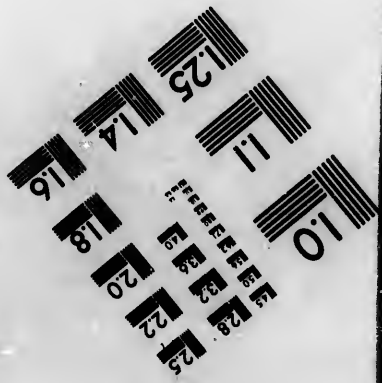
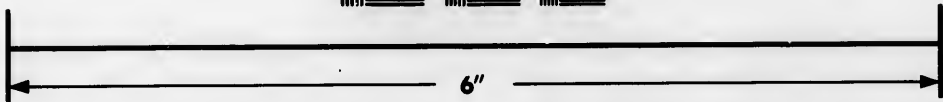
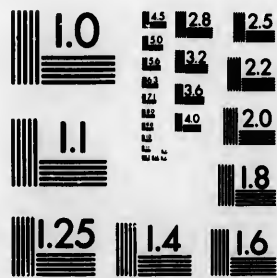


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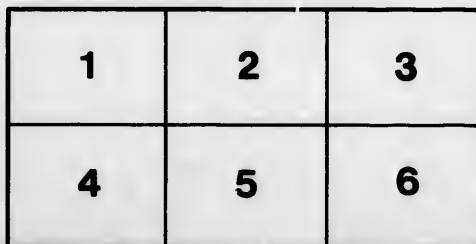
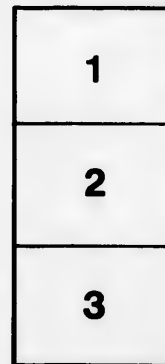
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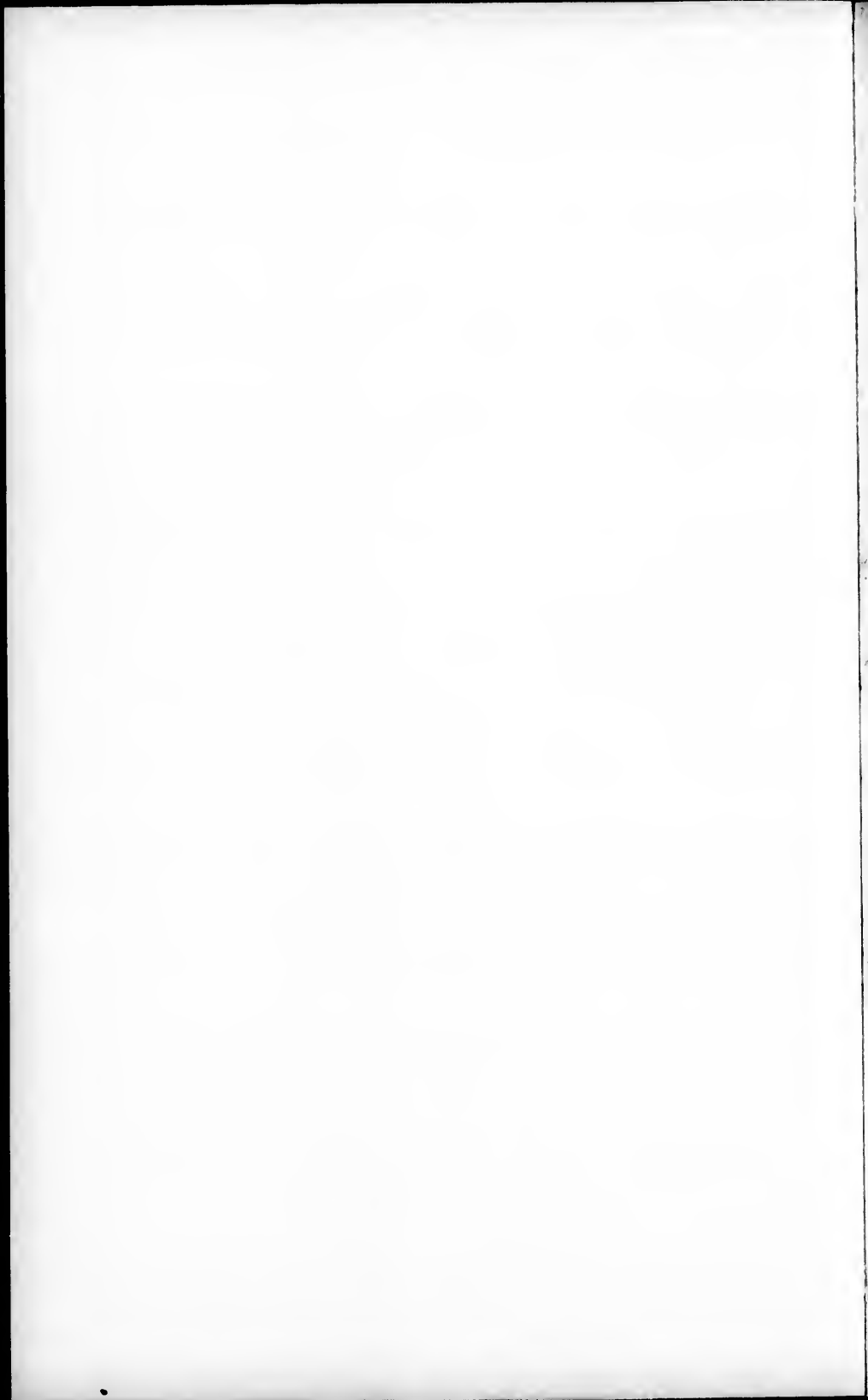
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FINANCIAL DIFFICULTIES

OF

LOWER-CANADA.

(EXTRACTED FROM THE QUEBEC GAZETTE OF DECEMBER 1824.)

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FINANCIAL DIFFICULTIES

OF

LOWER-CANADA.

(Extracted from the QUEBEC GAZETTE of December 1824.)

"It is my opinion that this Kingdom has no right to tax the Colonies.
"We give and grant to His Majesty, the property of His Subjects in America! It is an absurdity. The Commons of America, represented in their several Assemblies, have ever been in the exercise of this constitutional right, of giving and granting their own money. And they would have been Slaves if they had not enjoyed it."

W. PITT, *Speech Ho. of Commons, Feby. 1766.*

The commencement of the first Session of the XIIth Provincial Parliament of Lower-Canada is fixed, by Royal Proclamation, for the 8th January 1825.

Differences on the subject of the financial concerns of the Province have impeded the usefulness of that body, and rendered difficult the operations of the Colonial Executive, during the last six years.

These differences have often been the subject of public discussion in the Legislative bodies, in the assemblies of the people, in the public Journals and in private circles; one side or other of the question has been embraced, according as information, feeling or interest dictated; the parties have sometimes become heated; they have appealed to prejudice and passion; they have invented or repeated falsehoods; they have abused individuals and whole bodies, frequently without understanding the question, and without giving themselves much trouble to understand it.

In order to come to a correct conclusion on the subject of these differences, it is necessary to be acquainted with the nature, history, management and application of the Public Revenue, and the proceedings and pretensions of the Colonial Administration and the different branches of the Legislature, by reference to authentic documents and incontestible facts, and to apply to the whole the principles of Free Government as established under the British Constitution and the Act constituting the Government of the Province.

The whole of the Public Revenue of Lower-Canada, with the exception of the Territorial Revenue, is raised on the Subject in the Colony, by Acts of the British Parliament or of the Colonial Legislature.

History of Provincial Revenue.

When Canada was under the French Government, there was a Public Revenue, raised on the subject within the Colony, by Edict of the French King, on the importation and exportation of certain specified articles, chiefly regulated according to a Tariff of the 25th February 1748. After the Cession of the Province in 1763, and on the establishment of Civil Government therein in 1764, the Laws of England were declared to be in force in the country; British subjects were invited to the Colony and settled in it, under the public assurance of the British Government, that they would enjoy therein, at least, their Birth right, of being exempt from taxation without the consent of a Representative Assembly; the old inhabitants of the Colony had, besides, had their property secured to them by the Capitulations, an express article of which declared them to have become British subjects: His Majesty's subjects in Canada could not, therefore be taxed without the consent of Representatives; neither could the King, conformably to the principles of the British Constitution, acquire a Revenue raised on the Subject, without the authority of Parliament. The Revenue Laws of France, of right, ceased at the Conquest of the Country; in fact little Revenue could, be raised in conformity to those Laws, as the described articles had nearly all ceased to be imported, in consequence of the change of dominion. At this time, however, the British Parliament claimed the right of raising a Revenue in the Colonies, and it gave, shortly afterwards, several memorable examples of the exercise of this alledged right.

