

6-7 EDWARD VII., A. 1907

"That the Accounts of the Expenditures of all the public Monies for the Use of this province have been examined only by these five persons, or such others as the Lieutenant Governor chose to send for, and afterwards have been reported by them to the Governor, and by him approved, in the presence indeed of the legal Council but without their Interference, Approbation or Consent."

"That the said Approbation of the Governor in the presence of the legal Council, by some Accident has been entered in the Journals, in Words, that may naturally be understood to mean that the said Accounts have received the Approbation and Sanction of his Majesty's legal Council for the Affairs of this province."

"That these Proceedings are irregular and illegal, tend to introduce Confusion, Uncertainty and Discontent; And if not timely remedied, will give Opportunity and Means of Collusion, and Impunity to future speculation, and perversion of public Money, under any future Governor."

"The Chief Justice therefore moved that an humble address be prepared and presented to His Excellency the Governor, stating the premisses and humbly praying that he will be pleased to order convenient Remedy."¹

This Motion, though consisting of several Clauses, strikes us, as containing an assertion, which it behoves us in the first place to examine into, and consider.

The Fact asserted by this Motion, is that your Majesty's then Governor was pleased, by order of the 8th day of August 1776, to appoint a Council (calling the same a Privy Council,) to consist only of five particular persons in the said Order named, and of such others, as the Lieutenant Governor should think proper to send for; and the Motion goes on to say, that the five persons, so named, have proceeded to act to the exclusion of your Majesty's Council legally constituted, in opposition to the Act of Parliament above mentioned.

The numbers of your Majesty's Council ascertained by this Act of Parliament to which the Motion refers, are to consist of not less than seventeen, nor more than twenty three members, and of this Council not less than a Majority are to cooperate with the governor in all Acts of Legislation, thus the Regulation stood under the Act of Parliament, when your Majesty judging it probable, that occasions might arise, when the Advice and Consent of the Council might be wanted in other matters, besides Acts of Legislation, when a Majority of the whole could not conveniently be assembled was pleased to direct, (and it stands as the second Article in your Majesty's Royal Instructions to your late Governor) "that any five of the said Council should constitute a Board of Council for trans-acting all Business, in which their Advice and consent may be requisite, "Acts of Legislature only excepted, in which he is not to act without a "Majority of the whole."²

¹ Minutes of Leg. Council, vol. D., p. 40.

² See Instructions to Carleton, 1775, p. 595.