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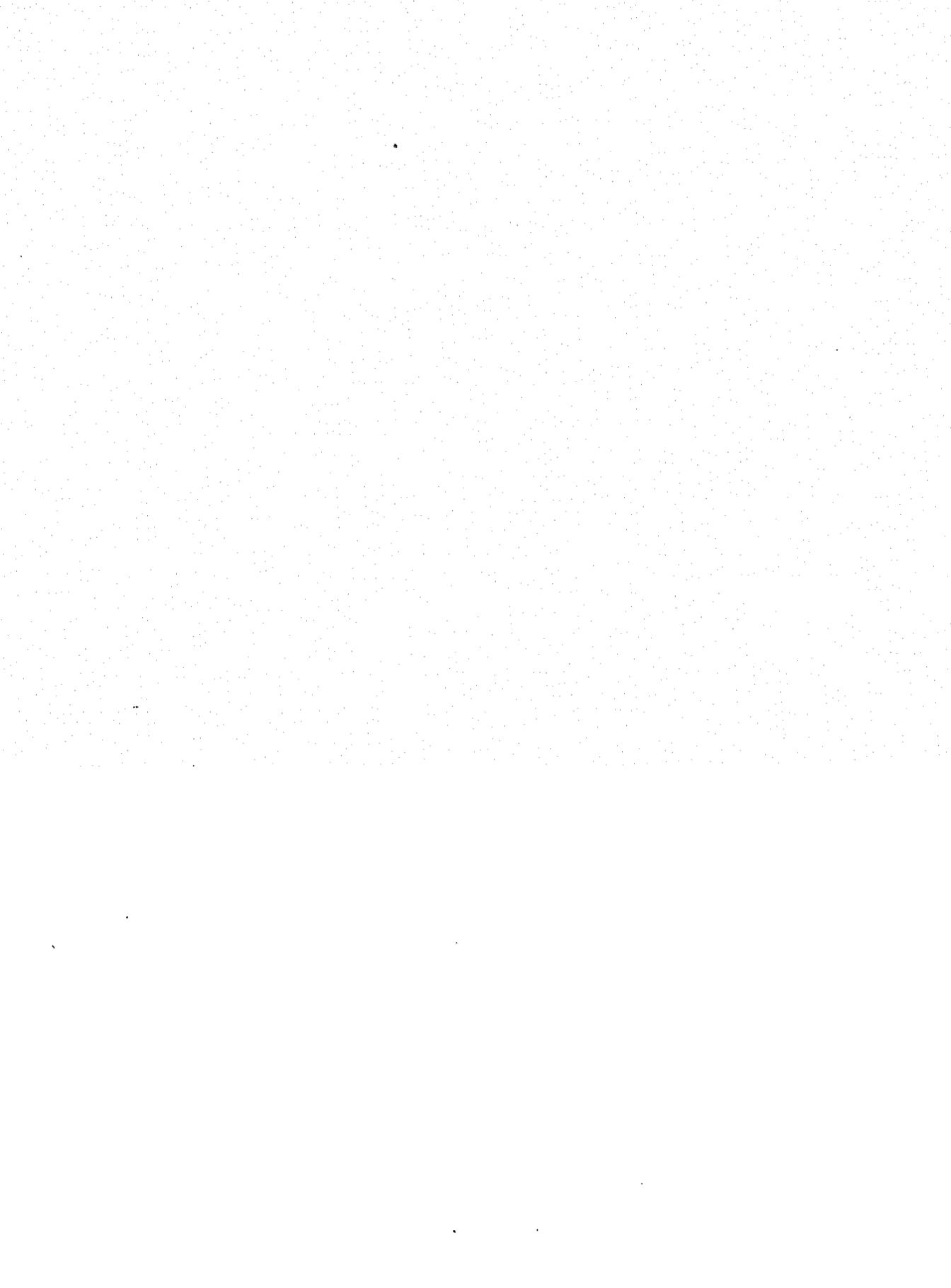
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JOURNALS
OF THE
SPECIAL COUNCIL
OF THE PROVINCE OF
LOWER-CANADA.

FROM THE 11th TO THE 14th NOVEMBER, 1839.

IN THE THIRD YEAR OF THE REIGN OF
QUEEN VICTORIA.

HIS EXCELLENCY
THE RIGHT HONORABLE CHARLES POULETT THOMSON,
GOVERNOR GENERAL.

PRINTED BY ORDER OF THE SPECIAL COUNCIL.

