PROVINCIAL LEGISLATURE.

Message to the Legislative Council, 26th January, 1835.

The Lieutenant Governor communicates to the Legislative Council, a copy of a Dispatch from the Secretary of State, in answer to their Address to the King, respecting the relative Rank and Privileges of the Members of the two Councils. A. C.

Downing-Street, 31st October, 1834.

SIR,—I have received your Dispatch dated the 25th of March last, No 20, inclosing an Address from the Legislative Council of New-Brunswick to the King, respecting the relative Ranks and Privileges of the Members of the two Councils, and praying His Majesty to appoint the Legislative Councillors for life.

I have laid this Address before His Majesty, and have received His Majesty's commands to return the following answer to it.

The Members of the Legislative Council claim to be entitled to take rank, and to succeed in the administration of the Government, according to the Seniority of their appointments. The claim to precedence, and to succession to the Government, rest upon very different grounds, and involve considerations entirely separate from each other. It is not easy to suppose any part of His Majesty's Prerogative more entirely beyond the reach of dispute, or one which it is more important to maintain unimpaired, than that by which He determines into what hands shall be delegated the administration of every other branch of His Royal Authority, in the Dependencies of this Kingdom. Any claim which derogates from the unfettered right of the King to decide upon whom the Government of New Brunswick shall devolve, is the assertion of a right incompatible with the just rights of the Sovereign, and inconsistent also with the public interests. It is impossible, therefore, for His Majesty to relinquish a branch of His Royal Authority, with which he is invested for the common benefit of His people at large, and the renunciation of which would effect a most dangerous change in the practice and principles of the British Government.

Whatever rules therefore may be established respecting the precedency of the Members of the Councils of New-Brunswick, it may be assumed as a fundamental principle, that His Majesty's right of selecting the temporary administrator of the Government, in the event of your own absence, will not be dependent upon any such regulations. That trust will always be committed into the hands of the Person, whoever he may be, whom His Majesty may consider as best qualified to discharge it with benefit to the Public at large.

It is not necessary, for the present purpose, that I should examine very closely into the accuracy of the general maxims laid down by the Legislative Council, respecting their own constitution and inherent rights; but the choice of an Executive Council had no tendency to impair, it might indeed rather be said to have strengthened, that resemblance to the Constitution of the House of Peers, on which the Address insists. Although in their individual character, their Lordships enjoy an ancient and prescriptive right to tender their advice to the King, on questions of public interest, yet in their collective capacity, in which alone the analogy is to be found, the Peers of England have never possessed or assumed a right to act as Executive Councillors of the King.

The recent change left the Legislative Council unaltered in its constitution, and in all its appropriate functions. It withdrew from them an employment to which they were not considered to be as competent as the Body to which it was transferred. That employment was the counselling the Governor in the administration of His Executive duties. The rights of the King to select the person to whom the exercise of His prerogatives is to be delegated, necessarily implies and supposes the right of selecting the Persons by whose advice the Governor is to be assisted in the discharge of that trust. In this, as in many other cases, the greater power necessarily involves the less.

To the proposal that the King should constitute the Legislative Councillors Members of that Body for life, His Majesty will not be advised to accede. His Majesty will be at all times most ready to receive, and to weigh attentively, any arguments which the Legislative Council of New-Brunswick may wish to lay before Him: but with respect to the division of the two Councils, it is advisable to state, that His Majesty's decision was mainly influenced by the reflection, that this new arrangement might enable him to bring the Executive Government of the Province into that free communication with the House of Assembly, which is so desirable. By calling some Members of that house to the Executive Council, a channel for constant and unrestrained intercourse was opened, from which it seemed reasonable to anticipate very considerable public benefit. Nothing has hitherto occurred to shake the foundation on which this opinion proceeded.

With regard to the question of precedence between the members of the two Councils, it was certainly thought that, as in the absence of a Governor, or Lieutenant Governor, or an Administrator of the Government, the succession most properly belonging to the Head of the Executive Council, precedence should be accorded to the Members of that Body. But I am at present disposed to adopt as reasonable, the modification suggested in the Address, that the Ranks of Members of either Council should depend on the Seniority of their appointments: not however admitting, but rather denying, the consequence, that the succession to the Government should be regulated by Seniority of Rank. The persons selected to advise the Governor in the administration of his Office, are presumably the best qualified to succeed, in case of necessity, to the discharge of it.

I have the honor to be, &c.

(Signed) T. SPRING RICE.

Major General Sir Archibald Campbell, Bart., G. C. B.

House of Assembly—Fredericton, *Friday, January 30th.*

BANK OF NEW-BRUNSWICK.

Mr. PARTELOW, by leave, presented a Petition from the President and Directors of the Bank of New Brunswick, praying for the extension of the capital stock of the Bank, and a continuation of the charter of incorporation.

