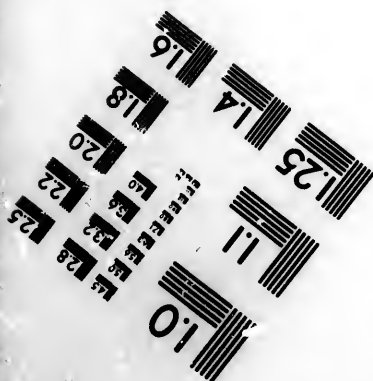
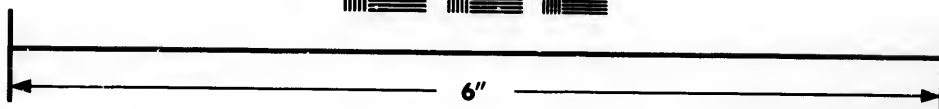
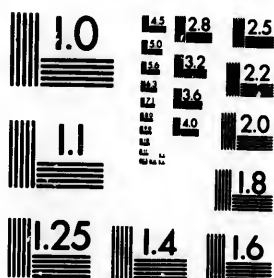


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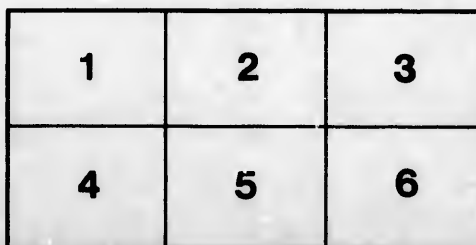
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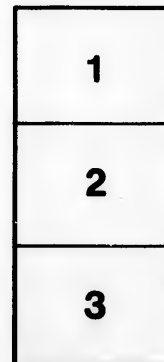
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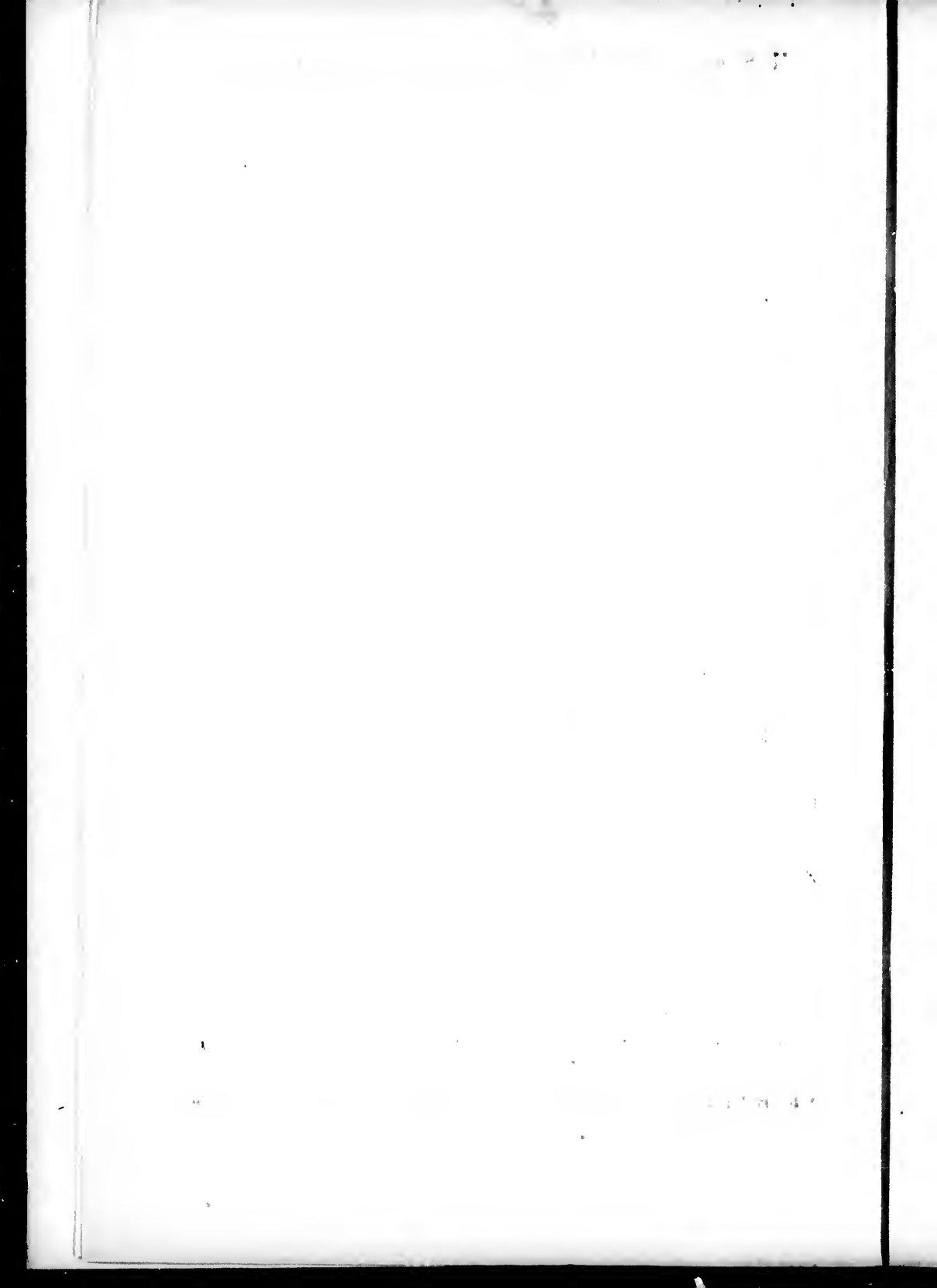
NO. I.

