. *Some things were promised in the Queen's speech, but they were only little things, and most of them have not passed.*" Lord Lyndhurst used for years to recount the *small outcomings* of legislative achievements; and yet these were the days of the first Whig Governments, who had more to do in legislation and did more than any Government. The true answer to such harangues as Lord Lyndhurst's by a Minister, should have been in the first person. He should have said firmly: "*Parliament has maintained ME and that was its greatest duty; Parliament has carried on, what, in the language of traditional respect, we call the Queen's Government; it has maintained what wisely or unwisely it deemed the best Executive of the English nation.*"

May's Constitutional History of England, p. 476, says:

"It can neither be affirmed that Strong Governments were characteristic of the Parliamentary system, subverted by the Reform Act; nor that weak governments have been characteristic of the new system and the result of it. In both periods, the stability of Administrations has been due to other causes. If, in the later period, Ministers have been overthrown, who, at another time, might have been upheld by the influence of the Crown; there have yet been governments *supported by a Parlia-*

mentary majority and public approbation stronger in moral force and more capable of overpowering interests adverse to the national welfare than any Ministries deriving their power from less populous sources."

"After the Reform Act, Earl Grey's Ministry was all powerful, until it was dissolved by disunion in the Cabinet. No government was ever stronger than that of Sir Robert Peel, until it was broken by the repeal of the Corn laws. Lord Aberdeen's Cabinet was scarcely less strong until it fell by disunion and military failures. What government was more powerful than Lord Palmerston's first administration, until it split upon the sunken rock of the Orsini conspiracy?

"On the other hand, the Ministry of Lord Melbourne was enfeebled by the disunion of the Liberal party. The first Ministry of Sir Robert Peel and both Ministries of Lord Derby were inevitably weak—*being formed upon a hopeless minority in the House of Commons.* Such causes would have produced weakness at any time. *And throughout this period all administrations, whether strong or weak and of whatever political party, relying mainly upon public confidence, have labored successfully in the cause of good government, and have secured to the people more sound laws, prosperity and contentment than have been enjoyed at any previous epoch in the history of this country.*"

In face of such an unanswerable authority as the foregoing, of what value, respectable as they are, are the opinions of individual statesmen and politicians, even of the highest rank, when expressed on the floor of the House, in the heat of debate. Yet our Opposition pamphleteer quotes from Sir Robert Peel (Hansard, vol, 87, p. 1042) declaring, that it is not for the public interest that a government should remain in office when it is unable to give practical effect to its measures. But it should be remembered that this was uttered at a time when that Minister had just been defeated by a majority of 73 on a vital question (Protection of Life in Ireland,) besides having been previously beaten on repeated occasions during the same Session, including even on the question of the Speaker's election. He therefore rather rejoiced, he said, that Her Majesty's Ministers had been released from all difficulty by an early and unambiguous decision of the Commons. An adverse majority of 73, certainly gives no unambiguous decision.

An extract is also given from Disraeli's Speech on the defeat of the Government on the Irish-Church question, (Hans Deb, vol. 191, p. 1704) which is wholly inapplicable to the case of the Joly Ministry, inasmuch as the arguments used by the present Premier of England on that occasion, were simply aimed at denying the imputation that the Cabinet of the day had governed with a minority, and at establishing that it was not to the honor of the House that it should be said that any body of men, *who did not possess the confidence of the majority*, were still able to conduct the

affairs of the House, WHEREAS THE JOLY GOVERNMENT DID AND DOES POSSESS A CLEAR MAJORITY.

In the same speech, however, several passages are reported, which are extremely relevant to our argument We quote two of them as specially worthy of reproduction and particular note at present. They will be found on the page of Hansard above-mentioned, and are as follows:

"We appealed to the country *which was as constitutional a course as resigning*, and our conduct showed that on that occasion there was no *unworthy clinging to office*."

"It is not wise on the part of the House of Commons to analyze with too close a scrutiny the numerical elements by which a Ministry is carried on. To do so would be to vitiate the practical qualities for which this House is celebrated."

Lord Brougham's review of the business of the Session of 1847, is also cited in deprecation of the evils of a weak government; but there is a failure to add that Lord Brougham was in Opposition at the time, when it was excusable for him to use any arguments against the Government of the day, and that at the conclusion of his speech on that occasion, he moved the following resolution, which was rejected without discussion:

"That an humble address be presented to Her Majesty, assuring Her of the deep interest which this House must ever take in whatever subjects are graciously recommended by Her Majesty; *that it is with great pain the House is obliged to admit that nearly the whole of the subjects thus recommended, and of high importance in themselves, have not been so far successfully dealt with as to produce any legislative measures to which Her Majesty's royal consent can now be asked; that it is very painful to the House to reflect that other subjects of vast moment have been abandoned without anything effectual having been done with respect to them*; that it is the earnest hope that no other Session of Parliament may ever pass without more being done for the improvement of the institutions of the country and for the benefit of Her Majesty's subjects than it has been found possible to accomplish in the Session which is now so near its close; and that the House now, as at all times, doth gratefully acknowledge Her Majesty's parental care for the welfare of Her dominions."

We ask particular attention to the lines italicized in the foregoing. They virtually embody the leading ground of objection and complaint raised during the recent Session, both by the Opposition in the Assembly and the factious and partisan majority in the Legislative Council against the claims of the Joly Government to a continuance of power; and it may therefore be not uninteresting to learn how they were dealt with by the British Commons. Their fate is thus briefly and unostentatiously recorded:

"Lord Brougham made some observations in reply, after which the motion was put and *negatived* without division." *Hansard*, 141, p. 590.

The further quotations of the Opposition pamphlet, to endeavor to establish a comparison between English and Canadian majorities in the popular branch, and to prove that, because, in some instances, Ministries in England, reduced to directing the affairs of the country with small majorities, have hastened to relieve themselves of the responsibility, the Joly Government, forsooth, should resign; are equally without force, point or application. It is impossible even to begin to institute a fair numerical comparison between majorities and minorities in the British House of Commons with its 658 members and in our little Provincial Assembly with its 65. As the Quebec *Morning Chronicle* very properly remarked on the subject in its issue of the 9th October instant:—

"Some stress seems to be laid on the fact that because a British Government resigned when they found that they were supported *in the Commons* by a majority of only three, Mr. Joly's Ministry should adopt a similar line of conduct because his majority amounts to the same number, and resign also. This is very absurd. A majority of three in the Province of Quebec is equal to a majority of thirty in England. Indeed it is a more useful majority here than thirty is in England, and the members of the Opposition know it well enough."

To sum up, under this head, the Council can reject the Supplies, if they choose to depart from the long established usage in the connection of the Lords in England; they can even suspend the Supplies as they have presently done, if they choose *to act unconstitutionally*. But in so doing they play a dangerous game and risk their very existence as a distinct branch of the Legislature. In a contest with the people and the people's representatives, they have nothing to gain, but everything to loose, for the people will not consent to be deprived of their rights or to be dictated to by an irresponsible House in the nominations to which they have no direct voice, and the Council must therefore eventually go to the wall as the question is no longer between the Council and the Government, but between the Council and the people. As May says at page 476 of his constitutional History, vol. I:

"The Lords may sometimes thwart a ministry, reject or mutilate its measures; and even condemn its policy; but they are *powerless to overthrow a ministry supported by the Commons* or to uphold a ministry which the Commons have condemned. *Instead of many masters, a Government has only one* (the Commons)."

II.—DOES THE HOSTILE VOTE OF THE COUNCIL IMPOSE ANY OBLIGATIONS ON THE GOVERNMENT?

Under this caption, with the view of endeavoring to show that, under existing circumstances, the Joly Government should either resign or be dismissed, and that the Assembly should yield to the Council, the apologists of the Legislative Council lay down the proposition that there is no measure depending on the power of the Legislature that the Government can carry out without the concurrence of the Legislative Council. The Government, they allege, must render an account of its conduct to both Houses, and its policy is incomplete, its authority lessened, if it be condemned by one of the branches. Theoretically, they are, no doubt, right, but neither authorities nor precedents are lacking to prove the supremacy of the Lower or elective branch and its power of ultimately over-riding all opposition to its measures. For instance, Farrall's Law of Parliament says at pages 58, 59, 93, 105 and 107:

"But the King and the Lords can do nothing without the assent of the Commons, for, as Halmsted further remarks, 'every Baron of Parliament doth represent but his own person, and speaketh in the behalf of himself alone. But in the Knights, citizens and burgesses are represented the Commons of the whole realm; and every of these giveth not consent only for himself, but for all those also for whom he is sent.' The Peers possess the privilege of legislating in trust for the good of the community; and in this sense they may be said to be also representatives of the people; but as they now hold this privilege hereditarily, they virtually and in fact but represent themselves individually. Not so the Commons—they immediately spring from the people, and represent the moral, the physical, and the financial strength and power of the country, and are, to use the words of Queen Elizabeth, 'the body of the realm.' They directly represent those, for whose advantage all prerogatives and privileges were created and conferred; and for whose good, whenever their abuse shall have rendered it necessary, they may be, as Blackstone contends, constitutionally resumed. It is, then, and ever has been, a fundamental principal in the British constitution—since our Governmental practices deserved the name of constitution—*that whenever the Lords will persist in rejecting measures, which the King and the Commons believe, after mature and earnest reconsideration, to be for the welfare of the people, that these two branches may pass the desired Acts without the virtual, or, if need be, the* FORMAL CONSENT *of the Peers.*

In 1642, the House of Lords, with the House of Commons, maintained that the Royal assent could only be suspended for a time, and could not be permanently withheld. *It would be strange indeed if the constitution had made no provision against* THE FOLLY AND OBSTINACY OF THE PEERS."

And more particularly with reference to the Supplies, the same authority observes, at p. 99 to 107 :

The *sole* power of granting or *withholding* subsidies is the great characteristic feature of this branch of the Legislature (Commons). This it is that gives it virtually the command of the other estates, and renders them although superior in dignity, vastly inferior in authority. It may then be said, as a phrase of courtesy or good manners, that the House of Commons cannot do this, or may not do that ! In truth it can, and may do anything that a body of rational men, selected by a large and independent constituency, shall deem befitting.

" The share of power," says Hume, " *allotted by the British constitution to the House of Commons is so great*, that it absolutely commands all the other parts of the Government."

The Commons are not only treasurers to the nation, but also possess the initiative of any bill imposing a tax, for whatever purpose. The principal is carried so far, that even in penal statutes where any pecuniary fine is imposed, the Lords cannot suggest the sum—nor can they alter the amount agreed on by the Commons. This being so, I ask, does it not clearly indicate, that for many most important purposes the Lords are but Legislators by courtesy, and that their constitutional province is strictly confined to being Counsellors and advisers of the Crown ? So tenacious have the Commons been of this money privilege, that they have frequently rejected bills, containing money clauses, solely on the ground of their not having originated with themselves.

