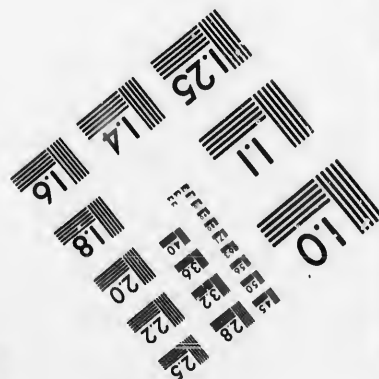
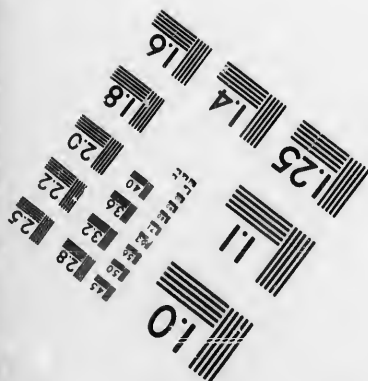
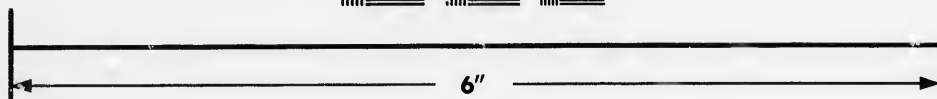
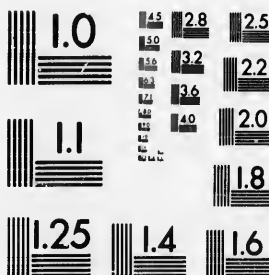


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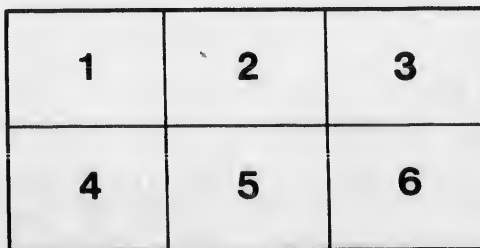
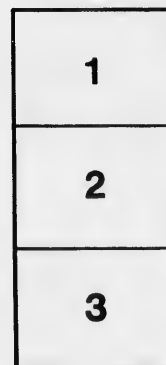
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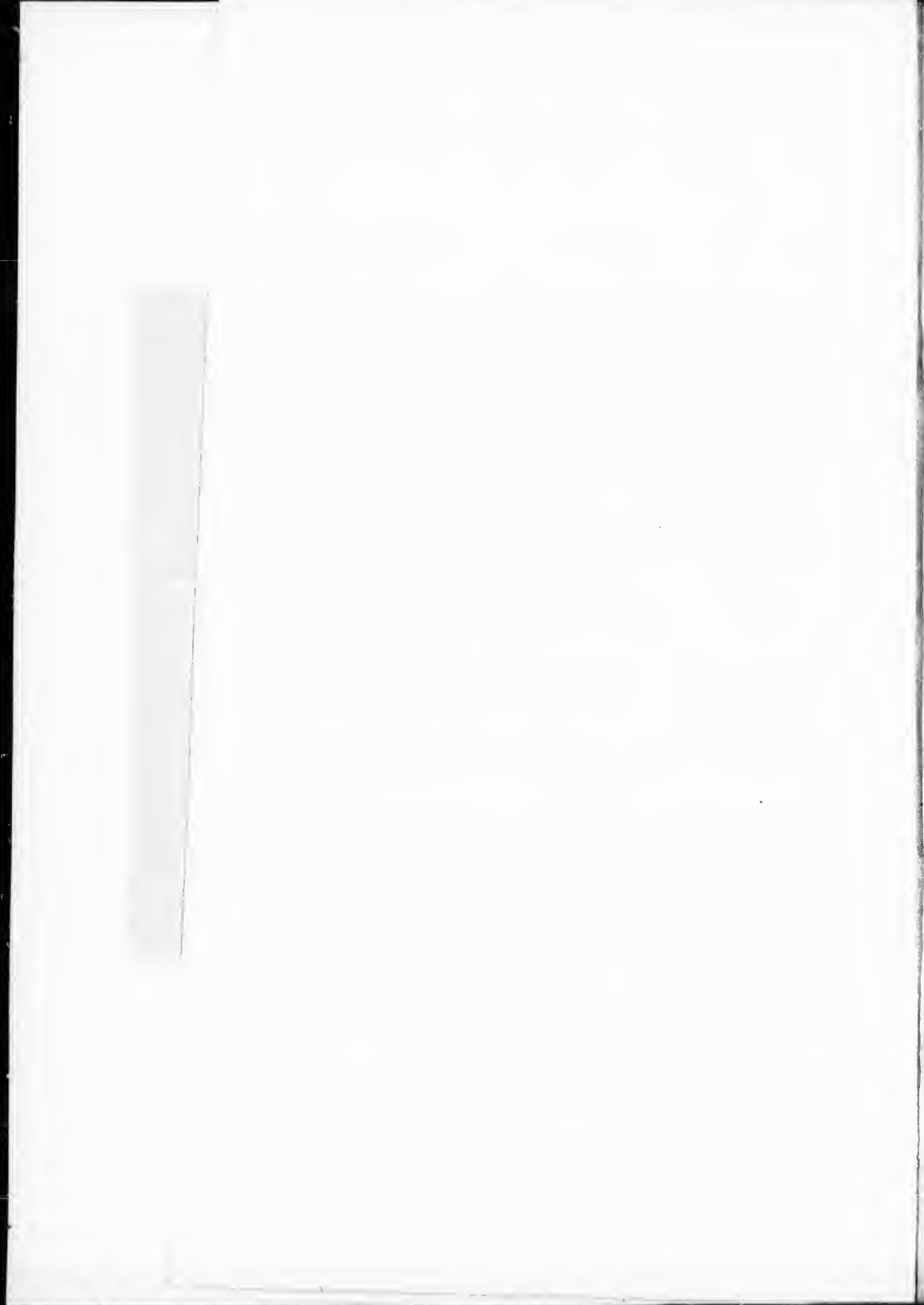
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**LETTER**  
TO  
**THE RIGHT HON. E. G. STANLEY,**

*His Majesty's Principal Secretary of State for the Colonies.*

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BY AN EMIGRANT.

