

The documents are as follows:—

(COPY.) No. 23.

DOWNING STREET,

16th October, 1839.

SIR,

I am desirous of directing your attention to the tenure on which public offices, in the gift of the Crown, appear to be held throughout the British Colonies. I find that the Governor himself, and every person serving under him, are appointed during the Royal pleasure, but with this important difference,—the Governor's Commission is in fact revoked whenever the interests of the public service are supposed to require such a change in the administration of local affairs—but the commissions of all other public officers are very rarely indeed recalled, except for positive misconduct. I cannot learn that during the present or the two last reigns, a single instance has occurred of a change in the subordinate colonial officers, except in cases of death or resignation, incapacity or misconduct. This system of converting a tenure at pleasure into a tenure for life, originated probably in the practice which formerly prevailed of selecting all the higher class of colonial functionaries from persons who at the time of their appointment were resident in this country; and amongst other motives which afforded such persons a virtual security for the continued possession of their places, it was not the least considerable that, except on those terms they were unwilling to incur the risk and expense of transferring their residence to remote and often unhealthy climates. But the habit which has obtained of late years, of preferring, as far as possible, for places of trust in the colonies, persons resident there, has taken away the strongest motive which could thus be alleged in favor of a practice to which there are many objections of the greatest weight. It is time, therefore, that a different course should be followed; and the object of my present communication is to announce to you the rules which will hereafter be observed on this subject, in the Province of Upper Canada.

Despatch from Lord J. Russell.

You will understand, and will cause it to be made generally known, that hereafter the tenure of colonial offices, held during Her Majesty's pleasure, will not be regarded as equivalent to a tenure during good behaviour, but that not only such officers will be called upon to retire from the public service, as often as any sufficient motives of public policy may suggest the expediency of that measure, but that a change in the person of the Governor will be considered as a sufficient reason for any alterations which his successor may deem it expedient to make in the list of public functionaries—subject, of course, to the future confirmation of the Sovereign.

These remarks do not extend to judicial offices, nor are they meant to apply to places which are altogether ministerial, and which do not devolve upon the holders of them duties, in the right discharge of which the character and policy of the government are directly involved. They are intended to apply rather to the heads of departments than to persons serving as clerks, or in similar capacities under them; neither do they extend to officers in the service of the Lords Commissioners of the Treasury. The functionaries who will be chiefly, though not exclusively affected by them, are the Colonial Secretary; the Treasurer, or Receiver General; the Surveyor General; the Attorney and Solicitor General; the Sheriff, or Provost Marshall; and other officers who, under different designations from these, are entrusted with the same or similar duties. To this list must also be added the Members of the Council, especially in those colonies in which the Legislative and Executive Councils are distinct bodies.

The application of these rules to officers to be hereafter appointed, will be attended with no practical difficulty. It may not be equally easy to enforce them in the case of existing officers, and especially of those who may have left this country for the express purpose of accepting the offices they at present fill. Every reasonable indulgence must be shewn for the expectations which such persons have been encouraged to form. But even in these instances it will be necessary that the right of enforcing these regulations should be distinctly maintained in practice as well as in theory, as often as the public good may clearly demand the enforcement of them. It may not be unadvisable to compensate any such officers for their disappointment, even by pecuniary grants, when it may appear unjust to dispense with their services without such an indemnity.

I have, &c.

(Signed)

J. RUSSELL.

A true copy.

THOS. C. MURDOCH,

Chief Secretary.