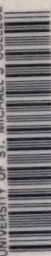


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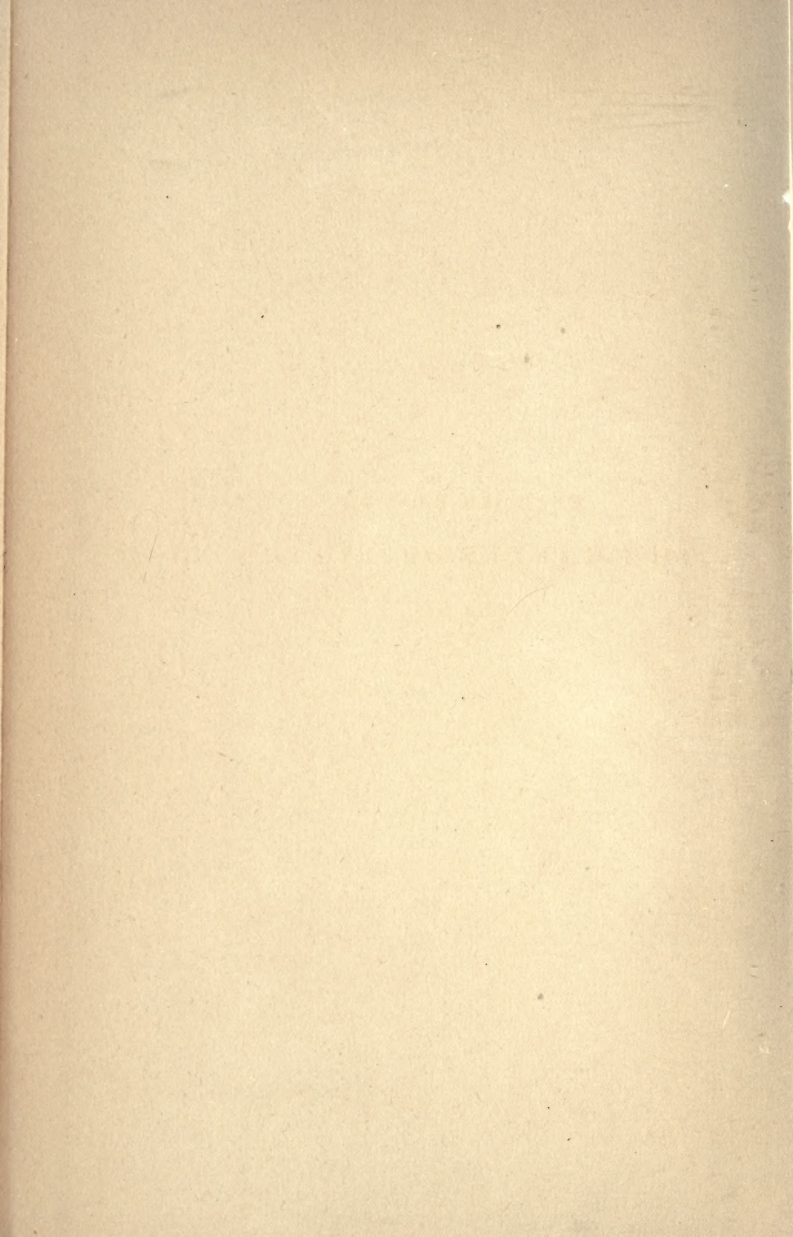


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THE MAKERS OF CANADA

VOL. XIV

BALDWIN LAFONTAINE HINCKS



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N. H. Baldwin

THE MAKERS OF CANADA

BALDWIN
LAFONTAINE
HINCKS

RESPONSIBLE GOVERNMENT

BY

STEPHEN LEACOCK

TORONTO
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PREFACE

IN the present volume the narrative of personal biography is subordinated to the record of political achievement. The name of Robert Baldwin and that of his distinguished colleague Louis LaFontaine will always be associated with the words responsible government. Baldwin was frequently derided by his contemporaries as a "man of one idea." Time has shown that this "one idea" of Robert Baldwin,—the conception of responsible government,—has proved the corner-stone of the British imperial system. It is fitting, therefore, that this brief account of the political career of Robert Baldwin and his associates should centre round the evolution of responsible government in the province of Canada. In other works of the present series the periods of Canadian history preceding and following the LaFontaine-Baldwin administrations have already been treated. The biography of Papineau, already published, and the forthcoming biography of William Lyon Mackenzie offer an ample account of the stirring events of the rebellion. Sir John Bourinot in his *Lord Elgin* and Mr. Lewis in his *George Brown* have told the story of the administration of Hincks and Morin after the retirement of their former chiefs. The present narrative is therefore especially concerned with the two LaFon-

PREFACE

taine-Baldwin ministries and with the great political controversy during the administration of Sir Charles Metcalfe.

The author desires to express his sincere thanks for the very valuable assistance and useful suggestions received from Dr. James Bain, Librarian of the Toronto Public Library, and from Mr. Charles Gould, Librarian of McGill University. The author owes much also to the kindness of Dr. A. G. Doughty, C.M.G., Archivist of the Dominion Government.

STEPHEN LEACOCK.

*McGill University,
July 31st, 1906.*

CONTENTS

	Page
<i>CHAPTER I</i>	
INTRODUCTORY	1
<i>CHAPTER II</i>	
THE MODERATE REFORMERS AND THE CANADIAN REBELLION	23
<i>CHAPTER III</i>	
THE UNION OF THE CANADAS	51
<i>CHAPTER IV</i>	
LORD SYDENHAM AND RESPONSIBLE GOVERNMENT .	73
<i>CHAPTER V</i>	
THE FIRST LAFONTAINE-BALDWIN MINISTRY .	113
<i>CHAPTER VI</i>	
THE COMING OF METCALFE	155
<i>CHAPTER VII</i>	
THE METCALFE CRISIS	199

CONTENTS

CHAPTER VIII

IN OPPOSITION	249
-------------------------	-----

CHAPTER IX

THE SECOND LAFONTAINE-BALDWIN MINISTRY	281
--	-----

CHAPTER X

THE REBELLION LOSSES BILL	305
-------------------------------------	-----

CHAPTER XI

THE END OF THE MINISTRY	335
-----------------------------------	-----

INDEX	363
-----------------	-----

CHAPTER I

INTRODUCTORY

FROM the time of the surrender of Canada by the capitulation of Vaudreuil at Montreal in 1760, the government of the province presented an unsolved problem, whose difficulties finally culminated in the outbreak of 1837. In the beginning the country was entirely French, an appanage of the British Crown by right of conquest. Its population, some seventy thousand in number, thinly spread along the valley of the St. Lawrence, was almost entirely an agricultural peasantry. Ignorant and illiterate as they were, they cherished towards their Church an unfailing devotion, while a stubborn pride of nationality remained with them as a heritage from the great country from which they had sprung. Of initial loyalty to the British Crown there could be no question. Still less could there be any question of self-government. Military rule was established as a necessity of the situation. Even when, in 1764, a year after the final treaty of cession, the purely military rule was superseded by the institution of an executive council, this body consisted merely of a group of officials appointed by the governor of the province. Nor is it to be said that this form of government was of itself an injustice. The

BALDWIN LAFONTAINE HINCKS

inhabitants of French Canada had known nothing of political rights¹ or representative institutions. Only in rare cases had offices, favour, or promotion been bestowed upon native Canadians. Even the Church itself, in spite of its democratic tradition in favour of capacity and zeal, had withheld all superior offices from the children of the humble peasantry of the St. Lawrence. To have instituted among such a people a system of democratic self-government on the morrow of the conquest, could only have ended in chaos and disaster.

The government thus established by royal proclamation was systematized and consolidated by the British parliament through the Quebec Act of 1774.² This statute established in Canada a province of magnificent extent. Northward it extended to the Hudson Bay Territory; on the south it bordered New England, New York, Pennsylvania and the Ohio; westward it reached to where all trace of civilization ended with the Mississippi River. The Ohio valley was already dotted here and there in its forests and open meadow lands with the cabins of adventurous settlers. Of the rest of Canada the valley of the St. Lawrence was the only occupied part. Thither had come already, since the conquest, a few British immigrants, for the most part small traders³

¹ Kingsford, *History of Canada*, Vol. IX., pp. 190 *et seq.*

² 14 Geo. III., c. 83.

³ See V. Coffin, *The Province of Quebec and the Early American Revolution*. (1896), Ch. II. pp. 303 *et seq.*

THE QUEBEC ACT

and needy adventurers. The upper portion of the province was still a wilderness. The Quebec Act restored to the country the old French civil law, the "*Coutume de Paris*," under which it had lived before the conquest. It retained the English criminal law. It repeated the guarantee of freedom of worship already extended to the adherents of the Roman Catholic Church, and, in permitting to the clergy of that Church the enjoyment of their "accustomed dues and rights," it legalized the collection of the tithe.¹ The government was committed to a governor with a legislative council to be nominated by the Crown, to which was added by Major-General Carleton (1776), in accordance with instructions from England, an executive (or privy) council of five members. The Act declared it "inexpedient to call an assembly." Fox, indeed, pleaded in the House of Commons in favour of representative institutions, but was met with the argument that a Protestant government could not safely entrust power to a Roman Catholic legislature.²

It is a disputed point how far the concessions thus granted to the French were adopted as a means of preserving the country from the infection of the revolutionary discontent, widespread in the colonies of the Atlantic sea-board, and of preventing the French *habitant* from making common cause with

¹ The tithe was, however, only to be collected from persons professing the Roman Catholic religion.

² Sir H. Cavendish, *Debates on the Quebec Act*, (1839), pp. 246-8.

BALDWIN LAFONTAINE HINCKS

the malcontents of New England and Virginia. Such, if not the purpose, was at any rate the effect of the Act. The pulpits of Massachusetts were loud with denunciation of the toleration of popery embodied in the statute. The American congress (September 5th, 1774) expressed its alarm in documentary form, and the small British minority already settled in Lower Canada forwarded to England a petition of energetic protest. The fact that the British government, in the face of bigoted opposition, passed and maintained the statute which stands as the charter of religious liberty for Roman Catholic Canada, may be said to have laid the foundation of that firm attachment of the Canadian French to the Crown, which, after the lapse of four generations, has become one of the fundamental factors of the political life of Canada. The effect of the Act in preventing the adherence of the *habitants* to the cause of the American revolution is undoubted. The clergy of the province threw the whole weight of their influence in favour of the British side. The agitators sent into the country found but few sympathizers of influence, and the attempt at military conquest ended in failure.

The issue of the Revolutionary War and the separation of the revolted colonies from Great Britain had a momentous effect upon the destinies of British North America. That province now became a haven of refuge for the distressed Loyalists, who abandoned the United States in thousands rather than

THE LOYALISTS

sever their allegiance from their mother country. Of these nearly thirty thousand found their way into the Maritime Provinces. Others, ascending the St. Lawrence or coming by Lake Champlain, settled in the Eastern Townships of Quebec or near to Montreal itself. Still others, pushing their way up the river or passing over the rough wagon-trails of the forest country of New York, embarked on Lake Ontario to find new homes upon its northern shores. Liberal grants of land were made. Settlements sprang up along the Bay of Quinté, on the Niagara frontier, on the Grand River, on the Thames and as far west as the Detroit River. By the year 1791 there were some thirty thousand settlers in the districts thus thrown open. The newcomers, impoverished as most of them were, made excellent pioneers. Their conviction of the righteousness of their cause lent vigour to their arduous struggle with the wilderness. The sound of the axe resounded amid the stillness of the pine forest; farmsteads and hamlets arose on the shores of the lake and beside its tributary streams. But with the coming of the Loyalists Canada became a divided country. The population of the upper country was British, that of the lower, French. French law and custom seemed to the new settlers anomalous and unjust. British Protestantism was abhorrent to the devout Catholics of French Canada. The new settlers, too, accustomed to the political freedom which they had enjoyed in the colonies of

BALDWIN LAFONTAINE HINCKS

their origin, chafed under autocratic control, and in repeated petitions demanded of the home government the privilege of a representative assembly.¹

To meet this situation the British parliament adopted the Constitutional Act of 1791,² by which the province was separated into two distinct governments under the names of Upper and Lower Canada. It was presumed that a natural solution of the vexed question of British and French rivalry had thus been found. "I hope," said Pitt, "that this settlement will put an end to the competition between the old French inhabitants and the new settlers from Britain and the British colonies." Burke at the same time expressed the opinion that "to attempt to amalgamate two populations composed of races of men diverse in language, laws, and customs, was a complete absurdity."³ To each province was given a legislature consisting of two Houses, the Lower House, or assembly, being elected by the people, the Upper, called the legislative council, being nominated for life by the Crown. By the Crown also were to be appointed all public officers of each district, including the governor-general of the two provinces, the lieutenant-governor who conducted the administration of Upper Canada, and the members of the executive councils which aided in

¹ *Canadian Archives*, Q. 24. 1. pp., 76, 232.

² 31 Geo. III. c. 31.

³ See *Parliamentary History*. Vol. xxvii, p. 1271, Vol. xxxix, pp. 359-459.

THE CONSTITUTIONAL ACT

the administration of each province. The British parliament reserved to itself the right of imposing duties for the regulation of navigation and commerce. The free exercise of the Roman Catholic religion was again guaranteed. It was further enacted that the Crown should set apart one-eighth of all the unallotted Crown land in the province for the maintenance of a Protestant clergy, a provision which subsequently entailed the most serious consequences.

The measure was undoubtedly liberal, and at the time of its passage furnished an instrument of government well suited to the requirements of the situation. It was intended to extend to Canada something of the degree of political liberty enjoyed by the people of Great Britain. Its object was declared by Lord Grenville,¹ to be to "assimilate the constitution of Canada to that of Great Britain as nearly as the difference arising from the manners of the people and from the present situation of the province will admit." Lieutenant-Governor Simcoe, speaking to his "parliament" of twenty-three members in the rough frame-house at Niagara where first they met, spoke of the new government as "an image and transcript of the British constitution."² For some years, indeed, after the adoption of the new constitution, the government of the provinces was carried on with reasonable success

¹ Letter to Lord Dorchester, Oct. 20th, 1789.

² Consult D. B. Read, *Life and Times of Governor Simcoe*, Ch. XI. and D. C. Scott, *John Graves Simcoe* (Makers of Canada Series)(1905), Ch. VI.

BALDWIN LAFONTAINE HINCKS

and a fair amount of harmony. Had the constitution been of a more flexible character and had the conduct of the administration been adapted to the progressive settlement of the country, its success might have continued indefinitely. The incoming century found a contented country;¹ wealth and population were on the increase. A tide of immigration from Scotland and Ireland turned steadily towards Upper Canada. Pennsylvania farmers crossed the lakes to find new homes in the fertile land of the province. The little hamlet of York, on the site of the old Indian post of Toronto, became the seat of government. To the north of it a wide, straight road, called Yonge Street in honour of the secretary of war, carried the tide of settlement towards Lake Simcoe. At the head of Lake Ontario, Dundas Street ran from the settlement at Hamilton to the Thames, and presently was opened eastward as far as York. The inhabitants of the province in the year 1811 were estimated at seventy-seven thousand.² Into Lower Canada also British immigrants had come in considerable numbers. Ere long it began to appear that the racial conflict, which it was the intention of the Act of 1791 to obviate, had but shifted its ground and was renewed with increasing bitterness in the province of Lower Canada. The War of 1812, in which the energies of both French and British settlers were absorbed in repelling American invasion,

¹ McMullen, *History of Canada* (1868), pp. 222 *et seq.*

² J. Bouchette, *British Dominions in North America* (1832), Vol. I, p. 108.

POLITICAL DIFFICULTIES

stilled for the time the internal conflict of races. But with the renewal of peace the political difficulties of both Upper and Lower Canada assumed an increasingly serious aspect.

The political situation in the two provinces in the twenty years succeeding the peace of 1815 presented analogous, though not identical, features. In each of them the fact that the executive was not under the control of the representatives of the people constituted the main cause of complaint. But in the Lower Province the situation was aggravated by the fact that the executive heads of the administration were identified with the interests of the British minority and opposed to the dominance of the French-Canadians. Even in Upper Canada, however, the position of affairs was bad enough. The actual administration of the province was in the hands of the lieutenant-governor and his executive council of five, later of seven, members, a wholly irresponsible body of placemen appointed by the Crown from among the judges, public officers and members of the legislative council. Of the legislature itself the Upper House, or legislative council, was, as already said, a nominated body. Under such circumstances the political control of the colony had passed into the hands of a privileged class who engrossed the patronage of the Crown, received liberal grants of land and were able to bid defiance to the efforts of the assembly to free itself from oligarchical control.

BALDWIN LAFONTAINE HINCKS

Had the constitution been in any real sense a "transcript" of the constitution of Great Britain, the assembly might have fallen back upon the power of the purse as an effective method of political control. But this remedy, under the system in vogue, was inadequate, owing to the fact that the assembly possessed only a limited power over the finances of the colony. The Crown was in enjoyment of a permanent civil list. Exclusive of the revenue from the clergy reserve, it had at its disposal a patronage of fifty thousand pounds a year. Local expenditure within the province was under the direction of magistrates appointed by the Crown meeting in Quarter Session.¹ The legislative council itself claimed the right to reject, and even to amend, the money bills passed by the representatives of the people. Under such circumstances the House of Assembly found itself deprived of any effective means of forcing its wishes upon the administration.² Quite early in the history of the period, it had vigorously protested against the impotence to which it was reduced. In an address presented to the acting governor in 1818, the assembly drew attention to the "evil that must result from the legislative and executive functions being materially vested in the same persons, as is unfortunately the case in this province, where His Majesty's executive council is almost wholly com-

¹ See in this connection C. Lindsey, *Life and Times of William Lyon Mackenzie* (1862), Vol. I., pp. 330-2.

² Kingsford, Vol. IX., pp. 216 *et seq.*

THE FAMILY COMPACT

posed of the legislative body, and consisting only of the deputy superintendent-general of the Indian department, the receiver-general and the inspector-general, the chief-justice, the speaker of the legislative council, and the honourable and reverend chaplain of that House." The essence of the financial situation appears in the famous Seventh Report of the Committee on Grievances¹ drawn up in 1835. "Such is the patronage of the colonial office," it declares, "that the granting or withholding of supplies is of no political importance, unless as an indication of the opinion of the country concerning the character of the government."

It has become customary to apply to the privileged class who thus engrossed political power and office in the colony of Upper Canada, the term Family Compact. The designation itself appears to be, in strictness, a misnomer, for there existed among the ruling class no further family relationship than what might naturally be expected in a community whose seat of government contained, even in 1830, only two thousand eight hundred and sixty persons. But it is undoubted that, from 1815 onwards, the members of the administration with their friends and adherents formed a distinct political party united by ties of mutual interest and social cohesion, de-

¹ The report was published in detail by M. Reynolds, King's Printer, Toronto (1835), and contains an index and much valuable material. It must, of course, be remembered that the report is a document of a partisan character, but the quotation in the text above may be accepted as representing the situation.

BALDWIN LAFONTAINE HINCKS

terminated to retain the influence they had acquired, and regarding the protests of the plainer people of the province with a certain supercilious contempt. Nor is it to be supposed that the adherents of the Family Compact embodied in themselves the very essence of tyranny. They represented merely, within their restricted sphere, those principles of class government and vested interests which were still the dominant political factor in every country of Europe. Of the high moral quality and sterling patriotism of such men as Robinson, the attorney-general, there can be no doubt. The exaggerated diatribes of the indignant Radicals in which the ruling class figure as the "tools of servile power,"¹ are as wide of the mark as the later denunciations launched against the party of Reform.

The growing agitation in Upper Canada presently found an energetic leader in William Lyon Mackenzie, a Scotchman of humble parentage. Born at Springfield in Forfarshire in 1795, he came in 1820 to try his fortunes in Canada. He set up in business in a small way at the village of York, removing presently to Dundas. It is typical of the restricted commercial life of the time that Mackenzie and his partner dealt in drugs, hardware, jewelry, toys, confections, dye stuffs

¹ Mackenzie's *Colonial Advocate*, No. I. Compare the petition prepared for presentation to the home government by Robert Fleming Gourlay, whose agitation in the second decade of the century was one of the first expressions of the gathering discontent: "Corruption, indeed, has reached such a height in this province that it is thought no part of the British empire witnesses the like."

WILLIAM LYON MACKENZIE

and paints, and maintained in addition a circulating library. From Dundas, Mackenzie moved to Queenston. Interested from the first in the political affairs of the colony, he started in 1824 the publication of the *Colonial Advocate*, the first number of which, distributed gratuitously through the countryside, commenced an unsparing attack upon the governing class. Its editor, the "westernmost journalist in the British dominions on the continent of America," assumed, as he himself subsequently expressed it, "the office of a public censor." He denounced the Family Compact and all its works. He denounced the jobbery of the public land. He denounced the land monopoly of the Church of England, the lack of schools, the perversion of justice and the greed of the official class. The appearance of the *Colonial Advocate* aided in consolidating the party of Reform. In the elections of 1824 they carried a majority of the seats in the House of Assembly, a victory which only served to reveal the impotence of the opposition in the face of the established system. Dr. Rolph, elected for Middlesex, the stalwart Peter Perry, member for Lennox and Addington, and other leaders of the Reform party, found they could do little beyond selecting a farmer speaker of their own liking and passing resolutions condemning the existing conduct of affairs. None the less their presence as a majority of the House remained as a standing protest and threw into a clearer light the irresponsible position of the

BALDWIN LAFONTAINE HINCKS

executive.¹ The better to aid their opposition Mackenzie moved his printing presses to York. The virulence of his pen awoke embittered opposition in return. His printing office was sacked in broad daylight by a gang of young men whom his biographer has called an "official mob." A lawsuit ensued with mutual recriminations, followed presently by prosecutions for libel. Mackenzie, in historic phrase, denounced the minority party in the assembly as an "ominous nest of unclean birds," and invited the people of Upper Canada to sweep them from the "halls that have been so long and shamefully defiled with their abominations."

The provincial quarrel went from bad to worse. The election of 1828 again returned a majority of Reformers, this time including Mackenzie himself. Resolutions of grievances were presented to the House. A select committee on grievances, of which Mackenzie was chairman, was called upon to report. A new lieutenant-governor in the person of Sir John Colborne, a tried soldier and a veteran of Waterloo, appeared on the scene (1828). Him the assembly hastened to warn against the "unhappy policy they [the executive council] had pursued in the late administration." The assembly asserted its right to the full control of the revenue and demanded (1830) the dismissal of the executive councillors. "Gentlemen," was the curt reply of Sir

¹ A list of the members of the assembly is given by Lindsey, *op cit.* p. 59.

PETITIONS AND COUNTER-PETITIONS

John, "I thank you for your address." In the election of 1830, following on the death of George III, the party of the Compact, aided by an influx of British immigrants, regained a majority of the assembly. Mackenzie, elected for the county of York, was expelled from the House for libel and branded as a "reptile unworthy of the notice of any gentleman."¹ Reëlected by his constituents, he was again expelled and declared disqualified to sit in the existing parliament, a proceeding which occasioned wild tumult in the village capital, with sympathetic meetings in the other settlements of the colony. The Tory party retaliated, perpetrated a second attack on the printing office of the *Advocate*, and burned Mackenzie in effigy in the streets of York. Mackenzie, seizing the moment of martyrdom, sailed for England laden with indignant petitions from his constituents and their sympathizers, (April, 1832). The signatures on the documents numbered twenty-five thousand, but the counter-petitions forwarded by the party of the Compact were subscribed with twenty-six thousand names. Mackenzie received at the colonial office a not unfavourable hearing. Lord Goderich, the colonial secretary, forwarded to the colony a censorious despatch, characterized by the indignant Tories as an "elegant piece of fiddle faddle." Hagerman, the solicitor-general, was removed

¹ A phrase used by Solicitor-General Hagerman. See *Colonial Advocate*, Dec. 15th, 1831.

BALDWIN LAFONTAINE HINCKS

from office, only to be restored when Lord Goderich gave place to Mr. Stanley. Boulton, the attorney-general, was permanently removed. Beyond this nothing of account was done by the home government to remedy the situation in the colony. Mackenzie on his return again presented himself to his constituents for election, (December 16th, 1833), only to be again expelled from the House. The general election of the ensuing year, (October, 1834), resulted in the return of a majority of the Reform party to the House, Mackenzie being among those then elected. Opposition to the oligarchical system now became more and more pronounced. A "Canadian Alliance Society" was founded at York, (henceforth incorporated as a city and known as Toronto), whose political programme opened with the demand for responsible government and the abolition of the nominated legislative council. A select committee on grievances, appointed by the assembly, drew up a voluminous report, in which the misgovernment of Upper Canada was scathingly reviewed. Such was the position of affairs in the province at the time when Sir Francis Bond Head entered upon his momentous administration.

During the same period a still more aggravated situation had been developed in Lower Canada. Here the conflict represented something more than a struggle between an office-holding minority and the excluded masses. It was a conflict inten-

LOWER CANADIAN DIFFICULTIES

sified by the full bitterness of racial and religious antagonism. It was not merely as in Upper Canada, (to use the historic phrases of Lord Durham), "a contest between a government and a people;" the spectacle presented was that of "two nations warring in the bosom of a single state," a "struggle, not of principles, but of races."¹ The British minority in the province, insignificant in the early years of the new régime, had grown constantly in numbers and influence. The incoming of the United Empire Loyalists and of immigrants from the mother country had swelled the ranks of a party which, though small in proportion, was determined to assert its claims against the preponderating race. British merchants controlled the bulk of the sea-going trade of the colony.² An Anglican bishop of Quebec had been appointed (1793), and an Anglican cathedral erected (1804) on the site of an ancient convent of the Récollets. The governors of the province looked to the British party for support, and selected from its ranks the majority of their legislative and executive councillors. In the minds of the latter the French-Canadians still figured as a conquered people whose claims to political ascendancy were equivalent to disloyalty. The blundering patriotism of such a governor as Craig (1807-11), widened the cleavage between the rival races and intensified in the

¹ *Report of the Earl of Durham*, (Ed. 1902) p. 8.

² D. B. Read, *Rebellion of 1837*, p. 49.

BALDWIN LAFONTAINE HINCKS

minds of the French inhabitants the sentiment of their national solidarity. Excluded from the control of the executive government, the French fell back upon the assembly in which they commanded an easy and permanent majority. Nor were they, although in opposition, altogether powerless against the government. The public revenue of Lower Canada during the period under review was raised, in part by virtue of imperial statutes,¹ in part by the provincial legislature itself. To these sources of income were added the "casual and territorial" revenue of the Crown arising from the Jesuits' Estates, the postal service, the land and timber sales and other minor items. The duties raised by the imperial government,² together with the casual and territorial revenue, were inadequate to meet the public expenditure, and it was necessary, therefore, to have recourse to the votes of supply passed by the House of Assembly. The House of Assembly, dominated by the French-Canadian party, made full use of the power thus placed in its hands. It insisted (1818) that the detailed items of expenditure should be submitted to its consideration. It asserted its claim to appropriate not merely the revenue raised by its own act, but the whole expenditure of the province. It insisted on voting the civil list from year to year, refusing to vote a permanent provision for the salaried servants of the

¹ 14 Geo. III. c. 88, and later 3 Geo. IV. c. 119.

² The appropriation of this revenue was surrendered in 1831.

LOUIS-JOSEPH PAPINEAU

Crown. On each point it met with a determined opposition, not only from the governor-general but from the legislative council, whose existence thus began to appear as the main obstacle to that full control of the province which had become the avowed aim of the popular party.

With the advent of Lord Dalhousie as governor-general (1820) the quarrel between the two branches of the legislature and the conflict of races from which it had sprung, reached an acute stage. Dalhousie, one of Wellington's veterans, was more fitted for the camp than the council chamber, a disciplinarian devoid of diplomacy who naturally upheld the side of the British party and discounted the financial claims of the assembly.¹ Meantime the occasion had found the man, and a leader had appeared well-fitted to head the agitation in the province. Louis-Joseph Papineau, born in Montreal in 1789, had been elected to the assembly in 1812 and early distinguished himself by the brilliance of his oratory. In 1815 he was elected speaker of the House, a position which he filled with decorum until the trend of affairs under the Dalhousie administration aroused him to virulent and sustained opposition to the governing class. From now on, petitions and addresses for redress of grievances in Lower Canada poured in upon the imperial government. The French-Canadian press roused the simple farm-

¹ See A. D. DeCelles, *Papineau*, (Makers of Canada Series) 1904. Ch. VI.

BALDWIN LAFONTAINE HINCKS

ers of the countryside with the cry of national rights; even a certain minority of the English residents, led by such men as Cuthbert of Berthier and Neilson of Quebec, in close alliance with Papineau, made common cause with the French for a reform of the government of the province. On the other hand, the adherents of the ruling powers openly expressed their desire to rid the country of every vestige of French control. "This province" the Quebec *Mercury* had said as long ago as 1810, "is far too French for a British colony. After forty-seven years' possession it is now fitting that the province become truly British." Such indeed had become the avowed policy of the dominant faction. Papineau, supported alike by the people, the clergy¹ and the majority of the assembly, became emphatically the man of the hour and figured as the open adversary of the governor-general. A petition signed with eighty-seven thousand names was forwarded (1827) to the home government. Dalhousie, departing in 1828 to take command of the forces in India, was succeeded by Sir James Kempt whose efforts at conciliation proved unavailing. In vain the imperial government surrendered its control over the proceeds of its customs duties (1831). The assembly refused to grant a permanent civil list and the leaders of the popular party clamoured for the abolition of the nominated Upper House. Against such a measure of reform, which appeared out of harmony with monarchical

¹ DeCelles, *op. cit.* p. 61.

STOPPAGE OF SUPPLIES

institutions, the British ministry resolutely set its face. Stanley, the colonial secretary, hinted that the government might be forced to curtail even the existing privileges of its colonial subjects. Aroused to furious opposition the assembly adopted the famous "Ninety-two resolutions," indicating a long catalogue of grievances and denouncing the existence of the Upper House (February 21st, 1834). The elections of 1834 were attended with riots and tumultuous gatherings. Revolutionary committees sprang into being. Votes of supplies since 1832 had come to a full stop and the governor, Lord Aylmer, (1831-5), had been driven to pay salaries by loans taken from the war chest. The malcontents of French Canada corresponded busily with the "patriot" party of the Upper Province. The current of the two movements ran side by side with increasing swiftness, approaching rapidly the vortex of insurrection.

CHAPTER II

THE MODERATE REFORMERS AND THE CANADIAN REBELLION

SUCH was the environment in which Robert Baldwin and his future colleagues in the Reform ministry of Canada, entered upon political life. The Baldwins were sprung from an Irish family resident on a little property called Summer Hill, near Carragoline, in the county of Cork. The father of Robert Baldwin had come out to Canada with his father (himself a Robert Baldwin) in 1798. The family settled on a tract of land on the north shore of Lake Ontario, in the present county of Durham, where Robert Baldwin (senior) set himself manfully to work to clear and cultivate a farm to which he gave the name of Annarva.¹ His eldest son, William Warren Baldwin, did not, however, remain upon the homestead. He had already received at the University of Edinburgh a degree in medicine and, anxious to turn his professional training to account, he went to the little village of York. Here he took up his abode with a Mr. Wilcocks of Duke Street, an Irish friend of his family, who had indeed been instrumental in inducing the Baldwins to come to Canada. In a pioneer

¹The details which follow are taken from the *Memorial of the Baldwin Family*, (*Archives of Canada*, M. 393) and from the *Canadian Portrait Gallery*, published at Toronto, 1881.

BALDWIN LAFONTAINE HINCKS

colony like the Upper Canada of that day, the health of the community is notoriously sound, and Dr. Baldwin soon saw that the profession of medicine at York could offer but a precarious livelihood. He determined, therefore, to supplement it with school-teaching and inserted in the *Gazette* an announcement of his intention to open a classical school:—
“Dr. Baldwin, understanding that some gentlemen of this town have expressed an anxiety for the establishment of a classical school, begs leave to inform them and the public that he intends on Monday, the first of January next [1803], to open a school in which he will instruct twelve boys in writing, reading, classics and arithmetic. The terms are, for each boy, eight guineas per annum, to be paid quarterly or half yearly; one guinea entrance and one cord of wood to be supplied by each of the boys on opening the school.” It is interesting to note that among the earliest of Dr. Baldwin’s pupils was John Robinson, distinguished later as a leading spirit in the Family Compact and chief-justice of the province.

School-teaching with the ambitious Irishman was, however, only a means to an end. The legal profession, then in its infancy in the colony, offered a more lucrative and a more honourable field, and for this in his leisure hours Baldwin hastened to prepare himself. Indeed no very arduous preparation or profound knowledge was needed in those days for admission to the legal fraternity of “Muddy York.” A

ROBERT BALDWIN

summary examination, conducted in person by the chief-justice of the province, was all that was required of Baldwin as a candidate for the bar, and on April 6th, 1803, he was admitted as a duly qualified practitioner. His entry upon his new profession was signalized by his marriage in the same year with Miss Phœbe Wilcocks, a daughter of the family friend with whom he had lived. The newly married couple took up their quarters in a new house on the corner of Frederick and Palace Streets,¹ the latter a street running parallel with the shore of the bay and receiving its grandiloquent name from the expectation that it would presently become the site of a gubernatorial "palace." In this house Robert Baldwin, eldest son of William Warren Baldwin was born on May 12th, 1804.

Little need be said of Robert Baldwin's youth and school days. By no means a precocious child, he was distinguished at school rather for a painstaking diligence than for exceptional natural aptitude. He received his education at the Home District Grammar School, at the head of which was Dr. John Strachan, then rector of York and subsequently distinguished as Bishop of Toronto and champion of the Anglican interest. Baldwin's conscientious industry presently made him "head boy" of the Grammar School, from whose walls he passed with credit to enter upon the study of the law (1819). After spending some years in his father's office, he was called

¹ Palace Street is the present Front Street.

BALDWIN LAFONTAINE HINCKS

to the bar in Trinity Term, 1825, and became a partner in his father's business under the firm name of "W. W. Baldwin and Son." The fortunes of the elder Baldwin had in the meantime rapidly improved. Not only had he met with success in his dual profession, but he had the good fortune to fall heir to the property of a Miss Elizabeth Russell, a distant connection of the Baldwins, and sister to a certain Peter Russell, a bygone magnate of the little colony whose extensive estates she had herself inherited and now bequeathed to William Baldwin. Desirous to use his new found wealth for the foundation of a family estate,¹ Dr. Baldwin purchased a considerable tract of land to the north of the little town on the summit of the hill overlooking the present city of Toronto. To this property the name "Spadina" was given, and the wide road opened by Dr. Baldwin southward through a part of the Russell estate was christened Spadina Avenue.

Both father and son were keenly interested in the political affairs of the province. The elder Baldwin was a Liberal and prominent among the Reformers who, even before the advent of William Lyon Mackenzie, denounced the oligarchical control of the

¹ "His purpose was to establish in Canada a family whose head was to be maintained in opulence by the proceeds of an entailed estate. There was to be forever a Baldwin of Spadina." H. Scadding, *Toronto of Old*, p. 66. The same work contains many interesting details in reference to the Baldwin residences and some account of the "closing exercises" of Dr. Strachan's school (Aug. 11-12, 1819) at which Robert Baldwin delivered a "prologue." *Op. cit.* Index. Art. Baldwin.

BALDWIN'S POLITICAL VIEWS

Family Compact. But he was at the same time profoundly attached to the British connection and averse by temperament to measures of violence. While making common cause with the Mackenzie faction in the furtherance of better government, Dr. Baldwin and his associates were nevertheless separated from the extreme wing of the Reformers by all the difference that lies between the Whig and the Radical. The political aims were limited to converting the constitution of the colony into a real, and not merely a nominal, transcript of the British constitution. To effect this, it seemed only necessary to render the executive officers of the government responsible to the popular House of the legislature in the same way as the British cabinet stands responsible to the House of Commons. This one reform accomplished, the other grievances of the colonists would find a natural and immediate redress. Robert Baldwin sympathized entirely with the political views of his father. Moderate by nature, he had no sympathy with the desire of the Radical section of the party to abolish the legislative council, or to assimilate the institutions of the country to those of the United States. The Alpha and Omega of his programme of political reform lay in the demand for the introduction of responsible government. His opponents, even some of his fellow Reformers, taunted him with being a "man of one idea." Viewed in the clearer light of retrospect it is no reproach to his political insight

BALDWIN LAFONTAINE HINCKS

that his "one idea" proved to be that which ultimately saved the situation and which has since become the corner stone of the British colonial system.

The year 1829 may be said to mark the commencement of Robert Baldwin's public life. He had already taken part in election committees and was known as one of the rising young men among the moderate Reformers. He had, moreover, in the election of 1828, unsuccessfully offered himself as a candidate for the county of York. But in 1829 we find him figuring as the draftsman of the petition addressed to George IV in connection with the Willis affair. Willis, an English barrister of some prominence, had been appointed in 1827 to be one of the judges of the court of king's bench in Upper Canada. While holding that office he had held aloof from the faction of the Family Compact and had thereby incurred the displeasure of the authorities, who had become accustomed to view the judges as among their necessary adherents. A technical pretext being found,¹ Sir Peregrine Maitland dismissed Willis from office. The cause of the latter was at once espoused by the Reform party. A public meeting of protest was called at York under the chairmanship of Dr. Baldwin, and a petition drawn up addressed "to the king's most excellent Majesty, and to the several other branches of the imperial

¹ Willis had refused to sit in term at Toronto on the ground that the court was not properly constituted.

THE WILLIS PETITION

and provincial legislatures." The petition is said to have been drafted, at least in part, by Robert Baldwin. The occasion was considered a proper one, not only for protesting against the injustice done to Judge Willis, but for drawing the attention of the Crown to the numerous evils from which the colony was suffering. The list of grievances, arranged under eleven heads, included the already familiar protests against the obstructive action of the legislative council, the precarious tenure of the judicial offices, and the financial extravagance and favouritism of the executive government. Of especial importance is the eighth item of the list, which called attention to "the want of carrying into effect that rational and constitutional control over public functionaries, especially the advisers of your Majesty's representative, which our fellow-subjects in England enjoy in that happy country." Following the catalogue of grievances is a list of "humble suggestions" of adequate measures of reform. The essential contrast between the moderate Reformers of Upper Canada on the one hand, and the Radical wing of their party and the Papineau faction of the Lower Province on the other, is seen in the fact that no request is made for an elective legislative council. It is merely asked that only a "small proportion" of the council shall be allowed to hold other offices under the government, and that neither the legislative councillors nor the judges shall be permitted to hold places

BALDWIN LAFONTAINE HINCKS

in the executive council.¹ The sum and substance of the wishes of the petitioners appears in the sixth of their recommendations, in which they pray "that a legislative Act be made in the provincial parliament to facilitate the mode in which the present constitutional responsibility of the advisers of the local government may be carried practically into effect; not only by the removal of these advisers from office when they lose the confidence of the people, but also by impeachment for the heavier offenses chargeable against them." The petition was forwarded for presentation to Viscount Goderich and the Hon. E. G. Stanley, from each of whom Dr. Baldwin duly received replies. A quotation from the letter sent by Stanley, who became shortly afterwards colonial secretary, may serve to show to how great an extent the British statesmen of the period failed to grasp the position of affairs in Upper Canada. "On the last and one of the most important topics," wrote Stanley, "namely, the appointment of a local ministry subject to removal or impeachment when they lose the confidence of the people, I conceive there would be great difficulty in arranging such a plan, for in point of fact the remedy is not one of enactment but of practice—and a constitutional mode is open to the people, of addressing for a removal of advisers of the Crown and refusing supplies, if

¹ The full text of the petition and of the letters from Stanley and Goderich to Dr. Baldwin is given in the *Seventh Report of the Committee on Grievances* already mentioned.

BALDWIN IN THE ASSEMBLY

necessary to enforce their wishes." From what has been said above it is clear that this was the very mode of redress which was not open to the people of the province.

In this same year (1829) Robert Baldwin first entered the legislature of the province. John Beverley Robinson, the member for York and attorney-general, had been promoted to the office of chief-justice of the court of king's bench, his seat in the assembly being thereby vacated. Baldwin contested the seat and was successful in his canvass, being strongly aided by the influence of William Lyon Mackenzie. A petition against his election, on the ground of an irregularity in the writ, caused him to be temporarily unseated, but in the second election Baldwin was again successful and entered the legislature on January 8th, 1830. In the ensuing session he appears to have played no very conspicuous part, his membership being brought to a premature termination by the death of George IV. The demise of the Crown necessitating a dissolution of the House. Baldwin again presented himself to the electors of York. In this election the adherents of the Family Compact contrived to carry the day, and Baldwin was among the number of Reformers who lost their seats in consequence. During the year that ensued he had no active share in the government of the country but continued to be prominent among the ranks of the moderate Reformers of York with whom his influence was constantly on the increase. To

BALDWIN LAFONTAINE HINCKS

his professional career also he devoted an assiduous attention. He had, in 1827, married Augusta Elizabeth Sullivan, whose mother was a sister of Dr. William Baldwin. He now (1829) entered into partnership with his wife's brother, Robert Baldwin Sullivan, who had been his fellow-student in his father's law office, a young man whose showy intellectual brilliance and lack of conviction contrasted with the conscientious application of his painstaking cousin. Of Baldwin's public life there is, however, during this period, nothing to record until the advent of Sir Francis Bond Head brought him for the first time into public office.

Among the intimate associates of the Baldwins in the year preceding the rebellion, there was no one who sympathized more entirely with their political views than Francis Hincks. Hincks came to Canada in the year 1830. He was born at Cork on December 14th, 1807, and descended from an old Cheshire family which for two generations had been resident in Ireland, in which country he spent his youth. He received at the Royal Belfast Institution a sound classical training. He had early conceived a wish to embark in commercial life, which his father, the Rev. T. D. Hincks, a minister of the Irish Presbyterian Church, did not see fit to combat. He entered as an articled clerk in the business house of John Martin & Co., Belfast, where he spent five years.¹ On the termination of his period of ap-

¹ See Sir F. Hincks, *Reminiscences of his Public Life*, (Montreal, 1884) Chap. i.

FRANCIS HINCKS

prenticeship Hincks resolved to see something of the world and sailed for the West Indies (1830), visiting Barbadoes, Demerara and Trinidad. At Barbadoes, he accidentally fell in with a Mr. George Ross of Quebec, by whom he was persuaded to sail for Canada. After spending some time in Montreal he determined to visit Upper Canada and set out for the town of York, travelling after the arduous fashion of those days "by stage and schooner," a journey which occupied ten days. Hincks spent the winter of 1830-1 at York, conceived a most favourable idea of the commercial possibilities of the little capital, and interested himself at once in the threatening political crisis. He was a frequent visitor at the Parliament House, a brick structure at the foot of Berkeley Street, intended presently "to be adorned with a portico and an entablature,"¹ whose gallery was open to the public. Here, and in the hall of the legislative council, which, in the words of an enthusiastic writer, "corresponded to the House of Lords" (being "richly carpeted, while the floor of the House is bare,"²) Hincks listened to the exciting debates of the session in which Mackenzie was denounced as a "reptile" and a "spaniel dog," and expelled by the indignant majority of the Tory faction. Early in 1831 he left Canada for Belfast to "fulfil a matrimonial engagement" which he had already

¹ J. S. Buckingham, *Canada*, (1843) p. 14. See also H. Scadding, *Toronto of Old*, pp. 27, 28.

² Buckingham, *Op. cit.*, *loc. cit.*

BALDWIN LAFONTAINE HINCKS

contracted. The matrimonial engagement being duly fulfilled (July, 1832), Hincks returned to Canada to settle in York. Here he became one of the promoters and a director of the Farmers' Joint Stock Banking Company; from this institution Hincks very shortly seceded, on account of its connection with the Family Compact. In company with two or three other seceding directors he joined the Bank of the People, which was established in the interests of the Reform party. Of this bank Hincks was manager during the troubled period of the rebellion. With Robert Baldwin and his father the young banker had already formed an intimate connection. Hincks's house at No. 21 Yonge Street was next door to the house occupied at this time by the Baldwins, to whom both houses belonged.¹ The acquaintance thus formed between the families ripened into a close friendship from the time of his arrival at York. Hincks's practical good sense had led him to sympathize with the moderate party of Reform, and he now found in Robert Baldwin an associate whose political views harmonized entirely with his own. In addition to his management of the Bank of the People, Hincks was active in other commercial enterprises. He became the secretary of the Mutual Assurance Company,

¹ According to Walton's *York Directory* (1833-4), No. 23 Yonge Street was occupied by "Baldwin, Dr. W. Warren; Baldwin, Robert, Esq., Attorney, etc., Baldwin and Sullivan's office and Dr. Baldwin's surrogate office round the corner in King Street, 195½." Dr. Baldwin lived at Spadina only a part of each year.

SIR FRANCIS BOND HEAD

founded at Toronto shortly after his coming, and appears also to have carried on a general warehouse business at his premises on Yonge Street. That his eminent financial abilities met with ready recognition, is seen from the fact that he was appointed, in 1833, one of the examiners to inspect the accounts of the Welland Canal, at that time the subject of a parliamentary investigation. The practical experience and insight into the commercial life of the colony which Hincks thus early acquired, enabled him presently to bring to the financial affairs of Canada the trained capacity of an expert.

At the time when Baldwin, Hincks, and their friends among the constitutional Reformers of Upper Canada were viewing with alarm the increasing bitterness which separated the rival parties, a new lieutenant-governor arrived in the province whose coming was destined to bring matters rapidly to a crisis. Francis Bond Head was one of those men whose misfortune it was to have greatness thrust upon them unsought. He was awakened one night at his country home in Kent by a king's messenger, who brought a letter from the colonial-secretary offering to him the lieutenant-governorship of Upper Canada. Head was a military man, a retired half-pay major who received his sudden elevation to the governorship with what he himself has described as "utter astonishment." On the field of Waterloo and during his experience as an engineer in the

BALDWIN LAFONTAINE HINCKS

Argentine Republic,¹ he had given proof that he was not wanting in personal courage. Of civil government, beyond the fact that he had been an assistant poor law commissioner, he had no experience. Of politics in general he knew practically nothing; of Canada even less. Nor had he a range of intellect such as to enable him to rise to the difficulties of his position. With a natural incapacity he combined a natural conceit, to be presently enhanced still further by his elevation to a baronetcy. Convinced of his own ability from the very oddness of his appointment, he betook himself to Canada puffed up with the pride of a professional pacificator. How Lord Glenelg, the colonial secretary, could have been induced to make such an appointment, remains one of the mysteries of Canadian history. Rumour indeed has not scrupled to say that the whole affair was an error, that the name of Francis Head had been confused with that of Sir Edmund Head, also a poor law commissioner and a young man of rising promise and attainments. Hincks in his *Reminiscences*² asserts that he was informed of this fact in later years by Mr. Roebuck and that a "distinguished imperial statesman had also spoken of it."

In so far as he had had any political affiliations in England, Head had been a Whig. The news of this simple fact had gone before him, and the Reform

¹ D. B. Read, *Lieutenant-Governors of Upper Canada and Ontario* (Toronto, 1900), pp. 153 *et seq.*

² *Reminiscences*, pp. 14, 15.

THE TRIED REFORMER

party were prepared to find in him a champion of their interests; Sir Francis in consequence found the rôle of saviour of the country already prepared for his acceptance. "It was with no little surprise," he writes in his *Narrative*, in speaking of his first entry into Toronto (January, 1836), "I observed the walls placarded with large letters which designated me as Sir Francis Head, a tried Reformer."¹ The administration on which the new governor now entered was from first to last a series of blunders. It had been impressed upon him by the British cabinet that he must seek to conciliate the Reform party and to compose the factious differences by which the province was torn. The *Seventh Report on Grievances* had become, since his appointment, the object of his constant perusal, and the Reformers of the province crowded about him in the fond hope of political redress. It was impossible, therefore, that Sir Francis should fail to make some advances to the Reform party. This indeed he was most anxious to do, although the tone of his opening address to his parliament, in which he asked for a loyal support of himself, already began to alienate the sympathy of those whose support he was most anxious to secure. As a pledge, however, of his good intentions, he determined to add three members to his executive council and to fill their places from among the Reform party. The men upon whom his choice fell were

¹ Sir Francis B. Head, Bart., *A Narrative* (London, 1839), pp. 32, 33.

BALDWIN LAFONTAINE HINCKS

Robert Baldwin, Dr. John Rolph, a leader of the Mackenzie faction, and John Henry Dunn who had filled the office of receiver-general but had not been identified with either of the rival parties. In a despatch addressed to the colonial secretary,¹ the lieutenant-governor speaks thus of Baldwin:—
“After making every enquiry in my power, I became of opinion that Mr. Robert Baldwin, advocate, a gentleman already recommended to your Lordship by Sir John Colborne for a seat in the legislative council, was the first individual I should select, being highly respected for his moral character, being moderate in his politics and possessing the esteem and confidence of all parties.”

Now came a critical moment in the history of the time. With a majority in the assembly and with a proper control over the executive offices, the Reform party would find themselves arrived at that goal of responsible government which had been the object of their every effort. They conceived, nevertheless, that the acceptance of office was of no import or significance unless it were conjoined with an actual control of the policy of the administration. Such, however, was by no means the idea of Sir Francis Head. The “smooth-faced insidious doctrine”² of responsible government, as he afterwards called it, and the self-effacement of the governor which it implied, could commend itself but little to one who had con-

¹ Head to Glenelg, February 22nd, 1836

² Sir Francis Bond Head, *A Narrative*, p. 71.

BALDWIN AND HEAD

fessedly come to Canada as a "political physician" proposing to rectify the troubled situation by his own administrative skill. Interviews followed between Baldwin and Sir Francis Head, at which the former refused to hold office unless the remaining Tory members of the executive, who were also legislative councillors,¹ should be dismissed. Baldwin indeed, suffering from the domestic affliction he had just sustained in the loss of his wife, appears to have been reluctant to assume the cares of office. On reconsideration, however, the Reformers decided to accept the positions offered and were duly appointed (February 20th, 1836). It was, nevertheless, made quite clear to the governor that Baldwin and his friends accepted office only on the understanding that they must have his entire confidence. A letter, written at this time by Baldwin to Peter Perry, his father's friend and fellow Reformer, accurately explains the situation and elucidates also the full force of the "one idea" by which the writer was animated. "His Excellency having done me the honour to send for me expressed himself most desirous that I should afford him my assistance by joining his executive council, assuring me that in the event of my acceding to his proposals I should enjoy his full and entire confidence I proceeded to state that I would not be performing my duty to my sovereign or the country, if I did not with His Excellency's permission, explain fully to His Ex-

¹ See Lord Durham's *Report* (Ed. 1902), p. 111.

BALDWIN LAFONTAINE HINCKS

cellency my views of the constitution of the province and the change necessary in the practical administration of it, particularly as I considered the delay in adopting this change as the *great and all absorbing grievance* before which all others in my mind sank into insignificance, and the remedy for which would most effectually lead, and that in a constitutional way, to the redress of every other grievance and that these desirable objects would be accomplished without the least entrenching upon the just and necessary prerogative of the Crown, which I consider, when administered by a lieutenant-governor through the medium of a provincial ministry responsible to the provincial parliament, to be an essential part of the constitution of the province." Baldwin adds that the "call for an elective legislative council which had been formally made from Lower Canada, and which had been taken up and appeared likely to be responded to in this province, was as distasteful to me as it could be to any one."

The new ministry were no sooner appointed than they found themselves in a quite impossible position. Head had no intention of governing according to their advice. On the contrary he proceeded at once to make official appointments from among the ranks of their opponents, calling down thereby the censure of the assembly. The new council now found themselves called to account by the country for executive acts in which they had had no share. The

A BREAD AND BUTTER ELECTION

formal remonstrances which they addressed to the lieutenant-governor drew from him a direct denial of their cardinal principle of government. "The lieutenant-governor maintains," they were informed, "that responsibility to the people who are already represented in the House of Assembly, is unconstitutional; that it is the duty of the council to serve him, not them." To say this was, of course, to throw down the gauntlet. The new ministers resigned at once (March 4th, 1836), and henceforth there was war to the knife between the governor and the party of Reform. The majority of the assembly, espousing the cause of the outgoing ministers, refused to vote the appropriation of the moneys over which it had control. Sir Francis had recourse to a dissolution (May 28th, 1836). In the general election which followed, he exerted himself strenuously on the side of the Tories.¹ To Lord Glenelg he denounced the "low-bred antagonist democracy" which he felt it his duty to combat. In an address issued to the electors of the Newcastle district,² the voters were told, "if you choose to dispute with me and live on bad terms with the mother country, you will, to use a homely phrase, only quarrel with your bread and butter." The Tories made desperate efforts. Large sums of money were subscribed. The Anglican interest was enlisted on behalf of the clergy reserves,

¹ Durham's *Report* (Ed. 1902), pp. 115 *et seq.* C. Lindsey, *Life and Times of William Lyon Mackenzie*, pp. 371 *et seq.*

² See D. B. Read, *Rebellion of 1837*, p. 241.

BALDWIN LAFONTAINE HINCKS

the special landed provision for the Anglican Church (under the Constitutional Act of 1791) out of which Sir John Colborne, the preceding governor, had endowed forty-four rectories, a policy to which the Reformers were bitterly opposed. The Methodists, fearing to be carried to extremes, veered away from the party of Reform.¹ The latter, meanwhile, were not idle. Baldwin himself, indeed, had no share in the campaign, having sailed for England shortly after his resignation, pursued by a letter from the irate governor to Lord Glenelg in which he was denounced as an agent of the revolutionary party.

Meantime the Reform party had organized a Constitutional Reform Society of Upper Canada (July 16th, 1836) of which Dr. William Baldwin was president and Francis Hincks secretary. The programme of the society called for "responsible advisers to the governor" and the "abolition of the rectories established by Sir John Colborne." In the tumultuous election which ensued, the governor and his party, with the aid of intimidation, violence and fraud, carried the day. Sir Francis found himself supported by a "bread and butter parliament," as the new assembly was christened in memory of the Newcastle address. Henceforth the extreme party of the Reformers lost hope of constitutional redress.