Act 1774.

In the year 1774, Parliament passed an Act re-establishing the Civil Laws of Canada, and another Act, 14th Geo. III. Chap. 88, raising a Revenue therein, "towards further defraying the charges of the Administration of Justice and the support of the Civil Government within the Province of Quebec in North America," professedly in lieu of the Revenue formerly existing in the Colony under the French Government. The money to be raised under this Act, was to be disposed of under the following Clause:

14th Geo. III. Chap. 88. Sect. 2. "Shall be applied, in the first place, in making more certain and adequate provisions, towards defraying the expenses of the Administration of Justice, and of the support of the Civil Government in the said Province; and that the Lord High Treasurer, or Commissioners of His Majesty's Treasury, or any three or more of them for the time being, shall be and is or are hereby empowered, from time to time, by any Warrant or Warrants under his or their hand or hands, to cause such money to be applied out of the said produce of the said Duties, towards defraying the said expenses; and that the residue of the said Duties shall remain and be reserved in the hands of the said Receiver General for the future disposition of Parliament."

(The Duty of 36s. sterling on Licenses, from the 5th April 1775, is stated to be levied "for the use of His Majesty," and no provision is made for its application.)

The Acts of the British Parliament for raising a Revenue in the old North American Colonies, were openly resisted, and the existence of the right, in Parliament, of raising such a Revenue, was denied by the Colonists in arms, within a year after the passing of the Canada Revenue Act of 1774.

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In 1778, the British Parliament passed a Statute, of which the following is the Title, Preamble and chief Clause.

18th Geo. III. Chap. 12. "An Act for removing all doubts and apprehensions concerning Taxation by the Parliament of Great Britain in any of the Colonies, Provinces and Plantations in *North America* and the *West Indies*, and for repealing so much of an Act made in the Seventh year of the Reign of His present Majesty, as imposes a Duty on Tea, imported from Great Britain into any Colony or Plantation in *America* or relates thereto."

Declaratory Act
1788.

"Whereas Taxation by the Parliament of *Great Britain*, for the purpose of raising a Revenue in His Majesty's Colonies, Provinces and Plantations in *North America*, has been found by experience, to occasion great uneasiness and disorders among His Majesty's faithful subjects, who may nevertheless be disposed to acknowledge the justice of contributing to the common defence of the Empire, provided such contribution should be raised under the authority of the General Court or General Assembly of each respective Colony, Province or Plantation; and whereas, in order as well to remove the said uneasinesses, and to quiet the minds of His Majesty's subjects, who may be disposed to return to their allegiance, as to restore the peace and welfare of His Majesty's Dominions, it is expedient to declare that the King and Parliament of *Great Britain* will not impose any Duty, Tax, or Assessment, for the purpose of raising a Revenue in any of the Colonies, Provinces or Plantations, "May it please Your Majesty that it may be declared and enacted; and it is hereby declared and enacted by the Kings Most Excellent Majesty, by and with the consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this Act, the King and Parliament of *Great Britain* will not impose any Duty, Tax, or Assessment whatsoever, payable in any of His Majesty's Colonies, Provinces and Plantations in *North America* or the *West Indies*, except only such Duties as it may be expedient to impose for the regulation of Commerce; the net produce of such duties to be always paid and applied to and for the use of the Colony, Province or Plantation, in which the same shall be respectively levied, in such manner as other Duties collected by the authority of the respective General Courts or General Assemblies of such Colonies, Provinces and Plantations, are ordinarily paid or applied."

Clause II. Repeals the Tea Act 7th Geo. III. Chap. 46.

(This Act was preceded by an Act Chap. 11, repealing the Act regulating the Government of *Massachusetts Bay*, and followed by another Chap 13, appointing Commissioners to treat for quieting the disorders in certain of the Colonies, Plantations and Provinces of *North America*.)

Notwithstanding the foregoing Statute, the Act for raising a Revenue and disposing of the amount in Canada, continued to be enforced. No Colonial Representation was assembled in this Province till 17th Dec. 1792. On the 29th April 1794, before any supplies were required of the Colony, the then Governor General (Lord Dorchester) informed the Legislature by Message, that "as soon as the Provinces of Upper-Canada and Lower-Canada shall have passed Laws laying the same or other duties to an

Proceeding in Canada, concerning Act 1774.

"equal amount to those which are payable under this Act, and such Laws shall have obtained the Royal Assent. the King's Ministers will be ready to propose to Parliament a repeal of the Act above mentioned."

On the 3rd June 1799, an Act, in conformity to the foregoing Message, was passed and received the Royal Assent.

Provincial Act
1799.

This Act is printed in the Statute Book of this Province, and is to be in force as soon as the repeal of the Acts of the Imperial Parliament therein mentioned "shall be signified and made known by Proclamation of the Governor, Lieutenant Governor, or person administering the Government for the time being." The Act is perpetual, and appropriates annually without limit of time, £11799 18 1-3 Currency, for the general expenses of the Government, besides paying off advances from the Military Chest previous to 6th January 1796.

In other respects the condition required in the foregoing Message, had it been necessary to entitle the Legislature of the Colony to dispose of the monies levied under the Act of 1774, has long ago been virtually complied with, as other duties to an equal amount, under permanent Acts, have long ago been passed by the Legislature of Lower-Canada, with the consent of that of Upper-Canada, and received the Royal Assent.

Other Revenues
under British Acts
in Canada.

A small Revenue under Acts of Parliament, viz. 25 Charles II. Chap. 7; 6 Geo. II. Chap. 13; 4 Geo. III. Chap. 15; and 6 Geo. III. Chap. 5; is also still raised in the Colony, which "is paid into the receipt of His Majesty's Exchequer in Great Britain, to be there entered separate and apart from all other monies, to be reserved to be, from time to time disposed of by Parliament, towards defraying the necessary expenses of defending, protecting and securing the British Colonies and Plantations in America."

The other Revenues raised within the Colony under British Acts, are subsequent to the Act of 1778, (the Act 51 Geo. III. Chap. 97, excepted) and purport to be for the regulation of Trade and Navigation, and are subjected, as to the application of the monies, (excepting the proportion awarded or which may be awarded to Upper-Canada under the Canada Trade Act of 1822) to the provisions of the said declaratory Act of 1778.

Under local Acts.

All the other Revenues of the Colony, raised on the subject generally, are levied under Acts of the local Legislature, and the amount is either specially applied or left unapplied at the future disposal of the Legislature. They are all, in conformity to the Royal Instructions, signified to the Legislature in 1795, "granted or reserved to His Majesty, His Heirs and Successors, for the public uses of the Province and the support of the Government thereof."

Territorial Revenue.

Besides the Revenues raised generally on the Subject under Legislative Acts, there is a Territorial Revenue accruing to the Crown, from the Tenure of Lands in the Country as established under the French Government and the possession of Seigniories. This Revenue, which has lately averaged about Twenty thousand Dollars per annum, was ordered by His late Majesty, as expressed in a Message from the Governor in Chief, of the 29th April 1794, "to be applied towards defraying the Civil expenses of the Province."

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The total amount of the Revenue, without taking into account the diminution for a short period by the expiration of a temporary Act in 1822, has amounted on an average of the last five years, to about Three hundred and fifty thousand Dollars per annum, after deducting one fifth allowed to Upper Canada for the supposed consumption of dutiable goods from Lower-Canada. The whole of this Revenue, which has increased under the Trade Acts of 1822, is now permanent, with the exception of a few thousand dollars per annum, collected under temporary Acts of the local Legislature, upon Importations from the United States.

Considering that the expenses of Roads and Bridges, Religious Establishments and several other local expenses, are borne by the people apart from the amount of the Revenue, that they are subject to a number of Government Fees, and particularly, that they are restrained from a free trade and a free competition of the capital of other countries among them, and also considering the severity of the climate, the amount levied on the people in Lower Canada is great, comparatively to their means, which is the true standard for measuring the weight of taxation. The actual payments to the Revenue for general purposes, including the fees of collection, may amount to about one dollar per annum for each person, or five dollars for each family, which is equal, at present, to about seven bushels of wheat, or a fortnight's labour at the average price throughout the country during the whole year.