Mr. BURNS was astonished at the appearance of this petition, and more particularly as a new bank was just about to be established in St. John; and yet, before it could have time to get into operation, the old bank petitioned for an increase of their stock, and the continuation of their charter, although that charter had yet five years to run. He (Mr. B.) would therefore oppose the reception of the petition on this ground, that the new bank certainly ought to have time to go into operation first. If this new stock should be granted to the old bank, and should go into the market, it would cripple the efforts of the new bank, and prevent its stock from being taken up. The stock of the old bank was increased in 1825, and how did they act on that occasion? They immediately shut up their books, and restricted their discounts; and they refused to renew notes under £6 per cent. in addition to the former interest.—Surely this was usury, to all intents and purposes; and now they had the modesty to come and ask, not only for a premature extension of their charter, but also of their capital stock. Such an extension would crush the new bank in its attempts to get into operation, and he should therefore oppose it on that principle.

Mr. PARTELOW thought Mr. Burns' opposition would come much better when he (Mr. P.) should move for leave to bring in a bill; and he thought that when that hon. member had obtained a little more parliamentary information, he would find that it was not very respectful or courteous, to oppose the reception of a petition, when the mover merely had the modesty to ask that it might be received and lie on the table.—But he was surprised at that hon. member's opposition on other accounts; he had actually expected to receive the support of that hon. member; because it was only last year that that hon. member himself was actually one of the very numerous owners of a petition for the extension of the stock of the old bank. He (Mr. P.) had therefore really expected that that hon. member was going to second his motion for the reception of this petition; because he had last year petitioned the House to extend the stock of the old bank, and not to charter a new one.

Mr. BURNS, in reply, said, that he certainly did sign that petition, because he had considered the old bank to be in a healthy state,—he had now changed his mind. The hon. member (Mr. Partelow) was himself one of a committee appointed by the former House of Assembly, to examine into and report on the state of that bank, and the publication of that examination had entirely changed his (Mr. B's.) views. He was in hopes that the hon. mover would first have reported to the House the present state of the funds of the old bank, before moving for the reception of this petition; but as he had not done so, he (Mr. B.) thought, that if the state of the bank was really according to the statement published, it must be actually *minus* in its resources, and that it had not stock sufficient in hand to pay the demands against it. But surely, if that bank had so long divided such large profits among its stockholders, it ought to have sufficient in hand to take up the paper so long in circulation.—Had the hon. member made a previous report to the House, he (Mr. B.) might possibly have been of the same opinion with him; but he certainly was not so now; and this statement he considered as an offset against what that hon. member had said.

Mr. JOHNSTON thought Mr. Burns' observations would come more appropriately when the bill was before the House, when he might move any amendments he chose.

Mr. PARTELOW said, that the hon. member for the City had signed the former petition to the House nearly a year after the account of the state of the Bank had been published.

Mr. CHANDLER thought it would be much better if all honorable Members personally interested in matters like this, would refrain from speaking upon them. He thought there should be a rule established, that every person becoming a member of the Legislature should first sell off all his Bank stock, if he held any. There always appeared a great deal of heat and violence whenever these matters were debated in the House, which it was very desirous to avoid. He did not, however, see any thing very remarkable in an hon. mem. changing his opinion on this subject: he thought it was quite possible, in Bank questions, for hon. members to change their minds in the course of a year.

Mr. J. M. WILMOT did not rise to oppose the reception of the petition; because, whenever petitions came from any respectable body, they ought to be received, and to have a fair consideration. But he wished to reply to the observation of the hon. mem. for Westmorland, that members interested in these questions always spoke with heat and violence. He (Mr. W.) thought it would be found, whenever this question might come up, that some such members at least could speak to it without heat or violence. He believed it was the parliamentary rule in such cases, that such members might speak to the question, but not vote upon it; and therefore, certainly, no hon. mem. ought to endeavour to stop their mouths. He was for the reception of the petition.

Petition received, and ordered to lie on the table.

At a later period of the day, Mr. Partelow, by leave brought in a bill in pursuance of the object of the above petition, which was read a first time.

Monday, February 2.

CUSTOM HOUSE.

The Bill to provide for the Custom House Establishment in this Province was committed;—Mr. M'LEOD in the Chair.

Mr. SPEAKER said, that he did not rise to object to the bill, but he thought that if it were passed in its present shape, it would not meet the views of the government at home. It provided, that the amount payable for the support of the Custom House establishment was to be retained by the Officers out of the monies collected by them for duties under acts of the Imperial Parliament; but it appeared to him that the Government required the House to provide for the Custom House out of any funds under the control of the House, of any kind whatsoever.

