

Frederick Elliot,
Esq.

No. 7.—COPY of a DESPATCH from Sir *George Murray* to Sir *James Kempt*, dated
Downing-street, 8th October 1829.

Sir,

25 April 1834.

IN my Despatch, dated the 29th September 1828, No. 1, I had the honour to communicate to you such instructions as His Majesty's Government at that time deemed necessary for your guidance respecting the financial questions, which have been so long a subject of discussion with the House of Assembly of Lower Canada. I then authorized you to acquaint the House that a scheme for the permanent settlement of the financial concerns of the Province was in contemplation. Circumstances of general notoriety, to which it is needless to refer more particularly, interposed to defeat the purpose entertained by the Ministers of the Crown, of proposing this plan to Parliament during their last Session, and without the authority of Parliament it would not be in the power of His Majesty to adopt those measures from which alone a permanent adjustment of the questions in dispute can be anticipated.

In instructing you as to the course which it will be your duty to pursue in the approaching Session of the Provincial Assembly, I am therefore under the necessity of again resorting to a temporary expedient. But it is the fixed intention of His Majesty's Government to propose to Parliament at their next meeting, the enactment of a law which it is hoped will preclude further controversy, and remove every reasonable pretext for dissatisfaction upon this head.

The Bill to make further provision towards defraying the civil expenditure of the Provincial Government, with the various explanations and illustrative documents transmitted with your Despatch of the 25th of March last, have engaged the serious attention of the Ministers of the Crown. You have anticipated the remark, that in enacting this law, the Legislative Council and Assembly have assumed to themselves a power which the statute 14 Geo. 3, c. 88, has vested exclusively in the Lords Commissioners of His Majesty's Treasury. Under any ordinary circumstances it would have been the evident duty of the official adviser of the Crown humbly to recommend to His Majesty to disallow an Act directly at variance with a British Statute; but under the very peculiar circumstances of the present case, many considerations oppose the adoption of such a measure.

I am fully sensible of the difficulties of the situation in which you were placed, and I am aware that of the alternatives in your choice you could have adopted none which would not have been productive of some serious embarrassment. It is not therefore as an expression of censure that I remark that in assenting to this Bill, you did not act in conformity with my instructions of the 29th September 1828; but if I am not entirely satisfied of the propriety of the course you pursued, I am happy to express my conviction that it was wholly dictated by zeal for His Majesty's service.

Your acceptance of the Bill, however (even if justified by the peculiar circumstances under which you were placed), has created an insuperable obstacle to the exercise of His Majesty's prerogative of disallowing it. Before an Order in Council for that purpose could have arrived in Lower Canada, the Act would nearly have had its complete operation; and the money granted by the House of Assembly out of those funds over which their control is indisputable, would, to a great extent, have been received and expended. It would scarcely have been consistent therefore with good faith, and would certainly have afforded a plausible ground of complaint, if the Act had been disallowed after the Local Government had so largely partaken of the pecuniary advantages which it afforded.

For these reasons His Majesty does not think fit for the present to make any order in His Privy Council on the subject; but the consideration of this Act may perhaps be resumed in connexion with the general measure hereafter to be submitted to Parliament.

There is, I fear, no adequate reason to expect that in their approaching Session the House of Assembly of Lower Canada will recede from the pretensions which they advanced successfully in the Session of 1828; and in truth, in the prospect of an early application to Parliament on the subject, the question has lost much of its former importance. It is not, however, unimportant still to maintain, in principle at least, the right for which His Majesty's Government has so long contended; and even in the absence of those obvious considerations of dignity and consistency which prescribe this course, the intention of the Act of Parliament, as interpreted by the Law Officers of the Crown, leaves no discretion on the subject. For the appropriation of the Revenue arising from the 14th Geo. 3, c. 88, is not properly a right which may be maintained or waived at pleasure, but a duty, for the performance of which the Lords Commissioners of the Treasury must remain responsible until the Act of Parliament has been either amended or repealed.

You will therefore, at the commencement of the approaching Session, lay before the Assembly an estimate formed upon the same principle as that which you presented to them in the Session of 1828; including in that estimate a provision for the arrears due to the various public officers whose claims the House rejected in that Session. You will acquaint the House that circumstances which could not be controlled, rendered it impossible for the Ministers of the Crown to bring under the consideration of Parliament, in their last Session, the measures contemplated for the final adjustment of these financial questions; but that they confidently expect that in the ensuing Session the subject will undergo an early and final consideration. You will signify to the Legislature His Majesty's regret that in their late proceedings they should have persevered in the assertion of a 'right which' His Majesty had, on so many former occasions, been compelled by the express terms of the Act of 1774, to deny. You will further express His Majesty's concern that the House should have rejected his recommendations in favour of several persons whose claims are supported by