This Revenue is chiefly levied on articles of imported merchandise, several of which can indeed be dispensed with. It is of a nature to increase or diminish with the increase or diminution of the trade or consumption of imported goods in the country, and the increase or diminution of smuggling from the United States. On several articles, particularly Spirits, the amount of duties is equal to fifty per cent, on the price of the article in the Province without the duty, which is equal to a bounty of 50 per cent on smuggling in American or Upper-Canada distilled Spirits, or manufacturing Spirits in this Province, which it is found can be made at about 1s. per gallon. (1.)

The Revenue from duties on importations, forming about nine tenths of the whole, is collected by Officers of the Customs under the appointment and controul of the Treasury in England, and

Total Amount

Weight of Taxation.

Nature of the Revenue.

Management.

(1.) A great part of the Provincial Revenue is raised on West India Spirits, which are chiefly consumed in Lower-Canada; Spirits of domestic manufacture having been very generally substituted in Upper-Canada, as well as in the United States, where the duties on West India Spirits have long been, systematically, enormously disproportionate to the value of the article. A singular proof of the want of correct information, or great inattention, in the British Parliament, on the subject of the commercial intercourse between the British North American Provinces and the West Indies, is to be found in the Trade Acts of 1822: By one of these Acts British North American Flour is admitted into the West Indies on paying a Dollar a Barrel less than United States Flour. By another of the same Acts, a Drawback of 6d. a Gallon on Rum imported into Canada, when country produce was sent in return, is repealed. The value of a Barrel of Flour in the Colony may be taken at 30s., a Gallon of Rum without the duties, at 1s. 6d.; 20 Gallons of Rum are therefore equal to a Barrel of Flour; 6d. per gallon on 20 gallons drawback discontinued, is equal to 10 shillings. Thus, while five shillings were professedly allowed to encourage the intercourse, our situation as to that intercourse, was made five shillings worse per barrel of Flour than before. The 5 shillings in our favor, were allowed according to the system of the British Government, and the 10s. against us, it is said, originated in a *vice* from the Colony.

it is paid into the hands of His Majesty's Receiver General for the Province, who is a Treasury Officer, and who pays over the monies under the authority of the Treasury, and accounts to that body, in virtue of his Instructions and a Clause inserted in all the Colonial Revenue Acts, conformably to the Royal Instructions above mentioned, signified to the Legislature in 1795. The powers and duties of the Treasury in respect to the ordering payments of the Revenue and controuling the expenditure, are exercised in the Colony by the Governor and the Executive Council appointed for the Province by the Crown.

This system of management and controul of the Revenues of the Province has existed in the Colony, with little variation, since the establishment of Civil Government therein under His Majesty. Its abuses and inefficiency have been proved by the rapid increase of the expenditure, particularly since the Revenue could be increased in the Colony by the establishment of a local Legislature, from which all effectual check has been withheld, while the calls for an increase of revenue have been urgent and frequently indispensable for the public welfare, (2.) and by a Defalcation to the amount of Four hundred thousand dollars, of the monies in the Receiver General's Chest, which Defalcation has been partially in existence for upwards of twenty years, and must long ago have been discovered and checked under a proper controul.

*Proceedings in local Legislature.
Grant 1795.*

It was not till three years after the first meeting of the local Legislature in 1792, that the Colonial Government asked for any aid or supply from the Colony, viz. in the Session of 1795, when the whole expenditure of the Civil Government amounted to about Eighty thousand Dollars, and the Revenue to about Fifty thousand. The Assembly granted that year by a permanent Act Twenty-two thousand two hundred and twenty Dollars per annum, besides providing for several items, of expenditure already incurred. The permanent appropriation is stated to be "towards defraying the expenses of the Administration of Justice and of the support of the Civil Government in this Province."

Occasional Deficiency, how supplied.

Accounts of the Revenue and Expenditure were, from this time, partially, laid before the Legislature annually. No further aids or supplies for the expenses of the Civil Government generally, were, however, asked of the Assembly, till 1818; but that body was called upon, from time to time, to provide for certain specific objects, which it generally supplied without difficulty. Any deficiencies which occurred in the funds raised in the Province for the expenses of the Civil Government, were covered by Warrants of the Governors, generally also Commanders of the Forces, on the Military Chest. Taking the whole period from the date when the accounts were first laid before the Assembly, till 1823, the monies raised in the Colony have, however, been sufficient to pay all the Civil Expenditure, unchecked as it was, by any effective Legislative controul—a large portion of the monies were, however, applied during the late War to Militia or Military purposes. From 1796 to 1809 inclusive, the total expenditure had nearly doubled; and in 1810, the Assembly passed a Resolve of

(2.) Various temporary Revenue Acts passed, to aid in support of the late American War and for local objects, which were completed, have under various grounds been continued for a short period, on the recommendation of the Executive, and they have since been made permanent by the Canada Trade Act, unless Upper-Canada consents to their repeal.

its readiness "to vote the necessary sums for defraying all the " Civil expenses of the Administration of the Government of the " Province," and addressed the Governor, Sir JAMES HENRY CRAIG, to convey Addresses to that effect to His Majesty and both Houses of Parliament.

This proceeding of the Assembly was ill received by the Colonial Administration; the Members of the Assembly who had taken the lead in this measure had been for some time before obnoxious to the Government, and had been deprived of their Militia and other Commissions. The House was shortly after prematurely and angrily dissolved by the Governor, for the second time within two years, on a question relating to the Judges being elected and sitting as Members of the Assembly. The Mover of the proceedings respecting the Public Expenditure, and two other Members of the Assembly, were thrown into prison soon after the dissolution, on charges of treasonable practices, by Warrants from the Executive Council, authorised by an Act for the suspension of the *Habeas Corpus Act*, which the Assembly had long continued, from time to time; and the whole Province was represented by Proclamation of the Governor, with the concurrence of the Executive Council, to be in a state approaching to rebellion. Several other persons were imprisoned about the same time, under the same Act, in different parts of the Province, and like the Members of the Assembly, detained from three to fifteen months, without any of them having been brought to trial. Indeed the Colonial Government proved by its subsequent acts, that there could have been no good foundation for these odious charges.

The departure of the Governor in 1811, the prospect of War with the United States, and its actual breaking out two years after these imprisonments and proceedings, put an end, for a time at least, to the ill blood which they had produced throughout the Colony. All the resources of the Province were cheerfully placed at the disposal of the Executive by the Assembly, every thing that was asked, excepting the suspension of the *Habeas Corpus Act* and Martial Law, was indeed granted for the common defence, and the question of the Expenditure was no longer agitated. Impeachments were, however, voted in the Assembly in 1814, against some of the supposed advisers of the measures of the Colonial Government in 1810, chiefly on grounds distinct from these measures; but these impeachments failed under an alleged want of a tribunal to decide upon them in the Colony, and the want of pecuniary means, which were refused by the Colonial Administration, to send an agent to support the charges before the King and Council.

Seven years after the vote of the Assembly of 1810, the House was called upon by His Majesty's Government to discharge its engagements contracted in that year. The Expenditure had again nearly doubled since that period; yet the whole amount required by Sir JOHN COAPE SHERBROOKE, for the expenses of the year 1818, was immediately voted under a reserve of enquiring into the necessity of the expenditure generally, at the ensuing Session, and the Bill containing the amount of that vote became a Law.

His Grace the Duke of RICHMOND, who succeeded Sir JOHN COAPE SHERBROOKE, sent down to the Assembly in the following

Vote of 1810.

Subsequent proceedings.

Impeachments, 1814.

1818, annual Vote. Sir J. Sherbrooke.