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JOURNALS
OF THE
SPECIAL COUNCIL
OF
LOWER - CANADA.

ANNO 3^o.—VICTORIÆ REGINÆ.

AT a Session of the Special Council, begun and holden at the Government House in the City of *Montreal*, in pursuance of an Act passed in the Parliament of the United Kingdom of *Great Britain and Ireland*, intituled, "*An Act to make temporary provision for the Government of Lower-Canada.*"

MONDAY 11th NOVEMBER, 1839.

PRESENT.

His Excellency the Right Honorable CHARLES POULETT THOMSON,
Governor General.

Messrs. *Cuthbert.*
Pothier.
DeLéry.
Moffatt.
McGill.
DeRocheblave.
Neilson.

Gerrard.
Quesnel.
Christie.
Walker, and
Molson.

PRAYERS.

The Honble. The Chief Justice of the Province, The Honorable *Robert Unwin Harwood*, and Messrs. *Edward Hale* of *Sherbrooke* and *John Wainwright*, having previously taken the prescribed oath, and subscribed the Roll containing the same, took their seats at the Council Table.

His Excellency proposed to the Council for consideration and adoption, the following Ordinances, which were severally read for the first time :--

An Ordinance to continue for a limited time, a certain Ordinance relative to the seizing and detaining for a limited time, of Gunpowder, Arms, Weapons, Lead and Munitions of War.

An Ordinance further to continue for a limited time, a certain Ordinance relative to persons charged with High Treason, Suspicion of High Treason, Misprision of High Treason and Treasonable Practices.

An Ordinance to Incorporate the Ecclesiastics of the Seminary of *Saint Sulpice* of *Montreal*, to confirm their title to the *Fief* and Seigniori of the Island of *Montreal*, the *Fief* and Seigniori of the Lake of the Two Mountains, and the *Fief* and Seigniori of *Saint Sulpice*, in this Province ; to provide for the gradual extinction of Seigniorial rights and dues, within the Seigniorial limits of the said *Fiefs* and Seignories, and for other purposes.

His Excellency was then pleased to name the Honorable the Chief Justice of the Province, to preside at the Council Table, during His Excellency's absence,

The Governor General called the attention of the Special Council to Her Majesty's Gracious Message to both Houses of Parliament, of the Third May last, relative to the Legislative Re-union of the Provinces of *Upper* and *Lower Canada*.

His Excellency explained to the Council the views entertained by Her Majesty's Government upon this subject, and the anxious desire felt by Parliament and the British People, that a settlement of the questions relating to the *Canadas* should be speedily arrived at, by which an end might be put to the present suspension of the Constitution in the Lower Province, the resources of both might receive their full developement, and the peace and happiness of all Her Majesty's Canadian subjects might be effectually secured.

His Excellency stated that it was with this view that Her Majesty's advisers proposed the Re-union of the Provinces to Parliament, and were prepared to proceed with that measure.

Mutual sacrifices were undoubtedly required, mutual concessions would be demanded, but His Excellency entertained no doubt that the terms of Union could be adjusted by the Imperial Legislature, with fairness to both Provinces; and with the utmost advantage to all within them.

His Excellency requested to be favored with the opinion of the Council on this important subject.

His Excellency then withdrew.

• The Honorable the Chief Justice of the Province, took the Chair.

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *De Léry*,

ORDERED, That an Ordinance to continue for a limited time, a certain Ordinance relative to the seizing and detaining for a limited time, of Gunpowder, Arms, Weapons, Lead, and Munitions of War, be read a second time at the next sitting day.

On motion of Mr. *Gerrard*, seconded by the Honble. Mr. *Neilson*,

ORDERED, That an Ordinance further to continue for a limited time, a certain Ordinance relative to persons charged with High Treason, Suspicion of High Treason, Misprision of High Treason, and Treasonable Practices, be read a second time at the next sitting day.

On motion of the Honble. Mr. *De Rocheblave*, seconded by Mr. *Quesnel*,

ORDERED, That an Ordinance to Incorporate the Ecclesiastics of the Seminary of *Saint Sulpice* of *Montreal*, to confirm their title to the *Fief* and Seigniority of the Island of *Montreal*, the *Fief* and Seigniority of the Lake of the Two Mountains, and the *Fief* and Seigniority of *Saint Sulpice*, in this Province; to provide for the gradual extinction of Seigniorial rights and dues, within the Seigniorial limits of the said *Fiefs* and Seigniories, and for other purposes, be read a second time at the next sitting day.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *McGill*.