Mr. CHANDLER said, that in reference to the original communication from the Legislature to the Government, it would be found that their principal proposition was, at all times, to pay the salaries of the Custom House Officers out of the monies raised under the Acts of Parliament, and that it was never intended to incumber the ordinary Provincial revenues with such payment. The objection made by the government to the former bill was not that the salaries were not provided for out of the ordinary revenues, but that instead of authorising the Custom House Officers to *retain* those salaries out of the monies collected by them, it provided that they should be paid by annual appropriations of the House of Assembly, and therefore the Government did not consider the Bill to be such a permanent act as they required.—The present bill, then, was to authorize the Custom House Officers to retain the amount of their salaries as required by His Majesty's Government, and to pay over the balance to the Provincial Treasury, and also to require annual instead of quarterly accounts to be rendered. These were the principal alterations of the original bill; and it was a matter of no consequence to the Province whether the stipulated sum were retained by the Custom House Officers in the first instance, or paid over first to the Treasury and then repaid by appropriation, excepting that the latter mode would cause more trouble to all parties. It must certainly be admitted that this bill did not coincide with all the views expressed by the hon. Speaker the other day, because they were entirely different from the principles on which the bill was first framed; but so far as communications on the subject had taken place with His Majesty's government, the government had, on their part completely fulfilled their pledge; they had acted on the principles of this bill ever since the agreement was made, by directing the Custom House Officers to retain only the allowance offered by the House, and to pay over the balance, (about £3000 per annum,) to the Provincial Treasury, which had accordingly ever since been done; and therefore the only thing now to be done was to carry into effect the principle agreed upon. But if the principles suggested by the hon. Speaker the other day were adopted, it would upset the whole matter; and the House would have to begin every thing again *de novo*.

Mr. SPEAKER said that he certainly should not object to the bill, if it was intended that these salaries should be paid only out of the monies collected under the acts of parliament; but his idea the other day was, that if those monies should prove insufficient, they would become chargeable on the ordinary provincial revenues, which he, for one, did not wish to see authorised.

Mr. JOHNSTON observed that the Government had explicitly stated, that their only objection to the former bill was, as to the mode of payment proposed in it; and he (Mr. J.) thought it of very little or no consequence, whether the salaries were retained or paid over. He considered that the mode contemplated by this bill would facilitate the operations of the department, and would cause least difficulty to all parties.

Mr. PARTELOW could not help repeating the same observations he had made the other day, relative to the terms of the dispatch from home. He thought the parties who composed it must have been particularly ignorant of the nature of the original bill; he felt confident that if they had only enquired of the law officers of the crown, they would have been convinced that it was to all intents and purposes a permanent act, and he was sure that every legal member of that House would say the same. The only difference was, that it required that the amount should be paid by annual appropriations; but he had no doubt, that if the House had at any time neglected to make the usual appropriation, the Executive both could and would order the warrant to issue. The difficulty as to quarterly accounts would be obviated by this bill, and he thought that if the House now legalized the retaining of their salaries by the Custom House Officers, there could be no objection to passing the bill. He very much regretted that it appeared to be the general opinion, that the House was not yet prepared to petition for the repeal of the four duties, because they could not well spare the amount; but he hoped the time would yet arrive when these onerous duties would be taken off, and then would be the time to provide for the deficiency in the payment to the Custom House establishment.

Mr. HILL thought that by legalizing the retention of these salaries out of duties collected under acts of parliament, it would have a tendency to perpetuate these duties. But the House would wish to get them repealed, and if they should succeed, there would be a deficiency in this payment to provide for; which he thought such a serious difficulty as required consideration.

Mr. PARTELOW said, that if all the duties collected in the Province were payable at the Custom House, Mr. Hill's observations would apply very well; but they were not, and if the House were to adopt his views, they must alter their whole scheme of duties, and make some of them payable at the Custom House, so as to enable the officers to retain the full amount of their salaries, in case the parliamentary duties should prove insufficient.

Mr. HILL asked whether it was a *sine qua non* with the government, that they should retain those salaries; and what difference it could possibly be to them, whether they were so retained or paid by warrant. It was certainly very desirable to get the four duties repealed; but if this bill should go into operation, it might be an effectual bar to such repeal.

Mr. CHANDLER said that the same ideas had occurred to him when framing the bill; but he thought it quite unsafe to make any alterations in the mode of payment pointed out by government. It must be admitted, that the bargain now made was extremely favourable to the Province, and he thought it would therefore be very unwise to attempt to alter it; but if the Committee thought proper to provide for such a possibility of deficiency, no doubt it would make the bill more palatable to the government. They might insert the words, "*or from the Provincial funds, if the amount of such duties should be found insufficient;*" and then the government would have no interest in enforcing the parliamentary duties, because they would be sure that if those duties failed, the provincial revenue would make up the deficiency. He (Mr. C.) however, in framing the bill, had not thought proper to make such alterations; because it appeared to him that the views of government were that the salaries should be retained out of the Provincial duties.