1819, Duke of Richmond, Annual Supply.

year, a detailed Estimate for the whole Expenditure of the year, referring to that of 1818, with an increase of the expenses of the Province as it stood in 1817, the time the Assembly was called upon to discharge it, of about *one fourth* its then whole amount. The increase was intermixed with the old expenditure, and no sufficient explanation shewing the necessity of an increase, particularly at a time when the Trade, Revenue and means of the country, and expenses of living had decreased, were given. (3.) It appeared also, that the actual expenditure of the preceding year had exceeded the Grant, although all that was asked had been given. The Assembly, after much angry discussion on the side of the Administration, finally voted, in the same form as the Governor's Estimate, and for the period required, each *item* of that Estimate, with the amount of the corresponding *item* of the List of the Expenditure of 1817, with the exception of the items of some sinecurists and absentees, against which Committees had reported in 1818, and during the present year. The proposed increase of the expenditure was thus rejected. The House, however, by its vote allowing the expenditure as it stood in 1817, offered to recognize an increase of the expenditure of the Province, made without the consent of the Legislature, of more than triple its annual amount when that body was established in 1792; it indirectly offered its sanction to the whole of the management and controul of a Revenue raised on the people of this Province, by His Majesty's Treasury and the Executive Councillors of the Province appointed by the Crown, during a quarter of a century; it fully maintained the implied faith of the British Government, to all its effective Officers in the Colony, and was willing to contract a formal engagement in the face of the public, to assure to these officers, so long at least as the Revenue and resources of the country could afford it, their increased war salaries, at a time when the reasons of that increase no longer existed. At the same time, the vote of the Assembly ensured to the inhabitants of the country, that the expenditure, and consequently their burthens, could no longer be increased, without the consent of Representatives freely chosen by themselves. With new motives for mutual confidence and mutual forbearance, there was, by this vote, at least a fair prospect that all would have united in promoting the general welfare of the country, with as much harmony as is usual in the other Colonies where a similar controul exists in the Assemblies, and as is consistent with the nature of a Free Constitution.

The Bill founded on the votes of the Assembly, which was sent up to the Legislative Council, was, however, opposed in that body by his Honour the Chief Justice of the Province, by His Majesty's Receiver General for the Province, by the Collector of the Customs, the Inspector of Public Accounts, by the Clerk of the Executive Council, by a Judge of the King's Bench, and other Executive Councillors, in truth, by a majority of the latter body, who with the principal Officers of the Colonial Government, formed also a majority of the Legislative Council. The Bill was finally rejected by that House, under a resolution, stating in substance, that the *mode* of granting the Supply was unconstitutional, and

Grant rejected.
Lower Canada.

(3.) The total of the Expenses of 1817, as estimated in 1818, was
Sterling 266281 15 4
The net Revenue of 1818, including the War duties, 79921 15 1
The Estimate of 1819, 81432 5 6

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that if the Bill were to become a Law, it would render the servants of the Crown dependant on an elective body instead of being dependant on the Crown. "and might eventually be made instrumental to the overthrow of that authority which, by their Alliance, they are bound to support."

This resolution was re-echoed by the Governor in Chief at the close of the Session. It seemed as if the Assembly of the Representatives of the people of Lower-Canada, instead of conscientiously performing an important duty towards His Majesty's Government and the Country, in strict conformity to the Resolve of the House of Commons of the 3rd July 1778, on which that body has acted ever since, had in reality been engaged in an attempt to violate the fidelity of the servants of the Crown, with an intent of making *them* instrumental to the overthrow of the Government. All the presses controuled or influenced by the Colonial Administration, its officers and their connexions, teemed with abuse of the Assembly, and its Members; projects of individual hostility were got up against them; and Plans for changing the Established Constitution, were forwarded to England, thus lightly renewing the impolitic system of bringing forward the Government of the Empire to take a part in disputes between the Colonists and the Local Government, which lost the old Colonies.

At this Session the Legislative Council also rejected the usual Bill from the Assembly, appointing Commissioners to treat with Commissioners on the part of Upper-Canada, for the renewal of the existing agreement respecting the share of duties levied in Lower-Canada on goods which pass for consumption into Upper-Canada, which agreement was to expire on the 1st July following, and this measure on the part of the Council, and the non-settlement by the Executive of claims for arrears made by Upper-Canada under former agreements, without referring these claims to the Legislature, laid the foundation of the misunderstanding between the two Provinces, which, at a future period, had nearly effected the loss of the Constitutional Act of both Provinces. (4.)

(4.) In 1820 there was no Session; In 1821, the Legislative Council passed another Bill sent up by the Assembly, similar to that of 1819. The Commissioners met at Montreal 5th July 1821. Upper-Canada had, however, already forwarded complaints to England, without communicating them to Lower-Canada, and much popular clamour had been excited on this subject in the Upper Province. The Upper-Canada Commissioners claimed arrears under former agreements, or during their existence, to the amount of about Fifty thousand pounds, Twelve thousand of which has been allowed by the Arbitrators under the Canada Trade Act. The existence of these claims, which embraced even a proportion of the monies levied under certain Acts of the British Parliament, which, it was notorious, had never come into the Receiver General's Chest in Lower-Canada, being unknown to the Assembly, and the Executive Government, being the authority whose province it was to determine on points relating to the execution of former agreements, the powers given to the Lower-Canada Commissioners did not extend to them. The Upper-Canada Commissioners claimed a fifth of the Revenue for the two years preceding 1st July 1821, *which was allowed*, "reducing the Rum imported in 1820, to the average of the preceeding three years;" a great part of the said Rum being still in the stores in Lower-Canada; they asked for the ensuing two years a *third* of the Crown Duties, and a *fourth* of all the other Duties on Importations collected at Quebec; the Commissioners of Lower-Canada objected to any proportion of the duties collected in Lower-Canada being allowed to Upper-Canada "beyond the next Session of the Legislature," but that each Province should allow articles for the other to pass duty free, and collect its own revenue; and for facilitating this object they professed themselves willing to enter into any reciprocal arrangement which might be thought proper. They distinctly

Irritating proceed.
1824.

Rejection of Upper
Canada Commis-
sioners Bill by Le-
gislative Council.

1820, no Session.

A new Election having taken place, the Assembly was called together in the following year, (1820) before the Returns were complete; and intelligence of His Majesty's death having arrived soon after, the Assembly was again dissolved, so that no Session of the Legislature was held that year.

1821, Lord Dal-
housie, Permanent
Supply.
Annual Grant re-
jected, Legislative
Council.

In 1821, the new Governor, LORD DALHOUSIE, departed from the mode of requiring *annual* Supplies, a practice which had already been sanctioned by Sir JOHN COOPER SHEARROCKE, and His Grace the Duke of RICHMOND, and by all the Branches of the Legislature. He asked for a *permanent* Supply; this was promptly refused by the Assembly; it was however understood, by some Members of the Assembly, that an annual supply not detailed by *items* as in the Bill of 1819, but by *chapters*, would be agreeable to His Lordship; the majority of the Assembly consented to a Bill of that description, with some increase on the vote of 1819; it however met with the fate of the former Bill in the Legislative Council. The majority of the Assembly even went the length of humbly praying His Lordship by Address, to advance the amount of the Bill, which His Lordship refused.

On the 3th March of this year, the Legislative Council adopted several new standing rules, one of which states "That the Legislative Council will not proceed upon any Bill of Appropriation for the Civil List, which shall contain specifications therein "by chapters or items, nor unless the same shall be granted during the life of His Majesty the King." What the Honorable Council understood by the *Civil List* in Lower-Canada, has, it is believed, never been explained; neither has the connexion between such a List and the life of the King, been ever clearly pointed out. It has been observed, however, that the first mention of a grant of the expenses of the Colonial Administration of Lower-Canada during the King's life, did not occur till the first Session after the death of His late Majesty.

1822, Supply for
King's life refused.

In 1822, Lord Dalhousie asked for the Supplies for the life of the King, which the Assembly of course refused, but as His Majesty's Name was used to enforce this demand, the Assembly addressed His Lordship, to transmit the grounds of their refusal, to be laid at the Foot of the Throne. This His Lordship promised to comply with, on the 25th January, and on the 6th February, he sent a Message to the House, informing them that he had hitherto advanced on his own responsibility, the monies necessary to complete the payment of the Civil Expenditure, but that it would not

stated that from the experience of the past, they were persuaded that the present system "might, in the end lead to serious misunderstandings, destructive of the interests of the two Provinces, which are, so intimately connected by the ties of allegiance to the same Sovereign, and their local position." The arrangement in respect to the proportion of duties to be allowed to Upper-Canada under the Trade Act, although Lower-Canada had no opportunity of being heard thereon, is incomparably better for both Provinces than the former system, which brought their inhabitants, by their representatives, at stated periods into a treaty on these duties, upon which it was so easy to occasion or excite misunderstandings. Instead of a *third* and a *fourth* which was asked by Upper-Canada, after 1st July 1821, the Act allowed only a *fifth*, which was in effect offered by Lower-Canada, till a new arrangement might be made. The present arrangement is, that Upper-Canada shall be allowed a proportion of duties levied in Lower-Canada on goods consumed in Upper-Canada, to be determined by Arbitrators, appointed under the Act of the Imperial Parliament. Any one of the parties that is dissatisfied may contend with the Government of the Empire, but they have no longer any pretext for contending with each other.

