

30th March, 1835.

HENRY PRESCOTT, Esquire, C. B., *Governor.*

unavoidably suffer at our hands.

In a conference with the Assembly, the Council asserted the same right of freedom from interrogation, which they afterwards claimed from His Excellency the Governor.

If it be true, in the words of Lord Goderich's Despatch (copy of which was laid before the Council by Sir Thomas Cochrane) "that the Council does not assume in the Colony a position, or an influence, analogous to that of the House of Peers, because entirely destitute of that hold on public opinion, which the property and independence of its members, as well as the antiquity of the institution itself, confers on the Peerage"—then it is equally certain, that to maintain that hold on the public opinion, which it is essential the Council should possess, they must be free and unshackled in their deliberations, whether these have for their end the government of their own body, as a co-ordinate and independent branch of the Legislature, or the providing for the exigencies of the public service and the internal improvement of the Colony.

In thus "claiming for the Council, in their relation with the Governor of the Colony, the privileges which belong to the Upper House of Parliament in the relation borne by their Lordships to His Majesty," we trust we have not "urged the analogy beyond those limits within which alone it can properly be maintained"—and while we are most anxious to offer every possible respect to the Representative of His Majesty, we look with confidence to His Majesty's Government to support this branch of the Legislature in those constitutional privileges which will not be denied to the Assembly.

In Lord Goderich's Dispatch alluded to in the Governor's Message of the 9th of January, 1833, and sent to the "Legislative Council" for its consideration, His Lordship observes—"For your own guidance it may be right to observe, that Colonial Assemblies, as they derive their general form from the model of the British House of Commons, so they have drawn their rules and system of procedure from the same source. The distinctions are, of course, both numerous and important, and grow out of the dissimilarity of the circumstances of the Representative Bodies of a small Colony, and of an extensive Kingdom; but, in general, the analogy is maintained, and therefore the laws and rules of Parliament, as modified by the exigencies of the case, may be taken as the safest guide for the conduct of the Council and Assembly, and for your own proceedings towards them. In accordance with the uniform course of precedents your Commission constitutes a Council, which will participate with the Assembly in the enactment of Laws."

"The acrimony engendered by such disputes has sometimes given occasion to an eager assertion of extreme rights on the part of the Council, and to a no less determined denial of their necessary and constitutional privileges, on the part of the Assembly. The effect of the institution, therefore, is too often to induce a collision between the different branches of the Legislature."

From these expressions it is evident that Lord Goderich did not consider the Council a mere Board for advising the Governor, but, in its Legislative capacity, a co-ordinate branch of the Legislature, equally responsible to the Government and to the Colony, for the passing of just and salutary Laws; and vested with constitutional privileges, and with a Legislative Authority to enforce due order and regularity while discharging their public duties.

In taking the "Laws and Rules of Parliament," for their guidance, the Council have followed the suggestions of Lord Goderich, and they now respectfully beg leave to submit for His Majesty's inspection a copy of the Rules which they have adopted for the regulation of their proceedings; humbly soliciting His Most Gracious Majesty to recognize the right of the Council to make Rules for the Government of their Legislative proceedings, in the same manner as the Assembly has ever done.

Unless the Council be considered a co-ordinate branch of the Legislature, invested with powers similar to those exercised by the Assembly, and necessary for the support of their constitutional authority;—unless they be protected in the free and independent expression of their opinions—they would soon become obnoxious to the Colony, and be indeed what Lord Goderich describes—"Instruments for relieving Governors from the responsibility they ought to have borne for their rejection of measures which have been proposed by the other branch of the Legislature."

H. J. BOULTON.

Council Chamber, 30th March, 1835.