Is it not clear then that the duty of the Lords, in considering such bills, is merely to prevent solecisms, or other grammatical inaccuracies creeping into them ? *If they pretend to any more than this, they claim that to which the constitution does not entitle them, the usage of laying money bills before the Lords, is a usage of courtesy. It should not be mistaken or abused and whenever it is, and that the necessities of the times require it, it will become a bold and independent House of Commons to lay down broadly and distinctly the principal of practice, and if need be, to assert that latent power possessed by that House, in conjunction with the Sovereign, of enrolling acts* WITHOUT THE CONCURRENCE OF THE LORDS ; PROVIDED, THE LATTER " WILL NOT DO OR YIELD TO ANYTHING."

The supply is the sole gift of the Commons, and is presented to the Sovereign for his exceptance by the Speaker of that House. IT CAN BE WELL GIVEN AND RECEIVED WITHOUT THE CONCURRENCE OF THE LORDS.

" The Commons have so uniformly and so vigorously resisted every attempt of the Lords to interfere with this right, that the latter have long since desisted from either originating money bills, or from making amendments to such bills passed by the Commons. The period in which the greater number of precedents occur begins from the Restoration and continues down to the beginning of the last century ; and whenever the question has arisen, the prompt and zealous denial of the Commons has crushed the encroachment so effectually, that latterly the Lords have abandoned all further attempts as hopeless. This privilege is now the sole and undisputed right of the Commons. The vast inferiority in power of the Lords must thence be inferred ; and as it is the constitution that clothes the Commons with this right, there is no authority for the assertion of our theorists THAT THE THREE BRANCHES OF THE LEGISLATURE ARE CO-EQUAL. The other two estates cannot be co-equal with the Commons, since as Hume observes : " from the very constitution, it must necessarily have as much power as it demands, and can only be confined by itself." This is a wise provision of government, for it must be admitted that the natural liberty of men cannot be placed in better hands than in those of their selected representatives. And is it not just and reasonable that those whose dignity and importance spring from the people should be liable to be controlled by the people's chosen delegates."

At pages 55, 57 and 58, Farrall also observes :

"But should the Lords persist in 'not doing or yielding to anything,' then it was for the Commons to call for the enrolling of the Statute without the sanction of the Lords—other means being insufficient to procure their apparent concurrence * * *. The reasons of the Peers must be duly considered in full and repeated free conference,

which being done, if the Commons be not convinced, then the dormant principle of the constitution is to be awaked, for *'the Lords cannot by their folly abridge the King and the Commons of their lawful proceeding in Parliament* * * * The Parliamentary Reform Bill, 2 Will IV was passed, *virtually without the assent of the Peers*, and this by the advice of Earl Grey, who declared himself in the Lord's House to be the champion of the *just* privileges of his order."

Of course, while our provincial constitution remains as it is at present, we cannot go so far as the writer above cited. The consent of the Council to all legislative measures is a necessary formality which must unfortunately be complied with. But the above extracts conclusively show the author's thorough appreciation of the folly and evils of deadlocks created by the Lords, and of the necessity of some power in the constitution to neutralize their factious opposition to the popular will. Again, the unconstitutionality and absurdity of the Upper Chamber dictating to the Lieut.-Governor the choice of his responsible advisers, claiming to decide the fate of ministers supported by a majority in the elective branch, and withholding the supplies in order to force their partisan views upon the head of the Executive, are forcibly demonstrated by Bagehot in the following:—

Page XXXVIII. (Introduction.)

"The House of Commons *only* can remove a Minister by a vote of censure. *Most of the ministries for thirty years have never possessed the confidence of the Lords;* and in such cases a vote of censure by the Lords could therefore have little weight; it would be simply the particular expression of a general political disapproval. It would be like a vote of censure on a Liberal Government by the Carlton or on a Tory Government by the Reform Club. And in no case has an adverse vote by the Lords the same decisive effect as a vote of the Commons; the Lower House is the ruling and the choosing House, and, if a Government really possesses that, it thoroughly possesses nine-tenths of what it requires. *The support of the Lords is an aid and a luxury;* that of the Commons is a strict and indispensable necessity."

Bagehot further says, on the same subject, at page XXV of the "English Constitution" (2nd edition.)

"The House of Lords must yield whenever the opinion of the Commons is also the opinion of the nation, and when it is clear that the nation has made up its mind."

Again at page XXXII:

"I conceive, therefore, that the great power of the House of Lords should be exercised very timidly and very cautiously."

P. 13:

"The House of Lords still exercises several useful functions; but the ruling influence—the deciding faculty—has passed to what, using the language of old times, we still call the Lower House—to an Assembly which, though inferior as a dignified institution, is superior as an efficient institution."

And p. 39:

"Most political crises—the decisive votes which determine the fate of the Government—are generally either on questions of foreign policy or new laws, and the questions of foreign policy generally come out in this way, that the Government has already done something, and that is for the one part of the Legislature alone—for the House of Commons and not for the House of Lords—to say whether they have or have not forfeited their place by the treaty they have made."

And at page 27, Todd observes:

"Though entitled equally with the Commons, to express their opinion upon all acts of Administration, and their approval or otherwise of the general conduct or policy of the Cabinet, they are powerless by their vote, to support or overthrow a Ministry against the will of the House of Commons."

And as Lord John Russell is cited in the connection, let us see what that distinguished statesman thought of the value of an adverse vote of the Lords in regard to its effect upon a Ministry:

"And I believe that a change of Government resulting from a resolution of the House of Lords with respect to the conduct of the Executive Government of this country would be contrary to the constitution of this country, and that, while it might cause great confusion in the State, it would be to none so dangerous as the House of Lords. To place upon the House of Lords the weight and responsibility of controlling the Executive Government of the country would soon put that House in a position which they have never hitherto occupied and which they cannot safely maintain * * Sir,—If these are my opinions, then I could not consent to surrender the reins of power in consequence of the resolution which has been arrived at by the House of Lords."—Hans Deb, vol. CXII, p. 105.

Hearn, p. 174, says:

Where the two Houses are at variance respecting the advice they should offer to the King, the constitution affords according to the nature of the case a twofold solution of the difficulty. Where the subject of difference is the practical administration of existing laws and requires an immediate decision, *the remedy is the preference given to the advice of the Commons.*"

And at p. 216:

"There are few instances of the resignation of a ministry in consequence of any impediment presented by the action of the House of Lords."

And at p. 222:

"There is one question which must always be uppermost in the mind of every servant of the Crown.—"How is the Queen's Government to be carried on?" If the measure or the loss of a measure do not affect or affect in but a slight degree *the existing law*, ministers are bound, however much they may disapprove of the innovation or however much they may regret the loss of their proposal, to continue in office."

* * * * * * * * * * * * * * * * *

Again at p. 225:

These defeats and especially the loss of his Irish propositions and of his schemes for the fortification of the dock-yards, were subjects of bitter mortification to Mr. Pitt; yet neither he nor his opponents appear to have thought that he was *under any obligation to resign.* These precedents of Mr. Pitt's have a double interest. On the one side, the events themselves curiously illustrate the supposed strength of

the "strong Governments" before the Reform Act. On the other side, the course which Mr. Pitt then adopted seems conclusively to show that a Minister, who is conscious that he retains the general confidence both of the King and of Parliament, *is not required to resign because some of his most important legislative proposals have not been accepted.* For the practice in later times, I need only refer to the long list of measures which, as I before observed, the House of Lords, sorely against the will of the Ministers of the day, *either rejected or largely modified.* Very recently we have seen more than one Reform Bill, a name once of magic potency, quietly set aside without any detriment to the Ministry that proposed it. It thus appears that Ministers, even when defeated on very important measures of legislation, have not thought it their duty to resign.....

See pages 228, 232.

With respect to the claim of the Lords to advise the Crown in regard to Ministerial changes, the Opposition pamphlet cites Todd, vol. I, p. 211, as follows:

"It is the undeniable right of either House of Parliamont to advise the Crown upon the exercise of this (dismissal of Ministers) or any other of its prerogatives."

But, with its usual duplicity and bad faith, it stops short here again and fails to give the qualifying considerations which Todd supplies, and which are as follows:

But the right cannot *be pressed so far as to render the Sovereign accountable to Parliament for Her conduct in changing her advisers.*

"Lord Selkirk, Part Deb, vol. IX, p. 377. The House of Lords have nothing to say to the changes which may take place in His Majesty's Councils. It is His Majesty's prerogative to appoint His own Ministers and to change them as he pleases."

In support of its views, the Opposition pamphlet quotes Hearn on the "Government of England," p. 160—61, but again, with characteristic misrepresentation, it designedly and with glaring bad faith omits from the text words and whole phrases, which qualify or explain the author's meaning and the omission of which altogether alters the latter. In order that the public may the better appreciate this fraudulent attempt to dupe and mislead it, we print side by side the reproduction and the original:

(*Opposition Pamphlet.*)	(*Original.*)
But the House of Lords has a right of advice co-extensive with that of the Commons; and to the House of Lords the remedy of a dissolution cannot be applied.... When a hostile vote has been passed against any ministry in the House of Lords..... it ought to obtain from the House of Commons a vote of a directly opposite character. Since Parliament consists of two parts and since questions of administration do not, like questions of legislation, admit of compromise or	But the House of Lords has a right of advice co-extensive with that of the Commons; and to the House of Lords the remedy of a dissoluiion cannot be applied.... When a hostile vote has been passed against any ministry in the House of Lords..... it ought to obtain from the House of Commons a vote of a directly opposite character. Since Parliament consists of two parts and since questions of administration do not, like questions of legislation, admit of compromise or

delay, if there be a difference between these parts respecting the conduct of any ministry, some means of speedily deciding that difference must be found. (Hearn, Government of England, p. 160-61.)	delay, if there be a difference between these parts respecting the conduct of any ministry, some means of speedily deciding that difference must be found. ACCORDINGLY, THE RULE IS THAT WHEN THE OPINIONS OF THE TWO HOUSES ARE DIVIDED, THE OPINION OF THE HOUSE OF COMMONS PREVAILS. (Hearn, Government of England, p. 160-61.)
....	....

The lines capitalized are those omitted from the original text.