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MONTREAL:

MARCH, 1834.

J34925  
JUNE 28, 1954

To

With Mr. THOM's respects.

MONTREAL, 23d APRIL, 1834.

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TO THE RIGHT HON. E. G. STANLEY,  
*His Majesty's Principal Secretary of State for the Colonies.*

*Montreal, March, 1834.*

Sir,

The present crisis in the political affairs of Lower Canada is confessedly pregnant with consequences vitally important both to the colony and to the empire.

The contending parties, which, if they agree in nothing else, have at least agreed to hail his Majesty and the Imperial Parliament as the arbiters of their disputes, are respectively composed, to speak generally, of the French Canadians and the inhabitants of British origin. But this division, like most general divisions, is liable to exceptions. A few Britons are to be found in the Canadian ranks; and many of the most respectable Canadians, particularly of late years, have joined the Britons. Thus far will every one admit that the division is nominally correct; but the actual composition of the parties, when closely examined, will be discovered to be very different, and to turn the scale as well of numbers as of intelligence in favour of the apparent minority. We may consider the majority of the Assembly—an expression, which, unfortunately for this province, has a definite and permanent signification—as the symbol of the one party, and the minority of that body and the great majority of the Legislative Council as the symbols of the other. But as minorities cannot have a collective opinion, let us take the Assembly and the council as the symbols of the respective parties. The former demands a radical change in the provincial constitution; and the latter deprecates every change of it, not dictated by practical necessity. That the latter speaks the sentiments of

the Britons is a fact, that has neither been denied nor doubted; but that the former expresses the wishes of the Canadians is an assertion at variance as well with existing documents, as with the general character of that loyal and primitive people. Seven years, Sir, have scarcely elapsed, since eighty-seven thousand petitioners, comprehending perhaps every male adult of French origin in the province, solemnly avowed their inviolable attachment to the provincial constitution in all its parts; and though the Speaker of the Assembly has since assumed to himself the credit of political hypocrisy in his share of the solemn avowal, his unblushing baseness has not yet found a mirror in the breasts of his virtuous and religious compatriots. There is not the slightest proof that the constituencies, which returned the revolutionary members of assembly, participate in the novel opinions of their representatives; and it would be truly a reversal of the fashionable system of pledges to make the will of the electors in all respects subservient to the will of the delegates. When the provincial assembly, which, if not dissolved, must soon die a natural death, was chosen by the suffrages of the people, the proposed changes in the provincial constitution, having been neither divulged nor meditated, could not have been anticipated by the unsuspecting constituents of the framers of the ninety two resolutions. But the evidence is not merely of a negative character. Many respectable individuals and bodies that had previously supported the measures



of the Assembly, have publicly disavowed all participation in the spirit and principles of the ninety two resolutions; while not one of all the meetings called to approve the conduct of the Assembly has consisted of any thing more than a miserable minority of the qualified electors of each of the respective districts. So repugnant, indeed, to all change however specious are the contented and happy Canadians, that, if they could but clearly see through the revolutionary designs of their pretended friends, they would almost to a man range themselves on the side of the supporters of existing institutions.

Under these circumstances the threatened appeal to physical force, embodied in some of the Assembly's resolutions, becomes simply ridiculous; and his Majesty's Government and the Imperial Parliament, unawed by the empty menaces of an ambitious faction, will of course follow the great principles of the British constitution, modified by the peculiar circumstances of so valuable a colony. It is, however, of importance to reflect that, though the factious democrats cannot rouse the peaceable and loyal population to any active measures of a revolutionary character, they will probably, by their unexampled perseverance and by their indifference to the means of victory, retain a decided ascendancy in the house of assembly. Where electors cannot be cajoled, the representative of their free choice is seduced. In one county, that of Rouville, the party has been twice defeated within the past year; but it has cunningly turned its defeat into a victory by enslaving the representatives of a constituency free and independent.

With these indubitable facts before it, the supreme legislature cannot look with a very favourable eye on the demands of the assembly, embodied in the ninety two resolutions and in the addresses founded on them; and if the loyal inhabitants entertain any fears as to the result, they derive them from the suspicion that the value of Lower

Canada, as a colonial dependency of Britain, is not fully appreciated by the people of the United Kingdom and the Imperial Parliament.

The lavish generosity of former years towards the Canadas, which may seem to belie such a suspicion, has in truth led to hasty and erroneous comparisons of the value and the cost of these two colonies and has gradually engendered among the economical politicians, opinions adverse to the retention of the colonies generally by the mother country. But far higher considerations, than those of a temporary economy, are involved in the question. With the colonies must fall foreign trade; with foreign trade must fall maritime supremacy, for the coasting trade, the only other nursery of a navy, bids fair to be in a great measure superseded by the safer and more expeditious system of rail roads.

In a moral view the possession of colonies is inestimable, as holding out peculiar inducements to enterprise and ambition, which becoming contagious preserve the national character from stagnation. A country without colonies may be compared to the Caspian, dull and dead for want of an outlet; while another, more fortunate in the possession of distant settlements, resembles the inland seas of America, feeding in the full flow of pride and majesty the mighty stream that wafts their redundant waters to the Ocean.

But without entering more largely into the general question, it is obvious that Lower Canada, if not in herself the most valuable of the British colonies, involves in her fate political and commercial consequences of incalculable magnitude. A glance at the map is sufficient to shew, that, if Lower Canada be lost, Upper Canada cannot be retained; while the supposed interests of all parties and the contagious nature of political passions would soon tempt the lower colonies of New Brunswick, Nova Scotia, and Newfoundland to follow in the revolutionary wake of their

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Canadian sisters. The loss of these colo  
 nies would involve the loss of the valuable  
 fisheries, the most prolific nursery of hardy  
 seamen, and would thus not merely deprive  
 the British fleets of a friendly shelter on  
 the coast of North America, but would sap  
 the very strength of the British Navy in  
 all quarters of the world. LOWER CANA  
 DA IS THE KEYSTONE OF THE COLONIAL  
 EMPIRE AND OF THE MARITIME SUPRE  
 MACY OF THE UNITED KINGDOM.