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now be in his power to make further advances or venture a greater stretch of responsibility, and requesting about Thirty-five thousand pounds for "local establishments and objects of public charge" which form no part of His Majesty's Civil Government and "are not connected with the Administration of Justice." This was the first time that the Assembly had heard of this new subdivision of "all the necessary Expenses of the Administration of the Civil Government of the Province," which it had offered to vote in 1810. Objects of Expenditure, not relating to the Province generally, but to local objects, had been usually provided for by Bills distinct from the Supply for the general purposes of the Government; a Bill of this nature was passed this Session, and upwards of one Hundred and twenty thousand Dollars had been applied in the same way, in the preceding year, independent of the General Bill of Appropriation. Besides, no Estimate accompanied this extraordinary demand, which could clearly indicate the objects to which the money required of the House was to be applied, and this demand was of course rejected, the minority consisting of only five.

His Lordship closed this Session on the 18th February, a date earlier than usual, while many important and useful measures were before the Assembly, and while His Excellency had in his possession the complaints of Upper-Canada against the Lower Province, transmitted to him to be laid before the Legislature, in consequence of an Address of the Legislature of the Upper Province, dated 8th January 1822; when that body dispatched these complaints with a Commissioner to lay them before His Majesty's Ministers. The tone of His Lordship's Speech on this occasion, however unexampled in Speeches from the Throne in England, since the accession of the present Royal Family, was of a nature, unfortunately for the harmony of the different Branches of the Legislature and the Country, too common in Canada; he stated that the Assembly "had withheld the necessary supplies," seemed to doubt the intentions of that body, complimented the Legislative Council on their maintaining "the true principles of the Constitution," and talked of employing the powers entrusted to him by His Majesty for the good of His Subjects; a latitude for the employment of the powers of the Sovereign, which is generally thought too extensive for Constitutional Monarchies; and which many observed did not entirely coincide with the declaration in His Excellency's first Speech from the Throne, (16th Decr. 1820) "It shall be my constant study to administer the Government according to the Laws."

In the beginning of the month of June following this prorogation, vague reports were first circulated in this Province of an intention on the part of His Majesty's Ministers to introduce a Bill into Parliament for the Union of the Provinces of Upper and Lower-Canada. On the 4th July, authentic intelligence to that effect was made public. Little uneasiness had, previously, existed on the subject of the Upper-Canada complaints. No one conceived that they could be proceeded upon by His Majesty's Government without the Legislature of Lower-Canada being, at least, *officially* furnished with these complaints: few were aware that to the complaint itself was appended, presumptive evidence of that having been done. A Bill alledged to be founded on these complaints was however introduced into Parliament by

Local Establishments, rejected by Assembly.

Early close of the Session.
Upper-Canada complaints withheld.

Union Bill before Parliament.

the Under Secretary of State for the Colonies, and read the first time on the 20th June. Upper-Canada by its Commissioner present in London, chiefly made its own arrangement of these differences, and the portion of the Union Bill which related thereto, became a Law on the 5th August. The Bill as it was originally introduced and as printed afterwards containing the Union Clauses only, by depriving the *French* Canadians and the Inhabitants of Lower-Canada generally, of their just proportion of Representatives in the proposed Assembly, by augmenting the qualifications of the Members, and forcing them to go many hundreds of miles to the seat of Legislation, at a time which must be either unsuitable to their business or inconvenient for travelling, and in both cases expensive, and by lengthening the duration of the Assemblies, and by the facility which would be afforded by distinct prejudices to foment division, and excite feelings of personal and local interests in that body and among its constituents, seems to have had in view something more than settling the differences between the two Provinces and preventing their future recurrence. It may have been thought, by some of the advisers of the Bill connected with the Colonies, that in an Assembly so composed and circumstanced, a majority of Members might be found, who could be induced to grant as much of the property of their constituents, as any Governor with the advice and concurrence of the Gentlemen who spend a great proportion of the public monies, might chuse to ask, and in such mode and for such time as they might think fit to dictate beforehand by a Resolution *ad hoc*, and without their being subject to any controul but their own, or a controul which must be guided, in great measure, by their representations to the Treasury in England. The Commissioner for Upper-Canada, the Attorney General of the Province, who knew the ground well, and also suspected the object of these clauses, could not help, as a servant of the Crown, informing His Majesty's Ministers, that if such were the objects they would not be attained.

1825. Grant passed.

In 1825, the Assembly protesting against the newly invented distinction in regard to the Provincial Expenditure, granted all that was asked by the Governor, for one year, and the Bill giving effect to this Grant also passed the Legislative Council, under a *salvo* of their former pretensions. The Assembly also passed this Session several Bills of Indemnity to the amount of its votes for former years, in conformity to the report of a Committee of the previous Session, to whom had been referred Lord Dalhousie's Message asking an indemnity, of the 8th January 1822. These Bills were, however, rejected by the Council; they were indeed erroneous in point of stile.

1824. Defalcation Provincial Chest.

In 1824, the Defalcation in the Receiver General's Chest, amounting to about Four hundred thousand Dollars, was officially communicated, by Message from the Governor to the Assembly; and one of the Receiver General's accounts was, for the first time since the establishment of the present Constitution, laid before the House. It appeared, on investigation, that the former Receiver General had long owed a large balance, which was stated to be about One hundred and sixty thousand Dollars when he was succeeded by his Son in 1809, and that accounts stating this large balance, frequently, rapidly increasing, although occasionally, less than the balance stated by the Colonial Administration to be

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in the Receiver General's hands at the disposal of the Legislature, had been, by the Receiver General, regularly laid before the Colonial Government, and after being reported on by the Executive Council, transmitted to the Treasury in England. The Assembly, after addressing His Majesty for the recovery of this money; proceeded on the Estimates of the Expenses for the current year, and refusing to acknowledge the distinction against which they had protested in 1823, and which was still adhered to by the Executive, voted the whole of the Estimates of the Civil Expenditure, deducting generally, from each salary 25 per cent, alleging the circumstances of the country, the Defalcation in the Chest, the non payment of the Appropriation by Law of the preceding year, and an unwillingness to have recourse to Loans for the ordinary expenses of Government.

The Bill which, in conformity to this vote, omitting however the amount of each item and mentioning only the sum total voted, was sent up to the Council, was rejected by that body, which came to several Resolutions on the subject, and addressed His Majesty, transmitting Copies thereof, dated 6th March 1824, praying that he would be "graciously pleased to recommend the state of this Province to the consideration of the Imperial Parliament, to the end that Legislative provision may be made to remedy the evils to which we have referred, and to prevent their recurrence in future, or that Your Majesty will be pleased to adopt such other measures as Your Majesty in your great wisdom, shall deem fit and effectual for this purpose."

This Address, which was, in effect, praying for the Union or any other measure on the part of the Imperial Government, which might maintain the pretensions of the Executive and Legislative Council in respect to the Public Expenditure, was warmly concurred in by Lord Dalhousie on its being presented to him for transmission.

During the whole of the difficulties since 1819, up to the 1st November 1823 inclusive, the entire expenses of the Civil Administration of the Government, were paid under the authority of the Governor's Warrants with the concurrence of the Executive Council, with very little, if any, regard to the votes of the Assembly; generally, according to the Estimates sent down, (excepting perhaps that of 1819,) and in some instances with the addition of new salaries and increased expenses; notwithstanding the Governor's express declaration in his Message of the 6th February 1822, and his Speech from the Throne at the close of that Session. New Salaries and expenses are stated to have been allowed and paid, while Appropriations expressly made by Act of the Provincial Parliament remained unpaid. Since the half year due on the 1st May last, the Gentlemen who hold Commissions under the Crown in this Province, but "form no part of His Majesty's Civil Government or of the Administration of Justice therein," as well as other necessary expenses of His Majesty's Civil Government in the Colony, have remained unpaid; while the money appropriated by Law generally, for the support of the Civil Government and the Administration of Justice, has been divided among such of the public officers, as the Governor and Council have thought fit, in payment of their entire salaries, the Governor and Council, and their connexions partaking of a large proportion of the whole amount; the Lieut. Governor's salary

Grant rejected by
Legislative Council,
and its Address to
His Majesty.