The Opposition pamphlet asserts, that a difference of opinion existing between the two Houses, the Government constitutionally had one of two courses to take and that it took neither, being consequently censurable. These courses were :

1o. To fulfill the promise contained in the answer of the Lieut.-Governor to the Council of settling the difficulty,

2o. To challenge the Council and to cause the Lower House to completely reverse what the Council had decided upon ; for, as Lord John Russell said of the House of Lords :

"The censure of the policy of a Government by the House of Lords is a matter of very great importance and can only be counterbalanced by the formal approval of the same policy, by the House of Commons. (Hansard, vol. 192, p. 105.)

Now we respectfully contend that the Joly Government took not only one of these courses, but the two of them.

Consistently with its own dignity, it did all that could be reasonably expected from it to restore harmony between the two branches. It even went further and took the initiative in broaching through one of its members, the President of the Council, the question of a conference between the Houses with a view to settling the difficulty, though the constitutional pratice is that the first conference upon a bill must be demanded by that House in whose possession the bill is, and is usually demanded in order to state reasons for disagreeing; and though it is irregular to demand a conference for the purpose of requiring the reasons of the other House.

The Supply Bill, in regard to which the disagreement occurred, was in the possession of the Council at the time, and it was consequently the duty of that Chamber to have asked for a conference with the other House with respect to it. The Council, however, did not only not perform this, their plain constitutional duty, but they actually rejected the suggestion of the President looking to a conference, thus clearly establishing the factious, partisan and unreasoning character of their opposition. It is therefore quite evident that it was the Council and not the Government, *who did not wish to settle the matter*, and this truth received a further illustration on the 30th September, when the Council again met and not only persisted in their suspension of the supplies, but actually treated with contempt the appeal of the Lieutenant Governor (asking them to put an end to the deadlock and expressing his ardent desire to see the supplies voted,) by a further adjournment to the 27th October, without even taking His Honor's message into consideration. Under the circumstances, it is not easy to see what other course was open to Mr. Premier Joly, but to adjourn the Assembly, which, having got through all its own work, after an exceptionally prolonged session of two months and a-half, could not, on any practical or common sense ground, be asked to continue sitting with folded arms to await the leisure or the good pleasure of another Chamber, of a change in whose opinions there seemed to be little hope or prospect.

Then, as to the second point, that the Government should have met the adverse action of the Council, by a counter vote of the Assembly, the Opposition pamphleteer takes exception that the Government secured the passing by the Assembly of a *vague* resolution, which bears on no particular fact and that it did not cause the Legislative Assembly to deny the following averments of the Legislative Council:

1. That the government is open to censure for having withdrawn nearly all the measures announced in the speech from the throne.

2. That the government is open to censure for holding office with a majority varying between the casting vote of the speaker and a majority of two.

3. That the government is open to censure for given out considerable contracts, paying large sums of money, remitting sums of money, and the whole without the authorization of the houses and, in some cases, in direct contradiction of their orders.

4. That the government is open to censure for having violated the spirit and the letter of the law in three or four acts of administration.

5. That the government is open to censure for having violated the financial obligations of the country towards certain private railway companies.

6. That the government is open to censure for having paid current expenses with money taken from capital fund.

7. That the government is open to censure for having so arranged its finances, as to have only $500,000 on hand to meet payments amounting to $4,000,000 and that therefore it is subject to the reproaches of Mr. Gladstone and of the most illustrious authors, by simply evading the question instead of having fairly dealt with it.

Now, there is not one of these averments that, at one time or other during the session, was not formally denied by decided majorities in the Assembly. In fact, the Government successfully withstood some 22 different votes of want of confidence in regard to them or upon the variations which were played upon them by the Opposition leader and his lieutenants; and it is consequently idle to insist that the following resolutions, moved on the 2nd September by Mr. Gagnon, the member for Kamouraska, and adopted by the Assembly, is vague, and does not, by its formal approval of the Joly Government and its policy, both challenge and counterbalance the adverse decision of the Council :—

"Mr. GAGNON moved, seconded by Mr. Nelson,—"That the constitution given us in 1867, by the British North America Act, is similar in principle to that of the United Kingdom.

"That in the said constitution the Legislative Council and the Legislative Assembly of this Province, are respectively intended to fill, within the limits of their powers, the places of the House of Lords and of the House of Commons of England.

"That from time immemorial, the House of Lords in England has been in the habit of respecting the will of the popular branch of Parliament with regard to supply.

"That the House of Lords has never refused the granting of supplies to Her Majesty or suspended the adoption of the Supply Bill for the purpose of putting a pressure upon the head of the Executive Government, and of influencing him in the choice of his advisers.

"That by the principles of the British constitution, as understood and practised for a long time, the fate of our administrations rests not with the Upper House but with the elective branch of Parliament.

"That this House has, during the present session, frequently given clear proofs of its confidence in the advisers of His Honor the Lieutenant Governor, and especially in voting the supplies demanded by them.

"That the said supplies have been voted to Her Majesty only because of the confidence reposed by this House in the said advisers, and that this House would not have voted the said supplies if His Honor had had advisers not enjoying the confidence of the Legislative Assembly.

"That this House would see with regret the said supplies put in the hands of advisers in whom it would not have expressed its confidence."

Objection is made that Mr. Joly or some member of his Government should have taken the initiative in the Assembly in moving that Chamber for an adverse vote to

that of the Upper House, and that they acted unconstitutionally in allowing a *private member* to do so. But there is a strong precedent for their course in the connection.

In 1850, Lord John Russell's Ministry was censured by the Lords for their conduct in the affairs of Greece.

Hearn, p. 163, thus reports what followed:

"Lord John Russell, who was then Prime Minister, refused to accept the resignation of Lord Palmerston then Foreign Secretary, and announced that the Government dissented from the general rule of the law of nations thus laid down by the House of Lords *and refused to conduct itself accordingly to that rule*, and that it would adhere to its former policy. *But although he offered facilities for a motion*, THE PREMIER DID NOT HIMSELF SEEK THE INTERFERENCE OF THE HOUSE OF COMMONS. A motion strongly approving of the principles, which regulated the foreign policy of Her Majesty's Government was moved by Mr. Roebuck *(a private member)* though not an habitual supporter of the Ministry, and was carried by a majority of forty-six. This victory effectually secured the Ministry, whose existence had previously been very precarious.

We shall conclude our remarks, under this head, with one more quotation as a clincher to the arguments of those, who would wish to see an irresponsible Crown-nominated body like the Legislative Council override the popular will. It is from no less a personage than Earl Grey, to whom our Opposition pamphleteer is so fond of appealing as an unquestionable authority.

May, Constitutional History of England, vol. I, page 267:

Earl Grey said:—If a majority of this House (the Lords) is to have the power, whenever they please, of opposing the declared and decided wishes both of the Crown and the people, without any means of modifying that power, *then this country is placed entirely under the influence* OF AN UNCONTROLLABLE OLIGARCHY. I say that, if a majority of this House should have the power of acting adversely to the Crown and the Commons *and was determined to exercise that power*, without being liable to check or control, *the constitution is completely altered and the government of this country is not a limited monarchy*; it is no longer, my Lords—the Crown, the Lords and the Commons, *but a House of Lords*—a SEPARATE OLIGARCHY—governing absolutely the others."

These words of Lord Grey correctly pourtray the situation of the Province of Quebec at this moment.

III.—CAN THE GOVERNMENT DO WITHOUT SUPPLIES?

IV.—CAN THE GOVERNMENT BORROW CONSTITUTIONALLY?

V.—CAN THE LIEUT.-GOVERNOR AUTHORIZE EXPENDITURE WITHOUT A VOTE OF SUPPLY?

The Opposition pamphleteer has wasted a great deal of research and printer's ink to prove the negative of the three foregoing propositions. He has done so probably for his own satisfaction, as we cannot conceive (except to play upon the doubts of the wavering or the fears of the timid, or to maliciously insinuate that the Joly Government had done one or other of the unconstitutional things involved in the above propositions) the utility of proving what no one else contests. Although we might refute the majority of his deductions and show again, in the connection, that he is guilty of considerable misapplication, as well as mutilation of the authorities and precedents he cites in such profusion, we shall not follow him under these heads, as it is not only manifestly idle and superfluous to do so, but as we must presume that in due time and course the Government will advise and take the necessary constitutional steps to put an end to the deadlock, and to relieve the Province, as well as itself, from the disagreeable alternative of having recourse to any exceptional measures to sustain the public credit and carry on the public service.

Under the heading of "Can the Government constitutionally borrow?" it is, however, important to take special note of the unconscious admission of the Opposition pamphlet on page 32. In its attempt to prove the negative of its own proposition, it falls into the fatal acknowledgment for its cause that the Government cannot constitutionally borrow, *because in the first place there must be a deficit*, WHICH DOES NOT EXIST IN THIS CASE. This is surely selling its friends with a vengeance, after all their

lamentations during the session over the state of our finances, and the financial crimes of the Joly Government, and shows what sacrifices the unprincipled will indulge in at times to make an imaginary point against an adversary even to their own detriment.

In the meanwhile we defy contradiction of the assertion that the Joly Government has effected any other loans than the $3,000,000, the $270,000, and the $500,000 authorized by law.

VI.—SHOULD THE LIEUTENANT-GOVERNOR HAVE BEEN CONSULTED AS TO THE ADJOURNMENT OF THE LEGISLATIVE ASSEMBLY?

The proposition involved in this question may be at once negatived. All the recognized authorities of our day on constitutional law and Parliamentary practice agree in holding that it is no longer necessary to consult the head of the Executive with respect to an adjournment of both or of either of the Houses of Parliament for any period of time short or long. Indeed, they go further and assert that the power to adjourn is not only inherent in and essential to the independence of the Houses; but that, if assumed by the Crown, it might be used for sinister purposes. Although exercised and admitted in early times in the mother country, its use has been so constantly and determinedly resisted in modern days by successive Parliaments, that it has now passed into the category of things that have been, but will never be again. The half-heartedness of the attempt of the authors of the Dansereau *brochure* to justify its revival by casting doubts upon the constitutionality of the action of the Joly Government in adjourning the Quebec House of Assembly on the 2nd September last to the 28th October, without a direct recommendation from the Lieut.-Governor to that effect, or at least without consulting that officer or the other House —a position which is altogether untenable—is only too apparent by their studied avoidance of all the standard authorities of modern times on the subject, and their eager appeal to precedents which are as obsolete and as inapplicable to the support of a correct reading of modern parliamentary usages, as they are suited to their retrogressive views and foreign to the spirit of our day and the principles of responsible government. For the better information of the public, we quote from a few of those standard authorities, commencing with Sir William Blackstone, whose opinions possess a perennial freshness, vigor and applicability, of which no lapse of time can deprive them.

