

I feel satisfied, from the assurances given me, that the difficulties on the present occasion would have been removed by the introduction of a new Act, if there had been time to have done so; but it was very late in the session before the bill went up to the Legislative Council, and when the objectionable clause was struck out by that branch of the Legislature, a quorum could not be assembled in the House of Assembly.

Under these circumstances, I earnestly request permission to issue, by way of loan from the military chest, the sums necessary to pay the expense of the militia staff and contingencies for the present year, under a conviction that they will be repaid by a vote of the legislature in the next session. The half yearly salaries of the staff will become due on the 1st of July next, and as I have no funds at my disposal to apply to this most necessary service, I shall hope to receive your authority before that time, to advance the money in the manner which I have taken leave to suggest.

I think it right on the present occasion to put you in possession of the enclosed paper (No. 1), in order that you may be aware of the circumstances which occasioned the loss of the militia bill in the Legislative Council, and also of the Act providing for the payment of the militia staff.

The bill was simply a revival of former militia laws, without improvement of any kind, but the House of Assembly has reported the heads of a new bill, which it is intended to bring forward in the next session.

I have, &c.

(Signed)

JAMES KEMPT.

(No. 1.)—MILITIA LAWS.

Clause struck out of Militia Laws revival Bill by the Legislative Council, and which occasioned its loss.

“ Provided always, and be it further enacted by the authority aforesaid, that nothing in this Act contained shall extend, or be construed to extend, to revoke or annul all or any of the commissions of the different officers of militia appointed in this province prior to the 1st of May which was in the year of our Lord 1827, the said commissions being conformable to the provisions of the said Acts hereby revived and continued, in respect to the qualification and residence; and provided always, and it is hereby declared and enacted by the authority aforesaid, that all commissions or changes of officers in the militia, issued or made subsequently to the said 1st day of May, be and the same are hereby revoked and annulled, till such time as further provision be made therein by the Governor, Lieutenant Governor, or person administering the Government for the time being.”

Observations in explanation.

The temporary militia laws having expired on the 1st of May 1827, the old ordinances of 1787 and 1789 came into operation on that day, and under this authority the militia of the province is at present regulated and assembled.—Doubts, however, being entertained on this subject, the law officers of the Crown were consulted on the occasion, and they gave an opinion that these ordinances became revived at the expiration of the temporary militia laws; an opinion which was subsequently confirmed by a judgment given by the judges of the Court of King's Bench, in a suit brought before that Court to try the question; but notwithstanding these legal opinions and judicial decisions, a party of considerable influence in the Assembly still maintain that these ordinances could not be legally revived, and that, in short, no law for the assembling and regulation of the militia has existed since the 1st of May 1827. The object of this clause was, therefore, to revoke and annul all the militia appointments made by Lord Dalhousie since the 1st of May 1827, thereby virtually restoring to their commissions all those officers who were removed from them by the late Governor in Chief.