It is no part of the present narrative to relate the story of the armed rebellion which followed and in

¹ See Egerton Ryerson, *Story of my Life*, Chapters xviii-xxx, and see also Hincks, *Reminiscences*, pp. 18, 19.

REBELLION IN UPPER CANADA

which the subjects of the present biography had no share. Mackenzie and his adherents now gathered the farmers of the colony into revolutionary clubs. Messengers went back and forth to the malcontents of Lower Canada. Vigilance committees were formed, and in secret hollows of the upland and in the openings of the forest the yeomanry of the countryside gathered at their nightly drill. Mackenzie passed to and fro among the farmers as a harbinger of the coming storm. He composed and printed a new and purified constitution for Upper Canada, blameless save for its unconscionable length.¹ An attack on Toronto, unprotected by royal troops and offering a fair mark for capture, was planned for December 7th, 1837. A veteran soldier, one Van Egmond who had been a colonel under Napoleon, was made generalissimo of the rebel forces. The whole affair ended in a fiasco. Rolph, joint organizer of the revolt with Mackenzie, fearing detection, hurriedly changed the date of the rising to December 4th. The rebels gathering from the outlying country moved in irregular bands to Montgomery's tavern, some three miles north of the town, and waited in vain for the advent of sufficient members to hazard an attack. In Toronto, for some days intense apprehension reigned. The alarm bells rang, the citizens were hurriedly enrolled and the onslaught of the rebels was hourly expected. With the arrival of support from the outside in the shape of a steamer from

¹ The text is given in D. B. Read's *Rebellion of 1837*, pp. 282 et seq.

BALDWIN LAFONTAINE HINCKS

the town of Hamilton with sixty men led by Colonel Allan MacNab, confidence was renewed. More reinforcements arriving, the volunteer militia on a bright December afternoon (December 7th, 1837) marched northward with drums beating, colours flying, two small pieces of artillery following their advance guard, and scattered the rebel forces in headlong flight. The armed insurrection, save for random attempts at invasion of the country from the American frontier in the year following, had collapsed.

In the insurrectionary movement, neither Baldwin nor Hincks, as already said, had any share. The former who had now returned from England, did, however, play a certain part in the exciting days of December, a part which in later days his political opponents wilfully misconstrued. Sir Francis Bond Head in the disorder of the first alarm, whether from a sudden collapse of nerves or with a shrewd idea of gaining time, was anxious to hold parley with the rebels. Robert Baldwin was hurriedly summoned to the governor and despatched, along with Dr. John Rolph, under a flag of truce, to ask of the rebels the reason of their appearance in arms. Baldwin and Rolph rode out on horseback to Montgomery's tavern, where Mackenzie informed them that the rebels wanted independence and that if Sir Francis Head wished to communicate with them it must be done in writing. Rolph meanwhile, who was himself one of the organizers of the revolt, entered into private conversation with Samuel Lount (hanged

BALDWIN'S EMBASSY

later in Toronto for his share in the rebellion), telling Lount in an undertone to pay no attention to the message. Baldwin returned to Toronto, but, finding that the governor would put no message in writing, he again rode out to the rebel camp and apprised Mackenzie of this fact. The peculiar nature of this embassy and the known complicity of Rolph in the revolt, gave a false colour in the minds of the malicious to Baldwin's conduct. By the partisan press he was denounced as a rebel and a traitor. Even on the floor of the Canadian parliament (October 13th, 1842) Sir Allan MacNab did not scruple to taunt him with his share in the events of the revolt. But it is beyond a doubt that Baldwin had no complicity in the rebellion, nor was his embassy anything more than a reluctant task undertaken from a sense of public duty.

While these affairs were happening in Upper Canada, the insurrectionary movement in the Lower Province had run a like disastrous course. The home government, alarmed at the continued legislative deadlock, had ordered an investigation at the hands of a special commission with a new governor-general, Lord Gosford, (who arrived on August 23rd, 1835) at its head. Gosford tried in vain the paths of peace, spoke the malcontents fair and invited the leaders of the party to his table. But the assembly would nothing of Lord Gosford's overtures. Papi-neau denied the powers of the imperial commissioners and boasted on the floor of the assembly

BALDWIN LAFONTAINE HINCKS

that an "epoch is approaching when America will give republics to Europe." The report of the commissioners (March, 1837) dissipated the last hopes of constitutional redress. It condemned the principle of an elective Upper House, declared that ministerial responsibility was inadmissible, suggested that means should be found to elect a British majority by altering the franchise, and recommended coercion in the last resort. Following on the report came a series of resolutions moved in the House of Commons by Lord John Russell, who declared in terms that "an elective council for legislation and a responsible executive council combined with a representative assembly would be quite incompatible with the rightful inter-relationship of any colony with the mother country." A bill was brought forward to dispose of the revenue of Lower Canada without the consent of the assembly. After this the leader of the movement saw no recourse but open rebellion. The peasantry of the Montreal district, obedient to the call, took up arms. There was a short, sharp struggle along the Richelieu, at the little villages of St. Denis and St. Charles, and southward on the American frontier. Sir John Colborne, hurriedly recalled to Canada to take command, crushed out the revolt. Papineau fled to the United States, leaving to his followers nothing but the memory of a lost cause.

Among those who had warmly espoused the side of Reform in Lower Canada, but who, like Baldwin

LOUIS LAFONTAINE

and Hincks in the Upper Province, had had no sympathy with armed insurrection, was Louis-Hippolyte LaFontaine. LaFontaine, the son of a farmer of Boucherville,¹ in the county of Chambly, was born in October, 1807. His grandfather had been a member of the assembly of Lower Canada from 1796 until 1804. LaFontaine was educated at the College of Montreal, where he distinguished himself as well by the natural alertness of his mind as by a stubborn self-assertion which rendered somewhat irksome to him the narrow, clerical discipline of the institution. After studying law in the office of a Mr. Roy, LaFontaine entered upon legal practice in the town of Montreal. Here in 1831 he married Mlle. Adèle Berthelot, daughter of a Lower Canadian advocate, who died, however, a few years later leaving no children. Into the political struggle of the time Lafontaine threw himself with great activity. He was elected a member of the assembly for Terrebonne in 1830 and became a supporter, though not entirely a follower, of the turbulent Papineau. Between the two French-Canadian leaders, there were from the start marked differences both of opinion and of purpose. Papineau, aware of the great influence of the clergy,² was anxious to conciliate their interests and enlist their support. LaFontaine, bold if not heterodox in his views, stood out as the champion of *Le Jeune Can-*

¹ L. O. David, *Biographies et Portraits*, (Montreal, 1876), pp. 96 *et seq.*

² Kingsford, Vol. IX, p. 453.

BALDWIN LAFONTAINE HINCKS

ada, against the traditional dominance of the priesthood. Although LaFontaine had no sympathy whatever with violent measures, he distinguished himself during the constitutional agitation as one of the boldest of the agitators. His first action in the legislature was to second a motion for the refusal of supplies, and throughout the years preceding the rebellion, both from his place in parliament and in the press, he exerted himself unceasingly in the cause of the popular party. When the storm broke in 1837, he endeavoured in vain to dissuade his fellow-countrymen from taking up arms. A few days after the skirmishes on the Richelieu (December, 1837) he went from Montreal to Quebec to beg Lord Gosford to call a meeting of the legislature with a view to prevent further violence. On the refusal of the governor to do so, LaFontaine took ship for England. Fearing, however, that his complicity in the agitation preceding the Canadian revolt might lead to his arrest, he fled from England and spent some little time in France. Thence he returned to Canada in May, 1838. This was the moment when Sir John Colborne was busily employed in extinguishing the still smouldering ashes of revolt. Wholesale arrests of supposed sympathizers were made. An ordinance passed by Sir John Colborne and his special council, appointed under the Act suspending the constitution of Lower Canada,¹ declared the Habeas Corpus Act

¹1 and 2 Vict. c. g. For the Habeas Corpus Act question see R. Christie, *History of the Late Province of Lower Canada*, Vol. VI., pp. 263 *et seq.*

LAFONTAINE AND THE REBELLION

to be without force in the province. The prisons were soon filled to overflowing. Among those arrested was Hippolyte LaFontaine, an arrest for which legal grounds were altogether lacking. LaFontaine, since his return to Canada, had written a letter to Girouard, one of his associates in the constitutional agitation, in regard to the frontier disturbances of 1838, recommending, in what was clearly and evidently an ironical vein, a continuance of the insurrection. On the strength of this and on the ground of his having been notorious as a leader of the French-Canadian faction, he was arrested on November 7th, 1838, and imprisoned at Montreal. The evident insufficiency of the charges against him, led shortly to his release without trial.¹ The collapse of the rebellion, the flight of Papineau and O'Callaghan, and the arrest of Wolfred Nelson and many other leaders, naturally induced the despairing people of Lower Canada to look for guidance to the moderate members of the party who had realized from the first the folly of armed revolt. In the period

¹ The following extract from a letter written by Sir Charles Bagot to Lord Stanley under date of November 25th, 1842, is of interest in this connection:—"With regard to Mr. LaFontaine, I have always understood that he was arrested upon mere suspicion. He protested strongly at the time, and subsequently, against the unjustifiableness of the proceeding, and demanded, but in vain, to see the warrant or affidavit on which he was arrested. The public offices furnish no record of the transaction, but Mr. Daly has supplied me with a copy of a letter which Mr. LaFontaine addressed to him from New York, and which was shown by him to Lord Durhan. This document bears satisfactory evidence of his readiness to court inquiry." (*Archives of Canada. MS. Letters of Sir C. Bagot.*)

BALDWIN LAFONTAINE HINCKS

of reconstruction which now followed under the rule of Lord Durham and Lord Sydenham, LaFontaine was recognized as the leader of the national Reform party of Lower Canada, energetic in its protest against the proposed system of union and British preponderance but determined by constitutional means, when the union was forced upon them, to turn it to account in the interest of French Canada.

CHAPTER III

THE UNION OF THE CANADAS

THE collapse of the rebellion of 1837 opens a new era, not merely in the history of Canada itself, but in the history of colonial government. The revolt, unsuccessful though it was, had brought into clear light the fact that the previous system of colonial management could not permanently endure, that its continuance must inevitably mean discontent and discord which could only terminate in forcible separation. The lesson that the mother country had failed to learn from the loss of its Atlantic colonies in 1776 had now been repeated. This time, fortunately for the mother country and the colonies, there were statesmen ready to give heed to the lessons of the past. The years of reconstruction that ensued may be considered to constitute the truly critical period of our colonial history. The position was indeed a difficult one. England found itself in possession of a colony still bleeding from the strife of civil war, and torn with racial and religious antagonism. The majority of its inhabitants cherished, indeed, a conscientious loyalty to the British connection, but smarted from a sense of unredressed wrongs and long-continued misgovernment, while those who had been forced into submission at the point of the bayonet, harboured an

BALDWIN LAFONTAINE HINCKS

embittered hatred against their conquerors. That a means was found to establish, in such a situation, a form of government fitted to restore peace, prosperity and loyalty, ranks among the finest triumphs of British administrative skill; and it stands as the great political achievement of the colonial statesmen whose work forms the subject of the present volume, that they both planned the adoption and sustained the execution of the sole policy that could preserve to an illustrious future the colonial system of Great Britain. Responsible government was the chief, indeed the only, demand of Robert Baldwin and his associates; it had been a leading demand of the Radicals in Upper Canada who had been drawn into revolt, and it had been one of the demands of the French-Canadian party of discontent. The history of British administration, like the structure of British government, is filled with inconsistencies and contradictions. Nor is there any inconsistency more striking than this: that the imperial government, after strenuously denying the possibility of colonial self-government and suppressing the rebellion of its subjects who had taken up arms largely to obtain it, proceeded to grant to the conquered colony the privilege which peaceful agitation had constantly failed to obtain.

The British government, stirred from the lethargy and ignorance which had so long characterized its colonial administration, was now anxious to redeem the past. "The Downing Street conscience," as a

LORD DURHAM

Canadian historian¹ has called it, was quickened into a belated activity. With a view to ascertaining the grievances of the Canadians and enabling the government of Lord Melbourne to adopt remedial measures, a special high commissioner and governor-general was sent out to British North America in the person of Lord Durham. John George Lambton, created Baron Durham in 1828, and Earl of Durham in 1832, is one of the notable characters of Canadian history, and one whose name will ever be associated with the grant of responsible government to Canada. The scion of a Whig family whose members had represented the city of Durham in the House of Commons continuously from 1727 until 1797,² Durham came honestly by Liberal principles, which his ardent temperament and domineering intellect carried to the verge of radicalism. He had already enjoyed a career of distinction, had served in the army, sat in the House of Commons and had held the post of Lord Privy Seal in the ministry of Earl Grey (1830). Over Lord Grey, whose eldest daughter he had married, Durham possessed an unusual ascendancy, "*une funeste influence*" the aged Talleyrand had called it.³ Prominent as one of the leading supporters of the British Reform Bill and identified in ideas, if not in practice, with

¹ Dr. George Bryce, *Short History of the Canadian People*, Ch. xi. Section iii.

² Justin McCarthy, *History of Our Own Times*, Vol. I. Ch. iii.

³ *Greville Memoirs*, Ch. xvi.

BALDWIN LAFONTAINE HINCKS

the Liberal creed of equal rights, Lord Durham appeared preëminently suited to typify to the people of Canada the earnest desire of the mother country to redress their wrongs. From the moment of his arrival at Quebec (May 29th, 1838), he threw himself with characteristic energy into the task before him. The powers conferred upon him as high commissioner, Lord Durham interpreted with the utmost latitude. He regarded himself in the light of a benevolent dictator, and supported the extraordinary powers which he thus assumed with an ostentatious magnificence. He reconstructed Sir John Colborne's council in Lower Canada, issued an amnesty to the generality of political prisoners still in confinement and to the participants in the late rebellion, and, on his own authority, banished to Bermuda certain leaders in the insurrection.¹ He set up at the same time special commissions to enquire into education, immigration, municipal government and Crown lands; paid a brief visit to Upper Canada, where he was received with enthusiasm,² and in his short stay of five months gathered together the voluminous materials which formed the basis of the celebrated report. Meanwhile, however, the governor-general's enemies in England were working busily against him. The illegal powers which he had seen fit to assume were made the basis of an

¹ F. Bradshaw, *Self-government in Canada* (London, 1902), p. 142.

² R. Christie, *History of the Late Province of Lower Canada*, Vol. V., Ch. xliii.

THE HIGH SEDITIONER

unsparing attack. Durham's actions were denounced in the House of Lords and but feebly defended by the government. The ordinance by which he had granted political amnesty was disallowed by the Crown. On the news of this, Durham, conscious of the real utility of his work in Canada, and stung to the quick at the pettifogging legality of the government, issued (October 9th, 1838) an ill-considered proclamation, in which he recited the aims of his mission and declared that "if the peace of Lower Canada is to be again menaced, it is necessary that its government should be able to reckon on a more cordial and vigorous support at home than has been accorded to me." This was too much. The high commissioner had become, in the words of the *London Times*, a "High Seditious," and the government reluctantly ordered Lord Durham's recall. For this, however, the governor-general had not waited. He had already reëmbarked for England, and completed during the voyage the preparation of his report.

Among all the state papers on British colonial administration, the report of Lord Durham, both in point of form and of substance, stands easily first. It is needless here to discuss how much of its preparation was owed to the ability of the governor-general's secretaries; it is certain that a part of it at any rate was the personal work of Lord Durham himself. In its bearing upon the topic which is the main subject of the present volume, it stands as a

BALDWIN LAFONTAINE HINCKS

Magna Charta of colonial liberty. The report contains a masterly analysis of the origin and progress of those grievances which had driven the provinces to revolt, together with a survey of the existing situation with recommendations for its amelioration. The distracted condition of the Canadian provinces was attributed by Lord Durham to two causes. The first of these was the intense racial animosity existing between the English and the French, an animosity still further inflamed by the arrogant pretensions of the English minority in Lower Canada, which the report pitilessly exposed. The second cause of disturbance was found in the absence of that system of responsible government which could alone confer upon the people of Canada the political liberty to which they were entitled. As a remedy Durham proposed the reunion of the two Canadas into a single province, with a legislature representative of both the races. Such a union he anticipated would necessarily mean, sooner or later, the dominance of British interests and British nationality.

“I have little doubt,” wrote Lord Durham,¹ “that the French when once placed, by the legitimate course of events and the working of natural causes, in a minority, would *abandon their vain hope of nationality* . . . I certainly shall not like to subject the French-Canadians to the rule of the identical English minority with whom they

¹ *Report of the Earl of Durham*, (Methuen & Co., new edition, 1902,) pp. 227, 228.

DURHAM'S REPORT

have so long been contending; but from a majority emanating from so much more extended a source, I do not think that they would have any oppression or injustice to fear." Had Lord Durham's report rested for its reputation upon his view of the probable future of French Canada it would never have achieved its historic distinction. Indeed Durham's political foresight failed him in that he did not see, as LaFontaine, Morin and the leaders of the moderate party presently demonstrated, that the system of government which he went on to recommend for the united provinces would prove the very means of sustaining the nationality and influence of the French-Canadians. It is in its recommendation of a change in the system of government that the chief merit of the report is to be found. "Without a change in our system of government the discontent which now prevails will spread and advance It is difficult to understand how any English statesman could have imagined that representative and irresponsible government could be successfully combined It needs no change in the principles of government, no invention of a new constitutional theory, to supply the remedy which would, in my opinion, completely remove the existing political disorders. It needs but to follow out consistently the principles of the British constitution, and introduce into the government of these great colonies those wise provisions by which alone the working of the representative system can in any country be

BALDWIN LAFONTAINE HINCKS

rendered harmonious and efficient The responsibility to the united legislature of all officers of the government, except the governor and his secretary, should be secured by every means known to the British constitution."

The administration of Lord Durham and the policy which he was about to recommend to the imperial government, commanded among the Reformers of Upper Canada a cordial support. Hincks established at Toronto, July 3rd, 1838, a weekly paper called the *Examiner*, (there was as yet no daily published in the little town) which bore as its motto the words, "Responsible Government." On the first page of it Hincks printed each week for some months "three extracts which were intended to explain the principles it was intended to advocate."¹ The first of these was the well-worn saying of Lieutenant-governor Simcoe, that the constitution of the colony was nothing less than "the very image and transcript of that of Great Britain." In a leading article of the first number of the *Examiner*, Hincks wrote in support of Lord Durham: "We trust his advice will be followed by all parties in this province, and we would urge those Reformers, who, guiltless of any violation of the laws, have been wantonly oppressed and insulted for the last six months, to forget their injuries, and repose confidence in the illustrious individual to whom the government of these provinces has been entrusted."

¹ *Reminiscences*, p. 22.

LORD SYDENHAM

Meantime the imperial government had decided to act upon the advice presented in Lord Durham's report and to effect a union of the Canadas. A bill to that effect was brought into parliament, but on reconsideration was withdrawn, in order that still further information might be obtained about the state of opinion in the colony, and in order that, as far as might be, the terms of the union should be proposed by the colonists themselves. To effect this purpose a new governor-general was dispatched to the Canadian provinces, in the person of Mr. Charles Poulett Thomson. Thomson came of a mercantile family, had been in the Russian trade at St. Petersburg, had sat in the Commons, had served as vice-president of the Board of Trade in the ministry of Lord Grey, and had no little reputation as a Liberal economist and tariff expert. His business career enabled him at his coming to make a pleasing show of democratic equality with the colonial community. "Bred a British merchant myself," he told the Committee of Trade at Quebec, "the good opinion of those who follow the same honourable career is to me naturally and justly dear." The "British merchant" was, however, very shortly removed to a higher plane by his elevation to the peerage as Baron Sydenham and Toronto. At Quebec the governor-general took over the administration of Lower Canada from the hands of Sir John Colborne. Thence he went to Montreal, where he arrived on October 22nd, 1839, and pro-

BALDWIN LAFONTAINE HINCKS

ceeded to lay the imperial plan of union before the special council, a body of nominated members appointed by Colborne, the representative institutions of the colony being still in suspense. This plan, as conceived in outline by the imperial government, involved the establishment of a legislature in which the two provinces should be equally represented, the creation of a permanent civil list, and the assumption by the united provinces of the debt already incurred in public works in Upper Canada.

Sydenham had come to Canada in the now familiar role of pacificator general, and in especial as the apostle of union. Being endowed, moreover, in a high degree with that firm belief in his own abilities and in the efficacy of his own programme, which was the especial prerogative of so many colonial governors, he was fatuous enough to suppose that the plan of union was highly acceptable to the people of Canada. To Lord John Russell, now colonial secretary, he wrote in the following terms: "The large majority of those whose opinions I have had the opportunity of learning, both of British and French origin, and of those, too, whose character and station entitle them to the greatest authority, advocate warmly the establishment of the union."¹ It was indeed easy enough for His Excellency to obtain a vote of approval from the special council convoked at Montreal, (November 13th,

¹ *Parliamentary Papers, Canada, 1840.*

LAFONTAINE OPPOSES THE UNION

1839). But as a matter of fact the mass of the people of French Canada were bitterly opposed both to the union in general and to the special terms on which it was offered. Nor was there a more outspoken opponent of the union than LaFontaine, now recognized as the leader of French-Canadian opinion. Under his auspices a public meeting was held at Montreal, at which he delivered a powerful address of protest against the proposed amalgamation of the two Canadas. Lord Sydenham, aware of the influence of LaFontaine and anxious to conciliate all parties, offered to him the post of solicitor-general of Lower Canada. This position, in view of the existing suspension of constitutional government, LaFontaine did not see fit to accept.

Before, however, these advances were made to LaFontaine, Sydenham had already visited Upper Canada (November 21st, 1839 and February 18th, 1840), in the interests of the project of Canadian union. Here his task was decidedly easier. The Reformers who were led, as will presently be seen, to identify the Union Bill with the adoption of responsible government, were strongly in its favour. The party of the Family Compact were indeed opposed to the scheme, fearing that it might put an end to the system of privileged control which they had so long enjoyed. Chief-justice Robinson, then, as ever, the protagonist of the party, hastened to draw up a pamphlet of protest, which voiced the sentiments of

BALDWIN LAFONTAINE HINCKS

his immediate adherents but had little effect upon the public at large.¹ The Tories found themselves, moreover, in a perplexing position. Attachment to the imperial tie, obedience to the imperial wish,—this, if anything, had been their claim to virtue. To oppose now the project offered them by the mother country, seemed to do violence to their loyal past. A formidable secession took place from their ranks, and very few of their number in the legislature were prepared to offer to the union an uncompromising opposition. It was owing to this that the assembly elected in 1836 as the Tory parliament of Sir Francis Head, was now prepared to vote resolutions in favour of the union. The utmost that the extreme Tories would do was to endeavour to make the terms of union as onerous as possible to the French-Canadians. For this purpose they attempted to pass in the assembly a resolution² demanding a representation for Upper Canada, not merely equal but superior to that of the Lower Province. In view of the fact that the populations of the two provinces of Upper and Lower Canada stood at this time respectively at four hundred and seventy thousand and six hundred and thirty thousand, the proposal for a representation inversely proportionate to population only evinced the obstinate determination of the Upper Canadian Tories to ex-

¹ Sir John B. Robinson, *Canada and the Canada Bill*. London, 1840.

² *Journals of the Assembly*, 1825-40, p. 338. The resolution in question appears as an amendment by Mr. Sherwood to the resolution finally passed.

THE REFORM ALLIANCE

tinguish the influence of French Canada. The result of their attempts was merely to hasten on that alliance between the Reformers of the two provinces which offered presently the key to the situation. Francis Hincks had, during a visit paid to Montreal and Quebec in 1835, made the acquaintance of LaFontaine, Morin and other leaders of the moderate party in French Canada. He now, in common with Robert Baldwin, entered into a correspondence with them in which the principles of responsible government and the part it might play in the interests of both races in Canada, were fully discussed.

It is to be observed that to the Reform party, the essence of the union question lay in the adoption of responsible government. Without this their projected alliance with the French-Canadian leaders could have no significance save to establish a factious opposition of continued hopelessness. With responsible government a fair prospect was opened for reconciling the divergent interests of the Canadian races and carrying on a united government resting upon common consent. It is important to appreciate this point, since the conduct of Robert Baldwin in what followed has been freely censured. Baldwin had been appointed by Sydenham, in pursuance of his policy of conciliation, to be solicitor-general of Upper Canada (February, 1840) without, however, being offered a seat in the executive council. Baldwin accepted the office, and, after the

BALDWIN LAFONTAINE HINCKS

proclamation of the union (February 5th, 1841), was made in addition an executive councillor. On the day of the opening of parliament (June 14th, 1841), however, Baldwin resigned his office, thus laying himself open to the charge at the hands of Lord Sydenham's biographer¹ of being guilty of conduct "impossible to reconcile with the principles of political honour by which British statesmen are governed." To understand the motives by which Robert Baldwin was animated in his acceptance of the office which he subsequently so suddenly resigned, it is necessary to review the position in which the question of responsible government stood while the union was in course of making (1839-40).

Lord Sydenham himself in reality had no more idea of applying colonial self-government in the sense in which it is now known and in which it was understood by Robert Baldwin, than had Sir Francis Head. Indeed a system of administration which would have reduced his own part to a benevolent nullity was foreign to his temperament, and the thought of it occasioned him serious apprehension for the welfare of the colony. This has since been fully disclosed by his published correspondence. "I am not a bit afraid," he wrote (December 12th, 1839), "of the responsible government cry; I have already done much to put it down *in its inadmis-*

¹ G. Poulett Scrope, *Life of Lord Sydenham*, (1844), p. 219. See also Major Richardson, *Eight Years in Canada*, (1847), pp. 190, 191.

SYDENHAM'S DESPATCH

sible sense, namely, the demand that the council shall be responsible to the assembly, and that the governor shall take their advice and be bound by it

And I have not met with any one who has not at once admitted the absurdity of claiming to put the council over the head of the governor I have told the people plainly, that, as I cannot get rid of my responsibility to the home government, I will place no responsibility on the council; that they are a council for the governor to consult, but no more." Sydenham might claim to have told the people plainly this old-time doctrine of gubernatorial autocracy, but the people had certainly not so understood his views. Indeed they had good reason for believing the contrary. The governor-general had received from Lord John Russell, under date of October 16th, 1839, a despatch in which the position to be held by colonial executive officers was explained. "You will understand, and will cause it to be generally made known, that hereafter the tenure of colonial offices held during Her Majesty's pleasure, will not be regarded as equivalent to a tenure during good behaviour: but that not only such officers will be called upon to retire from the public service as often as any sufficient motives of public policy may suggest the expediency of that measure, but that a change in the person of the governor will be considered as a sufficient reason for any alterations which his successor may deem it expedient to make in the list of public functionaries,

BALDWIN LAFONTAINE HINCKS

subject, of course, to the future confirmation of the sovereign."¹

The publication of this despatch had been put by Lord Sydenham (who laid it before the legislature of Upper Canada), to a special purpose. It served as a notice to the office-holding Tories of the legislative council that they must either conform to the wishes of the imperial government in proposing the union or forfeit the positions which they held. But the Reform party, not without justice, read in it a still further significance. Interpreted in the light of Lord Durham's recommendations, it distinctly implied that the executive council, of which in a later paragraph it made particular mention, should be expected by the governor to resign when no longer commanding the confidence of the country. This view had been, moreover, distinctly emphasized by the presentation (December 13th, 1839) of an address to the governor-general, in which it was requested that he would be pleased to inform the House whether any communications had been received from Her Majesty's principal secretary of state for the colonies on the subject of responsible government. To this Lord Sydenham replied that "it was not in his power to communicate to the House of Assembly any despatches upon the subject referred to," but added, that "the governor-general has received Her Majesty's commands to

¹ For the full despatch see *Journal of the Legislative Assembly of Upper Canada*, 1839-40, p. 51.

BALDWIN ACCEPTS OFFICE

administer the government of the provinces *in accordance with the well understood wishes and interests of the people*, and to pay to their feelings, as expressed through their representatives, the deference that is justly due to them." The matter had thus been left, purposely perhaps, in a half light. But in order that there might be no doubt as to the views of the Reform party whose wishes he represented, Baldwin, on accepting office, had addressed to Lord Sydenham and had caused to be published the following statement of his position: "I distinctly avow that in accepting office I consider myself to have given a public pledge that I have a reasonably well grounded confidence that the government of my country is to be carried on in accordance with the principles of responsible government which I have ever held." In this position, then, the matter rested until the resignation of Baldwin after the union, under circumstances described in the following chapter.

Meantime the union project was carried forward. The special council of Lower Canada, the assembly and the legislative council of Upper Canada, had all adopted resolutions accepting the basis of union proposed by Lord Sydenham on the part of the imperial government. The assembly of Upper Canada accompanied its resolutions with an address requesting that "the use of the English language in all judicial and legislative records be forthwith introduced, and that at the end of a space of a

BALDWIN LAFONTAINE HINCKS

given number of years after the union, all debates in the legislature shall be in English." It was asked also, that the seat of government should be in Upper Canada.

The intelligence of the proceedings having been forwarded to England, the Act of Union was duly enacted by the imperial parliament. Its terms, in summary, were as follows.¹ In the place of the two former colonies of Upper and Lower Canada, there was to be a single province of Canada. A legislature was instituted consisting of two Houses, the Upper House, or legislative council, consisting of not fewer than twenty persons appointed for life by the Crown, and the Lower House, or assembly, being elected by the people. Of the eighty-four members of the Lower House, forty-two were to be elected from each of the former divisions of the province. English was made the sole official language of legislative records. Out of the consolidated revenue of the province the sum of seventy-five thousand pounds was to be handed over yearly to the Crown for the payment of the civil list, namely, certain salaries, pensions and other fixed charges of the government. The executive authority was vested in a governor-general, to whom was adjoined an executive council appointed by the Crown.² The extent of the responsibility of this council to the

¹ 3 and 4 Vict. c. 35. See Houston, *Constitutional Documents of Canada*, for the text of the Act with comments.

² 3 and 4 Vict. c. 35, sec. xlv.

ELECTIONS TO THE ASSEMBLY

parliament is not defined in the Act. Inasmuch, however, as the entire system of responsible, or cabinet government, in Great Britain itself is only a matter of convention and not of positive law, a definite statement of responsibility was in the present case not to be expected. The debt previously contracted in the separate provinces now became a joint burden.

The union thus prepared went into operation (by virtue of a proclamation of the governor-general) on February 10th, 1841.¹ On the thirteenth of the same month the writs were issued for the election of members of the legislature, returnable on April 8th. Robert Baldwin was elected in two constituencies, the south riding of York and the county of Hastings. Francis Hincks offered himself as a candidate to the electors of Oxford, a county which he had been invited to visit shortly before on the strength of his writings in the *Examiner*,² and in which he secured his election. To the electors he published an address in which he took his stand on the principle of responsible government, a system, "which by giving satisfaction to the colonists, would secure a permanent connection between the British empire and its numerous dependencies." The elections in Lower Canada were marked by scenes of unusual fraud and corruption. No pains were spared by the administration to carry the

¹ The proclamation itself was issued under date of February 5th.

² *Reminiscences*, p. 44.

BALDWIN LAFONTAINE HINCKS

day in favour of union candidates. The governor-general, by virtue of a power conferred under the Act of Union, reconstructed the boundaries of the constituencies of Quebec and Montreal. Elsewhere intimidation and actual violence were used to stifle the hostile vote of the anti-union party.¹ To this was due the defeat of the French-Canadian leader, LaFontaine, in the county of Terrebonne. The latter, in his electoral address, had again denounced the union in embittered terms. "It is," he said, "an act of injustice and of despotism, in that it is forced upon us without our consent; in that it robs Lower Canada of the legitimate number of its representatives; in that it deprives us of the use of our language in the proceedings of the legislature against the faith of treaties and the word of the governor-general; in that it forces us to pay, without our consent, a debt which we did not incur." But LaFontaine realized the futility of blind opposition to an accomplished fact. The attempt to repeal the union, he argued, would merely lead to a continuation of despotic government by an appointed council. To him the key to the situation was to be found in the principle of ministerial responsibility. "I do not hesitate to say," he said, "that I am in favour of this English principle of responsible government. I see in it the only guarantee that we can have for good, consti-

¹ L. P. Turcotte, *Canada sous l'Union*, (1891), pp. 62, 63. See also C. H. Dent, *The Last Forty Years*, (1881), Vol. I., pp. 50, 51

DEFEAT OF LAFONTAINE

tutional and effective government. . . . The Reformers in the two provinces form an immense majority. . . . Our cause is common. It is in the interest of the Reformers of the two provinces to meet in the legislature in a spirit of peace, union, friendship and fraternity. Unity of action is necessary now more than ever."

In despite, however, of the defeat of LaFontaine and several other Reform candidates in Lower Canada, the result of the election of 1841 was not unfavourable to the cause of Reform. Of the eighty-four members of the Lower House only twenty-four were pledged supporters of the governor-general,¹ while the Reform party, together with the French Nationalists, included well over forty members of the House.

¹ Poulett Scrope, *Life of Lord Sydenham* (1844), p. 217.

CHAPTER IV

LORD SYDENHAM AND RESPONSIBLE GOVERNMENT

UNDER the Act of 1840 (sec. xxx), the choice of a seat of government for the united provinces was left to the governor-general. In the troubled state of racial feeling, such a selection was naturally a matter of difficulty. While it was clear that the capital city of the country must be chosen in Upper Canada, Sydenham was, nevertheless, anxious to conciliate the French-Canadians as far as might be by appointing a capital neither too remote from their part of the province, nor too little associated with their history. Kingston, situated on the north shore of Lake Ontario, at the point where the lake narrows to the river St. Lawrence, seemed best to fulfil these requirements. The foundation of the settlement antedated by nearly a century the English occupation of Canada, and the fort and trading station then established had been one of the western outposts of the French régime, while its erstwhile name of Frontenac associated the place with the bygone glory of New France. British loyalty, with a characteristic lack of inventiveness, had altered the name of the little town to Kingston. A strong fort built upon the limestone hills that commanded the sheltered harbour, and garrisoned by

BALDWIN LAFONTAINE HINCKS

imperial troops, testified to the military importance of the place. Its central position rendered it at once the key to the navigation of the lake and river, while the construction of the Rideau Canal had placed it in control of an inland waterway whose possession minimized the dangers of an American frontier attack. In this favoured situation there had now sprung up a town, of some seven thousand inhabitants, built largely of the limestone on which it stands and patterned upon the now inevitable rectangular plan. At the time of the union Kingston was a town of about a mile and a half in length, with a breadth of three-quarters of a mile.¹ It contained six churches, was able to boast of three newspapers, and was, moreover, the seat of a very considerable milling industry, large quantities of grain being brought across the lake to be ground at Kingston and exported thence to Great Britain, thereby enjoying the special tariff preference accorded to colonial products. The one hundred and sixty miles which separated it from Toronto represented in those days a steamboat voyage of about eighteen hours, or in winter time a sleigh-drive, under favourable conditions, of about a day and a night's duration. From Montreal to Kingston, a distance of about one hundred and seventy miles, the journey was accomplished while navigation was open, partly by steamer, partly by stage. A letter of Lord Sydenham's under date of

¹ J. S. Buckingham, *Canada* (London, 1843), Chap. v., pp. 62 *et seq.*

STEAMBOATS AND STAGES

December 3rd, 1839, illustrates the arduousness of travel to and from the new provincial capital. "The journey," he writes, "was bad enough. A portage (from Montreal) to Lachine; then the steamboat to the cascades, twenty-four miles further; then road again (if road it can be called) for sixteen miles; then steam to Cornwall, forty miles; then road, twelve miles; then by a change of steamers, into Lake Ontario to Kingston." The all-water route by the Rideau Canal, passing through Bytown (now Ottawa) occupied some forty-eight hours. It was in Kingston, then, that Lord Sydenham had summoned the new Canadian legislature to meet on June 14th, 1841, and in the early summer of that year the little town was already astir with sanguine hopes of becoming the metropolis of Canada.

Before, however, the legislature had as yet come together, the governmental problem, which was to be the central feature of the political life of Canada from now until the administration of Lord Elgin, the problem of ministerial responsibility, had already developed itself. Under the new régime it fell to the task of Lord Sydenham to appoint not only the members of the legislative council, which was to form the Upper House of the parliament, but also those of the executive council. These appointments were made a few days after the inauguration of the union (February 13th, 1841). The list of executive councillors was as follows: from Upper Canada,

BALDWIN LAFONTAINE HINCKS

W. H. Draper as attorney-general of Upper Canada; Robert Baldwin Sullivan, president of the council; J. H. Dunn, receiver-general; S. B. Harrison, provincial secretary for Upper Canada; and Robert Baldwin, solicitor-general for that province. The Lower Province was represented in the executive government by C. R. Ogden, attorney-general for Lower Canada; Dominick Daly, provincial secretary; and C. D. Day as solicitor-general. Mr. H. H. Killaly was presently added to the ministry (March 17th, 1841), as commissioner of public works. We have already seen that in accepting a seat in the executive council Robert Baldwin had made it abundantly clear that he did so on the presumption that the operation of the incoming government would be based upon the principle of executive responsibility. Beyond this preliminary declaration, however, Baldwin did not think it desirable to take any further action until the election of the assembly and the relative representation of political parties should have given some indication of the standing of the ministry with the country at large.

The executive council, as thus constituted, was a body of multicoloured complexion and varying views. Ability it undoubtedly possessed, but it represented at the same time so little agreement in political sentiment or conviction, that it might well be doubted whether joint and harmonious action would be possible. Baldwin, as we have seen, was an uncompromising Reformer, devoted to the prin-

THE FIRST MINISTRY

ciples of popular sovereignty and executive responsibility. Sullivan, his cousin, was a man of different temper. Keen in intellect, ready in debate, he brought to the practical business of politics the point of view of the lawyer, the tactician, the man of the world. For abstract principles of government he cared not a brass farthing. It was his wont to say to his colleagues, "Fix on your policy. Take what course you like, and I will find you good reason for doing so."¹

William Henry Draper, the attorney-general, differed still more radically in his political outlook from Robert Baldwin. Draper, after an adventurous and wandering youth, had come to Canada some twenty years before, had drifted from school-teaching into law and politics, and at this time belonged, like Baldwin and Sullivan, to the legal fraternity of York. He had sat in the Upper Canadian assembly, been one of the council of Sir Francis Bond Head and had succeeded Christopher Hagerman in 1840 as attorney-general of Upper Canada. This office he still held in the ministry of the united provinces. Draper was a man of great ability, eloquent and persuasive of speech, skilled as a parliamentary manager and dexterous in the game of politics. He was by principle and temperament a Conservative, and although of undoubted patriotism and devoted to the cause of good government, he viewed with alarm the increasing tendency of his time towards the extension of democratic rule.

¹ N. F. Davin, *The Irishman in Canada* (London, 1887), p. 545.

BALDWIN LAFONTAINE HINCKS

Harrison and Killaly were Liberals of a moderate cast. John Henry Dunn has already been noticed as one of Baldwin's colleagues of the short-lived ministry of Sir Francis Head, and may be considered as sharing the opinions of the moderate Reform party. The councillors for Lower Canada could lay but little claim to be representative of the sentiments of that province. Dominick Daly, the provincial secretary, and presently member for Megantic, an Irishman now nearly twenty years in Canada, of an easy and affable personality, was not displeasing to the French-Canadians whose religion he shared. Ogden, a lawyer and a former office-holder in the government of Lower Canada, was identified with the British interests and was unpopular with the French. Day represented the same class. It will be observed that the refusal of LaFontaine to accept office left the French-Canadians wholly without representation in the executive government.

Baldwin appears to have been convinced from the outset that such a ministry would be quite incompatible with any system of government save one under which the governor-general would be the sole motive force of the administration. To his published communication, already cited, he shortly added a letter to Lord Sydenham (February 19th, 1841) in which he wrote: "With respect to those gentlemen [his fellow-members of the council], Mr. Baldwin has himself an entire want of political confidence in all of them except Mr. Dunn, Mr. Harrison and

BALDWIN'S ATTITUDE

Mr. Daly. He deems it a duty which he owes to the governor-general, at once to communicate his opinion that such an arrangement will not command the support of parliament." This opinion had been confirmed by the result of the elections and by the correspondence¹ which had ensued between the leaders of the Reform party in the two provinces. In despite of the defeat of LaFontaine, it was plain that the Upper Canadian section of that party would find in Morin, the member for Nicolet, Aylwin of Portneuf, Viger of Richelieu, and others of LaFontaine's party, a group of sympathizers with whom they might enter into a natural and profitable alliance. On the strength of this expectation, Baldwin called together at Kingston, a few days before the opening of the session, a meeting of the Reform party. The attending members, while not agreeing on a decisive line of public policy, expressed themselves as unanimous in their want of confidence in the administration as existing.² Shortly after this meeting, Baldwin addressed to the governor-general (June 12th, 1841) a letter in which he recommended that a reconstruction of the ministry should be made in such a way that the Reform party of French Canada, now prepared to coöperate with their Upper Canadian allies, should be represented in the executive. The Reformers, said

¹ See in this connection a letter from Morin to Hincks, May 8th, 1841, fully reviewing the situation. Sir F. Hincks, *Reminiscences*, pp. 50-6.

² *Ibid*, p. 58.

BALDWIN LAFONTAINE HINCKS

Baldwin, could not extend their support to a ministry which included Messrs. Draper, Sullivan, Ogden and Day, whose views differed so entirely from their own. Lord Sydenham, in answer, drew attention to the fact that such a request, at the very moment of the assembly of parliament, was inopportune, and that the French-Canadians whom he proposed to substitute for the ministers to be dismissed, had been radical opponents of the very union of which the new government was the embodiment. The governor-general's communication, followed by further correspondence of the same tenor, left Baldwin no choice but to resign his office. His resignation, offered on June 12th (1841), was still awaiting its formal acceptance when the House met on the fourteenth.

The action of Robert Baldwin in this connection has been, as already indicated, roundly censured by Lord Sydenham's biographer. "This transaction," writes the latter, "looking to the character of the gentleman who was the principal actor in it, and to the manner in which he conducted his negotiation with the representative of the Crown, illustrates more clearly than anything else, the ignorance at that time prevailing, even among the leaders of the political parties in Canada, as to the principles on which a system of responsible government can alone be carried on."¹ The true explanation of the matter is to be found in reality in the uncompromising

¹ Poulett Scrope, *Life of Lord Sydenham* (1844), p. 223.

RESIGNATION OF BALDWIN

stand which Robert Baldwin was prepared to take in defence of his "one idea." To have formed part of a ministry which would inevitably find itself voted down in the popular assembly (as Baldwin expected would now be the case), and which would have to rely on the expedients of political management for the conduct of public affairs, would have seemed to him nothing short of trafficking with the fundamental right of the people whom he represented. The error that Baldwin made, speaking from the standpoint of practical politics, lay in his overestimating the union and power of the Reform party. He did not fully realize that the party had as yet but an imperfect basis of organization, that its programme was not one of positive agreement but merely of negative opposition, and that this alone was not calculated to give it the cohesion requisite for its ends. The expectation that the government could be voted out of office and that the system of ministerial responsibility could thereby be forced upon Lord Sydenham, was not borne out by the sequel.

The difficulties, moreover, of establishing at once an operative system of cabinet government is realized when one views the complex character of the party divisions among the newly-elected members of the assembly. One may distinguish among them at least five different groups. There was, first of all, the party pledged to the support of the administration, drawn chiefly from Upper Canada and led by Attorney-General Draper, as member for the county

BALDWIN LAFONTAINE HINCKS

of Russell. To these were closely affiliated the members elected, largely by coercion, in the British interest in Lower Canada, among whom was Dr. McCulloch who had defeated LaFontaine in Terrebonne. These two groups numbered together about twenty-four. As an extreme Conservative wing, were the Upper Canadian Tories, the remnant of the days of the Compact, some seven in number. These were under the redoubtable leadership of Sir Allan MacNab, the hero of the "men of Gore" of 1837, by whose direction the *Caroline* had been sent over Niagara Falls, a feat which had earned him the honour of knighthood, a man of the old school, the sterling qualities of whose character redeemed the rigidity of his intellect. Of quite opposed complexion were the Reformers, a large and somewhat uncertain group including the moderates of both provinces, and shading off into the ultra-Reformers and into the group of French Nationalists who as yet stood in no affiliation to the English party of Reform. The classification thus adopted would indicate in the assembly the following numerical divisions: 1st, the party supporting Lord Sydenham, twenty-four; 2nd, the party of Sir Allan MacNab, seven; 3rd, the moderate Reformers, twenty; 4th, ultra-Reformers, five; 5th, French Nationalists, twenty. There were, in addition to these, eight doubtful members that cannot be classified with any of the groups, making up in all eighty-four members of the assembly. Such classification is, however, too

THE LEGISLATIVE COUNCIL

precise to indicate the true state of affairs. Party lines were not as yet drawn with precision. The system of the union being still in its experimental stage, party tradition and parliamentary precedent were absent, and individual members were naturally led to follow the dictates of their own judgment, and voted sometimes with and sometimes against the particular group with which their names were chiefly associated.

Meantime a legislative council of twenty-four members had been appointed (June 9th, 1841) by Lord Sydenham. The French-Canadians were represented by René Caron, mayor of Quebec, (a man of liberal views and subsequently a member of LaFontaine's ministry), Barthélémy, Joliette and six others. Of the sixteen British members of the council, Robert Baldwin Sullivan, Peter McGill of Montreal, William Morris, formerly of the legislative council of Upper Canada and notable as the champion of the Presbyterian Church in the matter of the Clergy Reserves,¹ were of especial prominence.

The constitutional history of the first session of the union parliament which now ensued, and in which the first test was made of the operation of the united government, has the appearance of an indecisive battle. The Reform party, anxious to force the issue, endeavoured to obtain an expres-

¹ H. J. Morgan, *Sketches of Celebrated Canadians* (1862), pp. 429 et seq.

BALDWIN LAFONTAINE HINCKS

sion of want of confidence sufficiently emphatic to compel the government to resign office. The government, on the other hand, strove to put the question of parliamentary theory in the background by bringing forward a programme of great public utility and inviting for its accomplishment a united support. The members of the Reform party found themselves thus placed in a dilemma. Should they persist in an uncompromising attitude of opposition, they might delay the carrying out of public works of whose urgency they were themselves convinced. Should they break their ranks and vote with the party of the government in favour of measures of undoubted utility, they thereby seemed to justify the existence of an administration of which they had at the outset expressed their disapproval. It was, in a word, the oft-recurring dilemma occasioned by the conflicting claims of party policy and public welfare. In a long-established legislature where rival parties of balanced powers alternate in office, such a dilemma presents less difficulty, since, with the defeat of the government, the incoming party is enabled to carry on such part of the programme of its opponents as may enlist its support. But in the case of the newly inaugurated government of Canada, both the urgency of the time and the doubtful complexion of the parties themselves seemed to favour individual action as against the claims of party cohesion. It followed as a consequence that the question of re-

MEETING OF PARLIAMENT

sponsible government, albeit the real issue of the moment, remained for the time in suspense. Lord Sydenham with his able lieutenant, Attorney-general Draper, was enabled to obtain sufficient support to carry on his government, while the Reformers contrived, nevertheless, to force from the administration a somewhat reluctant assent to the proposition that only this fortuitous support gave them a valid claim to office. It has been necessary to undertake this preliminary explanation in order to make it clear how men, so like-minded in their political views as Hincks and Baldwin, should presently be found voting on opposite sides of the House. But if the state of public affairs at the time is properly understood, it appears but natural that Hincks, as a man of affairs, should have preferred a policy of immediate effectiveness, while Baldwin, of a more theoretical temperament, clung fast to his uncompromising principle.

As already mentioned, the first united parliament met at Kingston on Monday, June 14th, 1841. The place of its meeting was a stone building about a mile to the west of the town, that had been intended to serve as a general hospital, but for the time being was given over for the use of the legislature. The comfort of the members appears to have been well cared for. The halls, both of the council and the assembly, were spacious and well furnished, "with handsome, stuffed arm-chairs of black walnut, covered with green moreen, with

BALDWIN LAFONTAINE HINCKS

a small projection on the side to write upon." Sydenham himself seems to have been somewhat impressed with the luxurious surroundings of his colonial legislators. "The accommodation," he wrote home to England, "would be thought splendid by our members of the English House of Commons. But these fellows in their colonies have been spoilt by all sorts of luxuries,—large arm-chairs, desks with stationery before each man, and Heaven knows what,—so I suppose they will complain."

The governor-general was not present in person at the first meeting of the Houses. In his absence the members were sworn in, and the proclamation convening the parliament read by the clerk of the assembly. After this the assembly addressed itself to the task of electing one of their number as Speaker. Here occurred, in accordance with a plan prearranged¹ by the Reformers, the first passage-at-arms between the government and its opponents. The Reformers had decided to nominate for the speakership a Mr. Cuvillier, member for Huntingdon, a man fluent in both English and French, identified formerly with the popular party in Lower Canada, but moderate² in his views and acceptable on all sides. It had been hoped by the Reformers that the government might oppose Mr. Cuvillier's nomination,

¹ Hincks, *Reminiscences*, p. 58.

² Cuvillier had been one of those deputed, in 1828, to carry the petition of the eighty-seven thousand to the imperial government, but he had voted against Papineau's "Ninety-two Resolutions."

HINCKS AND CUVILLIER

and thus be led to make a trial of strength by which means the election of Mr. Cuvillier would appear as an initial defeat of the administration. It seemed, however, as if the administration, either because they considered Mr. Cuvillier well suited to the office or in order to avoid a hostile vote, would allow that gentleman to be elected without opposition. This the Reformers were minded to prevent. "I was determined," wrote Hincks in a letter to the *Examiner* in which he described this preliminary onslaught on the government, "that the advisers of His Excellency should swallow the bitter pill by publicly voting for a gentleman who had declared his entire want of confidence in them." In order, therefore, to force the government into a corner, Hincks rose and stated that he considered it his duty to his constituents of North Oxford to explain publicly why he supported the nomination of Mr. Cuvillier. His reason was, he said, that that gentleman had opposed certain provisions of the Union Bill of which he himself disapproved, notably the provision for a permanent civil list. He was furthermore led to support Mr. Cuvillier because of "his [Mr. Cuvillier's] entire want of confidence in the present administration."

This, of course, was a direct challenge, and left the government and the Tories no choice but to come out and fight. Sir Allan MacNab was proposed as a rival candidate. Aylwin of Portneuf, Morin and others, followed the lead of Hincks. A

BALDWIN LAFONTAINE HINCKS

heated debate followed, in which Mr. Cuvillier's "want of confidence" did service as an opportune bone of contention. Peace-loving members begged Mr. Cuvillier to state, in the interests of harmony, whether he had, or had not, a "want of confidence." Mr. Cuvillier did not see fit to do so. The situation became somewhat confused. Smith of Frontenac, an over-belligerent friend of the government, attacked the bad taste of the member for North Oxford in trying to force an adverse vote at such a time, and spoke of a dissolution of parliament as the possible outcome of the day's proceedings. The dangerous word "dissolution" brought Attorney-general Draper to his feet with soothing words in the interests of peace. MacNab having meanwhile caused his name to be withdrawn, the discussion subsided, and Mr. Cuvillier was declared unanimously elected. Baldwin, being still technically a member of the government (his resignation awaiting its formal acceptance), took no part in this preliminary discussion.

There was some debate over the question whether, as the governor-general had not come down to parliament on the day for which it was summoned, it could be said, legally, to have met at all. A motion for adjournment was, however, carried, which practically affirmed the proposition that the House had legally meet.

Next day Lord Sydenham appeared in person, and with no little pomp, in the chamber of the legislative council, and read to the assembled members of

PUBLIC WORKS

the two Houses the speech from the throne. The measures outlined therein showed that the governor and his advisers were prepared to adopt a vigorous forward policy in the administration of the country.¹ They declared their intention to adopt legislation for "developing the resources of the province by well considered and extensive public works," to obtain a reduction of the rate of postage and a speedier conveyance of letters, and to effect the improvement of the navigation from the shores of Lake Erie and Lake Huron to the ocean. The governor had, moreover, the satisfaction of informing the members of the two Houses that he had received authority from Her Majesty's government to state that they were prepared to call upon the imperial parliament to afford assistance towards these important undertakings. It was announced that the imperial parliament would be asked to guarantee a loan of one and a half million pounds sterling, to be raised for the expenditure on public works in the province. The intention of the government to complete the establishment of representative institutions in Canada by a law providing for municipal self-government was also indicated, and a promise was given of a law for the establishment of a system of common schools.

No practical programme could have been better devised at this juncture for enlisting public support, especially among the people of Upper Canada, in

¹ *Journal of the Legislative Assembly (Canada, 1841)*, Vol. I., pp. 7, 8

BALDWIN LAFONTAINE HINCKS

whose division of the country the rapid progress of immigration and settlement called urgently for generous public expenditure. It was part of the shrewdness of the concerted policy of Sydenham and Draper that they sought thus to remove attention from questions of theory to questions of practical utility, while the promise of the imperial government to assist the province by a guaranteed loan and by public aid to immigration into Canada, seemed to hold out a strong inducement towards reconciliation and harmonious action. The Reformers, however, were determined that the question of principle, the question of the constitution itself, should not be forced altogether into the background. Before coming to a vote upon the resolutions on which the address in answer to the speech from the throne was to be framed, they pressed the administration for a definite statement in regard to the all-important subject of responsible government. The House being then in committee of the whole upon the speech from the throne, Malcolm Cameron opened the discussion by declaring that "the dry and parched soil is not more eager for the coming shower than all the people of this country for the establishment of the administration of the government of this province upon such a basis as will ensure its tranquillity."¹ Mr. Cameron, followed by Buchanan, Hincks

¹ The debates of the parliament were not officially reported. What follows is based on the report published in *The Church* (Toronto), June 26th, 1841.