Entire Civil Expenses paid to 1st
November 1823,
and part omitted
afterwards.

exclusive, which was granted by Act of the Legislature in 1823, during his residence in the Province.

General Remark.

There remains to deduce from the foregoing statement of incontrovertible facts and the public documents therein referred to, the pretensions of the contending parties, and to apply to them the principles of Free Government as established under the British Constitution and the Act constituting the Government of this Province. In the mean time, it may not be improper to remark, that should some symptoms of irritation in the Assembly and the Country, have occasionally made their appearance, under a denial of the right exercised by the House of Commons, according to the Resolve of the 3rd July 1678, and by all the Colonial Assemblies, to "direct, limit and appoint the ends, purposes, considerations, conditions, limitations and qualifications" of all its *grants or gifts* to the Crown; and under the avowed application of the money raised on the Subject in the Colony without the consent of his Representatives; it may be doubted, if the course followed on the other side, has been marked by that moderation, candour, consistency, wisdom, and respect for the Law, which are essential to the dignity and interests of the Crown, the harmony of the Legislature and of all classes of the people.

There is a mystery concerning the pretensions of the Colonial Executive, the Legislative Council, and the House of Assembly, which it is necessary to explain, in order to give a correct idea of these pretensions.

Constitutionally and nominally there are three parties concerned; in reality, it would seem, that there are only two.

Composition of the Legislature.

Governor.

The Governors are appointed by the Crown, during pleasure; they have generally been military men, entire strangers to the Colony, and whose education and habits have not been the most favorable to Civil Government; particularly under a Constitution which allows the governed a voice in the management of their public concerns. Their stay in the Colony since the commencement of the Constitution has not averaged three years, which is less than the duration of the American Presidency, or the term of the Governor's office in many of the States of the Union. It is not possible that they should be well acquainted with the affairs of the Colony on their arrival; they nevertheless have to act immediately, and they must, generally, act on such information as they can obtain from those to whom, from the situations which they hold, they are, in a great measure, bound to look for advice. The Governor of a Colony, who is the Depository of the authority of a Monarch whose powers and prerogatives are limited or defined by Law, under whose Government the Law is in fact the supreme rule of conduct for all, cannot exercise despotic or unlimited power. He ought to act by advice and through established and responsible channels. Our Governors are said to represent the King; they do exercise some part of the Kingly power; but they are, far from possessing its reality, its durability and its independence. They are liable to actions in England at the instance of individuals, to charges before the King in Council, to Parliamentary impeachment, and are removable at the pleasure of the King, acting by his responsible advisers; and this may be effected with marks of displeasure, which, from the general justice with which these have been inflicted in England, may amount to a very severe punishment. If those to whom a Governor is to look

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for advice, and through whom he must act, should be liable to no certain responsibility; if they should happen to be bound together by any tie of individual interest; if, in addition to this, they should have a decided controul over one Branch of the Legislature, and could arrest the whole of its proceedings; if they had also the expounding of the Law in the Courts of Justice; a Governor must find himself very powerfully supported both in and out of the Colony, who would think it adviseable to take a decided part in opposition to their views. Sir ROBERT PASCOTT, Sir GEORGE PARVOR and Sir JOHN C. SHERRBOOKE, all Governors in Chief, hazarded such a step in this Colony; but, perhaps, not with that success, which can furnish any very powerful inducement to others, to follow their example. Those who are acquainted with the history of the Province, must remember, that although the public officers, nominally at least, hold their Commissions during the Governors' pleasure, as acting for the Sovereign, several of them did not hesitate, openly, to oppose the Governor, whenever the Executive Council was opposed to him.

The Members of the Executive Council for the Province are appointed by the Crown, during pleasure, of course on information from the Colony, for the purpose of advising the Governor in the execution of the duties of his office. He is not indeed obliged to consult them, unless in cases particularly required by his instructions. He may consult whomsoever amongst them he pleases, without consulting the others. In England it is held that their advice cannot relieve the Governor from his responsibilities, and of course that the Executive Councillors are not responsible *there* for the advice they give. Hitherto they have not been exposed to much responsibility in the Colony in the ordinary Administration of Justice, as members of their body preside or form a majority of the Court of King's Bench at the seat of Government, and compose the Court of Appeals, the Tribunal of last resort in the Colony. An order from His present Majesty, then acting in behalf of his Royal father, declaring the Legislative Council a Tribunal for the trial of Impeachments preferred by the Assembly, was indeed given to the Colonial Government in 1818; but it was held in the Colony to be quite insufficient; and it was finally, indirectly at least, countermanded.

Notwithstanding this absence of responsibility, the Executive Council has in effect the entire management and controul within the Colony of the Finances of the Province; it audits all accounts, allows or disallows the expenditures, makes out the estimates, and approves the payments. It is the Treasury in England with all its dependancies, the Ministers and Cabinet Council, the Privy Council, and the Court of Justice in last resort; every thing without the severe, the strict, the real responsibility which attaches to all and every one of these important Offices and Departments of Government in Great Britain, and without which there could be no steady security for freedom, for justice, for peace and good government. It would indeed seem to be beyond the power of man to perform well, such various and important duties, and beyond the ordinary strength of human virtue always to withstand the multiplied temptations to which these Gentlemen may be exposed. It is true, they have a check in the Governor, without whose Sanction their acts are not availing, and who has a real responsibility *out of the Province*. But it has been shewn that this check *may* be unavailing. With us the es-

Executive Council.

established order of the British Constitution is reversed; the person acting in the place of the Sovereign, is responsible; the advisers, without whom it is almost impossible for him to act, are not responsible.

But it is not only the duties of the more immediate servants, advisers and officers of the Crown, the Privy Council, and the Judiciary, that the Members of His Majesty's Executive Council in this Province are called upon to perform. They have also undertaken to discharge the duties of the House of Lords; that august body, the individuals of which recall to memory all the great, virtuous and patriotic deeds of a long line of noble ancestors, who themselves are still the natural aristocracy of the country, who possess a great portion of the soil of the Kingdom, and whose interests and prosperity are inseparably connected with those of the nation; thus, equally independent of the Crown and the people, they form the strongest possible barrier against the abuse of power, which is necessarily vested in the Crown and its servants, and the violence of popular feelings, and afford the best security for the permanency of the Constitution and the inviolability of property, which is the main object of every good government, and the fundamental principle of British Freedom.

The EXECUTIVE COUNCIL of Lower-Canada consists of Twelve

Members;	12
Of these are absent:	2
	<hr/> 10

Holding Nine of the principal Public Offices in the Colony, with salaries during pleasure, viz. Chief Justice, Speaker of the Legislative Council; Judges, K. B. 2, Judge Adm. Collector of Customs, Chairman Board of Audit, Clerk Legislative Council, Receiver General,	7
Holding only the Salary of Councillor,	1
Holding a Salary not paid out of monies levied on the Subject in the Colony,	2—10
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Legislative Council.

The LEGISLATIVE COUNCIL consists, according to its last Journals, of Thirty-three Members, appointed by the Crown for life, and resident in the Province,

Members absent from the Province,	3
	<hr/> 30
Incapacitated by age or infirmity, or not usually attending the Sessions,	4
Irregularly attending,	5
	<hr/> 9

Remains,	21
	<hr/>

Of these are:

Members of the Executive Council holding seven of the principal Public Offices, with Salaries during pleasure, in addition to Salary of £100 Sterling as Executive Councillor,	5
Ditto, holding no Salary but that of Executive Councillor, or Salary not paid out of the Colonial Funds,	3
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Other Public Officers holding Salaries during pleasure, usually attending,	6
Seigneurs, Merchants and others, having no Salary paid out of the money raised on the Subject in the Colony,	7
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21

The five Gentlemen who do not regularly attend the Sessions, hold no Public Office.

The COLONIAL ASSEMBLY consists of Fifty Members, elected for four years, in the Counties by the Freeholders, and in Towns by Freeholders and resident Lease-holders paying not less than £10 Sterling per annum.

Assembly.