I. Blackstone, ch. 2:

"Formerly there were many instances of the Houses adjourning at the expressed desire of the King, but the practice of so adjourning has been discontinued.

Perry's Parliament, 284 *et seq*; 2 Hatsell, 311 *et seq* "Mr. Amos observes that the power of adjournment, if assumed by the Crown, might be used for sinister purposes, specially if the adjournments were protracted or repeated or ended in a prorogation or dissolution. He cites several instances in which adjournments were so used in the reign of Charles II (English Constitution, Ch. 3)."

Farrall—Law of Parliament, pages 69, 70 :

"I have not met with any cases wherein the Commons have resisted the desire of the Sovereign in the *prorogation of Parliament*; but there are instances where they have *expressed the utmost jealousy respecting their privilege to adjourn themselves and have totally disregarded the King's commission directing an adjournment.*"

"19th March, 1st Sess. Jacobi—It was resolved: *That this House by itself and of itself might be adjourned.*"

4, Chas. I (1681). The speaker delivered a message from the King commanding him "to adjourn the House until Tuesday, come seven night following" which was disregarded on the ground "*that the adjournment of the House did properly belong to themselves.*"

Cox—On the British Commonwealth, p. 43 :

"Adjournment, by which the deliberations of either Houses are temporarily suspended, are solely in the power of each independently. The pleasure of the Crown that both Houses should adjourn has sometimes been signified by message or proclamation, but it is in the discretion of each House to comply with the request."

Hatsell, p. 521 :

"The true Parliamentary doctrine is that the King has no authority to adjourn Parliament."

Chitty, on prerogative, ch. VI, p. 71 :

"The two Houses respectively possess the exclusive power of adjourning themselves, *nor can the King exercise it*; and an adjournment of one House is not, *ipso facto*, an adjournment of the other. * * * An adjournment may be made by the Houses not only from day to day, but for a fortnight *or a longer period*, as is usually done at Christmas or Easter or upon other particular occasions."

May's Parliamentary Practice, 7th edition, p. 49 :

"Adjournment is solely in the power of each House respectively. It has not been unusual, indeed, for the pleasure of the Crown to be signified in person, by message, commission or proclamation, that both Houses should adjourn; and in some cases such adjournments have scarcely differed from prorogations. But although no instance has occurred in which either Houses has refused to adjourn, the communication might be disregarded.

"Business has frequently been transacted after the King's desire has been made known; and the question for adjournment has afterwards been put, in the ordinary manner, and determined after debate, amendment, and division. Under these circumstances it is surprising that so many instances of this practice should have occurred in comparatively modern times. Both Houses adjourn at their own discretion, and daily exercise their right. Any interference on the

part of the Crown is therefore impolitic, as it may chance to meet with opposition; and unnecessary, *as Ministers need only assign a sufficient cause for adjournment, when each House would adjourn of its own accord, and for any period, however extended, which the occasion may require.* The pleasure of the Crown was, last, signified on the 1st March, 1814; and it is probable that the practice will not be revived."

It may be at once stated here that the Joly Government did assign sufficient cause for the adjournment of the Assembly, which they proposed and carried—1o. In the persistency of the Council in refusing to grant the Supplies. 2o. In the latter's contemptuous rejection of all the Government's approaches looking towards a reconcilement of the difficulty between the Houses. 3o. In the desirability of affording the obstructives of that House, sufficient time to reflect upon the disturbing consequences of their unconstitutional act, before proceeding to harsh measures to assert the supremacy of the popular branch. 4o. In the importance of affording to the outside public an opportunity of pronouncing upon the arbitrary conduct of the Council, as it has since done at crowded public gatherings in Montreal, Quebec, Sorel, Portneuf, St. Maurice, St. John, St. Hyacinthe, Montmorenci, Rouville, Kamouraska, Gaspé, and elsewhere. And 5o. In the injustice, if not the positive cruelty, of detaining any longer, from their homes and private affairs, at the busiest season of the year, in attendance upon the Council, when their own work was done, a body of gentlemen worn out by the fatigues of an exceptionally long and tedious Session, who had already exhaustively discussed and conclusively pronounced upon each and every of the matters brought upon the *tapis* by the Council of which they were the sole Judges.

2o. But the Dansereau pamphlet says :—"The American Constitution, which is the written exposition of the unwritten British Constitution, contains the following clauses :

"Neither Houses, during the session of Congress, shall, without the consent of the other, adjourn for more than three days."

Such, indeed, may be the American practice; but we deny *in toto* the correctness of the assumption that the American Constitution is the written exposition of the unwritten British Constitution. On the contrary, these two Constitutions are in many points most diametrically opposed; and the authorities we have already quoted from the standard constitutional English authors of our day

show that the present recognized usage in the two countries is essentially different in the matter of adjournments of the Houses—the United States apparently having retained from their colonial times a practice in this particular then in vogue and derived from England, which has since been utterly discarded by the mother country. Indeed, for the purposes of backing up his untenable position in the connection, the Opposition pamphleteer might with equal point have quoted and applied to the case in hand the usage as to adjournments in the French Republic or among the Zulus, as to have called into evidence the American practice.

The Opposition pamphlet goes on to assert that this denial of the right to colonial assemblies to adjourn themselves *seems* to be in accordance with constitutional jurisprudence and quotes, 1o. from "Chitty on Prerogative," p. 37, in support of its pretension. In this instance, we have again to notice a wicked and deliberate mutilation of the text, with the intention of cunningly and fraudulently adapting it to the case of the adversaries of the Joly Government, and surprising the good faith of the public. In order that the reader may be better able to detect the fraud and appreciate its significance, we give below side by side the quotation as it appears in the Opposition pamphlet and, as it appears in the original:

(*Opposition pamphlet.*)	(*Original.*)
"The constitutions of the English Parliament and the colonial assemblies necessarily differ: *the latter cannot even adjourn themselves;* this is done by the Governor, who as representative of the King is the first branch of this subordinate Legislature."	"The constitutions of the English Parliament and the colonial assemblies necessarily differ: the latter cannot even IN GENERAL adjourn themselves; this is done by the Governor who as representative of the King, is the first branch of this subordinate Legislature. * * * Local circumstances and the necessity of the case must also create several differences between Parliament and the colonial assemblies with respect to the prerogatives of the King as their "*Caput, principium et finis.*"

It will be seen that the important words "IN GENERAL," implying that the disability in question did not apply to all colonial Legislatures of that day, have been designedly omitted by the authors of the Dansereau *brochure* in order

to lead to the belief that they were all then and are all still laboring under it. The dishonesty of such conduct is too transparent to call for comment.

As, if to cap the climax of the absurdity of their pretension in this respect, they next proceed to summon into evidence the authority of "The Constitution of the British Colonies in North America and the West Indies" by Stokes, a writer of the year 1783, long before responsible government was accorded to any of the transmarine possessions of the British Crown, and when these were either Crown colonies, plantations, or Provincial establishments—a period in colonial history when the Royal prerogative was stretched to limits from which the constitution and Parliamentary practice at home and abroad have long since emancipated themselves. For example, Stokes (speaking of the West India Islands) says at p. 242 :

"Every Governor is forbid to suffer the Assembly to adjourn itself."

Now, the present value of this authority (which at all events only applies to Crown colonies in days long previous to responsible government) and the absurdity of applying it to our own times, will be at once apparent, if we continue the quotation. Stokes adds at p. 242 :

"In the Provinces on the Continent where many of the members lived at a distance from the town, it was usual for the Commons' House of Assembly not to do business on a Saturday, but to go home on the Friday evening and return to town on the Monday morning following. However, the Governor could not, consistent with his duty, permit the Commons' House of Assembly to enter on their Journals an adjournment from Friday till Monday. * * * * And wherever the two Houses of Assembly were adjourned for the Christmas holidays, or on any other occasion, it was always done by the Governor. * * * * * * * * "

Just imagine for an instant, under the British system of the present day, a legislative body deeming it necessary to have the permission of the Chief of the Executive to adjourn over from Friday to Monday or for the Christmas holidays! The idea is simply ridiculous, and it is sufficient to entertain it for a moment to laugh out of court Master Stokes and his authority as well as all who put him forward, in this connection.

But Stokes is too convenient an author for those who wish to curtail the popular rights, and who, as true Tories, delight in the revival of any obsolete attribute of the prerogative, for that purpose, to part with readily. Accordingly,

we find the great constitutionalist of the Opposition pamphlet a little further on quoting again from Stokes, p. 243, as follows:

"The *late* disposition the colonies have shewn makes it appear how necessary it was that the power of adjournment should be lodged in the Governor only, and not entrusted to the Houses of Assembly. (Stokes, page 243.)"

In reply to this, it is only necessary to cite once more the title of Stokes' work—"The Constitution of the British Colonies in North America and the West Indies, *at the time the Civil War broke out on the Continent of North America.*" This title readily explains the grounds of the author's conviction respecting the necessity of the power of adjournment being lodged in the hands of the Governor. The thirteen Colonies were, at that time, if not in open rebellion, at least gravely disaffected to the authority of the British Crown. The parallel therefore does not stand good as regards dependencies of the Empire, at this day, which enjoy the blessings of responsible government and are peacefully working out the doctrines of the constitution after the example and upon the model of the mother country.

Again, the action of the Legislative Council of Victoria condemning as anomalous, unprecedented and hurtful, in an address in January, 1878, to the Governor of that Province, the conduct of the Assembly in adjourning for a lengthened period, without consulting either of the other two branches of the Legislature, is quoted. It is sufficient to observe that the opinion of a body like the Victorian Council, (though entitled to a certain amount of respect, owing to the fact that it comes from an elective body and not a Crown-nominated and irresponsible body, for the Victorian Council *is elected by the people*) should not and does not count for much, when contrasted with the privileges in the connection now claimed and exercised beyond cavil by either or both of the Houses of the Imperial Parliament, according to the high authorities already cited.

The assertion of the Opposition pamphlet that the doctrine promulgated by the Legislative Council of Victoria accords with the English doctrine is therefore as gratuitous as it is unfounded, and the quotation from Lex Parl, Sir Rob. Atkins, arg. fol. 51, that—

"The House of Lords cannot exercise any authority as a House of Parliament or as a Court of Error, unless the House of Commons exists at the same time,"

Is fully met, *mutatis mutandis*, by the following from Farrall's Law of Parliament, p. 68:

"The House of Commons being to many purposes a distinct Court, Lord Coke and Judge Hales say that, therefore, "it is not prorogued or adjourned by prorogation or adjournment of the Lords' House."