RESPONSIBLE GOVERNMENT

and others, urged upon the government the desirability of a definite explanation of principle. The attorney-general, fortified with a budget of manuscript notes whereby he might speak the more accurately, then undertook a formal statement of the principle of colonial government as he conceived it. In the first place, he would declare, he said, for the information both of those who act with him and those who act against him, that so long only as he could give a conscientious support to those measures which the head of the government might deem it his duty to submit to that House, so long only would he continue to hold office under the government. . . . He would next, he continued, state the views which he entertained respecting the duties of His Excellency: he looked upon the governor as having a mixed character, firstly, as being the representative of royalty; secondly, as being one of the ministers of Her Majesty's government, and responsible to the mother country for the faithful discharge of the duties of his station—a responsibility that he could not avoid by saying that he took the advice of this man or that man. He looked upon it as a necessary consequence of this doctrine, that where there is responsibility there shall be power also. For he could not admit the idea that one man should possess the power, and another be liable for the responsibility. . . . The attorney-general went on to explain that this same doctrine of responsibility corresponding to power, applied not only to the gov-

BALDWIN LAFONTAINE HINCKS

error but to the ministers below him. "Whenever," he said, "I find the head of the government and the minister of the Crown desirous of propounding measures which I cannot conscientiously support, honour and duty point out but one path, and that is resignation. There are few men who have long acted in a public capacity, who have escaped animadversion and censure, but a man must indeed be hardened in sentiment and feeling who does not acknowledge *a degree of responsibility to public opinion*. . . . It is to be desired above all things that between the government and the people there should exist the greatest possible harmony and mutual good understanding. . . . It is the duty of the head of the government to preserve that harmony by all the means in his power. . . . If he find that he has been led astray by incapable or dishonest advisers, he may relieve himself of them by their dismissal."

The attorney-general, with his usual persuasiveness of speech, had succeeded in talking all round the question of responsible government without really touching upon it. The blunt question, do the ministers resign when they have no majority behind them, was still left unanswered. Not without cause, indeed, had Draper's oratorical powers earned him the nickname of "Sweet William." In this instance, the Reformers were quick to see the weak side of the attorney-general's presentation. Baldwin, rising to reply, brushed aside the subtleties of the leader of the government and forced the

BALDWIN VERSUS DRAPER

question to a direct issue. He agreed, he said, that the head of the government is of a mixed character, and that he is responsible to the home government for the proper administration of the government of the colony. He would admit that, in the administration of the government, questions may arise in which he may not be prepared to adopt the advice which may be tendered to him. But if he (Mr. Baldwin) understood the honourable and learned gentleman aright, that the council of His Excellency are to offer their advice only when it is demanded of them, and on all occasions remain mere passive observers of the measures adopted by the government, he would beg leave from such a system as this entirely to dissent. . . . Such a council would be no council at all. The honourable and learned gentleman, Mr. Baldwin continued, admits that in the event of the administration not retaining the confidence of parliament, they should resign; if he had understood the honourable gentleman aright as intending to go to this extent, then it would seem that the difference between the views of that honourable gentleman and his own amounted only to a difference in terms and not a difference in fact. But should those gentlemen be prepared, notwithstanding a vote of want of confidence should be passed by that House, to retain their seats in the council, then he must say that he entirely dissented from them. . . . If the honourable gentleman had intended to be understood as

BALDWIN LAFONTAINE HINCKS

going to this length, then he would perfectly concur with him.

Baldwin expressed his regret that this important matter had not been made the subject of a distinct communication in the speech from the throne. "It was," he said "a great and important principle, on the faithful carrying out of which *the continuation of the connection with the mother country in great measure depends.*" The comprehensive refutation of Mr. Draper's position thus made by Mr. Baldwin was followed up by a series of "teasing questions"¹ from other Reformers determined to force the attorney-general to a direct answer to the question whether or not he would resign. Brought to bay finally by these attacks and having in the series of seven speeches which he made during the debate involved the issue in as much intricacy as possible, Mr. Draper admitted that he would resign.

So prolonged, however, had been the debate, and so confused had become the theoretical arguments pro and con, that at the end of it the members seem to have been but little the wiser. Some supposed that responsible government was now a fact, others that it had been merely the subject of a meaningless wrangle. The Montreal *Herald*² announced that Mr. Draper's final and reluctant "Yes," had been "*succeeded by a burst of applause*

¹ New York *Albion*, July 3rd, 1841.

² Cited by the *Albion*, July 3rd, 1841.

A TALENTED ASSEMBLY

from the House. The cry is, responsible government is come at last." The *Kingston Chronicle*¹ informed its readers that "the great monster, responsible government, was actually ground into nothing," but added in a tone of complacent patronage that this "seeming waste of powder ought not to be considered as altogether unprofitable." The same journal, in its discussion of the great debate, informed its readers that "the perpetual foaming and puffing of the honourable gentlemen reminded us of a set of small steam engines whose safety valves kept them from actually bursting their boilers on the floor of the House." Then, as if apprehensive of the consequences of its own wit, the journal hastened to add: "By this passing remark we do not mean any disrespect to the honourable House, far from it, for we think it altogether the most talented and respectable House of Assembly that ever met in this section of the province.

In despite of the seeming harmony of opinion thus established, the fact remained that the attorney-general had to a large extent come off victorious. His opponents had wished to make the question one of men; Draper had succeeded in making it one of measures. His declaration was in reality an invitation to the members to judge the programme of the government upon its merits, and to accord it their support irrespective of any previous

¹ Wednesday, June 22nd, 1841.

BALDWIN LAFONTAINE HINCKS

confidence, or want of it, in the originators of the programme. Mr. Draper's difficulties were not, however, at an end. The Upper Canada Reform party being for the moment placated, he had yet to deal with the French-Canadian section, whose opposition to the terms of the union itself now sought expression. Neilson of Quebec moved an amendment to the address, to the effect that "there are features in the Act now constituting the government of Canada which are inconsistent with justice and the common rights of British subjects."¹ Although the combined Upper Canadian vote easily defeated this amendment, Baldwin, Hincks and four other Upper Canadians voted in favour of it. Hincks spoke at some length in its support. He attacked the provision of the Union Act whereby the imperial parliament fixed a civil list for Canada. He declared that the basis of representation now established was unjust: in Upper Canada there were forty-two members, twenty-six of whom were returned by constituencies consisting of three hundred and fifty thousand souls, while the remaining sixteen only represented sixty-three thousand. The representation of Lower Canada was equally out of proportion. "It is," he said, "idle to concede responsible government unless there is a fair representation of the people." The suppression of the French language as an official medium, he denounced as an "unjust and cruel provision."

¹ *Journal of the Legislative Assembly*, Vol. I., p. 64.

SYDENHAM'S CORRESPONDENCE

Hincks's speech was, however, but a further "waste of powder." The amendment was voted down by fifty to twenty-five.

With the termination of this preliminary debate upon responsible government and the rejection of Neilson's amendment, the government had safely passed its initial difficulties, and was free to turn to the work of positive legislation. That the issue involved in the debate was not, however, one of merely abstract interest, amply appears from the correspondence of Lord Sydenham and the view which he took of his constitutional position in the government of Canada. In describing the attempt of the Reform party to "ensure a stormy opening" of the parliament, he wrote (June 27th, 1841): "My officers, (ministers!) though the best men, I believe, for their departments that can be found, were, unfortunately, many of them, unpopular from their previous conduct, and none of them sufficiently acquainted with the manner in which a government *through* parliament should be conducted to render us any assistance in this matter. *I had therefore to fight the whole battle myself.* . . . The result, however, has been complete success. *I have got the large majority of the House ready to support me upon any question that can arise.* . . . Except the rump of the old House of Assembly of Lower Canada and two or three ultra-Radicals who have gone over with *my solicitor-general, whom I have*

BALDWIN LAFONTAINE HINCKS

got rid of, every member is cordially with me and with my government.”

Thus established on a fair working basis, with the question of responsible government for the moment set aside, the administration was able to proceed with its programme. In the ensuing session, which lasted until September 17th, 1841, it managed to make good a large part of its promises. A vigorous programme of public works was instituted. Backed by the imperial guarantee of the interest on a £1,500,000 sterling loan, the province undertook an expenditure of £1,659,682 on works of public utility. The Welland Canal, hitherto in the hands of a private company, was bought up by the government, which spent £450,000 on its improvement. The navigation of the St. Lawrence, which, as has been seen, was still obstructed by intervening rapids, was aided by a vote of £696,182 for the construction of canals at Cornwall and Lachine; £58,500 was laid out upon deepening the channel in Lake St. Peter; and £25,000 on the construction of roads in the Eastern Townships and in the Baie des Chaleurs district. A sum of £45,000 was devoted to the Burlington Canal. The remainder of the money was appropriated largely to the construction of new roads in Upper Canada. This question of public works introduced serious divisions among the members of the Reform party. Hincks who was, to use his own phrase, a “warm supporter” of public works,¹ voted

¹ *Reminiscences*, p. 69.

LEGISLATIVE MEASURES

with the government. The French-Canadians, on the other hand, opposed the policy of public expenditure wherever it seemed, in their opinion, to favour Upper Canada unduly. Baldwin, for the sake of party cohesion, was inclined to side with the French-Canadians, and so preserve a united opposition. Aylwin endeavoured to secure a vote of the House to the effect that no debt should be incurred on public works save with the consent of a majority from Lower Canada. Baldwin voted in favour of it, but found only one of his Upper Canadian followers prepared to go to this length. On the matter of road building in western Canada, Baldwin and Hincks again found themselves voting on opposite sides. Thanks to the divisions in the ranks of their opponents, the ministry were enabled to carry on the government with a fair show of support.

Certain other measures of the session were also of considerable importance. The criminal law was modified by measures reducing its severity. The pillory was abolished and the number of capital offences considerably reduced. The provincial tariff was revised, the duties on imported merchandise being advanced from two and one-half to five per cent. A resolution of the House of Assembly affirmed the necessity of abolishing seigniorial tenure in Lower Canada and a commission was appointed for its consideration. A bill in reference to the corrupt practices which had been prevalent in the recent election, excited great public attention and

BALDWIN LAFONTAINE HINCKS

caused more difficulty to the government than any other measure of the session. Petitions had come up to the House from Terrebonne (where LaFontaine had been defeated) and elsewhere praying the assembly to cancel the elections. Technical flaws in the petitions prevented their reception. A bill brought into the House to overcome the difficulty and permit the reception of the petitions was passed by a large majority, receiving the support, not only of the entire Reform party, but of Sir Allan MacNab and the Upper Canadian Tories. The influence of the government caused the bill to be rejected in the legislative council. This was only one of eighteen measures rejected during the session by the Upper House, a circumstance which served to show that on its present nominated basis it might prove an obstructive influence.

But the measure of the greatest importance adopted during the session was the law in reference to municipal government. As this was a subject with which, in the sequel, the LaFontaine-Baldwin administration was intimately associated, a brief account of the legislation under Lord Sydenham is here necessary. The institution of democratic self-government is nowhere complete until it is accompanied by the establishment of self-governing bodies for local affairs. Parliamentary reform, therefore, naturally goes hand in hand with municipal reform. This had already been seen in England, where the great reform of parliament in 1832 had been follow-

LOCAL GOVERNMENT

ed in 1835 by the introduction of municipal self-government. It was now proposed to take an initial step in this same direction in regard to the local government of Upper Canada. Until this time there existed in the districts into which Upper Canada was divided, no elective municipal bodies. The justices of the peace, nominated by the Crown, had exercised in their quarter sessions a supervision over local affairs and had levied local taxation. In the Lower Province local taxation had not been raised previous to Lord Sydenham's administration. The latter had sought to insert into the Act of Union provisions for district government but, finding the imperial parliament averse to such detailed legislation, he had, by means of the special council, created in Lower Canada municipal bodies consisting of nominees of the Crown. It was not proposed to alter the system thus established in Lower Canada, where the government still felt apprehensive of giving full play to the principle of election. The bill presented to the united parliament referred, therefore, only to Upper Canada. This occasioned a peculiar difficulty. If the local bodies established were to be entirely elective, the French might with justice complain of the special privileges thus accorded to the British part of the province. If, on the other hand, the municipal institutions of Upper Canada were framed after the model of those already created by the special council in Lower Canada, the

BALDWIN LAFONTAINE HINCKS

British section of the province would cry out against the denial of representative government.

In this delicate situation the government attempted a middle course. The provisions of the bill permitted the inhabitants of the districts of Upper Canada to form themselves into municipal bodies. Councillors were to be elected in each district, but the warden, the treasurer and the clerk, were to be nominated by the Crown. The bill as thus drawn had the disadvantage which attends all measures of compromise; it met with opponents on both sides. Mr. Viger, on behalf of the French-Canadians, entered an energetic protest¹ on the ground that Upper Canada was unduly favoured. "I will express myself," he said, "as sufficiently selfish to oppose such great advantages being accorded to the Upper Canadians alone." Robert Baldwin and the generality of his following objected, on the ground that the advantages conferred were not sufficiently great and that all the municipal offices ought to be made elective.

Here again Hincks found himself compelled to differ from his leader and, in a speech of considerable power, undertook to defend this course in regard to the bill, and to free himself from the charges of desertion now brought against him by his fellow Reformers. To him it seemed that half a loaf was better than no bread. He would have preferred that local elective government might also have been con-

¹ Turcotte, *Le Canada sous l'Union*, pp. 98, 99.

STRAINED RELATIONS

ceded to Lower Canada, but if this could not be obtained he saw no reason to deny it to Upper Canada on that account. He would have preferred that all the offices should have been elective, but he was willing, in default of this, to accept the modified self-government granted by the bill. "I acknowledge myself," he said, "to be a party man, and that I have ever been most anxious to act in concert with that political party to which I have been long and zealously attached. . . . I have been held up in public prints as having sold myself to the government. From political opponents I can expect nothing else but such attacks, but, sir, I confess I have been pained at the insinuations which have proceeded from other quarters. . . . I can assert that my vote in favour of this bill is as conscientious and independent as that of any honourable member on the floor of this House."

Baldwin, in rising to reply, denied that he had had any share in originating, repeating, or sanctioning any insinuations against Mr. Hincks's behaviour towards the party. The means of demonstrating the groundlessness of such insinuations rested with Mr. Hincks himself. He assured the honourable member for Oxford that if a time should come when the political tie which bound them to each other was to be severed forever, it would be to him by far the most painful event which had occurred in the course of his political life. Nevertheless, in spite of these words of conciliation, the tem-

BALDWIN LAFONTAINE HINCKS

porary breach occasioned by the divergent policy of the leaders of the Upper Canadian Reformers tended to widen. Hincks, with the best of motives, was drawn towards the practical programme of the government. He not only voted with them on the question of public works and municipal institutions, but took issue with his leader also in the votes on the usury laws, the Upper Canadian roads and other matters. His services on the special committee in regard to currency and banking still further commended him to the government as a political expert, of whose services the country ought not to be deprived.

To meet the charges now freely brought against him in the liberal press, Hincks published in his *Examiner* a letter (September 15th, 1841) in which he fully explains the motives of his conduct. "The formation of a new ministry on the declared principle of acting in concert having failed, all parties were compelled to look to the measures of the administration, and we can now declare that, previous to the session of parliament, our opinion was given repeatedly and decidedly, that in the event of failure to obtain such an administration as would be entirely satisfactory, the policy of the Reform party was to give to the administration such a support as would enable it to carry out liberal measures which we had no doubt would be brought forward." In the face of so consistent an explanation the charges brought against Hincks of having "sold himself to

COMMON SCHOOLS

the government" and of "having *ratted from his party*"¹ fell entirely to the ground. The support of Hincks, and of four French-Canadian members of like mind, enabled the government to carry the municipal bill by a narrow majority. The question of a more extended form of local self-government remained, however, in the foreground of the Reform programme, and received no final settlement until the passage of the statute known as the Baldwin Act in 1849.

The Act for the establishment of a system of common schools passed both Houses of parliament with but little opposition. The people of Upper Canada were firm believers in the advantages of public education. Especially was this the case with those who came of Loyalist stock, and among whom the traditions of New England still survived. Until this period, however, no successful attempt had been made to establish a general system of elementary schools. The government of the province had committed the mistake of beginning at the wrong end of the scale, and ambitious attempts to institute grammar schools and secondary colleges had preceded any efforts towards the education of the mass of the people.² Governor Simcoe, eager to extend to

¹ The expression is quoted by Major Richardson, *Eight Years in Canada* (1847), from a virulent Montreal article in which Hincks is called an "adder," and his career a "libel on colonial politics."

² N. Burwash, *Egerton Ryerson* (Makers of Canada Series), pp. 53 *et seq.*

BALDWIN LAFONTAINE HINCKS

his Loyalist settlers the advantages that their forefathers had enjoyed in Massachusetts or Connecticut, planned the institution of a university at York, with grammar schools at Cornwall, Kingston, Newark and Sandwich, a proposal which failed of adoption. A little later, however, (1807) grammar schools were instituted in each of the eight districts of the province. These were supplemented by private schools, such as those of Dr. Strachan and Dr. Baldwin mentioned above. But to the generality of the people these advanced schools were of no utility, and the settlers were forced to rely on their own efforts and on spontaneous coöperation for the teaching of their children.

Not until 1816 was the attempt made to organize by an Act of the legislature a system of elementary schools. Under this Act the people of any locality might organize themselves for the building and maintenance of a school, for whose management they elected three of their number as trustees. A general grant of funds was made by the legislature in aid of schools thus organized, while in every district a board of education appointed by the lieutenant-governor exercised a general supervision over the trustees of each school. This statute had been supplemented by further legislation in the same direction,¹ providing for the institution of a provincial board and for district examination of teachers. The intention of these statutes had

¹ Acts of 1820, 1823, 1824.

THE SCHOOL ACT OF 1841

been better than their operation. Neither attendance at schools nor local taxation in support of them had been made compulsory, and a large majority of the children of the province were still without adequate education. Day, the solicitor-general of Lower Canada, in introducing the measure, stated that not more than one child out of eighteen was in attendance at the existing elementary schools to whose support the government contributed. In Lower Canada the condition of things was still less advanced. There existed as yet "no legal establishment, no provision of the law by which the people could obtain access to education." Such schools as existed were private establishments founded and supported in great measure by the Church. The secondary colleges of this kind were sufficiently numerous and efficient, but of elementary schools, especially in the rural parts of the country, there was a sad lack.

The present law¹ provided an annual grant of two hundred thousand dollars for primary schools, —eighty thousand for Upper Canada, one hundred and twenty thousand for the Lower Province. It enacted that the district council in each district should act as a board of education, distributing the annual government grant, assessing on the inhabitants of the different school districts the sums necessary for the erection of new schools. Within each of these school areas a board of commissioners was

¹ 4 and 5 Vict., c. 18.

BALDWIN LAFONTAINE HINCKS

to be elected who should act as the trustees of the school, appointing the teacher and regulating the course of study. A fee of one shilling and three pence per month was to be exacted for each child in attendance, save in cases of extreme poverty. The principal objections raised to the bill as first drafted turned on the question of religious instruction. A great number of petitions were presented to the assembly praying that the Bible should be adopted as a book of instruction in the elementary school curriculum. To meet the views of the petitioners a separate school clause¹ was added to the Act, whereby inhabitants possessing a religious faith different from that of the majority, might establish and maintain a school of their own and receive a proportion of the government grant.

In spite of the success of their practical policy, the session was not destined to end in unqualified victory for the administration. On September 3rd, (1841) Baldwin presented to the assembly a series of resolutions affirming the principle of responsible government. The government succeeded in voting down the resolutions in the form in which they were presented, but only at the price of substituting for them a set of resolutions almost equivalent. These resolutions, hereafter associated with the name of Robert Baldwin, stand as the definite achievement of the United Reformers in their first

¹ 4 and 5 Vict., c. 18, sec. XI.

THE SEPTEMBER RESOLUTIONS

constitutional struggle under the union. They read as follows:¹

1. "That the most important, as well as most undoubted, of the political rights of the people of this province is that of having a provincial parliament for the protection of their liberties, for the exercise of a constitutional influence over the executive departments of their government, and for legislation upon all matters of internal government."²

2. "That the head of the executive government of the province being, within the limits of his government, the representative of the sovereign, 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."³

3. "That in order to preserve between the different branches of the provincial parliament that harmony which is essential to the peace, welfare and good government of the province, the chief

¹ *Journal of the Legislative Assembly*, Vol. I., September 3rd, 1841, pp. 480, 481.

² Baldwin's resolution had ended. . . . "legislation upon all matters which do not, on the grounds of absolute necessity, constitutionally belong to the jurisdiction of the imperial parliament as the paramount authority of the legislature."

³ Baldwin's resolution had read "is not constitutionally responsible to any other than the authorities of the empire." The meaning is that the governor is properly to be considered dissociated from the party government of the province.

BALDWIN LAFONTAINE HINCKS

advisers of the representative of the sovereign, constituting a provincial administration under him, ought to be men possessed of the confidence of the representatives 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 government, will, on all occasions, be faithfully represented and advocated.”¹

4. “That the people of this province, have, moreover, a right to expect from such provincial administration the exertion of their best endeavours that the imperial authority, within its constitutional limits, shall be exercised in the manner most consistent with their wishes and interests.”²

¹ Baldwin’s resolution read : “That in order to preserve that harmony between the different branches of the provincial parliament which is essential to the happy conduct of public affairs, the principal of such subordinate officers, advisers of the representative of the sovereign, and constituting as such the provincial administration under him, as the head of the provincial government, ought always to be men possessed of the public confidence, whose opinions and policy harmonizing with those of the representatives of the people, would afford 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 government, will at all times be faithfully represented to the head of that government and through him to the sovereign and imperial parliament.”

² Baldwin’s resolution was a much more direct affirmation of principle. It read : “That as it is practically always optional with such advisers to continue in or retire from office, at pleasure, this House has the constitutional right of holding such advisers politically responsible for every act of the provincial government of a local character, sanctioned by such government while such advisers continue in office.”

DEATH OF SYDENHAM

It is said that the resolutions in their final form were drafted by Lord Sydenham himself. It would be difficult to say just what would have been the scope of their operation had that energetic and purposeful nobleman remained at the head of Canadian affairs. But his melancholy and untimely death, just as the session came to a close, gave a new turn to the current of history and rendered it possible for those who had opposed his administration to put into operation the principles of government whose validity he had conceded. A fall from his horse (September 4th, 1841) resulted in injuries which proved too much for his constitution, already enfeebled by the severity of his labours, to withstand. He lingered for a fortnight, his mind still busied with public cares, worn out with insomnia and racked with unceasing suffering. On the seventeenth of the month, while the governor-general was hovering between life and death, the parliament was prorogued in his name by the officer commanding the forces at Kingston. On Sunday, September 19th, Lord Sydenham breathed his last. His memory has been variously judged. A well-known French-Canadian historian¹ has denounced the "political tyranny which he exercised against the Liberals of the population," and has spoken of his "hand of iron" pressed heavily upon French Canada. A British-Canadian historian of prominence² has

¹ Turcotte, *Le Canada sous l'Union*, p. 106.

² John McMullen, *History of Canada*, (1868), p. 496.

BALDWIN LAFONTAINE HINCKS

called him the "merchant pacificator of Canada," and ranked his achievements with those of Wolfe and Brock. But all are united in testifying to his untiring zeal, his wide range of knowledge and the integrity of his personal character.

CHAPTER V

THE FIRST LAFONTAINE-BALDWIN MINISTRY

THE sudden death of Lord Sydenham occasioned an interregnum in the government of the province, during which time the administration was carried on under Sir Richard Jackson, commander of Her Majesty's forces in Canada. On October 7th, 1841, a new governor-general was appointed in the person of Sir Charles Bagot, who arrived at Kingston on Monday, January 10th, 1842. The news of his appointment had been the subject of a premature jubilation on the part of the thorough-going Tories of the MacNab faction. The nominee of the Tory government of Sir Robert Peel, and himself known for a Tory of the old school, Sir Charles was expected to restore to Canada an atmosphere of official conservatism which should recall the serener days of the Family Compact. The sequel showed that Sir Charles was prepared to do nothing of the kind. He was, indeed, a Tory, but his long parliamentary and diplomatic training had stood him in good stead. As an under-secretary of state for foreign affairs and on diplomatic missions at Paris, Washington and St. Petersburg, he had learned the value of the ways of peace. At the Hague, whither he had been sent in connection with the recent disruption of the

BALDWIN LAFONTAINE HINCKS

kingdom of the Netherlands, he had already had to face the problem of rival religions and hostile races. The natural affability and kindness of his temperament, combined with the enlightened wisdom of advancing years, led him to seek rather to conciliate existing differences than to inflame anew the smouldering embers of partisan animosity. Devoid of the personal egotism which had so often converted colonial governors into "domineering proconsuls," Sir Charles was willing to entrust the task of practical government to the hands most able to undertake it. For the role of pacificator, the new governor-general was well suited. His distinguished bearing and upright carriage, and the ease with which he mingled with all classes of colonial society rapidly assured him in the province a personal esteem destined greatly to facilitate that conciliation of rival parties which it was his hope to accomplish.

It only remained for Bagot to find, among the political groups which divided his parliament, a party, or a union of parties, strong enough to enable him to carry on the government on these lines. As the parliament was not summoned for eight months after his arrival, Sir Charles had ample time to look about him and to consider the political situation which he was called upon to face. Visits to Toronto, Montreal and Quebec brought him into contact with the political leaders of the hour, and enabled him to realize that, with the ministry

CONCILIATION OF LOWER CANADA

as it at the moment existed, it would not be possible long to carry on the government. Indeed the Draper ministry had owed its continued existence solely to the recognized value of certain of the measures which it had initiated. It had enjoyed a sort of political armistice, at the close of which a renewed and triumphant onslaught of its opponents might naturally be expected. In particular the new governor realized that it would be impossible to carry on the government of the country without an adequate support from the French-Canadians. He made it, therefore, his aim from the outset to adopt towards them an attitude of friendliness and confidence. Several important appointments to office were made from among their ranks. Judge Vallières, one of Sir John Colborne's former antagonists, was made chief-justice of Montreal; Dr. Meilleur, a French-Canadian scholar of distinction, became superintendent of public instruction. As a result of this policy Bagot was greeted in Lower Canada with signal enthusiasm and his memory has still an honoured place in the annals of the province.

Meantime it had become evident even to Mr. Draper that some reconstruction of the ministry and some decided modification of its policy were urgently demanded. French Canada was still loud in its complaints against its lack of proper representation in the cabinet, against the injustice of the present electoral divisions, and against local government by appointed officers. "The government," said *Le*

BALDWIN LAFONTAINE HINCKS

Canadien, a leading journal in the Reform interest, "may keep us in a state of political inferiority, it may rob us, it may oppress us. It has the support of an army and of the whole power of the empire to enable it to do so. But never will we ourselves give it our support in its attempt to enslave and degrade us." The tone of the province was clearly seen in the bye-elections which took place during the recess of parliament. D. B. Papineau, a brother of the exiled leader, was elected for Ottawa, James Leslie, who had been one of the victims of the election frauds of 1841, was elected for Verchères. Most significant of all was the return to parliament of Louis Hippolyte LaFontaine. Baldwin, it will be remembered, had been elected in 1841 for two constituencies, Hastings and the fourth riding of York. He had accepted the seat for Hastings, and the constituency of York was thereby without a representative. He proposed to his constituents that they should bear witness to the reality of the Anglo-French Reform alliance by electing LaFontaine as their representative. LaFontaine accepted with cordiality the proposal of his ally. "I cannot but regard such a generous and liberal offer," he wrote in answer to the formal invitation from the Reform committee of the riding, "as a positive and express condemnation, on the part of the freeholders, of the gross injustice done to several Lower Canadian constituencies, which, in reality, have been deprived of their elective franchise, and which, in consequence of vio-

ELECTION OF LAFONTAINE

lence, riots and bloodshed, are now represented in the united parliament by men in whom they place no confidence."

To his new constituency LaFontaine issued an address in which he urged the need of co-operation between the French and English parties. "Apart from the considerations of social order, from the love of peace and political freedom, our common interests would alone establish sympathies which, sooner or later, must have rendered the mutual coöperation of the mass of the two populations necessary to the march of government. . . . The political contest commenced at the last session has resulted in a thorough union in parliament between the members who represent the majority of both peoples. That union secures to the provincial government solid support in carrying out those measures which are required to establish peace and contentment." LaFontaine's candidacy was successful and he was elected in September, 1841, by a majority of two hundred and ten votes.

It was the design of Bagot to meet the impending difficulties of the situation, before the meeting of parliament, by such a reconstruction of his ministry as should convert it into a coalition in which all parties might be represented. To men of moderate views, of the type of Sir Charles Bagot, there is an especial fascination in the idea of a political coalition. To subordinate the petty differences of party animosity to the broader considerations of national

BALDWIN LAFONTAINE HINCKS

welfare, is a task so congenial to their own temperament that they do not realize how difficult it is for others. To gather into a single happy family the radical and the reactionary, the clerical and the secularist, is a hope as tempting as it is fatuous. The initial success which had attended Bagot's efforts, the enthusiasm of his reception in French Canada, concealed for the moment the difficulties of the peaceful reunion which he proposed. At Montreal the governor had been received by a "procession upwards of a mile in length, while the hundred banners and flags which fluttered in the gentle breeze, together with the animating strains of martial music, formed a *tout ensemble* which had never before been witnessed in Canada."¹

"The millenium," wrote a British correspondent, a month or two later, "has certainly arrived. Lord Ashburton has settled all difficulties between John Bull and Brother Jonathan, and the lion and the lamb are seen lying down together in Sir Charles Bagot's cabinet." This last allusion referred to the elevation of Francis Hincks and Henry Sherwood to executive office. On June 9th, 1842, Hincks was given the post of inspector-general. Previous to the union this position (in each province) had been of a somewhat routine character, the chief duties of its incumbent being to vouch for the correctness of the warrants

¹ New York *Albion*, Saturday, June 4th, 1842.

HINCKS IN OFFICE

issued on the receiver-general.¹ But even in Sydenham's time it was intended that the office should be converted into what might be called a ministry of finance, and that the inspector-general should hold a seat in the legislature as the official exponent of the financial policy of the government. The voluntary retirement of the Hon. John Macauley of Kingston, inspector-general for Upper Canada, had made an opening, and Hincks was accordingly given the position of inspector-general of Canada, while the former incumbent of the office in Lower Canada was made deputy-inspector for the united provinces.

It had been charged against Hincks that, even during the preceding session of the parliament, the prospect of this office had been held out as a bait to allure him from his allegiance to the Reformers. But according to his own statement² no approaches of this kind were made to him at all during the year 1841. Nor did he intend, in accepting a seat in the executive council, which was to accompany the inspectorship, to forego any of his previous principles. In his address to his Oxford constituents on the occasion of his reëlection on appointment to office, he said: "I have accepted office without the slightest compromise of my well-known political principles, and I shall not continue to hold it unless the administration with which I am connected shall

¹ Hincks, *Reminiscences*, p. 81.

² *Reminiscences*, p. 80.

BALDWIN LAFONTAINE HINCKS

be supported by the public opinion of the country." Nevertheless the bitter comments of the rival factions on Hincks's appointment showed already the impossibilities of a general reconciliation. "The appointment of Mr. Hincks to the lucrative and important office of inspector-general," said a contemporary journalist,¹ "has been received with strong expressions of disapproval by the great bulk of the *loyal party* of the province. . . . Mr. Hincks has long conducted a journal which has been accused of ministering sedition to its readers, and at the breaking out of Mackenzie's rebellion he stood with his arms folded, rendering no assistance towards quelling the atrocious attempt of that mountebank. . . . It is for these reasons that the honours now bestowed on him are so objectionable to a great part of the people." It will be noted that both now and later it was an article of faith with the Tories that they were the only *loyal* part of the population, a fiction which rendered any political compromise with them all the more difficult to effect.

In order to offset the appointment of Hincks, Bagot at the same time offered the post of solicitor-general for Upper Canada to Cartwright, a leading member of the MacNab party. Cartwright declined the office, and forwarded to Sir Charles Bagot a letter in explanation of his refusal. The recent appointment, he said, had been viewed with disapproval by

¹ Correspondent of the New York *Albion*, July 2nd, 1841.

CABINET CONSTRUCTION

the Conservative party to which he belonged. He construed it as an evidence that the government was indifferent to the political principles of its supporters, even when their principles were unfriendly to British supremacy. The cry for responsible government was a danger to the country, and was a request incompatible with the position of Canada as a British colony. Of this dangerous movement, Mr. Hincks had been the "apologist." He had been the defender of Papineau and Mackenzie up to the very moment of the rebellion. To go into a government with "this individual" would ruin Mr. Cartwright's character as a public man.¹ As Mr. Cartwright's objections appeared invincible, the post was offered to one of his fellow Conservatives, Henry Sherwood, a lawyer of Toronto. Mr. Sherwood, contrary to the expectation of his party, accepted the office, entering upon his duties in July, 1842. The ministry was therefore (in the month of August, 1842) of a decidedly multi-coloured complexion, containing as it did, representatives of the Tories, the Reformers, and of the old council. But it was the intention of Bagot to carry his principle of combination still further, and to enlist, if possible, the services of the two men most influential in the country, Baldwin and LaFontaine. Of LaFontaine's support the governor felt a particular need.

¹ See N. F. Davin, *The Irishman in Canada*, p. 478.

BALDWIN LAFONTAINE HINCKS

The ministry contained no French-Canadians, and of the special offices which were concerned exclusively with the affairs of Lower Canada, one (the office of solicitor-general) had been rendered vacant by the elevation of Mr. Day to the bench, while the incumbent of another (Ogden, the attorney-general) was absent in England. It was becoming clear that, unless a reconstruction could be effected, the present ministry would be left almost unsupported in the House. Mr. Draper seems to have accepted the situation with philosophic resignation. He was quite ready, if need be, to resign his own place, and he harboured no delusions about his ability to carry on the government with inadequate support. The meeting of parliament at Kingston (September 8th, 1842) was made the occasion of an attempt on the part of the governor to complete his system of coalition. His speech from the throne, while referring to the prosperous financial position of the government and the rapid progress of the public works undertaken, expressed an ardent wish that "a spirit of moderation and harmony might animate the counsels of the parliament." The debate on the address in answer to the speech was fixed for Friday, September 13th. On that afternoon the governor, who had already been in personal consultation with LaFontaine, wrote to him in the following terms:—

LAFONTAINE APPROACHED

“Government House,
“Kingston, September 13th, 1842.

“Sir :

“Having taken into my most earnest and anxious consideration the conversation which passed between us, I find my desire to invite to the aid of, and cordial coöperation with my government the population of French origin in this province, unabated. . . . I have, therefore, come, not without difficulty, to the conclusion that, for such an object, I will consent to the retirement of the attorney-general, Mr. Ogden, from the office which he now holds, upon its being distinctly understood that a provision will be made for him commensurate with his long and faithful services. Upon his retirement I am prepared to offer to you the situation of attorney-general for Lower Canada with a seat in my executive council. . . .

“Mr. Baldwin’s differences with the government have arisen chiefly from his desire to act in concert with the representatives of the French portion of the population, and, as I hope these differences are now happily removed, I shall be willing to avail myself of this service. Mr. Draper has tendered me the resignation of his office. I shall always regret the loss of such assistance as he has uniformly afforded me, and I shall feel the imperative obligation of considering his claims upon the government, whenever an opportunity may offer of adequately acknowledging them. . . .

BALDWIN LAFONTAINE HINCKS

“From my knowledge of the sentiments entertained by all the gentlemen who now compose my constitutional advisers, I see no reason to doubt that a strong and united council might be formed on the basis of this proposition. In this persuasion I have gone to the utmost length to meet and even to surpass your demands, and if, after such an overture, I shall find that my efforts to secure the political tranquillity of the country are unsuccessful, I shall at least have the satisfaction of feeling that I have exhausted all the means which the most anxious desire to accomplish the great object has enabled me to devise.

“I have the honour, etc,

“C. BAGOT.”

The promise was given in the same letter that the position of solicitor-general for Lower Canada should be filled according to LaFontaine's nomination, provided only that the person nominated was British. The commissionership of Crown lands was likewise to be offered to M. Girouard, a former associate and friend of LaFontaine during the constitutional struggle preceding the rebellion. At the same time a pension was to be granted to Mr. Davidson, the previous commissioner, an old servant of the government. That the proposal thus made went a long way towards meeting the demands of the Reform party can be seen by reading the comments on it in the Tory press, when the letter was subsequently read out in the assembly by Mr. Draper as a proof

LAFONTAINE REFUSES OFFICE

of the intractable attitude of the Reformers. "Incredible and humiliating as it may appear," said the *Toronto Church*, "it was really written by Sir Charles Bagot to Mr. LaFontaine. . . . A Radical ministry cannot last long. Loyal men need not despair; *they have God on their side*. We must begin to agitate for a dissolution of the union between Upper and Lower Canada, or a federal union of all the British North American provinces." It will be seen from this that the exasperated Tories claimed a monopoly, not only of loyalty to the Crown, but even of the sheltering protection of Providence.

Flattering as was Sir Charles Bagot's proposal, LaFontaine, after hurried consultation with his future colleague, did not see fit to accept it. It had been the aim of the Reform leaders not merely to obtain office for themselves personally but to force a resignation of the whole ministry, to be followed by a cabinet reconstruction in due form. Even with Draper absent, there were several members of the existing administration, notably Sherwood, the Tory solicitor-general just appointed, with whom they would find it difficult to coöperate. To accept the responsibility of providing pensions for Ogden and Davidson seemed to LaFontaine, wrongly perhaps, a bad constitutional precedent. The suggestion of giving pensions was not indeed without defence, under the circumstances. Davidson was an old public servant who had taken no active part in politics,

BALDWIN LAFONTAINE HINCKS

and who had no wish to continue to hold an office which was now to be made a subject of party appointment and dismissal.¹ The office held by Ogden had also been non-political at the time of his assuming it. But a further objection to the proposal lay in the fact that the united Reformers were in complete command of the situation, and could afford to insist on better terms of entry upon office than those offered by Sir Charles Bagot.

Foiled in the plan of friendly reconstruction, there was nothing for it for the government but to fight its way with the address as best it might. The resolutions for the adoption of a cordial response to the speech from the throne were the signal for a debate of unusual interest and excitement, during which the galleries of the legislative chambers were packed with eager listeners who felt that the fate not only of the government, but of the system of government, hung on the issue. The newspapers of the day testify to the intense interest occasioned by the prospect of the approaching trial of strength. "This afternoon," writes the *Toronto Herald* of September 13th, "the great battle commenced. The war is even now being carried into the enemy's camp—excitement increases—members rave—the people wax furious—and where it will end no one can guess." "The House was so crowded," complained a local journalist, "that we were unable to obtain any space for

¹ Hincks, *Political History of Canada*, (a lecture) 1877, p. 26.

DRAPER AND LAFONTAINE

writing in, and had to rely on our recollection for an abstract of the day's proceedings."¹

Mr. Draper was too keen a fighter to surrender tamely and without a struggle. He addressed the House in what was called by the *Kingston Chronicle*, "one of the most splendid and eloquent speeches we have ever heard." He submitted to the consideration of the assembly an account of the unsuccessful attempt to obtain the services of LaFontaine in the government. It had been recognized, he said, that it was absolutely right that the gentlemen representing the population of French Canada should have a share in the administration of affairs. It had not escaped attention that an alliance had been formed between the representatives of French Canada and the honourable member for Hastings. When the government had opened negotiations with the honourable member for the fourth riding of York (Mr. LaFontaine), it had appeared that the inclusion of Mr. Baldwin in the government was made a *sine qua non*. He (Mr. Draper) had felt that he could not remain in the council if Mr. Baldwin were brought into it. It was for this reason that he had tendered his resignation. Mr. Draper then read aloud the governor's letter to LaFontaine. On what grounds His Excellency's proposal had been declined he would leave to the honourable members opposite to explain.

¹ Correspondence of *Toronto Herald*.

BALDWIN LAFONTAINE HINCKS

LaFontaine and Baldwin both spoke in answer. LaFontaine spoke in French. At the opening of his speech he was interrupted by a member asking him to speak in English. LaFontaine refused. "Even were I as familiar with the English as with the French language," he said, "I should none the less make my first speech in the language of my French-Canadian compatriots, were it only to enter my solemn protest against the cruel injustice of that part of the Act of Union which seeks to proscribe the mother tongue of half the population of Canada." In the course of his speech LaFontaine dwelt upon the unfair position in which French Canada was placed and its lack of representation in the cabinet. He had no wish for office unless his acceptance of it should mean the introduction of a new régime. In default of that, "in the state of enslavement in which the iron hand of Lord Sydenham sought to hold the people of French Canada, in the presence of actual facts which still bespeak that purpose, he had (in refusing), but one duty to fulfil,—that of maintaining that personal honour which has distinguished his compatriots and to which their most embittered enemies are compelled to do homage."

Baldwin, following LaFontaine with an amendment to the address embodying a declaration of want of confidence, was able to feel that his hour of triumph had come. The government at the close of the last session had acquiesced in the resolutions affirming the principle of responsible

ATTACK ON THE GOVERNMENT

government; these they must now repudiate or inevitably find themselves out of office. Baldwin could scarcely be called an eloquent speaker. His language was often cumbrous and was devoid of imagery. But in moments such as the present he was able to present a clear case with overwhelming force.¹ He challenged the government to abide by the principle which they had avowed. In that principle lay the future safety of the imperial connection and the union of the Canadas. "I will never yield my desire," he said, "to preserve the connection between this and the mother country: and although it is said a period must arrive demanding a separation, I, for my part, with the principle that has now been avowed being acted on, cannot subscribe to that opinion. If a conciliatory policy is adopted towards all the people of this country, such an opinion could have no existence. I was, and still am, an advocate of the union of the provinces, but an advocate not of a union of parchment, but a union of hearts and of free born men."

If, the speaker continued, the ministry believed it but an act of justice to the Lower Canadians to call some of their representatives to the councils of their sovereign's representative, why had they kept this conviction pent up in their own minds without the manliness to give it effect? They admitted the justice of the principle but had not the manliness to give it effect. Out of

¹ *Kingston Chronicle and Gazette*, September 17th, 1842.

BALDWIN LAFONTAINE HINCKS

their own mouths they stood convicted. Other members joined in the debate. Aylwin denounced the government in unstinted terms. The letter to LaFontaine, he said, was a trick. It was intended to increase discord. Mr. Draper had said that he was unwilling to remain in office as a colleague of Mr. Baldwin. He could not act with the master, but he had no objection to acting with the disciple. This sneering allusion to Hincks provoked from that member an embittered denial of the aptness of the phrase. He had never been, he said, a *disciple* of Robert Baldwin; the great question on which they had agreed, and for which they had acted together, had been responsible government; that was now settled and conceded. The policy of the administration had been worthy of support, and he had supported it.

The attack thus opened on the government waged hotly through the sitting of the afternoon and evening. Barthe of Yamaska, Viger and others joined in the onslaught. When the debate was at last adjourned, a little before midnight, it was plain to all that if a vote should be taken on Baldwin's amendment the government must inevitably succumb. It was in vain that Sullivan in the Upper House had undertaken the defence of the government with his usual brilliance and power; in vain that he had tried to show that the Reformers were merely a party of obstruction, bent on impeding the legitimate operation of government for their

GREAT EXPECTATIONS

own selfish ends. "Are we," he cried, "to carry on the government fairly and upon liberal principles, or *by dint of miserable majorities?* by the latter or by the united acclamations of the people? We wish to know, in fact, whether there is sufficient patriotism to allow us to work for the good of the people."

The argument against miserable majorities, whatever it might mean to a philosopher, was powerless to meet the situation or to save the government from its imminent defeat. Great, therefore, was the expectation of the public for a renewal of the struggle on the following day. The halls and galleries of the legislature were packed with an expectant audience. All the greater was the surprise of the spectators to find that the storm which had raged so fiercely in the House had now suddenly and entirely subsided. Very obviously something had happened. The members of the assembly, who yesterday had appeared instinct with an eager intentness, now sat with quiet composure in their luxurious chairs of "green moreen," meditating in silence or even chatting and joking with their fellows. There was for a moment a thrill of expectation in the audience when Hincks arose; he, if any one, might be expected, with his incisive speech and telling directness, to precipitate an encounter.¹ But, to the disappointment of the listening crowd in the galleries, the inspector-general merely moved

¹ See N. F. Davin, *The Irishman in Canada*, p. 481.

BALDWIN LAFONTAINE HINCKS

that the debate on Mr. Baldwin's amendment should be postponed till Friday. The quiet acceptance of this proposal by the House showed that the majority of the members were aware of its meaning. The government, unable to face the rising storm of opposition, had capitulated. Mr. Draper's resignation was again to be handed in, and a general reconstruction of the ministry was to be effected. Some few of the members ventured an immediate protest. Dr. Dunlop, an "independent" member for Huron, known as "Tiger Dunlop,"¹ denounced the contemplated adjustment. The political transformation that seemed about to be accomplished would introduce, he said, within a space of twenty-four hours, changes as extraordinary as those witnessed by Rip Van Winkle after a lapse of twenty years. The new ministry that was in the making would be as composite as Nebuchadnezzar's dream; he would not be invidious enough to say who would be the head of gold or who the feet of brass, but the greater part of it he feared would be of dirt.

In despite, however, of Dr. Dunlop's sallies and the loud outcry of the Tory press, the proposed arrangement was carried to its completion. Baldwin withdrew his amendment; Mr. Draper resigned, and LaFontaine and his colleague entered upon

¹ The epithet did not refer to the Doctor's pugnacity, but to his record as a tiger slayer in India. See W. J. Rattray, *The Scot in British North America*, Vol. II., pp. 445 et seq.

RESIGNATION OF DRAPER

office. The change effected was not a complete change of cabinet, inasmuch as Hincks, Killaly, Sullivan and three others still remained in office. As Hincks has pointed out, the name, "LaFontaine-Baldwin ministry" commonly applied to the new executive group is therefore inaccurate.¹ Sullivan was in reality the senior member of the council. But in the wider sense of the term the designation, "LaFontaine-Baldwin ministry," indicates the essential principle of its reconstruction, and, as a matter of historical nomenclature, has long met with a general acceptance. The formation of the ministry involved a certain element of compromise. The disputed question of the pensions was left as a matter of individual voting, and in the sequel was satisfactorily arranged, Ogden being given an imperial appointment and Davidson a collectorship of customs. It was not, according to Hincks,² definitely and formally stipulated that the ministers left over from the old ministry should retain their seats on condition of conforming to the policy of their new chiefs. But, with the exception of Sullivan, their known opinions were such as to render this conformity more or less a matter of course. The ministry as finally constituted—the change occupied two or three weeks—was as follows:—

L. H. LaFontaine, attorney-general for Lower

¹ *Political History of Canada*, p. 27.

² *Op.cit.*, p. 25.

BALDWIN LAFONTAINE HINCKS

Canada ; Robert Baldwin, attorney-general for Upper Canada ; R. B. Sullivan, president of the council ; J. H. Dunn, receiver-general ; Dominick Daly, provincial secretary for Lower Canada ; S. B. Harrison, provincial secretary for Upper Canada ; H. H. Killaly, president of the department of public works ; F. Hincks, inspector-general of public accounts ; T. C. Aylwin, solicitor-general for Lower Canada ; J. E. Small, solicitor-general for Upper Canada ; A. N. Morin, commissioner of Crown lands. The last named office had been declined by Mr. Girouard, whose name had been mentioned in Sir Charles Bagot's letter, and was, at LaFontaine's suggestion, conferred upon Morin, his most intimate friend and political associate.

The incoming ministers, in accordance with parliamentary practice, now resigned their seats and submitted themselves to their constituents for re-election. The election of LaFontaine in what the Tories called his "rotten borough" of the fourth riding of York, was an easy matter. Baldwin, on the other hand, encountered a stubborn opposition. The following newspaper extracts (both taken, it need hardly be said, from journals opposed to the new ministry) may give some idea of the elections of the period and the virulence of the party politics of the day.

"The Hastings election commenced on Monday. At half past ten the speeches began and lasted till three. Although Mr. Baldwin came in with a large

DEFEAT OF BALDWIN

procession and Mr. Murney had none, yet the latter was listened to with extreme attention, and spoke admirably. Mr. Baldwin could not be heard half the time, there was incessant talking while he spoke. At five o'clock on Tuesday evening the poll stood thus:—Murney, 130; Baldwin, 124. The poll does not close till Saturday night. Let every loyal man consider that on his single vote the election may depend, and let him immediately hasten and record it for Murney.

“The fourth riding election commenced on Monday. William Roe, Esq., a popular and loyal man, resident at Newmarket, opposes Mr. LaFontaine. The poll is held at David-town (fit place!). By the last accounts the votes stood thus:—LaFontaine, 191; Roe, 71. Mr. Roe was recovering his lost ground and will fight manfully to the last. Every out-voter should repair to his aid. Saturday will not be too late.”

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“The Hastings election has terminated in favour of Mr. Murney. The numbers at the last were:—Murney, 482; Baldwin, 433. A number of shanty-men having no votes were hired by Mr. Baldwin's party to create a disturbance. They did so, and ill-treated Mr. Murney's supporters. The latter, however, *rallied and drove their dastardly assailants from the field.* Two companies of the 23rd Regiment were sent from Kingston to keep the peace, and polling was most unjustly discontinued for one

BALDWIN LAFONTAINE HINCKS

day. The returning officer, Mr. Sheriff Moodie, is described to us, on good authority, as having entirely identified himself with the Baldwin party. He has made such a return as will prevent Mr. Murney from taking his seat, and no doubt the tyrannical and anti-British majority in the House will sustain him in any injustice, especially if it be exceedingly glaring.”

A less prejudiced journal¹ gives the following more impartial account of the same proceedings:—“On Wednesday, (October 5th), it appears that bodies of voters, armed with bludgeons, swords, and firearms, generally consisting of men who had no votes but attached to opposite parties, alternately succeeded in driving the voters of Mr. Baldwin and Mr. Murney from the polls. . . . One man had his arm nearly cut off by a stroke of a sword, and two others are not expected to live from the blows they have received. All the persons injured whom we have mentioned were supporters of Mr. Baldwin, but we understand that the riotous proceedings were about as great on the one side as the other.”

Baldwin was of course compelled to seek another constituency. The election in the second riding of York had been declared void and Baldwin was put up as a candidate by well-intentioned friends, in despite of the fact that he had already arranged

¹ The Prince Edward *Gazette*, quoted by J. C. Dent, *Canada Since the Union*, Vol. I., p. 248.

BALDWIN ELECTED BY RIMOUSKI

to offer himself to a Lower Canadian constituency. The upshot was that Baldwin, who made no canvass of the York electors, was again beaten. But his allies in French Canada were now only too anxious to make a fitting return for his action in this respect towards LaFontaine. For the debt of gratitude incurred, an obvious means of repayment suggested itself. Several French-Canadian members offered to make way for the associate of their leader. Baldwin accepted the offer of Mr. Borne, the member for Rimouski, for which constituency he was finally elected (January 30th, 1843), but not until after the session had closed.

The incoming of the first LaFontaine-Baldwin ministry as thus constituted, offers an epoch-making date in the constitutional history of Canada. It may with reason be considered the first Canadian cabinet,¹ in which the principle of colonial self-government was embodied. This is not to say that it marks the establishment of responsible government in Canada, for to assign a date to that might be a matter of some controversy. Durham had recommended responsible government; Russell in his celebrated despatch had indicated, somewhat vaguely, perhaps, the sanction of the home government to its adoption; Sydenham had evaded, if not denied, it. Even after this date, as will appear

¹ "Canadian" in this sense refers to the two provinces then known as Canada. A responsible ministry had already been seen in Nova Scotia. See in this connection, Hon. J. W. Longley, *Joseph Howe* (Makers of Canada Series), Chapters iii, iv.

BALDWIN LAFONTAINE HINCKS

in the sequel, Metcalfe refused to accept it as the fundamental principle of Canadian government. Not until the coming of Lord Elgin can it be said that responsible government was recognized on both sides of the Atlantic as a permanent and essential part of the administration of the province. But it remains true that in this LaFontaine-Baldwin ministry we find for the first time a cabinet deliberately constituted as the delegates of the representatives of the people, and taking office under a governor willing to accept their advice as his constitutional guide in the government of the country.

The distinct advance that was thus made in the political evolution of the British colonial system becomes more apparent upon a nearer view of the attendant circumstances of the hour. At the present day the people of Britain and the British colonies have become so accustomed to the peaceful operation of cabinet government that they are inclined to take it for granted as an altogether normal phenomenon, the possibility and the utility of which are self-evident. It is no longer realized that responsible government, like the wider principle of government by majority rule, rests after all upon convention. Unless and until the minority of a country are willing to acquiesce in the control of the majority, the whole system of vote counting and legislation based on it is impossible. In a community where the voters defeated at the polls resort to violence and rebellion, majority rule loses

THE NEW MINISTRY

its political significance, for this significance lies in the fact that it has become a general political habit of the community to accept the decision of the majority of themselves. On this presumed consensus, this general agreement to submit if voted down, rests the fabric of modern democratic government. The same is true, also, of the particular form of democratic rule known as cabinet or responsible government: it presupposes that the beaten party recognize the political right of their conquerors to take office; that they will not consider that the whole system of government has broken down merely because they have been voted out of power; nor meditate a resort to violent measures, as if the political victory of their opponents had dissolved the general bonds of allegiance. So much has this party acquiescence become in our day the traditional political habit, that in British, self-governing countries His Majesty's ministers and His Majesty's Opposition circulate in and out of office with decorous alternation, each side recognizing in the other an institution necessary to its own existence. But at the period of which we speak the case was different. To the thorough-going Tories the admission to office of LaFontaine, Baldwin and their adherents seemed a political crime. Loyalty raised its hands in pious horror at the sight of a ministry whom it persisted in associating with the lost cause of rebellion and sedition, and one of whose two leaders was under the permanent stigma

BALDWIN LAFONTAINE HINCKS

attaching to an alien name and descent. Even the traditional lip service due to colonial governors was forgotten, and the Tory press openly denounced Bagot as a feeble-minded man led astray by a clique of seditious and irresponsible advisers.