RESOLVED, That the Communication made this day by His Excellency the Governor General, and entered on the Journals, in reference to the Reunion of the Provinces of *Lower* and *Upper Canada*, be taken into consideration in a Committee of the whole Council to-morrow.

Then,

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *De Rocheblave*,

The Council adjourned until to-morrow, at ten o'clock, A. M.

TUESDAY, 12th NOVEMBER, 1839.

P R E S E N T.

The Honble. The Chief Justice, Presiding Member.

Messrs. *Cuthbert*.
Pothier.
De L  ry.
Moffatt.
McGill

De Rocheblave.
Neilson.
Gerrard.
Quesnel.
Christie.
Walker.
Molson.
Harwood.
Hale, of Sherbrooke, and
Wainwright.

PRAYERS.

An Ordinance to continue for a limited time, a certain Ordinance relative to the seizing and detaining for a limited time of Gunpowder, Arms, Weapons, Lead and Munitions of War, was, according to order, read a second time.

The question of concurrence having then been put upon the said Ordinance, it was agreed to unanimously.

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *De Léry*.

ORDERED, That the said Ordinance be fairly transcribed.

An Ordinance further to continue for a limited time, a certain Ordinance relative to persons charged with High Treason, Suspicion of High Treason, Misprision of High Treason, and Treasonable Practices, was, according to order, read a second time.

The question of concurrence having then been put upon the said Ordinance, it was agreed to unanimously.

On motion of Mr. *Gerrard*, seconded by Mr. *Walker*,

ORDERED, That the said Ordinance be fairly transcribed.

The order of the day for the second reading of an Ordinance to incorporate the Ecclesiastics of the Seminary of *Saint Sulpice* of *Montreal*, to confirm their title to the *Fief* and *Seigniory* of the Island of *Montreal*, the *Fief* and *Seigniory* of the Lake of the Two Mountains, and the *Fief* and *Seigniory* of *Saint Sulpice*, in this Province; to provide for the gradual extinction of Seigniorial rights and dues, within the Seigniorial limits of the said *Fiefs* and *Seigniories*, and for other purposes, being read,

On motion of the Honble. Mr. *De Rocheblave*, seconded by Mr. *Quesnel*,

ORDERED, That the said order of the day be discharged.

According to order, the Council was put into a Committee of the whole to take into consideration the Communication made yesterday by His Excellency the Governor General, and entered on the Journals, in reference to the Reunion of the Provinces of *Lower* and *Upper Canada*.

After some time the Council was resumed, and Mr. *Hale*, of *Sherbrooke*, reported from the said Committee "That they had come to several Resolutions upon the said Communication," which he delivered in at the Table.

ORDERED, That the question of concurrence be put on the said Resolutions, at the next sitting day.

Then,

On motion of Mr. *Walker*, seconded by Mr. *Wainwright*,

The Council adjourned until to-morrow, at noon.

WEDNESDAY, 13th NOVEMBER, 1839.

PRESENT.

The Honble. The Chief Justice, Presiding Member.

Messrs. *Cuthbert.*
Pothier.
De Léry.
Moffatt.
McGill.
De Rocheblave.
Neilson.
Gerrard.
Quesnel.
Christie.
Walker.
Molson.
Harwood, and
Hale, of Sherbrooke.

PRAYERS.

The order of the day being read for the question of concurrence being put on the Resolutions reported yesterday by the Committee of the whole Council, on His Excellency the Governor General's Communication, in reference to the Re-union of the Provinces of *Lower and Upper Canada.*

The said Resolutions being then read, are as followeth :

1. **RESOLVED**, That under existing circumstances, in order to provide adequately for the peace and tranquility, and the good, constitutional and efficient Government of the Provinces of *Upper and Lower Canada*, the Re-union of these Provinces under one Legislature, in the opinion of this Council, has become of indispensable and urgent necessity.

