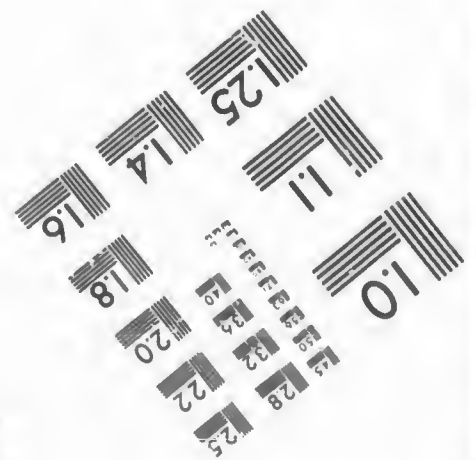
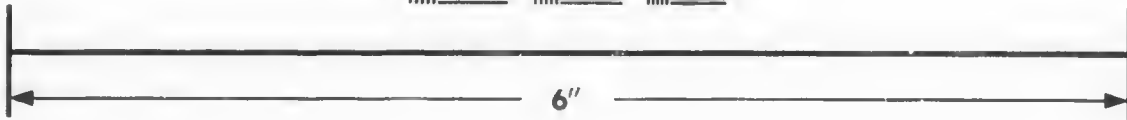
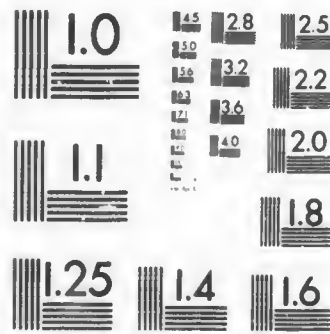


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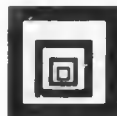


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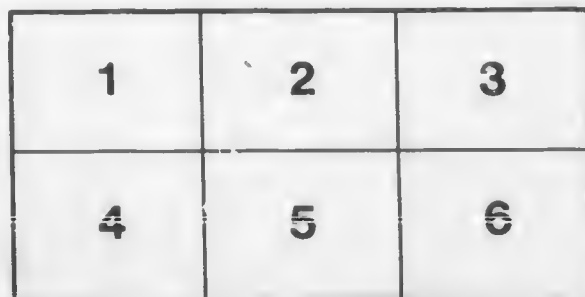
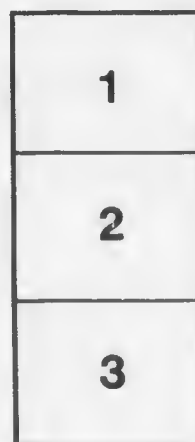
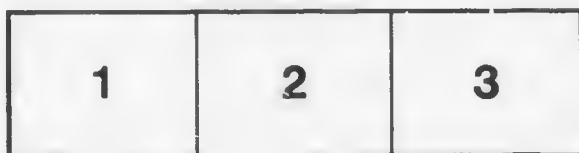
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1834
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SPEECH
OF
JAMES CHARLES GRANT, ESQUIRE,
ON
THE INEXPEDIENCY
OF
AN ELECTIVE COUNCIL.

DELIVERED AT TATTERSALL'S,
The 5th of APRIL, 1834.

MONTREAL:
THE 14th OF APRIL, 1834.

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SPEECH

OF

JAMES CHARLES GRANT, ESQUIRE.

James Charles Grant, Esq. in proposing the third Resolution, remarked that he rejoiced to see so vast a concourse of his fellow-subjects assembled to express their disapprobation of the proceedings which had, with such hazardous precipitancy, been adopted, to subvert the constitution and to establish in its stead an elective despotism. To make laws for a people, required the greatest degree of wisdom, in the deliberate and sober exercise of reason; lawgivers should be men of enlarged understandings, and be well versed in history and philosophy. Let them look to England; could any people boast of a more pure morality, more steadiness of character, or more wisdom in human affairs, (cheers,) of subjects more attached to their country, or more true lovers of freedom, from the time of Harpden down to the days of those celebrated men, now one, Burke, Pitt, Fox, Sheridan and others. There have not been found among us great she has produced, not even Locke or Bacon himself, any one who has sought himself sufficiently wise as to set himself up as the Solon or Lycurgus of his day. Experience alone and the combined wisdom of ages had done for England, what no individual or class of individuals had ever presumed to deem themselves capable of doing. Like a great and venerable tree, the constitution of England had its roots in remote antiquity, it had been growing slowly and gradually from year to year until it had attained its present state of perfection. Not so with Canada; it was little more than half a century since she was rescued, poor and helpless, from the tyrant grasp of her Intendants and Conseil Superieur, her petty despots of every description, and made to participate in the inestimable blessings of British rule. In granting a constitution for her, the Imperial Parliament adopted no new theory of Government, but organized one on the basis of her own, with a proper distribution of the powers of Government. Under the constitution the country has rapidly increased in prosperity, and his Majesty's subjects in this country, unburthened with taxes, still continue to enjoy as much happiness and political freedom as any other people on the earth. (cheers.) He did not give this on his own humble authority; he called in to his support the authority of the very men whose conduct they had that day assembled to condemn. It was the very leaders of the late majority of the House of Assembly, who had got up the petition which, they had said, was signed by 87,000. In that petition they had declared their entire satisfaction with the constitution, and prayed that the form of Government as by law then happily established by the Statute 31 Geo. III. cap. 31, might be preserved inviolate to the petitioners and their posterity. Such then were, and, he sincerely believed, such continued to be, the wishes of the great