THE
RESIGNATION

OF

THE LATE MINISTERS.

TORONTO:
PRINTED BY GEORGE BROWN, YONGE STREET.
1844.



PREFACE.

With the view of laying clearly before the public the causes of difference between the Governor-General and his late Ministry, and the unjustifiable manner in which the affairs of the country have been conducted since the resignation of the latter, the REFORM ASSOCIATION OF CANADA have resolved to publish a Series of TRACTS on the leading principles and disputed points of the whole controversy.

The following pages constitute No. I. of the Series, and the others will succeed it with as little delay as possible.

TORONTO,
August 19, 1844.

TRACTS FOR THE PEOPLE.

BY AUTHORITY OF THE REFORM ASSOCIATION OF CANADA.

No. I.

THE RESIGNATION OF THE LATE MINISTERS.

BROTHER REFORMERS :

In this remarkable crisis of your affairs, when the attempt is made to assail your liberties more by the indirect influence of calumny and misrepresentation, than by an open denial of your right to enjoy them, we think it important to keep steadily before you the principles upon which your claims to actual and practical Responsible Government rest.

There is a material difference in the character of the present from all your former struggles. Formerly, you claimed the *recognition* of your right to influence the exercise of executive power :—that right having been recognised, you now claim the *practice* as it exists in the people under all free constitutions. Formerly, you contended for a theory, and were met by the objections, that it was vague in principle, incapable of definition, and incompatible with Colonial dependence :—now, you are struggling for the plain meaning and spirit of your written and guaranteed constitution. Formerly, your claims were distinctly and sternly denied :—now, they are evaded in practice under a plausible recognition of the theory of your constitution.

What that constitution is, and in what material respects its invasion and infringement led to the resignation of the late Ministers, it is our present purpose to explain.

If, before the union of the Provinces, the notions that existed of the principles for which Canadian Reformers contended were vague, no doubt could be entertained of the nature of the evil for which remedy was sought. The people of Canada complained that while their Representative Institutions were modelled upon those of the Mother Country, the principle of responsibility to the people, which in England gives vitality, vigour, and harmony to the administration of the government, was withheld. The remedy proposed was sufficiently simple, but was distorted into so many hideous shapes by the admirers of arbitrary rule, that it gradually obtained the character of an undefined theory even among those who very loudly condemned the causes of complaint.