-
2. **RESOLVED**, That the declared determination of Her Majesty, conveyed in Her Gracious Message to Parliament, to Re-unite the Provinces of *Upper* and *Lower Canada*, is in accordance with the opinion entertained by this Council, and receives their humble and ready acquiescence.
 3. **RESOLVED**, That among the principal enactments, which, in the opinion of this Council, ought to make part of the Imperial Act for Re-uniting the Provinces, it is expedient and desirable that a suitable Civil List should be provided for securing the independence of the Judges, and maintaining the Executive Government in the exercise of its necessary and indispensable functions.
 4. **RESOLVED**, That regard being had to the nature of the Public Debt of *Upper Canada*, and the objects for which principally it was contracted, namely, the improvement of Internal Communications, alike useful and beneficial for both Provinces, it would be just and reasonable, in the opinion of this Council, that such part of said Debt, as has been contracted for this object, and not for defraying expenses of a local nature, should be chargeable on the Revenues of both Provinces.
 5. **RESOLVED**, That the adjustment and settlement of the terms of the Re-union of the two Provinces, may, in the opinion of this Council, with all confidence be submitted to the wisdom and justice of the Imperial Parliament, under the full assurance that provisions of the nature of those already mentioned, as well as such others as the measure of Re-union may require, will receive due consideration.
 6. **RESOLVED**, That in the opinion of this Council, it is most expedient, with a view to the security of Her Majesty's North American Provinces, and the speedy cessation of the enormous expense now incurred by the Parent State for the defence of *Upper* and *Lower Canada*, that the present temporary Legislature of this Province should, as soon as practicable, be succeeded by a permanent Legislature, in which the People of these two Provinces may be adequately represented, and their constitutional rights exercised and maintained.

The first and second of the said Resolutions, being again read, and the question being separately put thereon,

The Council divided upon each :

YEAS.	NAYS.
The Honble. the Chief Justice.	Messrs <i>Cuthbert.</i>
Messrs. <i>Pothier.</i>	<i>Neilson.</i>
<i>De Léry.</i>	<i>Quesnel.</i>
<i>Moffatt.</i>	
<i>McGill.</i>	
<i>De Rocheblave.</i>	
<i>Gerrard.</i>	
<i>Christie.</i>	
<i>Walker.</i>	
<i>Molson.</i>	
<i>Harwood.</i>	
<i>Hale of Sherbrooke.</i>	

So they were carried in the affirmative.

The third of the said Resolutions, being again read, and the question being put thereon,

The Council divided on the same :

YEAS.	NAYS.
The Honble. the Chief Justice.	Mr. <i>Neilson.</i>
Messrs. <i>Cuthbert.</i>	
<i>Pothier.</i>	
<i>De Léry.</i>	
<i>Moffatt.</i>	
<i>McGill.</i>	
<i>De Rocheblave.</i>	
<i>Gerrard.</i>	
<i>Quesnel.</i>	
<i>Christie.</i>	
<i>Walker.</i>	
<i>Molson.</i>	
<i>Harwood.</i>	
<i>Hale of Sherbrooke.</i>	

So it was carried in the affirmative.

The fourth, fifth, and sixth of the said Resolutions being again read, and the question being separately put thereon,

The Council divided upon each :

YEAS.	NAYS.
The Honble. the Chief Justice.	Messrs. <i>Cuthbert.</i>
Messrs. <i>Pothier.</i>	<i>Neilson.</i>
<i>De Léry.</i>	<i>Quesnel.</i>
<i>Moffatt.</i>	
<i>McGill.</i>	
<i>De Rocheblave.</i>	
<i>Gerrard.</i>	
<i>Christie.</i>	
<i>Walker.</i>	
<i>Molson.</i>	
<i>Harwood.</i>	
<i>Hale of Sherbrooke.</i>	

So they were carried in the affirmative.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *McGill*,

RESOLVED, That an humble Address be presented to His Excellency the Governor General, submitting to His Excellency the foregoing Resolutions.

Then.

On motion of the Honble. Mr. *McGill*, seconded by the Honble. Mr. *Moffatt*,

The Council adjourned.

THURSDAY, 14th NOVEMBER, 1839.

PRESENT.

The Honble. The Chief Justice, Presiding Member.

Messrs. *Pothier.*
De Léry.
Moffatt.
McGill.
De Rocheblave.
Neilson.
Gerrard.
Quesnel.
Christie.
Walker.
Molson.
Austin.
Harwood, and
Hale, of Sherbrooke.

PRAYERS.

The following Draught of an Address to His Excellency the Governor General, was submitted to the Council by the Honble. Mr. *Moffatt* :—

TO HIS EXCELLENCY.

The Right Honorable CHARLES POULETT THOMSON, one of Her Majesty Most Honorable Privy Council, Governor General of British *North America*, and Captain General and Governor in Chief in and over the Provinces of *Lower Canada* and *Upper Canada*, *Nova Scotia*, *New Brunswick* and the Island of *Prince Edward*, and Vice Admiral of the same.

MAY IT PLEASE YOUR EXCELLENCY.