But if precedents are required to justify a protracted adjournment of the House without a special message from the Lieutenant-Governor, it is only necessary to go into the enemy's camp for them. In 1873, the House of Commons of Canada, then led by Sir John A. Macdonald, adjourned over from the 23rd May to the 13th August, on simple motion of the present Dominion Premier, seconded by Sir S. L. Tilley, *without such message*, in connection with the Pacific Scandal.—(Commons Journal, 1st Session, 1873, page 423.)

And in 1874, when the outrage known as the Tanneries Land Swap agitated this Province, the DeBoucherville Government, without any recommendation from the Lieutenant-Governor of the day, procured an adjournment of the Provincial Houses from mid-December to mid-January, in order to enable the Investigation Committee to sit and examine witnesses at Montreal.

Consequently the doubts as to the right of either House to adjourn when they will and for whatever period they will are futile and unworthy of entertainment.

With respect to the assertion that "the adjournment of the House is equivalent to a prorogation," it may be observed that English constitutional authors seem to hold quite the contrary opinion. For instance, Cox, Institutions of the English Government, says:—

"An adjournment is no more than the continuance of the session from one day to another and is made by each House *independently* of the other; and after adjournment, the business of the session may be proceeded with from the stage in which the adjournment left it."

Elsewhere, Cox further illustrates the difference between the effects of adjournment and prorogation, while showing that the one is exclusively of the province of the Houses,

collectively or separately, and the other that of the Crown, acting by the advice of its Ministers. He says :

"The power to adjourn is *necessary to the independence* of the Houses; but it is also necessary that there should be some means of suspending the functions of the whole Parliament. The Crown, being the first branch of the Government, *and having no constitutional authority to act but by the advice of its ministers*, who are responsible to Parliament, is obviously the proper repository of the power of prorogation."

In the same connection, we may quote :

Chitty on Prerogative, ch. VI, page 72 :

"Her Majesty's assent to a bill during a session does not end it, and it seems that *an express prorogation or dissolution is necessary for the purpose.*"

The instructions to Colonial Governors at the present day make no mention of the *adjourning power* as resident in Her Majesty's representatives ; and we regard the omission, in view of the now recognized rights of the Imperial Houses in the connection, as *intentional.*

Sir Edward Creasy, in his work on the Imperial and Colonial Constitutions, 1872, p. 387, thus defines the present legislative powers of a Colonial Governor according to the Rules and Regulations of the Colonial Office :

"He has the power, in the Queen's name, of *issuing* writs for the election of Representative Assemblies and Councils, of *convoking* and *proroguing* Legislative Bodies, and of *dissolving* those which are liable to dissolution."

No mention of adjourning,—the Opposition pamphlet therefore is guilty both of sophistry and a deliberate perversion of the truth, when it asserts that the fact is that all relating to Parliamentary procedure is now omitted from instructions to Governors, because a knowledge of constitutional law is supposed to be much more diffused at present than it was formerly. The omission is on the contrary quite intentional.

To close under this head, it may be briefly stated, and conclusively allowed, that the right of each House to adjourn for any length of time, *of itself and by itself*, without consulting the other or the Crown, is undeniable. In the present instance, the adjournment of the Assembly may have been attended with inconveniences to the public service; but that it was justified by the circumstances and forced upon the Government and the Assembly by the unconstitutional and provoking attitude of the Council, cannot be dispassionately or reasonably questioned. The

latter body, therefore, with their co-plotters, a violent and factious Opposition in the Assembly, and not the Government, must be held responsible for all the trouble, as well as for the failure of the Legislature to comply with the instructions of the Sovereign's representative in calling it together for *the despatch of business*, and Earl Grey would seem to have had specially in view the factions character of the Quebec Opposition (which so exceptionally prolonged the session) when he wrote the following remarkable words with respect to the practical result of Parliamentary Government in the British Colonies, page 216 :

"Under the new arrangement (Responsible Government) the government of those Colonies has been conducted with little steadiness or energy and their Legislatures, *instead of playing themselves diligently to the public business and then allowing their members to return to their private concerns* (from which in a young society they cannot be long detained without injury to the community), have been expending valuable time *in party struggles and in debates* arising from the frequent changes of administration."

VII.—COULD THE LIEUTENANT-GOVERNOR LAWFULLY SANCTION BILLS AFTER THE ADJOURNMENT OF THE HOUSE?

The Opposition pamphlet attempts to answer this proposition in the negative in a manner characterized by its usual failure. Its author has lavished an extraordinary amount of constitutional research and precedent to establish his position as well as to instil into the minds of waverers a suspicion of the legality of the advice tendered to the Lieutenant-Governor with regard to the assent given to the legislation of the session during the adjournment, and consequently of the uselessness of the session.

It might be argued that the presence of the Speaker, Clerk, and Sergeant-at-Arms, of the Assembly, in the Legislative Council, when the Royal assent was given, constituted a sufficient representation of the elective chamber on the occasion; the legality of the Governor's act may also be inferred from the fact that he performed it by and with the advice of his responsible ministers, including the law officers of the Crown for the time being.

May, page 228, referring to the Speaker of the Commons, says:

"He is, in fact, the representative of the House itself, in its powers, in its proceedings, and its dignity."

Hatsell, Commons Precedents, page 346, vol. 2.

Lord Clarendon, observing upon this subject (Royal assent) says:—"In "truth, it is not only lawful for the Privy Council, but their duty, to give "faithfully and freely their advice to the King, upon all matters concluded "in Parliament, to which his Royal assent is necessary, as well as upon any "other subject whatsoever."

But we claim that the great principle which underlies the British Constitution and Parliamentary practice in this matter is that *when both Houses have passed a Bill, it is not in the power of any person to withhold it from the Royal assent.*

It is true that it has been the custom to give the Royal assent in the presence of the two Houses, but it does not follow that such presence is absolutely essential. If a precedent be wanting for the giving of the Royal assent in the absence of the Commons and even of the Speaker of the Commons, representing that chamber, we have only to cite the following :

Hatsell's Commons precedents, page 339, vol. 2 :

" On Friday, the 29th of January, 1768, the King came to the House of Lords to pass the Bills ready for the Royal assent, amongst which were some that came originally from the House of Commons, to which the Lords had agreed, but the message, signifying the agreement, could not be received by the House of Commons, as the Speaker could not collect forty members, to enable him to take the Chair. The Speaker, therefore, sent to the House of Lords to desire that those Bills might be stopped, and not offered, notwithstanding which the Clerk was directed to proceed, and the Bills accordingly received the Royal assent. The Speaker (Sir John Cust) at his return, was very angry, and said that on such another occasion he would at the Bar acquaint the King and Lords that no message had been brought to the Commons of the Lords having agreed to the Bill. Lord Marchmont and Lord Sandys (both Lords of great experience in Parliament) replied that *when both Houses had passed a Bill it was not in the power of any person to withhold it from being offered for the Royal assent*, or (as they expressed themselves) to take it off the table; and I believe they were right in this opinion. *The message to the Commons is only a matter of ceremony and not an essential form to the passing of a Bill*, except it is a Bill of Supply; with regard to Bills of Supply, the Commons claiming a right to present them by their Speaker, he would certainly be justified in taking notice at the Bar of the House of Lords of this omission. But as to other Bills, the message of agreement is a form between the two Houses which they ought to observe towards each other, *but is not an essential form. And it would be dangerous doctrine to say that when both Houses had passed a Bill, the power of withholding that Bill from being offered for the Royal assent, should lie anywhere ;* especially that it should depend on the Commons not receiving a message, from which they were precluded only by an order of their own.

Our own recognized Parliamentary authority, Mr. Todd, however, gives no unmistakeable testimony on the point under discussion. With his permission, we are enabled to to reproduce a letter written by him in reply to one from the Attorney-General on the very same subject :

OTTAWA, 9TH SEPT., 1879.

MY DEAR MR. ROSS,

The old parliamentary rule with regard to giving the Royal assent to Bills is that the assent should be announced in *presence of both Houses*—(see Hatsell, vol. 2, p. 338.)

But whilst it has been always customary in Canada to observe this rule, a different usage has prevailed in other Colonies having self-governing institutions.

For example: in New South Wales, in Queensland and in New Zealand, Bills, (other than Supply Bills) are usually assented to by the Governor at his

official residence, in presence merely of the Clerk of the Parliament (who is the official custodian of Bills passed, except such as are to be presented for acceptance and sanction by the Speaker of the Commons) and both Houses are afterwards notified thereof by special message under the sign manual.

In Victoria, the English rule has been generally observed, but the local law officers of the Crown have advised that this is not essential, but that the Governor can legally and constitutionally give the Royal assent to Bills *at his office or elsewhere*, such assent being afterwards duly notified by message to both Houses.

Truly Yours,
(Signed,) ALPHEUS TODD.

In face of such an authority as the last cited, we think it unnecessary to pursue the argument under this head any further.

VIII.—CAN THE LIEUTENANT-GOVERNOR CONSTITUTIONALLY GRANT A DISSOLUTION?

We now come, under the above head, to the final proposition laid down by the Opposition pamphleteer, and sought to be negatived by him with the assistance of his usual host of garbled, half-stated or misapplied precedents and authorities. As the Quebec *Morning Chronicle*, in the review of his work which appeared in its issue of the 9th October, remarked:

"The kernel of this ill-ordered nut, however, is contained in the section which tries to prove by means of false reasoning that a dissolution should not be granted by the Lieutenant-Governor. It is here that the writer of the *brochure* shows his hand plainly and reveals the policy of the Opposition in a light which must redound greatly to their serious disadvantage. We have all along shown that the Council was obstinate and intractable, and that nothing short of a complete change of Government would satisfy them. The pamphlet, which is obscure and ignorant in everything else, is wonderfully clear on this point. On page 61 there is this passage:

'Let us suppose, for instance, that a general election takes place; and that an immense majority of the Province declared itself in favor of Mr. Joly. That will not give him the Supplies? In any event, if the Council persist in their refusal, and why should they not persist like the Legislative Council of Victoria, whom the general elections did not affect and who held their ground after repeated appeals to the people?

'The means proposed by the Joly Government are therefore not infallible. But there is another means. His Honor the Lieutenant-Governor, by virtue of the right he possesses to put himself in *constitutional relationship with those who have refused the supplies*, has only to say to one of the Legislative Councillors "are you capable of putting the two Houses in accord with each other?" "certainly" the honorable councillor will reply "if you authorize us to furnish you with other advisers who will have the confidence of both Houses." It is probable that the choice of another government which would be sustained by the two Houses will be easy. It is but right for the Lieutenant-Governor to give the Joly Government any reasonable time to arrive at that result, and we must remember that liberal delays have been granted them; but it would be unjust for the country to have to submit to the trouble of general elections, with the sole aim of retaining Mr. Joly in power, when there is so simple a mode of restoring harmony.'