Members holding five different Public Offices in the Colony, with Salaries during pleasure,	4
Landholders, Professional Gentlemen, Merchants and Traders,	46
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From the preceding Statements, it is conceived that it must be admitted that the pretensions in regard to the expenditure of the monies raised on the Subject in this Province, as urged by the Colonial Executive and the Legislative Council, may, generally speaking, be considered as the pretensions of the same persons. They are the pretensions of those who collect, receive, check, authorize payment and spend in part, the public monies. On the other hand, the pretensions of the Assembly are the pretensions of the Representatives of those who pay that money.

Pretensions of this sort, have, generally, been much at variance in all parts of the world. It requires great wisdom and a predominant sense of the common welfare, to prevent them, on both sides, from running into extremes. Under the British Constitution it has been effected for the longest time and perhaps with the greatest success.

If the elements of a real counterpart of the Constitutional authorities of the Mother Country do not exist in the Colonies, the fundamental principles and the practice of her Constitution, ought, at least, to be kept constantly in view, by all the Colonial authorities, as the surest means of promoting a harmonious co-operation amongst them and the public welfare, which is the object of their institution.

The advice and proceedings of the Executive Council are secret, excepting when otherwise provided by the Royal Instructions, or when divulged by authority of the Governor. The pretensions of that body, in regard to the financial differences with the Assembly, may be learnt from the proceedings and votes of the majority of the Executive Councillors, who are Members of the Legislative Council, and from the votes of the Public Officers in the Legislative Council and in the Assembly, who, on financial questions have, generally, co-incided with the Executive Councillors. The Documents, sanctioned by the Executive Council, laid before the Legislature by the Governor, are also good authority in this matter.

The pretensions of the EXECUTIVE COUNCIL, may be stated from these authorities as follows, in the order of time at which they have been made public :

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Pretensions of the
Executive Council.

1°. That an annual appropriation for all the necessary expenses of the Colonial Government is inadmissible by *Items*, in the mode offered by the Assembly on the Message and Estimates of His Grace the Duke of Richmond in 1819. (*Resolve, L. C. 21st April 1819.*)

2°. That the mode of an annual appropriation by chapters of the same expenses, as offered by the Assembly in 1821, is equally inadmissible. (*Resolve, L. C. rejecting Bill App. 1821.*)

3°. That no Bill of appropriation for the expenses of the Colonial Government which the Council terms the Civil List, is admissible, which shall contain "specifications by Chapters or Items," nor unless the same shall be granted during the life of His Majesty the King."

4°. That no Bill appropriating public money is admissible, unless it has been recommended by the Executive.

5°. That no Bill appropriating public money advanced upon Address of the Assembly, the expenses of the House excepted, unless on an emergency unforeseen at the commencement of the Session, and which did not allow of a Bill being passed at the time, is admissible.

6°. That no Bill for any Salary or Pension to be created or augmented, is admissible, unless the *quantum* is recommended by the Governor. (1.) *Resolves, L. C. 6th March 1821.*)

7°. That certain parts of the necessary expenses of the Civil Government are distinct from the expenses "of the Civil Government and the Administration of Justice" intended by the British Act 14th Geo. III. Chap. 88, and the Provincial Act of 1795, permanently appropriating money "towards the expenses of the Civil Government and the Administration of Justice," and by the Order of His Majesty, signified by Message of the 29th April 1794, that the Territorial and Casual Revenue "be applied towards defraying the Civil Expenses of the Province." (*Message 6th Feby. 1822, and Resolves, L. C. 18th March 1823, 20th March 1823, and 6 March 1824.*)

8°. That the Colonial Government may, of its own authority, determine what parts of the necessary expenses of the Civil Government and the Administration of Justice, may be so held to be distinct from the expenses intended by the said authorities, and apply the monies arising from the above mentioned sources to these expenses alone. (*ib.*)

9°. That the residue "may be temporarily provided for" by the Assembly, "by specifications of *Items*, offices and purposes, &c." (*ib.*)

The Report of the Legislative Council, (*Journal 17th March 1823*.) contains the Law arguments and authorities on the right of the Colonial Government and in support of the three last pretensions. It was adopted on the 20th of that month, and *unanimously* confirmed 6th March 1824. Present: The Honble. Chief Justice, and two Judges of King's Bench, Quebec, four other Executive Councillors, and one Judge not of the Executive Council, and three other Colonial Public Officers, being eleven out of the seventeen Members present.

(1.) The Governor had at this time recommended to the Assembly a pension without specifying the *quantum*. The Rule of the Assembly adopted in 1793, conformably to a rule of the House of Commons is to receive "no *petition* for any sum of money relating to the public service but what is recommended by the Governor."

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The objects, generally, of the opposition to an annual vote of the Assembly, in addition to the support of the Law, "the supremacy of the Parent State, and the constitutional principles and practice of the Mother Country," is stated in the Resolution of the Legislative Council of 21st April 1819, and the above mentioned Report and Resolves of 17th March 1823, and 6th March 1822, viz. to prevent "an assumption of unconstitutional and illegal powers" in the Assembly; the Officers of the Crown from being rendered dependant on an elective body, by which, eventually, their Allegiance; might be endangered; the introduction of "republican principles and practice;" and "that pernicious annual dependance upon the favoritism or prejudice of a popular body, which would gradually undermine the correct discharge of duty by the public officer, and tend to discourage men of upright and independent mind and character from accepting offices, when the tenure and remuneration would be so precarious."

Acting on the foregoing pretensions, the annual supplies offered by the Assembly for five years, have been refused.

Money raised on the Subject in the Colony, is alleged to have been applied without "the advice and consent of the Legislative Council and Assembly," which is required by the 47th Clause of the Act of the British Parliament, 31st Geo. III. Chap. 31, constituting the Government of the Province. (2.)

It is besides maintained, by the 7th Resolution of 6th March 1824, to be laid before His Majesty, that the application of the money, "was necessary for carrying on the Government," and being "of the same description as sanctioned by the Assembly, in 1818, it cannot now be fairly objected to."

And an Address of the same date, transmitted by His Excellency the Governor in Chief, to be laid at the Foot of the Throne, calls for the intervention of the Imperial Parliament, to the end "that legislative provisions may be made to remedy the evils to which we have referred." [The financial embarrassments of the Colonial Government.]

The pretensions of the Assembly are to be found in its Resolves and proceedings recorded in its Journals.

1^o. "That all aids and supplies, granted to His Majesty by the Legislature of Lower-Canada, are the sole gift of the Assembly of this Province, and all Bills for granting such aids and supplies ought to begin with the Assembly, and it is the undoubted right of the Assembly to direct, limit and appoint. In all such Bills, the ends, purposes, considerations, conditions, limitations and qualifications of such grants, which are not alterable by the Legislative Council. (Standing Rule adopted in 1793, from a Resolve of the House of Commons, nearly in the same words, of 3rd July 1678.)

2^o. That the net produce of all duties payable in this Province, be applied to and for the use thereof, "in such manner only," as shall be directed by any Law or Laws which may be made by His Majesty, his Heirs or Successors, by and with the advice and consent of the Legislative Council and Assembly of this

Pretensions of the Assembly.

(2.) Excess of the Expenditure above the votes of the House to 1822 only.

1818.	made good 1823.
1819.	£2114 13 11
1820.	6345 4 5.
1821.	3915 5 4.

The expenses also considerably exceeded the Estimates each year, excepting 1819.

Province. (Entries Journal 1821. Resolves 12th January 1822, 46th and 47th Clauses Constitutional Act 31st Geo. III. Chap. 31, set forth in the above Entry of 1821.)

5°. That in the present circumstances of the Province, (3) no

(3.) These circumstances are set forth in the Address of the Assembly to His Majesty, of the 21st January 1822, and are in substance as follows :

- 1°. Variable and uncertain revenue and resources, from the severity of the climate, the Acts and power of the British Parliament for regulating trade, and the actual diminution of the Revenue; the abuses and difficulties in obtaining new lands for the increase of settlement, the want of means of education and diversion of the funds originally granted to the Colony for that purpose.
- 2°. Variable nature of the expenditure of a new country, and insufficiency of the existing check, from the concentration of nearly all the powers of Government and the Judiciary in the same persons, and consequent want of responsibility.
- 3°. The expenditure of the Civil Government being nearly the total of the Revenue at the disposal of the Assembly, whilst in Great Britain it is only a small fraction of the Revenue.
 - °. The permanent appropriations already made, exceeding the total of the expenses of the Civil Government as they stood in 1797.
- 5°. The Revenue levied on the Subject in the other Colonies, never permanently disposed of by the Assemblies, as the annual disposal of that Revenue, gives them the only sufficient check on the expenditure, and the means of maintaining and securing the rights, liberties and property of the Subject.

