

"DOWNING STREET, 5th September, 1836.

"SIR,

"IN my Despatch of the 31st ultimo, I have communicated to you the answer which His Majesty has commanded me to return to the Address from the House of Assembly of New Brunswick of the 14th March last. I have at the same time enclosed for your information copies of the correspondence which had passed on the subject of that Address, and on other matters of a public nature between this Department and Messrs. Crane and Wilmot, the Gentlemen deputed by the House of Assembly to represent them in this Country. Having communicated to Messrs. Crane and Wilmot the draft of my Despatch of the 31st ultimo, I have received from them the enclosed observations upon it. I have also had with them personal communications on the subject. I now proceed to inform you in what respects His Majesty has in consequence been pleased to direct that the Instructions contained in my Despatch of 31st ultimo shall be altered or modified.

"1. The first alteration proposed by Messrs. Crane and Wilmot is, that the Executive Council should in compliance with the wishes of the Assembly be at once enlarged, without waiting the further deliberation contemplated in my Despatch of the 31st ultimo. On this point His Majesty, after a due consideration of the arguments urged by the House of Assembly, and of the representations of Messrs. Crane and Wilmot, is prepared to adopt the necessary steps for meeting the wishes of the Assembly. It is unnecessary on the present occasion to offer any pledge as to the precise number of which the Executive Council should hereafter consist, nor indeed could any invariable rule be prescribed on that subject without inconvenience. But you will immediately report to me the names of several Gentlemen whom you may think most eligible for seats in His Majesty's Executive Council. In making your selection, you will not confine yourself to any single class or description of persons, but will endeavour to ensure the presence in the Council of Gentlemen representing all the various interests which exist in the Province, and possessing at the same the confidence of the people at large. It may not be possible always to find such persons in the neighbourhood of the Capital, but I am assured that there are Gentlemen of fortune in the Province who, if appointed to the Council would, from public motives, attend to the duty.

"2. The Instructions respecting the regulations of the Land Department are next alluded to, and much stress is laid on the expediency of permitting you to give your assent at once to any Acts which may be passed by the Legislature for that purpose, instead of reserving them for the signification of His Majesty's pleasure. I must however remark, that whatever advantages might accrue from this course they could scarcely compensate for the inconvenience which might result from a disallowance, should that be necessary, of such Acts after they have gone into operation. It would be superfluous to enlarge on the hardships which might be produced by the annulling of an Act under which property had been already acquired or devised, or to point out how much the disappointment created by such a proceeding must exceed that which would result from a temporary delay in the confirmation of the Act. There is, however, an alternative which, while it would guard effectually against the inconvenience just stated, would at the same time, I have reason to think, be satisfactory to the Assembly, and this is, that no Act for the regulation of the Land Department shall come into operation till at a given period after its passing. If therefore any Act of that nature presented to you hereafter, shall contain a clause providing that it shall not come into operation till the expiration of at least four months from its date, you will be at liberty should you see no objection to the Act on other grounds, to give your assent to it. In such a case I need hardly state that it will be your duty immediately to transmit the Act to me in order that it may be brought under the consideration of His Majesty in Council.

"3. With respect to the surrender of the Casual and Territorial Revenue, I have to observe, that in proposing that the nett proceeds only should be paid over to the Provincial Treasury, His Majesty's Government made no claim which is not in strict accordance with the law and practice of this Country. The Hereditary Revenues of the Crown have been placed at the disposal of Parliament—Parliament has in turn confided to the Executive Government the powers and the duty of determining in the first instance whatever relates to the expense of management and collection, subject to the obligation of rendering an annual account of that expense. It is obvious, that if the Legislature should assume the right of pre-determining the various items of that expenditure, they would be virtually invested with the entire management of the Territory itself, and must exercise a power which has never been placed in this Country in any other hands than those of the Executive Government. To depart from the established usage in this respect would be to subvert the existing balance of the Constitution, and to place powers of the greatest importance in hands not subject to any effective responsibility. I propose therefore that, as in Great Britain the cession of the Hereditary Revenue was accompanied by an Enactment which enabled the Lords of the Treasury to fix in the first instance all the charges of collection and management, so in New Brunswick the cession of the corresponding Revenue to the appropriation of the General Assembly should be accompanied by an act authorizing the Governor of the Province with the advice of His Executive Council to expend out of the gross income whatever sums they may find necessary for the management and collection of that Revenue. And as in Great Britain the House of Commons, by exercising its judgment on the accounts of the Expenditure which are always laid before it, has in effect a sufficient and constitutional control over that expenditure, so in New Brunswick the same control over the Revenues in question would by the same means be vested in the House of Assembly. The assurance which you have been directed to convey to the House of Assembly, that accounts of the Receipt and Expenditure of that Revenue shall be annually laid before them, and that His Majesty will be ever ready to

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