The principle contended for was, that the Crown should consult the wishes of the people in reference to the selection of its servants, and that the responsibility of those servants to the people should extend over every department of the administration. But the remedy, although simple, was sufficiently powerful: for while it gave to the people a guarantee for the fitness of those servants for office in their possession of popular confidence, it also effectually guarded the Royal Prerogative from subserviency to faction and intrigue.

Another admirable effect was expected from the recognition of this principle—that of removing from the Colonial population all cause of dissatisfaction with the Imperial Government: for, by placing the administration of our local affairs in the hands of individuals acceptable to a majority of the people of this country, it took away the necessity for interference by the Imperial Government with matters which did not immediately relate to Imperial interests. That interference which had been too often dictated by ignorance of our affairs being withdrawn, in the recognition of the responsibility of the Provincial Ministers, it could not be renewed without an obvious infringement of our Constitution; while in the responsibility of these ministers the people of Canada were in possession of every useful check on the administration of their Government.

Such were the principles recognised in the Resolutions, moved and

passed in the Legislative Assembly, on 3rd September, 1841, under the sanction of Lord Sydenham, and afterwards confirmed by the Imperial authority, and which resolutions were intended to define and settle the practice of Responsible Government.

These resolutions declare, "that the Representative of the Sovereign in the Province is responsible to the Imperial authority alone, but that, nevertheless, the management of our local affairs can only be conducted by him, by and with the assistance, counsel, and information of subordinate officers in the Province,"—and that "the chief advisers of the Representative of the Sovereign, constituting a Provincial Administration under him, ought to be men possessed of the confidence of the people—thus affording a guarantee that the well-understood wishes and interests of the people, which our Gracious Sovereign has declared shall be the rule of the Provincial Administration, will, ON ALL OCCASIONS, be faithfully represented and advocated."

The constitution thus introduced into Canada with the approval of Lord Sydenham, was successfully carried into practice under the administration of his immediate successor, Sir Charles Bagot. And among the first fruits of this purely British and harmonious system, we may pause to contemplate the universal contentment and tranquillity of the Province—the bonds of an affectionate connexion drawn more closely between the Mother Country and the Colony—the distinctions of races, that perpetual plague-spot on the Canadian Government, blotted out—the springs of industry and prosperity opened up—Canadian credit sustained above the shock of American fraud—and peace and harmony every where prevailing to an extent unexampled in our history.

Prospects so cheering for our country, immediately succeeding a state of feverish excitement and dissatisfaction were readily attributed to the fair and healthy operation which was given by all parties in the Government to the new principle that had been introduced into the Constitution. How far that principle has been maintained or violated under the administration of Sir Charles Metcalfe, it is your duty as well as your interest to enquire.

"On his arrival in this Province, in March, 1843, Sir Charles Metcalfe found the administration of the Government in the hands of the Councillors by whom it had been successfully conducted under his lamented predecessor. During the next eight months the Government was administered apparently in harmony with the principles contained in the Resolutions of 1841. On the 25th of November, 1843, in the middle of the Parliamentary Session, Sir Charles Metcalfe suddenly, and for the first time, stated to his Council, that "from the time of his arrival in the country, he had observed an *antagonism* between him and them on the subject of Responsible Government."

To arrive at a precise understanding of the "antagonism" referred to, we call your particular attention to the words used by the parties in their respective explanations.

In the explanation made by the late Ministers to Parliament, and which was previously submitted for his Excellency's information, the grounds on which they felt it to be their duty to tender a resignation of office, are thus stated: They allege "that his Excellency took a widely different view of the position, duties, and responsibilities of the Executive Council, from that under which they accepted office;" and that that difference of opinion was not simply theoretical, and "has led not merely to appointments to office against their advice, but to appointments, and proposals to make appointments, of which they *were not informed* in any manner, until all opportunity of offering advice respecting them had passed by."