Mr. SPEAKER said, that there certainly were difficulties, in the suggestions made by Mr. Hill, and he would be very sorry that the House should do any thing, by any act of theirs, to confirm any parliamentary burdens. There could be no question, that the imposing of any such burdens was an interference with their rights as a Legislative body, to whom alone belonged the privilege of imposing and disposing of taxes within the Province. This was their inherent right; and although those parliamentary duties might be imposed only for the regulation of trade, and therefore the colonies had hitherto submitted cheerfully to them, yet the time might come, when they would no longer wish to do so, and when they would petition for their repeal. But at present it was not perhaps worth while to raise the question, because those duties were levied merely for the regulation of trade, and they applied equally to all the colonies.—He (Mr. Speaker) would certainly like this bill better, if it provided that these salaries should be paid out of the revenues of the Province generally, by warrant, in the usual way, because he did not like the principle of allowing any public servants to retain their salaries; but as the government at home did not seem disposed to allow that mode, and it might create a difficulty, it might perhaps be as well to pass the bill.

Mr. PARTELOW thought it not worth while then to enter into questions of right. These parliamentary duties were imposed under an act for the general regulation of trade, and applied to all the colonies alike; in all the regulations of this House they had never questioned that right, and he [Mr. P.] therefore could not agree with the hon. Speaker, that there would be any surrender of right or privilege by passing this bill. It was merely to authorise the Custom House officers to retain their salaries out of the amount of duties collected by them; and it would be better to confine the principles of this bill to the words of the negociation. If ever those revenues should become less than the amount of salaries, application would, no doubt, be made by the Gov't. to supply the deficiency, and then the question might be entered into; and if ever the House should succeed in getting the flour duties repealed, they might then petition the government to lessen the expenses of the establishment.

Mr. CHANDLER said, that he had never yet heard that the British government had not a right to impose duties in her colonies for the regulation of trade; that right, indeed, had never been questioned, though it was true that the local Legislatures alone had the right of imposing duties for the raising of a revenue.—But as to the right of disposing of all such duties, the Provinces had always claimed that right, and always would. One of the first principles of the British government was to regulate the trade of her colonies; but the preamble of this bill itself expressed, in very strong and plain terms, the inherent right of the local Legislature to dispose of all duties collected within the Province.

Mr. JOHNSTON decided against altering the bill as suggested by Mr. Hill. He was for confirming the provisions of the bill to the strictness of the negociation.

Mr. SPEAKER objected that the preamble of the bill, by declaring only the right of disposing of duties, tacitly surrendered the right of levying them; and he therefore contended that the preamble should express both or be altogether omitted.

Mr. JOHNSTON considered that the right of levying duties was not now the question, that the preamble merely referred to the disposal of certain duties when collected, and therefore asserted the inherent right of the House to make such disposal.

Mr. CRANE said, that it was generally conceded and acted upon, that the parent government had a right to levy duties for the regulation of trade: that this question was discussed in Nova Scotia, when they framed a similar bill; and there it was decided that the preamble should state clearly the right of the colony to appropriate such duties, and that preamble was adopted by this House in framing their original bill. In reply to Mr. Speaker, the hon. member observed, that it was generally understood in all the colonies that the local legislature has the sole right of imposing taxes; but this bill merely claims the right of appropriating the parliamentary duties, and in so doing, conceded no right or privilege whatever. It would be found best to adhere to the original agreement with the mother country, as proposed by this bill. In reply to Mr. Hill, Mr. C. said, that as it had long ago been conceded, that parliament had a right to impose such duties for the regulation of trade, it was now too late for the House to frame their acts so as to impeach that right. They could gain nothing by so doing, but might very probably lose by it. Suppose the parliament were now at once to repeal those duties, from the collection of which a considerable surplus now went into the Provincial Treasury, and thus the Custom House should not be able to collect sufficient to pay the salaries of the officers, then the Province would have to provide for the deficiencies out of the ordinary revenues.

Mr. L. A. WILMOT concurred in the ideas advanced by Mr. Speaker, and contended that the right of levying duties in the colonies by the Imperial Parliament, was merely a permitted and not an inherent right. He insisted that parliament had no such right, and if the House in any way acknowledged it, they might hereafter find it very difficult to overcome it. The preamble of this bill recited the right of the House to apply and dispose of all duties collected within the Province; but he [Mr. W.] could not separate the right of disposing from the right of imposing. Levying those duties was the first right, and applying them was only secondary; both of them together made an equilibrium, and constituted the right of the legislature to controul the whole taxation and revenues of the province. He therefore denied the right of parliament to levy any such duties; but if they exercised such a permitted privilege only for the general benefit of trade, let them exercise it as long as it proved beneficial; and in the meantime the House could withhold the exercise of their own right, but no longer. The moment the parliamentary duties become injurious, the House should resume its own right, and protest against the other.

Mr. CHANDLER said that much discussion had now been unexpectedly raised upon a point that really had nothing to do with the question. The right of the House to levy and appropriate taxes was not mentioned or in any way affected by this bill. He cared nothing about the preamble, for it was merely put in for the sake of precaution. The bill expressly alluded to duties collected under acknowledged acts of parliament, and how could the House then, by the preamble to this bill, venture to deny the right of parliament to levy such duties? They could not do it. But the matter was certainly of very great importance; this was to be a perpetual bill; and if his hon. and learned friend [Mr. L. A. Wilmot] denied that right of parliament, he certainly must also oppose this bill *in toto*; because the bill entirely admitted the right, and was wholly predicated upon it. He [Mr. C.] could see no room for compromise, he would not think of saying, as his hon. and learned friend did, that he would agree to the exercise of an unconstitutional right. He trusted, however, that the hon. member would see the impropriety of his objections; but if not, he certainly must oppose the bill at once.