WE Her Majesty's dutiful and loyal subjects, the Special Council for the affairs of *Lower-Canada*, at a meeting convened by Your Excellency, under

the authority, and in pursuance of the Statute in this behalf provided, beg leave respectfully to return to your Excellency our thanks for your considerate care of the interests of this Province, in having called our attention to Her Majesty's Gracious Message to both Houses of the Imperial Parliament, relative to the Re-union of the Provinces of *Upper* and *Lower-Canada*, upon which important subject your Excellency has been pleased to desire the opinion of the Special Council.

In conformity with the desire of your Excellency, We have applied our deliberate consideration to the various complex interests and objects involved in the measure of Re-uniting the two Provinces, and We most heartily express our humble gratitude to Her Majesty, for having granted Her High Sanction to a measure which from our local knowledge and the experience We have had of the Government of these Provinces, and of their past and present political state, We deem to be essential to their future peace and welfare, and for the good, constitutional and efficient Government of them, under the protecting care and authority of Her Majesty ; and the adoption of which We are intimately convinced has become of indispensable and urgent necessity.

In considering this contemplated measure, We have directed our attention to a few of the more prominent and important provisions fit, as We conceive, to be embraced in it, and the views entertained by us on them as well as on the measure itself, We have embodied in certain Resolutions, which We have now the honour humbly to submit to your Excellency, as containing our opinion on the important subject, respecting which it has pleased your Excellency to consult us.

The Honble. Mr. *Moffatt* moved, seconded by Mr. *Gerrard*,

That the Address to His Excellency the Governor General, now submitted, be adopted by this Council.

The Council divided on the motion :

YEAS.

The Honble. the Chief Justice.
 Messrs. *Pothier.*
De Léry.
Moffatt.
McGill.
De Rocheblave.
Gerrard.
Christie.
Walker.
Molson.
Austin.
Harwood.
Hale of Sherbrooke.

NAYS.

Messrs. *Neilson.*
Quesnel.

So it was carried in the affirmative.

And

RESOLVED accordingly.

On motion of the Honble. Mr. *Moffatt*, seconded by the Honble. Mr. *Neilson*,

ORDERED, That the said Address be presented to His Excellency the Governor General, by the whole Council, and that three of its Members do wait on His Excellency, humbly to know when His Excellency will be pleased to receive the same.

ORDERED, That the Honbles. Messrs. *Pothier* and *Moffatt* and Mr. *Gerrard*, be the said Members

The Council was adjourned during pleasure.

After some time the Council was resumed.

The Honble. Mr. *Moffatt* reported, “ That the Honble. Mr. *Pothier*, “ Mr. *Gerrard* and himself had, according to order, waited on His Excellency

“ the Governor General, humbly to know at what time His Excellency would
“ be pleased to be attended by the whole Council with their Address, and
“ that His Excellency had been pleased to say that he would receive the same
“ immediately after the passing of the Ordinances.”

His Excellency the Governor General, having entered the Council Chamber, he took his seat at the head of the Table.

On motion of the Honble. Mr. *Neilson*, seconded by the Honble. Mr. *De Léry*,

ORDERED, That an Ordinance to continue for a limited time, a certain Ordinance relative to the seizing and detaining for a limited time, of Gunpowder, Arms, Weapons, Lead and Munitions of War, be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question,

“ That this Ordinance do now pass ?”

It was

RESOLVED in the affirmative.

His Excellency then signed the said Ordinance, and the Great Seal of the Province, was affixed thereto by the Secretary of the Province.

On motion of Mr. *Gerrard*, seconded by Mr. *Walker*,

ORDERED, That an Ordinance further to continue for a limited time, a certain Ordinance relative to persons charged with High Treason, Suspicion of High Treason, Misprision of High Treason and Treasonable practices, be now read for the third time.

The said Ordinance was accordingly read for the third time.

His Excellency having put the question.

“That this Ordinance do now pass ?”

It was

RESOLVED in the affirmative.

His Excellency then signed the said Ordinance, and the Great Seal of the Province was affixed thereto by the Secretary of the Province.

His Excellency then withdrew.

The Honble. the Chief Justice, resumed the Chair.

The Council was adjourned during pleasure to wait on His Excellency the Governor General with their Address.

After some time the Council was resumed.

The Presiding Member, reported that this Council had presented their Address to His Excellency the Governor General, to which His Excellency was pleased to return the following answer :

Gentlemen,

I thank you for the prompt attention you have given to the important subject on which I desired to consult you.