In his Excellency's message to the House of Assembly, no denial of the facts stated by the Ministers is made, but his Excellency observes "a total omission of the circumstances which *he regards* as forming the real grounds of their resignation." In the absence of contradiction, we are at liberty to assume that the facts stated by the Ministers were true—and, in ordinary circumstances, the justification of their resignation would be found in the incompatibility of those admitted facts with the mode and form of proceeding laid down by the Resolutions of 1841. Courtesy, however, to the Head of the Government, may extend to *his*

explanation of what *he regards* as the cause of resignation, that consideration which strict justice could not claim for it in the absence of any denial of the facts alleged by the Ministers. He observes, that "on Friday, Mr. Lafontaine and Mr. Baldwin came to the Government House, and *after some other matters of business, and some preliminary remarks* as to the cause of their proceeding, demanded of the Governor that he should agree to make no appointments without previously taking the advice of the Council; that lists of candidates should, in every instance, be laid before the Council: that they should recommend any others at discretion, and that the Governor General, in deciding after taking their advice, should not make any appointment prejudicial to their influence. *IN OTHER WORDS, that the patronage of the Crown should be surrendered to the Council for the purchase of Parliamentary support; for, if the demand did not mean that, it meant nothing, as it cannot be imagined that the mere form of taking advice without regarding it is the process contemplated.* The Governor-General replied that he would not make any such stipulation."

If "the mere form of taking advice" was all that the Ministers demanded, then the parties are clearly agreed upon the essential facts; and were the Resolutions of 1841 out of the way, the only real difference between the Governor-General and the Ministers would be as to effect and policy of admitting such a practice into the administration of the Government. But as the form of taking, or at least of offering advice had existed ever since the Ministers had come into office, and as the alleged appointments and offers of appointments without advice had been made only a short time previous to the resignation, and as the "demand" to take advice was made on the day before the resignation, it is very obvious that his Excellency must have seen in "the mere form of taking advice" that *antagonism* which existed between him and his Council from the time of his arrival in the country. It is not alleged in his Excellency's explanation that a "stipulation" was demanded by the Ministers or refused by the Governor-General until the 25th of November, 1843—and yet in the previous month of May, a few weeks

after he had assumed the Government he thus states to Lord Stanley in what the *antagonism* consisted :—

“ I am required to give myself up entirely to the Council : to submit absolutely to their dictation : to have no judgment of my own : to bestow the patronage of the Government exclusively on their partizans : to proscribe their opponents : and to make some public and unequivocal declaration of my adhesion to these conditions, involving the complete nullification of her Majesty’s Government.”

If the mere form of taking advice in making appointments to office, involved consequences so disastrous to her Majesty’s Government, why did Sir Charles Metcalfe govern Canada for eight months with a treasonable Council ? Why did he meet the Parliament with Ministers ready to plunge the country into rebellion ? How, without glaring inconsistency, could he “ appeal to the number of appointments made by him on the recommendation of *that* Council, and to instances in which he had abstained from conferring appointments on their opponents, as furnishing proofs of the great consideration which he had evinced towards the Council in the distribution of the patronage of the Crown” !

It is of importance to reduce the difference between the Governor-General and his late Ministers to the narrowest limits which the words of their respective statements will permit.

The Ministers alleged in their explanation “ that they repeatedly and distinctly explained to his Excellency that they considered him *free to act contrary to their advice, and only claimed an opportunity of giving such advice, and of knowing before others his Excellency’s intentions.*” This allegation is not denied by the Governor-General. In the verbal explanation made by Mr. Baldwin to the House of Assembly on the 29th of November, “ he wished it to be distinctly understood as his opinion, and that of his colleagues, that the Head of the Government had the *perfect right* to appoint whom he pleased *after* our advice had been given.” Mr. Lafontaine on the same occasion expressly denied that any “ stipulation” had been asked. And Mr. Sullivan, in his explanation to the Legislative Council, declared that “ they had *in vain* endeavoured to impress on the mind of his Excellency that it was not

their wish to direct or controul his measures, but merely that he would consult them before hand, so as to give them an opportunity to express their opinion upon these measures for which they were accountable."