"This is certainly the case in a nut-shell, and means plainly that the people must be ignored, and that the voice of the fifteen Conservative Legislative Councillors is more potent than that of the tax-payers and inhabitants of the country. This is the only honest passage in the whole pamphlet, but for all that it is a most disastrous one for the Opposition. It shows how much they dread a general election, and how fearful they are of the consequences of an appeal to the people that they are now trying to trample

underfoot, and to crush out of existence forever. They arrogate to themselves haughty and defiant airs in private, but they fear the clamor of an outraged public opinion and they dare not face an offended but mighty people who would sweep them from the political arena with one universal sweep. Not all the pamphlets in the world could save them. They would perish before the whirlwind of popular clamor, which a general election would provoke, and an election contest is the very thing which they would avoid as a pestilence and a plague."

It may be briefly stated that the Opposition pamphlet was prepared at a time when a dissolution of the Legislature, before the date of the reassembling on the 28th October, was deemed imminent. Hence the strenuous efforts of its author to prove the unconstitutionality of such a step during the adjournment (no doubt for the very forcible reasons set forth in the above extract from the *Chronicle*.)

Speaking of the Opposition to Mr. Pitt's first administration, Mr. Todd (p. 55) uses language which may be equally well applied to the case of the Quebec Opposition, their objects, and their dread of an appeal to the people. This language is as follows :

"Too much exasperated to act with caution, the Opposition ruined their cause by factious extravagance and precipitancy. *They were resolved to take the King's Cabinet by storm*, and without pause or parley struck incessantly at the door. *Their dread of a dissolution, which they so loudly condemned, showed little confidence in public support. Instead of making common cause with the people, they lowered their contention to a party struggle.*"

Yet, though Todd styles this Opposition "indefatigable, unscrupulous, and even factious," he states that "*they shrank from refusing the Supplies.*" And remember that he speaks of the Opposition in the Commons and not in the Lords.

Instead of making common cause with the people and defending its rights against the Legislative Council, the Quebec Opposition, like the Opposition to Mr. Pitt, have lowered their contention to a party struggle. Hence the well justified refusal of Mr. Joly to coalesce with any such enemies to popular rights.

Hatsell is cited to establish the absence of any precedents for dissolution during adjournment ; but that eminent writer very carefully adds *that no argument can be drawn from thence* against such a dissolution.

Nevertheless, it is admitted that in pushing the Royal prerogative to its extreme, "*there is no doubt it would have its effect;* but it requires at least some extraordinary circumstance to justify it."

We think it can hardly be denied that the unprecedented act of the Council and its disturbing effects upon the affairs of the Province constitute sufficiently *extraordinary circumstances* to justify even more extreme measures than a dissolution, if such were possible ; *that a dissolution would have its effect ;* and that the Lieutenant-Governor would incur no disgrace in giving effect to the voice of popular opinion, even had he to follow the precedent established by the mild-mannered and easy-going Richard Cromwell, whose character offered so marked a contrast to that of his stern and revolutionary father, the Protector. Nevertheless it is well to remember that it is to a Revolution that we owe the purification, and, in a great measure, the present condition of the British constitution.

As to the statement that a dissolution, under present circumstances, would completely undo the work of the session, if the sanctioning of the bills on the 11th September be illegal, it may be allowed to go for what it is worth. It is quite gratuitous; while we have only to look for the source of its inspiration in the equally gratuitous recommendation of the Opposition pamphleteer that such a result should not be risked, and the country swamped with law suits. In other words, his meaning is that nothing will be wrong, but everything be right, if the Lieut.-Governor only refuses the advice of his responsible Ministers, should they deem it necessary to dissolve the Legislature. This is certainly not the doctrine laid down in the Letellier case ; and he cannot blame us if we hold his friends to the latter strictly at this juncture.

But he is not without alleging further reasons of a similar stamp to warrant the refusal at any time of a dissolution, if necessary, to the Joly Government. He insinuates that they have not exhausted all means to re-establish the desired harmony between the two branches of the Legislature. To put his meaning in plain English, the Joly Government, then and there supported by a majority of the people's representatives, should either, by their resig-

nations, have thrown up the sponge to the Council and made way for Mr. Chapleau and his supporters, who were in the minority in the Assembly, to but a majority, owing to circumstances in the Council, or they should have cravenly yielded up not only the Premiership, but more than half of their portfolios, to satisfy the greed of those cormorants, with their unscrupulous train of taxationists and railway rings, which would be equivalent to a return to the disastrous policy of the DeBoucherville regime, so emphatically condemned by the electors on and since the 1st May, 1878. We have already, we think, conclusively shown that, short of condoning the unconstitutional act of the Council and proving recreant to the trust reposed in them by the majority in and out of the Assembly by either yielding the *pas* to the Council or coalescing with those who countenanced that body's arbitrary and unconstitutional act, they exhausted every ordinary constitutional means to put an end to the deadlock. If they failed to do so, the fact was due to the unreasoning obstinacy of the Council, and not to any lack of exertions on their part. There remains to be tried, if they are forced to it, the constitutional measure of dissolution, and that Ministers have a right to be permitted to resort to this under actual circumstances cannot be questioned.

But it is brazenly insinuated by the Opposition pamphlet that even a dissolution and general elections, giving an immense majority to Mr. Joly, would not better matters, as that would not give him the Supplies. This is empty bravado. It is hinted that the Council might even then persist in their refusal, and that body is actually advised to do so, seeing that it is told there is no reason why it should not persist like the Legislative Council of Victoria, whom the general elections did not affect and who held their ground after repeated appeals to the people. Now this is what may fairly be termed the height of cynical indifference to the wishes of the people, and once more reveals the hand of the conspirators of the Opposition. Their object, from beginning to end, is to obtain power against the will of the majority and to degrade the people's Chamber to the level of a slave to the Crown-nominated House, contrary to the spirit of our constitution and in defiance of all authority and precedent. As for the Victoria precedent, which the Opposition pamphlet again cites, we may remark once for

all that the Legislative Council of Victoria is a body *elected by the people* and that there is no analogy whatever between its action and that of an irresponsible Chamber like the Quebec Legislative Council.

With regard to the right of the opinion of the Commons to prevail, Bagehot says at page 227:

"The ultimate authority in the English constitution is a *newly elected House of Commons*. No matter whether the question upon which it decides be administrative or legislative; no matter whether it concerns high matters of the essential constitution or small matters of daily detail; no matter whether it be a question of making a war or continuing a war; no matter whether it be imposing a tax on the issuing of paper currency; no matter whether it be a question relating to India, Ireland or London—A NEW HOUSE OF COMMONS CAN DESPOTICALLY AND FINALLY RESOLVE.

The House of Commons may, as was explained, assent in *minor* matters to the revision of the House of Lords, and submit in matters about which it cares little to the suspensive veto of the House of Lords; but, when sure of the popular assent, it can *rule as it likes and decide as it likes*, and it can take the best security that it does not decide in vain. It can ensure that its decrees shall be executed FOR IT AND IT ALONE APPOINTS THE EXECUTIVE.

But the cloven foot of the conspiracy is fully revealed in the next paragraph of the Dansereau *brochure*, and therein will be found their entire case and the aim of their aspirations and machinations. As a simple means of restoring harmony, the Lieutenant-Governor is boldly advised *to dispense with his responsible ministers* and, BY VIRTUE OF THE RIGHT HE POSSESSES, *to put himself in constitutional relationship with those who have refused the Supplies* wh he will be assured by the conspirators of the Cour that the Houses can be put in accord, if they be allowed to furnish him with other advisers. Of course, this has been their game from the outset; but it is wonderful that their apologist should have thought it necessary to waste so much ink and time before laying down a proposition so simple.

It is not surprising, however, that as a true Tory, making light of the popular will, he should be found quoting and insisting as a justificatory precedent for the Lieutenant Governor, upon the outrage known as the Double Shuffle of 1858, when Sir Edmund Head refused a dissolution to the Brown-Dorion Ministry and forced its retirement within twenty-four hours after accepting office. We are accordingly treated to an analysis of Governor Head's

reasons for refusing the dissolution then advised, and told that a majority of the two Houses of that day expressed their satisfaction and approbation of those reasons in unmistakeable terms. We are not at all surprised at this, as members entertain a very natural dislike to being sent back to their constituents; but this circumstance does not render the Double Shuffle less an outrage or an infamy; and we all know how severely criticized and condemned was Governor Head's action at the time.

But it is stated that the same reasons for refusing the dissolution then, exist to-day in the case of the Joly Government. These reasons are alleged to be:

1o. The legislation is unfinished;

To which we answer that the legislation is finished, and being sanctioned, (his doubts to the contrary notwithstanding) there remains only the assent or negative of the Council to be given to the Supply Bill, which need only be accepted and not sanctioned by the Crown.

2o. We have just had general elections;

No; we had them a year and a-half ago; but, even supposing we had them only three months ago, it does not follow that circumstances are not of sufficient gravity at present to justify them again.

3o. It is not shown that we cannot find another Government capable of settling the difficulty;

This reason, as well as the 4th, to the effect that the affairs of the country have been illegally conducted since the 1st July, is of a piece with the Letellier persecution now so vigorously condemned by English authority and the remainder of the specious reasoning of the Opposition, and is conceived in the spirit of their entire programme, which is to override the will of the people and the Assembly.

Now we invite the reader to note what are the occasions in which, according to the opinion of the most eminent constitutional writers, a dissolution ought to be granted, and to compare them with the circumstances of the actual situation:

2 Todd 405 says:—2ndly. "On account of the existence of disputes between the two Houses of Parliament which have rendered it impossible for them to work together in harmony. *But happily there have been no cases of this kind since the complete establishment of Parliamentary government.*"

(For the reason that in England, the Lords now invariably end by submitting to the Commons.)

Has the Legislative Council the right to decline to pass the Supply Bill on the grounds that the House of Assembly does not correctly represent the wishes and opinions of the people ?

From a portion of the following extract from 2 Todd 405 on dissolutions, it would appear not. Todd says that a dissolution may properly take place.