But a most important political conse  
 quence of the independence of British  
 America is that, besides positively crippling  
 Britain, it would negatively do so to  
 perhaps as great an extent by relieving the  
 United States from their only formidable  
 neighbour and doubling the political strength  
 of that gigantic republic. The Union, it  
 true, cannot last forever, but the very  
 prospect of a speedy dissolution should  
 make Britain cling with tenfold tenacity to  
 her American colonies. When the Union  
 does fall, the crash will be much great  
 er than unreflecting men are willing  
 to imagine. It will be dissolved not into  
 states arbitrarily and in many instances ar  
 tificially bounded, but into geographical  
 sections marked out by the strong and in  
 elible lines of nature herself; and the per  
 manent settlement of the country on this  
 new basis and the thorough amalgamation  
 of conflicting interests can hardly be achiev  
 ed without the horrors of anarchy and war.  
 It requires not the supernatural intelligence  
 of a prophet to foresee that the basin of the  
 St. Lawrence from the head of Lake Su  
 perior to the Atlantic Ocean will form one  
 mighty system, federative or consolidated;  
 and Britain by her power and her influence,  
 if she then retain the Canadas, may do  
 much as well for her own interests as for  
 the speedy adjustment of local differences,  
 and may hold, if not by direct authority, at  
 least by the moral obligation of gratitude,  
 the perpetual alliance and friendship of an  
 empire, fertile, extensive, populous, wealthy  
 and powerful.

It is probable, however, that the econo  
 mical politicians may attach more impor  
 tance to the commercial than to the politi  
 cal results of Canadian independence. The  
 trade of Canada confessedly employs a very  
 large portion of British shipping, and, being  
 susceptible of indefinite extension, will  
 employ from year to year a still larger  
 portion. By an adequate improvement of  
 the navigation of the St. Lawrence, and by  
 a judicious and liberal system of tolls, the  
 Canadas, without permanently sacrificing a  
 shilling, can concentrate in Montreal, which  
 is destined to be the largest city in the new  
 world, the trade of the whole basin of the  
 St. Lawrence and the lakes. For many  
 years at least this trade would be carried  
 on in the ships of the domestic empire, for  
 vessels, though built and registered in  
 Canada, cannot winter in the river under  
 the penalty of being crushed by the forma  
 tion or the removal of the ice. With the  
 raw materials of shipping, growing almost  
 as weeds, this country cannot aspire, with  
 out very lavish expenditure on docks and  
 basins, to stand high among the shipping  
 powers of the world.

But were the Canadas independent, they  
 would undoubtedly, like all other nations  
 but England, attach a national importance  
 to the possession of a mercantile navy, and  
 would, from political motives, cheerfully  
 undergo an expense, which, perhaps on  
 merely commercial principles, would be  
 scouted as unprofitable and unproductive.  
 Not merely does Canada employ the ship  
 ping of the mother country, and that portion  
 of it too, which is unfit for any thing but  
 the timber trade; but by that trade she  
 supplies the United Kingdom with naval  
 stores, the sinews of its security and its  
 grandeur. Much has been spoken and  
 written against the encouragement of the  
 timber trade, in regard to its bearing both  
 on the mother country and the colony. So  
 far as the mother country is concerned,  
 the objections are purely economical, and,  
 if admitted in their full force, cannot be

allowed to overshadow the before mentioned political advantages. Self-preservation is the first law of the body politic as well as of the body natural.

The objections against the timber trade, as it bears on the colony, are chiefly of a moral character. It is not to be supposed that wood cutters are paragons of temperance and chastity; but if every department of commerce, that has an immoral tendency, is to be abandoned, a dangerously wide gap will be made in the trade of the world. The argument against the lumber trade is neither more nor less than the fallacious principle of the temperance society, that of confounding a thing with the abuse of it. On the subject of the timber trade I have been, perhaps unnecessarily diffuse from a sense of its vast importance in promoting the agricultural interests of the Canadas and in relieving the United Kingdom from the pressure of a redundant population.— Being the only kind of manufacture, if I may so speak, it gives rise to consumers of agricultural produce, and being pursued on the farther verge of civilization, carries a market to the doors of the remotest settlers. Being almost the only species of rural employment, that can afford to bear the high wages of hired servants, it has enabled many an industrious emigrant to accumulate the means of clearing and cultivating a farm of his own and of thus extending the triumph of art over the wilds of nature.— But the most important feature in the timber trade is that by raising the bulk of the homeward freights far beyond that of the outward ones, it gives a large majority of vessels the alternative of losing half the Atlantic trip in ballast or of carrying emigrants at an almost nominal charge. Thus are almost realised the ancient fables of Deucalion and Cadmus, for forests are endowed with vitality, and slain trees are converted into the living limbs of human beings, free, industrious and happy. The timber trade furnishes the finest and most ratifying illustration of the beneficial in-

fluence of commerce. Men and trees, which are actually drugs in their respective soils of Britain and Canada, become, when exchanged, the conquerors of unreclaimed nature and the bearers of the invincible thunder of the proud isles of the ocean. Compared with any other colony, Canada affords unrivalled inducements to emigration, as being more cheaply accessible than New South Wales or any other distant settlement, and as surpassing both in agricultural and commercial advantages the lower provinces of British America. But it is not merely to the poorer class of emigrants that Canada holds out peculiar inducements. She has latterly received into her bosom men of capital and intelligence, and has thus strengthened her legal connexion with the mother country by the moral tie of mutual regard. But another view may be taken of the connexion between Britain and Canada, founded on its beneficial influence on the colony itself. The colony is at this moment reaping the fruits of that connexion in the common appeal of the contending parties to the Imperial Parliament.— Nothing but external interference can cure our political maladies. Canada is altogether unfit to govern herself. Too ignorant for internal concord, and too feeble for foreign defence, Canada, if nominally independent, must wade through a civil war to an aristocratic despotism or to foreign servitude. A connexion with the United States or with any federation of the neighbouring provinces may well be termed foreign servitude, when compared with her present position under the mild and nearly nominal sway of Britain.