The journals of the autumn of 1842 are filled with denunciations of the new government. "If the events of the past few weeks," wrote the *Montreal Gazette*, "are to be taken as a presage of the future—and who doubts it?—Lower Canada is no longer a place of sojourn for British colonists. A change has come over the spirit of our dream in the last few weeks, so sudden, so passing strange, that we have been scarcely able to comprehend its nature and extent. By degrees, however, the appalling truth develops itself. *Every post from Kingston confirms the fact that the British party has been deliberately handed over to the vindictive disposition of a French mob*, whose first efforts are directed towards the abrogation of those laws which protect property and promote improvement. Every step in the way of legislation since the 8th ultimate, has been a step backward, and the heel falls each time, with insulting ingenuity, on the necks of the British. 'Coming events cast their shadows before.' They are cast broadly and ominously, almost assuming in our sad and most reluctant eyes, the mysterious characters of sacred writ—MENE, MENE, TEKEL, UPHARSIN."

ATTACKS ON BAGOT

The Montreal *Transcript* was even more outspoken in its denunciation. "To a governor without any opinion of his own and ready to veer about at every breath of opposition, no worse field could have been presented than Canada. Were His Excellency only resolute, the presence of three or four men in his cabinet could not avail to render him powerless and passive. But from the moment that the patronage of the Crown was surrendered, in such an unexampled manner, to such men—from the moment a seat in the cabinet was offered and pressed upon a man¹ who had fought in open rebellion and faced the fire of British musketry in a mad attempt to carry out his hostility to the government that then was—from that moment the governor placed himself with his hands tied in the power of his new advisers." Another leading Conservative paper did not scruple to say that the "composition of the present cabinet is the germ of colonial separation from the mother country."

One can understand how great must have been the difficulties of Bagot's situation. It was not possible for him merely to fold his hands and to announce himself, with general approval, as the long-desired constitutional governor. If he attempted to actually govern, the Reformers would be up in arms; if he left the government to his ministers, he must face the outcry of the Tory faction. The

¹ The reference is to Mr. Girouard who is said to have fought at St. Eustache.

BALDWIN LAFONTAINE HINCKS

ideal of one party was the abomination of the other. The French press was of course loud in its praise of the new policy. "To-day," said *La Minerve*, in speaking of the formation of the ministry, "commences a new era, and one which will be signalized by the administration of equal justice towards all our fellow-citizens and the return of popular confidence in the government." "The great principle of responsibility," said the same journal, "is thus formally and solemnly recognized by the representative of the Crown, and sealed with the approbation of the assembly. From this epoch dates a revolution, effected without blood or slaughter, but none the less glorious." But the more the French press praised Bagot's action, the more did the "loyal" newspapers denounce it, subjecting the governor to personal criticism and abuse entirely out of keeping with the system he laboured to introduce. "To hear the stupid *Aurore* and the venomous *Minerve* lauding a British governor," declared the *Toronto Patriot*, "is surely proof plain that he is not what he might be; that he is a changed man and not worthy of the cordial sympathy of the Conservative and loyal press of Canada." It is small wonder that Bagot's health began to suffer severely from the anxiety and distress of mind occasioned by these malignant attacks upon his character.

A proper appreciation of the state of public feeling evidenced by such extracts renders clear the great significance of the LaFontaine-Baldwin alli-

FRENCH AND ENGLISH

ance in the history of Canada. Its importance is of a double character. It afforded, in the first place, an object lesson in the principle of responsible government; for it showed in actual operation a group of ministers united in policy, backed by an overwhelming majority in the popular branch of the legislature, and receiving the constitutional approval of the governor, of whom they were the advisers. Henceforth responsible government, the "one idea" of Robert Baldwin, was no longer merely an "idea"; it was a known and tried system whose actual operation had proved its possibility. Its trial, indeed, in the present case was but brief, yet brief as it was, it remained as an ensample for future effort. But the new government had a further significance. It indicated the only possible policy by which the racial problem in the political life of Canada could find an adequate solution. To the old-time Tory the absorption, suppression, or at any rate the subordination of French Canada seemed the natural, one might say the truly British and loyal, method of governing the united country. From now on a new path of national development is indicated in the alliance and coöperation of the two races, each contributing its distinctive share to the political life of the country, and each finding in the other a healthful stimulus and support. This is the principle, entirely contrary to the doctrines of the older school, first introduced by the alliance of Baldwin and LaFontaine, which has since governed the

BALDWIN LAFONTAINE HINCKS

destinies of Canada. On the validity of this principle the future of the country has been staked.

If we pass from the general consideration of the ministry before us to the legislative history of its first session, there is but little to record. The session was but of a month's duration (September 8th to October 12th, 1842), the new ministers during the first part of it were still seeking reëlection, and time was lacking for a wide programme of reform. Such measures as were carried, however, indicated clearly the policy which it proposed to follow: to conciliate the people of French Canada by removing some of the more burdensome restrictions imposed by the special council and to make at least a beginning of a programme of reform, was the cardinal aim of the government. The first law placed upon the statute-book for the session—the law in regard to elections—evinced this latter purpose. The elections of the day were notoriously corrupt. Fraud and violence had been the rule rather than the exception. Under the existing system there was but a single polling place for each constituency, an arrangement which favoured riotous proceedings and the assemblage of tumultuous crowds. The new election law¹ provided that there should be a separate polling place in each township or ward of every constituency, and that each elector should vote at the polling place of the district where his property

¹ *Statutes of Canada*, 6 Vict., c. 1.

NEW ELECTION LAW

was situated. Electors might be put on oath as to whether they had already voted. The polls were to stay open only two days. An oath in denial of bribery could be imposed on any voter, if it were demanded by two electors. Firearms and other weapons might be confiscated by the returning officer, under penalty, in case of resistance, of fine and imprisonment. Under similar penalties it was forbidden to make use of ensigns, standards or flags, "as party flags," to distinguish the supporters of a particular candidate, either on election day or for a fortnight before or after; a similar prohibition was laid down against "ribbons," "labels" and "favours" used as party badges. These last clauses offered an easy mark for the raillery of the Conservative press, and offered a favourable opportunity for wilful misinterpretation by pressing into service the never-failing Union Jack and British loyalty. The *Patriot* of Toronto speaks as follows of the tyranny of the election law:—

"This law also prohibits, under penalties of fines of fifty pounds, and imprisonment for six months, or both, the exhibiting of any ensign, standard, colour, flag, ribbon, label or favour, whatever, or for any reason whatsoever, at any election or on any election day, or within a fortnight before or after such a day!!! So that any body of honest electors who for a fortnight before or after an election (being a period of one month), *shall dare to hoist the Union Jack of Old England*, or wear a

BALDWIN LAFONTAINE HINCKS

green or blue ribbon in the button-hole, shall be fined fifty pounds or imprisoned six months, or both, under Mr. Baldwin's election bill. We defy the whole world to match this bill for grinding and insupportable tyranny. Verily, Messrs. LaFontaine and Baldwin, ye use your victory over the poor, loyal serfs of Canada with most honourable moderation! How long this Algerine Act will be allowed to pollute our statute-book remains yet to be seen."¹

Another statute² of the session undertook to remedy the injustice done by Lord Sydenham towards the city constituencies of Montreal and Quebec. He had used the power conferred upon him under the Act of Union³ to reconstruct these constituencies by separating the cities from the suburbs⁴; under the present statute the "ancient boundaries and limits" of the cities were restored. A further reversal of Lord Sydenham's policy was seen in the repeal⁵ of a series of ordinances by which the special council had undertaken to alter the system of law courts in Lower Canada. Sydenham's Act in reference to winter roads in Lower Canada, a needlessly officious piece of legislation,

¹ *Toronto Patriot*, October, 1842.

² 6 Vict. c. 16.

³ Section 21.

⁴ Letters patent March 4th, 1841.

⁵ By a statute 6 Vict., c. 13, the ordinances were 3 and 4 Vict., c. 45; 4 Vict. c. 15 and 4 Vict. 19.

END OF THE SESSION

was also partially repealed.¹ A special duty of three shillings a quarter was imposed upon wheat from the United States; a loan of one million, five hundred thousand pounds sterling was authorized, and the sum of eighty-three thousand, three hundred and six pounds was voted for the civil list. A resolution was, moreover, passed by a large majority of the assembly (forty against twenty) declaring that Kingston was not suitable to be the seat of government. The session came to an end on October 12th, 1842. A useful beginning had been made but no legislation of a sweeping character had been passed. The adversaries of the government did not hesitate to taunt the ministry with having promised much and done little. "After all the *rumpus* about responsible government," said the *Woodstock Herald*, "the session is over, and we are all just as we were—waiting for something, we scarcely know what. But we all know that the parliament has shown itself nothing but a debating club."

At the time of their first ministry both LaFontaine and Baldwin may be said to have been entering upon the prime of life. Baldwin was thirty-eight years old, LaFontaine only thirty-four. In personal appearance they presented in many ways a contrast. LaFontaine was a man of striking presence, of more than ordinary stature, and robust and powerful

¹ The clause repealed had enacted that horses when driven double must be driven abreast. This was intended to improve the sleighing.

BALDWIN LAFONTAINE HINCKS

frame. His massive brow and regular features, the thoughtful cast of his countenance and the firm lines of the mouth, offered an almost exact resemblance to the face of the Emperor Napoleon. On his visiting the Invalides in Paris, LaFontaine was surrounded by the veterans of Napoleon's guard, who are said to have thrilled with emotion at seeing among them the walking image of their dead emperor. When Lady Mary Bagot, who remembered the emperor, saw LaFontaine for the first time she could not repress an exclamation of astonishment. "If I was not certain that he is dead," she cried, "I should say it was Napoleon." The habitual gravity of LaFontaine's manner and the dignity of his address enhanced still further the impression of power conveyed by his firm features and steady eye. His colleague was a man of different type and less striking in general appearance. In stature Baldwin stood rather above the average, being about five feet ten inches in height, though his heavy frame and the slight stoop of his broad shoulders prevented him from appearing a tall man. His eyes were grey and his hair of a dark brown, as yet untinged with grey. The features were lacking in mobility and the habitual expression of his face was that of serious thought, but the extreme kindness of his heart and the truthfulness of his whole being, coupled with a manner that was unassuming and free from conceit, lent to his address a suggestion of rugged honesty and force and extreme

ILLNESS OF BAGOT

gentleness, that won him the unfailing affection of those about him.

As the autumn progressed, disquieting rumours began to prevail in regard to the state of the governor-general's health. It is a strange thing that thrice running the destinies of Canada should have been profoundly affected by the premature death of those sent out to administer its government. "Canada has been too much for him," John Stuart Mill had said of Lord Durham. With equal truth might it be said that Canada had proved too much for Sir Charles Bagot. The governor had come to the country in excellent health. The firm and vigorous tone in which he had read his first and only speech from the throne had been the subject of general remark, and had seemed to indicate that Bagot was destined for a vigorous old age. But the cares of office weighed heavily upon him. He had not anticipated that his policy of good-will and conciliation would have exposed him to the bitter attacks of the discomfited Tories; still less had he expected that his conduct, as appears to have been the case, would have been an object of censure at the hands of the home government. It is undoubted that the symptoms of heart trouble and general decline which now began to appear were aggravated by the governor's sense of the failure of his mission as peacemaker, and by the distress caused by the crude brutality of his critics.

BALDWIN LAFONTAINE HINCKS

The autumn months of 1842 must indeed have been full of bitterness to Bagot. The opposition to his administration had assumed a personal note, for which the rectitude of his intentions gave no warrant. Organizations called Constitutional Societies, in remembrance of Tory loyalty before the rebellion, had sprung into new life. The parent society at Toronto¹ was reproduced in organizations in the country districts. The "anti-British policy of Sir Charles Bagot" was denounced in the plainest terms. His ministry was openly branded as a ministry of traitors and rebels. The influence of Edward Gibbon Wakefield and other private advisers was made a salient point of attack, and the governor was represented as surrounded by a group of counsellors—"the Hinckses, the Wakefields and the Girouards, remarkable for nothing but bitter hatred to monarchical and loyal institutions." The press of the mother country joined in the outcry. The *Times* undertook to demonstrate the folly of admitting to the ministry a man like LaFontaine, "who," it asserted, "had had a price set upon his head." The *Morning Herald*² went still further; it declared the whole system of representative institutions in Lower Canada a mistake. That province, it said, needed "despotic government,—strong, just and good—administered by a

¹ Organized. October 28th, 1842, or, as it was called, "reorganized." (from the Society of 1832).

² October 23rd, 1842.

THE BRITISH CABINET

governor-general responsible to parliament." "If Sir Charles Bagot be right," it argued, "then Lord Gosford and Sir Francis Head must have been wrong," which evidently was absurd.

In how far the British government itself joined in these censorious attacks cannot accurately be told, but Bagot had certainly received from Lord Stanley, the colonial secretary, letters condemning the policy he had seen fit to adopt. The Duke of Wellington had denounced the acceptance of the new Canadian ministry by the governor as surrendering to a party still affected with treason. "The Duke of Wellington," wrote Sir Robert Peel, "has been thunderstruck by the news from Canada. He considers what has happened as likely to be fatal to the connection with England. . . Yesterday he read to me all the despatches, and commented on them most unreservedly. He perpetually said, 'What a fool the man [Bagot] must have been, to act as he has done! and what stuff and nonsense he has written! and what a bother he makes about his policy and his measures, when there are no measures but rolling himself and his country in the mire!'" Even Peel himself felt by no means easy about the situation, nor did he accept the absolute validity of the constitutional principle as applied to Canadian government. "I would not," he wrote to Stanley, "voluntarily throw myself into the hands of the French party through fear of being in a minority. . . . I would

BALDWIN LAFONTAINE HINCKS

not allow the French party to dictate the appointment of men tainted by charges, or vehement suspicion, of sedition or disaffection to British authority, to be ministers."¹

As the winter drew on it was evident that Sir Charles could no longer adequately fulfil his duties. He was obliged to postpone the meeting of the parliament which was to have taken place in November. His physicians urgently recommended that he should relinquish his office, and the oncoming of a winter of unwonted severity still further taxed his failing strength. He forwarded to the home government a request for his recall. In view of his enfeebled condition, the government was able to grant his prayer without seeming to reflect upon the character of his administration. But Bagot was not destined to see England again. Though released from office on March 30th, 1843, the day on which he yielded place to Sir Charles Metcalfe, he was no longer in a condition to undertake the homeward voyage, and was compelled to remain at Alwington House, in Kingston. Six weeks later, (May 19th, 1843), his illness terminated in death. Before going out of office he had uttered a wish to his assembled ministers that they would be mindful to defend his memory. The prayer was not unnecessary, for the bitter invective of his foes was not hushed even in the presence of death.

¹ C. S. Parker, *Sir Robert Peel from his Private Papers* (London, 1899), Vol. I., pp. 379 *et seq.*

DEATH OF BAGOT

“Even when Sir Charles Bagot breathed his last,” says a chronicler of the time, himself a Tory and a disappointed place-hunter, “such was the exasperation of the public mind, that they (*sic*) scarcely accorded to him the common sentiments of regret which the departure of a human being from among his fellow-men occasions. . . . The Toronto *Patriot* in particular, the deadly and uncompromising enemy of the administration of the day, hesitated not to proclaim that the head of the government was an imbecile and a slave, while other journals, even less guarded in their language, boldly pronounced a wish that his death might free the country from the state of thralldom into which it was reduced.”¹ Every good cause has its martyrs. The governor-general had played his part honestly and without self-interest, and when the list of those is written who have up-built the fabric of British colonial government, the name of Bagot should find an honoured place among their number.

¹ Major Richardson, *Eight Years in Canada*, p. 213. Chapters xiv. and xv. of Richardson's work may be consulted for characteristic abuse of Sir Charles Bagot.

CHAPTER VI

THE COMING OF METCALFE

ON March 29th, 1843, the little town of Kingston was once more astir with expectancy and interest over the arrival of a new governor-general. Sir Charles Metcalfe had sailed from Liverpool to Boston, and thence had journeyed overland to Kingston, the country being in that inclement season "one mass of snow."¹ His journey terminated in a drive across the frozen lake and river, and a state entry, with no little pageantry, into his colonial capital. "He came," said a Kingston correspondent of the time, "from the American side, in a close-bodied sleigh drawn by four greys. He was received on arriving at the foot of Arthur Street by an immense concourse of people. The male population of the place turned out *en masse* to greet Sir Charles, which they did with great enthusiasm. The various branches of the fire department, the Mechanics' Institution and the national societies, turned out with their banners, which, with many sleighs decorated with flags, made quite a show. Sir Charles Metcalfe is a thorough-looking Englishman, with a jolly visage."

¹ The winter was exceptionally severe. "Governor Metcalfe," said a New York official at Albany, "you'll admit, I think, that this is a clever body of snow for a young country."

BALDWIN LAFONTAINE HINCKS

In the drama of responsible government in Canada, it was the unfortunate lot of this "thorough-looking Englishman with a jolly visage," to be cast for the part of villain. His attempt to strangle the infant Hercules in its cradle, to reassert the claim of the governor to the actual control of the administration, forms the most important and critical episode of the story before us and merits a treatment in some detail. Such a treatment may, perhaps, be best introduced by a discussion of the personality and personal opinions of the new governor, and in particular of his opinions on the vexed question of colonial administration. The word "villain" that has just been used, must be understood in a highly figurative sense. Metcalfe was a man of many admirers. Gibbon Wakefield has pronounced him a statesman "whom God made greater than the colonial office."¹ Macaulay indicates for him a perhaps even higher range of distinction in calling him, "the ablest civil servant I ever knew in India." His enthusiastic biographer² tells us that on his retiring from his administration of Jamaica, the "coloured population kneeled to bless him," while "all classes of society and all sects of Christians sorrowed for his departure, and the Jews set an example of Christian love by praying for him in their synagogues." In face of such a record it seems almost a pity that Sir Charles should have aban-

¹ Fisher's *Colonial Magazine*, July, 1844.

² J. W. Kaye, *Life of Lord Metcalfe*, 1859.

METCALFE'S OPINIONS

done the coloured populations of Jamaica and Hyderabad to assume the care of the uncoloured people of Canada. That Metcalfe was an upright, honourable man, disinterested in his motives and conscientious in the performance of what he took to be his duty, is hardly open to doubt. But it may well be doubted whether the antecedent training that he had received had not unfitted, rather than fitted, him for the position he was now called upon to assume.

In the British system a great gulf is fixed between the administration of a dependency and the governorship of a self-governing colony. Of the greatness of this gulf Metcalfe appears to have had no proper appreciation, and he was, in consequence, unable to rid his mind of the supposed parallel between the different parts of the empire in which he had been called upon to act as governor. In a letter which he addressed to Colonel Stokes, one of his Indian correspondents, during his troubles in Canada, he undertakes to make his difficulties with the Canadian legislature apparent by the following interesting analogy: "Fancy such a state of things in India, with a Mohammedan council and a Mohammedan assembly, and you will have some notion of my position." In view of the very limited number of Mohammedans in the Canadian assembly, it is to be presumed that the notion thus communicated would be a somewhat artificial one.

BALDWIN LAFONTAINE HINCKS

Sir Charles Metcalfe, at the time of his coming to Canada, was fifty-eight years old.¹ For some time previous he had been suffering from a dangerous and painful malady—a cancerous growth in the left cheek—which had occasioned his retirement from his previous position. An operation performed in England had seemed to remove all danger of a fatal termination of the disorder, and Sir Charles, in coming to Canada, hoped that he had at last recovered from his long affliction.

What may seem strange in connection with Metcalfe's régime in Canada, and his attitude towards Canadian political parties, was that he was not, as far as British politics were concerned, a Tory or a friend of the royal prerogative. He was, on the contrary, to use the words of his biographer, "a Whig and something more than a Whig." The same authority² has further described him as "a statesman known to be saturated through and through with Liberal opinions." Metcalfe himself, in a letter written shortly before his appointment, spoke of his own opinions and his political position in the following terms: "In the present predominance of Toryism among the constituencies, there is no chance for a man who is for the abolition of the Corn Laws, vote by ballot, extension of the suffrage, amelioration of the Poor Laws for the benefit of the poor, equal rights to all sects of

¹ He was born on January 30th, 1785.

² J. W. Kaye, *Life of Lord Metcalfe*, Vol. II., p. 452.

METCALFE ON CANADIAN PARTIES

Christians in matters of religion, and equal rights to all men in civil matters."¹

On the strength of such a declaration it might have been supposed that Metcalfe would have gravitated naturally towards the Reform party of Canada, at the basis of whose programme civil and religious equality and the doctrine of equal rights lay as a corner-stone. But the lamp of Metcalfe's Liberalism burned dim in the colonial atmosphere. His inclinations were all on the side of the Tory party, whose fervid and ostentatious loyalty offered a cheering contrast to the stiff-necked independence of the Reformers. "It is," he said, "the only party with which I can sympathize. I have no sympathy with the anti-British rancour of the French party or the selfish indifference towards our country of the Republican party. Yet these are the parties with which I have to coöperate." The expression, "Republican party," shows that the incessant accusation of disloyalty brought by the Conservative journalists against their opponents, was not without its effect upon the governor's mind. By sheer force of iteration the Conservatives had convinced themselves that they were the one and only section of the people truly loyal to the Crown; and since the governor was the immediate and visible representative of the Crown in Canada, there was a natural temptation to construe this attitude into a declaration of personal allegiance.

¹ Letter to Mr. Mangles, January 13th, 1843.

BALDWIN LAFONTAINE HINCKS

But although Metcalfe might plead guilty to a spontaneous sympathy with the Tory party, he had no intention of identifying or allying himself with any of the rival factions. On the contrary, he cherished, as had his predecessors, the belief that his proper attitude and vocation should be that of the peacemaker, the wise administrator enabled by the altitude of his office to compose the differences that severed his fractious subordinates. "I dislike extremely," he said, "the notion of governing as a supporter of any particular party. I wish to make the patronage of the government conducive to the conciliation of all parties by bringing into the public service the men of greatest merit and efficiency, without any party distinction."¹

The governor seems, however, to have recognized that he could not disregard the fact that the party at present in power had the support of the assembly behind them. "Fettered as I am," he wrote, "by the necessity of acting with a council brought into place by a coalition of parties, and at present in possession of a decided majority in the representative assembly, I must in some degree forego my own inclinations in those respects." It was his intention, he told the colonial secretary, to treat the executive council with the confidence and cordiality due to the station which they occupied, but he was prepared to *be on his guard against any encroachments*. This last

¹ Metcalfe to Stanley, April 24th, 1843.

METCALFE TO STANLEY

phrase touches the root of the matter. Of what nature were the "encroachments" which Metcalfe was determined not to permit? How did he interpret his own position in reference to the executive officers that were his constitutional advisers? What, in other words, was his opinion on the application of responsible government? The answer to this question can best be found by an examination of Metcalfe's own statements as they appear in his confidential correspondence with the colonial office.

"Lord Durham's meaning," he wrote,¹ "seems to have been that the governor should conduct his administration in accordance with public feeling, represented by the popular branch of the legislature, and it is obvious that without such concordance the government could not be successfully administered. There is no evidence in what manner Lord Durham would have carried out the system which he advocated, as it was not brought into effect during his administration. Lord Sydenham arranged the details by which the principle was carried into execution. In forming the executive council he made it a rule that the individuals composing it should be members of the popular branch of the legislature, to which, I believe, there was only one exception: the gentleman appointed to be president being a member of the legislative council. Lord

¹ Metcalfe to Stanley, April 24th, 1843. Metcalfe's colonial despatches can be found in the *Selections from the Papers of Lord Metcalfe*, (London, 1885, Ed., J. W. Kaye).

BALDWIN LAFONTAINE HINCKS

Sydenham had apparently no intention of surrendering the government into the hands of the executive council. On the contrary, he ruled the council, and exercised great personal influence in the election of members to the representative assembly. . . . I am not aware that any great change took place during that period of the administration of Sir Charles Bagot which preceded the meeting of the legislature, but this event was instantly followed by a full development of the consequences of making the officers of the government virtually dependent for the possession of their places on the pleasure of the representative body. The two extreme parties in Upper Canada most violently opposed to one another, coalesced solely for the purpose of turning out the office-holders, or, as it is now termed, the ministry of that day, with no other bond of union, and with a mutual understanding that having accomplished that purpose, they would take the chance of the consequences, and should be at liberty to follow their respective courses. The French party also took part in this coalition, and from its compactness and internal union, formed its greatest strength. These parties together accomplished their joint purpose. They had expected to do so by a vote of the assembly, but in that were anticipated by the governor-general, who in apprehension of the threatened vote of want of confidence in members of his council, opened negotiations with the leaders of the French party, and that negotia-

GOVERNOR AND MINISTRY

tion terminated in the resignation or removal from the council of those members who belonged to what is called by themselves the Conservative party, and in the introduction of five members of the united French and Reform parties. . . . *These events were regarded by all parties in the country as establishing in full force the system of responsible government of which the practical execution had before been incomplete. From that time the tone of the members of the council and the tone of the public voice regarding responsible government has been greatly exalted. The council are now spoken of by themselves and others generally as the 'ministers,' the 'administration,' the 'cabinet,' the 'government,' and so forth. Their pretensions are according to this new nomenclature. They regard themselves as a responsible ministry, and expect that the policy and conduct of the governor shall be subservient to their views and party policy.*"

Very similar in tone is a despatch of May 12th, 1843, in which the governor declared that none of his predecessors had really been face to face with the problem of granting or withholding self-government. "Lord Durham," he said, "had no difficulty in writing at leisure in praise of responsible government. . . Lord Sydenham put the *idea* in force without suffering himself to be much restrained by it. . . Sir Charles Bagot yielded to the coercive effect of Lord Sydenham's arrangements. *Now comes the tug of war*, and supposing absolute sub-

BALDWIN LAFONTAINE HINCKS

mission to be out of the question, I cannot say that I see the end of the struggle if the parties alluded to really mean to maintain it." The part that the new governor intended to play in this impending tug of war is clearly indicated in this communication to Lord Stanley. He had no intention of adapting himself to the position of a merely nominal head of the government, controlled by the advice of his ministers.

"I am required," he wrote, "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 partisans; to proscribe their opponents; and to make some public and unequivocal declaration of my adhesion to these conditions—including the complete nullification of Her Majesty's government—a course which he [Mr. LaFontaine], under self-deception, denominates Sir Charles Bagot's policy, although it is very certain that Sir Charles Bagot meant no such thing. Failing of submission to these stipulations, I am threatened with the resignation of Mr. LaFontaine for one, and both he and I are fully aware of the serious consequences likely to follow the execution of that menace, from the blindness with which the French-Canadian party follow their leader. . . . The sole question is, to describe it without disguise, whether the governor shall be wholly and completely a tool

DIVERGENT VIEWS

in the hands of the council, or whether he shall have any exercise of his own judgment in the administration of the government. Such a question has not come forward as a matter of discussion, but there is no doubt the leader of the French party speaks the sentiments of others of his council beside himself. . . . *As I cannot possibly adopt them, I must be prepared for the consequences of a rupture with the council*, or at least the most influential portion of it. It would be very imprudent on my part to hasten such an event, or to allow it to take place under present circumstances, if it can be avoided—but *I must expect it, for I cannot consent to be the tool of a party*. . . . Government by a majority is the explanation of responsible government given by the leader in this movement, and government without a majority must be admitted to be ultimately impracticable. But the present question, the one which is coming on for trial in my administration, is not whether the governor shall so conduct his government as to meet the wants and wishes of the people, and obtain their suffrages by promoting their welfare and happiness—nor whether he shall be responsible for his measures to the people, through their representatives—but whether he shall, or shall not, have a voice in his own council. . . . The tendency and object of this movement is to throw off the government of the mother country in internal affairs entirely—but to be maintained and supported at

BALDWIN LAFONTAINE HINCKS

her expense, and to have all the advantages of connection, as long as it may suit the majority of the people of Canada to endure it. This is a very intelligible and very convenient policy for a Canadian aiming at independence, but the part that the representative of the mother country is required to perform in it is by no means fascinating."

The tenor of Sir Charles Metcalfe's correspondence cited above, which belongs to the period between his assumption of the government and the meeting of the parliament, shows that the difficulties which were presently to culminate in the "Metcalfe Crisis" were already appearing on the horizon. Meantime the new governor was made the recipient of flattering addresses from all parts of the country and from citizens of all shades of opinion. The difficulties of Metcalfe's position can be better understood when one considers the varied nature of these addresses and the conflicting sentiments expressed. Some were sent up from Reform constituencies whose citizens expressed the wish that he might continue to tread in the path marked out by his predecessor. Others were from "loyal and constitutional societies" whose prayer it was that he might resist the designing encroachments of his anti-British advisers. The people of the township of Pelham, for example, declared that they "had learned with unfeigned sorrow that unusual efforts had been made to weaken His Excellency's opinion of Messrs. Baldwin and LaFontaine and the other

PARTY ANIMOSITIES

members of his cabinet." The Constitutional Society of Orillia begged to "state their decided disapproval of the policy pursued by our late governor-general." "We have not the slightest wish," they said, "to dictate to your Excellency, but, conscientiously believing that it would tend to the real good, happiness, and prosperity of the country, we in all humility venture to recommend the dismissal of the following members from your councils: The Hon. Messrs. Harrison, LaFontaine, Baldwin, Hincks and Small." In some cases¹ rival addresses, breathing entirely opposed sentiments were sent up from the same place. It is small wonder that Metcalfe became deeply impressed by the bitterness of party faction existing in Canada.

"The violence of party spirit," he wrote to Lord Stanley,² "forces itself on one's notice immediately on arrival in the colony; and threatens to be the source of all the difficulties which are likely to impede the successful administration of the government for the welfare and happiness of the country." In this statement may be found the basis for such defense as can be made for Metcalfe's conduct in Canada. He was honestly convinced that the antipathy between the rival factions was assuming dangerous proportions, and that it threatened to culminate in a renewal of civil strife. In this position of affairs it seemed to

¹ For example the addresses from the Talbot district.

² April 25th, 1843.

BALDWIN LAFONTAINE HINCKS

him his evident duty to alleviate the situation by using such influence and power as he considered to be lawfully entrusted to him, to counteract the intensity of the party struggle. In particular it seemed to him that his right of making appointments to government offices ought to be exercised with a view to general harmony, and not at the dictates and in the interests of any special political group. "I wish," he wrote, "to make the patronage of the government conducive to the conciliation of all parties, by bringing into the public service the men of greatest merit and efficiency, without any party distinction."

This sentiment is no doubt, as a sentiment, very admirable. But what Metcalfe did not realize was that it was equivalent to saying that he intended to distribute the patronage of the government as *he* thought advisable, and not as the ministry, representing the voice of a majority of the people, might think advisable. Metcalfe seems to have been aware from the outset that his views on this matter would not be readily endorsed by his ministers. He spoke of the question of the patronage as "the point on which he most proximately expected to incur a difference with them." Indeed it may be asserted that Metcalfe was convinced that he must, sooner or later, come to open antagonism with his cabinet. As early as June, 1843, he wrote to Stanley: "Although I see no reason now to apprehend an immediate rupture, I am

THE TWO LEADERS

sensible that it may happen at any time. If all [of the ministers] were of the same mind with three or four it would be more certain. But there are moderate men among them, and they are not all united in the same unwarrantable expectations."

It is not difficult to infer from what has gone before that Metcalfe had but little personal sympathy with the two leaders of his cabinet. In his published correspondence we have no direct personal estimate of LaFontaine and Baldwin. But the account given by his "official" biographer of the two Canadian statesmen undoubtedly reflects opinion gathered from the governor-general's correspondence, and is of interest in the present connection. "The two foremost men in the council," writes Kaye,¹ "[were] Mr. LaFontaine and Mr. Baldwin, the attorneys-general for Lower and Upper Canada. The former was a French-Canadian and the leader of his party in the colonial legislature. . . . All his better qualities were natural to him; his worse were the growth of circumstances. Cradled, as he and his people had been, in wrong, smarting for long years under the oppressive exclusiveness of the dominant race, he had become mistrustful and suspicious; and the doubts which were continually floating in his mind had naturally engendered there indecision and infirmity of purpose." How little real justifica-

¹ Kaye's *Life of Lord Metcalfe* was written at the request of Metcalfe's trustee. Many thousand letters, written to and by Metcalfe, were put in the hands of his biographer.

BALDWIN LAFONTAINE HINCKS

tion there was for this last expression of opinion may be gathered from the comments thereupon published by Francis Hincks in later years. "I can hardly believe that there is a single individual in the ranks of either party," he says "who would admit that Kaye was correct in attributing to [Sir] Louis LaFontaine 'indecision and infirmity of purpose.' I can declare for my own part that I never met a man less open to such an imputation."¹ Metcalfe's biographer saw fit, however, to qualify his strictures of LaFontaine by stating that he was a "just and honourable man" and that "his motives were above suspicion."

A still less flattering portrait is drawn by the same author when he goes on to speak of Robert Baldwin. "Baldwin's father," says Kaye,² "had quarrelled with his party,³ and, with the characteristic bitterness of a renegade, had brought up his son in extremest hatred of his old associates, and had instilled into him the most liberal (*sic*) opinions. Robert Baldwin was an apt pupil; and there was much in the circumstances by which he was surrounded,—in the atrocious misgovernment of his country . . . —to rivet him in the extreme opinions he had imbibed in his youth. So he grew up to be

¹ *Political History of Canada*, p. 16.

² J. W. Kaye, *Life of Lord Metcalfe*. Vol. II., pp. 490, 491. The errors of fact made by Mr. Kaye in reference to Baldwin's parentage, etc., need no correction.

³ By this is meant the Family Compact of which Kaye supposes Dr. Baldwin to have been a member.

DESCRIPTION OF BALDWIN

an enthusiast, almost a fanatic. He was thoroughly in earnest; thoroughly conscientious; but he was to the last degree uncompromising and intolerant. He seemed to delight in strife. The might of mildness he laughed to scorn. It was said of him that he was not satisfied with a victory unless it was gained by violence—that concessions were valueless to him unless he wrenched them with a strong hand from his opponent. Of an unbounded arrogance and self-conceit, he made no allowances for others, and sought none for himself. There was a sort of sublime egotism about him—a magnificent self-esteem, which caused him to look upon himself as a patriot, whilst he was serving his own ends by the promotion of his ambition, the gratification of his vanity or spite. His strong passions and his uncompromising spirit made him a mischievous party leader and a dangerous opponent. His influence was very great. He was not a mean man: he was above corruption: and there were many who accepted his estimate of himself and believed him to be the only pure patriot in the country. During the illness of Sir Charles Bagot he had usurped the government. The activity of Sir Charles Metcalfe, *who did everything for himself, and exerted himself to keep every one in his proper place*, was extremely distasteful to him.” It is an old saying that there is no witness whose testimony is so valid as that of an unwilling witness: and it is possible to read between the lines of this biased estimate a truer picture of the man. “In

BALDWIN LAFONTAINE HINCKS

this dark photograph," says the author of *The Irishman in Canada*,¹ "the impartial eye recognizes the statesman, the patriot, the great party leader, who was not to be turned away by fear or favour from the work before him."

As early as May, 1843, an important episode took place in reference to the question of appointments, a question destined later to be the cause of the resignation of the ministry. The matter is of special historical significance in that LaFontaine saw fit to draw up a memorandum explaining what had occurred and putting definitely on record the attitude assumed by himself and his colleagues in their interpretation of their relation to the governor-general. The facts in question were as follows.² The office of provincial aide-de-camp for Lower Canada had fallen vacant. The post was a sinecure, the salary for which was voted yearly by the assembly. A certain Colonel De Salaberry, a son of the De Salaberry of Chateauguay, came to Kingston to solicit the office. He had an interview with Sir Charles Metcalfe, as a result of which it was reported that he had received the promise of the appointment. The private secretary of the governor-general, a certain Captain Higginson, met LaFontaine at a dinner given by His Excellency in Kingston. Higginson

¹ N. F. Davin, *The Irishman in Canada*, p. 490.

² See *The Pilot*, September 18th, 1844; also Hincks's *Reminiscences*, pp. 93 *et seq.*

THE HIGGINSON INCIDENT

discussed the vacant office with LaFontaine and was informed that, if the post were given to Colonel De Salaberry, the appointment would be viewed with disfavour by the people of Lower Canada. On this Higginson asked the attorney-general if he might, at his convenience, have an opportunity of discussing with him the present political situation. LaFontaine granted this request and Higginson called upon him at his office next day. A conversation of some three hours duration ensued in which the question of the nature and meaning of responsible government was discussed at full length. Captain Higginson declared that he was acting in the matter in a purely personal character and not as the accredited agent of the governor-general. This was probably true in the technical and formal sense, but it cannot be doubted that Higginson was expressing the known sentiments of Sir Charles Metcalfe, and that he duly reported the conversation to the governor, whose subsequent actions were evidently influenced thereby. The substance of the argument may best be given in the words of LaFontaine's published memorandum.¹

“Being requested by Captain Higginson to explain to him what was understood by responsible government, the councillor² informed him of the

¹ Space will not permit the presentation of the entire document, which may be found (in translation) in Hincks's *Reminiscences*, pp. 98 *et seq.*

² LaFontaine writes in the third person, speaking of himself as a “member of the executive council,” a “councillor,” etc.

BALDWIN LAFONTAINE HINCKS

opinions which had been so often expressed on this subject as well in the House as elsewhere. He explained to him that the councillors were responsible for all the acts of the government with regard to local matters, that they were so held by members of the legislature, that they could only retain office so long as they possessed the confidence of the representatives of the people, and that whenever this confidence should be withdrawn from them they would retire from the administration; that these were the principles recognized by the resolutions of September 3rd, 1841, and that it was on the faith of these principles being carried out that he had accepted office. The question of consultation and non-consultation was brought on the tapis with reference to the exercise of patronage, that is to say, the distribution of places at the disposal of the government. The councillor informed Captain Higginson that the responsibility of the members of the administration, extending to all the acts of the government in local matters, comprehending therein the appointment to offices, consultation in all those cases became necessary, it being afterwards left to the governor to adopt or reject the advice of his councillors; His Excellency not being bound, and it not being possible to bind him, to follow that advice, but, on the contrary, having a right to reject it: but in this latter case, if the members of council did not choose to assume the responsibility of the act that the governor wished to perform, contrary

LAFONTAINE AND HIGGINSON

to their advice, they had the means of relieving themselves from it by exercising their power of resigning." As Captain Higginson appears to have demurred to this interpretation of the meaning of the September resolutions, LaFontaine asked him to state the construction which he himself put upon them. Higginson replied,—and in replying may properly be considered to have expressed the sentiments of Sir Charles Metcalfe,—that although the governor ought to choose his councillors "from among those supposed to have the confidence of the people," nevertheless "each member of the administration ought to be responsible only for the acts of his own department, and consequently that he ought to have the liberty of voting with or against his colleagues whenever he judged fit; that by this means an administration composed of the principal members of each party might exist advantageously for all parties, and would furnish the governor the means of better understanding the views and opinions of each party, and would not fail, under the auspices of the governor, to lead to the reconciliation of all." From these views LaFontaine expressed an emphatic and unqualified dissent. "If," he said, "the opinions [thus] expressed upon the sense of the resolutions of 1841 were those of the governor-general, and if His Excellency was determined to make them the rule for conducting his government, the sooner he made it known to the members of the council the better, in

BALDWIN LAFONTAINE HINCKS

order to avoid all misunderstanding between them." LaFontaine added that in such a case he himself would feel it his duty to tender his resignation. Since there is undeniable evidence that Higginson related this conversation in full to Sir Charles Metcalfe, it is plain that henceforth the latter was quite aware of the point of view taken by his cabinet, and must have felt that a persistence in the course he contemplated could not but lead to an open rupture. Indeed it appears to have been very shortly after this incident that he wrote to Lord Stanley that his "attempts to conciliate all parties are criminal in the eyes of the council, or at least of the most formidable member of it."

As yet, however, the difficulties that were impending between the governor and his ministers were unknown to the country at large. The "want of cordiality and confidence" between Metcalfe and his advisers had indeed become "a matter of public rumour,"¹ but His Excellency had been careful in his answers to the addresses praying for the removal of the ministry to rebuke the spirit of partisan bitterness in which they were couched.² The governor was consequently able to summon parliament in the autumn of 1843 with a fair outward show of harmony, and it was not until near the close of the year that the smouldering quarrel broke into a

¹ The phrases are taken from LaFontaine's letter of November 27th, 1843, cited in the following chapter.

² Kaye, Vol. II., p. 510.

THE THIRD SESSION

flame. Meantime the parliament had passed through a session of great activity and interest, and had undertaken a range of legislation which rapidly developed the extent and meaning of the Reform programme. In this, the third session of the first parliament, which lasted from September 28th until December 9th (1843), the ministry enjoyed in the assembly an overwhelming support. Of the eighty-four members of the House, some sixty figured as the supporters of the government; and even in the legislative council, the appointment of Dr. Baldwin, the father of the attorney-general, Æmilius Irving and others, lent support to the government. Mr. Draper, on the other hand, now elevated to a seat in the legislative council, embarked on a determined and persistent opposition to the measures of the administration. Six new members had been elected during the recess to fill vacancies in the assembly. Prominent among these was Edward Gibbon Wakefield, elected for Beauharnois, notable presently as one of the defenders of Sir Charles Metcalfe. Wakefield had already attained a certain notoriety in England for his views on the "art of colonization," and for the theories of land settlement which he had endeavoured to put into practice in Australia and New Zealand.¹ He had already spent some time in Canada with Lord

¹ See *Dictionary of National Biography*, Art. Wakefield, E.G. See also W. P. Reeves, *State Experiments in Australia and New Zealand*, (1902), Vol. I., Ch. vi.

BALDWIN LAFONTAINE HINCKS

Durham in an unofficial capacity, and had had some share in the preparation of the report. He had returned to Canada in 1841, and as has been already noted, had been on intimate terms with Bagot and his ministry. He was anxious, according to Hincks, to press a certain land scheme of his invention on the government, and it was their refusal to meet his views which led him presently to oppose their policy and to become the confidential adviser and the apologist of Sir Charles Metcalfe.

Hopelessly outvoted as they were in the Lower House, the Tories and other opponents of the government nevertheless maintained a spirited opposition. Sir Allan MacNab and his adherents persisted at every available opportunity in raising the racial question, in reviving uncomfortable recollections of 1837, and in assuming a tone of direct personal attack, the impotence of which against the solid majority of the government lent it an added venom.¹ The government in its turn was well represented in debate. Baldwin, LaFontaine and Hincks were all members of the assembly; being now united in policy, the combined power of their leadership and the ardour which they put into their legislative duties, easily held their followers together

¹ The following extract is illustrative of the amenities of the day:—“Then Mr. Johnston came into full play—right and left he dashed into the supporters of the bill with his peculiar sarcasm—he told one honourable gentleman from Montreal that he never yet had had the manliness to express an independent opinion—told others that they would make good feather breeches to hatch eggs, etc., etc.”—*Kingston Whig*, October 1843.

A DESCRIPTION OF HINCKS

and enabled them to enjoy a continued and unwavering support. A sort of natural division of labour had been instituted among them. The larger measures of the Reform programme were introduced by Baldwin: LaFontaine was especially concerned with the alterations to be effected in the judicial system of Lower Canada and cognate matters, while Hincks assumed the care of fiscal and commercial legislation.

A contemporary account¹ of Francis Hincks during the session of 1843, gives a vivid idea of the legislature of the day and the prominent part played in its deliberations by the inspector-general. "He [Mr. Hincks] had a portable desk beside him and a heap of papers. He was as busy as a nailer, writing, reading, marking down pages, whispering to the men on the front seat, sending a slip of paper to this one and that one, a hint to the member speaking; there was no mistaking that man. Presently he stood up and started off full drive, —half a dozen voices cry out, 'Hear, hear!' 'No! No!' He picks up a slip of paper and the whole House is silent. The figures come tumbling out like potatoes from a basket. He snatches up a journal or some other document, and having established his position he goes ahead again. The inspector-general, Mr. Hincks, is decidedly the man of that House. When one has observed with what attention

¹*The Examiner*, October 25th, 1843. Hincks had severed his connection with this paper on assuming office.

BALDWIN LAFONTAINE HINCKS

he is listened to by every member, when we look up to the reporters, who are, during half the time when the other speakers are up, looking on wearily, now all hard at their tasks, catching every word they can lay hold of, it is not difficult to guess how it has happened that Francis Hincks has been one of the best abused men that ever lived in Canada. No wonder the old Compact hated him : they foresaw in him a sad enemy to vermin. He is a real terrier. He speaks much too rapidly ; and in consequence runs into a very disagreeable sort of stammering. His manner of reading off statistical quotations is peculiarly censurable. It is impossible for reporters to take down the figures correctly, and the honourable gentleman should reflect of what great importance it is to himself and the ministry that all such matter be correctly reported."

The measures of the session included altogether sixty-four statutes assented to by the governor, with nine other bills reserved for the royal assent, of which four subsequently became law. Of these, many were of an entirely subordinate character and need no mention, but the more important measures require some notice. Among the matters to which the attention of the House was early directed was the question of the seat of government. Lord Sydenham's selection of Kingston had given dissatisfaction in both sections of the province, and many representations had been forwarded to the home government requesting that some other

CITY OF MONTREAL

capital might be selected. Montreal, Quebec and Toronto all aspired to the coveted honour. Even Bytown, as the present city of Ottawa was then called, was favoured by some persons, owing to its inland situation and its immunity from frontier attack. But in point of wealth, importance and natural situation, Montreal seemed obviously destined to be the capital of Canada. It was at this time a city of over forty thousand inhabitants. Its position at the head of ocean navigation rendered it, as now, the commercial emporium of the country, and the narrow streets near the water front,—St. Paul and Notre Dame, then the principal mercantile streets of the town,—were crowded during the season of navigation with the rush of its seagoing commerce. The extreme beauty of the situation of the city, its historical associations and its manifest commercial greatness of the future, ought to have placed the superiority of its claims beyond a question. But the racial antagonism, which was the dominant feature of the politics of the hour, rendered the question one of British interest as opposed to French. Montreal was indeed by no means an entirely French city. It numbered several thousand British inhabitants, had two daily newspapers published in English and had in it (to quote the words of Dr. Taché in the assembly) more “real English, more out and out John Bulls, than either Kingston or Toronto.”

BALDWIN LAFONTAINE HINCKS

But the Conservatives of Upper Canada persisted in identifying Montreal with the Lower Canadian province. "It is not," said the New York *Albion* in an editorial article,¹ "a mere matter of holding parliamentary sessions in this place or in that, that is involved; it is a matter that carries with it the great question of English or French supremacy for the future." Legally speaking the matter lay with the imperial government² (acting through the governor-general) but a representation³ was made to Sir Charles Metcalfe and communicated by him to the Canadian parliament to the effect that "Her Majesty's government decline to come to a determination in favour of any place as the future seat of government, without the advice of the provincial legislature." It was, however, made a proviso that the choice must be between Kingston and Montreal; Quebec and Toronto "being alike too remote from the centre of the province." In accordance with this message a resolution was introduced by Robert Baldwin, and seconded by LaFontaine (November 2nd, 1843), advising the Crown to remove the seat of government to Montreal. The members of the administration (with the exception of Mr. Harrison, the member for Kingston, who now resigned his post as provincial secretary) were entirely in favour of the measure. Sir Charles Metcalfe himself sup-

¹ November 11th, 1843.

² 3 and 4 Vict. c. 35, Sec. xxx.

³ See *Journal of the Legislative Assembly*, October 6th, 1842.

SEAT OF GOVERNMENT CHANGED

ported it. But the Tories persisted in regarding it as a betrayal of Upper Canada. In the legislative council Mr. Draper had already succeeded in passing resolutions condemning the proposed change, on the ground that the retention of the capital in Upper Canada was a virtual condition of the union of the two provinces. Sir Allan MacNab took even higher ground: he regarded the journey to and from Kingston and the sojourn in the British atmosphere of Upper Canada as a necessary training for the French-Canadian deputies, whereby they might acquire, by infection as it were, something of the spirit of the British constitution.¹

In despite of the Conservative opposition, the resolution favouring the transfer of the government was carried in the assembly by a vote of fifty-one to twenty-seven (November 3rd, 1843). In the legislative council the presence of the newly-appointed members enabled the same resolution to be adopted. An attempt was made by the Tories to refuse to consider the question, on the ground that Mr. Draper's recent resolution had already dealt with it. This contention was rejected by the Speaker, who insisted that the resolution must be duly voted on; whereupon an indignant councillor, Mr. Morris, said he "must protest in the most solemn manner against

¹ See speech of Robert Baldwin (*La Minerve*, November 16th, 1843) in which he describes the French-Canadian members "sitting at the feet of the honourable knight as a political Gamaliel."

BALDWIN LAFONTAINE HINCKS

this proceeding, took his hat, made his bow to the Speaker and left the chamber followed by twelve other members of the council for Upper Canada."

A measure of the session, the work of LaFontaine, for which the Reform party are entitled to great credit, was the Act for securing the independence of the legislative assembly.¹ The aim of this statute was to consolidate the system of cabinet government by removing placemen from the assembly. It enacted that after the end of the present parliament a large number of office-holders should be disqualified for election. The list included judges, officers of the courts, registrars, customs officers, public accountants and many other minor officials. The holders of the ministerial offices were of course outside of the scope of the statute, which thus aimed to place the relation of the legislature to the holding of office on the same footing as in the mother country. The reasonableness of this measure was admitted even by opponents of the government, but the question of its constitutionality having been raised in the legislative council, it was reserved by the governor for the assent of the Crown. This assent was duly granted.

The reorganization of the judicial system of Lower Canada with a view to render the administration of justice more easy and less expensive was carried forward by LaFontaine in a series of five

¹ 7 Vict. c. 65.

SECRET SOCIETIES BILL

statutes.¹ The district and division courts that had been established under Mr. Draper's government (September 18th, 1841)² were abolished in favour of a simpler system of circuit courts: a new court of appeal was organized and provision made for the summary trial of small causes.

Among the bills laid before parliament, in whose preparation Baldwin was chiefly concerned, a prominent place should be given to the bill for the discouragement of secret societies. During the summer and autumn of 1843 the province of Upper Canada had been the scene of deplorable and riotous strife between the rival factions into which the Irish settlers of the colony were divided. With the large immigration from the British Isles during the preceding years, a great number of Irish had come into the country. Unfortunately these had seen fit to carry with them into Canada the unhappy quarrels of their native country, and nowhere was the strife of Orangemen and Repealers, Protestants and Catholics, more ardent than in the little Canadian capital. The events of the year 1843, during which all Ireland was in a frenzy of excitement over O'Connell's agitation for repeal, naturally precipitated a similar agitation in Canada. Here the situation was further aggravated by the fact that the two parties of Irishmen were in a sort

¹ 7 Viet. cc. 16, 17, 18, 19, 20. The statutes are very elaborate: it is quite impossible in the present limited space to give any proper idea of their purport.

² 4 and 5 Viet. c. 20.

BALDWIN LAFONTAINE HINCKS

of natural alliance with the rival political factions of Canada. The Orangemen, with their ostentatious attachment to the British Crown, found allies in the Tories, while their Catholic opponents had much in common with their co-religionists of French Canada. Orange lodges had sprung into being throughout Upper Canada: "Hibernian societies" of Irish Catholics flaunted in defiance the colours and insignia of their associations.¹

In such a state of affairs, collisions between the rival parties were inevitable. At Kingston, on the anniversary of the battle of the Boyne, serious troubles occurred; several persons were wounded, and one killed; the troops had to be called out to maintain order. On a later occasion the streets were placarded with bills announcing rival assemblages, one in aid of the cause of repeal, the other for preventing the repeal meeting, "peaceably if we can, forcibly if we must." The unofficial action of the governor and the cabinet prevented the holding of the meetings.

Sir Charles Metcalfe was obviously alarmed at the prospect of a general conflagration. Rumours had reached him that the Irish of New York were busily engaged at drill under French officers, and that an invasion of Canada was to be attempted. "It is supposed," he wrote to Stanley,² "that if any collision were to occur in Ireland between the

¹ See Kaye, Vol. II., pp. 502 *et seq.*

² July 8th, 1843.

ORANGE DISTURBANCES

government and the disaffected, it would be followed by the pouring of myriads of Roman Catholic Irish into Canada from the United States." It is just possible that this apprehension caused the governor to look more than ever towards the Tories as an ultimate support. In the course of the month of July he had an interview with a Mr. Gowan (then grand-master of the Grand Orange Lodge of Canada and a man of the greatest influence), after which the grand-master wrote a mysterious confidential letter to a friend, in which he told his correspondent "not to be surprised if Baldwin, Hincks and Harrison should *walk*." Mr. Gowan said, furthermore, that he had given his views to the governor *maturely and in writing*.¹ It is quite possible that the grand-master had recommended a reconstruction of the government as the price of obtaining the support of the Orange order. Meantime, however, the tumults of the rival Irish factions continued unabated. At Toronto, for example, during the time when legislation in regard to secret societies was being discussed, an Orange mob gathered in the streets one November night, having amongst them a cart with a gibbet and effigies of Baldwin and Hincks placarded with the word "Traitors," which effigies were burnt during a scene of great confusion before the residence of Dr. Baldwin.²

¹ Gowan's letter is quoted by N. F. Davin, *The Irishman in Canada*, p. 492.

² *The Examiner*, November 8th, 1843.

BALDWIN LAFONTAINE HINCKS

It was in order to discourage, as far as possible, the manifestations of the Irish societies that Baldwin introduced (October 9th, 1843) his bill in regard to secret societies. The provisions of the bill declared all societies (with the exception of the Freemasons) to be illegal if their members were bound together by secret oaths and signs: members of such societies were to be incapable of holding office or of serving on juries: all persons holding public office were to be called upon to declare that they belonged to no such societies: innkeepers who permitted society meetings on their premises were to lose their licenses. Drastic as this measure appears, it must be borne in mind that the secret societies bill was introduced as a government measure with the knowledge and consent of Sir Charles Metcalfe. It passed the House by a large majority, fifty-five votes being cast in favour of it and only thirteen against it.¹ Nevertheless, Sir Charles saw fit to reserve it for the royal sanction, which in the sequel was refused. It is true that the legislature had already adopted a law of a more general nature in regard to demonstrations tending to disturb the public peace, and that this additional legislation was viewed by many as special legislation against a particular class. But the ministry, as will be seen later, considered that, under the circumstances, Metcalfe had gone beyond his constitutional functions in withholding his assent.