Fourthly. "Whenever there is reason to believe that the House of Commons does not correctly represent the opinions and wishes of the nation. Upon this ground, ever since 1784, it has been completely established as the Rule of the Constitution, that when the House of Commons refuses its confidence to the Ministers of the Crown, the question whether in doing so it has correctly expressed the opinion of the country may properly be tested by a dissolution; and that the House of Commons *cannot attempt to resist this exercise of the prerogative by withholding the grants of money necessary for carrying on the public service till a new Parliament can be assembled without incurring the reproach of faction.*"

2 Todd 413.—"By general consent the alternatives of resignation of office, or a dissolution of Parliament, are now left to the discretion and responsibility of Ministers. * * * * * * * * * "

There is no doubt that the argument of Todd, 2 vol., p. 405, with regard to the House of Commons, applies with equal force to the Upper House; and "whether they have correctly expressed the opinion of the country" may be equally ascertained by a dissolution with a view to a direct reference to the electorate—although the fact in this case is that the Joly Government has proved 22 times that it possesses the confidence of the electors.

Hearn, page 155, says :

"The question therefore arises in what circumstances, according to modern constitutional usage, ought the prerogative of dissolving Parliament to be exercised :

* * * * * * * * * * * * * * * * *

"Except where some organic change has been effected in the construction of Parliament, the only reason which can induce the King prematurely to dismiss his Great Council must be either that the advice that he obtains from it is unacceptable to him; or that he can obtain no definite and decided advice, or that the two portions of his Council are discordant. In other words either there is a difference of opinion between the Crown and the House of Commons on the subject of some ministry; or the different parts in the Commons are so equally divided that business is obstructed, or THE TWO HOUSES CANNOT ON SOME MATERIAL QUESTION COME TO AN AGREEMENT."

And again at page 165:

"The two Houses of Parliament may differ not only in the exercise of their function of controlling the Executive, but also in the exercise of their function of legislation. In each of these two cases, there is a distinct remedy. If the House of Lords reject any bill submitted to them, the King's Government, which had been carried on previous to the introduction of that bill, can still be carried on after its loss. BUT IF THE HOUSE OF LORDS DISAPPROVE OF ANY ADMINISTRATIVE PROCEEDING, the business of ADMINISTRATION IS AT ONCE IMPEDED. IT IS IN THIS CASE THAT THE NEED FOR SOME POWER EQUIVALENT TO DISSOLUTION IS FELT. If the House of Commons were to censure the existing administration, the King would have the power of testing the extent to which the nation agreed with the opinion of its representatives. But since the House of Lords cannot be altered by a dissolution, it would, unless some other check were provided, have the power of obstructing the Executive with absolute impunity. In these circumstances, the remedy which the Constitution provides is that which I have already endeavored to explain. It permits the censure of the House of Lords TO BE OVER-RULED BY THE EXPRESS APPROVAL OF THE HOUSE OF COMMONS; and thus enables the question, if the case should so require, to be by MEANS OF A DISSOLUTION ultimately submitted to the decision of the constituent bodies."

Todd, p. 136, says:

In 1859, Lord Derby's Ministry, being in a minority, appealed to the nation. In announcing their intention to do so, Mr. Disraeli, in the Commons, said:

"They had accordingly advised the Queen to dissolve Parliament in hopes that by "RECURRING TO THE SENSE OF HER PEOPLE, A STATE OF AFFAIRS MIGHT BE BROUGHT ABOUT WHICH MIGHT BE MORE CONDUCIVE TO THE PUBLIC INTEREST." In reply, Lord Palmerston acknowledged THE RIGHT OF THE GOVERNMENT TO ADVISE THE DISSOLUTION, saying, "WE RECOGNIZE THE RIGHT OF THE GOVERNMENT TO ANY OCCASION TO APPEAL FROM THE HOUSE OF COMMONS TO THE COUNTRY."

And again, at p. 249:

A fortiori, if they had a right to appeal from the House of Commons, they could not be denied an appeal against the adverse conduct of the Lords.

"And if it be impossible to continue to carry on the government successfully, without appealing from the House of Commons to the constituent body, Ministers of the Crown are themselves responsible for the act of dissolution."

And again, at p. 413:

By general consent, the alternatives of resignation of office or of dissolution of Parliament are now left to the discretion and responsibility of Ministers.

Cox, p. 58, says:

The next dissolution of Parliament in that reign (William III) is remarkable as an instance contrary to the RULE NOW well establish that the Royal Prerogative of dissolving Parliament is to be exercised *in conformity* with the advice of the Ministers of the Crown * * * * * * The King seems to have been INDUCED to dissolve, owing to DISSENSIONS BETWEEN THE TWO HOUSES.

And again, at p. 60:

Another ground of dissolving Parliament has been the existence of disputes between the Lords and Commons and of this one or two instances may be briefly referred to. Charles II prorogued his third Parliament "because to his grief he saw there were such differences between the two Houses that he is very afraid VERY ILL-EFFECTS WILL COME OF IT," and during the period of prorogation, the Parliament was dissolved.

And again, at p. 60:

On another occasion of a dispute between the two Houses, Parliament was dissolved in 1801.

And again, at p. 61:

Another dissolution of Parliament in 1705 was occasioned by a dispute between the two Houses with respect to the important case known as that of the "Aylesbury Men."

Bagehot, at page 15, says:

"Though appointed by one Parliament, it can appeal if it chooses to the next. Theoretically, indeed, the power to dissolve Parliament is entrusted to the Sovereign only; and there are vestiges of doubt whether in ALL cases a Sovereign is bound to dissolve Parliament, when a Cabinet asks him to do so. BUT NEGLECTING SUCH SMALL AND DUBIOUS EXCEPTIONS, THE CABINET WHICH WAS CHOSEN BY ONE HOUSE OF COMMONS HAS AN APPEAL TO THE NEXT HOUSE OF COMMONS. The chief Committee of the Legislature has the power of dissolving the predominant part of that Legislature—THAT WHICH AT A CRISIS IS THE SUPREME LEGISLATURE. The English system, therefore, is not an absorption of the executive power; it is a fusion of the two. EITHER THE CABINET LEGISLATES AND ACTS, OR IT CAN DISSOLVE. It is a creature, but it has the power of destroying its creators.

In regard to the right of a Government to recommend a dissolution and the duty of the Head of the Executive to accept their advice, Hearn thus lays down the British rule at page 117:—

"The proper conduct of Parliamentary Government implies that the King shall not retain any servants whom Parliament advises him to dismiss; and that he shall, while he retains them, give to his recognized servants his full confidence AND BE EXCLUSIVELY GUIDED BY THEIR ADVICE."

May, edition of 1873, page 532, observes:

"The necessity of refusing the Royal assent is removed by the strict observance of THE CONSTITUTIONAL PRINCIPLE THAT THE CROWN HAS NO WILL BUT THAT OF ITS MINISTERS."

The greater necessity of a dissolution being granted in this country when the Houses differ, will be better demonstrated and understood by the absence from our system of a means of bringing the Lords to reason, which is provided by the British system. Hearn, p. 168, says:

"There is, however, another method by which it is said that a refractory House of Lords may be brought to reason. When that House persists in its opposition to

any important measure, a sufficient number of Peers may be created to secure a majority for the favored project. For some time, this method of solution has been usually recognized as the proper mode of dealing with the problem."

And May's Constitutional History, p. 26, says:

"A creation of Peers by the Crown on extraordinary occasions is the only equivalent which the Constitution has provided for the change and renovation of the House of Commons by a dissolution."

As to the bravado indulged in by the Opposition pamphlet with respect to the continued obstructiveness of the Council, even should general elections take place and Mr. Joly be supported by a large majority, we would simply quote the following:

Hearn, p. 151:

"It is therefore understood that if the constituent body support the representative body, if the new House of Commons remain of the same opinion as its predecessor, that opinion shall prevail."

Hearn, p. 152:

"The opinion of the House of Commons as existing at any particular time may be disregarded; but the opinion of that House as a branch of the Constitution is conclusive."

The Opposition pamphlet, where the House of Commons is only alluded to, makes a citation from Hearn, at p. 156, to do duty in justifying the refusal of dissolution, where a difference between the Houses is involved. It claims that, where no political question is at issue, but the object is merely the advantage of a political party, there is no proper case for a dissolution.

But we contend that it is a most important political question, and not the advantage of the Liberal party, that is actually at issue in this Province—a question involving nothing less than the constitution, the status of the two Houses and the rights of the people's chamber as contradistinguished from those arrogated by the fifteen irresponsibles of the Crown-nominated branch.

Again, on the face of its assertion that a dissolution should not be granted for the advantage of any particular party, it does not hesitate to quote at page 64 a despatch from Earl Grey to Lord Metcalfe, to justify the head of the Executive in addressing himself to its (the opposite) party and in granting the latter the dissolution which he would deny

to the government, under the circumstances. In other words, they would have the Lieutenant-Governor do an unconstitutional act to advantage their particular party and disadvantage their adversaries. This one-sided idea of fair play and honorable dealing characterizes the author's production throughout.

He next tells us that it is quite certain that the Government have no new fact to bring forward since last elections. If nothing else, we may say that they can point with no small degree of satisfaction to the almost universal condemnation of the obstructive action of the Council, as well as to the confidence expressed in them throughout the Province, during the adjournment. As for the abolition of the Council, it may be assumed that that measure is now more necessary than ever, and that it will follow in due course the strong tide of public opinion which has set in against that useless, costly and hurtful body, and has marked it for destruction at no distant date.

Another of his specious and leading contentions is that a dissolution of the Legislature would be most unfortunate in the present state of the country and should be avoided, if at all possible. Plainly expressed, his meaning is that it would be unfortunate for the Opposition and improper for the Lieutenant-Governor to allow Mr. Joly to obtain from the people of the Province, who are ripe and anxious for it, that unequivocal and enthusiastic condemnation of the Opposition and the fifteen irresponsibles of the Legislative Council, which they so much dread—their principal object being to secure the reins of power, *coûte que coûte*, regardless of people, constitution and everything else, and to hold it, as the minority, by those methods of corruption in which they are such adepts, and which they have already brought into play to seduce from their allegiance and pledges the representatives of the people. In a previous page, we have pointed out that they expect the Lieutenant-Governor to assist them in their nefarious game, which is, on the 27th and 28th October, to keep the Legislative Council obstinate in their refusal to vote the Supplies (which we must trust they will have better sense not to be), when to bring the obstructionists to reason, Mr. Joly, as already shown, would be driven either to resign or recommend a dissolution, which, being improperly and collusively refused by the

Head of the Executive, they would be called into office (when the Council would, of course, immediately vote the Supplies to their fellow plotters) and they would be thus enabled to hold the reins of power against the will of the people for another twelve months; under one of two conditions :

1o. Either with a minority in the Assembly, under which they actually labor (which would be unconstitutional.)

2o. Or with the support of a sufficient defection from the Government side, to make up a nominal and temporary majority.