A long and spirited contention now took place between Messrs. L. A. Wilmot and Chandler, entirely on the question of parliamentary right to impose the duties in question; but which was carried on with such animation and consequent extreme rapidity, that it was quite impossible to follow it closely. We can therefore only give a few leading hints from the mass of argument on both sides; which, however, was solely directed to supporting the opinions already advanced, and which ended by leaving the combatants as they began, firmly rooted in their opposite opinions.

Mr. L. A. WILMOT, in reply to Mr. Chandler, challenged him to lay his finger upon any part of the constitution of the Province, or to point out any thing to shew that parliament had a right to interfere with the privilege of the House, in levying taxes or duties. The preamble of the bill, instead of being of no consequence, was the key of the bill, intended to open and explain the nature of its contents, and therefore ought to concede no right or privilege. If it was intended to suffer nothing but the advantageous exercise of a permitted privilege, he would consent to allow it; but if it had any tendency to injure the constitutional privileges of the House, he would never be one to give an inch that the party might take an ell.

Mr. CHANDLER, in rejoinder, said that Mr. Wilmot had not answered his (Mr. C's) arguments; but he seemed willing to take some partial benefit, and yield some partial right, as long as it might be advantageous. But that was not his (Mr. C's) ground. He supported this bill, because he considered it to be right and proper; but if his hon. and learned friend did not so consider it, he must certainly oppose it *in toto*.—But in answer to the hon. member's challenge, he would lay his finger on the 18th Geo. III, commonly called the Magna Charta of the Colonies, and which had always been acted on as such, where it was expressly enacted, that the British Government always exercised the right to impose taxes and duties for the regulation of trade, saving and excepting the right of the local legislatures to dispose of such taxes and duties. If, then, that was a violation of the rights of the Colonies, it had been acquiesced in from the very first formation of this province, and could not now be questioned.

Mr. L. A. WILMOT was not satisfied yet.—The hon. and learned member for Westmorland had indeed quoted a parliamentary law, but he had not proved that the parliament had a right to pass it. He did not come to the abstract question, whether the right was in the parliament or not; and he (Mr. W.) questioned very much, if any of the colonies, in their present enlightened and advanced state, would allow such an Act to take effect, if passed at the present day.

Mr. SPEAKER fully agreed with all that the hon. and learned Member for York had said.—This certainly was a very important bill, and if it would have the effect of perpetually acknowledging the right of parliament to impose these duties, he (Mr. Speaker) would go against the bill *in toto*. The hon. Speaker here quoted some opinions of the celebrated Earl of Chatham, in support of the sole right of the colonies to tax themselves, proceeded to contend strongly for the principles advanced by Mr. Wilmot, and concluded by observing, that rather than acknowledge the inherent right in the British parliament to impose any taxes in the colonies, or pass this bill to admit or surrender any such right, he would let things stand as they were and take their course.

Mr. PARTELOW was sorry to be at direct issue with the hon. Speaker, but he agreed most fully with all that had been advanced by the hon. and learned member for Westmorland. He thought that that hon. mem. had so clearly illustrated his position, that he hoped there would be found very few members disposed to differ with him. The right of parliament to impose or levy taxes was not even the question with the old American colonies, before the rebellion, even they questioned merely the right of parliament to apply and dispose of those taxes. But where was the necessity of talking at all about this right? If this was a bill to authorise the levying of duties, it might be all very well; but it was merely to legalize the disposal of duties already levied and collected within the province, under long acknowledged acts.

Mr. CHANDLER humorously suggested, that it might perhaps meet the views of all parties, to add a proviso to the bill, that nothing therein contained should be construed to prevent the House at any time hereafter from asserting, that parliament had no right to impose any such taxes in this province.

Mr. SPEAKER said he had understood Mr. Chandler, in an earlier part of the debate, to say, that this bill would have the effect of acknowledging the inherent right of parliament, and to take it away from the House. [Mr. Chandler here explained that he had said nothing of the kind, nor would the bill have any such effect.] He, (Mr. Speaker) then, was glad to find that to be the case; but still he thought the preamble of this bill was highly objectionable; he thought it ought to be enlarged, by saying "Whereas a right has been exercised by the Imperial Parliament, which right has not heretofore been questioned."

Mr. CHANDLER thought such an alteration would make the preamble still more objectionable. It would be even better to strike the preamble out altogether than so to alter it.

Mr. J. M. WILMOT was of opinion that as the bill appeared to involve such important interests, as there was a difference of opinion, and so much warmth of debate about it, that it would be better to report progress; which he moved accordingly; and Mr. Chandler seconded the motion.