¹ *Journal of the Legislative Assembly*, November 4th, 1843.

TARIFFS AND SCHOOLS

Two Acts of the session¹ which elicited a general approval were Hincks's measures for the protection of agriculture against the competition of the United States. The latter country had recently adopted a high tariff system whereby the Canadians found themselves excluded from the American market. The present statute did not profess to institute a definite and permanent policy of protection, but claimed to remedy the unequal conditions imposed on the farming population under the existing customs system, which put duties on merchandise but allowed foreign agricultural produce and live stock to come in free. Under these Acts a duty of £1 10s. was to be paid on imported horses, £1 on cattle; and on all grains other than wheat, duties of from two to three shillings per quarter.

In order to remedy the defective operation of the existing school law two new statutes were adopted.² Fifty thousand pounds a year were now to be given by the government to elementary schools. The difficulties which had arisen under Mr. Draper's Act in regard to the apportionment of the government grant were to be obviated by a division of the money between Upper and Lower Canada in the ratio of twenty to thirty thousand pounds until a census should be taken, after which the division was to be according to population. In the second of

¹ 7 Vict. cc. 1 and 2.

² 7 Vict. c. 9 and 7 Vict. c. 29.

BALDWIN LAFONTAINE HINCKS

the school Acts (which dealt only with Upper Canada) it was provided that the government grant should be distributed among the localities according to population; that the townships (or towns or cities as the case might be) should levy on their inhabitants a sum at least equal to, but not more than double, the government grant. Fees were still to be charged for instruction in the common schools, but a clause of the Act (section 49) enabled the council of any town or city to establish free schools by by-law. The Act continued to recognize the system of separate schools, which might be established either by Protestants or Roman Catholics on the application of ten or more freeholders or householders.

The school law was mainly in amplification and in extension of the existing system. A measure in regard to education of a much more distinctive character, and which evoked a furious opposition both within and without the House, was Robert Baldwin's University of Toronto bill. Although this measure was not finally adopted, the university question remained for years in the forefront of the political issues of the day, until the matter was finally set at rest by the statute enacted under the second LaFontaine-Baldwin administration.¹

¹ The administration of 1848 should more properly be called the Baldwin-LaFontaine administration, since Robert Baldwin was its senior member. But it has been customary to use the designation in the text.

THE UNIVERSITY QUESTION

As the name Robert Baldwin will always be associated with the successful removal of all denominational character from the University of Toronto, some explanation of the question at issue is here in place. The present University of Toronto originated in an antecedent institution called King's College.¹ The first impetus towards the creation of this college had been given by Governor Simcoe, who called the attention of the imperial government to the wisdom of making provision for a provincial university and to the possibility of effecting this by an appropriation of Crown lands. In 1797 the two Houses of the legislature of Upper Canada petitioned the Crown to make an appropriation of a certain portion of the waste lands of the colony as a fund for the establishment and support of a respectable grammar school in each district of the province, and also of a college or university. In 1799 the land grant was made. It consisted of five hundred and fifty thousand, two hundred and seventy-four acres of land. Beyond this nothing was done for many years. Meantime a certain part of the land was set aside for special educational objects; one hundred and ninety thousand, five hundred and seventy-three acres were appropriated in 1823 for district grammar schools, and in 1831, sixty-two thousand, nine hundred and ninety-six acres were given to Upper

¹ See J. Loudon, *History of the University of Toronto*, printed in *Canada, an Encyclopædia*, 1898.

BALDWIN LAFONTAINE HINCKS

Canada College.¹ At length in 1827 a royal charter was issued for a university to be known as the University of King's College. Under this document the conduct of the university and of its teaching was vested in a corporation consisting of the chancellor, the president and the professors. Certain clauses of the charter gave to King's College a denominational character: the bishop of the diocese was to be, *ex officio*, its visitor, and the archdeacon of York (at that time Dr. John Strachan) its *ex officio* president: the university was to have a faculty of divinity, all students in which must subscribe to the Thirty-nine Articles of the Church of England: the same test was prescribed for all members of the university council.

The issue of this charter had occasioned a violent agitation. Vigorous protest was raised against the peculiar privileges thus extended to the Church of England. The opposition to the charter prevented any further action being taken towards the actual establishment of the college. Finally, in 1837, a statute² was passed by the legislature of Upper Canada which revised the terms of the royal charter. It provided that the judges of the court of king's bench should be the visitors of the college, that the president need not be the incumbent of any particular ecclesiastical office, that no religious

¹ In 1828 part of the original grant of land was exchanged for an equal portion of land belonging to the Clergy Reserves.

² *Statutes of Upper Canada*, 7 Will. IV. c. 16.

KING'S COLLEGE

tests should be required of students, and that no professor, nor member of the council, need be a member of the Church of England. The statute still left the faculty of divinity as a part of the university, and left it necessary for every professor and member of the council to subscribe to a belief in the Trinity and in the divine inspiration of the Scripture. Even after the charter had been thus modified, a further delay was occasioned by the rebellion of 1837, and it was not until 1842 that the building of King's College actually commenced, the corner-stone being laid by Sir Charles Bagot in his capacity of chancellor of the university. In April of 1843 actual teaching had begun, the old parliament buildings on Front Street, Toronto, being used as temporary premises. Meantime the long delay which had been encountered in the creation of the provincial university, and the somewhat arrogant claims that had been put forward by Dr. Strachan and the extreme Anglicans, had led the members of the other sects to make efforts towards the establishment of denominational colleges of their own. The Methodists incorporated in 1836 an institution which opened its doors at Cobourg in the following year under the name of the Upper Canada Academy.¹ In 1841 an Act of the parliament of Canada² conferred on the academy the power to grant degrees, and gave it the name

¹ See Egerton Ryerson, *Story of My Life*, Chap. xiv.

² 4 and 5 Vict. c. 37.

BALDWIN LAFONTAINE HINCKS

of Victoria College. The Presbyterians, acting under a royal charter, established Queen's College at Kingston, which entered on the work of teaching in 1842. The Roman Catholics had founded in the same town a seminary known as the College of Regiopolis.

To Robert Baldwin and those who were able to take a broad-minded view of the question of higher education in Canada and to consider the future as well as the present, the separate foundation of these denominational universities appeared a decided error. It meant that, in the future, Canadian education would run upon sectarian lines and that a narrow scholasticism would usurp the place of a wider culture. The theologian would be substituted for the man of learning. More than this, the present system was in violation of that doctrine of equal rights which was the foundation of Robert Baldwin's political creed; for the opulent land grant enjoyed by King's College gave to it a form of state support which was denied to its sister institutions. The measure which Baldwin presented to the parliament in remedy of the situation was sweeping in character. It proposed to create an institution to be known as the University of Toronto, of which the existing sectarian establishments should be the colleges. The executive academic body of the university was to consist of the governor-general as chancellor, together with a vice-chancellor and council chosen from the different colleges. With this was to be a

BALDWIN'S UNIVERSITY BILL

board of control made up of dignitaries of the respective churches together with various public officials. The essential principle of Baldwin's bill lay in the fact that all the denominational colleges involved were put on an equal footing. Each retained its own faculty of divinity, the university granting a doctor's degree in divinity to graduates of all the divinity faculties alike. The property that had been granted by the state to King's College was to become the property of the University of Toronto. It proposed, in a word, a general federation of the existing sectarian institutions into a single provincial establishment looking to the state for its support, including denominational colleges as its affiliated members but itself of an entirely unsectarian character. To those acquainted with the recent history of educational development in Ontario, the wisdom of the idea of federation needs no commentary.

At the present day the general principle of the bill—the secularization of state education—meets with a ready support; but the proposal of the measure aroused in Upper Canada a storm of opposition. First and foremost the opposition came from the Anglicans, to whom the measure seemed a piece of godless iconoclasm directed at their dearest privileges. Dr. John Strachan, whose intense convictions and untiring energy made him the most formidable champion of the Church of England, led the attack on the bill. Strachan was by instinct

BALDWIN LAFONTAINE HINCKS

a fighting man who did not spare the weight of his blows in a good cause. He forwarded to the parliament a thunderous petition, presented by "John, by Divine Permission First Bishop of Toronto," the intemperate language of which bespeaks the character of the man. "The leading object of the bill," so began the prayer, "is to place all forms of error on an equality with truth, by patronizing equally within the same institution an unlimited number of sects, whose doctrines are absolutely irreconcilable: a principle in its nature atheistical, and so monstrous in its consequences that, if successfully carried out, it would utterly destroy all that is pure and holy in morals and religion, and lead to greater corruption than anything adopted during the madness of the French Revolution. . . . Such a fatal departure from all that is good is without a parallel in the history of the world."¹

A whirlwind of discussion followed the legislative progress of the bill. It was argued that parliament had no legal right to abrogate the royal charter of King's College; that the proposed measure was equivalent to a confiscation of the property of the college; more than that it was argued that the provincial parliament was not empowered to create a university at all. These were the arguments of the lawyer, to which the churchmen added their cry of horror at the desecration of the privileges of the Church. The violence of "John, by Divine Per-

¹ *Journal of the Legislative Assembly*, November 6th, 1843.

VIOLENT OPPOSITION

mission," etc., was imitated by lesser luminaries. "Here we have," screamed "Testis," in a hysterical contribution to a leading Anglican paper,¹ "the true atheistical character of the popular dogma of responsible government. This is its fruit, its bitter, poisonous fruit; this is the broad road to destruction into which its many votaries are rushing headlong." Draper in the legislative council (November 24th, 1843) opposed the bill in a speech excellent in its masterly analysis, in which the really weak points of the bill—its interference with charter rights and its peculiar degrees in assorted divinity—were exposed with an unsparing hand. But in spite of opposition from outside, the bill was making its way through the legislature and had reached its second reading when its further progress was stopped by an event which threw the whole country into a turmoil of excitement.

¹ *The Church*, November 17th, 1843.

CHAPTER VII

THE METCALFE CRISIS

THE newspapers of the early forties, adhering to the decorous traditions of the older school, knew nothing of the modern system of sensational headings and exaggerated type. But the news which, at the close of November, 1843, spread rapidly through the country, startled many of them into large capitals and abundant notes of exclamation. The LaFontaine-Baldwin ministry, with an unbroken majority behind it, had gone suddenly out of office! "Dismissed!" triumphantly shouted the Tories, and forthwith, without waiting for further details of what had happened, an exultant song of praise flowed from the pens of Conservative editors in laudation of the stout-hearted governor who had vindicated British loyalty against the treacheries of aliens and Radicals. "The news from Canada," sang back in echo the New York *Albion*, "is of a right cheering character: the Franco-Radical cabinet has gone to the tomb of the Capulets amid the shouts of every loyal man in the province. The governor-general, Sir Charles Metcalfe, (and thrice honoured be his name!) has thrown off the incubus of a disloyal faction and the queen's representative stands redeemed and disenthralled."

BALDWIN LAFONTAINE HINCKS

But the ministry had not, as presently appeared, been dismissed; they had, with one exception only, handed in a collective resignation in protest against what they regarded as the unconstitutional conduct of the governor-general. This was at last the rupture which Metcalfe five months before had told Lord Stanley might "happen any day." The vexed question of the patronage and the governor's reservation of the Secret Societies Bill had led the cabinet to force the matter to an issue. It has been seen above that Metcalfe had resolved that the exercise of the right of appointment to office should not be removed from his hands. To this policy he had adhered. Several cases had already occurred in which the governor-general had offered, and even conferred, official positions without any consultation with his ministry. Among these was the important post of speaker of the legislative council,¹ which was offered successively, though without finding acceptance, to two members of the Conservative party. Finally toward the end of November, 1843, it reached the ears of the cabinet that a certain Mr. Powell, the son of Colonel Powell (also of the Conservative party) had been appointed by Sir Charles Metcalfe to be clerk of the peace for the Dalhousie district. The position, in and of itself, was no great affair. But the ministry, considering a principle of prime importance to be involved, decided to bring the matter to a final test.

¹ The holder of this office under the Act of Union was nominated and removed by the governor-general (3 and 4 Vict. c. Section xxxv).

RESIGNATION OF THE CABINET

On November 24th Baldwin and LaFontaine called upon the governor-general and held with him a long colloquy which was renewed at a meeting of the executive council the next day. The two ministers, to use the words of Metcalfe's biographer, "pressed their demands with energy and resolution: but Metcalfe, in his own placid way, was equally energetic and resolute." On the day following (November 26th, 1843) the ministry resigned. As the course of action thus adopted and the crisis which followed constitute a turning point in the political history of Canada, and form the most important episode in the public career of the united leaders, it is well to follow in some detail the threads of the vexed controversy to which their resignation gave rise. At the instance of Sir Charles Metcalfe, LaFontaine drew up an official statement of the reasons of the resignation, which, together with a rejoinder by the governor-general, was duly laid before the Houses of parliament.¹ The ministerial statement runs as follows:—

"Mr. LaFontaine, in compliance with the request of the governor-general, and in behalf of himself and his late colleagues, who have felt it to be their duty to tender a resignation of office, states, for His

¹ These are to be found in the *Journals of the Assembly* and in all the newspapers of the day: they also appear in the pamphlet printed by H. W. Rowsell (Toronto, 1844) under the title *Addresses presented to His Excellency the Rt. Hon. Sir Chas. T. Metcalfe, Bart. G.C.B.* This document and other publications on the controversy appear in the Baldwin Pamphlets, 1844, now in the Toronto Public Library.

BALDWIN LAFONTAINE HINCKS

Excellency's information, the substance of the explanation which they purpose to offer in their places in parliament. They avowedly took office upon the principle of responsibility to the representatives of the people in parliament, and with a full recognition on their parts of the following resolutions introduced into the legislative assembly with the knowledge and sanction of Her Majesty's representative in this province, on September 3rd, 1841." (Here follows a citation of the resolutions given in Chapter IV. above.)

"They have lately understood 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 through which they have been enabled to conduct the parliamentary business of the government, sustained by a large majority of the popular branch of the legislature.

"Had the difference of opinion between His Excellency and themselves, and, as they have reason to believe, between His Excellency and the parliament and people of Canada generally, been merely theoretical, the members of the late executive council might, and would, have felt it to be their duty to avoid any possibility of collision which might have a tendency to disturb the tranquil and amicable relations which apparently subsisted between the executive government and the provincial parliament. But the difference of opinion has led

STATEMENT OF LAFONTAINE

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, and to a determination on the part of His Excellency to reserve for the expression of Her Majesty's pleasure thereon a bill introduced into the provincial parliament with His Excellency's knowledge and consent as a government measure, without an opportunity being given to the members of the executive council to state the probability of such a reservation. They, therefore, felt themselves in the anomalous position of being, according to their own avowals and solemn public pledges, responsible for all the acts of the executive government and parliament, and at the same time not only without the opportunity of offering advice respecting these acts, but without the knowledge of their existence, until informed of them from private and unofficial sources.

“When the members of the late executive council offered their humble remonstrances to His Excellency on this condition of public affairs, His Excellency not only frankly explained the difference of opinion existing between him and the council, but stated that, from the time of his arrival in the country, he had observed an antagonism between him and them on the subject, and notwithstanding that the members of the council repeatedly and distinctly explained to His

BALDWIN LAFONTAINE HINCKS

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, His Excellency did not in any manner remove the impression left upon their minds, by his avowal, that there was an antagonism between him and them, and a want of that cordiality and confidence which would enable them, in their respective stations, to carry on public business to the satisfaction of His Excellency or of the country.

“The want of this cordiality and confidence had already become a matter of public rumour: and public opinion not only extended it to acts, upon which there were apparent grounds for difference of opinion, but to all measures of government involving political principles. His Excellency, on the one hand, was supposed to be coerced by his council into a course of policy which he did not approve of, and the council were made liable to the accusation of assuming the tone and position of responsible advisers of the government, without, in fact, asserting the right of being consulted thereupon.

“While His Excellency disavowed any intention of altering the course of administration of public affairs which he found on his arrival in Canada, he did not disguise the opinion that these affairs would be more satisfactorily managed by and through the governor himself, without any necessity of concord

STATEMENT OF METCALFE

amongst the members of the executive council or obligation on their part to defend or support in parliament the acts of the governor. To this opinion of His Excellency, as one of theory, the members of the executive council might not have objected; but when, on Saturday last, they discovered that it was the real ground of all their differences with His Excellency, and of the want of confidence and cordiality between His Excellency and the council since his arrival, they felt it impossible to continue to serve Her Majesty, as executive councillors for the affairs of this province, consistently with their duty to Her Majesty, or to His Excellency, or with their public and often repeated pledges in the provincial parliaments, if His Excellency would see fit to act upon his opinion of their functions and responsibilities."

The document written by Sir Charles Metcalfe in answer to this on the following day (November 28th, 1843) runs as follows:—

"The governor-general observes with regret in the explanation which the gentlemen who have resigned their seats in the executive council propose to offer in their places in parliament, a total omission of the circumstances which he regards as forming the real grounds of their resignation; and as this omission may have proceeded from their not considering themselves at liberty to disclose the circumstances, it becomes necessary that he should state them.

BALDWIN LAFONTAINE HINCKS

“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-general that he should agree to make no appointment, and no offer of an appointment, without previously taking the advice of the council; that the 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, was the process contemplated.

“The governor-general replied that he would not make any such stipulation, and could not degrade the character of his office, nor violate his duty, by such a surrender of the prerogative of the Crown.

“He appealed to the number of appointments made by him on the recommendation of the council, or the members of it in their departmental capacity, and to instances in which he had abstained from conferring appointments on their opponents, as furnishing proofs of the great consideration

METCALFE ON PATRONAGE

which he had evinced towards the council in the distribution of the patronage of the Crown.

“He at the same time objected, as he had always done, to the exclusive distribution of patronage with party views, and maintained the principle that office ought in every instance to be given to the man best qualified to render efficient service to the state; and where there was no such præminence, he asserted the right to exercise his discretion.

“He understood from Messrs. LaFontaine and Baldwin, that their continuance in office depended upon his final decision with regard to their demand; and it was agreed that at the council to be assembled the next day, that subject should be fully discussed.

“He accordingly met the council on Saturday, convinced that they would resign, as he would not recede from the resolution which he had formed, and the same subject became the principal topic of discussion. Three or more distinct propositions were made to him, over and over again, sometimes in different terms, but always aiming at the same purpose, which, in his opinion, if accomplished, would have been a virtual surrender into the hands of the council of the prerogative of the Crown: and on his uniformly replying to these propositions in the negative, his refusal was each time followed by ‘Then we must resign,’ or words to that purport, from one or more of his council. In the course of the conversations which, both on Friday and Saturday, followed the explicit demand made by the

BALDWIN LAFONTAINE HINCKS

council regarding the patronage of the Crown, that demand being based on the construction put by some of the gentlemen on the meaning of 'Responsible Government,' different opinions were elicited on the abstract theory of that still undefined question as applicable to a colony—a subject on which considerable difference of opinion is known everywhere to prevail; but the governor-general, during those conversations, protested against its being supposed that he is practically adverse to the system of responsible government, which has been here established: which he has hitherto pursued without deviation, and to which it is fully his intention to adhere. . . . If, indeed, by responsible government the gentlemen of the late council mean that the council is to be supreme, and the authority of the governor-general a nullity, then he cannot agree with them, and must declare his dissent from that perversion of the acknowledged principle. . . . Allusion is made in the proposed explanation of the gentlemen of the late council, to the governor-general's having determined to reserve for the consideration of Her Majesty's government, one of the bills passed by the two legislative Houses. That is the Secret Societies Bill. If there is any part of the functions of the governor in which he is more than any other bound to exercise an independent judgment, it must be in giving the royal assent to Acts of parliament. With regard to this duty he has special instructions from Her Majesty to reserve

METCALFE AND STANLEY

every Act of an unusual or extraordinary character. Undoubtedly the Secret Societies Bill answers that description, being unexampled in British legislation. The gentlemen of the late council heard his sentiments on it expressed to them. He told them that it was an arbitrary and unwise measure, and not even calculated to effect the end it had in view. He had given his consent to its being introduced into parliament, because he had promised, soon after his assumption of the government, that he would sanction legislation on the subject as a substitute for executive measures which he refused to adopt on account of their proscriptive character: although he deprecates the existence of societies which tend to foment religious and civil discord. The gentlemen of the late council cannot fail to remember with what pertinacity those measures were pressed on him, and can hardly be unaware of what would have followed at that time, if, in addition to rejecting the proscriptive measures urged, he had refused to permit any legislation on the subject."¹

¹ About a fortnight afterwards (December 11th, 1843) Metcalfe wrote to Lord Stanley as follows: "Late on the following day, Mr. LaFontaine sent me a written statement of the explanation, which he and his colleagues proposed to give in their places in parliament, of the grounds of their resignation. A copy is enclosed. It is a most disingenuous production, suppressing entirely the immediate matter upon which their resignation took place, and trumping up a vague assertion of differences on the theory of responsible government as applicable to a colony, which had been expressed in the freedom of conversation as matters of opinion but not as grounds of procedure, and were, therefore, very unfairly used for the purpose to which this misrepresentation was

BALDWIN LAFONTAINE HINCKS

The two above documents, which were soon scattered broadcast throughout Canada, represent the official version of the opposing sides of the political controversy which raged throughout the next twelve months. The resignation of the LaFontaine-Baldwin ministry was no ordinary event. The whole principle of British colonial government was staked upon the issue; and upon both sides of the Atlantic events in Canada were followed with an exceptional interest. Only during periods of actual rebellion or war, has there ever been in this country an era of more intense political excitement. The question of responsible government and of its proper meaning and application in Canada, became the supreme issue of the day, and both in and out of parliament, in the press, on the hustings, and from the housetops, it was made the subject of

applied. Had the gentlemen openly avowed that their object was to make the council supreme and to prostrate the British government and to reduce the authority of the governor to a nullity, there would have been truth in their statements of a difference between us, as I never can admit that construction of responsible government in a colony." "Correspondence of Lord Metcalfe," *Canadian Archives*. A little later (December 26th, 1843) Metcalfe wrote to Lord Stanley: "It is said that they [the late council] were beginning to totter in parliament. Some clauses in the judicature bills for Lower Canada, brought in by Mr. LaFontaine, had been thrown out owing to Mr. Viger's opposition on principle to the arrangement therein proposed of judges sitting as a part of the Court of Appeal on the hearing of appeals from their own judgments. Mr. Baldwin's King's College University Bill was threatened with certain failure and would probably have been lost on the day after their resignation, if the latter had not furnished a pretext for withdrawing it without assigning the prospect of defeat as the cause.

THE RISING GALE

violent and virulent argumentation. The Reformers had had no intention, in offering their resignation to the governor, of surrendering their claim to the political control of the country : the resignation was not an act of submissive meekness but an act of defiance. It was intended as the prelude of an organized campaign of resistance to Sir Charles Metcalfe, which should either drive him from his office or compel him to admit the ministerial principle in its entirety. Metcalfe, on his part, bent not before the storm, but with British resolution braced himself squarely on his feet to face the rising gale of opposition. Not an inch would he retreat : not a syllable would he retract. Till the British government might summon him home, he was there to govern Canada, with a ministry if he could, but without a ministry if he must.

Their Assessment Bill likewise gave general dissatisfaction in Upper Canada, and they had been compelled to modify it considerably. These and some other occasional symptoms of defection, although not affecting their general majority in the House, were regarded as omens of approaching weakness, and it is supposed that, in order to recover waning popularity and power, they sought a rupture with the governor, determined to make use of it for the purpose of raising a popular cry in their favour. . . . This explanation has obtained some currency; but I cannot say that I give full credence to it. . . . A more obvious motive may be found in other circumstances. There were several bills before the parliament which, if passed into laws, would have created several new appointments with considerable salaries. . . . To secure the distribution of this patronage was, I conceive, the immediate object of their demand, or one for the surrender of the patronage into their hands." *Selections from the Papers of Lord Metcalfe*, London, 1855. [Ed., J. W. Kaye.]

BALDWIN LAFONTAINE HINCKS

Mistaken as the views of the governor-general undoubtedly were, there is much to admire in the spirit of indomitable firmness with which he was prepared to confront single-handed, if need be, the whole population of the colony. As the controversy waxed hot, the amenities of political discussion were thrown aside and the divinity that hedges a governor-general was dissipated in a storm of personal attack: the cry of despot, tyrant and autocrat, was heard on all sides, while the satirists of the time dubbed His Excellency "Charles the Simple," and added the still more crushing epithet of "Old Square Toes." But Metcalfe was not left to fight single-handed: Mr. Draper's adherents were with him from the start. To the Tories the aspect of a governor proposing to actually govern was as welcome as sunshine after storm, while needy politicians, office-seekers and personal opponents of the late ministry rallied eagerly to the cause. The people of Canada were soon divided into two great factions, the supporters and the enemies of Metcalfe. Meetings, banquets, speeches, addresses, pamphlets and fierce editorial articles became the order of the day, and the strife of the political combatants waxed more and more furious with the realization that it must culminate in a general election which might mean to either party a general and irretrievable disaster.

The first trial of strength in the momentous conflict was on the floor of the parliament itself. Great

AN EXCITED PARLIAMENT

was the excitement in and around the legislature, when the news of the ministerial resignation became public. "The library of the assembly," wrote a private correspondent from Kingston, "was crowded with letter writers eager to circulate the news from Sandwich to Gaspé, and no sound met the ear but the harsh scratching of the pens as they rushed over the paper. In the lobbies and on the landing-places small groups were congregated discussing the news. The politician as he walked the street was button-held (*sic*) by many a curious and excited enquirer. The stagnation which usually characterizes the metropolis has been converted into a bustling and earnest animation."

On November 27th, LaFontaine briefly announced to the House the fact that the ministry, with the exception of Mr. Daly, had resigned office. Two days later Baldwin presented to the assembly the reasons for the resignation, and an exciting debate followed, culminating in a triumphant vote of confidence in the ministry. It is unnecessary to repeat at length the arguments presented for and against the ministry, which were practically identical with those contained in the official letters just quoted. Baldwin in his opening speech declared that the ministry had accepted office on principles they had publicly and privately avowed. These principles, he said, had received the sanction of a large majority of the representatives of the people. The ministry

BALDWIN LAFONTAINE HINCKS

stood pledged to maintain them. The head of the government entertained views widely differing from his ministers on the duties and responsibilities of their office: this had left nothing for them but to resign. Baldwin read to the House the resolutions of 1841, in which he and his colleagues found the justification of their present conduct. Hincks, Price, Christie and others supported Baldwin in the assembly, while Sullivan defended the conduct of the late ministry before the legislative council in a speech of exceptional brilliancy and power. Beside the overwhelming arguments thus presented, the defence of the governor-general, in the hands of Mr. Daly, seemed tame and insignificant, and the attempt of the latter to show that Metcalfe was prepared to live up to the September resolutions carried no conviction.

Nor was the fierce onslaught of Sir Allan MacNab on the outgoing cabinet of any greater efficacy. He made no attempt to reconcile the conduct of the governor with the principles of responsible government. He attacked the principles themselves. To him the September resolutions were as chaff to be driven before the wind. Responsible government, he said, should never have been conceded: if persisted in, it could lead to nothing but the ultimate separation of the colony from the mother country. MacNab's defence of Metcalfe was of a character little likely to defend, and the governor, despite his instinctive sympathy with the Tories,

ACTION OF VIGER

might have wished to be saved from his friends; for Metcalfe found himself in the painful position of being defended by one set of adherents on the ground that he had maintained responsible government, and by the other on the ground that responsible government was not worth maintaining.

Of far more consequence to the cause of the outgoing cabinet was the defection of Mr. Viger. Denis Benjamin Viger had long been one of the prominent leaders of the popular party in Lower Canada and had suffered imprisonment for the cause. The principle of responsible government and the claims of the French-Canadians had had no more ardent supporter than Mr. Viger, and at this time, with the dignity of seventy winters upon him, he was still viewed as one of the leaders of his people. It was not without deep emotion¹ that Viger now announced to the House that he could not endorse the conduct of the leaders of his party. The principle of responsible government he was willing to admit, but the present occasion, he said, offered no adequate grounds for a step so momentous as that which they had seen fit to take.² The debate was finally closed by the passage of a resolution, presented by Mr. Price, to the effect that "an humble address be presented to His Excellency, humbly representing to His Excellency the deep regret felt

¹ *La Minerve*, December 11th, 1843.

² Mr. Viger afterwards published his views on the situation in full in a pamphlet entitled, *La Crise Ministerielle*, (1844).

BALDWIN LAFONTAINE HINCKS

by this House at the retirement of certain members of the provincial administration on the question of their right to be consulted on what this House unhesitatingly avows to be the prerogative of the Crown,—appointments to office: and further, to assure His Excellency that the advocacy of this principle entitles them to the confidence of the House, being in strict accordance with the principles embraced in the resolutions adopted in the House on September 3rd, 1841." The motion was carried by forty-six votes against twenty-three. On December 9th, 1843, the parliament was prorogued.

Meantime the governor-general was without a ministry. At the moment of prorogation, Mr. Dominick Daly enjoyed the unique honour of being sole adviser to the Crown. On the twelfth of the month (Dec. 1843) Mr. Draper was sworn in as executive councillor, and Mr. Viger, with whom negotiations had at once been opened by Sir Charles Metcalfe, entered also into the service of the government. It was announced in the administration newspapers that these gentlemen constituted a provisional government, and that the governor-general would organize a regular cabinet at the earliest possible moment. Meantime the Reform journals loudly denounced this new form of personal rule.

The prorogation of parliament was the signal for the organization of a vigorous campaign of opposi-

HINCKS EDITS THE "PILOT"

tion on the part of the Reform party, whose leaders threw themselves with great ardour into the work of rousing the country in anticipation of a coming election. Baldwin and LaFontaine, returning to the practice of the law in their respective cities, headed the agitation. Hincks, who had severed his connection with the *Examiner* on assuming office in 1842, now determined to return to newspaper work. As Montreal was to be the future capital of the province, he came to that city shortly after the rising of the House and looked about him for the purchase of a suitable journal. A paper called the *Times*,—moderately liberal in its complexion,—being at that time without an editor, Hincks acted gratuitously in that capacity for some little while, hoping ultimately to purchase the paper; but finding difficulty in arranging matters with the proprietors, he established (March 5th, 1844) a journal of his own under the name of the *Pilot*. Adopting the same device as he had already used with success in the case of the *Examiner*, Hincks printed at the head of his first issue a quotation from Lord Durham's report in favour of responsible government and backed it up with an opening editorial in which he plunged at once into the present controversy. "If the representative of the sovereign," said the *Pilot*, "is in practice to make appointments according to his own personal opinion, and to reject the bills relating to our local affairs because he thinks them unnecessary or inexpedient, it would be

BALDWIN LAFONTAINE HINCKS

infinitely better that the mockery of representative institutions was abolished." The journalistic career in those days was not without its dangers and difficulties. Hincks and his newspaper were denounced on all sides by the Tory press: he was likened to Marat, to Robespierre and to the iconoclasts of the French revolution. An embittered Orangeman,¹ incensed at certain expressions used by a correspondent of the *Pilot*, endeavoured to force a duel upon the editor. But in spite of all difficulties Hincks persevered, and remained at his editorial work in Montreal throughout the next four years.

In addition to his editorial work on the *Pilot*, Hincks endeavoured to influence opinion in the mother country by contributing a series of letters to the London *Morning Chronicle*. These were intended to offset the arguments that were being laid before the British public by Gibbon Wakefield. The latter, whom the Reformers now regarded as

¹ The gentleman in question was Colonel Ogle R. Gowan. A correspondent of the *Pilot*, in discussing the well-known episode of the queen's refusal to dismiss the ladies of the bedchamber and its relation to the royal prerogative, had said: "His [Sir Robert Peel's] demand was complied with, though Colonel Gowan *falsely* asserted the contrary at Kingston." Gowan wrote to Hincks (March 12th, 1844) asking the name and address of the correspondent. "Should you decline to accede to my demand," he said, "I beg you will refer me to a friend on your behalf to meet Captain Weatherly of this city, who will arrange a meeting between us." Hincks managed to appease the irate colonel by explaining that the *falseness* of the argument and not the *veracity* of the speaker was the matter in question.

HINCKS AND WAKEFIELD

a snake that they had unwittingly warmed in the bosom of the party, had become the bitter enemy of the late ministry. He had endeavoured to persuade the assembly to adopt an amendment nullifying the vote of confidence. Failing in this, he had published a pamphlet¹ in defence of the conduct of Metcalfe, and was at this time busily contributing articles to the London press on the Canadian question. Wakefield in these writings undertook to make a double misrepresentation; to misrepresent Canadian affairs to the people of Great Britain, and to misrepresent British opinion thereupon to the people of Canada. "The quantity of sympathy with Messrs. Baldwin and LaFontaine existing in the United Kingdom," he wrote, "is very minute." The resignation of the ministry he interpreted, not as arising out of the question of responsible government, but simply as a political trick: the difficulty encountered with the university bill and other Upper Canadian legislation had made the Reform party anxious to divert public attention from its ill success by the familiar device of dragging a herring across the scent. Responsible government was merely the herring in question. Hincks easily exposes the fallacies of Wakefield's argu-

¹ *A View of Sir Charles Metcalfe's Government in Canada* (London, 1844). See also an article, *Sir Charles Metcalfe in Canada* (*Fisher's Colonial Magazine*, 1844) and letters in the *Colonial Gazette*; see also *Edward Gibbon Wakefield* by R. Garnett, London, 1898. Dr. Garnett speaks of Wakefield as "exercising *irresponsible* government in Canada as the secret counsellor of Sir Charles Metcalfe."

BALDWIN LAFONTAINE HINCKS

ment ; for Wakefield's letters to the press before and after the ministerial rupture were essentially inconsistent. On October 27th, 1843, Wakefield had written that he would have no objection to a quarrel between Metcalfe and the ministers if he "could be sure that the governor would pick well his ground of quarrel." Again on November 25th he wrote to a correspondent: "The governor-general has had, I think, the opportunity of breaking with his ministers on tenable ground and has let it slip. . . . I am unwilling to do him the bad turn of shooting the bird which I suppose him to be aiming at behind the hedge of reserve which conceals him from vulgar eyes." In his letter to the *Colonial Gazette*, after the rupture, and in his pamphlet, Wakefield tries to put the quarrel in the quite different light described above. In his letters to the *Chronicle* Hincks not only shows the inconsistency of his adversary's position, but makes a pitiless exposure of the reasons underlying Wakefield's self-interested desertion of the Reform party.¹

While Hincks was thus busily occupied at Montreal, Baldwin, who had returned to Toronto after the prorogation of the House, was heading the agitation against Metcalfe in Upper Canada. A public banquet was held in honour of the ex-ministers (December 28th, 1843) at the North American Hotel, Robert Baldwin being the guest

¹ See Hincks's letters to the *Morning Chronicle*, July 24th, 1844, etc.

REFORM ASSOCIATION BANQUET

of the evening. Mr. Ridout, of the Upper Canada Bank, proposed the health of Messrs. LaFontaine, Baldwin and the other members of the cabinet, the "steadfast champions of responsible government," to which Baldwin replied in a long speech, subsequently printed in full in the Reform journals of both Upper and Lower Canada. A Reform Association was founded in Toronto whose branches rapidly spread over the whole of the province. Under the auspices of the new association there was held in Toronto towards the end of March of the new year,¹ the first of a series of great meetings organized throughout the country. So great was the enthusiasm attendant upon this gathering that the hall of the association, situated in a building on the corner of Front and Scott Streets, was quite inadequate to accommodate the crowd that clamoured for admission, and hundreds were turned from the doors. Robert Baldwin, who occupied the chair, was the central figure of the occasion, and the address with which he opened the proceedings of this first general meeting of the Reform Association, ranks among his most striking speeches.² Loud and continued cheering greeted him as he rose to speak, and was renewed at intervals in the pauses of his discourse.

"Our objects," said the speaker, in announcing the formation of the association, "are open and

¹ March 25th, 1844.

² *Baldwin Pamphlets* (1844), Toronto Public Library.

BALDWIN LAFONTAINE HINCKS

avored. We seek no concealment for we have nothing to conceal. We demand the practical application of the principles of the constitution of our beloved mother country to the administration of all our local affairs. Not one hair's breadth farther do we go, or desire to go: but not with one hair's breadth short of that will we ever be satisfied. . . . Earnestly I recommend to all who value the principles of the British constitution, and to whom the preservation of the connection with the mother country is dear, to lend their aid by joining this organization. Depend upon it, the day will come when one of the proudest boasts of our posterity will be, that they can trace their descent to one who has his name inscribed on this great roll of the contenders for colonial rights."

After fully developing the nature of colonial self-government and quoting from Lord Durham's report and the September resolutions in support of his contention, Baldwin went on to show the utter insufficiency of responsible government as conceived by Sir Charles Metcalfe. His Excellency's system meant nothing more or less than the old disastrous methods of personal government brought back again. "If we are to have the old system," said Baldwin, "then let us have it under its own name, the 'Irresponsible System,' the 'Compact System,' or any other name adapted to its hideous deformities; but let us not be imposed

BALDWIN'S SPEECH

upon by a mere name. We have been adjured," he continued, alluding to an answer recently given by Metcalfe to a group of petitioners, "with reference to this new-fangled responsible government, in a style and manner borrowed with no small degree of care from that of the eccentric baronet¹ who once represented the sovereign in this part of Her Majesty's dominions, to 'keep it,' to 'cling to it,' not to 'throw it away'!! You all, no doubt, remember the story of little Red Ridinghood, and the poor child's astonishment and alarm, as she began to trace the features of the wolf instead of those of her venerable grandmother: and let the people of Canada beware lest, when they begin to trace the real outlines of this new-fangled responsible government, and are calling out in the simplicity of their hearts, 'Oh, grandmother, what great big eyes you have!' it may not, as in the case of little Red Ridinghood, be too late, and the reply to the exclamation, 'Oh, grandmother, what a great big mouth you have!' be 'That's to gobble you up the better, my child.'"

Baldwin was ably followed by his cousin, Robert Sullivan, by William Hume Blake, and a long list of other speakers. Notable among these was one whose name was subsequently to become famous in the annals of Canadian Liberalism. George Brown, a young Scottish emigrant, had just established at Toronto (March 5th, 1844) a weekly

¹ Sir F. B. Head.

BALDWIN LAFONTAINE HINCKS

newspaper called the *Globe*, founded in the interest of the Reform party. The *Globe* was a fighting paper from the start, and the power of its opening editorials with their unsparing onslaughts on the governor-general was already spreading its name from one end of the province to the other. In reality there were strong points of disagreement between the editor of the *Globe* and the leading Reformers, who at this time aided and encouraged his enterprise, and Brown was destined ultimately to substitute for the moderate doctrines of the Reformers of the union, the programme of the thorough-going Radical. But agreement in opposition is relatively easy. The day of the Radicals and the Clear Grits¹ was not yet, and for the time Brown was heart and soul with the cause of the ex-ministers. In his speech on this occasion he drew a satirical picture of the operation of responsible government *à la* Metcalfe. "Imagine yourself, sir," he said to the chairman, "seated at the top of the council table, and Mr. Draper at the bottom,—on your right hand we will place the Episcopal Bishop of Toronto (Dr. John Strachan) and on your left the Reverend Egerton Ryerson,—on the right of Mr. Draper sits Sir Allan MacNab, and on his left Mr. Hincks. We will fill up the other chairs with gentlemen admirably adapted for their situations

¹ The relation of George Brown to the Clear Grits to whom he was at first opposed is traced by J. Lewis in his *George Brown (Makers of Canada Series)*.

CAMPAIGN AGAINST METCALFE

by the most extreme imaginable differences of opinion—we will seat His Excellency at the middle of the table, on a chair raised above the warring elements below, *prepared to receive the advice of his constitutional conscience-keepers*. We will suppose you, sir, to rise and propose the opening of King's College to all Her Majesty's subjects,—and then, sir, we will have the happiness of seeing the discordant-producing-harmony-principle in the full vigour of peaceful operation.”

Resolutions were adopted at the meeting endorsing the principles and conduct of the late administration and condemning in strong terms the interim government of Sir Charles Metcalfe. “We have commenced the campaign,” said the *Globe*, in commenting on the proceedings, “the ball has received its first impulse in this city,—let it be taken up in every village, and in every hamlet of the country.” At these meetings Baldwin was a frequent speaker and addresses from all parts of the country were forwarded to him. Not the least interesting among them was an address from his constituents of Rimouski setting forth that “a public meeting of the citizens of the different parishes of the county had been held immediately after mass on Sunday, February 4th,” and that resolutions had been adopted fully approving the “conduct in parliament of the Hon. Robert Baldwin.” In the course of the summer Baldwin not only spoke in various towns

BALDWIN LAFONTAINE HINCKS

of Upper Canada but found time also, in July, to visit the Lower Provinces. In his own constituency, the county of Rimouski, Baldwin's tour became a triumphal procession. The inhabitants flocked to meet him and his visit was made the occasion of universal gaiety and merry-making. The village street of Kamouraska was decorated with flags and a long *cortège* of vehicles accompanied the Reform leader on his entry: the river at Rimouski was crossed in a boat gaily adorned with bunting for the occasion, while repeated salvos of musketry attended the transit of Baldwin and his party. At Rimouski village itself, an assembly of some four hundred parishioners with their *curé* at their head was marshalled before the village church to present an address of welcome. Everywhere the cordial hospitality of the people was conjoined with the warmest expressions of political approval.

A shower of addresses fell also upon Sir Charles Metcalfe, addresses of advice, of hearty approval, and of angry expostulation. The "inhabitants of the town of London" begged to "approach His Excellency with feelings of gratitude and admiration which they could not sufficiently express." The townspeople of Orillia had been "particularly disgusted with the studied insult so continually offered to all the faithful and loyal of the land, and by the advancement to situations of honour and employment of suspected and disloyal persons."

A SHOWER OF ADDRESSES

The Tories of Toronto, Belleville, and a host of other places, sent up similar addresses. On the other hand, "the magistracy, freeholders, and inhabitants generally of the district of Talbot, observed with painful regret the unhappy rupture between His Excellency and a council which possessed so largely the confidence of the people. The principle of responsible government, which has occasioned this rupture, they had fondly hoped had been so clearly defined and so fully recognized and established as to obviate all difficulty and altercation for the future."¹ The district council of Gore took upon itself to go even further. They assured His Excellency that "public opinion in this district and, we believe, throughout the length and breadth of Canada, will fully sustain the late executive council in the stand they have taken, and in the views they have expressed." Altogether some hundred addresses were forwarded to the governor-general. The greater part of them, as might be expected, emanated from Conservative sources and chorused a jubilant approbation of Metcalfe's conduct. British loyalty, the old flag and the imperial connection were put to their customary illogical use, and did duty for better arguments against responsible government. Even the "Mohawk Indians of the Bay of Quinté" were pressed into political service. On the subject of responsible

¹ As against this address a rival faction of the people of Talbot sent up expressions of hearty approval of Metcalfe's conduct.

BALDWIN LAFONTAINE HINCKS

government the ideas of the chiefs were doubtless a little hazy and they discreetly avoided it, but their prayer that the "Great Spirit would long spare their gracious Mother to govern them" may be taken as a rude paraphrase of the Tory argument against the ministry. They regretted "the removal of the great council fire from Cataraqui to some hundred miles nearer the sun's rising," but lapsed into language much less convincingly Indian by saying that "the question is simply this, whether this country is to remain under the protection and government of the queen, or to become one of the United States."

The Mohawk Indians were not the only ones who insisted on saying that this latter was the main question at issue. There was at Kingston a rising young barrister and politician of the Tory party, John A. Macdonald by name, who at this juncture coöperated in founding a United Empire Association.

Meantime the condition of affairs in Canada, and the fact that Metcalfe was conducting the government of the country with an executive council which consisted of only three persons, were exciting attention in the mother country and had become the subject of debate in the imperial parliament. Ever since the agitation and rebellion of 1837, there had been in the House of Commons a group of Radical members who were ready at any time to espouse the cause of the colonists against the

BRITISH OPINION

governors. This was done, it must in fairness be admitted, largely in ignorance of actual Canadian affairs. The sympathy of the British Radicals proceeded partly from the general philanthropy that marked their thought, partly from their abstract and doctrinaire conception of individual rights, and partly also from their desire to use the colonial agitation as a weapon of attack against the Tory government. Hume and Roebuck, it will be remembered, had been in correspondence with Mackenzie and Papineau. They had been the London agents of the Canadian Alliance Association founded by Mackenzie in 1834. Since that period the cause of self-government in Canada had found consistent supporters among the British Radicals. But the bearing of this sympathetic connection must not be misinterpreted. Trained in the narrow school of "little Englandism" the Radicals regarded every colony as necessarily moving towards the manifest destiny of ultimate independence, and the historic value of their sympathetic connection with the Baldwin-LaFontaine party in the present crisis cannot be very highly estimated. Indeed a little examination shows that between the ideas of the British Radicals and those of Robert Baldwin and his party, a great gulf was fixed. To the former, colonial self-government was justified as a necessary prelude to colonial independence: to the latter, it appeared as a bond—as the only stable and permanent bond—which would maintain intact

BALDWIN LAFONTAINE HINCKS

the connection with the mother country. This latter point cannot be too strongly emphasized. There is hardly a speech made by Robert Baldwin at this period in which he does not assert his devotion to the unity of the empire and his firm belief that responsible government in the colonies was the true means of its maintenance. With the lapse of sixty years the narrow view of the British Radicals has been discredited and lost from sight in the larger prospect of an imperial future. But no portion of that discredit should fall upon the Reformers of Canada, to whom at this moment they offered their support.

In answer to a question in the House of Commons, Lord Stanley, the colonial secretary, had (February 2nd, 1844) declared that the imperial government fully approved of the conduct of Sir Charles Metcalfe.¹ Although Sir Charles

¹ There appears to be little doubt that Stanley's confidential letters to Metcalfe supported the latter in his quarrel with the Reformers. Hincks in his *Reminiscences* gives it as his opinion that Metcalfe, at the time of his leaving England, had received instructions from the colonial secretary to the effect that he was to make it his business to prevent the establishment of responsible government in Canada. "Sir Charles Metcalfe," he writes (p. 89), "was selected with the object of overthrowing the new system of government." The formal instructions to Metcalfe under date of February 24th, 1843, were identical with those sent to Lord Sydenham under date of August 30th, 1840. (See *Canadian Archives Report, 1905*, pp. 115-21.) But it is known that Metcalfe had a confidential interview with Lord Stanley before leaving England and that he received private communications from him in regard to the ministerial crisis. The following passage occurs in a MS. letter of LaFontaine to Baldwin under date of January 28th,

LORD STANLEY'S VIEWS

Metcalf, he said, went out to carry out the views of the government at home, yet he was equally determined to *resist any demands inconsistent with the dignity of the Crown; in pursuing this course he would have the entire support of the home government.* A still more emphatic approval of Metcalf's conduct, together with a declaration of the principles of colonial government, was given by Lord Stanley some four months later (May 30th, 1844) in a debate which was presently known in Canada as the "great debate." The statements made by Lord Stanley on that occasion, and the concurrence expressed by Lord John Russell, leave no doubt that neither the British statesmen of the Conservative party nor their Liberal opponents had as yet accepted the principle of colonial autonomy as we now know it. They were still haunted by the lingering idea that a colony must of necessity be subservient to its governor, and that complete self-government meant independence of Great Britain.

Mr. Roebuck had called the attention of the House of Commons to the condition of affairs in Canada, and the colonial secretary made a lengthy speech in reply. "The honourable member," he said, "*drew an analogy between the position of the ministers in the colony and the position of the*

1844: "Holmes received this morning a letter from Dunn who states that a person, upon whose word he can rely, had just informed him that the governor had received despatches from Lord Stanley approving his conduct. *That is a matter of course.*" (*Baldwin Correspondence, Toronto Public Library.*)

BALDWIN LAFONTAINE HINCKS

ministers of the Crown in the mother country. He [Lord Stanley] denied the analogy. The constitution of Canada was so framed as to render it impossible that it could possess all the ingredients of the British constitution." In Great Britain, he said, the Crown "exercised great influence because of the love, veneration, and attachment of the people. The governor was entirely destitute of the influence thus attached to royalty. . . . The House of Lords exercised the power derived from rank, station, wealth, territorial possession and hereditary title. The council [legislative] in Canada had none of these adventitious advantages." The reasoning thus presented by the colonial secretary seems to bear in the wrong direction.¹ But his remarks which follow essentially reveal the attitude of his mind on the question. "Place the governor of Canada," he said, "in a state of absolute dependence on his council and they at once would make Canada an independent and republican colony. . . . It was inconsistent with a monarchical government that the governor should be nominally responsible, and yet was to be stripped of all power and authority, and to be reduced to that degree of power which was vested in the sovereign of this country: it was inconsistent with colonial dependence altogether and was overlooking altogether the distinction which must subsist between an independ-

¹ *La Minerve* (July 1st, 1844) contains an interesting discussion of this debate.

STANLEY DEFENDS METCALFE

ent country and a colony subject to the domination of the mother country. . . . The power for which a minister is responsible in England is not his own power but the power of the Crown, of which he is for the time the organ. *It is obvious that the executive councillor of a colony is in a situation totally different.* The governor, under whom he serves, receives his orders from the Crown of England. But can the colonial council be the advisers of the Crown of England? Evidently not, for the Crown has other advisers for the same functions and with superior authority."

In the latter part of his speech Lord Stanley dealt more directly with the question of colonial appointments: his remarks show all too plainly that he too persisted in dividing the Canadians into two groups of "rebels" and "honest men," and in viewing the present controversy as a strife between the two. "Did not the honourable and learned gentleman," he asked, referring to Mr. Roebuck, "think that the minority in a colonial society, be it Tory, Radical, Whig, French, or English, had more chance of fair play if the honours and rewards in the gift of the government were distributed by the Crown than if they were dispensed exclusively by political partisans." The magnificent stupidity of this remark can be realized if one imagines Lord Stanley being asked whether it might not be advisable to allow the queen to make personal appointments to all offices in order

BALDWIN LAFONTAINE HINCKS

to shelter the British minority from the rapacity of the Conservative party. But what Stanley had in his mind becomes clear when he goes on to say:—“Would it be consistent with the dignity, the honour, the metropolitan interests of the Crown that its patronage should be used by the administration [of Canada] to reward the very men who had held back in the hour of danger? and would it be just or becoming to proscribe and drive from the service of the country those who, in the hour of peril, had come forward to manifest their loyalty and to maintain the union of Canada with the Crown of England?” The union of Canada and England had as little to do with the present argument as the union of Sweden and Norway, but the reference to it passed current in both countries for nobility of sentiment. Lord Stanley concluded his remarks by referring to the LaFontaine-Baldwin ministry as “unprincipled demagogues” and “mischievous advisers.”

Stanley's defense of Metcalfe and his views on colonial self-government read somewhat strangely at the present day. What is still more strange is that the Liberal leader, Lord John Russell, who spoke on the same occasion, was prepared to put the same interpretation on the Canadian situation. He would, he said, have condemned Sir Charles Metcalfe if he had said that he would *in no case* take the opinion of his executive council respecting appointments; but it would be impossible for the

IRRESPONSIBLE GOVERNMENT

governor to say that he would in all cases follow the will of the executive council. Sir Robert Peel and Mr. Charles Buller, one of the principal collaborators of Lord Durham in the composition of his report, spoke also to the same effect.

During all this time Sir Charles Metcalfe remained without a ministry. Even the two new councillors in office, Draper and Viger, had merely been sworn in as executive councillors without being assigned to offices of emolument. As the spring passed and the summer wore on, the chances of being able to obtain a ministry on anything like a representative basis still appeared remote. The Tories of the assembly had given to Sir Charles Metcalfe from the outset a cordial support, but in view of the overwhelming numbers of the Reformers and French-Canadians, the attempt to construct a ministry from the ranks of the Tories would have been foredoomed to failure. On the other hand, the governor-general was well aware that continued government without a ministry meant ruin to his cause and tended of itself to prove the contention of his opponents. No effort was spared, therefore, to obtain support from the Reform party itself and to encourage secession from the ranks of the French-Canadians by tempting offers of office. It was hoped that the example of Mr. Viger might induce others of his nationality to desert the cause of the late administration. Barthe, a fellow-prisoner of Viger in the

BALDWIN LAFONTAINE HINCKS

days of the rebellion, and since then editor of *L'Avenir du Canada* and member for Yamaska, had been offered a seat in the cabinet shortly after the ministerial resignation and had refused. Four French-Canadians in turn had rejected the offer of the position of attorney-general for Lower Canada, and the same position had been offered in vain to two British residents. Viger found himself with but small support among his fellow-countrymen. It was in vain that he appealed to them in a pamphlet¹ in which he sought to prove that LaFontaine and Baldwin had acted without constitutional warrant. The subtleties of Mr. Viger's arguments availed nothing against the instinctive sympathy of the French-Canadians with their chosen leader. At the end of the month of June, Mr. Draper, anxious to realize the situation at first hand, visited the Lower Province and spent some weeks in a vain attempt at obtaining organized support for the government. As a result of his investigations he wrote to Sir Charles Metcalfe that "after diligently prosecuting his inquiries and extending his observations in all possible quarters, he could come to no other conclusion than that the aid of the French-Canadian party was not to be obtained on any other than the impossible terms of the restoration of Baldwin and LaFontaine."²

¹ See *La Crise Ministerielle et M. Denis Benjamin Viger*, (Kingston, 1844,) published also in English (*Baldwin Pamphlets*, 1844, Toronto Public Library).

² Kaye, *Life of Metcalfe*, 1854, Vol. II, pp. 552, 553.