Now, as the difference between the two statements amounts to nothing in regard to the fact that "the form of taking advice" was required, the real difference between his Excellency and his late Ministers must be found in the inference which accompanies his statement and which is not admitted by them—namely, that the mere form of taking advice would involve "a virtual surrender into their hands of the patronage of the Crown." And as the Resolutions of 1841 require that "the management of our local affairs can only be conducted by the Representative of the Sovereign, by and with the assistance, counsel, and information of subordinate officers in the Province," and as Sir Charles Metcalfe professes to adhere to these Resolutions, and yet makes appointments and offers of appointments without the knowledge and assistance of his Councillors, it follows that in declining to take that "assistance, counsel, and information," in appointments to office, he considers appointments to office not embraced by the term "local affairs."

Let us see how far his Excellency's understanding of the term is consistent with the position of the Executive Councillors and with his subsequent declarations.

Sir Charles Metcalfe has repeatedly declared, that "he is not practically adverse to the working of the system of Responsible Government which has been here established."

Before the Resolutions of 1841 were introduced into the Assembly, Lord Durham had pointed out the evils which were caused by the unconstitutional administration of the prerogative. He also proposed the remedy in the adoption of British practice. "Since the Revolution of 1688," his Lordship observed in his Report, "the stability of the English Constitution had been secured by the wise principle of our Government which has vested the direction of the national policy, and the *distribution of the patronage*, in the leaders of the Parliamentary

majority,"—and he further observes, that "to produce vigour and regularity in the administration, it needs but to follow out consistently the principles of the British Constitution, and introduce into the Government of the Colonies those wise provisions by which alone the working of the representative system can in any country be rendered harmonious and efficient."

In the discussions which took place between Sir Charles Bagot and Mr. Lafontaine, previous to the latter joining the administration, it was expressly understood, that "according to the Resolutions of 1841, no appointment to office should take place without the Council's knowledge and advice." On that understanding, therefore, did the late Ministers retain office, and on a faithful observance of that understanding was Sir Charles Bagot's administration successfully conducted. But Sir Charles Metcalfe does not deny that under his administration, appointments and proposals to make appointments *were made* without the knowledge, assistance, and counsel of the late Ministers—on the contrary, he distinctly alleges that to agree to take advice on appointments would be a surrender of the royal prerogative. In what respect, then, is the practice, under his administration, consistent with the system of Responsible Government here established by the Resolutions of 1841?

If Sir Charles Metcalfe be right in his interpretation of the Resolutions of 1841—if he be right in saying that the patronage of the Crown in Canada is excluded from our local affairs—and that a Governor who would submit to the form of taking advice from his Councillors in reference to appointments to office, would be virtually surrendering the prerogative of the Crown, then the Government which he found established in the country must have been wrong, and Sir Charles Bagot must have degraded his office by permitting a practice which "involved the complete nullification of her Majesty's Government"—and by a parity of reasoning, the principles of Sir Charles Metcalfe would be compatible with the Resolutions of the Assembly. But unfortunately for this early interpretation of the Resolutions, we have been favoured with a more modern exposition of Responsible Government from the

same source which must seriously detract from your admiration of his Excellency's consistency. In his answer to the Address of the Gore District Council, his Excellency said :—" If you mean that the Government should be administered according to the well understood wishes and interests of the people : that the Resolutions of September, 1841, should be faithfully adhered to : that it should be competent to the Council *to offer advice* ON ALL OCCASIONS *whether as to the patronage or otherwise* ; and that the Governor should receive it with the attention due his constitutional advisers ; and consult with them on all cases of adequate importance : that there should be a cordial co-operation and sympathy between him and them : that the Council should be responsible to the Provincial Parliament and the people : and that when the acts of the Governor are such as they do not choose to be responsible for, they should be at liberty to resign :—THEN I ENTIRELY AGREE WITH YOU."

Now, unless " the mere form of taking advice without regarding it," be the process here contemplated, Sir Charles Metcalfe places his Council in the very position contended for by the late Ministers ; but in as far as that is a true exposition of the Resolutions ; in as far as his Excellency *did not* receive the advice of his Council on all occasions, whether as to patronage or otherwise ; in as far as he *did not* consult with them in all cases of adequate importance : in as far there existed, during the time they were in office, an *antagonism* between him and them, excluding co-operation and sympathy—in so far did Sir Charles Metcalfe violate the principles of Responsible Government, and while the men of Gore have the credit of reasoning his Excellency out of his abstract opinions, the liberties of the people of Canada are still endangered by his arbitrary and unconstitutional practice.