majority of the people of this province, and also that the leaders and majority in the Assembly entertained the same opinions until the events in France, and the efforts of the factious elsewhere extended the vertigo of revolution into Canada. Law-givers sprung up amongst us like mushrooms, and this province became a hot bed for constitutions. They would perceive that he alluded to the ninety-two Resolutions, a printed copy of which he held in his hands, and which would remain an "imperishable monument" of the ambition, passion, violence, folly and political ignorance of its worthy framers. (cheers.) The only excuse they could offer for so hasty a production, was, that they availed themselves of the opinions of others, that they had taken from their neighbours a constitution ready cut and dry; they claimed not for themselves the merit of paternity but that only of adoption. He was prepared to shew that the framers of those Resolutions were ignorant of the American constitution, they did not understand it. The Statesmen of America who framed the constitution of their country, preserved the theory of government under which they previously lived, differently modelled from that of England, but founded on monarchical, aristocratical and democratical principles. By that constitution the powers of government like that of Great Britain are placed in different bodies, which are differently organised. The House of Representatives was composed of Members chosen every second year by the people of the several States. The Senate of the United States was composed of two Senators from each State, chosen by the Legislature or sovereign authority, for six years. The Senate was thus differently organised; giving it a more stable character, in order that it might operate as a proper check against the encroaching power and violence of the popular branch. He would enlarge still further upon this subject in order to shew the consequences that would result from making the second branch their Legislature elective. The patriots were constantly appealing to our neighbours precedents for their extravagant and immense measures, but he was prepared to shew them on their own ground. To prove the necessity of a different organization in two branches of the Legislature, he would appeal to the highest American authority he would quote the high authority of Justice Story, in his commentaries on the constitution of the United States of America. That learned Commentator in treating of the Senate thus eloquently expresses himself: "Another and most important advantage arising from this ingredient is, the great difference which it creates in the elements of the two branches of the Legislature; which constitutes a great desideratum in every practical division of Legislative power. In fact, this division (as has already intimated) is of little or no intrinsic value, unless it is so organised, that it can operate as a real check upon the other, and guard against rash legislation. If each branch were substantially framed upon the same plan, the advantages of the division are substantially lost; the visions and speculations of the brain, and not the wise and sober thoughts of statesmen or patriots, may be safely asserted, that for all the purposes of liberty, and security of laws, and of solid institutions, of personal rights, and of the protection of property, a single branch is quite as good as two, if their composition is the same, and their spirit and impulses the same. Each will act as the other does; and each will be equally liable, by some common influence of ambition, intrigue or passion, to the same disorders of public interests and the same indolence and prostration of private rights. It will only be a duplication of the error of oppression and rashness with a duplication of obstruction to effective redress. In view of the organization of the Senate, it comes of inestimable value." Again he says, "The improbability of sinister

combination will always be in proportion to the dissimilarity of the genius of the two bodies: and therefore every circumstance consistent with harmony in all proper measures, which points out a distinct organization of the component materials of each, is desirable." If such, therefore, would be the effect of two branches of the Legislature framed on the same plan, in a community such as the United States, would it not be still greater in a society composed of such elements as that of Lower Canada. Were the Legislative Council made elective, the counterpoise of the constitution would be destroyed; would not both branches be composed of the same materials, and although sitting in different chambers would they not in reality form but one body, and be alike operated upon by every sudden impulse of popular fury and excitement. Such a Legislative Council would on all occasions, to use the language of our patriots, harmonize with the popular branch; in other words, the one branch would act as the other did; and each would be led by the same common influence of ambition, or intrigue, or passion to the same disregard of the public interests, the same prostration of private rights. This was not a speculative opinion, but one confirmed by experience, as a reference to history will shew. He took the liberty of again citing a passage from another eminent writer on the constitution of the United States, the late Chancellor Kent. The author in treating of the necessity of the powers of Government being placed in separate hands, says: "The division of the Legislature into two separate and independent branches, is founded on such obvious principles of good policy, and is so strongly recommended by the unequivocal language of experience, that it has obtained the general approbation of the people of this country. One great object of this separation of the Legislatures into two houses acting separately, and with coordinate powers, is to destroy the evil