A DEADLOCK

“The difficulty, indeed,” says Metcalfe’s biographer, “seemed to thicken. According to Mr. Draper, it was one from which there was no escape. After the lapse of seven months, during which the country had been without an executive government, Metcalfe was told by one of the ablest, the most clear-headed and one of the most experienced men in the country, that it was impossible to form a ministry, according to the recognized principle of responsible government, without the aid of the French-Canadian party, and that aid it was impossible to obtain. What was to be done?” Well might the governor-general and his private advisers ask themselves this question. As Mr. Draper himself informed His Excellency, the want of an executive government was beginning to have a disastrous effect upon the commerce and credit of the country. The revenue must inevitably be soon affected, the administration of justice was already hampered for want of a proper officer to represent the Crown in the courts of law, while the public mind was filled with disquieting apprehensions for the future which were beginning to paralyze the industrial life of the province.¹

The whole summer of 1844 was one of intense political excitement. Agitation meetings, and political speeches became the order of the day, and political demonstrations on a large scale were organized by the rival parties. On May 12th a

¹ See Kaye, *op. cit.* Vol. II, p. 553.

BALDWIN LAFONTAINE HINCKS

general meeting of the Reform Association had been held at Toronto. At this Robert Baldwin played a principal part, and in his speech on the occasion reiterated his attachment to the British connection and his belief that the policy of his party was the only one that could lead to permanent imperial stability. He presented to the meeting an address which he had drafted for presentation to the people of Canada, and which was adopted with enthusiasm. Its concluding sentences sounded a note of warning and appeal:—
“This is not a mere party struggle. It is Canada against her oppressors. The people of Canada claiming the British constitution against those who withhold it: the might of public opinion against faction and corruption.”

The newspapers during these months contained little else than fiery disputation on the all-absorbing topic of the hour. Pamphlets poured from the colonial press in an abundant shower, and editors, lawyers, assemblymen and divines hastened to add each his contribution to the political controversy engendered by the situation. The Reform Alliance started a series of “tracts for the people” designed to elucidate the leading principles and disputed points of the whole controversy. Hincks, Buchanan, Ryerson, Sullivan and a swarm of others hastened into the fray, iterating and reiterating the well-worn arguments for and against the late ministry and soundly belabouring one another

THE PAMPHLETEERS

with political invective and personal abuse. The great bulk of the literature of the Metcalfe controversy is of but little interest or novelty. It is somewhat difficult to read through the forty pages of print in which "Zeno" (of Quebec) undertakes to show that the resistance of Metcalfe and his satellites to responsible government was but the "expiring howl of that mercenary class who, by servility, venality and corruption, have marred the prosperity of the colony." Equally difficult is it to follow the tortuous argumentation of Isaac Buchanan in his *Five Letters Against the Baldwin Faction*. Buchanan, who was a moderate Reformer now turned against his late leaders, writes with the bitterness of a renegade, and his letters are of some interest as illustrating the wilful distortion of Robert Baldwin's opinions and objects at the hands of his opponents. "How many are there," he asks; "who are out and out supporters of Mr. Baldwin who do not conscientiously wish that Canada was a state of the union to-morrow?" "Mr. Baldwin," he says, "was weakening the very foundations of colonial society," and supports the statement by an afflicting anecdote of a recent experience in England.

"On the subject of Baldwin's past character," says Buchanan, "the question was again and again put to me in England. Did he not prefer his party to his country, at the late rebellion, declining to fight against the former or to turn

BALDWIN LAFONTAINE HINCKS

out in defence of the latter? I remember well the feeling remark of one gentleman of the most liberal British politics, and whose bosom beats as high as any man's for the cause of freedom, — '*Well, poor Mr. Baldwin may be a patriot, but he is not a Briton.*'"

There is, however, one episode of the Metcalfe controversy—namely, the literary duel between the Rev. Egerton Ryerson and the Hon. R. B. Sullivan, late president of the council—which deserves more than a passing notice. In both Upper and Lower Canada, Metcalfe had spared no pains to win men of prominence of all parties to his cause by flattering offers of public office. Egerton Ryerson, already famous in the colony as a leader of the Methodist Church, as president of Victoria College and as an opponent of the exclusive claim of the Church of England to the Clergy Reserves, was one of those who were said by the Reformers to have felt the "draw of vice-regal blandishments."¹ The announcement early in 1844 that Ryerson had been interviewed by the governor-general, and that his appointment as superintendent of education with a seat in the cabinet was under consideration, was declared by the *Globe* (March 8th, 1844) to be an "alarming feeler." Subsequently, when Ryerson, in the ensuing May, published his famous defence of Sir Charles

¹ N. F. Davin, *The Irishman in Canada*, p. 504.

RYERSON DEFENDS METCALFE

Metcalfe¹ and was later in the year duly appointed to be superintendent of education, his enemies did not scruple to say that Mr. Ryerson had sold himself to the Metcalfe government for a price, and had become a traitor to the cause of public liberty. But whatever may be thought of the correctness or incorrectness of Ryerson's views on the ministerial controversy, the contention that his literary services had been bought, cannot stand. His appointment to office rests on a solid basis of merit and had long been under consideration. No one in the province had given more earnest thought to the problem of public education than had Egerton Ryerson, and the question of his appointment as superintendent of common schools had already been discussed by Lord Sydenham. It appears also, on good authority, that Sir Charles Metcalfe had determined to appoint Ryerson to some such position before the rupture with the LaFontaine-Baldwin cabinet occurred.² It must, therefore, in fairness be admitted that the defence of Sir Charles Metcalfe was inspired by no self-seeking motives, but proceeded from a genuine conviction that the course adopted by the late cabinet was unconstitutional and dangerous to the public welfare.

¹ *Sir Charles Metcalfe Defended Against the Attacks of his late Councillors*, Toronto, 1844.

² See Egerton Ryerson, *Story of My Life* (Edited by J. G. Hodgins) Chap. xliii: see also N. Burwash, *Egerton Ryerson* (Makers of Canada Series) Chap. v.

BALDWIN LAFONTAINE HINCKS

From the literary point of view, Ryerson's defence is an extremely able document and is written, not with the ponderous periods of the theologian, but with a vigour of style and a freedom of phrase which drew down upon the head of its author the taunt of being a "political swashbuckler." The central point of the argument of the pamphlet is the attempt to prove that the conduct of the late ministry was contrary to British precedent. "If the ministry," argued Ryerson, "objected to the governor's appointments, the proper course for them consisted in immediate resignation, not in attempting to bind the governor with a pledge in regard to appointments of the future. It was," he said, "contrary to British usage for them to remain in office twenty-four hours, much less weeks or months, after the head of the executive had performed acts or made appointments which they did not choose to justify before parliament and before the country. It was contrary to British usage for them to complain of and condemn a policy or acts to which they had become voluntary parties by their continuing in office. It was contrary to British usage for them to go to the sovereign to discuss principles and debate policy, instead of tendering their resignations for his past acts." This line of reasoning, though rendered plausible by an imposing show of precedent and argument, need not be taken very seriously. The ministry had, in fact, resigned on account of the

THE MINISTERS DEFENDED

past acts of the governor, not on the strength of any single one, but rather by reason of the accumulation of many. For the entire ministry to have resigned the first time the governor undertook to make a minor appointment on his own account would have been plainly impossible: equally impossible was it to allow the governor to continue indefinitely making such appointments. The essence of the situation lay, therefore, in the future rather than the past.

Ryerson's pamphlet called forth an answer from an opponent of as good fighting mettle as himself. The *Thirteen Letters on Responsible Government*, published by Robert Sullivan, are certainly equal to Ryerson's defence in point of logic and in the presentation of the law, and easily surpass it in facility of style, while the caustic wit, for which the writer was distinguished, adds to the brilliance of his work. Sullivan signed himself "Legion" to indicate that his name was not one but many. He prefaces his work with a mock-heroic "Argument," or table of contents, in which he endeavours at the outset to put his theological opponent in a ludicrous light. Thus he announces as the subject of Letter IV, the "doctor's [Ryerson's] discovery that Cincinnatus was one of the Knights of the Round Table, from which he infers that Mr. Baldwin stole his ideas on responsible government from the days of chivalry." Later we read that "'Legion' repudiates his relatives and absolves his godfathers

BALDWIN LAFONTAINE HINCKS

on the ground of the doctor's monopoly of the calendar of saints," while the letters conclude with a "panoramic view of the doctor's iniquitous career—his death struggle with 'Legion' and his hideous writhings graphically described," after which "'Legion' carries off the doctor amidst yells and imprecations." Apart from witticisms, personalities, and stinging satire, Sullivan's letters are of great importance in the Metcalfe controversy from the fact that the writer takes issue with Lord Stanley, whose views on colonial government he considers entirely erroneous. As a rule the writers on behalf of the Reform party endeavoured to so interpret Stanley's expressions as to make them appear favourable to the attitude taken by the LaFontaine-Baldwin cabinet. In the light of what has been quoted above, this will be seen to be a hopeless task. Sullivan takes a bolder, and at the same time a surer, stand. "Lord Stanley's argument," he says, "if it proves anything, proves that we should not have representative institutions at all: that public opinion should not prevail in anything, because it wants the ingredient of aristocratic influence. . . . There is not the slightest doubt, in the mind of any one, but that the governor of this province is bound to obey the orders of Her Majesty's secretary of state for the colonies, however opposed these orders may be to the advice of the council, for the time being. But there is as little doubt but that when a secretary of state

RYERSON ON BALDWIN

gives such orders with respect to the administration of our local affairs, he violates the principle of responsible government as explained in the resolutions of 1841, to which Sir Charles Metcalfe subscribed."

That a good many of "Legion's" shafts had struck home is seen in the furious rejoinder published by Egerton Ryerson. In this the distinguished divine almost forgets the dignity of his divinity. He compares his opponent to Barère and likens the Reform Association to the Committee of Public Safety of the French Revolution:—"Whether 'Legion' drank, fiddled and danced," he writes, "when Sir F. Head was firing the country, or when Lount and Mathews were hanging on the gallows, I have not the means of knowing: but a man who can charge the humane and benevolent Sir Charles Metcalfe with being an inhuman and bloodthirsty Nero, can easily be conceived to sing and shout at scenes over which patriotism and humanity weep." To Baldwin himself, the writer is almost as unsparing. Baldwin had just delivered an address to the electors of Middlesex in which he exhorted the Tories "to forget all minor differences and to act as if they remembered only that they were Canadians, since as Canadians we have a country and are a people." This patriotic utterance Ryerson sees fit to misinterpret. "In reading this passage of Mr. Baldwin's address," he says, "I could not keep from my thoughts two passages

BALDWIN LAFONTAINE HINCKS

in very different books, the one a parable in the Book of Judges, in which 'the bramble said unto the trees, if in truth ye annoint me king over you, then come and put your trust in my shadow : and if not, let fire come out of the bramble, and devour the cedars of Lebanon.' The other passage which Mr. Baldwin's address brought to my recollection, is one of Æsop's Fables, where the fox that had lost its tail exhorted his brethren of all shades and sizes to imitate his example as the best fashion of promoting their comfort and elevation."

The party war of pamphlets, speeches and addresses continued unabated throughout the summer. As the autumn drew on the efforts of Metcalfe and Draper to obtain at least the semblance of a representative cabinet met with better success. Towards the end of August a Mr. James Smith, a Montreal lawyer of no particular prominence, and never as yet a member of any legislative body,¹ accepted the position of attorney-general for Lower Canada. A recruit of more imposing name was found in Denis B. Papineau, brother of the French-Canadian leader of 1837, to whom was given the office of commissioner of Crown lands.

Papineau, who had hitherto been an adherent of the Lower Canadian Reform party, shared with Viger the odium of being a renegade from his party, and was subsequently accused by Robert Baldwin on the floor of the House with having

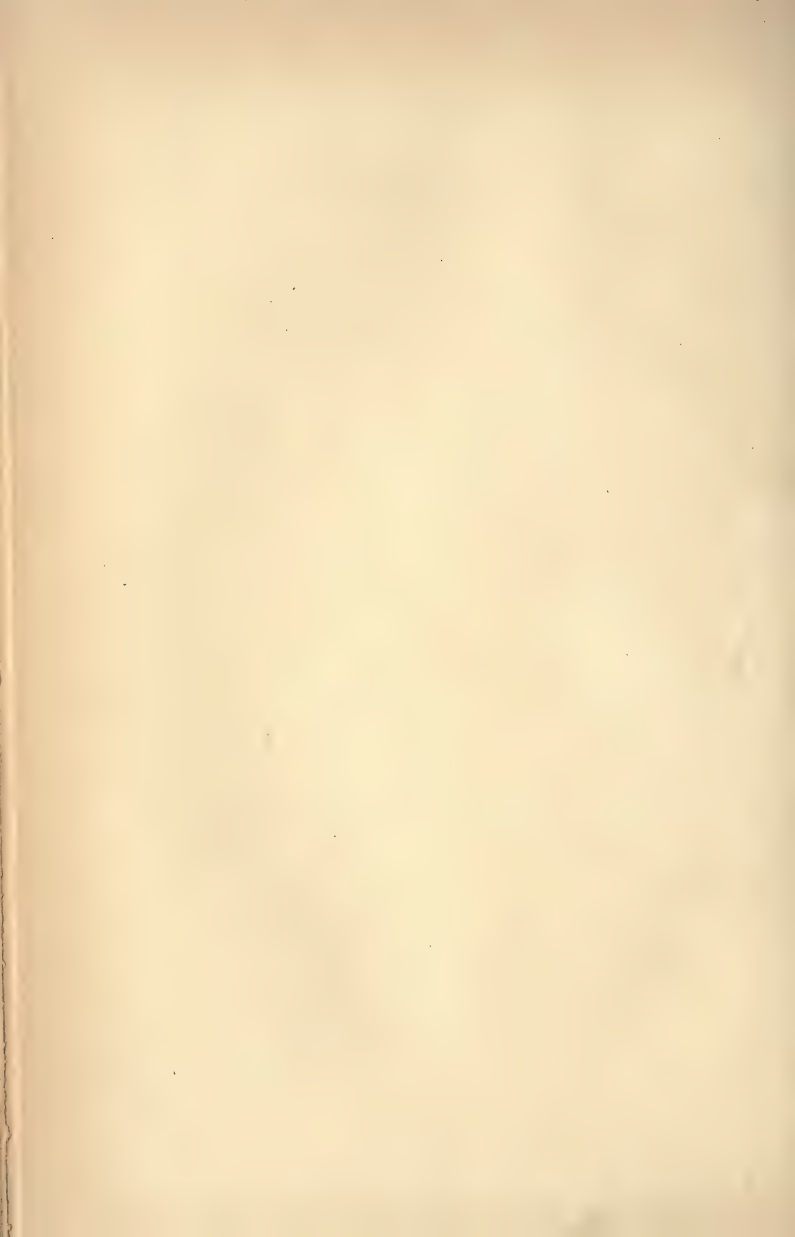
¹ H. J. Morgan, *Sketches of Celebrated Canadians*, 1862.

A CABINET AT LAST

approved the resignation of the previous ministry and then usurped the position they had seen fit to abandon.¹ Papineau, whose character had stood high with his compatriots, claimed in reply that his acceptance of office did not rest on personal grounds, but that he had seen fit, on mature reflection, to modify his opinion of the present controversy. William Morris of Brockville² accepted at the same time the post of receiver-general. Mr. Draper being now definitely appointed to be attorney-general for Upper Canada, Mr. Viger, president of the council, and Mr. Daly being still provincial secretary, Metcalfe found himself, at the opening of September (1844), with something approaching a complete ministry. It was thought wiser for the present to place no Tories in the cabinet. Mr. Henry Sherwood was, however, given the post of solicitor-general for Upper Canada without a seat in the executive council, and towards the close of the year W. B. Robinson, a brother of Chief-justice Robinson and a Tory of the old school, became inspector-general. Metcalfe was now ready to try conclusions with his adversaries. He dissolved the parliament on September 23rd, and writs, returnable on November 12th, were issued for a new election.

¹ Speech in answer to Address from the Throne, 1844.

² See above, p. 83.



CHAPTER VIII

IN OPPOSITION

THE elections of the autumn of 1844 were carried on amid an unsurpassed political excitement, and both sides threw themselves into the struggle with an animosity that seriously endangered the peace of the country. Whatever may be thought of the constitutionality of Metcalfe's conduct during the recent session of parliament, there can be no doubt that he went outside of his proper sphere in the part he took in the parliamentary election. His personal influence and his personal efforts were used to the full in the interests of the Draper government. Indeed, there now existed, between the governor-general and the leaders of the Reform party, a feeling of personal antagonism that gave an added bitterness to the contest. The governor-general had not scrupled to denounce the Reformers publicly as enemies of British sovereignty: in answer to an address sent up to him from the county of Drummond in which reference was made to the "measures and proceedings of a party tending directly in our opinion to the terrible result of separation from British connection and rule," Metcalfe stated that he had "abundant reason to know that you have accurately described the designs of the late executive council."

BALDWIN LAFONTAINE HINCKS

This intemperate language brought about the resignation of LaFontaine from his position as queen's counsel, a step immediately followed by a similar resignation on the part of Baldwin. The resignations were accompanied by letters to the provincial secretary in which the accusation of hostility to British sovereignty was indignantly denied. The same denial was repeated by the Reform leaders in the public addresses to their constituents, inserted in full length, according to the custom of the day, in the party newspapers, in spite of which Metcalfe and the Tories persisted in viewing the contest as one between loyalty and treason. "He felt," said Metcalfe's biographer, "that he was fighting for his sovereign against a rebellious people." For the rank and file of the Tory following, excuse may be found in the exigencies of party warfare; but for Metcalfe, as governor of the country, no apology can be offered, save perhaps the honesty of his conviction. "I regard the approaching election," he wrote (September 26th, 1844), "as a very important crisis, the result of which will demonstrate whether the majority of Her Majesty's Canadian subjects are disposed to have responsible government in union with British connection and supremacy, or will struggle for a sort of government that is impracticable consistently with either."

The result of the election gave a narrow majority to Mr. Draper's administration, but the contest

METCALFE'S VICTORY

was accompanied by such violence and disorder at the polls that the issue cannot be regarded as indicating the real tenor of public opinion. In this violence, it must be confessed, both parties participated. The Irish, mindful of their late contest with the Orangemen and the fate of the Secret Societies Bill, were solid for the Reform party, and their solidity assumed at many polling places its customary national form. It was charged by the enemies of Baldwin that gangs of Irishmen were hired in Upper Canada to control the voters by the power of the club.¹ Nor were the Tories behind hand in the use of physical force, and on both sides inflammatory handbills and placards incited the voters to actual violence. "The British party," said Metcalfe himself, "were resolved to oppose force by force and organized themselves for resistance."

As the issue of the elections became known, it appeared that the Reformers had carried Lower Canada by a sweeping majority, but that the adherents of the government had scored a still more complete victory in the Upper Province. LaFontaine, who had decided to present himself again to the electors of Terrebonne rather than to continue to represent an Upper Canadian constituency, was elected almost unanimously. Out of fifteen hundred voters who assembled in despite of bad roads and bad weather, only about a score were prepared to

¹ N. F. Davin, *The Irishman in Canada*, p. 513.

BALDWIN LAFONTAINE HINCKS

support a local attorney—a Mr. Papineau—who had been nominated to oppose LaFontaine. A mere show of hands was sufficient to settle the election without further formalities. Morin was elected for two constituencies. Aylwin was returned for Quebec, and of the forty-two members for Lower Canada, only sixteen could be counted as supporters of the government. D. B. Papineau was elected for Ottawa county, but his colleague, Viger, whose prestige among the French-Canadians was permanently impaired,¹ was defeated by Wolfred Nelson, the former leader of the rebellion. The city of Montreal, henceforth to be the capital of Canada, signalized itself by returning two supporters of the administration. But their success was due solely to the arrangement of voting districts made by the government; for the city contained an overwhelming majority of French-Canadian and Irish adherents of the Reform party.² In Upper Canada, of the forty-two members elected, the government could count thirty as its adherents. MacNab, Sherwood, W. B. Robinson, John A. Macdonald of Kingston, and many other Tories were elected. Baldwin, who had bidden farewell to the constituency of Rimouski, was elected for the fourth riding of York, but Hincks was

¹ See Turcotte, *Le Canada sous l'Union*, pp. 157 et seq.

² These facts are admitted by Metcalfe. See Kaye, Vol. II. See also Hincks's *Political History of Canada*, pp. 35, 36.

A NARROW MAJORITY

beaten in Oxford¹ and remained out of parliament until 1848. John Henry Dunn, also a member of the late cabinet, was beaten in Toronto. The Tories stuck at nothing to carry the elections in Upper Canada. To their affrighted loyalty the end justified the means. Returns were in some cases wilfully falsified. Elsewhere the voters were driven from the polls and violence carried to such an extent that the troops were called out to quell the disorder, while throughout the province the militia were warned to be in readiness for possible emergencies. Only seven decided Reformers, among them Baldwin, Small and Price, were returned to parliament from Upper Canada. Taking the two sections of the province together and making due allowance for doubtful members, it appeared that the government might claim at the very outside, forty-six supporters in a House of eighty-four members. Even this narrow margin of support could not be relied upon. On the vote for the speakership, for example, Sir Allan MacNab was elected by only a majority of three.

On these terms, for want of any better, Mr. Draper had now to undertake the government of

¹ Hincks presented a petition to the assembly protesting against the election of his opponent, Mr. Robert Riddell. He claimed that the deputy returning officers had refused to admit the votes of persons who had come to the province previous to 1820, although, under an Act of the parliament of Upper Canada, such persons, if willing to take the oath of allegiance, were entitled to vote. The petition was not granted.

BALDWIN LAFONTAINE HINCKS

the country. It was a difficult task, and for one less skilled in the arts of political management it would have been impossible. The administration could hardly rest upon a satisfactory footing unless an adequate support could be obtained from the French of Lower Canada: on the other hand, any attempt to gain this support was apt to alienate the Upper Canadian Tories, now definitely in alliance with Mr. Draper and represented in his cabinet by Robinson, the new inspector-general. The leader of the government was therefore compelled to preserve, as best he might, a balance of power in a chronic condition of unstable equilibrium. That Mr. Draper did continue to carry on his government for nearly three years speaks volumes for his political dexterity.

It is no part of the present narrative to follow in detail the legislative history of Mr. Draper's administration. The seat of government had now been transferred to Montreal, where the parliament was given as its quarters a building that had formerly been St. Anne's market. It was a capacious edifice some three hundred and fifty feet in length by fifty in breadth, with two large halls on the ground floor which served for the House of Assembly and the legislative council, the hall of the assembly containing ample galleries with seats for five hundred spectators.¹ The parliament came together on

¹ A. Leblond de Brumath, *Histoire Populaire de Montréal* (1890) pp. 379, 380.

ATTEMPTS AT CONCILIATION

November 28th, 1844, and remained in session until the end of March of the ensuing year. During Mr. Draper's administration under Lord Sydenham, he had maintained himself in office, as has been seen, by adopting the measures desired by the Opposition as his own policy. This method of stealing his opponent's thunder was a favourite artifice of the leader of the government, and during the present session he made a liberal use of it. Acts in reference to the schools and municipalities of Lower Canada were passed, which carried forward the educational reforms already commenced. In order to conciliate, if possible, the Reformers of Lower Canada, steps were taken towards restoring the French language to its official position. It was known to the government that LaFontaine had it under consideration to put before the assembly a resolution urging upon the imperial government the claims of the people of Lower Canada to have their language placed upon an equal footing with English in the proceedings of the legislature. LaFontaine's intention was accordingly forestalled, and Denis Papineau, the commissioner of Crown lands, proposed to the assembly to vote an address to the imperial government asking for a repeal of the clause of the Act of Union¹ which made English the sole

¹ Act of Union, Section xli. "All journals, entries, and all written or printed proceedings of what nature soever of the said legislative council and legislative assembly . . . shall be in the English language only." Speaking in French was not, of course, contrary to the law.

BALDWIN LAFONTAINE HINCKS

official language. The motion was voted by acclamation amid general enthusiasm and the home government, after some delay, saw fit to act upon it.¹ The administration was less happy in its attempt to deal with the still outstanding university question. Mr. Draper presented a University Bill, closely analogous to that of Robert Baldwin; but finding the opposition of the Tories was at once aroused against such a proposed spoliation of the Church, the bill was dropped without coming to a vote. With these and other minor measures, and with much wrangling over the crop of contested elections that remained as a legacy from the late conflict, the time of the assembly was occupied until the end of the month of March.

Before the session had yet come to an end, the news was received that the home government intended raising Sir Charles Metcalfe to the peerage. In view of Metcalfe's long and useful career in other parts of the empire, such a step was not necessarily to be regarded as a special official approval of his conduct in Canada; but among the Reformers the announcement occasioned great indignation. The violence of party antagonism had by no means subsided: at the very opening of the session Baldwin had endeavoured to carry through the assembly a vote of censure against the governor-general for having violated the principles of the constitution by governing without a ministry.

¹ See below, page 287.

METCALFE MADE A PEER

The news that Metcalfe, instead of censure, was now to obtain an elevation to the peerage, drew forth from the members of the Opposition expressions of protest in language which the passions of the hour rendered unduly intemperate. Aylwin declared to the assembly that it would be more fitting that Metcalfe should be recalled and put on trial, rather than that he should receive the dignity of a peer. Even Robert Baldwin made use of somewhat immoderate expressions of disapproval. Utterances of this kind might perhaps have been spared, for the untoward fate that had fallen upon the two preceding governors of Canada now cast its shadow plainly on the governor-general, and it was becoming evident that Baron Metcalfe of Fern Hill was not long destined to enjoy earthly honours. Before coming to Canada he had suffered severely, as has been said above, from a cancerous growth upon the cheek: an operation had for the time arrested the progress of the disease, but all efforts towards a radical cure had proved unavailing. The sufferings of the distinguished patient had now become constant and his sight seriously affected. The rapid decline of his health made it apparent that he was no longer fit for the arduous duties of his position, and his friends began to urge him to ask for his recall. But Lord Metcalfe, with the indomitable courage that was his leading virtue, still held heroically to what he considered to be the post of duty.

BALDWIN LAFONTAINE HINCKS

Meantime, having got through one parliamentary session, Mr. Draper was anxious to avoid, if possible, encountering another upon the same terms. Draper appears to have realized that the great error of his past policy had been his failure to reckon with the strength of the united French-Canadian vote. This had upset his former ministry under Lord Sydenham, and the experience of the Metcalfe crisis had shown him that, even with the full support of a governor-general, the government could not be satisfactorily carried on without French-Canadian support. Mr. Draper now determined to obtain this support, and to retrieve his past errors by the formation of a new variety of political coalition. Of the Reform party of Upper Canada he had but little fear. Their representation in parliament was now seriously depleted, and even among their remaining members of the assembly, divisions had existed during the past session; on the other hand, the star of the Tories was in the ascendant and that party might always be counted upon to offset in Upper Canada the political influence of the Reformers. If then, Mr. Draper argued, the French-Canadian party under LaFontaine could be induced to break loose from Baldwin and his adherents and to join forces with the Ministerialists of Upper Canada, a combination could be formed that would hold a strong majority in both of the ancient provinces. We have here the beginnings of that system of a

NEGOTIATIONS WITH LAFONTAINE

“double majority,”—a majority, that is, in both Upper and Lower Canada,—which became the will of the wisest of the rival politicians, and which many persons were presently inclined to invest with a constitutional sanctity, as forming part of the necessary machinery of Canadian government.¹ It was characteristic of the ways and means of Mr. Draper, to whom the term “artful dodger” has often been applied, that he was prepared to throw overboard his French-Canadian men of straw (Viger and Papineau) to make way for LaFontaine, Morin, and their friends.

In order to attain his purpose, Mr. Draper in the autumn of 1845 entered into indirect negotiations with LaFontaine, Mr. Caron, the speaker of the legislative council, acting as a go-between. In the three-cornered correspondence that ensued the question of a ministerial reconstruction along the lines of the new alliance was fully discussed. Draper at first had interviews with Caron in which he suggested that the ministry might be strengthened by the addition of leading French-Canadian Reformers. Caron conveyed this suggestion to LaFontaine in a letter of September 7th, 1845.

¹ On the principle of the “double majority” see Dent, *The Past Forty Years*, Vol. II. pp. 20 *et seq.* Hincks's *Political History* (p. 28) contains interesting matter in this connection. “Up to the time of my leaving Canada in 1855,” writes Hincks, “no political alliance was formed on the principle of securing majorities from the two provinces.” The Draper-Caron-LaFontaine correspondence here referred to is given in Hincks's *Reminiscences*.

BALDWIN LAFONTAINE HINCKS

Mr. Draper's ideas, gathered thus at one remove and intentionally expressed with vagueness, may be seen in the following passage from Mr. Caron's letter. "He [Mr. Draper] told me that Mr. Viger could be easily *prevailed upon to retire*, and that Mr. Papineau desired nothing better: that both these situations should be filled up by French-Canadians: he seemed desirous that Morin should be president of the council . . . he spoke of the office of solicitor-general, which, he said, ought to be filled by one of our origin . . . he also spoke of an assistant secretaryship, the incumbent of which ought to receive handsome emoluments . . . This was about all he could for the present offer to our friends, who, when in power, might themselves strive afterwards to make their share more considerable. As regarded *you* [LaFontaine], he said that nothing would afford him greater pleasure than to have you as his colleague, but that, as the governor and yourself could not meet, the idea of having you form part of the administration must be given up so long as Lord Metcalfe remained in power: that it would be unjust to sacrifice a man of your influence and merit . . . but that this difficulty could easily be made to disappear by giving you an appointment with which you would be satisfied. . . . *As to Mr. Baldwin, he said little about; but I understood, as I did in my first conversation, that he thought he would retire of himself.*"

FAILURE OF DRAPER'S PLAN

Such was Mr. Draper's plan. LaFontaine's attitude in the dealings which followed is entirely above reproach. Mr. Draper's method of approach he considered to be irregular and unconstitutional; nor did the glittering bribe of "handsome emoluments" and "an appointment with which he would be satisfied," conceal from him the real meagreness of Mr. Draper's offer. The artful attorney-general was indeed merely offering to buy off a number of leading French-Canadians with offers of office and salary. It appears, however, that if Mr. Draper had been willing to go further and entirely reconstruct the Lower Canadian part of his cabinet so as to place it in the hands of the Reformers, LaFontaine would have been willing to make terms with him. This statement must not, however, be misunderstood. The arrangement contemplated was viewed by LaFontaine, not as the purchase of the Lower Canadian party by Mr. Draper, but as the purchase of Mr. Draper by the Lower Canadian party. The plan was fully discussed between LaFontaine and Hincks in Montreal. Nor did LaFontaine conceal anything of the negotiations in question from Robert Baldwin. The plan contemplated by LaFontaine and Hincks would merely have amounted to a further consolidation of the united French and English Reform party by adding to its ranks Mr. Draper and his immediate adherents. The danger of further secession, in pursuance of the example of Denis, Papineau and Viger, would thus be

BALDWIN LAFONTAINE HINCKS

minimized. The undoubted parliamentary talents of Mr. Draper would lend a valuable support to the cause, and the Tories of Upper Canada would remain in hopeless isolation. In a letter of September 23rd, 1845,¹ LaFontaine wrote very freely to Baldwin of the whole matter, and enclosed a translation of his letter to Caron. "Mr. Hincks," he said, "whom I saw this morning, seemed to be favourable to the plan, if it was effected, admitting that it would immediately crush the reaction in Quebec, and would strengthen you in Upper Canada. For my part I think Mr. Draper would be very glad to have an opportunity to act with the Liberal party: he knows he is not liked by the Tory party and that they wish to get rid of him. However, that is his own business."

If so powerful a combination of parties, and one so obviously advantageous to the interests of his race could have been formed, LaFontaine was perfectly willing, if need be, to retire from his leadership of the party in order to facilitate the new arrangement. "What French-Canadians should do above everything," he wrote, "is to remain united and to make themselves respected. I will not serve as a means of dividing my compatriots. If an administration is formed which merits my confidence, I will support it with all my heart. If it has not my confidence but possesses that of the

¹ MS. *Letters of LaFontaine to Baldwin*. Baldwin Correspondence, (Toronto Public Library.)

THE DOUBLE MAJORITY

majority of my compatriots, not being able to support it, I will willingly resign my seat, rather than cast division in our ranks." But to meet LaFontaine's views, Mr. Draper would have been called upon to go further than he had intended. To break entirely with the Canadian Tories and to throw overboard Mr. Dominick Daly,—the "permanent secretary," as he was now facetiously entitled,—was more than Mr. Draper had bargained for. These difficulties caused the negotiations to hang fire until the recall of Lord Metcalfe changed the position of affairs. "The whole affair," says a Canadian historian, "suddenly collapsed, and the only result was to intensify the political atmosphere, and aggravate the quarrel between a weak government and a powerful opposition."¹

Among the correspondence of Robert Baldwin in reference to the proposed reconstruction of parties, appears a letter of considerable interest addressed to LaFontaine which bears no date, but which was probably written in the autumn of 1845, after the failure of Mr. Caron's negotiations. Baldwin expresses an emphatic disapproval of any attempt to set up the principle of a "double majority." Such a system of government would be calculated, in his opinion, rather to intensify than to obliterate the racial animosity and end in precipitating a desperate struggle for supremacy. "You already know," he wrote, "my opinion of the 'double

¹ Fennings Taylor, *Portraits of British Americans*, Vol. I. p. 322.

BALDWIN LAFONTAINE HINCKS

majority' as respects the interests of the province at large. When I gave you that opinion I hesitated to dwell on what appears to me to be its extreme danger to our Lower Canadian friends of French origin themselves. . . . I speak not of the present public men of the province, or of the course which they or any of them may take. Some may be swept away from the arena altogether; others may retire; but in the event of such an arrangement being carried out, all who remain upon the political sea will, I am satisfied, have to go with the stream. The arrangement will be viewed as one based essentially upon a natural, original distinction and equally uninfluenced by the political principles. *British and French will then become in reality, what our opponents have so long wished to make them, the essential distinctions of party, and the final result will scarcely admit of doubt.* The schemes of those who looked forward to the union as a means of crushing the French-Canadians, and who advocated it with no other views, will then be crowned with success, and the latter will themselves have become the instruments to accomplish it. That this will be the final result of any successful attempt to reorganize the ministry upon such a foundation, I have no doubt whatever. It will not, however, be injurious to the French-Canadian portion of our population alone. It appears to me equally clear that it will be most calamitous to the country in general. It will perpetuate distinctions,

METCALFE RECALLED

initiate animosities, sever the bonds of political sympathy and sap the foundation of political morality.”¹

In the autumn of 1845 the progress of Lord Metcalfe's malady was such as rapidly to render him unfit for further exertions. His disease had almost destroyed his sight and his constant sufferings rendered the transaction of official business a matter of extreme difficulty. At the end of October he asked for his recall. But the imperial government, aware of his distressing condition, had anticipated his request, and Stanley had already forwarded to him the official acceptance of a resignation which he might use at any time that seemed proper to him. “You will retire, whenever you retire,” wrote the colonial secretary, “with the entire approval and admiration of Her Majesty's government.” Lord Metcalfe left Montreal at the end of November, 1845, and returned to England. All attempts to stay the ravages of his dreadful malady proved unavailing and after months of suffering, borne with admirable constancy, he died on September 5th, 1846. Not even the melancholy circumstances of Lord Metcalfe's departure from Canada could still the animosity of his opponents, and a section of the Reform press greeted the news of his retirement with untimely exultation.

On Metcalfe's departure the government was entrusted to Lord Cathcart, commander of the

¹ *Baldwin Correspondence*, (Toronto Public Library.)

BALDWIN LAFONTAINE HINCKS

forces, at first as administrator and afterwards as governor-general. Cathcart was a soldier, a veteran of the Peninsula and Waterloo, whose main interest in the Canadian situation lay in the question whether the dispute then pending in regard to the Oregon territory would end in war with the United States. Indeed it was on account of the threatening aspect of the boundary question that the imperial government had elevated Cathcart to the governorship. The matter of responsible government concerned him not, and during his administration he left the civil government of the country to his ministers to conduct as best they might. Their best was indeed but poor. In the session of parliament that ran from March 20th until June 9th, 1846, the government was quite unable to maintain itself. Mr. Draper tried in vain to repeat his thunder-stealing policy and although he carried through parliament an Act to provide for a civil list, which was intended (with imperial consent) to take the place of the existing imperial arrangement,¹ his government on other measures was repeatedly defeated. In the summer and autumn of the year, difficulties crowded upon Mr. Draper. The Draper-Caron correspondence was made public,² whereat many Tories took offence and Sherwood, the solicitor-general, dropped out of Mr. Draper's cabinet.

¹ See above, p. 68.

² See *La Minerve*, April 9th, 1846, and following issues.

A NEW BRITISH CABINET

The leader of the government had failed in his attempted alliance with the Liberals of Lower Canada, and had excited resentment and distrust in the minds of his Tory following. It was indeed becoming very evident that the only method of salvation for the Draper government was to make it a government without Mr. Draper.

Meantime events had happened in England calculated to exercise an immediate effect upon the course of Canadian policy. With the disruption of the Tories over the passage of the Corn Law Repeal (in the summer of 1846), Sir Robert Peel's government had come to an end, and the Liberals under Lord John Russell had come into power. With Lord John was associated as colonial secretary, Earl Grey, the son of the great Whig prime minister of the Reform Bill. The name of the second Earl Grey will always be associated with the establishment of actual democratic government in the mother country by means of parliamentary reform: that of the third will be forever connected with the final and definite adoption of the principle of colonial self-government. The moment was a critical one. The abandonment of the older system of commercial restrictions had destroyed the doctrine that the value of the colonies lay in the monopoly of their trade by the mother country.¹ To the Radical wing of the British party

¹ See in this connection Earl Grey's *Colonial Policy* (1853) Vol. I, p. 13.

BALDWIN LAFONTAINE HINCKS

this seemed to mean that the time had come to permit the colonies to depart in peace. But to Lord Grey, himself a former under-secretary of state for the colonies, and enlightened by the study of recent events in Canada, and by the similar struggle that had been in progress in Nova Scotia,¹ it appeared that the time was opportune for establishing the colonial system upon another and more durable basis, and for the creation of such a system of government as might combine colonial liberty with imperial stability. He repudiated the idea of abandoning the dependencies of the empire to a separate destiny. "The nation," he said, "has incurred a responsibility of the highest kind which it is not at liberty to throw off."

The advent to power of the British Liberal ministry was viewed by the Reform party in Canada as most auspicious for their cause. "I cannot help regarding it as a circumstance full of promise," said Robert Baldwin at a public dinner (November 11th, 1846) given to him by the Reform electors of the east riding of Halton, "that the imperial councils should at the present time be presided over by the statesman who, as colonial secretary, has given the imperial imprimatur to the doctrines of Lord Durham's Report, and the colonial department directed by one so nearly connected with the great statesman to whom England and the colonies were both so

¹ See Longley's *Joseph Howe* (Makers of Canada Series), Chap. iii.

POLICY OF LORD GREY

much indebted for that invaluable state document."¹ The new British cabinet could not, of course, put forth an official repudiation of the conduct of its predecessors towards the colonies. This would have been contrary to the most obvious considerations of imperial policy, and would also have been unadvisable owing to the attitude taken in earlier years by Lord John Russell himself. But the cabinet were fully aware, none the less, that the situation in British North America could only be met by a frank recognition of the right of the colonists of Nova Scotia and Canada to manage their own affairs. The sphere of action which Lord Grey considered proper for a governor to assume may be best understood by a despatch addressed by him to Sir John Harvey, lieutenant-governor of Nova Scotia, (November 3rd, 1846). "This," says Lord Grey himself, "contains the best explanation I can give of the . . . means to be adopted for the purpose of bringing into full and successful operation *the system of constitutional government which it seemed to be the desire of the inhabitants of British North America to have established among them.*" Harvey,

¹ The speech to the electors of Halton was one of a series of addresses delivered by Baldwin on a tour of Western Canada in the autumn of 1846. The Tory journals affected to sneer at the "quacksalving tour of agitation" (*Toronto Patriot*, November, 1846) undertaken by the Reform leader; but the enthusiasm excited by Baldwin's speeches made it manifest that the Tories could not again look for a repetition of their victory of two years past.

BALDWIN LAFONTAINE HINCKS

whose executive council was incomplete and unable to carry on the government, had found himself in a situation analogous to that in Canada. "I am of opinion," runs Lord Grey's despatch,¹ "that, under all the circumstances of the case, the best course for you to adopt is to call upon the members of your present executive council to propose to you the names of the gentlemen whom they would recommend to supply the vacancies which I understand to exist in the present board. If they should be successful in submitting to you an arrangement to which no valid objection arises, you will of course continue to carry on the government through them, so long as it may be possible to do so satisfactorily, and as they possess the necessary support from the legislature. Should the present council fail in proposing to you an arrangement which it would be proper for you to accept, it would then be your natural course, in conformity with the practice in analogous cases in this country, to apply to the opposite party: and should you be able through their assistance to form a satisfactory council, there will be no impropriety in dissolving the assembly upon their advice: such a measure, under those circumstances, being the only mode of escaping from the difficulty which would otherwise exist of carrying on the government of the province upon the principles of the constitution. The object with which I recommend to you this course, is

¹ See *House of Commons Sessional Papers*, No. 621 of 1848, p. 8.

LORD GREY'S DESPATCHES

that of making it apparent that any transfer which may take place of political power from the hands of one party in the province to those of another, is the result, not of an act of yours, but of the wishes of the people themselves. . . . In giving, therefore, all fair and proper support to your council for the time being, you will carefully avoid any acts which can possibly be supposed to imply the slightest personal objection to their opponents, and also refuse to assent to any measures which may be proposed to you by your council which may appear to you to involve an improper exercise of the authority of the Crown for party rather than for public objects. In exercising, however, this power of refusing to sanction measures which may be submitted to you by your council, you must recollect that this power of opposing a check upon extreme measures proposed by the party for the time in the government, depends entirely for its efficacy upon its being used sparingly and with the greatest possible discretion. *A refusal to accept advice tendered to you by your council is a legitimate ground for its members to tender to you their resignation,*—a course which they would doubtless adopt, should they feel that the subject on which a difference had arisen between you and themselves was one upon which public opinion would be in their favour. *Should it prove to be so, concession to their views must sooner or later become inevitable,* since it cannot be too distinctly acknowledged

BALDWIN LAFONTAINE HINCKS

that it is neither possible nor desirable to carry on the government of any of the British provinces in North America in opposition to the opinion of the inhabitants.”

In order to carry into effect in the province of Canada the views thus indicated, the new British government determined to send out to the colony a governor-general whose especial task it should be to set right the unfortunate situation created by the mistaken policy of Lord Metcalfe. The conclusion of the Oregon treaty had by this time removed any immediate prospect of rupture with the United States, and it was no longer necessary to retain a military man at the head of Canadian affairs. The choice of the Liberal government fell upon Lord Elgin. Elgin presented, in many respects, a marked contrast to the governors who had preceded him. He was still a young man, and his vigorous health and ardent spirits gave reason to hope that he was destined to break the spell that seemed to hang over the Canadian governors, and that there was little likelihood of his dying in office. His proficiency in the French language, his geniality and the charm of his address, prepared for him, from the moment of his landing, a social and personal success. But these advantages were the least of Lord Elgin's qualifications for his new position. His chief claim to distinction, and the fact which gives his name a high and enduring place in the record of Canadian history, was his

VIEWS OF GREY AND RUSSELL

masterly grasp of the colonial situation, and the course he was prepared to take in instituting a real system of colonial self-government.

Lord Durham recommended responsible government: Baldwin and LaFontaine contended for it: Lord Grey sanctioned it, and Lord Elgin, as governor-general, first successfully applied it. For this full credit should be given to him. There seems to have been in the minds of Lord Grey and Lord John Russell some lingering of the old leaven,—a certain reservation in the grant of colonial autonomy they were prepared to make. The fact appears in certain passages of the despatch quoted above, and it is not difficult to find in Lord Grey's other writings expressions of opinion which imply a hesitancy to accept the doctrine of colonial self-government in its entire sense.¹ Lord John Russell in earlier years (1836) had told the House of Commons that the demands of the Canadian Reformers were incompatible with British sovereignty.² Prior to his departure for the colony Lord Elgin had, indeed, been given by the colonial

¹ See in this connection B. Holland, *Imperium et Libertas* (1901), Part II., Chap. iv. and Lord Grey's *Colonial Policy*, Vol. II., Letter v.

² "The House of Assembly of Lower Canada have asked for an elective legislative council and an executive council, which shall be responsible to them and not to the government and Crown of Great Britain. We consider that these demands are inconsistent with the relations between a colony and the mother country, and that it would be better to say at once, 'Let the two countries separate,' than for us to pretend to govern the colony afterwards."—Speech of May 16th, 1836.

BALDWIN LAFONTAINE HINCKS

secretary the most liberal instructions in regard to the conduct of the Canadian government. Had he been of the temper of Lord Metcalfe or Lord Sydenham, he could easily have assumed a certain latitude in his application of the constitutional system. But Lord Elgin was not so minded. He was inclined, if anything, to improve on his instructions, and having grasped the fundamental idea of colonial self-government, was determined to bring it fully into play.

Lord Elgin was a thorough believer in the doctrines enunciated in Lord Durham's Report. Moreover, his marriage with Durham's daughter gave him an especial and sympathetic interest in proving the truth of Lord Durham's views. "I still adhere," he wrote to his wife, "to my opinion that the real and effectual vindication of Lord Durham's memory and proceedings will be the success of a governor-general of Canada who works out his views of government fairly." Where Lord Elgin showed a political sagacity far in advance of the governors who had preceded him was in his perception of the fact that a governor, in frankly accepting his purely constitutional position, did not thereby abandon his prestige and influence in the province, nor cease to be truly representative of the British Crown. Sydenham's pride had revolted at the prospect of nonentity: Metcalfe's loyalty had taken fright at the spectre of colonial independ-

ARRIVAL OF LORD ELGIN

ence ; but Elgin had the insight to perceive and to demonstrate the real nature of the governor's position. He was once asked, later on, "whether the theory of the responsibility of provincial ministers to the provincial parliament, and of the consequent duty of the governor to remain absolutely neutral in the strife of political parties, had not a necessary tendency to degrade his office into that of a mere *roi fainéant*." This Elgin emphatically denied. "I have tried," he said, "both systems. In Jamaica, there was no responsible government ; but I had not half the power I have here, with my constitutional and changing cabinet."¹

Lord Elgin left England at the beginning of January, 1847, and entered Montreal on the twenty-ninth of the month. The people of the city, irrespective of political leanings, united in an address of welcome, and, in the perplexed state of Canadian politics, all parties were inclined to look to the new governor to give a definite lead to the current of affairs. It was strongly in Elgin's favour that neither party associated his past career with the cause of their opponents. In British politics a Tory, he came to Canada as the appointee of a British Liberal government. "Lord Elgin," said Hincks in the *Pilot*, "is said to be a Tory and

¹ Elgin had been governor of Jamaica. See Walrond's *Letters of Lord Elgin*, and citations by A. Todd, *Parliamentary Government in the British Colonies* (1880), p. 59.

BALDWIN LAFONTAINE HINCKS

there is no doubt that he is of a Tory family. We look upon his bias as an English politician with the most perfect indifference. We do not think it matters one straw to us Canadians whether our governor is a Tory or a Whig, more especially a Tory of the Peel school. We have to rely on ourselves not the governor; and if we are true to ourselves, the private opinions of the governor will be of very little importance."

At the time of Lord Elgin's arrival, the Draper government was reaching its last stage of decrepitude. "The ministry," in the words of a Canadian writer, "were as weak as a lot of shelled pease." In the spring of the year (April and May, 1847) a partial reconstruction of the ministry was made with a view of rallying the support of the malcontent Tories. Mr. Draper himself abandoned his place, his fall being broken by his appointment as puisne judge of the court of queen's bench. John A. Macdonald, destined from now on to figure in the forefront of Canadian politics, entered the ministry as receiver-general; Sherwood became attorney-general of Upper Canada, and other changes were made. But inasmuch as the reconstructed cabinet—the Sherwood-Daly ministry, as it is called—contained no other French-Canadian than Mr. Papineau, it was plainly but a makeshift and could not hope to conduct with success the administration of the country. As soon as parliament was summoned (June 2nd, 1847) the

A FEEBLE MINISTRY

Reformers commenced a vigorous and united onslaught. Baldwin, seconded by LaFontaine, moved an amendment to the address in which, while congratulating Lord Elgin upon his recent marriage with Lord Durham's daughter, he declared that it was to Lord Durham that the country owed the recognition of the principle of responsible government, and to Lord Elgin that the parliament looked for the application of it. LaFontaine followed with an eloquent denunciation of those of his compatriots who had lent their support in parliament to a ministry whose cardinal principle was hostility to their race. "You have," he said, "sacrificed honour to love of office: you have let yourselves become passive instruments in the hands of your colleagues: you have sacrificed your country and ere long you will reap your reward."

After a heated debate of three days the government was able to carry the address by a majority of only two votes. Nor had it any better fortune during the session of two months which ensued. The ministry was not in a position to introduce any measures of prime importance, and even upon minor matters sustained repeated defeats. The only legislation possible under the circumstances were measures of evident and urgent public utility into which party considerations did not enter. The incorporation of companies to operate the new "magnetic telegraph,"

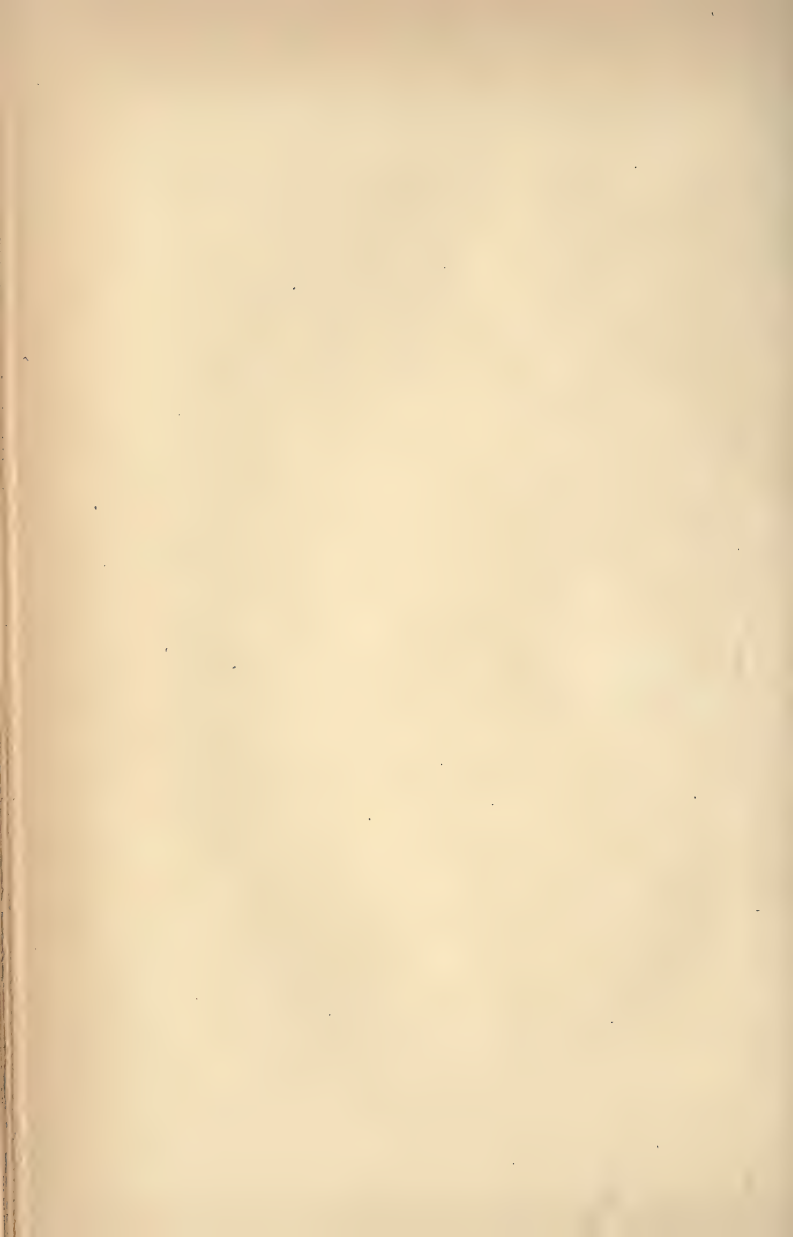
BALDWIN LAFONTAINE HINCKS

as the newspapers of the day called it, are noticeable among these. Still more necessary was the legislation for the relief of the vast crowds of indigent Irish immigrants, driven from their own country by the terrible famine of 1846-7, and to whose other sufferings were added the ravages of ship-fever and other contagious diseases. In the public consideration of this question Robert Baldwin took a prominent place and aided in the foundation of the Emigration Association of Toronto.

The ill-success of the reconstructed government, and the universal desire for a strong and stable administration which could adequately cope with the many difficulties of the hour, clearly necessitated a dissolution of parliament. Lord Elgin, though without personal bias against the existing cabinet, felt that it was no longer representative of the feelings of the people, among whom the current of public opinion had now set strongly in favour of the Reform party. Elgin dissolved the parliament on December 6th, 1847, the writs for the new election being returnable on the twenty-fourth of the following January. The general election which ensued was an unbroken triumph for the Reformers. In Upper Canada twenty-six of the forty-two members returned belonged to the Liberal party, while in the lower part of the province only half a dozen of those elected were partisans of the expiring government. Baldwin was again elected

NEW ELECTIONS

in the fourth riding of York, the same county returning also, in Blake and Price, two of his strongest supporters. Francis Hincks, who was absent from Canada, being at this time on a five months' tour to his native land, was elected for Oxford in his absence. Sir Allan MacNab and John A. Macdonald were among the Conservatives reëlected; Sherwood narrowly escaped defeat, while John Cameron, the solicitor-general, Ogle R. Gowan, the Orange leader, and many others of the party lost their seats. In Lower Canada the Reformers were irresistible: even the city of Montreal repented of its sins by returning LaFontaine and a fellow-Reformer as its members. LaFontaine was also returned for Terrebonne, but elected to sit for Montreal. The result of the election left nothing for the Conservatives but to retire as gracefully as might be to the shades of Opposition and wait for happier times.