To the French Canadians the connexion of Canada and Britain is eminently advantageous. It is only by the solemn guarantee of the mother country that their privileges can be long respected or their institutions long preserved, for it is an undeniable fact that their cherished privileges and institutions, whether right or wrong, sound or unsound, would meet with little sympa-

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why and little indulgence from a legislature composed as the majority of any federative legislature would be, of colonists of *British* extraction. That the nationality of the *French* Canadians should be rendered systematic and permanent, is neither to be hoped nor expected; but it is highly desirable that, if it is to dwindle away, it should be silently and slowly absorbed, and not violated by any sudden and unhallowed interference of contemptuous brethren of a different race and of different habits. Of all his Majesty's subjects the Canadians, who are sincerely attached to the laws and the religion of their forefathers, are bound by interest to be the most loyal and most faithful. Nor are they bound more strongly by interest than by gratitude—having been delivered by the *British* arms from intolerable thralldom, and raised to the rank, for a high rank it is, of a *British* colony. How far have the colonies of *Britain* outstript in commercial and political prosperity those of any other nation. The second state in the world is a confederation of *British* colonies; and it is a proud boast for England that, while the far older colonies of Spain and Portugal were pining in unhealthy infancy, the American plantations had been opened and hardened into mature and vigorous manhood. Nor are the Australasian colonies and Upper Canada less honorable to the national character; and if Lower Canada has not drunk of the same full tide of prosperity, she has to blame her jealous and systematic exclusion of *British* skill, capital and enterprise. But yet in despite of herself has she prospered, having increased more rapidly in population and commerce than the neighbouring republic.

Such being the advantages of the subsisting connexion both to the mother country and to the colony, it is a matter of vital importance that the continuance of that connexion should form the main object of special legislation in regard to Lower Canada. Any proposition, however specious and beautiful, that may tend to dis-

solve or weaken that connexion, should be unhesitatingly rejected. It cannot, Sir, be necessary to apprise one who has read the absurd and almost rebellious resolutions of the assembly, that the concession of the demands of that body would lead to the dismemberment of the empire. The framers, it is true, threaten a revolt in case of a rejection of their unreasonable and unconstitutional demands; but this, as I have attempted to shew, is a ridiculous bravado, and the real danger arises not from rejection but from concession.

The substitution of an elective council, of which the majority would be identical in principle and conduct with the majority of the assembly, must necessarily concentrate a double portion of legislative power in the hands of the present dominant party and leave the *British* population defenceless. Of this I shall hereafter speak more fully; and I now enter on a brief review of the more recent proceedings of the assembly with the view of considering whether they have been such as to make it a safe depository of a double share of legislative authority.

This body was constituted by act of the *British* Parliament, and by that act alone must its powers and privileges be regulated and defined. On this point, Sir, you have, in your late admirable despatches, made every dangerous concessions by seeming to acknowledge an analogy and equality between the privileges of the Assembly and those of the House of Commons. Now the Assembly by the constitutional act is invested simply with legislative powers, precisely similar to those of the co-ordinate branches and can therefore claim such privileges only as are essential to the discharge of its legislative functions, privileges which can in no case exceed those with which the legislative council performs perfectly similar duties. What is found sufficient for the one body, must be sufficient for the other. You will forgive me, Sir, if I enter somewhat fully into this subject, as I, in common with every intelligent man in the

province, regard the usurped privileges of the assembly as the main prop of the dominant party and the principal instrument of public oppression. Any legislative body, whose power is unavoidably superior to that of any other legally constituted body, should be watched with the most jealous scrutiny, and strictly confined within its legitimate limits. Being *pro tanto* placed above the law, its superiority should be rigorously defined by the essential necessity of the case. If this view be generally sound, it must apply with peculiar force to the assembly of Lower Canada, a body confessedly actuated by a factious spirit and aiming at factious ends. The sources, from which the assembly professes to draw its privileges are the people and the House of Commons. Where any individual, such as the president of the United States, or any body, even a majority of the people, places itself above the law, there is the very essence of despotism; and our assembly, by professing to derive from the people, that created it under and by a certain law, even a single privilege, virtually proclaims its approbation of the fundamental principle of despotism. If the people are not subject to the law, it might be a matter of curious inquiry to ascertain for whom or for what purpose the law was called into existence. The argument in favor of the assembly's privileges, drawn from the practice of the House of Commons, is neither more plausible nor less mischievous. If the assembly be a counterpart of the House of Commons, then by parity of reasoning is the council a counterpart of the House of Peers, and the Governor a counterpart of the King. But as no one pretends that the parallel holds good either in kind or degree in regard to the last two instances, so neither can it hold good in the first instance. But the history of the House of Commons furnishes a stronger argument against the assumed analogy. That house was not originally a legislative body; it had merely the powers of petitioning and of granting

supplies, and from these powers, which were antecedent to its legislative functions, are derived the privilege of impeachment and the exclusive controul of money-bills. Such privilege and such controul, being rather the parents than the children of the legislative powers of the House of Commons, cannot, on the score of analogy at least, be claimed by a body, which exists as a legislative body, and a legislative body only, under the positive enactments of a special statute. Between the purely legislative powers of the House of Commons and the powers to which we have alluded, there is just as much difference as between the legislative and the judicial powers of the House of Peers; and the assembly has as little right to prefer impeachments, as the council would have to erect itself into a tribunal for trying them. On the whole, Sir, it is much easier, much safer, and much more constitutional to restrict our assembly within the necessary range of its legislative character, than to give it the rein and then attempt to curb its reckless career. The popular notion that Lower Canada enjoys the British Constitution, a notion sufficiently correct for popular use, seems gradually to have crept in too literal a meaning into our houses of legislation. The constitution of Canada is the British one; therefore the assembly is the parallel of the House of Commons, the council of the House of Peers and the Governor of his Majesty. The three conclusions must all stand or fall together; they are all equally good or equally bad.