The motion for reporting progress was opposed by several hon. members, who were of opinion that it would be better to go on with the bill at once; and after some discussion on the point, the question on the motion was taken, and negatived. The Chairman then proceeded to read the bill, section by section, and the whole was agreed to *seriatim*, with a few verbal amendments, and the addition of a suspending clause, till the reading of the preamble, which brought up a renewal of the contest.

Mr. SPEAKER moved, that instead of the preamble, as read, it should be amended by substituting the words "Whereas it is necessary to provide for the Custom House establishment of this Province."

Mr. JOHNSTON could not see any objection to the original preamble: the right of appropriation had always been claimed and exercised by the House, and this preamble only declared that right.

Mr. CHANDLER said the preamble was precisely the same as that in the Act of 1832, of which this bill was an amendment; and if it were now omitted, the government might presume that the House intended to concede the right of appropriation altogether.

After some discussion on this point, on the same grounds as before advanced,

Mr. SPEAKER moved as an amendment, that the words "*one of our inherent rights*" should be inserted, instead of "our inherent rights," which amendment was accordingly agreed to, and the Chairman was on the very point of taking the final question on the preamble, when suddenly

Mr. L. A. WILMOT declared his intention of opposing the bill in every stage; again entered at considerable length, and with great energy and rapidity, into the support of his previously advanced opinions, and concluded by moving that the Chairman report progress, &c. which motion was seconded by Mr. Hill.

Mr. CHANDLER contended that the question for reporting progress had already been once decided; that the whole of the bill had been passed by the Committee, except the preamble and title, and that it would be much better now to let the bill be reported as agreed to, as there would be plenty of time for those hon. members who still felt any doubt on the subject, to inform themselves thoroughly before it was engrossed, and to oppose it, if they pleased, at the third reading.

Mr. SPEAKER said that if any hon. members were not yet prepared to give a decisive vote on the bill, it would be highly proper to report progress.

Mr. PARTELOW also thought, that out of deference to the new members, who had not perhaps had sufficient time to inform themselves thoroughly of the matter, it would be as well to report progress.

Mr. JOHNSTON did not object to the motion, but thought, if that were to be the case, it would be as well for hon. members in the meantime to consider the propriety of adding another amendment to the bill, to enact that it should be the duty of the Custom House Officers hereafter to collect any duties that might be imposed by the provincial legislature; which would have the effect of consolidating the Custom House and Provincial Treasury into one establishment, which would be a very great convenience to the public, and a saving of expence to the Province.

Mr. SPEAKER saw only one objection to that proposition, which was, that it would throw the collection of all the provincial duties into the hands of officers over whom the House had no controul. Those officers were appointed by the Commissioners of the Customs at home, to whom alone they were accountable, and it would be a very serious question, whether all the provincial revenues should be placed in such irresponsible hands.

Mr. BURNS said that he should have very great objections to such a proposition, for the reason stated by Mr. Speaker. He thought it might place the province in a very dangerous situation, to adopt such a plan. It was impossible to tell what sort of persons might be appointed to that establishment, whenever the present officers might retire; and surely the warning afforded by the conduct of the Receiver General in Canada would be quite sufficient to deter this province from incurring such a dangerous risk.

The motion for reporting progress was then put and carried.

COMMUNICATIONS.

MR. CHUBB,—

SIR.—Referring to *The Courier* of the 24th January, purporting to contain a report of some conversation which occurred in the House of Assembly on the subject of Reporting the Debates—I think it due to Mr. Blatch, to inform you, that the report you have published is not correct, and that, in any observations made by me on the subject, I imputed nothing to him; nor do I remember that any thing was said on that occasion, *by any Member*, in the slightest degree affecting the character which he has invariably maintained.—It will be recollected, by those who were present, that a circumstance was mentioned during the conversation, reflecting much credit on Mr. Blatch, and shewing, that to whatever ordeal his *reports* might be subjected, he was determined to keep *himself* independent.

I am, Sir, your's, W. END.

2d February, 1835.

MR. CHUBB,

Your readers have seen some severe remarks in the *Courier* of the 24th instant, made by some Hon. Members, respecting a Reporter who had occupied the Box during a part of the last Session:—I beg leave to assure those who may think Mr. Blatch was the person censured, that Mr. B. was not in Fredericton when the debates alluded to were reported—nor had he any thing whatever to do with them. Your's truly,

A MEMBER OF THE HOUSE.

31st January, 1835.