The people of Canada have little to do with the abstract opinions of the Governor-General, for it was to protect their government from the influence of such abstract opinions that the constitution of 1841 was adopted. They have had some experience of the contradictory opinions which, within, a few months, a Governor-General may be compelled to

enunciate for the gratification of conflicting parties, and they look in vain for vigour and regularity in their government, should it be exposed to the vacillancy of such theoretical differences of opinion.

The late Ministers resigned on account of no such differences. They resigned because they honestly believed that the distribution of patronage was a part of our local affairs, and that as such it was embraced by the Resolutions of 1841. They resigned because, while by these Resolutions they were responsible to the people of Canada for the manner in which the patronage was dispensed, by the administration of Sir Charles Metcalfe they were excluded from the opportunity of giving advice upon appointments until after they had been made, and because that exclusion was attempted to be justified by the declaration of an unconstitutional principle. They resigned because the condition on which they retained office had been violated, and because by remaining longer in office under an affected responsibility they would have been playing the part of deceivers towards those who had given them their confidence.

Were the Ministers in circumstances so destructive of their constitutional influence and so ruinous to their character to remain in office, and to shield the Governor-General in the exercise of irresponsible and unconstitutional power? Were they to be attacked for appointments which they never heard of—dismissals which they never advised—and to be thus continually exposed to the loss of popular and parliamentary support? Were they tamely to submit to the ruin of their power by means of government patronage bestowed by the secret advice of their opponents? Were they to hear of acts, supposed to be advised by them, stigmatized as weak on the one hand and wicked on the other? And were they to submit to this load of odium and disgrace under which no ministry could exist for a month in a free country, on account of the arbitrary acts of a Governor who arrogates the unconstitutional power of acting without advice, and who, in learning to despise a parliamentary majority under the affectation of doing equal justice to all, must inevitably become the weak tool of a faction.

We recognize appointments to office as a prerogative of the Crown,

which by our Constitution is vested in the Governor; but as by that Constitution responsibility to the people of Canada for these appointments lies upon their Provincial Ministers, we think that a just confidence should subsist between them and the head of the Government—that they should be informed of the Governor's intention before being acted on, so that they may have the opportunity of tendering advice, if necessary—and if that advice be not acted upon in matters of importance to the country, that they should have an opportunity of withdrawing from the responsibility before the appointments are made. We do not object to the Governor exercising a sound discretion in making appointments; but, according to our Constitution, that discretion must be exercised *after* the advice has been received.

These are the principles upon which the British Government has been conducted for nearly two centuries, and will it be pretended that what does not dishonour and degrade the crown in England must necessarily do so in Canada? But if you, the people of Canada, wish to exercise no controul over your Government in matters of patronage—if you think that such matters will be best entrusted to the prudence and moderation of your Governors—if you think that your Governors would derive better information and advice from parties whose interest it is to undermine the influence of your constitutional and responsible ministers, than from the men whose acknowledged talents and political integrity have secured the confidence of your representatives—if you insist that these Ministers shall play the part of deceivers, and prolong their political existence for the purpose of strengthening the hands of those from whom you have withdrawn your confidence—if you despise the principles which give vigour, harmony, and stability to the British Constitution—or if you acknowledge yourselves unworthy of the rights of British subjects, guaranteed to you by the faith of the empire—and if you are willing thus to consent to your degradation, the opportunity has been given to you of throwing yourselves upon the clemency and moderation of irresponsible power.

But if you are still, as we believe you to be, unchanged in heart and

honesty and purpose, as loyal and trust-worthy and as little to be feared as you or your ancestors were when you left your homes—if you are still as attached to order and good government and to monarchical institutions, and as clearly entitled to be entrusted with political power—you will contend temperately, but firmly and boldly, for the principles of British Constitutional liberty, as guaranteed to you in all their integrity and their spirit, unmutilated by the private opinions of Governors, and uncontrouled by the secret and unconstitutional counsels of an unprincipled faction.

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