effects of sudden and strong excitement and of precipitate measures, springing from passion, caprice, prejudice, personal influence, and party intrigue, and which have been found by sad experience, to exercise a potent and dangerous sway in single assemblies. A hasty decision is not so likely to arrive to the solemnities of a law when it is to be arrested in its course and made to undergo the deliberation, and probably the jealous and critical revision, of another and a rival body of men, sitting in a different place, and under better advantages, to avoid the prepossessions and correct the errors of the other branch. The Legislatures of Pennsylvania and Georgia consisted originally of a single house. The instability and passion which marked their proceedings, were very visible at the time, and the subject of much public animadversion: and in the subsequent reform of their constitutions, the people were so sensible of this defect, and of the inconvenience they had suffered from it, that in both States a Senate was introduced. No portion of the political history of mankind is more full of instructive lessons on this subject, or contains more striking proofs of the faction, instability, and misery of States under the dominion of a single, unchecked Assembly, than those of the Italian Republics of the middle ages, and which arose in great numbers, and with dazzling but transient splendour, in the interval between the fall of the Western and Eastern Empire of the Romans. They were all alike ill-constituted, with a single unbalanced Assembly. They were all alike miserable, and all ended in similar disgrace, (cheers.) Many speculative writers and theoretical politicians about the time of the commencement of the French revolution, were struck with the simplicity of a Legislature with a single Assembly, and concluded that more than one house was useless and expensive. This led the elder President Adams to write and publish his great work, entitled 'A Defence of the constitutions of Govern-

ment of the United States,' in which he vindicates with much learning and ability, the value and necessity of the division of the Legislature into two branches, and of the distribution of the different powers of the Government into distinct departments. He reviewed the history and examined the construction of all mixed and free Governments, which had ever existed, from the earliest records of time, in order to deduce with more certainty and force this great practical truth, that single assemblies without check or balance, or a Government with all authority collected into one centre, according to the notion of Mr. Turgot, were visionary, violent, intriguing, corrupt, and tyrannical dominations of majorities over minorities and uniformly and rapidly terminating their career in a profligate despotism," (cheers.) He might be told that this was not applicable; that, although the Council were made elective, they would have two separate branches. But he trusted he had already satisfied them that the Council and Assembly being then composed of the same elements, and organized and framed on the same plan, would in truth constitute but one body, in which would be placed all the power of government without any check or restraint. He would ask was that the government they wished for? (No! no! from all quarters.) Yet such was the constitution which the Patriots wished to establish. They had their own words for it, that they repudiate the British Government. They had their own words that there was something on the other side of the line forty-five, of which they were jealous. He trusted he had satisfied the meeting that they were totally ignorant of that of which they were jealous. (cheers.) It was not an amelioration in the composition of the Council, the Patriots were seeking for, not a redress of grievances, but a revolution, a desire to upset the Government, and usurp all its powers in their own unhallowed hands. The rendering the Council elective would be followed by rendering the office of Governor also elective, which would at once dissolve the bond of connection between this colony and the mother country. Anarchy and confusion would be introduced among us, and they would govern with despotic tyranny. Let them listen to the opinion of Mr. Jefferson, late President of the United States, in his remarks on the constitution of his native state, Virginia. "All the powers of government, legislative executive and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of a despotic government. It will be no alleviation, that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. Let those who doubt it, turn their eyes on the republic of Venice. An elective despotism is not the government we fought for; but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy, as that no one could transcend their legal limits without being effectually checked and restrained by the others." (Cheers.) So much therefore for an elective legislature. He would not trespass upon their time by calling their attention to many of the Resolutions, but there were one or two which ought not to be passed over in silence. He adverted to the first, wherein a profession of loyalty and attachment to the British Empire was made, and the concluding part of the 50th, whereby the Resolutionists, (in reference to Mr. Stanley's despatch) declare, "if they are understood as containing a threat to introduce into the constitution any other modifications than such as are asked for by the majority of the people of this province, whose sentiments cannot be legitimately expressed by any other authority than its representatives, this house would esteem itself wanting in candour to the people at