The particular privileges, which the assembly has usurped, are many and various. So difficult is it to check the usurpations of a popular body, if originally permitted, that the assembly has not even confined itself within the sufficiently extensive privileges of the House of Commons, and has even outtrumped the rump parliament itself.

Like that august body it exercises, by its own resolution and in defiance of the constitutional act, the right of expelling trouble-

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powers, which have exalted its own resolutions to the rank of laws, thus denouncing the Upper House as useless if not dangerous. Like that august body it has grasped the executive powers of government, by presuming to dismiss meritorious and unpaid public servants. Like that august body it has presumed to sit in judgment on the chief magistrate of the country. Like that august body it has virtually dethroned its sovereign by giving him the choice between a voluntary and a compulsory renunciation of his supreme power.

With regard to the assumed power of expulsion, the argument, if the constitutional act is to be our guide, is a very brief one. That act provides for the filling of a vacancy, caused by death or promotion to the Upper House, and has not anticipated expulsion as a cause of a vacancy. If therefore the power of expulsion be for the sake of argument conceded, the constitutional act would leave the seat empty for the remainder of the parliament; and thus for the fault, real or supposed, of a member, a constituency might be disfranchised for the space of four years. It is not necessary to enter into the merits of the general question; it is sufficient to show that the privilege, so far from being sanctioned by law, violates the only law that has any reference to the subject. Why the Governor has issued any writs in defiance of the constitutional act, it is not my purpose to enquire. Connected with the subject of expulsion, as proceeding from the same wanton tyranny of a majority over a minority, the more important subject of a *quorum*. Here again the despotic majority has acted not merely without the sanction of the constitutional act but in violation of its express provisions. That act positively declares that every question shall be decided by a majority of those who shall be present—meaning, of course, those who shall be present at every meeting called according to ordinary forms. Can any thing be more

explicit than this? I take the law as I find it, and can discover no authority for saying that twenty or thirty or forty members are not competent to act. But if we look at the abstract merits of the case, the necessity of a quorum is not very obvious, for the triple check in each of two separate branches, the decision of the governor and, if deemed necessary, the subsequent decision of his Majesty form altogether an ample guarantee against the carrying of any measure by surprise. The *quorum* in the House of Commons is merely nominal, being rather less than a sixteenth part of the whole body; while in the assembly it amounts to more than the half of the effective members. The aim and end of such a restriction are quite consistent with the general spirit of the dominant party. It paralyses the minority, encroaches on the legislative council, and usurps the governor's prerogative of prorogation. When the terms *majority* and *minority* are almost as distinct as the terms *assembly* and *council*, the majority in order to render every effort of its opponents or rather of its victims practically powerless, has merely to determine that the *quorum* shall be one more than the double of the minority—a compendious method of expelling the minority in a block. If the dominant party were reduced to forty five out of the eighty eight, there is not the slightest doubt that they would declare eighty seven to be a *quorum*. The *quorum*, moreover, seriously affects the independence of the Council, and *pro tanto* renders it a registrar of the decrees of the assembly. As many bills as possible are kept back till the approaching close of the Session has thinned the Lower House below the required *quorum*; and the council has no choice between passing them as they are or incurring the odium of entire rejection by the slightest amendment. The approaching close of the Session alluded to might be supposed to depend on the Governor; but it is really and truly fixed by their high mightinesses of the dominant faction.

Some eight or ten members of it go home, to break up the House and, that their motives may not be misunderstood, they uniformly resist all the previous attempts of the enslaved minority to reduce the number of the all-powerful *quorum*. The past Session was literally broken up not by the Governor but by the dominant majority of the assembly.

But not merely has the dominant party thus endeavoured to paralyse and annihilate the minority of the Assembly, and to secure to itself the whole of the legislative power of that body. It has, also, endeavoured to grasp the corresponding powers of the co-ordinate branches of the legislature. By the arbitrary and factious determination of a *quorum*, we have already shewn that it has negatively encroached on the constitutional rights of those other branches; and you are well aware, Sir, that its encroachments have not been merely of a negative character. After having often attempted in vain to have a law passed for sending a member, who might accept an office of profit or pecuniary trust, back to his constituents, and having thus admitted the necessity of a legal enactment for such a purpose, the Assembly, by its own resolution, of which Mr. John Neilson was the framer, presumed to decide the matter without the concurrence of the co-ordinate branches, and in defiance of their well known opinions. Did the Assembly, Sir, ever dare to act on this resolution? No; but it went beyond both its letter and its spirit, so as at once to display a most arbitrary disposition and a most factious motive. Subsequently to the passing of the resolution alluded to, two members, Mr. Panet and Mr. Mondelet, were successively raised to an honorary seat in the Executive Council, an appointment which came not within the scope even of the illegal resolution. The dominant party, notwithstanding, arbitrarily expelled Mr. Mondelet, because he was of the minority, and factiously retained Mr. Panet, because he was of the

majority. Is such a body of men to be placed on a level with the British House of Commons, or to be trusted with any degree of discretionary power? If its privileges are not circumscribed and checked by unerring balance-wheels, Lower Canada can escape from a grinding despotism only by a civil war. But this is not the only instance in which the Assembly has presumed to invest its own resolutions with the force of laws. After having long attempted in vain to have a law passed for the despatching of a provincial agent to England, and having thus acknowledged the necessity of a legal enactment for such a purpose, the dominant party of the Assembly, by its own resolution, nominated Mr. Dennis Benjamin Viger as agent for the province, and appropriated to the maintenance of that honorable gentleman an extravagant amount of the public money. With the motives which induced the Legislative Council to reject the Assembly's bills for the appointment of an agent, I have nothing to do—though perhaps the unhappy divisions of the colony, which would render any agent merely the representative of a party, may alone justify the proceedings of the upper House. But nothing can be plainer than that the Assembly overstept the bounds of moderation and justice. In imitation of the House of Commons, it has arrogated to itself the exclusive controul of money bills—a privilege, to which even the argument of analogy, as has been already shewn, cannot fairly entitle it. Mark the natural progress of democratic ambition. The House of Commons still permits the other branches of the Imperial Parliament formally to sanction money bills; but the Assembly of Lower Canada dispenses altogether with any such formality. That even the whole of the Legislature of the colony has a right to send an agent to England, seems very doubtful; but to say that a part of it has any such right, is absolutely ridiculous. The people may send an agent and pay him; the Executive may send an

