

The policy and measures which have led to the present condition, seldom passed under the review of the Executive Council, or were submitted for their advice. Nevertheless, its members have been undeservedly subjected to the heaviest reproach throughout the country, from a prevalent belief that they have been called upon to fulfil the duty imposed upon them by the Constitution, as advisers upon public affairs. But amidst the obloquy thus thrown upon them, they have studiously avoided any attempt at exculpation, by disavowing, in their defence, any participation in the conduct of the affairs which they were erroneously supposed to have approved. The consequence of this silent endurance of political odium, has been the perpetuation of the misbelief that the Executive Council are conversant with the affairs of the Province, upon which they are appointed to advise: and although an opposite practice has generally prevailed between former Lieutenant Governors and their Council, yet it has ever been notoriously contrary to the state of things presumed by the community to exist.

Public opinion respecting the Executive Council and their duties, has been founded upon the terms of the 31st Geo. 3, chapter 31, to which Statute the people used to express a firm attachment, an attachment which the Council believe never would have been impaired had the Constitution been administered either according to its letter or its spirit.

In several clauses of 31st George 3, chap. 31, the Executive Council is mentioned in general terms. In the 34th clause the terms are "together with such Executive Council as shall be appointed by His Majesty for the affairs of such Province," and not as it would otherwise have been expressed, "together with such Executive council as shall be appointed by His Majesty for that purpose." In the 36th clause the terms are "with the advice of such Executive Council as

shall have been appointed by His Majesty, his heirs, or successors, within such Province for the affairs thereof," and not, as it would otherwise have been expressed, "with the advice of such Executive Council as shall have been appointed by His Majesty, his heirs, or successors, within the Province for that purpose."

The same may be said of similar terms used in the latter part of the seventh clause.

With respect to which clauses it may be further remarked, that had it been contemplated that the Executive Council were to act only in the matters therein specified, the words "on the affairs of such Province" might have been omitted, without in the least impairing the legal effect. In the construction, therefore, of this Statute, the above expression can not be treated as surplussage, but must be taken to impose the duty which it imports.

From the language of this Statute, therefore, it appears—

*Firstly*,—That there is an Executive Council.

*Secondly*,—That they are appointed by the King.

*Thirdly*,—That they are appointed to advise the King, and his Representative, upon "the affairs of the Province,"—no particular affairs are specified: no limitation to any particular time or subject.

As the Constitutional Act prescribes to the Council the latitude of "the affairs of the Province," it requires an equal authority of law to narrow those limits, or relieve the Council from a co-extensive duty.

Every Representative of the King, upon arriving from England to assume the Government of this country, is necessarily a stranger to it; and the law has provided for a Local Council as a source of advice, which when given, is followed or not, according to his discretion.

In certain cases specified in the 38th clause of the 31 Geo. 3, chap. 31, the