

been no great stretch of courtesy to the unanimous and confidential advice of his Councillors, if, in case he differed from them, he had referred it with his observations to His Majesty's Government, instead of indulging his arbitrary spirit, and requiring them to resign for the mere expression to him in confidence of their sentiments. It may be observed that, without being obliged to concede the principle maintained by him, or to compromise his character or his dignity, he might frankly have consulted them in the meantime of his own accord, on all important matters, and have obtained thereby advice and information which would have been highly useful to him, and which, in fact, he necessarily must seek somewhere. By this means he would have prevented the present excitement, and the discussion which has been forced upon the country of forms of government and fundamental principles of the constitution, a discussion which common prudence will admonish all settled governments to avoid. That he might have consulted them upon all the affairs of the province, even if he was not obliged to do it, there can be no doubt. Such a course, if not enjoined, is evidently not forbidden by the constitution, or by the royal instructions, or by any law or authority whatever. It is not borrowed from a republican government or republican institutions, but is a British usage, and according to British principles. It seems, however, from his own declaration, that he was waiting for an opportunity to force this discussion upon the country; or, in his own language, "to drag this new theory into daylight, in order that it might be discussed." The Committee and the House are therefore "dragged" into the discussion of it, not by the Executive Council, not by any factious or party proceeding, but by his Excellency himself, who, it appears, notwithstanding his short arrival in the country, rather courted the discussion of it than otherwise; for it will be observed that he stated, in answer to the corporation, as follows:

Report of Committee to Commons House of Assembly.

"Finding that this new theory was rapidly gaining ground, I resolved to offer it no secret opposition, nor in any way to exert my influence to oppose it; but I determined the very first time it should come well within my reach that I would drag it into daylight," &c.

The Committee cannot but remark, that hitherto the Executive Council have sustained the public censures for the misconduct of our affairs, upon which it has always been supposed they have given a concurrent advice, and upon that account past Lieutenant-Governors, as well as the British Government, have sustained their office in dignity, and been treated personally with respect. It is therefore with great concern we learn from various public documents emanating from his Excellency upon this subject, that he desires to relieve the Council from all participation of popular displeasure, inevitable in a country with liberal institutions, and to assume it himself. The representation of the late Council fully expresses the odium which its members had silently endured; and it appears to your Committee repugnant to the British constitution, and inconsistent with the necessary preservation of respect for the Kingly office, to bring his representative into personal collision with the people in every period of excitement, and render him the ostensible person for accusation and complaint. Should such a doctrine prevail, the royal station in the colony will be seriously impaired in its dignity, and be almost unavoidably introduced in parliamentary debate, and become the point upon which will be concentrated every manifestation of popular indignation. If all the odium which has been poured upon the old Executive Council had been charged, as his Excellency proposes, upon the Lieutenant-Governors, their residence would not be tolerable, and their very authority would become weakened or destroyed.

In the conclusions of the late Executive Councillors, the Committee fully concur, and cannot but express their surprise that his Excellency should not be convinced by the clear and unanswerable argument contained in their representation to him. His Excellency, however, in one of his appeals to popular feeling, broadly declares that the Act of 31 Geo. 3, chap. 31, creates no Executive Council, and says, "If any one tells you that it does, read the Act for yourselves."

In humble imitation of this great authority, we affirm confidently, that according to that statute there must be an Executive Council appointed by the King for the affairs of this province; and to any one who is led by the strong assertions of his Excellency to doubt it, we say "Read the Act for yourselves," especially such passages as this [section 34] "together with such Executive Council as shall be appointed by His Majesty for the affairs of such province;" and such passages as this, [section 29] "with the advice of such Executive Council as shall have been appointed by His Majesty, His heirs or successors, within such province for the affairs thereof;" and such passages as this, [section 7] "before such Executive Council as shall have been appointed by His Majesty, His heirs or successors, within such province for the affairs thereof;" and such passages as this, "as such Governor, Lieutenant-Governor, or person administering the government, shall, with the advice of the said Executive Council, judge to be expedient under the then existing circumstances;" all of which passages are found in the Act. On this subject the Committee refer to the conclusive argument of the Executive Councillors in the communication which seems to have disturbed his Excellency so much amidst his alleged preparation of "important remedial measures," and conclude that, according to the Constitutional Act, there must be an Executive Council; that they are appointed by the King, and that they are appointed to advise upon the affairs of this province generally, and not merely upon particular affairs, or upon particular occasions, are propositions which are demonstrable from the express terms, as well as from the spirit and evident intention of that Act (as has been shown by the late Executive Councillors), and may, moreover, be inferred from the absence of every thing of a contrary import in the Statute.

In other Statutes besides that just referred to, both imperial Statutes and provincial Statutes, the Executive Council is noticed, and their duties are alluded to in terms equally