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 which, as it alone created the Legislature, is  
 the safest interpreter of its powers, gives  
 not even to the whole of it, and far less to  
 part, any right of access to the King or  
 the Imperial Parliament. It is an acknow-  
 edged maxim, that one cannot do by ano-  
 ther what he cannot do by himself; and  
 how then can a Legislature, of which not a  
 single member can set foot in England  
 without being divested of his legislative  
 character, appear collectively by proxy at  
 the foot of the throne or at the bar of the  
 House of Commons? It cannot be too  
 often urged that the creatures of a special  
 act must be confined within the limits of  
 that act. Nothing but such a restriction  
 can save this colony from the horrors of an  
 irresponsible despotism or from an alternative  
 still more horrible. In justice to the As-  
 sembly, however, it must be owned, that  
 no violation of the constitutional act, a  
 violation which affects the King's preroga-  
 tive, it has been backed and seconded by  
 the other branches of the Legislature—I  
 allude to the system of temporary laws.  
 If the absurdity of such a system it is not  
 my purpose to speak. I shall confine my-  
 self to its unconstitutional character. By  
 the constitutional act, his Majesty may  
 allow, within two years, any act of the  
 provincial Parliament. Does not the sys-  
 tem of temporary laws, which may close  
 their ephemeral existence before they can  
 be officially announced to his Majesty,  
 strike directly and fatally at the root of this  
 prerogative? I take the law as I find it—  
 not as a proof of the propriety of the en-  
 croachment, but as a proof of the illegality of  
 the encroachment of the colonial legislature.  
 But, Sir, all the previous encroachments  
 the Assembly have been overshadowed  
 by the tone and sentiments of the famous  
 forty-two resolutions. The following is a  
 sufficient sample, being the concluding part  
 of the 50th—"If they," in reference, Sir,  
 to your despatches, "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 can-  
 dour to the people of England, if it hesitat-  
 ed 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 En-  
 glish Colonies. when the latter deemed that  
 the time was come to decide that the inap-  
 preciable advantage of governing themselves  
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 ernment, which was, generally speaking,  
 much better than that of British America  
 now is."

Mark again, Sir, the natural progress of  
 democratic ambition. The dominant party  
 of the Assembly, not content to annihilate  
 the minority of its own House and to trample  
 on the co-ordinate branches of the pro-  
 vincial legislature, has at last made an at-  
 tack on the British parliament, and com-  
 manded it to prostrate its undoubted su-  
 premacy before the will of "the majority  
 of the people of this province." That party  
 is willing, it may be supposed, to receive  
 lavish grants of British money for internal  
 improvements, and to see British blood  
 flow in defence of Canada against a foreign  
 enemy; but for all this, it would yield no  
 equivalent in the shape of obedience or sub-  
 jection. While appealing to the Imperial  
 Parliament, the party with singular tact  
 and singular consistency virtually denies its  
 supremacy. So long as that august legis-  
 lature is disposed merely to register the  
 decrees of our factious democrats, it is to  
 be graciously tolerated; but no sooner does  
 it become refractory than it is threatened  
 with the loss even of its nominal suprema-  
 cy by a rebellion. So much for the loyalty  
 of the Assembly of Lower Canada. But



let us take a more serious and deliberate view of the extract from the 50th resolution, and consider whether the framers of so unstatesmanlike and so disingenuous a sentence are either intellectually or morally competent to be the sole legislators of this important and flourishing colony. They allude to "modifications, such as are asked for by the majority of the people of this province," though the fact is too notorious for denial or doubt, that so far as "the majority of the people of this province" is concerned, no "modification" whatever of the constitution has been "asked for," and that even the minority has deprecated all changes but such as are requisite for the practical working of the government and of the constitution. The framers of the resolution have most unjustifiably assumed the perfect identity of the majority of the Assembly, and the majority of the people. Now as to the mere facts of election, though the whole House must be returned by a majority of votes, it by no means follows that the friendly constituents, who have actually voted for the return of any given majority of the House, constitutes a majority of the whole of the electoral body of the province. But if this objection be entirely waved, I would ask, Sir, by what right fifty individuals dare to impute their crude and treasonable sentiments to the "majority of the people of this province." Do these individuals imagine that those, who three years and a half previously delegated to them certain legislative functions, committed to them at the same time their heads and their hearts to be so moulded and fashioned that the opinions and feelings of the majority of the Assembly shall on every occasion be the opinions and feelings of the majority of the people? This, as has been already remarked, would reverse the fashionable system of pledges with a vengeance. The pledged delegate may relieve an oppressed conscience by resignation; but the pledged constituents, destitute of a remedy, must patiently digest the moral dis-

grace of being identified with a profligate representative. To ensure the abject prostitution of the intellects and consciences of "the majority of the people," the fifty individuals before mentioned pronounce *ex cathedra* in allusion to the people "whose sentiments cannot be legitimately expressed by any other authority than its representatives." Here the tyrannical maxim is developed in all its fearful absurdity. The people must not only think as the Assembly thinks, but has not even any means of "legitimately" expressing any kind or degree of dissent from the most disloyal and most preposterous doctrines. Such mental tyranny is worthy of the emulation of an Asiatic or an African despot.