CHAPTER IX

THE SECOND LAFONTAINE-BALDWIN MINISTRY

THE second LaFontaine-Baldwin administration,¹ which extended from the beginning of 1848 until the retirement of the two Reform leaders in the summer of 1851, has earned in Canadian history the honourable appellation of the "great ministry." Its history marks the culmination of the lifework of Robert Baldwin and Louis LaFontaine and the justification of their political system. It is a commonplace of history that every great advance in the structure of political institutions brings with it an acceleration of national progress. This is undoubtedly true of the LaFontaine-Baldwin ministry, whose inception signalizes the final acceptance of the principle of responsible government. This fact lent to it a vigour and activity which enabled it to achieve a legislative record with which the work of no other ministry during the period of the union can compare. The settlement of the school system, the definite foundation of the University of Toronto on the basis to which it owes its present eminence, the organization of municipal government, the opening of the railroad system of Canada,—these are among the political achievements of the "great

¹ See note on page 190.

BALDWIN LAFONTAINE HINCKS

ministry." More than all this is the fact that the LaFontaine-Baldwin ministry indicates the first real pacification of French Canada, the passing of the "strife of two nations warring within the bosom of a single state" and the beginning of that joint and harmonious citizenship of the two races which has become the corner-stone of the structure of Canadian government. The ministry stands thus at the turning-point of an era. The forces of racial antipathy, separation and rebellion, scarce checked by the union of 1840, here pass into that broader movement which slowly makes towards Canadian confederation and the creation of a continental Dominion.

Towards the change of national life thus indicated other and more material forces were also tending. The era of the "great ministry" belongs to the time when the advent of the railroad and the telegraph was unifying and consolidating the industrial and social life of the country. Sandwich and Gaspé no longer appeared the opposite ends of the earth. The toilsome journey that separated the chief cities of Upper from those of Lower Canada was soon to become a thing of the past, and a more active intercourse and more real sympathy between the eastern and western sections of the country to take the place of their former political and social isolation. Lord Elgin once said that the true solution of the Canadian question would be found when both the French and the English in-

THE MINISTRY RESIGNS

habitants should be divided into Conservative and Liberal parties whose formation should rest upon grounds of kindred sentiments and kindred interests. For this the changes now operative in the country were preparing the way: the old era was passing away and a new phase of national life was destined to take its place. Looking back upon the period we can see that the LaFontaine-Baldwin administration marks the time of transition, the essential point of change from the Canada of the rebellion epoch to the Canada of the confederation.

The result of the election of 1847-8 had made it a foregone conclusion that the Conservative government must retire from office. Lord Elgin called the parliament together at Montreal on February 25th, 1848, and the vote on the election of the speaker showed at once the relative strength of the parties in the assembly. It having been proposed that Sir Allan MacNab, the late speaker of the House, be again elected, Baldwin proposed the name of Morin in his stead: while paying tribute to the qualifications of Sir Allan in other respects, he held it fitting that the speaker should be able to command both the French and English languages. A vote of fifty-four to nineteen proved the overwhelming strength of the Reformers. The answer to the speech from the throne, as was of course to be expected, was met by an amendment, proposed by Robert Baldwin, to the effect that

BALDWIN LAFONTAINE HINCKS

the present ministry did not enjoy the confidence of the country. The amendment being carried by a vote of fifty-four to twenty (March 3rd, 1848), the Conservative ministers tendered their resignation. Lord Elgin at once sent for LaFontaine and the latter, in consultation with Baldwin, proceeded to form the ministry which bears their names. The ministry as thus constituted (March 11th, 1848) was as follows :—

For Lower Canada: L. H. LaFontaine, attorney-general; James Leslie, president of the executive council; R. E. Caron, president of the legislative council; E. P. Taché, chief commissioner of public works; T. C. Aylwin, solicitor-general; L. M. Viger, receiver-general.

For Upper Canada: Robert Baldwin, attorney-general; R. B. Sullivan, provincial secretary; F. Hincks, inspector-general; J. H. Price, commissioner of Crown lands; Malcolm Cameron, assistant commissioner of public works; W. H. Blake,¹ solicitor-general.

Frequent mention has already been made of most of the above. Leslie, who had for many years represented the county of Verchères, and Malcolm Cameron, who had been a bitter opponent of Sir F. B. Head and had held a minor office under Bagot, represented the more Radical wing of the Reform party. The name of (Sir) Etienne Taché,

¹ Mr. Blake, who was absent in Europe, did not enter on office until April, 1849.

THE NEW CABINET

twice subsequently prime minister, is of course well known. Taché had formerly been in the assembly for six years (1841-6), had since held the office of deputy adjutant-general, and was now, along with James Leslie, given a seat in the legislative council. Various other additions were presently made to the Upper House in order to redress the balance of parties therein and more adequately to represent the French-Canadian population.

Lord Elgin, although determined not to identify himself in sympathy with either of the Canadian parties, seems, none the less, to have entertained a high idea of the ability and integrity of his new ministers. "My present council," he wrote to Lord Grey, "unquestionably contains more talent, and has a firmer holder on the confidence of parliament and of the people than the last. There is, I think, moreover, on their part, a desire to prove, by proper deference for the authority of the governor-general (which they all admit has in my case never been abused), that they were libelled when they were accused of impracticability and anti-monarchical tendencies." The governor was determined to let the leaders of the ministry feel that they need fear no repetition of their difficulties with Sir Charles Metcalfe. In an initial interview with Baldwin and LaFontaine he took pains to assure them of the course he intended to pursue. "I spoke to them," he wrote after-

BALDWIN LAFONTAINE HINCKS

wards,¹ “in a candid and friendly tone; told them I thought there was a fair prospect, if they were moderate and firm, of forming an administration deserving and enjoying the confidence of parliament: that they might count on all proper support and assistance from me.”

It was not possible for the ministry to undertake a serious programme of legislation during the session of 1848. Those of the ministers who belonged to the assembly—including LaFontaine and Baldwin—had of course to present themselves to their constituents for reëlection. This proved an easy matter, the elections being either carried by acclamation or by large majorities. But Lord Elgin and his ministers both preferred to bring the session to a close, in order to leave time for the mature consideration of the measures to be adopted on the re-assembling of parliament. The legislature was accordingly postponed from March 23rd, 1848, until the opening of the following year. The parliamentary session which then ensued (dating from January 18th until May 30th, 1849) was unprecedented in the importance of its legislation and the excitement occasioned by its measures. The speech from the throne announced a vigorous programme of reform. Electoral reform, the revision of the judicature system of both provinces, the constitution of the university of King's College, the completion of the St. Lawrence

¹ Walrond, *Letters of Lord Elgin*, p. 52.

THE FRENCH LANGUAGE

canals, and the regulation of the municipal system were among the subjects on which the parliament would be asked to legislate. The question of an interprovincial railroad from Quebec to Halifax and the transfer of the postal department from the imperial to the Canadian authorities, were also to be brought under consideration.

Two important announcements were also made by Lord Elgin on behalf of the imperial government. The legislature was informed that the imperial parliament had passed an Act in repeal of the clause of the Act of Union which had declared English to be the sole official language of the legislature. With instinctive tact and courtesy the governor-general demonstrated the reality of the change thus effected, by himself reading his speech in French as well as English, a proceeding which drew forth enthusiastic praise from the press of Lower Canada. The other announcement was no less calculated to enlist the sympathies of French Canada. "I am authorized to inform you," said Lord Elgin, "that it is Her Majesty's purpose to exercise the prerogative of mercy in favour of all persons who are still liable to penal consequences for political offences arising out of the unfortunate occurrences of 1837 and 1838, and I have the queen's commands to invite you to confer with me in passing an Act to give full effect to Her Majesty's most gracious intentions."¹

¹ *Journals of the Legislative Assembly*, January 18th, 1849.

BALDWIN LAFONTAINE HINCKS

The debate which followed on the address is notable for the trial of strength that occurred between LaFontaine and Louis-Joseph Papineau, the former leader of the popular party in the days of the rebellion. When the agitation in Lower Canada had broken into actual insurrection, Papineau had fled the country with a price upon his head. For two years he had lived in the United States; thence he passed to France where he spent some eight years, his time being chiefly passed in the cultured society of the capital. As yet no general law of amnesty had been passed to permit the return of the "rebels" of 1837. But in many individual instances the government had seen fit to grant a pardon. LaFontaine, during his first ministry, had urged upon Sir Charles Metcalfe the wisdom of a general amnesty. Unable to obtain this he had secured from the governor-general the authorization of a *nolle prosequi* in the case of Papineau. This was in 1843. The ex-leader did not, however, see fit to avail himself of his liberty to return to Canada until the year 1847. On his return in that year he had presented himself in the ensuing general election to the constituency of St. Maurice, and the prestige of his bygone career sufficed for his election. He once again found himself a member of a Canadian assembly.

For Papineau's historic reputation among his compatriots, it would have been better had he never returned to Canada. True, he had been absent

LOUIS-JOSEPH PAPINEAU

from the country but ten years, yet he came back to a Canada that knew him not. The charm of his personal address, the magniloquence of his oratory were still there, but the leadership of Louis-Joseph Papineau was gone forever. There were some in the province who could not forget that Papineau had fled from his misguided followers at the darkest hour of their fortunes. There were others—and these the bulk of his compatriots—who felt that the lapse of time and the march of events had rendered Papineau and his bygone agitation an issue of the past, an issue that could not serve as a rallying-point for French Canada in the altered circumstances of the hour. Of this great change Papineau himself realized nothing. He was still preaching the old doctrine of 1837, the uncompromising hostility to British rule and the veiled republicanism of his former days. In the brief session of 1848 he had angrily inveighed against the prorogation of parliament and had urged, to prevent it, a stoppage of supplies! Now, at the opening of the session of 1849, he rose to utter an impassioned but meaningless attack against the policy of LaFontaine. The great upheaval of European democracy of 1848, of which he had witnessed the approaching signals, had appealed to Papineau's imagination. It ill sufficed him to live in a country in which there was no ruthless despotism to denounce, no grinding tyranny to oppose, no political martyrdom to attain. In de-

BALDWIN LAFONTAINE HINCKS

fault of a real tyranny he must invent one. He denounced the union of the Canadas, he denounced the legislative council, he denounced responsible government. "The constitution of the country," he cried, "is false, tyrannical and calculated to demoralize its people. Conceived by statesmen of a narrow and malevolent genius, it has had up till the present, and can only have in the future, effects that are dangerous, results that are ruinous and disastrous." Most bitterly of all did he denounce those of his race who had accepted and aided to establish the present system and who, for the sake of office and power, had bartered the proud independence of an unconquered race.

The reply of LaFontaine to Papineau ranks among his finest speeches. Inferior perhaps to his former leader in the arts of eloquence, he far excelled him in the balance and vigour of his intellect. The utter futility of Papineau's adherence to the old uncompromising doctrines of the past, he easily exposed. "What," he asked, "would have been the consequences of the adoption of this conflict to the bitter end, that we are reproached with not having adopted? If, instead of accepting the offers made to them . . . the representatives of Lower Canada had persistently held aloof, the French-Canadians would have never shared in the government of the country. They would have been crushed. Would you with your system of

LAFONTAINE DENOUNCES PAPINEAU

unending conflict have ever obtained the repeal of the clause of the Act of Union that proscribes our language? . . . If, in 1842, we had adopted that system should we now be in a position to solicit, to urge, as we have been doing, the return of our exiled compatriots?"

It might, perhaps, have been more magnanimous on the part of LaFontaine had he omitted to give his arguments a personal allusion. But the ingratitude, of Papineau, who owed it to LaFontaine's efforts and to the system of conciliation which he denounced, that he was able again to tread the soil of his native country, stung LaFontaine to the quick. He continued: "If we had not accepted office in the ministry of 1842, should we have been in a position to obtain for the honourable member himself, permission to return to his country, to obtain which I did not hesitate, in order to overcome the repeated refusals of Sir Charles Metcalfe, to offer my resignation of lucrative offices I then enjoyed? Yet, behold now this man obeying his old-time instinct of pouring forth insult and outrage, and daring in the presence of these facts to accuse me, and with me my colleagues, of venality, of a sordid love of office and of servility to those in power! To hear him, he alone is virtuous, he alone loves our country, he alone is devoted to the fatherland. . . . But since he bespeaks such virtue, I ask him at least to be just. Where would the honourable member be to-day, if I had adopted

BALDWIN LAFONTAINE HINCKS

this system of a conflict to the bitter end? He would be at Paris, fraternizing, I suppose, with the red republicans, the white republicans, or the black republicans, and approving, one after the other, the fluctuating constitutions of France!"¹

But though routed in debate by LaFontaine and unable any longer to lead the assembly, Papineau was not without a certain following. Some of the more ardent of the younger spirits among the French-Canadians were still attracted by the prestige of his name and by the violence of his democratic principles, and espoused his cause. There began to appear a Radical wing of the French-Canadian Reformers, pressing upon the government a still greater acceleration of democratic progress and a still more complete recognition of the claims of their nationality. The Radical movement was as yet, however, but a more rapid eddy in the broad stream of reform that in the meantime was moving fast enough.

One hundred and ninety acts of parliament were passed during the session of 1849 and received the governor's assent. Many of these—the Tariff Act,² the Amnesty Act,³ the Railroad Acts,⁴ the Judiciary Acts,⁵ the Rebellion Losses Act,⁶ the Municipal Corporations Act,⁷ and the Act to amend the charter of the university established at Toronto⁸—

¹ Speech of January 23rd, 1849. (Translated from *La Minerve*.)

² 12 Vict. c. 1. ³ 12 Vict. c. 13. ⁴ 12 Vict. cc. 28, 29.

⁵ 12 Vict. cc. 38, 41, 63, 64. ⁶ 12 Vict. c. 58.

⁷ 12 Vict. c. 81. ⁸ 12 Vict. c. 82.

THE UNIVERSITY ACT

are measures of first-rate importance. With the two last mentioned the name of Robert Baldwin will always be associated. It will be remembered that during his previous ministry Baldwin had brought in a bill for the revision of the charter of King's College and for the consolidation of the denominational colleges of the country into a single provincial institution. Against this measure a loud outcry had been raised by the Tories, on the ground that it effected a spoliation of the Anglican Church which had hitherto exercised a dominant influence over King's College, and whose doctrines were taught in the faculty of divinity of that institution. The rupture with Sir Charles Metcalfe had prevented the passage of the bill. Mr. Draper had introduced a measure of similar character, but had seen fit to abandon it on account of the opposition excited among his own adherents. The measure, which Baldwin carried through parliament in 1849, creating the University of Toronto in place of King's College, has been said by Sir John Bourinot to have "placed the university upon that broad basis on which it still rests." A former president of the University of Toronto, in a recent history of the institution,¹ has seen fit to disparage Robert Baldwin's Act, drawing attention to the needless complexity of its clauses, the failure of its attempt to affiliate

¹ See J. Loudon, *History of the University of Toronto. Canada: an Encyclopædia*, Vol. IV.

BALDWIN LAFONTAINE HINCKS

the sectarian colleges, and to the fact that a revision of its provisions became necessary a few years later (1853). But the great merit of Baldwin's University Act lay, not in its treatment of the details of organization but in the cardinal point of establishing a system of higher education, non-sectarian in its character, in whose benefits the adherents of all creeds might equally participate.

The faculty of divinity and the degree in divinity were now abolished, and the control of the university entirely withdrawn from the Church, except for the fact that the different denominational colleges were each entitled to a representative on the senate of the university. The system of government instituted was, indeed, cumbrous. Academic powers and the nominations to the professoriate were placed in the hands of a senate, consisting of a chancellor, vice-chancellor, the professors and twelve nominated members,—six chosen by the government, six by the denominational colleges. A further body called the caput, or council, made up of the president and deans of faculties, and certain others, exercised disciplinary powers. An endowment board, appointed jointly by the government, the senate, the caput, etc., managed the property of the university. Various other powers were vested in the faculties, the deans of faculties and in subordinate authorities. The elaborate regulation of the whole structure and the lack of elasticity in its organization were in marked contrast to the more simple provisions of

OPPOSITION OF BISHOP STRACHAN

the charter of King's College. No religious tests for professoriate and students were to be imposed. It was further enacted that neither the chancellor nor any government representative on the senate should be a "minister, ecclesiastic or teacher, under or according to any form or profession of religious faith or worship."

Provision was made under the Act for the incorporation in the University of Toronto of the denominational colleges. To obtain incorporation they were to forego their existing power of conferring degrees. As the colleges were unwilling to do this unless they were granted a share of the provincial endowment for their own teaching purposes, the scheme of consolidation failed. Victoria and Queen's Universities remained upon their separate and sectarian bases, and thus one of the purposes of Baldwin's Act was defeated. Moreover, a section of the adherents of the Anglican Church refused to countenance the new establishment. Bishop Strachan, who had denounced the godless iconoclasm of Baldwin's previous University Bill, again headed the agitation against a secular university. Furious at the passage of the measure, he called upon the members of his Church to raise funds for a university of their own, headed the subscription himself with a contribution of five thousand dollars, and, undeterred by his advancing years, betook himself to England to obtain sympathy and help towards the founda-

BALDWIN LAFONTAINE HINCKS

tion of an Anglican College. The result of his endeavours was the foundation of Trinity College in 1851.

The Municipal Corporations Act of 1849, commonly known as the Baldwin Act, constitutes another of the permanent political achievements of Robert Baldwin. Many years ago the Upper Canada *Law Journal* remarked of this Act and of the revision of the judicial system, "Had Mr. Baldwin never done more than enact our municipal and jury laws, he would have done enough to entitle his memory to the lasting respect of the inhabitants of this province. Neighbouring provinces are adopting the one and the other almost intact, as an embodiment of wisdom united with practical usefulness, equally noted for simplicity and for completeness of detail not to be found elsewhere." Quite recently Professor Shortt has said,¹ "Looking at the Baldwin Act in its historic significance, we must admit it to have been a most comprehensive and important measure, whose beneficial influence has been felt, not merely in Ontario, but more or less throughout the Dominion. . . . In all essential principles its spirit and purpose are embodied in our present municipal system."

¹ *University of Toronto Studies : History and Economics*, Vol. II. No. 2. *Municipal Government in Ontario*. The following account of the steps leading to the Baldwin Act is largely based on Professor Shortt's admirable monograph.

LOCAL GOVERNMENT

The Baldwin Act represents the culmination and final triumph of the agitation for local self-government that had, for over fifty years, run a parallel course with the movement for responsible government. In the earlier years of Upper Canadian settlement, the government had been very chary of investing the settlers with rights of local management. Townships indeed existed, but these were merely areas plotted out by the surveyor for convenience in the allotment of land, and were not incorporated units of government. Nor was incorporation given to the districts or larger areas into which the province was subdivided. Even the villages and towns had at first no rights of self-government. The management of local affairs and the assessment of local taxes were left to the justices of the peace, sitting in quarter sessions, these being officers appointed by the governor and representing, of course, the solid cohesion of the governing class. The settlers, many of whom had been used to better things in their New England homes, constantly protested. At times they organized themselves in their townships on a voluntary basis. Various bills for giving power to the people of the townships, as such, were brought before the legislature, but met with a distrustful rejection at the hands of the governing oligarchy. Only a few unimportant matters—the election of petty officers, such as fence-viewers and pound-keepers—were handed over to the people.

BALDWIN LAFONTAINE HINCKS

The system thus established proved increasingly unjust and inconvenient: unjust, since it contributed to the privileges of the colonial aristocracy: inconvenient, especially in the growing towns where matters such as markets, fire protection, street-paving, etc., urgently demanded an organized municipal control. The pressure of the situation presently forced the government to grant some rights of self-government to the towns. A severe fire at Kingston in 1812 proved an object-lesson to a population that dwelt in wooden houses. An Act of parliament¹ gave special powers to the magistrates in regard to Kingston, and an Act of a year later put York, Sandwich and Amherstburg upon the same footing. Belleville was presently granted the right to *elect* a police board, the first actual use of the democratic principle in town government. Brockville, after a long fight against the government, obtained an Act of parliament which set up the Brockville town board as a body corporate.² The powers granted were limited, but the Act was a step in advance. A similar limited incorporation was extended to Hamilton, York and other towns (1832-4). Meantime the Reform party had vigorously taken up the cry for local self-government. Durham recommended in his Report "the establishment of a good system of municipal institutions

¹ 56 Geo. III. c. 33.

² 2 Will. IV. c. 17.

THE BALDWIN ACT

throughout this province." The Draper government, under Lord Sydenham, as has been seen, had endeavoured to enlist popular support by passing a Local Government Act (1841). But the fear of Tory opposition prevented Mr. Draper from doing more than incorporating the districts of Upper Canada with a partially elective government.¹ It remained for Baldwin, in one comprehensive statute, to establish the entire system of local government in Upper Canada upon the democratic basis of popular election.

The text of the Baldwin Act fills some fifty pages of the statute-book; but its ground plan is excellent in its logic and simplicity, and can be explained in a few words. The districts are abolished as areas of government in favour of counties with townships as their subdivisions. The township now became an incorporated body with power to construct highways, school buildings, etc. Its inhabitants elected five councillors, who appointed one of their number to be "reeve" of the township, and, in townships having a population of more than five hundred, another to be deputy-reeve. The reeves and deputy-reeves of the townships constituted the county council and elected from among themselves the "warden" of the county. The county council thus incorporated had authority over county roads, bridges and grammar schools, with other usual municipal powers. Within

¹ See pp. 100, 101, above.

BALDWIN LAFONTAINE HINCKS

the area of the county the Act recognized also police villages, incorporated villages, towns and cities, representing an ascending series of corporate powers and a correspondingly increasing independence from the control of the county council. The police village was merely a hamlet to whose inhabitants the county committed the election of police trustees who should take steps to prevent fires, etc. An incorporate village was a body corporate with an elected council and a reeve, and practically on the same footing as a township. Still further powers were given to the town, with an elected council and a mayor and reeve chosen thereby. At the apex of urban government were placed the cities, Toronto, Hamilton and Kingston, and any others whose population should reach fifteen thousand. The city, with a mayor, aldermen and common councillors, constituted a county in itself, special powers being also delegated to it. Taken as a whole the Act is uniform in plan, excellent both in its fundamental principle and in the consistency of its detail; though frequently amended, it remains as the basis of local self-government in Ontario at the present day.

In addition to the University and Municipal Acts, Baldwin was also largely responsible for the Acts revising the judicial system of Upper Canada, creating a court of common pleas and a court of error and appeal, and freeing the court of chancery from the delays which had hitherto impaired its

HINCKS AND THE RAILROADS

utility, by altering its procedure and increasing the number of its judges from one to three.

The allotment of legislative business among the leaders of the Reform party proceeded on the same lines as during the former ministry. While the political legislation was entrusted to Baldwin and LaFontaine, Hincks undertook the preparation of commercial and economic measures. These at the moment were of especial importance. The adoption of free trade by England had involved the loss of the preference enjoyed under earlier statutes by Canadian agricultural exports to the mother country. This had precipitated in Canada a severe commercial depression: the winter of 1848-9 had been a winter of discontent, and Lord Elgin had written home of the "downward progress of events." A vigorous policy was needed in order to revive the industries of the country, and to this Hincks addressed himself with characteristic energy. Already various charters had been granted for the construction of railways in Canada: the road from LaPrairie to St. Johns¹ (Quebec) had been built as early as 1837, and by the year 1848 a part of what afterwards became the Grand Trunk line from Montreal to Portland was already constructed, while work had been begun upon the Great Western and Northern Railways. Hincks,

¹ The importance of this line lay in the fact that it connected the St. Lawrence navigation (through the Richelieu River) with that of Lake Champlain and the Hudson.

BALDWIN LAFONTAINE HINCKS

realizing the importance of the development of the Canadian transportation system, now inaugurated a policy of active governmental aid to railway construction. An Act of parliament guaranteed, for any railway of more than seventy-five miles in length, the payment of six per cent. interest on half the cost of its construction. Anxious at the same time to stimulate trade with the United States in order to compensate the country for the loss of its commercial privileges with Great Britain, Hincks endeavoured to bring about a system of reciprocal free trade in natural products between Canada and the republic. An Act of the legislature accordingly declared all duties on this class of imports to be removed as soon as the congress of the United States should take similar action. Unfortunately the opposition of the American senate interposed a long delay, and it was not until five years later that an international treaty at last brought the system of reciprocity into effect. Meantime the Customs Act of 1849 revised existing duties, altering many of them to an *ad valorem* basis and placing the average duty at about thirteen and one-quarter per cent.

The legislative measures that fell to the share of LaFontaine were the political bills relating to Lower Canada. Here also the judicial system was amended, a court of queen's bench being established with four judges of its own, and the superior court also undergoing a revision. A

REPRESENTATION AND POPULATION

general law of amnesty gave effect to the intention of the Crown. An attempt to carry a bill for redistributing the seats in the legislature failed of its purpose. It was LaFontaine's object to give to each province seventy-five instead of forty-two members, in order to permit a subdivision of the larger constituencies: the equality of representation between the two provinces was to be retained, although it was now evident that Upper Canada would soon surpass in population the lower section of the province. For a measure of this kind a majority of two-thirds was necessitated by the Act of Union. The opposition to the bill came from the Upper Canadian Tories and from Papineau and certain other French-Canadian Radicals, who insisted on carrying the democratic principle of equal representation to its full extent, even against the interests of their own nationality. LaFontaine's measure fell short of the required two-thirds by one vote. Of far more importance was a measure now before parliament for whose introduction LaFontaine was responsible, and whose passage almost threatened to bring the country to a civil war. The Rebellion Losses Bill is, however, of such importance as to require a chapter to itself.

CHAPTER X

THE REBELLION LOSSES BILL

THE Act of Indemnification of 1849, or—to give it the name by which it was known during its passage through parliament and by which it is still remembered—the Rebellion Losses Bill, is of unparalleled importance in the history of Canada. The bill was a measure for the compensation of persons in Lower Canada whose property had suffered in the suppression of the rebellion of 1837 and 1838. It excited throughout Canada a furious opposition. It was denounced both in Canada and in England as a scheme for rewarding rebels. Its passage led to open riots in Montreal, to the invasion of the legislature by a crowd of malcontents, to the burning of the houses of parliament and to the mobbing of Lord Elgin in the streets of the city. These facts alone would have made it an episode of great prominence in the narrative of our history; but the bill is of still greater importance in the development of the constitution of Canada. The fact that in despite of the opposition of the Loyalists, in despite of the flood of counter-petitions and addresses, in despite of the imminent prospect of civil strife, Lord Elgin fulfilled his constitutional duty, refused to

BALDWIN LAFONTAINE HINCKS

dissolve the parliament or to reserve the bill for the royal sanction, and that the home government accepted the situation and refused to interfere, shows that we have here arrived at the complete realization of colonial self-government. The passage of the Rebellion Losses Bill gives to the doctrine of the right of the people of the colony to manage their own affairs, the final seal of a general acceptance.

The circumstances leading to the introduction of the measure were as follows. The outbreak of 1837-8 had occasioned throughout the two provinces a very considerable destruction of private property. Some of this had been caused by the overt acts of the rebels; but there had also been a good deal of property destroyed, injured or confiscated by the troops and the Loyalists in the suppression of the rebellion.

It was, from the beginning, the intention of the government to make reparation to persons who had suffered damage from the acts of rebels. The parliament of Upper Canada had passed an Act (1 Vict. c. 13) appointing commissioners to estimate the damages, and had presently voted (2 Vict. c. 48) the issue of some four thousand pounds in debentures in payment of the claims. The special council of Lower Canada had taken similar action. But the question of damage done in suppressing the outbreak was of a somewhat different complexion. A part of the property destroyed was the property of persons

COMPENSATION IN UPPER CANADA

actually in arms against the government. To these, plainly enough, no compensation was owing. In other cases the owners of injured property were adherents of the government, whose losses were occasioned either fortuitously or by the necessities of war. To these, equally clearly, a compensation ought to be paid. But between these two classes was a large number of persons whose property had suffered, who were not openly and provably rebels but who had belonged to the disaffected class, or who at any rate were identified in race and sympathy with the disaffected part of the population. This element gave to the equities of the question a very perplexed appearance.

In the last session of its existence the parliament of Upper Canada had adopted an Act (October 22nd, 1840)¹ voting compensation on a large scale for damage done by the troops *and otherwise*. The sum of forty thousand pounds was to be applied to claims preferred under the Act. As no means were laid down for raising the necessary funds, this Act remained inoperative. Then followed the union of the Canadas and the election of a joint parliament. In despite of repeated petitions and individual representations to the government nothing more was done in regard to Rebellion Losses Claims until the year 1845 when the Draper government passed an Act to render operative the Upper Canadian statute of 1840.

¹ 3 Vict. c. 76.

BALDWIN LAFONTAINE HINCKS

The funds for the measure were to be supplied out of the receipts from tavern licenses for Upper Canada, which were set aside for that purpose. The sums collected under this Act of parliament between April 5th, 1845 and January 24th, 1849, amounted to £38,658.

At the time when Mr. Draper's Act of 1845 was before parliament, the Reformers of Lower Canada protested against the inequity of extending to one section of the country a privilege not enjoyed by the other, and demanded similar legislation for Lower Canada. The government, presumably in order to obtain their support for its own measure, indicated its readiness to act upon this demand, and a unanimous address was presented to Lord Metcalfe (February 28th, 1845) asking him to institute an enquiry into the losses sustained in Lower Canada during the period of the insurrection. A commission consisting of five persons was accordingly appointed (November 24th, 1845). The commissioners were asked to distinguish between participants in the rebellion and persons innocent of complicity, but they were also informed that "the object of the executive government was merely to obtain a general estimate of the rebellion losses, the particulars of which should form the subject of more minute investigation thereafter under legislative authority." The result was that the commission found themselves compelled to report that "the want of

TORY OPPOSITION

power to proceed to a strict and regular investigation of the losses in question left the commissioners no other resource than to trust to the allegation of the claimants as to the amount and nature of their losses." Needless to say that, under the circumstances, many of the allegations in question were very wide of the truth: the total sum claimed amounted to over two hundred and forty thousand pounds, and of this it is said that about twenty-five thousand pounds represented claims of persons who had been convicted by court-martial of complicity in the rebellion. It will easily be understood that under these circumstances the cry arose from the Canadian Tories and their British sympathizers that the whole scheme amounted to nothing more than plundering the public treasury in favour of the disloyal. It was impossible for the government to take action upon a report of so unreliable a character. Indeed it is likely that the government was anxious merely to tide the matter over as best it might. It voted some ten thousand pounds in payment of claims that had been certified in Lower Canada before the union, and with that it let the matter rest.

As the question stood at the opening of the LaFontaine-Baldwin administration, it is plain that a grave injustice rested upon many injured persons in Lower Canada as compared with their fellow-citizens of Upper Canada who had received compensation for their losses: granted that there were

BALDWIN LAFONTAINE HINCKS

black sheep among the claimants, this did not affect the validity of the other claims. It was this injustice that LaFontaine, whose constant policy it was to safeguard the rights of his nationality, now determined to rectify. Early in the session he moved, seconded by Robert Baldwin, a series of seven resolutions, reciting the failure of the previous commission and demanding the appointment of a new body with proper powers, and the payment of claims. The resolutions, carried by large majorities (the vote on the first one, for example, was fifty-two to twenty) were followed (February 27th) by the introduction of a bill to bring them into effect. The measure was entitled, "An Act to provide for the indemnification of parties in Lower Canada whose property was destroyed during the rebellion of the years 1837 and 1838."¹ There was no difficulty, as far as voting power went in carrying the bill through parliament. It was passed by the House of Assembly (March 9th, 1849) by a vote of forty-seven to eighteen, and accepted without amendment by the legislative council by twenty against fourteen votes. The fact that the measure received overwhelming support in a legislature only recently elected, must be carefully noted in considering the constitutional aspect of the question involved.

Under the provisions of the Act the governor-general was empowered to appoint five com-

¹ The Act is 12 Vict. c. 58.

PROVISIONS OF THE ACT

missioners whose duty it should be "faithfully and without partiality to enquire into and to ascertain the amount of the losses sustained during the rebellion." The commissioners were given authority to summon witnesses and examine them under oath. For the payment of the claims the governor was empowered to issue debentures, payable out of the consolidated revenue of the province at or within twenty years after the date of issue and bearing interest at six per cent. The maximum amount to be expended on the claims (including the expenses incurred under the Act and the sum of £9,986 issued in debentures under the Act of June 9th, 1846¹) was not to exceed £100,000; if the claims allowed amounted to a higher total, a proportionate distribution was to be effected. The Act also provided that no claim should be recognized on the part of any persons "who had been convicted of treason during the rebellion, or who, having been taken into custody, had submitted to Her Majesty's will and been transported to Bermuda."

The introduction and explanation of the bill before parliament naturally fell to the task of LaFontaine, who made a number of speeches in its support, traversing the whole question of indemnity from 1837 onwards and affording an admirable history of the measure. Baldwin took but little part in the debates on the Rebellion

¹ 9 Vict. c. 65.

BALDWIN LAFONTAINE HINCKS

Losses Bill. It has often been said that this was from lack of sympathy with the measure, and insinuations of this kind were made in the House of Assembly. But a speech made by Baldwin during the debate on the introduction of the preliminary resolutions (February 27th, 1849) emphatically affirms his concurrence in LaFontaine's proposed measure. He had been accused, he said, of wilfully abstaining from speaking on the measure, but this was an error, for he had merely refrained from speaking because there was no necessity to do so. The whole matter had been set in such a clear light by his friends that it would be impossible to elucidate it still further. In the brief speech which followed, Baldwin went on to show that the measure contemplated by the resolutions would merely do for Lower Canada what had already been done for the upper part of the province. If the resolutions failed to indicate how to avoid indemnifying any who had taken up arms, so too had the Act of 1841.¹

The passage of the bill was, of course, an easy matter as far as obtaining a majority went. But nothing could exceed the furious opposition excited both within and without the parliament by the introduction of the bill. The old battle of the rebellion was fought over again. With Papineau back in the assembly, Mackenzie now revisiting the country under the Amnesty Act, the legis-

¹ 3 Vict. c. 76.

NO PAY FOR REBELS

lature in session at Montreal and a French-Canadian at the head of the administration, it seemed to the excited Tories as if the days of 1837 had come back, and that they must rally again to fight the cause of British loyalty against the encroachments of an alien race. The bill for payment of the losses seemed like the crowning triumph of their foes, and the cry, "No pay for rebels," resounded throughout the province. Many Canadian writers, as for example, the late Sir John Bourinot in his *Lord Elgin*, have seen in the opposition of the Tories nothing more than a party contest, the familiar game in which a likely issue is seized upon in the hope of a sudden overthrow of the government. "The issue," he says, "was not one of public principle or of devotion to the Crown, it was simply a question of obtaining a party victory *per fas aut nefas*."¹

The issue was not, indeed, in the real truth of the matter, a question of devotion to the Crown and the retention of the British connection. But the Tories, many of them, in all honesty saw it so. One has but to read the newspapers of the day to realize that something more than a mere party question was at issue. It was a contest in which right and justice were fighting hand to hand against a blind but honest fanaticism to whose distorted vision the Rebellion Losses Bill undid the work of the Loyalists of 1837. The rabble of the Montreal streets

¹ *Lord Elgin* (Makers of Canada Series), p. 68.

BALDWIN LAFONTAINE HINCKS

that burned the houses of parliament were doubtless inspired by no higher motive than the fierce lust of destruction that animates an inflamed and unprincipled mob. But the opposition of Sir Allan MacNab and the reputable leaders of Conservatism was based on a genuine conviction that the safety of the country was at stake. In the blindness of their rage the Tories lost from sight entirely that they themselves had sanctioned the payment of compensation for losses in Upper Canada, that the Draper government had itself originated the present movement, and that the bill expressly stipulated that nothing should be paid to "rebels" in the true sense of the term. The reasoned logic of LaFontaine's presentation of the bill fell upon ears which the passion of the hour made deaf to argument: the fiery invective of Solicitor-general Blake, who answered the Tory accusation of disloyalty with a counter-accusation of the same character, only maddened them to fury. In the debate on the second reading of the bill the parliament became a scene of wild confusion. MacNab had called the French-Canadians "aliens and rebels." Blake in return taunted him with the disloyalty that prompts a meaningless and destructive opposition.

"I am not come here," said Blake,¹ "to learn lessons of loyalty from honourable gentlemen

¹ An excellent account of the debate is given by Dent, *Canada Since the Union*, Vol. II. pp. 151 *et seq.*

BLAKE AND MACNAB

opposite. . . . I have no sympathy with the would-be loyalty of honourable gentlemen opposite, which, while it at all times affects peculiar zeal for the prerogative of the Crown, is ever ready to sacrifice the liberty of the subject. This is not British loyalty: it is the spurious loyalty which at all periods of the world's history has lashed humanity into rebellion. . . . The expression 'rebel' has been applied by the gallant knight opposite to some gentlemen on this side of the House, but I tell gentlemen on the other side that their public conduct has proved that *they* are the rebels to their constitution and country." For a man of MacNab's fighting temper, this was too much. "If the honourable member means to apply the word 'rebel' to me," he shouted, "I must tell him that it is nothing else than a lie." In a moment the House was in an uproar: Blake and MacNab were only prevented from coming to blows by the intervention of the sergeant-at-arms, while a storm of shouts and hisses from the crowded galleries added to the confusion of the House. Blake and MacNab were taken into custody by the sergeant-at-arms, several of the wilder spirits of the galleries were arrested, and the debate ended for the day.

Of the various arguments advanced against the bill in the Canadian parliament and elsewhere, two only are worth considering. It was said in the first place that under the terms of the bill a certain number of persons who, in heart if not in act, had

BALDWIN LAFONTAINE HINCKS

been rebels would receive compensation. This was undoubtedly true, but was also unavoidable. Unless one were to have given to the commissioners inquisitorial and discretionary powers, unless, that is to say, they had been allowed to declare any one in retrospect a rebel simply on their general opinion of his conduct,—a remedy that would have been worse than the evil it strove to cure,—it is undoubtedly true that many of the disaffected inhabitants of the Lower Canada of 1837 could claim compensation. But it must be borne in mind that they could not claim compensation *for being disaffected*, but simply for having lost their property. The Act did the best that could be done. It accepted the only legal definition of “rebel” that was possible; namely, persons previously convicted as such. These it excluded. To all others who could prove damages compensation was to be given.

The other objection was perhaps more serious. It was urged against the bill that the Upper Canadian losses had been paid out of a special fund raised in Upper Canada; namely, the proceeds of the tavern licenses paid in that part of the province. The bill of 1849 proposed to pay the Lower Canadian losses out of the general fund of (united) Canada. By this method, it was argued, the people of Upper Canada were called upon to pay all of their own damages and a share of those of their neighbours. The answer made by the administration to this argument may be found in the

HINCKS DEFENDS THE ACT

speeches delivered by LaFontaine in March, 1849, and in a circular drawn up in Montreal, presumably by Hincks, in defence of the government, and subsequently printed in the London *Times*.¹ It ran as follows:—

The proceeds of tavern licenses, in both provinces, had previously formed part of the general fund. When Mr. Draper's Act of 1845 was passed, these proceeds were removed from the general fund and alienated to special uses in each section of the province. In Lower Canada they were given to the municipalities: in Upper Canada they were applied to the payment of the rebellion losses. Now in Upper Canada the sums in question were considerably greater than in Lower Canada: the license taxes in the one case amounted (taking an average of the last four years) to £9,664; in the other case to only £5,557. Hence, argued LaFontaine, the effect of the proceeding was to give to Upper Canada an overplus of £4,107 a year, which was equivalent to a capital sum of £68,454. The same kind of segregation had also (in 1846) been made of the marriage license proceeds, in which case the surplus accruing amounted to £1,785 and represented a capital of £29,764. Putting the two together it appears, according to LaFontaine's view of it, that Upper Canada thus received the equivalent of a capital sum of £98,000. Since the present bill only asked for £90,000 (the other

¹ March 23rd, 1849.

BALDWIN LAFONTAINE HINCKS

£10,000 of the £100,000 representing claims already certified), Lower Canada was only asking what was well within its rights. This argument of LaFontaine may, or may not, appear convincing. Since the Upper Canadian license tax was paid by the people of Upper Canada, it is hard to see that the surplus of its proceeds over the tax in Lower Canada had anything to do with the case. It must be remembered also that the Lower Canadian tax was used in Lower Canada. But the argument is part of the history of the time and is here given for what it is worth.

Intense excitement prevailed throughout Canada during the parliamentary discussion of the bill. Public meetings of protest were held by the Tories throughout the country. Petitions poured in against the measure, many of them directed to Lord Elgin himself, in order, if possible, to force him from his ground of constitutional neutrality. Resolutions were drawn up at a meeting in Toronto praying the queen to disallow the bill if it should pass. In many places the excitement thus occasioned led to violent demonstrations, in some cases, as at Belleville, to open riots. The inflamed state of public feeling at this period and the exasperation of the Tories are evidenced by the disturbances which occurred at Toronto on the reappearance of William Lyon Mackenzie. On this occasion Baldwin, Blake and the ex-leader of the rebels were burned in effigy in the streets of the town. The

BURNING OF THE EFFIGIES

following is the exultant account given of the burning by the *Toronto Patriot*, the most thorough-going organ of Toryism.

“On Thursday evening [March 22nd, 1849], the inhabitants of Toronto witnessed a very uncommon spectacle—more uncommon than surprising at this time. The attorney-general, the proud solicitor-general and the hero of Gallows Hill were associated in one common fate, amid the cheers and exultations of the largest concourse of people beheld in Toronto since the election of Dunn and Buchanan. The three dolls,—would that their originals had been as harmless!—were elevated on long poles and paraded round the town, visiting the residences of the three noble individuals, and subsequently two of them were burned near Mr. Baldwin’s residence and the third opposite Mr. McIntosh’s, in Yonge Street, the house in which the humane and gallant Mackenzie had taken up his abode. It would be impossible to describe the expressions of indignation and disgust on the part of the people towards the triumvirate.”

The scene was concluded by smashing in the front windows of the McIntosh house with a volley of stones. The partisan press spared no efforts to arouse a desperate opposition to the bill. “Men of Canada of British origin,” pleaded the *Church*,¹ a forceful publication devoted to

¹ March 29th, 1849.

BALDWIN LAFONTAINE HINCKS

Anglican Toryism and the doctrines of Dr. Strachan, "no sleep to the eyes, no slumber to the eyelids, until you have avenged this most atrocious, this most unparalleled insult!" In the same month the New York *Herald* declared that the "fate of Canada was near at hand." "This may be the commencement," it said, "of a struggle which will end in the consummation so devoutly wished by the majority of the people,—a complete and perfect separation of those provinces from the rule of England."

In the mother country, both in and out of parliament, loud protests were raised against the measure. The London *Times* interpreted it as the selfish machination of a rebel faction. "As things have been turned upside down since 1838," said a *Times* editorial on the Canadian situation, "and what was then the rebel camp is now the government of Canada, it is obvious that no measure of compensation is likely to pass which does not include some of the offending gentlemen themselves in the bill of damages made out. The alternative is either no compensation to anybody, or to all alike. This must be very annoying to the Royalists (*sic*), who marched to and fro, and who incurred expense, wounds, and loss of health by their prompt succour of the state. . . . If we would judge of the feelings excited in the breast of such ardent Royalists as Sir Allan MacNab, we must suppose a parliament of Chartists and Repealers,

ACT OF INDEMNIFICATION

not only dividing among themselves all the offices of the State, but also compensating one another for their past sufferings with magnificent grants from the treasury." It is to be noted that the usual Tory designation of their party as Loyalists is not strong enough for the *Times* in this issue, which implies a still more chivalrous degree of devotion to the throne by using the term Royalists. The same article speaks of the "loyal population of Canada being considerably excited," talks of their settled "impression that rebellion has been rewarded and loyalty insulted by the British Crown," and describes Canada as a "colony that hangs by a thread."¹

The crowning event in the agitation against the Act of Indemnification was the riot at Montreal, which broke out on the news that Lord Elgin had given his assent to the bill. This was on April 25th, 1849. Lord Elgin's consent to the measure was, of course, the result of due deliberation, but the immediate circumstances of giving assent were of a somewhat hurried character. Among other bills awaiting his sanction was the new tariff bill. Navigation was just opening at Montreal and the sudden news that an incoming vessel was sighted in the river induced Lord Elgin, at the request of the ministry,² to proceed in haste to the houses

¹ London *Times*, March 21st, 1849.

² Hincks went out to "Monklands" to request the governor-general to assent at once to the tariff bill. *Reminiscences*, p. 194.

BALDWIN LAFONTAINE HINCKS

of parliament. It seemed to Lord Elgin that he might as well take advantage of the occasion to assent to the other bills that were also waiting his approval. The news that the bill had become law spread rapidly through the town, and the haste of Lord Elgin's proceedings gave an entirely false colour to what had happened. As the governor-general left the houses of parliament "after the consummation of his nefarious act," (to use the words of a Tory journalist),¹ he was greeted with the "groans and curses" of a crowd that had assembled about the building. As he drove through the city on his way to his official residence of "Monklands," the groans and curses were accompanied with a shower of random missiles. Stones crashed against the sides of the governor's carriage and rotten eggs bespattered it with filth, but no serious harm was done to its occupants. As the evening drew on the excitement throughout the city increased apace. The fire bells of the town were rung to call the people into the streets, and a printed announcement was passed through the crowd that a mass meeting would be held at eight o'clock in the Champ de Mars.

All this time the House was in session. MacNab warned the ministry that a riot was brewing, but the government were reluctant to make a precipitate call for military help. At eight o'clock the wide expanse of the Champ de Mars was filled

¹ *Montreal Courier*.

RIOT AT MONTREAL

with a surging and excited mob, howling with applause as it listened to speeches in denunciation of the tyranny that had been perpetrated. Presently from among the crowd the cry arose, "To the parliament house," and the rioters, ready for any violence, hurried through the narrow streets of the lower town to the legislative building. On their way they wrecked the offices of the *Pilot* with a shower of stones. A few minutes later a similar volley burst in the windows of the house of parliament. The members fled from the hall in confusion, while the rioters invaded the building and filled the hall of the assembly itself. The furniture, chandeliers and fittings of the hall were smashed to pieces in the wild rage of destruction. A member of the crowd took his seat in the speaker's chair and shouted, "I dissolve this House."

While the tumult and destruction were still in progress, the cry was raised, "The parliament house is on fire." The west end of the building, doubtless deliberately fired by the rioters, was soon a sheet of flames. The fire spread fiercely from room to room and from wing to wing of the building. "The fury and rapidity with which the flames spread," said an eye-witness, "can hardly be imagined: in less than fifteen minutes the whole of the wing occupied by the House of Assembly was in flames, and, owing to the close connection between the two halls of the legislature, the

BALDWIN LAFONTAINE HINCKS

chamber of the legislative council was involved in the same destruction." The fierce light of the flames illuminated the city from the mountain to the river, and spread fear in the hearts of its inhabitants. The firemen who arrived on the scene were forcibly held back from staying the progress of the fire, and the houses of the parliament of Canada burned fiercely to ruin. The assembly library of twenty thousand volumes perished in the flames. MacNab, with characteristic loyalty, rescued from the burning building the portrait of his beloved queen. The military, at length arrived on the ground, stayed the progress of further violence, but the wild excitement that pervaded the populace of the city boded further trouble. Next evening the riots broke out again. Attacks were made on the houses of Hincks and Wolfred Nelson. The boarding house on St. Antoine Street, occupied by Baldwin and Price, was assaulted with a shower of stones: LaFontaine's residence—a new house which he had just purchased, but where he was fortunately not at that moment in residence—was attacked, the furniture demolished, and the stables given to the flames. Not until the evening of the twenty-seventh did the troops, aided by a thousand special constables armed with cutlasses and pistols, succeed in restoring order to the streets.

Three days later the governor-general, attempting to drive into the city from his residence,

LORD ELGIN MOBBED

where he had remained since the twenty-fifth, was again attacked. As he passed through the streets on his way to the government offices in the Château de Ramezay on Notre Dame Street, volleys of stones and other missiles greeted the progress of his carriage. Before reaching his destination Lord Elgin found his way blocked with a howling, furious crowd, while shouts of "Down with the governor-general" urged the mob to violence. The governor's escort of troops succeeded in forcing back the crowd and effecting his entrance into the building, but his return journey was converted into a precipitate flight, the crowd pursuing the vice-regal carriage in "cabs, *calèches* and everything that would run." Fortunately Lord Elgin escaped unhurt, but his brother was severely injured by a stone hurled after the carriage and several of his escort were hurt. Such were the disgraceful scenes which lost for Montreal the dignity of being the seat of government.

It was but natural that the progress of events in Canada should excite great attention in the mother country. In the British parliament, the government of Lord John Russell was prepared to defend the right of the Canadians to legislate as they pleased in regard to the matter at issue. Mr. Roebuck and the Radicals went even further and defended the equity of the bill itself. The Peelites, or at any rate the greater part of them, voted with the government against interference. But the

BALDWIN LAFONTAINE HINCKS

thorough-going Tories insisted on viewing the issue as one between loyalty and treason, and demanded that the imperial government should either disallow the Act or contravene its operation by an Act of the British parliament. In the middle of the month of June the Canadian question was debated both in the House of Commons and in the House of Lords. Not the least important of those who appeared as the champions of the Canadian Tories was Mr. Gladstone. His rising reputation, the especial attention he had devoted to colonial questions, and the fact that he had been Lord Stanley's successor as colonial secretary in the cabinet of Sir Robert Peel, combined to render him a formidable adversary to the Canadian ministry. His speech on the Rebellion Losses Act shows his usual marvellous command of detail and powers of presentation. Mr. Gladstone's great objection to the Canadian statute was that, in his opinion, a large number of virtual rebels would receive compensation under its operation: he begged that Lord John Russell's government would either disallow the Act or obtain from the Canadian parliament an amendment of its provisions which should place the compensation on a basis more strictly defined. But what is still more noticeable in Mr. Gladstone's speech is his opinion that the government had allowed Lord Elgin too great latitude in the matter, and that the scope of the Act exceeded the proper limits of colonial power. "It might not be

GLADSTONE ON CANADIAN AFFAIRS

politic for the colonial secretary," he said, "to interpose his advice in respect to merely local matters, but it was his first duty to tender his advice regarding measures which involved not only imperial rights but the honour of the Crown. That advice ought not to be delayed until a measure assumed the form of a statute, but should be given at the first possible moment, and before public opinion was appealed to in the country."

Roebuck, Disraeli and others participated in the debate and a certain Mr. Cochrane, representing the outraged patriotism of the extreme Tories, referred in scathing terms to Baldwin and LaFontaine, speaking of them as fugitives from justice in the days of the rebellion.

The speech of Mr. Gladstone on the Canadian question is of especial importance in the present narrative in that it called forth an answer from the pen of Francis Hincks, in the form of a letter to the *London Times*.¹ Shortly after the passage of the indemnification bill Hincks had left Montreal (May 14th, 1849) for England. The object of his visit was, in the first place, of a financial character, the Canadian government being anxious to negotiate its securities in the London market. But the inspector-general acted also as a special envoy to the imperial cabinet in regard to the great question of the day and discussed the Rebellion Losses question with Lord John Russell and Earl Grey.

¹ *London Times*, June 20th, 1849.

BALDWIN LAFONTAINE HINCKS

Hincks also conversed on the subject in detail with Mr. Gladstone who found himself unable to adopt the views of the Canadian minister.

In his letter to the *Times*, Hincks deals at some length with Mr. Gladstone's arguments in regard to the "payment of rebels." In the debates in the recent session of the Canadian parliament, Hincks had said that certain persons convicted of high treason in Upper Canada had received compensation under the Upper Canada Rebellion Losses Act, which was carried into effect by Tory commissioners under instructions from a Tory government. Both Disraeli and Gladstone had dissented from this. Disraeli had broadly asserted that there had been no rebels in Upper Canada, and that consequently no restrictive clauses were necessary in the Act for that section of the province. Gladstone had said that "there was no ground to suppose that any rebel had received any sum by way of compensation." Hincks, by a very accurate citation of individual cases, shows that there *were* rebels in Upper Canada and that *some* of them, at any rate, had received compensation under the Act. Hincks does not mean to imply that, as a consequence of this, the government should expressly seek to reward the rebels of the Lower Province. "I do not of course mean to contend that, if it be wrong rebels should be compensated for their losses, the fact that they were so compensated in Upper Canada is any excuse for the Lower Canada Act. But I do

HINCKS'S LETTER TO THE "TIMES"

contend that it is highly discreditable to a party which, when in power, admitted claims of this description without the slightest complaint, to agitate the entire province, to get up an excitement which they themselves are unable to control, because their opponents have introduced a measure much more stringent in its details, but under which it is possible that some parties suspected or accused of treason, but never convicted, may be paid."

The letter concludes with some interesting paragraphs in which the writer discusses the strictures that had been passed in the course of the debate in the House of Commons¹ upon the leaders of the Canadian ministry. "Nothing can be more untrue," writes Hincks, "than the allegation that any member of the present administration was implicated in the rebellion. No reward was ever offered for the apprehension of any one of them. Mr. Baldwin never was a fugitive from justice. Such absurd statements as I have heard regarding occurrences in Canada, only prove that it is very unsafe for parties at a distance of three thousand miles to interfere in our affairs. I confess, however, that I was not very sorry that the members of the House of Commons had an opportunity afforded them of hearing at least

¹ See especially the speech of Mr. B. Cochrane (*London Times*, June 15th, 1849) and his reference to Baldwin, LaFontaine, Papineau, and the "arch-traitor Mackenzie."

BALDWIN LAFONTAINE HINCKS

one speech in the true Canadian Tory spirit, as they are enabled to judge of the manner in which the passions of the mob of Montreal were inflamed.

