

21st January, 1840.

FIFTH SESSION, SECOND GENERAL ASSEMBLY 3rd VICTORIA.

the sick and destitute Poor of the Island of Newfoundland," they have been governed solely by an anxious desire so to amend its several provisions as to ensure the assent of the Executive to the Bill, and its consequent immediate operation.

Her Majesty's Council felt themselves compelled to amend that clause of the Bill in which the House of Assembly named the Commissioners for carrying the provisions into effect, considering it to be more constitutional in principle and convenient in practice that these Officers should be appointed by the Executive, and in this view of the subject they are happy to find they are borne out by the Speech of His Excellency the Governor on opening the present Session, and also by the Despatch of the Secretary of State for the Colonies of the 4th June last, which is to the following effect:

"It might be difficult to lay down the general proposition that Commissioners for a Public Service, and the Officers acting under them, should always be appointed by the Executive Government, and never by an Act of the Legislature. But without agitating so wide a question I think it sufficient to say, that there was no apparent reason in the present case (the grant to the Poor in 1838) for withholding from the Executive Government their appropriate function of appointing Public Officers; and that experience, especially in the Colonies, demonstrates that the appointment of such Functionaries by Legislative Bodies, acting under no effective responsibility, is amongst the most fertile sources of abuse and misapplication of the Public Revenue."

Her Majesty's Council have also amended that clause of the Bill by which the said Commissioners are authorized to draw on the Colonial Treasury without the intervention of the Executive, because they believe it to be a course unprecedented in Colonial Legislation, and because his Excellency the Governor is restrained from giving his assent to a Bill containing such a provision by the 24th Article of the Royal Instructions which is as follows:

"You are not to suffer any public money whatsoever, whether it be appropriated to any particular service or not by the Act granting the same, to be issued or disposed of otherwise than by Warrant under your hand, by and with the consent of the said Council."

Her Majesty's Council further avail themselves of this occasion to express their regret that at this inclement season of the year so much time should have been allowed to elapse without any provision having been made for the destitute and houseless Poor. Her Majesty's Council, however, heartily concur in the grant now made, and were prepared to concur in one of even larger amount.

Instructions signed.

The foregoing Instructions having been read by the Clerk, the Honorable the President signed the same.

Conferees appointed.

Ordered, that the Honorable Messrs. Crowdy and Spearman be the Conferees on the part of this House.

Assembly accede to the Conference requested.

A Deputation from the House of Assembly brought up a message acceding to the conference requested.

Report of Conferees.

The Conferees went to the Conference, and having returned, reported that they had met the Managers from the Assembly, and delivered to them the Instructions with which they had been entrusted.

Poor Bill passed and

Ordered, that the Bill, as amended, entitled "An Act to make provision for the sick and destitute Poor of the Island of Newfoundland," do now pass.

Signed.

Whereupon the Honorable the President signed the same.

Contingency Bill for the past Session brought up and read 1st time.

A Deputation from the House of Assembly brought up a Bill for the concurrence of this House, entitled "An Act to defray the expenses of the Legislature in the Fourth Session of the Second General Assembly of Newfoundland," which was read a first time, and—

Ordered, to be read a second time to-morrow.

On motion, it was—

Address to the Governor for a copy of the Royal Instructions.

Ordered, that an address be presented to His Excellency the Governor, praying that His Excellency will be pleased to direct that a copy of the Royal Instructions, recently received by him, be laid before the House.