It cannot, Sir, be necessary to prove to you by many illustrations the fact that words often virtually become things. The foregoing assumption of the assembly is sufficiently refuted by the monstrous character of its fruits; but it may be necessary to remark that a very plausible defence of it may be founded on a misconception of the term "representative." I have already touched this subject slightly; but, Sir, so deeply am I impressed by a sense of its mischievous consequences in general and of its fatal influence on this colony in particular, that I must crave your indulgence for a few additional observations. The sophism consists in the extension of the term "representative" from a special to a general signification, and in thus viewing the member of assembly not merely as the legislative organ of the constituents, but as a perfect counterpart of them in their public capacity. The assembly, according to the provisions of the constitutional act, is a legislative organ of the province just as the governor is an executive organ or the court of King's bench a judicial one, and cannot arrogate to itself all the public rights and privileges of the people with more propriety, than a constable, who is the King's representative, can claim the power of nominating judges and

legislative of this necessary viewed invested This rem the assen ers. I v on your tendency with any tive power and unclsm, as i tself, tha he freed should be he narrow governm ave been nd the u guardian indirectly legislatur as sancti ure of le wo hous necessary a princip ew cour nd the termixt legislative voided ould s crease at it wor cial dec tive ena would at a sys g at on character mong or ouse of a mod ent is c the fo

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legislative councillors. The political peace of this province renders it imperatively necessary that the assembly should be viewed simply as a legislative organ and invested simply with legislative privileges. This remark naturally brings us to consider the assembly's assumption of judicial powers. I would again, Sir, respectfully urge on your notice the dangerous, the fatal tendency of a mixture of legislative powers with any other powers whatever. Legislative powers of themselves, when unmodified and unchecked, verge so closely on despotism, as implying a superiority to the law itself, that the aim of a people, zealous for the freedom of itself and its posterity, should be to hedge and fence them within the narrowest limits. In all well regulated governments accordingly, these powers have been divided among different bodies; and the *veto* of the executive, as the natural guardian and representative of the law, has indirectly subjected to the law even the legislature itself. If in Great Britain time has sanctioned and hallowed the intermixture of legislative and other powers in the two houses of Parliament, it is not at all necessary that an example, confessedly bad in principle, should be introduced into a new country and under a new constitution; and the most dangerous of all possible intermixtures, that of the judicial and legislative powers, should be studiously avoided in Lower Canada. Not merely would such an intermixture alarmingly increase the powers of a factious democracy but it would ultimately affect the purity of judicial decisions and the soundness of legislative enactments. The two branches of power would ultimately become so commingled, that a system of *ex post facto* laws, partaking at once of the judicial and legislative characters, would gradually fix its roots among our headstrong revolutionists. The House of Commons is here again pleaded as a model of our assembly; but the argument is doubly defective, for that privilege of the former body, having sprung from its

ante-legislative functions, cannot be claimed by a body purely legislative, and being preparatory to a solemn trial by the House of Peers, can have no place in our assembly till our council is erected (which God avert) into a court of impeachments. The assumption of the power of judicial investigation by the assembly is in truth subversive of the principles of natural justice, for what can be more iniquitous than to commence an inquiry which cannot be finished and thus to keep hanging over the head of obnoxious persons an accusation, from which they have no opportunity of clearing themselves. If it shall ever unhappily please the Imperial Parliament to erect the legislative council into a court of impeachments, then and not till then may the assembly claim, with some shadow of propriety, the right of preliminary investigation. In these remarks I allude particularly to the assembly's mode of conducting the inquiry into the riots of 21st May, 1832. The matter had been previously decided by the proper authorities; and the assembly had not any more right to revise their decisions than they would have had to criticise and subvert its legislative proceedings. Yet so powerful is habit, even when opposed to reason, law and justice, that a lawyer high in office within the colony, spoke, in the commencement of the unconstitutional inquiries, of the Assembly as "the Grand Inquest of the country." If the general argument against the confusion of legislative and judicial powers were weaker than it is, the mode in which the assembly has conducted that famous inquiry is quite conclusive as to the impolicy of confiding to the assembly of Lower Canada any kind or degree of judicial powers.— *Divine and govern* is an old and excellent maxim; and so long as Great Britain desires to retain the government of these colonies, she will act wisely particularly when backed by sound principles, to divide, the provincial powers among as many individuals and as many bodies as possible,

Thus has it been shewn that the majority of the assembly has usurped judicial powers, and the legislative privileges of the minority of its own body, of the co-ordinate branches of the colonial legislature and of the Imperial Parliament itself; and it is now my purpose to expose its encroachments on the provincial executive. In granting a sum of money for the improvement of Montreal harbour, it imposed on the executive the condition of dismissing unblemished and unsuspected commissioners from political motives—being thus guilty of the double encroachment of tacking adventitious clauses to money bills and of dictating to the executive. Connected with this subject are the declarations of the dominant party, embodied in some of the famous resolutions, that the assembly had a right to call before it also the military servants of the crown within the colony, over whom the colonial legislature, even as a whole, has no more control than it has over the man in the moon.

From the same spirit of unconstitutional encroachment have sprung the difficulties of the civil list. Financial supplies have been systematically withheld, not because the executive was unreasonable in its pecuniary demands, but because it would not in all respects place itself under the feet of the dominant faction. The motive is not less certain than the fact, for the party has vauntingly threatened to starve the Government into an unconditional surrender.

Thus has it been shewn that the assembly of Lower Canada, which is invested by the constitution merely with a share of legislative power, has assumed to itself the whole of that power to the prejudice of all other bodies legally invested with similar powers, has trampled on the very people in whom it lives, moves and has its being, has scorned and defied the imperial legislature, has encroached on the functions of the executive and has usurped the peculiar powers of his Majesty's courts of law; and can any stronger proof be offered of

the danger of committing to an ambitious and insatiable faction any discretionary privileges beyond those indispensably essential to the discharge of legislative functions?