“Let me, in conclusion,” wrote Hincks, “say a word or two regarding ‘French domination.’ I should imagine that the author of *Coningsby* [Mr. Disraeli] understands the meaning of getting up a ‘good cry’ to serve party purposes. The cry of the Canadian Tory party is ‘French domination,’ and it is especially intended to excite the sympathy of people in England who understand little about our politics, but who are naturally inclined to sympathize with a British party governed by French influence. A little reflection would convince them that ‘French domination’ cannot exist in the united province. I need scarcely say that it is wholly untrue that it does exist. The administration consists of five members from Upper Canada and five from Lower Canada. The former represent some of the most important constituencies in Upper Canada. If the administration of the government or of the legislature were made subservient to French influence, is it probable, I would ask, that the government would be supported by the British people of Upper Canada? All I shall say in conclusion is, that I claim for myself and my colleagues from Upper Canada—and in truth and justice I should say for my Lower Canadian colleagues also—that we have as

THE FINANCIAL OUTLOOK

much true British feeling as any member of that party which seems to wish to monopolize it.”

The financial purpose of Hincks's visit to England—the strengthening of the credit of the colony in the London market—was accomplished with marked success. The inspector-general realized that the agitation occasioned by recent events, and the pervading ignorance in reference to the economic position and prospects of Canada, seriously prejudiced the securities of the province in the eyes of the British investors. To meet this situation, Hincks prepared and published in London a pamphlet entitled, *Canada and its Financial Resources*. In this publication he shows that the money hitherto borrowed by the Canadian government had been employed in public works of a sound and reproductive character. The imperial guarantee loan of £1,500,000 and the issue of provincial debentures of a somewhat larger sum make a gross total of £3,223,839, and represent the larger part of the cost of the public works of the province, the total cost being estimated by Hincks at £3,703,781 sterling. In order to show the utility and profitableness of the expenditure thus made, Hincks composed a series of tables showing the growth and progress of the colony for the last twenty-five years. The population of Upper Canada had risen, between 1824 and 1848, from 151,097 to 723,000 inhabitants: Lower Canada, whose population in 1825 had

BALDWIN LAFONTAINE HINCKS

stood at 423,630, now contained 766,000 souls. The land under cultivation in Upper Canada had increased during the same period from 535,212 to 2,673,820 acres: the yield of local taxation in Upper Canada had increased from £10,235 to £86,058; while the estimated revenue for the united province in the current year stood at £574,640, a sum whose proportion to the public debt showed the stable condition of the provincial finances. Although financial and fiscal discussion forms the major part of Hincks's pamphlet, he deals also with the political situation, reasserts the essential loyalty of the Reform party, urges the necessity for the further development of the province and calls for imperial aid in the building of an intercolonial railway. The effect of this pamphlet and of the series of letters of a similar character which Hincks contributed to the *Daily Mail* in the following August, was most happy. An increasing confidence on the part of the British public in the financial soundness of the Canadian government, tended to offset the unfortunate effect produced by the agitation over the Act of Indemnification.

The attitude of Lord Elgin in regard to the Rebellion Losses Bill has been much discussed. At the time of the adoption of the measure his conduct was made the subject of mistaken censure from various quarters. He was blamed for not having refused his assent to the bill: he was

LORD ELGIN JUSTIFIED

blamed for not having dissolved the parliament: he was blamed for having afterwards remained for weeks at "Monklands" without having insisted on forcing his way into the city under military protection. But time has justified his conduct in every respect. One must read the journals of the time to appreciate how much the governor-general was called upon to bear, and with what grave responsibility the office of constitutional head of the country becomes invested in moments of danger. The Tory press was filled with bitter personal attacks. "This man's father," said the *Montreal Courier*, "was denounced by the noblest bard, but one, that England ever produced, as the Robber of the Greek Temples;¹ his son will be heard of in future times as the man who lost for England the noble colony won by the blood of Wolfe." Compare with this the utterance of Lord Elgin made at the same time. "I am prepared to bear any amount of obloquy that may be cast upon me, but, if I can possibly prevent it, no stain of blood shall rest upon my name."

In his treatment of the Rebellion Losses Bill and his firm conviction that it was his duty to give his assent, Lord Elgin achieved for Canada one of the greatest victories of its constitutional progress. "By reserving the bill," wrote Lord Elgin afterwards, "I should only throw on Her Majesty's

¹ The reference is, of course, to the collection of the Elgin marbles.

BALDWIN LAFONTAINE HINCKS

government a responsibility which rests, and I think, ought to rest, on me. . . . If I had dissolved parliament, I might have produced a rebellion, but assuredly I should not have procured a change of ministry." As the sight of flame and the sound of riot drifts into the past, a momentous achievement appears written large on the surface of our history by Lord Elgin's acceptance of the Act of Indemnification. It signified that, from now on, the government of Canada, whether conducted ill or well, was at least to be conducted by the people—the majority of the people—of Canada itself. The history of responsible government in our country reaches here its culmination.

CHAPTER XI

THE END OF THE MINISTRY

THE story of responsible government, with which the present volume is mainly concerned, practically ends, as has just been said, with the passage of the Rebellion Losses Bill. The history of the concluding sessions of the LaFontaine-Baldwin administration, of the disintegration of the ministry and of the reconstruction of the Reform government under Hincks and Morin, belongs elsewhere. It has, moreover, already received ample treatment in other volumes of the present series.¹ We are here approaching the days of the Clear Grits, of Radicals breaking from Reformers, of a *Parti Rouge*, of recrudescent Toryism and the political match-making of the coalition era. But some brief account of the decline and end of the LaFontaine-Baldwin administration may here be appended.

Union in opposition is notoriously easier than union in office. Opposition is a negative function, the work of government is positive. It was but natural, therefore, that with the accession of the Reform party to power and the definite acceptance of the great principle which had held them to-

¹ See Sir J. Bourinot, *Lord Elgin*, and John Lewis, *George Brown*.

BALDWIN LAFONTAINE HINCKS

gether, differences of opinion which had been held in abeyance during the struggle for power, now began to make themselves felt. The Reformers were by profession a party of progress, and it was natural that some among them should aim at a more rapid rate of advance than others. "It cannot be expected," wrote Hincks, reviewing in later days the period before us, "that there will be the same unanimity among the members of a party of progress as in one formed to resist organic changes: in the former there will always be a section dissatisfied with what they think the inertness of their leaders."¹

Moreover, the great upheaval of the Rebellion Losses agitation tended to throw into a strong light all existing differences of opinion and to intensify political feeling. The movement towards annexation with the United States in the summer of 1849, which led a number of the British residents of Montreal to sign a manifesto in its favour, was doubtless dictated as much by political spite as by serious conviction.² But it is characteristic, none the less, of the precipitating influence exercised upon the formation of parties by the great agitation. In addition to this, the recent events in Europe—chartism and the repeal move-

¹ *Political History*, p. 39.

² Sir John Abbott speaking in the senate in 1889 said that the "annexation manifesto was the outburst of a movement of petulance." See also J. Pope, *Life of Sir John A. Macdonald*, Vol. I., p. 70.

A SUCCESSFUL ADMINISTRATION

ment in the British Isles, and the democratic revolutions on the continent—gave a strong impulse to the doctrines of Radicalism, and at the same time repelled many people from the party of progress and directed them towards the party of order and stability. The years of the mid-century were consequently an era in which the formation and movements of parties were modified under new and powerful impulses.

In despite of this, the LaFontaine-Baldwin administration throughout the years 1849 and 1850 remained in a position of exceptional power. It suffered indeed to some extent from the desertion of Malcolm Cameron who resigned his place in a ministry that moved too slowly for his liking (December, 1849), and from the elevation of so strong a combatant as Mr. Blake to the calmer atmosphere of the bench. But it gained something also from the propitious circumstances of the time. The cloud of commercial depression that had hung over Canada was passing away. The removal of the last of the British Navigation Acts in 1849—for which Baldwin, a convinced free trader, and his fellow-Reformers had long since petitioned the imperial government—brought to the ports of the St. Lawrence in the ensuing year an entry of nearly one hundred foreign vessels: the completion of the works on the Welland Canal, on which in all some \$6,269,000 had been expended, seemed to inaugurate a new era for the shipping trade of the

BALDWIN LAFONTAINE HINCKS

Great Lakes, while the prospect of an early reciprocity with the United States and the Maritime Provinces, and the extension of the railroad system, were rapidly reviving the agriculture and commerce of the united provinces. The bountiful harvest of 1850 came presently to add the climax to the national prosperity.

The ministry, therefore, in despite of the progress of Radicalism, which was soon to threaten its existence, was able in the session of 1850 to carry out several reform measures of great importance. The seat of government had meantime, in accordance with an address from the legislature, been transferred to the city of Toronto, which was henceforth to alternate with Quebec, in four year periods, in the honour of being the provincial capital. The appearance of Lord Elgin at the old parliament buildings on Front Street was greeted with loud acclamations from a loyal population, and the Tory party, after one or two unsuccessful attempts to undo the Act of Indemnification by further legislation, found themselves compelled to accept the inevitable. The reorganization of the postal system, now transferred to the control of Canada, with the lowering of postal rates, was one of the leading reforms effected in the session. A new school law for Upper Canada carried out more completely the system inaugurated under Mr. Draper's Act,¹ and confirmed the principle of granting separate schools

¹ See above p. 255.

TWIN RIDDLES OF THE SPHINX

to Roman Catholics. An improved jury system, a reorganization of the division courts and certain amendments in the election law, were also among the results of the session's work. It was noted with congratulation by the friends of the ministry that not a single bill adopted by the legislature was reserved by the governor-general. The *Globe* in calling attention to the fact, "unprecedented in Canadian history," declared that it proved "the practical existence of responsible government."

The legislative success of the session of 1850 was perhaps more apparent than real. Some great questions of practical reform—notably those of the Clergy Reserves and of Seigniorial Tenure—were still pressing for solution. In these two vexed problems, which had stood before the politicians of the two Canadas for a generation past like twin riddles of the sphinx, were contained the eternal problem of the Church and the State, and the like problem of landed aristocracy against unlanded democracy. On these the party of the Reformers could find no common ground of agreement. These two issues and the natural drift of political thought of the time were bringing out more clearly each day the difference between Radicals and Reformers. Neither Baldwin nor LaFontaine had anything of the complexion of a Radical. The former, indeed, showed in his private walk of life much of that reverence for the things and ideas of the past, which is often a part of the inconsistent equipment of

BALDWIN LAFONTAINE HINCKS

the Liberal politician. In his Municipal Act his resuscitation of the Saxon term "reeve" had excited the kindly ridicule of his contemporaries. LaFontaine too had much that was conservative in his temperament, and though in his younger years no over zealous practitioner of religion, he set his face strongly against anything that savoured of spoliation of the rightful claims of the Church. As against the moderation and tempered zeal of the chiefs, the intemperate haste and unqualified doctrines of some of their followers now began to stand in rude contrast. The latter urged the full measure of the Democratic programme. "Take from the churches," they said, "their reserved lands that are merely a relic of old time ecclesiastical privilege, change this mediæval seignior of Lower Canada and his tenants into ordinary property-holders, and give us in our constitutions a full and untrammelled application of the principles of popular election,—an elected assembly, an elected Upper House and an elected governor at the head."

Many of the leaders of the new Radicalism were men not without influence in the community. There was, in Upper Canada, William Lyon Mackenzie, now returned from his ungrateful exile to fish in the troubled waters as an Independent, and aspiring again to popular leadership; Dr. John Rolph, the agitator of the pre-rebellion days, who had ridden out with Baldwin to interview the

THE CLEAR GRITS' PLATFORM

rebels at Montgomery's tavern, and who, like Mackenzie, had known the bitterness of exile; Macdougall, a lawyer by title but by predilection a politician and journalist, once a contributor to the *Examiner* but now the editor of a Radical publication called the *North American*. With these was Malcolm Cameron, the recently resigned commissioner of public works. Out of this material was being formed the new party of the Radicals, a party that boasted that it wanted only men of "clear grit," and whose members presently became known as the Clear Grits.¹ Their platform, which shows the infection of European democratic movements, consisted of the following demands: The application of the elective principle to all the officials and institutions of the country, from the head of the government downwards; universal suffrage; vote by ballot; biennial parliaments; abolition of the property qualification for members of parliament; a fixed term for the holding of general elections and for the meeting of the legislature; retrenchment; abolition of pensions to judges; abolition of the courts of common pleas and chancery and the enlargement of the jurisdiction of the court of queen's bench; reduction of lawyers' fees; free trade; direct taxation; an amended jury law; abolition or modification of the usury laws; abolition of primogeniture; secular-

¹ Mackenzie called himself Independent, but naturally fell into alliance with the Grits.

BALDWIN LAFONTAINE HINCKS

ization of the Clergy Reserves and the abolition of the rectories that had been created out of that endowment.¹

Such was the original group of the Clear Grits. In later times their designation—or at least the term “Grit”—was applied to the Reformers generally and especially to the adherents of George Brown.² But in the beginning Brown had little sympathy with the new party and remained, in spite of certain Radical leanings, an adherent of LaFontaine and Baldwin till the last. His paper, the *Globe*, at first denounced the Grits as “a miserable clique of office-seeking, bunkum-talking cormorants, that met in a certain lawyer’s office on King Street [Macdougall’s] and announced their intention to form a new party on Clear Grit principles.”

At the same time in Lower Canada a Radical party, following the lead of Papineau, was being formed in opposition to the policy of LaFontaine. The career of Papineau has been the subject of so many conflicting opinions, has met with such extremes of approbation and censure, that it is difficult to hazard an opinion on the merit of his political conduct at this time. With LaFontaine and the ministry he was entirely out of sympathy. Lord Elgin, who spoke of him as “Guy Fawkes,

¹ Platform adopted at a meeting of the party at Markham, March 23rd, 1850.

² John Lewis, *George Brown* (Makers of Canada Series), pp. 40, 41.

THE PARTI ROUGE

viewed him with dislike. But among his compatriots a group of the younger men, now called the *Parti Rouge* and including A. A. Dorion, Doutre, Dessaulles and others, followed the lead of Papineau and advocated a programme of an equally Radical character to that of the Clear Grits. In their party organ, *L'Avenir*, they demanded universal suffrage, the repeal of the union with Upper Canada, the abolition of the church tithes and election of the Upper House, while many of them openly advocated republicanism and annexation to the United States. In the legislature of 1850 Papineau maintained against the measures of LaFontaine an unremitting opposition, and made common cause with MacNab and his party in voting against the government. To add to the difficulties that were gathering about the administration, Brown, of the *Globe* (hitherto their firm supporter), incited by the agitation in England over the Ecclesiastical Titles controversy, commenced an outcry against Roman Catholicism and all its works.

By far the worst difficulties of the ministry lay, however, in the Clergy Reserves question.¹ The history of this long-standing controversy may be epitomized thus: the Constitutional Act of 1791² empowered the Crown to set apart in each prov-

¹ See Charles Lindsey, *The Clergy Reserves*.

² 31 Geo. III. c. 31. See W. Houston, *Documents Illustrative of the Canadian Constitution*, for text of the Act with comments.

BALDWIN LAFONTAINE HINCKS

ince for the maintenance and support of a Protestant clergy one-eighth of the public lands as yet unallotted: the Crown also had power to erect and endow rectories out of the reserve, whose incumbents should be "presented" by the governor, after the practice of presentation in England. In other words, the aim of the Act was to create in the two provinces an endowed State Church. The same statute gave to the parliament of each province power to alter or repeal these arrangements as it might see fit, provided always that such action was sanctioned by the imperial parliament. The Reserves had been at first exclusively claimed and enjoyed by the Church of England. Grave dissatisfaction arose. The other Protestant Churches claimed that the terms of the Act permitted of their participation in the reserve. The settlers also complained that the arrangement impeded settlement, hindered the making of roads and tended to interpose waste spaces among the farms of the colonies.

In 1819 an opinion, delivered by the law officers of the Crown, declared that the ministers of the Church of Scotland were entitled to a share in the Reserves. The old Reform party in Upper Canada of the days before the rebellion, protested against this form of State aid to the two Churches. Some Reformers wanted all sects to participate, others wished the whole system abolished. In 1831 the imperial government had invited the legislature

DIVISION OF THE CLERGY RESERVES

of Upper Canada to adopt a measure for the settlement of the question. Nothing, however, was agreed upon. No special endowments of rectories were made until 1836, when Sir John Colborne signed patents creating forty-four of them. This occasioned still louder protest. In Lower Canada, already settled and less subject to the allotment of new lands, the matter of the Clergy Reserves never became an acute question. It was the policy of the Roman Catholic Church not to oppose ecclesiastical endowment by the State.¹

In 1840 the parliament of Upper Canada passed an Act distributing the lands among the various Protestant sects. This Act was disallowed, but an imperial Act² of 1840 made a new disposition of the Reserves. Certain parts of the Church land had already³ been sold. The funds arising from these sales were to be distributed, in the proportion of two to one, between the Churches of England and Scotland. The rest of the Reserves were now to be sold. Of the proceeds arising, one-third was to go to the Church of England, one-sixth to the Church of Scotland, and the remainder, at the discretion of the governor in council, was to be applied to "purposes of public worship and religious instruction in Canada."

¹ In Upper Canada 2,395,687 acres were reserved ; in Lower Canada 934,050 acres.

² 3 and 4 Vict. c. 78.

³ In virtue of 7 and 8 Geo. IV. c. 62.

BALDWIN LAFONTAINE HINCKS

In accordance with this, distribution was made of these funds among the Dissenting denominations.

Such was the position of the Reserves question in the year 1850: the Church lands, while no longer blocking settlement,¹ since they were offered for sale when allotted, constituted a fund of which the Anglican Church received the lion's share, but in which all Protestant denominations participated. Many of the Reform party were anxious to leave the matter where it was, but the Radicals were determined to have done with all connection between Church and State and to force the question to an issue. Price, the commissioner of Crown lands, in the session of 1850, brought in a series of resolutions declaring the reservation of the public domain for religious purposes to have long been a source of intense discontent, and asking the imperial parliament to grant to the Canadian legislature plenary powers to deal with the lands as it should see fit. One of these resolutions (June 21st, 1850) read: "No religious denomination can be held to have such vested interest in the revenue derived from the proceeds of the said Clergy Reserves as should prevent further legislation with respect to the disposal of them." On Price's resolutions, which were finally carried, the ministry was divided. Hincks, who had seconded the resolutions,

¹ Previous to 1827 the lands reserved could not be sold for the benefit of the Church. They could only be leased. In 1827 power was given to sell one-quarter of the land. The amount which could be sold in any one year was limited to one hundred thousand acres.

DIFFERENCES OF OPINION

was in favour of the secularization of the Reserves. Of this policy he had been a consistent advocate for many years past.¹

Secularization, however, could only be accomplished by first inducing the imperial parliament to repeal the Act of 1840 and to refer the whole question to the Canadian legislature. Hincks's practical political experience told him that this end could be best accomplished by avoiding any action which might antagonize the British parliament, and in especial the House of Lords, by seeming to make Canadian jurisdiction a menace to the privileges of the Church. "It was clearly our policy," he wrote subsequently, "to ask for a repeal of the imperial Act on the ground of our constitutional right to settle the question according to Canadian opinion, and not to declare to a body sufficiently prejudiced and containing a bench of bishops, that our object was secularization." Hincks was, therefore, of opinion that the existing ministry should content itself with asking for the repeal. The policy to be afterwards adopted could be agreed upon in its own time. Though aware of the difference of opinion between himself and certain of his colleagues, he saw nothing in that difference to demand a reconstruction of the administration. Whatever the individual opinions of the ministers

¹ *Reminiscences*, pp. 278 *et seq.* Hincks published a series of letters on the Clergy Reserves question in the *Montreal Herald*, December, 1882.

BALDWIN LAFONTAINE HINCKS

might be on the subject, there were no immediate measures, he argued, which the Canadian government could take towards secularization. "To have broken up the LaFontaine government," he wrote, "because its leader would not pledge himself to support secularization, when it was uncertain whether we could obtain the repeal of the imperial Act of 1840, would have been an act of consummate folly, indeed hardly short of madness."

Nevertheless, the divergence of opinion in the cabinet was a palpable fact. LaFontaine believed in Canadian control: he desired the repeal of the Act of 1840: but he did not believe in the policy of secularization. Rightly conceiving that the alienation of the Reserves to other than religious purposes was the intent of Price's resolution quoted above, he gave his vote against it. Baldwin, to his deep regret, found himself compelled to vote against LaFontaine on this resolution. His attitude, as expressed in his speech on this occasion, honest though it was, was hardly calculated to hold political support. He admitted that previous to the imperial Act of 1840, he had, along with his fellow-Reformers, believed in the secularization of the Reserves and their application to provincial education: the passage of the Act had altered his opinion and he believed they ought to adhere as far as possible to the purpose it indicated. He did not regard the reserved lands as being entirely the property of the people, but recognized the vested interest created

TWO UNSOLVED PROBLEMS

by imperial legislation. At the same time he expressed himself as opposed to any union between Church and State, and declared that he did not regard the Act of 1840 as necessarily a final settlement. With this rather vague statement of his position, Baldwin voted in favour of the resolution condemned by LaFontaine. The opportunity offered by the evident lack of union on the part of the ministry was not lost on the Opposition. Even before the vote referred to, Boulton of the Conservative party tried to amend one of the resolutions by substituting a motion, "that, in the language of the Hon. Robert Baldwin in his address to the electors of the fourth riding of the county of York on December 8th, 1847, preparatory to the last election, when an adviser of the Crown on a great public question avows a scheme which his colleagues dare not approve, public safety and public morals require that they should separate."

The difference of opinion thus evinced among the members of the ministry was not calculated to strengthen their hold on their majority. At the same time the parallel question of seigniorial tenure¹ was weakening their support in Lower Canada. This was a legacy of the old French régime under which about eight million *arpents* of land had been granted to the seigniors on a feudal

¹ An admirable account of the system is to be found in the recent work of Professor W. H. Munro of Harvard University, *The Seigniorial System in Canada*. (Longmans, Green, & Co., N. Y., 1907.)

BALDWIN LAFONTAINE HINCKS

basis. The holders of land (*censitaires*) under the seigniors had a permanent right of occupancy but were compelled to pay fixed yearly dues in money and in kind, and in the event of their selling out their tenancy must pay one-twelfth of the purchase price to their lord. The latter had also various vexatious privileges, such as the *droit de banalité*, or sole right of grinding corn. Whatever may have been the merits of the system in aiding the first establishment of the colony, it had long since become an anachronism. Agitation against the tenure had gone on for years, but with the exception of a law of 1825 which permitted the seignior and *censitaire* by joint consent to terminate the tenure, nothing had been done. Granted that the system was to be abolished, the difficult question remained, how to abolish it. Was the land to be handed over to the *censitaire* as his property in fee simple, or was it to be given to the seignior as his absolute property, or was some adjustment, involving proper compensation, possible? The Reformers of Lower Canada were much divided; some of them wished to see the seigniors expropriated without compensation; others to expropriate them with compensation; others to leave the matter to voluntary arrangement aided by legislation, but not compulsory; and others, finally, such as Papineau (himself a seignior) wished to leave the matter where it was. LaFontaine, while believing in the historic value of the system, considered it injurious at the present

END OF THE GREAT MINISTRY

time to the interests of agriculture; he wished to see it abolished, but wished to find means to respect the interests of the seigniors by a proper compensation. The reference of the matter to a committee, and the presentation of various tentative bills, afforded no solution, and the matter dragged forward from the session of 1850 to that of 1851, while the prolonged delay led several of the Reformers to accuse LaFontaine of deliberately temporizing for fear of losing parliamentary support.

The end of the great ministry came in the succeeding session, that of 1851. The opposition of the Clear Grits to the government was growing more and more pronounced and the two unsolved questions proved a standing hindrance to the reunion of the Reform party. A Canadian writer¹ has said that the Reform party had become too ponderous to be held together and that it broke of its own weight. Indeed the united strength of the Reformers, Radicals, Clear Grits, Independents and the *Parti Rouge*, so completely outnumbered the Conservatives, that it was vain to expect to find all sections of the party disregarding their own special views for the sake of continuing to outvote so small a minority. The temptation was rather for the leaders of the separate groups to court new alliances, which might convert their subordinate position in the Reform party into a dominant position in a new combination. In this way we can

¹ F. Taylor, *Portraits of British Americans*, Vol. III, p. 84.

BALDWIN LAFONTAINE HINCKS

understand the vote which, midway in the session of 1851, led to the resignation of Robert Baldwin.

Mackenzie, who was aiding the Clear Grits in their persistent opposition to the cabinet, brought in a motion (June 26th, 1851) in favour of abolishing the court of chancery—one of the reforms recommended in the platforms of the Clear Grits. This court, formerly a valid subject of grievance, had been reorganized by Baldwin in his Act of 1849, and he had seen no reason to regard its present operation as unsatisfactory. Mackenzie's motion was rejected, but its rejection was only effected by the votes of LaFontaine and his French-Canadian supporters: twenty-seven of the Upper Canadian votes were given against Baldwin, many of them representing the opinion of Upper Canadian lawyers. Under happier auspices Baldwin might not have regarded this vote as a matter of vital importance, for he had never professed himself a believer in the doctrine of the "double majority,"¹ the need, that is to say, of a majority support in each section of the province at the same time. But the mortification arising in this instance was coupled with a realization of the difficulties that were thickening about the government, and with a knowledge that the

¹ Turcotte (*Canada sous l'Union*, p. 173) says that Baldwin by his resignation sanctioned the principle of the "double majority." But compare Hincks, *Political History*, p. 28. See also letter of Baldwin to LaFontaine, cited above, pp. 263-5.

BALDWIN RESIGNS

Reform party was passing under other guidance than that of its early leaders. The vote on the chancery question was merely made the occasion for a resignation which could henceforth only be a question of time.

Baldwin's resignation was tendered on June 30th, 1851. All parties united in courteous expressions of appreciation of his great services to the country, and the chivalrous MacNab expressed his regret at the determination of his old-time adversary. Almost immediately after the resignation of Baldwin, LaFontaine expressed his intention of retiring from public life after the close of the session. He, too, had wearied of the struggle to maintain union where none was. The committee on seigniorial tenure, moreover, reported a proposal for a bill which LaFontaine found himself compelled to consider a measure of confiscation. The consciousness that his views on this all-important subject could no longer command a united support confirmed him in his intention to abandon political life. Indeed, for some years, LaFontaine had suffered keenly from the disillusionment that attends political life. As far back as September 23rd, 1845, he had expressed his weariness of office in a confidential letter to Baldwin. "As to myself," he wrote, "I sincerely hope I will never be placed in a situation to be obliged to take office again. The more I see, the more I feel disgusted. It seems as if duplicity, deceit, want of sincerity, selfishness,

BALDWIN LAFONTAINE HINCKS

were virtues. It gives me a poor idea of human nature.”¹

The parliamentary session terminated on August 30th, 1851. It was generally known throughout the country that LaFontaine would carry into effect, in the ensuing autumn, the intention of resignation which he had expressed. His approaching retirement from public life was made the occasion of a great banquet in his honour held at the St. Lawrence Hotel, Montreal, (October 1st, 1851.) Morin, the life-long associate in the political career of the leader of French Canada, occupied the chair, while Leslie, Holmes, Nelson and other prominent Reformers were among those present. The speech of LaFontaine on this occasion, on which he bid farewell to public life, is of great interest. In it he passes in review the political evolution of French Canada during his public career.

“Twenty-one years ago,” said LaFontaine,² “when first I entered upon political life, we were under a very different government. I refer to the method of its administration. We had a government in which the parliament had no influence,—the government of all British colonies. Under this government the people had no power, save only the power of refusing subsidies. This was the sole resource of the House of Assembly, and we can

¹ MS. *Letters of LaFontaine and Baldwin*. Toronto Public Library.

² The speech is translated from *La Minerve*, October 4th, 1851.

LAFONTAINE'S FAREWELL SPEECH

readily conceive with what danger such a resource was fraught. It was but natural that this system should give occasion to many abuses.

“We commenced, therefore, our struggle to extirpate these abuses, to establish that form of government that it was our right to have and which we have to-day,—true representative English government. Let it be borne in mind that under our former system of government all our struggles were vain and produced only that racial hate and animosity which is happily passing from us to-day, and which, I venture to hope, this banquet may tend still further to dissipate.

“I hope that I give offence to none if, in speaking of the union of the provinces, I say that history will record the fact that the union was a project, which, in the mind of its author, aimed at the annihilation (*anéantissement*) of the French-Canadians. It was in this light that I regarded it. But after having subsequently examined with care this rod of chastisement that had been prepared against my compatriots, I besought some of the most influential among them to let me make use of this very instrument to save those whom it was designed to ruin, to place my fellow-countrymen in a better position than any they had ever occupied. I saw that this measure contained in itself the means of giving to the people the control which they ought to have over the government, of establishing a real government in Canada. It was under

BALDWIN LAFONTAINE HINCKS

these circumstances that I entered parliament. The rest you know. From this moment we began to understand *responsible government*, the favourite watchword of to-day; it was then that it was understood that the governor must have as his executive advisers men who possessed the confidence of the public, and it was thus that I came to take part in the administration.

“For fifteen months things went fairly well. Then came the struggle between the ministry, of which I formed part, and Governor Metcalfe. The result of this struggle has been that you have in force in this country, the true principles of the English constitution. Power to-day is in the hands of the people. . . .

“I have said that the union was intended to annihilate the French-Canadians. But the matter has resulted very differently. The author of the union was mistaken. He wished to degrade one race among our citizens, but the facts have shown that both races among us stand upon the same footing. The very race that had been trodden under foot (*dans l'abaissement*) now finds itself, in some sort by this union, in a position of command to-day. Such is the position in which I leave the people of my race. I can only deprecate the efforts now made to divide the population of French Canada, but I have had a long enough experience to assure you that such efforts cannot succeed: my compatriots have too much common sense to for-

CLOSE OF BALDWIN'S CAREER

get that, if divided, they would be powerless and we be, to use the expression of a Tory of some years ago, 'destined to be dominated and led by the people of another race.' For myself, I spurn the efforts that are made to sunder the people of French Canada. Never will they succeed."

LaFontaine resigned in October, 1851. The break-up of the ministry was, of course, followed by a general election in which he played no part. Baldwin presented himself to the electors of the fourth riding of York and was defeated by Hartman, a Clear Grit. In his speech to the electors, after the announcement of his defeat, he declared that he had felt it his duty once more to place himself before them and "not to take upon himself the responsibility of originating the disruption of a bond which had been formed and repeatedly renewed between him and the electors of the north riding." With the election of 1851, Robert Baldwin's public career entirely terminates. From that time until his death, seven years later, he lived in complete retirement at "Spadina." Though but forty-seven years of age at the time of his resignation, his health had suffered much from the assiduity of his parliamentary labours. In 1854 he was created a Companion of the Bath, and in the following year the government of John A. Macdonald offered him the position of chief-justice of the common pleas. This offer, and the later invitation (1858) to accept

BALDWIN LAFONTAINE HINCKS

a nomination for the legislative council (then become elective), Baldwin's failing health compelled him to decline. He died on December 9th, 1858, and was buried in the family sepulchre, called St. Martin's Rood, on the Spadina estate, whence his remains were subsequently removed to St. James Cemetery, Toronto.

LaFontaine, in retiring from political life at the age of forty-four, had yet a distinguished career before him on the bench. Returning, after his resignation, to legal occupations, he was appointed in 1853 chief-justice of Lower Canada, and in the year following was created a baronet in recognition of his distinguished career. As chief-justice, Sir Louis LaFontaine presided over the sittings of the seigniorial tenure court established for the adjustment of claims under the Act of 1854, and attained a distinction as a jurist which rivalled his eminence as a political leader. In 1860 LaFontaine, whose first wife, as has been seen,¹ had died many years before, married a Madame Kinton, widow of an English officer.² Of this marriage were born two sons, both of whom died young. Sir Louis LaFontaine died at Montreal, February 26th, 1864.

It is beyond the scope of the present volume to follow the subsequent political career of Francis

¹ See page 47.

² See L. O. David, *Biographies Canadiennes* (Montreal, 1870): Sir Louis H. LaFontaine.

HINCKS'S CLOSING YEARS

Hincks. His reconstruction of the Reform party, his joint premiership with Morin, and the "sleepless vigilance" of his policy of railroad development and public improvement, form an important chapter in the history of Canada to which Sir John Bourinot and other authors of the present series have done ample justice. Hincks's career as a colonial governor in Barbadoes and Guiana, his subsequent return to Canada as Sir Francis Hincks, and the story of his services as minister of finance (1869-73) under Sir John A. Macdonald, lie altogether apart from the subject-matter of this book. Sir Francis Hincks died August 18th, 1885, after a long, active and useful life. His *Reminiscences of his Public Life*, published in 1884, is precisely one of those books which it is greatly to be desired that men who have taken a large part in public affairs would more frequently give to the world. For Canadian political history from 1840 to 1854, it will always remain an authority of the first importance.

It may, at first sight, appear strange that the two great Reformers, whose joint career has been chronicled in the foregoing pages, should have abandoned political life at an age when most statesmen are but on the threshold of their achievements. But the resignation of Baldwin and LaFontaine meant that their work was done. To find a real basis of political union between French and British Canada, to substitute for the strife

BALDWIN LAFONTAINE HINCKS

of unreconciled races the fellow-citizenship of two great peoples, and set up in the foremost of British colonies an ensample of self-government that should prove the lasting basis of empire,—this was the completed work by which they had amply earned the rest of eventide after the day of toil.

INDEX



INDEX

A

- ACT OF UNION, see *Union, Act of*
Alywin, Mr., 79, 87, 130, 134, 252,
284
Amnesty Act, 292
Ashburton, Lord, 118
Aurore (newspaper), 142
Aylmer, Lord, 21

B

- BAGOT, LADY MARY, 148
Bagot, Sir Charles, 49 (note); 113,
114, 120, 140-2, 151, 152, 153,
171, 193
Baldwin Act, 105
Baldwin, Dr. William, 23, 24,
25, 26, 27, 28, 30, 42, 170, 177,
187
Baldwin, Robert, birth and parent-
age, 25; school days, 25; studies
law, 25; political views, 27;
enters public life, 28; drafts
petition in Willis affair, 29;
enters assembly, 31; marriage,
32; views on situation in 1836, 35;
appointed to office by Sir F. Head,
38; letter to Peter Perry on his
resignation in 1836, 39; visit to
England, 42; his relations to the
rebellion, 44; interview with
rebels, 45; demands responsible
government, 52; in executive
council, 63; resigns, 64; solicitor-
general, 76; letter to Syden-
ham, 78; recommends recon-
struction of ministry, 79; resigns
office, 80; the vote on public
works, 98, 99; opposes local gov-
ernment bill, 102; speech in
assembly against Hincks, 103;
elected in Hastings, 116; pro-
poses LaFontaine as candidate
for fourth riding of York, 116;
overtures from Bagot, 121-6;
speech in assembly on imperial
connection, 128; enters cabinet
with LaFontaine, 133; stands for
Hastings, 135; election declared
void, 136; denounced by the
Patriot, 146; personal descrip-
tion, 147; relations to Metcalfe,
166; dismissal recommended, 167;
opinions of Kaye, 169; speech in
assembly, 178; moves resolution
concerning seat of government,
182; prepares Secret Societies
Bill, 185; burnt in effigy, 187;
introduces University Bill, 190,
191; resigns office (1843), 199 *et*
seq.; his interview with Metcalfe,
201; speaks in assembly on resig-
nation, 213; guest at banquet at
North American Hotel, 220;
campaign against Metcalfe, 225,
226; tour in Lower Canada, 226;
contrasted with British Radicals,
229; views on British connec-
tion, 230; denounced by Lord
Stanley, 234; opposed by Viger,
236; speech before Reform Asso-

BALDWIN LAFONTAINE HINCKS

- ciation, 238 ; attacked by Buchanan, 239 ; attacked by Ryerson, 245, 246 ; resigns office of queen's counsel, 250 ; elected in York (1844), 252 ; attacks Metcalfe's elevation to the peerage, 257 ; correspondence with LaFontaine, 262, 263 ; views on "double majority," 263 ; speech of November 11th, 1846, 268 ; elected in York (1847), 278 ; second administration, 281 ; moves an amendment, 283 ; attorney-general, 284 ; interview with Lord Elgin, 285 ; prepares Municipal Corporations Act, 296 ; Baldwin Act, 297 ; seconds resolutions on Rebellion Losses, 310 ; speech on Rebellion Losses (February 27th, 1849), 312 ; burned in effigy, 318, 319 ; votes in favour of the secularization of the Clergy Reserves, 348, 349 ; decides to resign, owing to the vote on the chancery question and difficulties surrounding the government, 352, 353 ; defeated in the election for the fourth riding of York, 357 ; closing years, 357 ; made a Companion of the Bath, 357 ; his death and burial, 358
- Barthe, Mr., of Yamaska, 130
- Barthélémy, Mr., 83
- Berthelot, Adèle, 47
- Blake, W. H., 223, 279, 284, 314, 315, 318, 337
- Borne, Mr., member for Rimouski, 137
- Boulton, J., 15
- Bourinot, Sir J., 293, 313
- Brown, George, 223, 224 ; an adherent of LaFontaine and Baldwin, 342 ; commences an outcry against Roman Catholicism, 343
- Buchanan, Isaac, 90, 239
- Buller, Charles, 235

C

- CAMERON, MALCOLM, 90, 286, 337, 341
- Canadian Alliance Association, 16, 292
- Canal system of Canada, 98
- Capital city of Canada, see *Seat of government*
- Carleton, Major-General, 3
- Caroline* episode, 82
- Caron correspondence, 266 ; see also *Caron, René*
- Caron, René, 83, 259, 284
- Cathcart, Lord, 265
- Cartwright, Mr., declines the post of solicitor-general, 120, 121
- Christie, D., 214
- Clear Grits, their platform, 341, 342
- Clergy Reserves, 7, 10, 41, 42, 83 ; a summary of the question to the year 1850, 343-6 ; Price's resolution in respect to, 346 ; secularization of, 347-9
- Colborne, Sir John, lieutenant-governor, 14, 38, 42, 48, 59, 115
- Colonial Advocate*, 13
- Commissioners, for Rebellion Losses, 308
- Constitutional Act, 6
- Constitutional Reform Society, 42
- Constitutional Societies, 150
- Craig, Sir James, 17

INDEX

- Customs, see *Tariff*
- Cuvillier, Mr., his stormy election to the speakership, 86-8
- D
- DALHOUSIE, LORD, 19
- Daly, D., 76, 134, 214, 247, 263, 276
- Davidson, commissioner of Crown lands, 124, 133
- Day, C. D., 76, 80, 107
- Districts, see *Local government*
- "Double Majority," discussion of the principle of, 263
- Draper, W. H., 76, 77, 80, 81, 91, 92, 122, 126, 127, 132, 177, 183, 197, 216, 224, 235, 236, 237, 250, 254, 255, 258, 262, 299, 307, 317, 338
- Drummond county, address from, 249
- Dunlop, Dr., 132
- Dunn, J. H., 78, 134, 253
- Durham, Lord, high commissioner and governor-general of Canada, 17, 53 *et seq.*, 149, 161, 163, 274
- E
- ELECTION LAWS, 144
- Elgin, Lord, as governor-general of Canada, 272 *et seq.*; his idea of the true solution of the Canadian question, 282, 283; pleased with his new ministry, 285; announces the repeal of the clause of the Act of Union which had declared English as the sole official language of the legislature, 287; and the queen's intention to pardon all political offences occasioned by the rebellion of 1837, 287; gives his assent to the passage of the Act of Indemnification, 321; mobbed in Montreal, 322, 324; his attitude in regard to the Rebellion Losses Bill, 332-4
- Examiner, the*, 58, 104, 217
- Executive Council (Lower Canada), 9
- Executive Council (Upper Canada), 9
- F
- FAMILY COMPACT, 11, 12, 15, 24, 27, 28, 61, 170, 180
- Famine of 1846-7, 278
- French language, use of, 255, 287
- G
- GLADSTONE, HON. W. E., his speech on the Rebellion Losses Act, 326, 327
- Glenelg, Lord, 36, 42
- Girouard, M., 124, 134
- Goderich, Lord, 15, 30
- Gore, district council of, 227
- Gosford, Lord, governor-general, 45
- Gowan, Ogle R., 187, 218, 279
- Grand Trunk Railroad, 301
- "Great debate," the, 231
- "Great ministry," the, (second LaFontaine-Baldwin administration) 281 *et seq.*
- Great Western Railroad, 301
- Grenville, Lord, 7
- Grey, Earl (first), ministry of, 53, 59, 267
- Grey, Earl (second), colonial secretary, 267, 273, 285
- H
- HABEAS CORPUS ACT, 48
- Hagerman, solicitor-general, 15, 77

BALDWIN LAFONTAINE HINCKS

Harrison, S. B., 76, 78, 134
 Head, Sir Edmund, 36
 Head, Sir Francis Bond, 16, 32,
 35-9, 41, 42, 44, 62, 77, 245, 284
 Higginson, Captain, 172 *et seq.*
 Hincks, Francis (later Sir Francis),
 birth and parentage, 32; early
 life, 32; visits West Indies, 33;
 comes to Canada, 33; settles at
 York, 33; marriage, 34; busi-
 ness enterprises, 34; friendship
 with Baldwin, 34; views on situ-
 ation in 1836, 35; opinions on Sir
 F. Head, 36; his relation to the
 rebellion, 44; founds the *Exam-
 iner*, 58; meets LaFontaine and
 Morin, 63; elected for Oxford,
 69; his opinions, 85; letter to
 the *Examiner*, 87; speaks in as-
 sembly, 91; speech on the union,
 96; policy of public works, 98;
 local government bill, 102, 103;
 defends himself in the *Examiner*,
 104; in executive council, 118;
 address to Oxford constituents,
 119; acceptance of office criti-
 cized, 120; accused of sympathy
 with rebellion, 121; defends
 himself in assembly, 130; speech
 in assembly, 131; opinion of
 LaFontaine, 170; personal de-
 scription of, 179; speech in assem-
 bly, 179; burnt in effigy, 187;
 amends the tariff, 189; speaks in
 debate on resignation, 214; re-
 turns to journalism, 217; attacks
 on, 218; controversy with Wake-
 field, 219; in Metcalfe contro-
 versy, 233; petitions parlia-
 ment regarding election of

1844, 253 (note); defeated in
 Oxford, 252; views on party
 reconstruction, 261; views on
 Lord Elgin, 275; elected for
 Oxford, 279; inspector-general,
 284; prepares tariff and railroad
 legislation of 1849, 301; goes to
 London as a special envoy to the
 imperial cabinet in regard to the
 Rebellion Losses question (1849),
 327; his letter to the *Times* in
 response to Gladstone's speech
 on the Rebellion Losses Act,
 327-31; the financial purpose of
 his visit to England, 331, 332;
 favours the secularization of the
 Clergy Reserves, 346, 347; his
 last years and death, 359

Hincks, Rev. T. D., 32
 Hume, Joseph, 229

I

INDEMNIFICATION ACT, see *Rebellion
 Losses*
 Irving, Æmilius, 177

J

JACKSON, SIR RICHARD, 113
 Joliette, 83
 Judicature Acts, 292
 Judicial system, 300, 302

K

KAVE, W., author of *Life of Lord
 Metcalfe*, 169
 Kempt, Sir J., 20
 Killaly, H. H., 76, 133, 134
 King's College, 191, 286, 293
 Kingston, description of, 73, 74
 Kinton, Madame, LaFontaine's
 second wife, 358

INDEX

L

LAMBTON, JOHN, see *Durham, Lord*

LaFontaine-Baldwin ministry (first), 113 *et seq.*; the first Canadian cabinet in which the principle of colonial self-government was embodied, 137, 138; goes out of office, 199 *et seq.*; second administration, 281 *et seq.*, 309; holds a position of exceptional power throughout 1849-50, 337; carries out reform measures of importance, 338, 339; its difficulty with the Clergy Reserve question, 343-9; in relation to seigniorial tenure, 349-51; end of the great ministry, 351, 354

LaFontaine, Louis H., early life, 47; sails to England, 48; arrested in 1838, 49; views on relation of responsible government to the union, 57; receives advances from Sydenham, 61; meets Hincks, 63; defeated at Terrebonne, 70, 79, 82; LaFontaine-Baldwin ministry (first), 113 *et seq.*, 137, 138, 199, 210, 234; elected for fourth riding of York, 116, 117; overtures from Bagot, 121-6; addresses the assembly in French, 128; enters cabinet, 133; re-elected in fourth riding of York, 134; contests fourth riding, 135; denounced by the *Patriot*, 146; criticized by Metcalfe, 164; his relation to Metcalfe, 166; dismissal recommended, 167; opinions of Kaye, 169; conversation with Captain Higginson, 173; speech in assem-

bly, 178; seconds resolution for moving the seat of government, 182; prepares bill to remove office-holders from parliament, 184; reorganizes judicial system of Lower Canada, 184; LaFontaine-Baldwin administration, propriety of the name, 190 (note); resigns office (1843), 199 *et seq.*; interview with Metcalfe, 201; official statement on resignation, 201; announces resignation, 213; denounced by Lord Stanley, 234; opposed by Viger, 236; resigns position of queen's counsel, 250; elected in Terrebonne (1844), 251; correspondence with Caron, 259 *et seq.*; writes to Baldwin regarding Caron affair, 262; attacks adherents of Denis Papineau, 277; elected in Montreal, 279; LaFontaine-Baldwin administration (second), 281 *et seq.*, 309; attorney-general, 284; interview with Lord Elgin, 285; urges an amnesty, 288; attacked by Louis-Joseph Papineau, 289; speech against Louis-Joseph Papineau, 290-2; reorganizes judicial system of Lower Canada, 303; moves resolution on Rebellion Losses, 310; speeches on Rebellion Losses, 311, 312; argument on Rebellion Losses question, 317; his residence mobbed, 324; not in favour of the secularization of the Clergy Reserves, 348; de termines to retire from political life, 353; tendered a banquet on his approaching retirement, 354;

BALDWIN LAFONTAINE HINCKS

his farewell speech, 354-7; resigns (October, 1851), 357; his distinguished career on the bench, 358; created a baronet, 358; his second marriage, 358; his death, 358

La Minerve, newspaper, 142

"Legion" (Sullivan, R. B.), 240

Le Jeune Canada, 47

Leslie, James, 116, 284, 354

Letters on responsible government, see *Sullivan, Robert Baldwin*

Local government of Upper Canada, 10, 101, 296 *et seq.*

Lount, Samuel, 44, 45, 245

Lower Canada, population of, 62; schools in, 107

Loyalists, 4, 5, 17

M

MACAULEY, HON. JOHN, 119

McCulloch, Dr., 82

Macdonald, John A., 228, 252, 276, 279

McGill, Peter, 83

Mackenzie, William Lyon, 12-16, 27, 31, 33, 38, 43, 45, 292, 312, 318, 340, 352

MacNab, Sir Allan, 44, 45, 82, 87, 88, 100, 178, 183, 214, 224, 252, 253, 279, 283, 314, 315, 322, 324

"Magnetic telegraph," 277

Maitland, Sir Peregrine, 28

Mathews, hanged as a rebel, 245

Meilleur, Dr., 115

Mercury (Quebec), newspaper, 20

Metcalfe, Sir Charles, replaces Sir Charles Bagot as governor-general, 152, 155 *et seq.*; his view of responsible government, 161-6;

his attitude in relation to the question of colonial appointments, 172-6; reserves the Secret Societies Bill for the royal sanction, 188; the resignation of his ministry, 199-216; overwhelmed with addresses of advice, approval, etc., 226-8; conducts the government with an executive council of three members, 228; the home government approves his conduct, 230-5; attempts to form a ministry, 235-7; the literary duel in relation to the Metcalfe controversy, 240 *et seq.*; more successful efforts to obtain a cabinet, 246, 247; favours the Draper government, 249; the election, 250-3; the news of his having been raised to the peerage is ungraciously received by members of the Opposition, 256, 257; failing health, 257; retirement, 265

Moderate Reformers, as a party, 82

Mohawk Indians, 227

Montreal, description of, 181; riot at, 321-5; burning of the houses of parliament, 323, 324

Moodie, Sheriff, 136

Morin, A. N., 63, 87, 134, 252, 259, 283, 354

Morris, W., 83, 183, 247

Municipal Corporations Act, 292

Municipal government, see *Local government*

Murney, Mr., 135

N

Narrative, A, by Sir Francis B. Head, 37

INDEX

Nationalists, as a party, 82

Neilson, of Quebec, 96

Nelson, Wolfred, 49, 252, 354

Northern Railroad, 301

O

O'CALLAGHAN, DR., 49

Ogden, C. R., 76, 80, 125

Orange party, 185, 186

P

PAPINEAU, D. B., 116, 246, 252, 255, 259, 260, 276

Papineau, Louis-Joseph, 19, 20, 46-9, 229, 288, 292, 312, 318

Parliament, first meeting of united, 85

Patriot (newspaper), 145; its account of the burning of the three effigies, 319

Parti Rouge, the, its platform, 343

Peel, Sir Robert, 113, 151, 235, 267

Perry, Peter, 13, 39

Pilot, founded by Hincks, 217; its offices wrecked by the mob, 323

Pitt, William, 6

Population of the Canadas, 62

Powell, clerk of the peace, 200

Powell, Colonel, 200

Price, commissioner of Crown lands, supports Baldwin on the question of the resignation of the ministry, 214; his resolution in relation to, 215, 216; elected for the county of York, 279; his resolution *re* the Clergy Reserves, 346

Q

QUEBEC ACT, 2-4

Queen's College, 194, 295

R

RAILROAD ACTS, 292

Railroad policy, 301

Rebellion Losses, 303 *et seq.*

Rebellion Losses Act, provisions of, 310, 311; opposition to the passage of the bill, 312-18; riot at Montreal caused by passage of, 321-5; discussed in the British parliament, 325

Reciprocity, 302

Report of Lord Durham, 55 *et seq.*, 274

Reserves, see *Clergy Reserves*

Resolutions, see *September Resolutions*

Responsible government, the alpha and omega of reform, 27; denounced by Sir F. Head, 38; Baldwin's views on, 39, 40; leading demand of Reformers, 52; debated in the assembly, 91-5; September resolutions on, 108-11; under first LaFontaine-Baldwin ministry, 141-3; divergent views of Metcalfe and his cabinet, 200 *et seq.*; agitation of 1844, 222 *et seq.*; relation to imperial connection, 230; pamphlet war regarding, 240-6; letters on, by Sullivan, 243; views of Lord John Russell, 269-73; views of Earl Grey, 269 *et seq.*; views of Lord Elgin, 273; final achievement of, 281; in relation to Rebellion Losses Bill, 305, 306, 334, 335

Rideau Canal, 74

Robinson, J. B., (later chief-justice) 12, 24, 31, 61

Robinson, W. B., 247, 252, 254

BALDWIN LAFONTAINE HINCKS

- Roe, W., 135
 Roebuck, Mr., 36, 229, 230, 231
 Reform Association, 221, 238
 Regiopolis, College of, 194
 Rolph, Dr. John, 13, 38, 43, 44
 Ross, George, 33
 Royal Belfast Institution, 32
 Russell, Elizabeth, 26
 Russell, Lord John, 46, 60, 65, 231, 234, 267, 269, 273
 Ryerson, Rev. Egerton, 224, 238 ; his literary duel with R. B. Sullivan on responsible government, 240-5
- S
- SALABERRY, COLONEL DE, 172
 School system of Canada, 105-8, 189, 190
 Seat of government, 181-4, 254, 338
 Secret Societies Bill, 185 *et seq.*, 209
 Seigniorial Tenure, 349-51
 September resolutions on responsible government, 108, 174, 202, 216, 222
 Sherwood-Daly administration, 276
 Sherwood, H., 118, 121, 166, 176
 Seventh report on grievances, 11, 37
 Shortt, Professor, 296
 Simcoe, Lieutenant-Governor, 7, 58, 105
 Small, J. E., 134, 253
 Smith, of Frontenac, 88, 246
 "Spadina," Baldwin's country place, 26, 357
 Special Council (Lower Canada), 306
 Stanley, Lord, 16, 20, 30, 164, 168, 176, 186, 200, 209, 230, 231, 234, 244
- Strachan, Dr. John (later Bishop), 25, 106, 192, 195, 196, 224, 295
 Sullivan, Augusta Elizabeth, 32
 Sullivan, Hon. Robert Baldwin, 32, 76, 77, 80, 130, 133, 134, 223, 238 ; his literary duel with Ryerson on responsible government, 240-5
 Sydenham, Lord, 59, 60, 64-6, 75, 86, 88, 90, 97, 100, 111, 128, 141, 146, 155, 158, 189
- T
- TACHÉ, E. P., 284
 Talbot, district of, 227
 Talleyrand, 53
 Tariff system, 99, 189, 292, 301, 302
Thirteen Letters on Responsible Government, 243
 Thomson, Charles Poulett, see *Sydenham, Lord*
 Toronto, University of, see *University of Toronto*
- U
- ULTRA-REFORMERS, as a party, 82
 Union, Act of, 68, 73, 128, 146, 255, 287
 Union Bill, 61
 Union of the Canadas, 51-5, 67-9
 United Empire Association, 228
 United Empire Loyalists, see *Loyalists*
 University Bill (Mr. Draper's), 255
 University Bill of 1849, 293
 University of Toronto, 190-7, 281, 292 *et seq.*
 Upper Canada Academy, 193
 Upper Canada, population, 62

INDEX

V

- VALLIÈRES, JUDGE, 115
Van Egmond, Colonel, 43
Vaudreuil, Marquis de, 1
Victoria University, 295
Viger, D., 79, 102, 130, 215, 216,
235, 247, 259
Viger, L. M., 284

W

- WAKEFIELD, EDWARD GIBBON, a
notable defender of Metcalfe, 150,
156, 177, 219

- Welland Canal, 98
Wellington, Duke of, 151
Wilcocks, Mr., 23
Willis, Judge, 28, 29

Y

- YORK, incorporated as Toronto, 16

Z

- "ZENO," author of pamphlet on
Metcalf controversy, 239







MAKERS OF CANADA	F
AUTHOR	5054
Baldwin, LaFontaine, Hincks	.M34
TITLE	v.14
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