We give below the copy of a Petition to the Legislature, from the Merchants, Citizens and Inhabitants of this City, praying that no Act may pass to increase the Capital of the Bank of New-Brunswick, *to take immediate effect*. This Petition has been numerously and respectably signed within the last few days; and we trust its prayer will be listened to by the House of Assembly with due consideration, as the question involved is one of a very serious and important nature, and on which the welfare of this community materially depends.—*Courier.*

The Petition of the Undersigned Merchants, Citizens and Inhabitants of the City of Saint John;

HUMBLY SHEWETH:—

THAT your Petitioners have been informed that the President, Directors and Company of the Bank of New-Brunswick have addressed a Petition to the Legislature, praying that the Capital of that Bank may be increased from £250,000 to £150,000; and they beg respectfully to submit that granting such increase of Capital at the present time would be productive of great evil, and cause infinite distress among all classes of the community. That your Petitioners have viewed with much satisfaction the efforts made to establish a second Bank in the City of Saint John, and can now state that all the preliminary steps for that purpose have been taken, and that a Commercial Bank, with a Capital of £150,000, is about to commence business. That the first instalment on the Stock has already been paid, and that active exertions are making to have this Bank in active operation during the month of April next, at which time one-half the Capital will require to be paid up.

That your Petitioners are persons engaged in trade and business in this City, and contemplate with alarm, the prospect of a large amount of New Stock in the Bank of New-Brunswick being thrown into the market at the period when the Stock of the Commercial Bank is yet unpaid, thereby creating a clashing of interests and such great irregularity and confusion in money matters, as will tend materially to harrass and oppress the public, and be of serious and perhaps permanent injury to the trade and prosperity of the Country.

Your Petitioners, therefore, humbly pray that no Act for increasing the Capital Stock of the Bank of New-Brunswick may be passed during the present Session of the Legislature, to take immediate effect

And your Petitioners, as in duty bound, &c.

KINGSTON CIRCUIT—JANUARY, 1835.

The Circuit Court opened at Kingston, on Tuesday the 26th January, His Honor Judge PARKER presiding. The weather being fine, there was a full attendance, and the village seemed quite alive. The Grand Jury were sworn in about 12 o'clock, with CALEB WETMORE, Esq. as their Foreman, and His Honor the Judge in charging them, said, that it was with sincere pleasure he had contemplated a few days previously the gratification of meeting the Grand Jury of King's County without a single case on the Sheriff's Calendar; but that he was pained to state, that there was one of a capital nature to come before them—that case was for rape. His Honor, in a very clear and concise manner explained to the Jury the nature of the crime as defined by law, the necessary evidence to support the charge, and what would be sufficient for the finding of a bill by the Jury. His Honor then said, that nearly a year had elapsed without the commission of a single offence, which spoke well for the state of the County, and expressed his conviction that the majority of crime could be traced to intemperance; that there was the great root from which most offences appeared to spring. That when the efforts of the philanthropist and the eloquence of the pulpit had failed, voluntary associations had been formed to promote the cause of temperance, which had been attended in many places with very great success, and that he believed they had been of very great service in King's County; that much, however, remained to be done, and he pressed the subject upon the attention of the Grand Jury, and recommended it to their serious consideration.

On the subject of education, His Honor remarked, that although a great deal had been done by the Province, yet much more remained to be done by the Counties, and that it required their earnest exertions and cordial co-operation to carry the good intentions of the Government into full effect. That the duties of the Trustees of Schools were of a highly important nature, not only as regarded the management of the Schools, but with respect to the engagement of fit masters—deprecating the pitiful economy of engaging incompetent persons merely because they could be got cheap. That every care should be taken to engage proper masters, and recommended young men with a reasonable share of education, and of moral habits; that such should by every means be encouraged and noticed by heads of families and persons of influence; that they would form a very valuable class of men in small communities, whose example and influence would have great effect upon society. That by means of such persons, Sabbath Schools could be established in connection with Parish Schools, and moral and religious instruction would accompany the ordinary course of education, by which means the rising generation would become early acquainted with their duties in life, and make, hereafter, good, religious, and loyal subjects.

His Honor said, that since the last circuit, the Province and the Bench had been deprived of two men, who had long been looked upon as the pillars of both. That the Judge whom he had the honour to succeed had been taken away before his eye was dim, or his form bent with age. His Honor here pronounced a high and well-merited eulogium on the late lamented Judge BLISS, (to whom he alluded,) declaring that during life he had been distinguished as an able member of the Bar—as an upright and independent Judge and Member of Council; and that when called to discharge the high office of President of the Province, he had fulfilled the arduous and important duties of that situation with fearlessness and honesty.

That in the late honoured Chief Justice, we had lost an older man—one of that hardy band who had first adventured to this country, and whose memory should be cherished long and warmly. He it was, with his fellow-adventurers, who had laid the foundations of the various institutions of our country broad and deep, on which a goodly superstructure had been raised; that care should be taken to maintain it unimpaired, and that we should endeavour to become essentially a moral, contented, industrious and loyal people.

There were seven causes on the Docket for trial,—the first was

John Doe, on the demise of *John Kerr* vs. *Thomas Taylor*. This was an action of ejectment brought by the plaintiff to recover possession of certain lands in Sussex Vale, occupied by the defendant, which the plaintiff in 1828 had agreed to sell to him, and given a bond to convey on certain payments being made. The defendant having failed in making the payments, the plaintiff now sought to recover the land again; but not being able to establish a sufficient demand of possession before bringing the action, was nonsuited.—Mr. HARTT, Attorney, and Mr. N. PARKER, Counsel for Plaintiff; Mr. BOYD, Attorney, and Mr. LUGRIN, Counsel for Defendant.

