

government. It was to accomplish this purpose, that it used every means in its power; but it must be censured for having, in pursuit of this object, perverted its powers of legislation, and disturbed the whole working of the constitution. It made the business of legislation, and the practical improvement of the country, subordinate to its struggle for power; and, being denied its legitimate privileges, it endeavoured to extend its authority in modes totally incompatible with the principles of constitutional liberty.

Attempt to alter
the Constitutional
Act.

One glaring attempt which was made directly and openly to subvert the constitution of the country, was, by passing a Bill for the formal repeal of those parts of the 31 Geo. 3, c. 31, commonly called the Constitutional Act, by which the constitution and powers of the Legislative Council were established. It can hardly be supposed that the framers of this Bill were unaware, or hoped to make any concealment of the obvious illegality of a measure, which, commencing, as all Canadian Acts do, by a recital of the 31 Geo. 3, as the foundation of the legislative authority of the Assembly, proceeded immediately to infringe some of the most important provisions of that very statute; nor can it be supposed that the Assembly hoped really to carry into effect this extraordinary assumption of power, inasmuch as the Bill could derive no legal effect from passing the Lower House, unless it should subsequently receive the assent of the very body which it purported to annihilate.

Claim of force of law
for resolutions of
the Assembly.

A more dangerous, because, in some measure, more effectual device for assuming unconstitutional powers, was practised by the Assembly in its attempts to evade the necessity of obtaining the assent of the other branches of the legislature, by claiming for its own resolutions, and that, too, on points of the greatest importance, the force of laws. A remarkable instance of this was exhibited in the Resolution which the Assembly passed on the rejection of a Bill for vacating the seats of Members on the acceptance of offices under the Crown; and which, in fact, and undisguisedly, purported, by its own single authority, to give effect to the provisions of the rejected Bill. This Resolution brought the Assembly into a long dispute with Lord Aylmer, in consequence of his refusing to issue a writ for the election of a Member in place of Mr. Mondelet, whose seat was declared vacant in consequence of his having accepted the office of executive councillor. The instance in which the Assembly thus attempted to enforce this principle of disqualification, happened to be one to which it could not be considered applicable, either from analogy to the law of England, or from the apparent intent of the Resolution itself; for the office which Mr. Mondelet accepted, though one of high importance and influence, was one to which no salary or emolument of any kind was attached.

Systematic abuses
of constitutional
forms.

But the evils resulting from such open attempts to dispense with the constitution were small, in comparison with the disturbance of the regular course of legislation by systematic abuse of constitutional forms, for the purpose of depriving the other branches of the legislature of all real legislative authority. The custom of passing the most important laws in a temporary form, has been an ancient and extensive defect of the legislation of the North American Colonies, partially authorized by royal instructions to the Governors, but never sanctioned by the Imperial Legislature, until it was established in Lower Canada by the 1st Vict. c. 9. It remained, however, for the Assembly of Lower Canada to reduce the practice to a regular system, in order that it might have the most important institutions of the Province periodically at its mercy, and use the necessities of the Government and the community for the purpose of extorting the concession of whatever demands it might choose to make. Objectionable in itself, on account of the uncertainty and continual changes which it tended to introduce into legislation, this system of temporary laws derived its worst character from the facilities which it afforded to the practice of "tacking" together various legislative measures; a practice not unknown to the British constitution, and which has sometimes been found useful, because the prudence of the House of Commons has induced that body rarely to have recourse to it, but which the legislators of Lower Canada converted into the ordinary mode of legislation. By the abuse of this practice, any branch of the legislature had, during every session, the power, if it had the inclination, to make the renewal of expiring laws the

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