

Report of Com-
mittee to Commons
House of Assembly.

comprehensive. [See the Provincial Statute, 34 Geo. 3, chap. 2, sec. 33, and the British Statutes, 6 Geo. 4, chap. 114, sec. 30, and the 7th and 8th Geo. 4, chap. 62, sec. 1.] From these Statutes it will be seen that an Executive Council is "the Council of the Province," "appointed for the affairs thereof," and not his Excellency's Council, or appointed for particular affairs, or any particular purpose. They are not, as he says they are, appointed to serve him, they are the Council of the province, "appointed for the affairs of the province." The distinction of his Excellency between the Council serving him, and not the people, is calculated to awaken much concern, and seriously impair that identity of interest and purpose which (under the presumption of our enjoying the British Constitution) we always supposed to exist between The King and the People. Indeed it has been a universal belief, founded, as your Committee believe, in unerring principles, that both the Privy Council at home and the Executive Council in this province are the servants of, or instruments for, the dispensing of good government. Any attempt to put up any conflicting interests between The King and the People, by creating a belief that, in serving the Crown, they do not serve the country, is erroneous in theory and mischievous in practice.

His Excellency repeatedly asserts, that no Executive Council was created by the British Act, 31 Geo. 3, c. 31, and says, "as regards even its existence, the most liberal construction which can possibly be put upon the said Act, only amounts to this: that as an Executive Council was evidently intended to exist, the remnant of the old one ought not to be deemed totally extinct until its successor was appointed."

In opposition to this sweeping and positive declaration, the Committee must remark, that there was no such thing as "an old Council" of this province; and though there had been a Council created for the affairs of the old Province of Quebec by the British Act, 14 Geo. 3, c. 83, this Council was called a *Legislative Council*, and not an *Executive Council*; and your Committee also deem it worthy of remark, that this Council is spoken of in the same terms in the said 14 Geo. 3, as is the Executive Council of this province in the 31st of the King, viz., "a Council for the Affairs of the Province of Quebec;" and, moreover, the very first clause of 31 Geo. 3, c. 31, repealed so much of the previous Act as in any manner related to the appointment of that *Legislative Council*, or to the power given to them; not "a remnant" of that old Council, therefore, existed; every vestige of it was annihilated, and your Committee are quite perplexed to understand how the *Legislative Council* of Quebec, after its absolute and unconditional repeal, could survive, in even a remnant (as his Excellency says) till its successor was appointed. If this is good reasoning on the part of his Excellency, the *Legislative Council* of Quebec, had no successor been appointed, would be now in operation; and, by similar logic, by rescinding the instructions, his Excellency might undertake to revive it. But the last clause of 31 Geo. 3, c. 31, affords a conclusive answer to all his Excellency's assertions, that an Executive Council was not created by that Act; for it provides, that during the interval between the commencement of that Statute in the province, and the first meeting of the Provincial Legislature, the Lieutenant-Governor, "with the consent of the major part of such Executive Council as shall be appointed for the affairs of the province," may make laws for the government thereof in the same manner as the old *Legislative Council* for the Affairs of the Province of Quebec, could have made ordinances and laws for that province. The Council thus authorized to assist in making laws, were an *Executive Council* not then appointed, but which were to be appointed, and were to be appointed before the first meeting of the Provincial Parliament; and were to be appointed, not for that particular purpose only, but "for the affairs of the province" generally. And yet, according to his Excellency's opinion, this Statute did not establish an Executive Council at all; while, in his reply to the late Council, he says, "to enable the Lieutenant-Governor to perform the arduous duties of his office, the constitution has wisely provided him with an Executive Council, competent to supply him with that local knowledge in which he may be deficient, and to whom he may apply for counsel and advice."

The Committee, without hesitation, affirm, that this Act as much creates or requires the appointment of an Executive Council for the affairs of the province, as it creates or requires the appointment of a Governor, Lieutenant-Governor, or person to administer the government of this province. His Excellency, when he is promulgating and defending the novel doctrine, that he is sole minister as well as representative of The King in this province, would do well to consider upon what law his own authority rests before he makes these rash assertions. The official character and authority of a Lieutenant-Governor are no more necessary under the Constitutional Act, or created by it, than is an Executive Council for the affairs of the province; and if the representative of The King can thus attempt, by such bold assertions upon such slight grounds, to explain away an important part of that law, which is the "great charter of our liberties," from which his Excellency himself, in one of his appeals to the people, tells them, "they should never allow a single letter to be substracted," (your Committee append the Address and answer which they have received, duly certified by his private secretary, marked E.), your Committee can only hope that his example will have as little weight as his arguments.

It was in a very different spirit and with very different views from Sir Francis Bond Head, that Lieutenant-Governor Simcoe regarded this great charter of our liberties: that great and good man, whose memory is enshrined in the affections and gratitude of the people of this province, was a member of the British Parliament, when our Constitutional Act was passed; and having served with distinguished honour in the colonies during the war, which had not long before terminated, and having been acquainted with those brave and loyal people who were about to seek in this province an asylum under British laws and

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