England, if it hesitated to call their attention to the fact that in less than twenty years, the population of America will be as much greater than that of Great Britain, as that of British America will be greater than that of the former English colonies, when the latter deemed that the time was come to decide that the inappreciable advantage of governing themselves instead of being governed, ought to engage them to repudiate a system of colonial government, which was, generally speaking, much better than that of British America now is." He gave this as a fair sample of the whole. What a sequel to such a beginning! a threat of rebellion made under the standard of pretended loyalty. By this they might judge of the whole farrago of the ninety-two. In reading it he thought he could hear a young tiger growl; in return for the benefits and favours lavished upon it, the ferocious cub tells the British Government: "Wait! within twenty years my claws will have grown as long if not longer than those of my grandsire, the American tiger, or revolution of 1776, and then, then! hase British faction! then—" He left it to Mr. Speaker Papineau to finish the sentence. (Loud cheering.) If this was not enough to satisfy them of the character and views of the majority of the assembly, let them look to their proceedings during the last two sessions. Had they not endeavoured to paralyze the government by withholding the supplies? Had they not contemned and traduced the imperial government, His Majesty's minister, the governor in chief of the province, the constituted authorities, and particularly the judges of the land. Trace revolution to its source and it will invariably be found to originate in attempts to bring the administration of justice into contempt. Nothing can be more reprehensible than the conduct of some of the members of assembly in this respect. In hazarding the assertions imputing high crimes and misdemeanors against the

judges, the speaker of the house of assembly has proved himself to be either a traitor to his country, or a base calumniator; if the charges were true, he was a traitor to his country for not having impeached those guilty or accused of such offences, and if those charges were unfounded he was a base calumniator for having preferred them. In either case, Mr. Papineau had forfeited the confidence of every honest man, and it was to be hoped that at the next general election he would be driven from that Wurd (the West) in disgrace. [cries of "Yes, Yes."] He trusted he had said sufficient to satisfy them that the design of the majority of the assembly was to acquire, and the tendency of the resolutions was to invest, that branch with all the powers of government; that body had gone on gradually encroaching upon the privileges of the other, and had, as far as it possibly could, usurped their powers. Had not the assembly attempted to restrain, nay, he might almost say, exercise the royal prerogative, by refusing to grant monies for a great public improvement, except upon condition that commissioners should be appointed other than those who had been previously named for the same purpose, though men of high character, integrity and standing, and who had gratuitously discharged the duties imposed upon them to the advantage of the community and satisfaction of the public [cheers.] They had assumed the judicial power by entering into needless and expensive investigations, and in some cases had even proceeded to condemnation and punishment, without affording the parties so condemned and punished an opportunity of denying the jurisdiction of the assembly, or of being heard in defence, and lastly, have they not assumed the whole legislative authority by appropriating money without the consent or concurrence of the other branches of the legislature? [cheers.] Not only had the majority of the assembly threatened rebellion, but they



had actually proceeded to organize the people by calling upon them to form themselves into committees of correspondence, &c. and had pledged themselves to reimburse, from out of the public monies, the expenses which may be incurred by such committees. As the council no doubt would never concur in the appropriation of monies for such purposes, he presumed the amount required for the object, as well as a sum sufficient to indemnify the deputy ambassador would be included in the next contingent account of the assembly. The spirit of usurpation manifested by the assembly had met with resistance on the part of the council, which had recently acquired a new character, and was becoming more and more independent; and forsooth, because this branch of the legislature hath performed the office for which it was created, that of being a check upon the intemperance and violence of the popular branch, the latter proposed to annihilate it at once, as being the only barrier to the unlimited sway of the assembly [cheers.] Would the next election better our condition? certainly not. Would that meeting continue to remain any longer silent spectators of their own degradation, he trusted not. [No! No! echoed from the crowd.] Then what was to be done? Although they were satisfied with the theory and form of their government, the intervention of the imperial parliament had become absolutely necessary, to apply a remedy to the embarrassments in which the government of the colony was now placed, and it was to be hoped that such amendments only would be made to their constitutional act as would curb the violence of the assembly, and restrain its powers within the limits prescribed to it by the constitution. He concluded the address by proposing the following resolution, "That this meeting regard with regret and alarm the tendency of the resolutions of the state of the province, passed in the provincial house of assembly, in the month of February last and the addresses to the several branches of the imperial parliament founded thereon, as embodying a deliberate and systematic avowal of the disloyal spirit and revolutionary principles, which under the auspices of a party have been long employed to bring into contempt the constituted authorities of the province, to paralyze the government by withholding the supplies, to usurp the prerogative of the crown by nominating executive functionaries, to spurn the intervention of the king's government in the person of the colonial secretary, to establish a pure democracy by the introduction of an elective council, and virtually to effect a dismemberment of the empire."

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