

the moment fill certain offices"—the gain in this case being all on his side and the disadvantage on theirs.

The Council are pleased to notice that His Excellency admits that the statements which they were affirmed to have "explicitly" made, had not been employed by them at all; and while they could have no objection to His Excellency's basing his action on any portion of the grounds of their recommendation which he deemed best, they felt bound to take care that in explaining what His Excellency considered an ambiguity, none of the reasons on which their recommendation was pressed should be ignored or misrepresented, and they agree with His Excellency that it is very difficult to understand how any misapprehension could exist on either side in reference to a matter which was so fully discussed orally and in writing.

The Council admit that their last Minute on this subject addressed to His Excellency, was dated on the 24th, and was presented on the 26th September, but they have frankly to state that it was only on the latter day that, owing to causes to which it is unnecessary particularly to refer, the Minute was put into a form suitable for presentation to His Excellency. The cause of delay in this case is one which His Excellency could hardly fail to appreciate, and in reference to which the Council might expect to receive considerable allowance and consideration, being so well favoured with a precedent; but the Council must express their sincere regret that His Excellency should suggest a reason for delay which is not only without foundation in fact, but which is of the nature of a serious imputation on a portion of his advisers.

The Council have to observe, that they feel unable to understand why the grounds assigned by His Excellency for not cancelling the Order as to the appointment of the Commissioners would not have been as influential on the day the Minute was dated as the day it was presented, or why the period of time which sufficed to enable His Excellency to arrive at the conclusion that he had a right to cancel the Order, was not equally sufficient to enable him to conclude to do what he inferred he had a right to do.

In stating his unwillingness to embarrass his successor with the matter of the Railway Appointments, the Council have further to notice that His Excellency must have forgotten that, pending the discussion as to the Railway changes, he had suggested to Members of his Council expedients—which they failed to appreciate—by means of which this matter could be kept in abeyance till after his own departure from New Brunswick.

His Excellency enters upon an abstract discussion on points of constitutional order and ministerial responsibility into which the Council deem it unnecessary to follow him. As his Advisers were only willing to continue that relation, provided their advice, constitutionally tendered, would be promptly accepted by His Excellency, the discussion of the abstract question, more especially in a Province which had so long enjoyed and thoroughly understood the value and privileges of Responsible Government, would seem to be out of place.

In common with Mr. Johnson, the Council recognize the prerogative of the Representative of the Crown, and they are ready now as before—however thankless might be the task—to defend, on fitting occasions, the exercise of that right; but apart from the exercise of that right of appeal to the people, they feel astonished that His Excellency should deem it warrantable to trifle for one moment with the

advice of his sworn Advisers, responsible to the people. They would also further observe that when His Excellency alleges that his Advisers owe their offices "to their adoption of an act performed by him in opposition to the wishes of a former Council"—a sentiment on which, as coming from His Excellency, they forbear to make the comment it suggests—His Excellency has certainly not sufficiently distinguished things that differ, forgetting that his refusal to accept the advice of a former Council, and the dissolution of Parliament, to which it led, were merely the occasions which enabled the people to express their judgment on the political question of the day, while the present Council were placed in that position solely because their views then, as now, were in accord with those of the people whom they represent.

The Council understand His Excellency to refer to the recall of Sir Charles Darling in confirmation of his views. Considering, however, that the late Lieutenant Governor of Victoria was recalled by the Imperial Government mainly because, without going so far as to reject the advice of his Council, or even to prevaricate about it, he had taken up such a position of antagonism to gentlemen with whom he might be called upon to act, as was incompatible with his position of a Representative of the Crown. The Council feel that the instruction and warning with which the case of Sir Charles Darling may be fraught, is precisely of such a character as to invite the personal and most serious consideration of the late Lieutenant Governor of New Brunswick.

In concluding his Memorandum, His Excellency touches upon another abstract question, which the Council deem it unnecessary to discuss; were they to do so, they might be found to agree in general terms with His Excellency, while yet claiming to be the exclusive judges as to the course which might promote the interests of the public; but they assuredly could never arrive at the conclusion that political partizanship or inefficiency, which would be certain to procure the dismissal of "minor officials," should not apply with equal cogency in the case of the Railway Commissioners, a Provincial Treasurer, or a Controller of Customs.

His Excellency is also further pleased to refer somewhat sharply to persons supposed to be seeking employment on the Railway, designating them as "hungry swarms" of office-seekers. The Council would observe that, if such an appellation be applicable at all, it may be more appropriately applied to those who seek, with no less anxiety, the higher offices and larger emoluments; and if the persons referred to are to be judged by the employees who have generally been engaged in the Railway service, they are men who desire no sinecure places, but who offer their honest toil and skill in return for moderate wages; and when such persons sustain the position assigned them in life with dignity, and display a true nobility of spirit,—which is not always an inseparable adjunct of rank, title, or name,—the Council feel that they are amongst the most valuable subjects of Her Majesty, and are far from being fitting objects of expressed or implied reproach or contempt on the part of Her Majesty's Representative.

(Signed) A. R. M'CLELLAN,
JOHN M'MILLAN,
JOHN M'ADAM,
CHARLES CONNELL,
EDWARD WILLISTON.

Ex. Council Room, 30th Oct. 1866.