Peter Rigg, vs. *John Keller and James Hill*. This was an action of trespass, for cutting timber on plaintiff's land, on the old Westmorland Road. The plaintiff is a colored man, and was formerly a servant of the late celebrated General Arnold, who owned a large tract of land on that road, not far from the Hammond River. This property now belongs to General Arnold's son, Colonel Benedict Arnold, of the Royal Engineers, who has given to the plaintiff a life estate in a small portion of it, as a provision for him in his old age. His Honor the Judge, having, while at the Bar, acted as the Agent of Colonel Arnold, and been consulted by him respecting the settlement of the Plaintiff on the land in question, and been witness to the agreement between them, declined trying this cause, and it was therefore made a *remanet*.—Mr. LUGRIN, for Plaintiff; Mr. WRIGHT, for Defendant.

William Dickson vs. *James Irving*.—This was an action of Assumpsit, brought to recover compensation for work and labour done by the plaintiff for the defendant, in which the defence was, that the plaintiff was the defendant's nephew, and had lived with the defendant as one of his family, and been treated as such. Sufficient evidence, however, being given that the defendant had on certain occasions treated the plaintiff as a hired servant, the Jury found a verdict for Plaintiff—Damages, £13.—Mr. PERLEY for plaintiff; Mr. SWYMMER, Attorney, and Mr. N. PARKER, Counsel for defendant.

The Court adjourned at a late hour on Tuesday evening, and at the opening of the Court on Wednesday morning, His Honor sent for the Grand Jury, and stated to them, that a mistake had been discovered in the Commission, his name having been omitted in the material part. This omission had of course occurred at the Secretary's Office, and he deeply regretted it, as he must decline proceeding with the Criminal business, and the persons in Gaol would have to remain until the matter could be brought under the consideration of the Governor and Council, who would, no doubt, order a Special Commission at an early day. His Honor the Judge then thanked the Jury for their attendance, and dismissed them.

The first cause tried this day was *William H. Secord* vs. *Lyman C. L. Perkins*, and was an action of Trespass, to recover damages for impounding an Ox. It appearing in evidence that the Ox was a very troublesome and mischievous animal—that the defendant had suffered a great deal of damage from his repeatedly breaking into fields of grain—that he had acted with a great deal of forbearance, and had not in any manner acted improperly or illegally—the Jury, without hesitation, found a verdict for defendant.—Mr. WRIGHT for plaintiff; Mr. SIMPSON, Attorney, and Mr. PERLEY, Counsel for defendant.

John Doe on the demise of Joshua Hughson vs. *Peter Dewar*. This was an action of Ejectment to recover possession of a piece of Land sold and conveyed by the defendant to the plaintiff, but of which the defendant retained possession by indulgence of the plaintiff,—in which a verdict was passed for the plaintiff, subject to the opinion of the Court above, on a point reserved as to whether, under the evidence, defendant was tenant at will or tenant by sufferance, and whether a sufficient notice of determining the tenancy or demand of possession prior to bringing the action had been proved.—Messrs. W. & F. KINNEAR, Attornies, and Mr. WRIGHT, Counsel for Plaintiff; the Solicitor General, for the defendant.

On Thursday morning, the first cause was that of *Walter Bates, Esq. High Sheriff*, vs. *Lyon & Crawford*. This is an action of trespass brought to determine the boundary between the plaintiff's land and that of the defendants and other persons whose lands front on the Long Reach.—A great number of witnesses were examined in this cause, which occupied from Thursday morning until nearly 12 o'clock on Saturday night, when the Jury returned a verdict for the defendants.—Mr. SMITH, Attorney, and the SOLICITOR GENERAL Counsel for the plaintiff; Mr. N. PARKER for the defendants.

The last case on the docket was that of *Walter Bates, Esq.* vs. *Gould Pickett, Esq.*, which was also an action of Trespass, to determine the boundary between the lands of the respective parties; which, however, did not come on for trial, the plaintiff withdrawing the Record.—Mr. SIMPSON for plaintiff; and Mr. N. PARKER for defendant.—*Courier.*

RAIL ROAD AT ST. STEPHEN.—At a public meeting held at St. Stephen, (Charlotte County,) on the 13th ult. it was, on motion of Peter Stubs, Jun. Esq. seconded by George S. Hill, Esquire,

Resolved, that Messrs. Abner Hill, William Todd, jun., George Porter, Robert Hutchings, Nehemiah Marks, Robert Lindsay, and John Milliken, be a Committee to frame a Petition to the Legislature, praying that an Act may pass to incorporate a Company to establish a line of RAIL WAY between the Salt Water, St. Stephen, and Mill Town; also, to open a correspondence, the object of which will be, to ascertain the probable expense of the undertaking, and to report at some future meeting to be convened by the said Committee.—*St. Andrews Standard.*