As the last of these conditions is the one upon which they probably most count, and as the names of certain hon. members, who have hitherto supported the Government, have been freely spoken of in public in the connection, it is well to here again recall and to let the electorate thoroughly understand that the following, among their representatives, voted, on motion of Mr. Gagnon, on the 2nd September, to affirm, among other things :—

" That this House has, during the present session, frequently given clear proofs of its confidence in the advisers of his Honor the Lieutenant-Governor, and especially in voting the supplies demanded by them.

" That the said supplies have been voted to Her Majesty only because of the confidence reposed by this House in the said advisers, and that this House would not have voted the said supplies if His Honor had had advisers not enjoying the confidence of the Legislative Assembly.

" That this House would see with regret the said supplies put in the hands of advisers in whom it would not have expressed its confidence."

FOR :—Messrs. Blais, Boutillier, Boutin, Chauveau, Dupuis, Flynn, Fortin, Gagnon, Joly, Lafontaine [Shefford], Langelier, [Portneuf], Langelier, [Montmorency], Larose, Marchand, McShane, Meikle, Mercier, Molleur, Murphy, Poirier, Rinfret dit Malouin, Ross, Shehyn and Watts.—21,

Of the Government supporters, who had not paired off, Mr. Paquet, for Levis, was the only one who did not vote.

It will therefore be seen that, without personal stultification, as well renegation of the principles they then so solemnly and positively affirmed, none of the foregoing gentlemen can now consistently recede from the position they

then took and help to the Supplies other than the Lieutenant-Governor's present advisers, without incurring imputations, which are not creditable to their good faith, and responsibilities, which they have no right to assume in face of the universal condemnation of the arbitrary act of the Council. It is sincerely to be hoped therefore that the rumors current in this particular will, in due course, be discovered to be without foundation; and that there will be no reason hereafter to question the strict impartiality and constitutionality of any course which His Honor the Lieutenant-Governor may elect to adopt under existing circumstances.

It is well also that it should be fully understood that all right-thinking minds will be inclined to seriously doubt the impartiality of any exercise of the prerogative which, at this time, (if necessary) should refuse through *backstairs* advice and influence a dissolution to Mr. Joly and grant it to his adversaries in order to place them in office. In such case, they will be further led to inquire more thoughtfully into the necessity of a body such as the Council, and, as the popular will must in the end control all the branches of the Legislature, it might be advisable for all concerned to take warning in time and avoid precipitating an issue which can only have a radical and disagreeable solution.

In conclusion, we think we have satisfactorily proven the case of the Joly Government, while refuting that of their foes, who are the foes of the people, the people's rights and the constitution; and we consequently appeal to all right-thinking men, to all patriotic citizens and their representatives, to support the good and true men who are battling in their cause at this most trying juncture in our political history. If we have said anything that may have sounded harsh or severe against our opponents, it has been elicited by their glaring departures from the line of fair argument. But whatever opinion may be held of our efforts to explain and support what we conscientiously believe to be the true cause of "government by the people and for the people," we can challenge contradiction of our precedents and authorities, and can safely assert that they are neither garbled, nor half-stated, after the tactics pursued by unscrupulous adversaries.

IMPERIAL DESPATCH

ON THE

LETELLIER AFFAIR.

(*Quebec Morning Chronicle*, 21*st October*, 1879.)

We print this morning the full text of the COLONIAL SECRETARY'S letter to THE MARQUIS OF LORNE, respecting the dismissal of the HON. MR. LETELLIER from the Lieutenant-Governorship of Quebec. In our issue of the 11th instant we went very fully into this matter. The arrival of the dispatch in full, does not demand fresh discussion of the subject, inasmuch as all the points which it raises, were fully treated in these columns. We may say here, however, that it is now settled beyond any dispute, that the Lieutenant-Governor of a province in Canada may dismiss his Ministers "from any cause he feels it incumbent upon him to do so." He has an "unquestionable constitutional right" to do this. The COLONIAL SECRETARY says, further, that a Lieutenant-Governor should not be dismissed "except for *grave cause*." When this is read alongside of the letter which was sent to MR. LETELLIER on the 25th of July assigning as the motive for the dismissal the fact that that gentleman's "usefulness has ceased," the heinousness of the outrage will be very apparent.

THE LETELLIER CASE.

The following despatch from the Colonial Secretary to the Marquis of Lorne, relates to the case of the Hon. Luc Letellier de St. Just, the Lieutenant-Governor of Quebec:—

"Downing-street, July 3, 1879.

"MY LORD,—Her Majesty's Government have given their attentive consideration to your request for their instructions with reference to the recommendation made by your Ministers that Mr. Letellier, the Lieutenant-Governor of Quebec, should be removed from his office. It will not have escaped your observation, in making this request, that the constitutional question to which it relates is one affecting the internal affairs of the Dominion, and belongs to a class of subjects with which the Government and Parliament of Canada are fully competent to deal. I notice with satisfaction that, owing to the ability and patience with which the new Constitution has been made by the Canadian people to fulfil the objects with which it was framed, it has very rarely been found necessary to resort to the Imperial authority for assistance in any of those complications which might have been expected to arise during the first years of the Dominion; and I need not point out to you that such references should only be made in circumstances of a very exceptional nature. I readily admit, however, that the principles involved in the particular case now before me are of more than ordinary importance. The true effect and intent of those sections of the British North America Act, 1867, which apply to it, have been much discussed, and as this is the first case which has occurred under those sections, there is no precedent for your guidance. For this reason, though regretting that any cause should have arisen for the reference now made to them, Her Majesty's Government approve the course which you have taken on the responsibility and with the consent of your Ministers, and I will now proceed to convey to you the views which they have formed on the question submitted for their consideration. The several circumstances affecting the particular case of Mr. Letellier have been fully stated in Sir J. A. Macdonald's memorandum of April 14, in

Lieutenant-Governor Letellier's letter of April 18, and in communications which I have since received from Mr. Langevin, who, accompanied by Mr. Abbott, has come to this country for the purpose of supporting the advice given by the Government of which he is a member, and from Mr. Joly, who was similarly empowered to offer any explanations that might be required on the part of Mr. Letellier. If it had been the duty of Her Majesty's Government to decide whether Mr. Letellier ought or ought not to be removed, the reasons in favour of and against his removal would, I am confident, have been very ably and thoroughly put before them by Messrs. Langevin and Abbott and by Mr. Joly. I have not, however, had occasion to call for any arguments from either side on the merits of Mr. Letellier's case. The law does not empower Her Majesty's Government to decide it, and they do not therefore propose to express any opinion with regard to it. You are aware that the powers given by the British North America Act, 1867, with respect to the removal of a Lieutenant-Governor from office, are vested, not in Her Majesty's Government, but in the Governor-General; and I understand that it is merely in view of the important precedent which you consider may be established by your action in this instance, and the doubts which you entertain as to the meaning of the statute, that you have asked for an authoritative expression of the opinion of Her Majesty's Government on the abstract question of the responsibilities and functions of the Governor-General in relation to the Lieutenant-Governor of a province under the British North America Act, 1867. The main principles determining the position of the Lieutenant-Governor of a province in the matter now under consideration are plain. There can be no doubt that he has an unquestionable constitutional right to dismiss his provincial Ministers, if from any cause he feels it incumbent upon him to do so. In the exercise of this right, as of any other of his functions, he should, of course, maintain the impartiality towards rival political parties which is essential to the proper performance of the duties of his office; and for any action he may take he is, under the 59th section of the Act, directly responsible to the Governor-General. This brings me at once to the point with which alone I have now to deal—namely, whether in deciding whether the conduct of a Lieu-

tenant-Governor merits removal from office, it would be right and sufficient for the Governor-General, as in any ordinary matter of administration, simply to follow the advice of his Ministers, or whether he is placed by the special provisions of the statute under an obligation to act upon his own individual judgment. With reference to this question it has been noticed that while under section 58 of the Act the appointment of a Lieutenant-Governor is to be made 'by the Governor-General in Council by instrument under the Great Seal of Canada,' section 59 provides that 'a Lieutenant-Governor shall hold office during the pleasure of the Governor-General;' and much stress has been laid upon the supposed intention of the Legislature in thus varying the language of these sections. But it must be remembered that other powers vested in a similar way by the statute in the Governor-General were clearly intended to be, and in practice are, exercised by him by and with the advice of his Ministers; and though the position of a Governor-General would entitle his views on such a subject as that now under consideration to peculiar weight, yet Her Majesty's Government do not find anything in the circumstances which would justify him in departing in this instance from the general rule, and declining to follow the decided and sustained opinion of his Ministers, who are responsible for the peace and good government of the whole Dominion to the Parliament to which, according to the 59th section of the statute, the cause assigned for the removal of a Lieutenant-Governor must be communicated. Her Majesty's Government therefore can only desire you to request your Ministers again to consider the action to be taken in the case of Mr. Letellier. It will be proper that you should, in the first instance, invite them to inform you whether their views, as expressed in Sir J. A. Macdonald's memorandum, are in any way modified after perusal of this despatch, and after examination of the circumstances now existing, which, since the date of that memorandum, may have so materially changed as to make it in their opinion no longer necessary for the advantage, good government, or contentment of the province that so serious a step should be taken as the removal of a Lieutenant-Governor from office. It will, I am confident, be clearly borne in mind that it was the spirit and intention of the British North America Act, 1867, that the tenure of the high office

of Lieutenant-Governor should, as a rule, endure for the term of years specially mentioned, and that not only should the power of removal never be exercised except for grave cause, but that the fact that the political opinions of a Lieutenant-Governor had not been, during his former career in accordance with those held by any Dominion Ministry who might happen to succeed to power during his term of office, would afford no reason for its exercise. The political antecedents and present position of nearly all the Lieutenant-Governors now holding office, prove that the correctness of this view has been hitherto recognized in practice, and I cannot doubt that your advisers, from the opinions they have expressed, would be equally ready with the late Government to appreciate the objections to any action which might tend to weaken its influence in the future. I have directed your attention particularly to this point, because it appears to me to be important that, in considering a case which may be referred to hereafter as a precedent, the true constitutional position of a Lieutenant-Governor should be defined. The whole subject may, I am satisfied, now be once more reviewed with advantage, and I cannot but think that the interval which has elapsed (and which has from various causes been unavoidable) may have been useful is affording means for a thorough comprehension of a very complicated question, and in allowing time for the strong feelings on both sides, which I regret to observe have been often too bitterly expressed, to subside.

"I have, &c.,

"M. E. HICKS-BEACH.

"The Right Hon. the MARQUIS OF LORNE."