It will afford me great satisfaction to convey to Her Majesty's advisers the opinions which you have recorded, and I can assure you that they will receive from the Imperial Legislature and from the Government, the consideration which is so justly due to them.

My best attention will be devoted to the important suggestions contained in your Resolutions, and it will be most gratifying to me to promote the accomplishment of your wishes.

The Presiding Member then stated, that he had received the command of His Excellency the Governor General to inform the Council, that the affairs for which the Council was convened having been concluded, the present meeting is closed, and the Members discharged from further attendance.

I N D E X
TO THE
FIFTH VOLUME OF THE JOURNALS
OF THE
SPECIAL COUNCIL
OF THE
Province of Lower Canada.

ADDRESS to the Governor General. See *Re-union* of the Provinces of
Lower and Upper Canada.

Arms. See *Ordinances*, (1.)

B.

C.

D.

E.

F.

GOVERNOR GENERAL. Takes his seat at the head of the Council
Table, 1, 14.

GOVERNOR GENERAL.

- Proposes certain Ordinances for the consideration and adoption of the Council, 2.
- Appoints a Member to preside at the Council Table, 2.
- Addresses the Council on the subject of the Re-union of the Provinces of *Lower* and *Upper Canada*, and requests their opinion thereon, 2, 3. See *Re-union* of the Provinces.

Gunpowder. See *Ordinances*, (1.)

HABEAS CORPUS ACT. See *Ordinances*, (2.)

High Treason. See *Ordinances*, (2.)

I.

J.

K.

LEAD. See *Ordinances*, (1.)

MISPRISION of *High Treason.* See *Ordinances*. (2.)

Munitions of War. See *Ordinances*, (1.)

N.

ORDINANCES :—

- 1. To continue for a limited time, a certain Ordinance relative to the seizing and detaining for a limited time of Gunpowder, Arms,

ORDINANCES :—

Weapons, Lead, and Munitions of War, read the first time, 2. Read the second time, and agreed to, 5. Passed by the Governor General and Council, 14.

- 2. Further to continue for a limited time, a certain Ordinance relative to persons charged with High Treason, Suspicion of High Treason, Misprision of High Treason, and Treasonable Practices, read the first time, 2. Read the second time, and agreed to, 5. Passed by the Governor General and Council, 14.
- 3. To incorporate the Ecclesiastics of the Seminary of *St. Sulpice* of *Montreal*; to confirm their Title to the *Fief* and Seigniorship of the Island of *Montreal*, the *Fief* and Seigniorship of the Lake of the *Two Mountains*, and the *Fief* and Seigniorship of *St. Sulpice* in this Province; to provide for the gradual extinction of Seigniorial rights and dues within the Seigniorial limits of the said *Fiefs* and Seigniorships, and for other purposes, read the first time, 2. Day appointed for the second reading, 4. The order discharged, 6.

PERSONS charged with High Treason, &c. See Ordinances, (2.)

Presiding Member. The Hon. The Chief Justice appointed, 2.

——— Reports His Excellency's answer to the Address on the subject of the Re-union of the Provinces of *Lower* and *Upper Canada*, 15.

Q.

RE-UNION of the Provinces of *Lower* and *Upper Canada*. His Excellency's Communication in reference to the Re-union of the two Provinces, to be considered in a Committee of the whole Council, 4. Considered, and Resolutions reported, 6. They are read, 7. Agreed to, upon divisions, 9, 10. An Address to be presented to His Excellency, accompanied by the said Resolutions, 10. The draught of an Address submitted, 11. Agreed to, upon a division; to be presented by the whole Council, and Members named to wait upon His Excellency to know when he will receive the same; Members report the time

RE-UNION of the Provinces of Upper and Lower Canada.

fixed by His Excellency, 13. The Address presented ; His Excellency's answer, 15.

SEMINARY of St. Sulpice of Montreal. See *Ordinances*, (3.)

Special Council. Members take the Oath and their Seats, 2.

———— Adjourns to particular hours on future days, 4, 6.

———— during pleasure, 13, 15.

———— The names of the Councillors taken down upon divisions, 9, 10, 13.

———— Attends upon the Governor General with an Address, 15.

———— The Members discharged from further attendance, 15.

Suspicion of High Treason. See *Ordinances*, (2.)

TREASONABLE Practices. See *Ordinances*, (2.)

U.

V.

WEAPONS. See *Ordinances*, (1.)

X.

Y.

Z.