Language, it has been ingeniously and forcibly remarked, was given to us to conceal our thoughts; but though our democrats, as Mr. Speaker Papineau has unblushingly owned, long acted on this disingenuous principle, they have at last displayed a more honest disposition, and made their words a counterpart of their actions. The ninety two resolutions, if compared with the assembly's proceedings of the last four years, are an eminently honest avowal of practical principles. Their spirit, when compendiously expressed, is to this effect, that the majority of the assembly, as identical with the majority of the people, is under heaven absolutely and uncontrollably omnipotent. The same principles had been previously promulgated by writers in newspapers and by individual members of assembly; but never before had the assembly in its collective capacity given utterance to so treasonable imbecillities; and to the framers of the famous ninety two resolution the loyal inhabitants are deeply indebted, for having expressed their principles in a tangible and visible shape, and for having brought down to the level of the meanest capacity the revolutionary and treasonable designs of the dominant faction. Actions which are to the thinking man more eloquent than words, never exercise unfettered influence over uneducated minds.

What are the means by which the assembly of Lower Canada proposes to accomplish its undisguised aims? The entire control of the civil list, and the substitution of an elective council. These two concessions are quite sufficient for its purposes, the former subjecting to its caprices the imperial government in the persons of the provincial officers, and the latter throwing under its feet the whole of the British population of the province. The executive functionaries, being the servants not of the

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the mother country. The principle  
uld dictate to the imperial parliament the  
priety of making permanent appropriat  
is out of the colonial revenue for the  
aintenance of the civil government, and  
all the bonds of connexion between the  
her country and the colony.—  
ong these are to be reckoned the foreign  
e, and all things that administer to that  
e, such as the imposition of customs  
the improvement of harbours, for if  
foreign trade be in any degree subject  
the provincial legislature, Great Britain  
be legally excluded, as she was *pro*  
o by the emigration tax bill, from the  
es of a country purchased by her own  
d and her own treasure.  
he same principle, moreover, suggests  
e, Sir, some observations on the new  
for the regulation of the colonial post  
e in British America. To the reduc  
of the rates of postage, though they are  
generally higher than at home, and to  
appropriation of the surplus revenue,  
boon but not as a right, to colonial  
there cannot be any practical objec  
of much weight. But to the colonial  
rol of the rates of postage there are ve  
erious objections.  
ithout calling in question the sound  
of the generally received maxim as to  
nternal taxation of colonies, I am dis  
on two grounds to deny its applica  
to the present case. It may fairly  
oubted, whether under any circum  
es the postage of any letter can be  
ed a tax; but, whatever may be the  
character of postage in the United  
dom, colonial postage, which is daily  
ed, and that openly, by stages and

steamers, must be considered as the natu  
ral result of a voluntary contract. *Taxa*  
*tion* and *smuggling* are correlative terms,  
where there is no *smuggling* in the penal  
sense of the term, there can be no *taxation*.

It may, moreover, be doubted whether  
the colonial postage, if admitted to be a  
tax, is strictly an internal one, according  
to the provisions of the new bill. British A  
merica, Sir, has not in a political sense a  
collective existence; and the solitary ins  
tance of fiscal connexion between the two  
Canadas has not been so productive of har  
mony and economy as to render the exten  
sion of the system from the custom-house  
to the post office either desirable or prudent.  
Unconnected with each other as are the  
provinces of British America, the epithet  
*internal* can apply only to the several colo  
nies; and *internal postage*, therefore, must  
mean merely the charge of transmitting let  
ters, whatever may be their ultimate des  
tination, within the limits of each partic  
ular colony. If the general maxim as to in  
ternal taxation be deemed sufficiently va  
luable to overbalance the absurdities, the  
difficulties and the dangers of such an ap  
plication of it, let it by all means be carried  
boldly into effect. From so legitimate a  
result of the principle, the new bill shrinks.  
In the true spirit of modern expediency, it  
contents itself with the lesser evil of pre  
supposing the perfect unanimity of uncon  
nected and mutually independent legisla  
tures, and decrees that each colony shall  
receive a share of the surplus revenue pro  
portioned to the gross receipts of the de  
partment within its limits.

Thus the bill, in so far releasing the  
colonies from their dependence on the  
mother country, makes them dependent on  
each other—establishing a mutual relation  
without any common tribunal for defining  
and regulating it. Nor will the principle  
on which it divides the surplus revenue  
give universal satisfaction.

So far, moreover, as I can understand  
the provisions of the bill it extends to the

pos to office a principle so fatal to the executive in Lower Canada, and so subversive of the mother country's supremacy; that of making his Majesty's servants dependent for their maintenance on the colonial assemblies.

In the United States a sounder system, precisely our present one of an imperial post office, is found beneficial and necessary.

The new bill, in short, is based on the sophistical misapplication of a dubious maxim.

In regard to the elective council, there cannot be any difference of opinion among rational men. The argument, to which the assembly so triumphantly appeals, is fatally decisive against the conclusions of that body in favor of an elective council. If the assembly, as it pretends, is backed by a large 'majority of the people of this province,' the majority of an elective council must manifestly be identical in principle with the majority of the assembly; the decision of the one would echo that of the other; and the Governor, unsupported by any constituted body, would have to withstand the influence of two harmonious emanations of the same ambitious faction.

Of two similarly constructed legislative bodies one must be pernicious or, at least, utterly useless; and even in the United States, where the homogeneous character of the population renders a *majority* and

*minority* terms of a more fluctuating acceptance, the identity of the two legislative bodies has been avoided, as far as fundamental principles of republican institutions would permit.

Since then the concession of the demand of the assembly is altogether impractical and since some change is necessary to end the government of the colony to be roused from its present paralysis, we must rely on the wisdom and justice of the imperial parliament for sound and permanent modifications. If a humble individual may be allowed to offer any suggestion to His Majesty's Colonial Secretary, he would recommend as the remedies of the provincial disorders permanent appropriations for the maintenance of all the bonds of connexion with Britain, the restriction of the legislature within the limits of its legislative character, the determination of a *quorum* for each house, the exaction of a pecuniary qualification from the representatives of counties, the abolition of the indemnity members of assembly, and, as temporary measures at least, the registration of voters and the residence of the representatives within the limits of their respective constituencies.

I have the honor to be, Sir,

Your most obedient,

Humble servant,

AN EMIGRANT.

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