The variations in the amount of the gross Revenue of Lower Canada (without deducting amount paid to Upper Canada) from 1795 to 1820 inclusive, is represented by the following figures for the different years in succession. During the seven last years, (from 1814) the variation in the Revenue Laws in force was inconsiderable.

(1795.) 10, 18, 13, 21, 25, 20, 26, 31, 31, 32, 46, 35, 35, 40, 67, 70, 74, 60, 99, 203, 149, 130, 108, 89, 117, 112. (1820.)

The frail tenure of the greatest part of the existing Revenue, so well secured by permanent Laws, may be understood from the following testimony given before a Committee of the Assembly in 1823, by a Gentleman of extensive information and much experience, who has, as he states, been upwards of twenty years engaged in trade and mercantile affairs in this Colony.

"The honest and innocent peasantry of this Country most unfortunately have a dislike to Corn Spirits; until the manufacturing and consumption of this is generally introduced, there will be a want of demand for the native Grain. This branch of business would afford employment to many hands, and the offals is the best feed for bestial. Let us look to the United States, to Great Britain or Ireland, and the other Eastern or Corn Countries in Europe, and there we see how this branch aids the operations of the cultivator of the ground, and in Upper Canada the people may now be said to deny themselves the use of Foreign Spirits, not by legal enactment, but by their patriotism and good sense, in finding a Home Market for their Grain by distillation and brewing. If Five thousand Puncheons of good Whiskey were annually made in Lower Canada, the Country would be independent of foreign demand for Grain, which is at the best precarious, and this quantity is not half of our yearly supply of Rum now-a-days. The manufacture of Barley into Beer and Spirits, of late years, I estimate from forty to fifty thousand minots, and did not, at any period, reach one hundred thousand minots."

The same Gentleman, in a previous examination in 1822, states, that "to his knowledge the Consumption of Upper Canada has changed from Rum to Whiskey within the last four or five years, almost entirely." That at their price of Grain, it might be manufactured in that Province and on the American side of the Lakes and St. Lawrence, at from 1s. to 1s. 3d. per Gallon, and brought to Quebec for an additional 3d. per gallon.

Should imported Spirits not be able to maintain the usual competition in price with home made Spirits, and the honest peasantry of Lower Canada, in consequence of the low price of their surplus produce, not have the means of paying for indulging in their preference of Rum, the greatest part of the Revenue would disappear, and it would probably be very difficult to find a substitute.

Manufactories of all kinds are rapidly springing up in the Country on the

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" additional permanent appropriation" for the necessary expenses of the Civil Government of the Province, ought to be made; but the supplies be granted by an annual vote of the House. (Vote 1818, Appropriation Act and Bill 1819, 1st Address to Lord Dalhousie 1821, Resolves 14th January, Address to the King 21st January 1822, and Votes and Resolves March 1823, and 24th February 1824.)

4°. That the House ought to resist the pretensions announced in the Messages of the Governor in Chief of 6th February 1822, relating to the distinction of local expenditures. (24th February 1824.)

5°. That the application of any sum of money raised on the Subject in this Province, otherwise than as authorized and directed by Law, is a misapplication of the public money, for which the House will hold all concerned responsible. (Resolves 12th January 1822, 7th March 1823, and 24th February 1824.)

On the 18th March 1821, the House resolved:

" That the honourable Legislative Council cannot constitutionally, prescribe, or dictate to this House, the manner or form of proceeding on Bills of Aid or Supply, nor upon any matter or thing whatsoever, and that every attempt of the Legislative Council for that purpose is a breach of the rights and privileges of this House."

" That all Resolutions, by which one branch of the Legislature lay down for themselves before hand, and in general manner, a rule not to proceed on Bills of a certain form or description, which may be offered to them by another Branch, is contrary to Parliamentary Law and usages, to the constitutional Act, and to the liberties, rights and privileges of the other Branches of the Legislature, and even of that Branch which adopts such Resolutions."

Various other Resolves, in opposition to others of the standing Rules adopted by the Legislative Council on the 6th March 1821, were passed at the same time.

The substance of the pretensions of the Colonial Executive as recorded in the Documents and Acts above referred to and in the proceedings of the Legislative Council, seems to be:

That the Assembly is to furnish the supplies in such mode and for such time as the Executive may think fit.

That, if the Assembly do not so furnish them, the Governor and Council may authorize the payment of such Public Expenditure as they think proper, out of monies raised on the Subject in this Province for the public uses, without the consent of the

Summary of pretensions.

American side of the Lakes, and even in Upper Canada; their situation from the richness of the soil affording cheap subsistence, and the facility of internal communication, will indeed probably make them the first extensive manufacturing Districts in North America. The Revenue raised on Importations at Quebec, will also be in danger from these Manufactories. The whole amount of the Duties raised on merchandize at the Port of Quebec, in fact operates as a bounty in favor of Domestic and American Manufactories. These Duties are, however, generally, much less than in the American Seaports, where they are laid on, in many instances, more with an intention of encouraging Domestic Manufactures, than for raising a Revenue; a policy which does not seem suitable to be adopted for Canada, as a dependency on Great Britain. Situated as this Country is, it would be an easy matter to put an end to our Revenue, by greatly increasing the amount of Duties; in fact to kill the goose that lays the golden eggs.

General observations.

Assembly, and even without confining itself within the Votes of that Body for the amount of the Expenditure.

A more complete denial of controul in the Assembly over the Expenditure could hardly be devised. It is not confined to words; it is embodied in acts.

If there were any Law to this effect, the advisers of this course, would have been at their ease; but they seem to avow that there is no Law which authorises them, at least, to the extent of their wisher, by addressing the Imperial Government for "Legislative provision" to relieve them from their difficulties.

They, in fact, appeal to the Imperial Government to establish that the Representatives of the people of a Colony, which is called upon by the Sovereign, and is bound to provide for "all the necessary Expenditure of its Civil Government," a Colony which has, in fact, for thirty years past, furnished the money to pay that Expenditure, and *must* continue to do so, shall have no controul over the amount of the expenditure, but that it shall be regulated by persons who receive a great part of the money as a compensation for their services, or by others who are not the Representatives of the Inhabitants of the Colony, over whom they can have no check, and who cannot possibly be acquainted with their circumstances, their public wants, and the means they have of providing for them!

It can hardly be necessary to set forth the principles of the British Constitution on such an occasion. The Common understanding of mankind will pronounce against this pretension and this proceeding. They are in deed in direct opposition to the fundamental principle of the British Constitution and of every free Government, of which no British Subject, no Freeman, can be presumed to be ignorant, viz: that he has "an absolute property in his Goods and Estates."

If this pretension, in the view taken of it, were unfortunately to prevail, it would in principle at least, establish a worse system of Government in this country, than prevails in any other country of the civilized world. In the countries where arbitrary Governments prevail, the Rulers have a life interest, a family interest, in the welfare and affections of the people over whose property they have an unchecked controul. It is only a vicious, weak or imbecile Despot, who can be disposed to draw from his people, or spend more of their property, than is absolutely necessary for the public uses. He is permanently in the midst of them; their misfortunes are his misfortune; as has been so strongly exemplified in the history of Europe. Here, those who might exercise this power over the property of the King's Subjects, would not even have a life interest with them, they might draw largely from that property, and be gone; or they might proceed till arrested by the general misery and public indignation which their conduct would inevitably produce.

It is scarcely possible that the mischiefs which, under the ordinary working of human passions and human selfishness, would almost inevitably flow from the principle of those pretensions, have been seriously contemplated by any of those who have supported them.

On the contrary the proceedings themselves indicate, that they have been put forth under alarm; under an unwarrantable want of confidence in the Assembly and the people of the Province, to which they venture to deny a right inseparable from the power

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of taxation, and which is enjoyed by every other Colony inhabited by natural born British Subjects furnishing the whole or part of the expenses of its own Civil Government.

The House of Commons grants an annual sum for the Civil List Expenditure, or in the words of the Law "for the support of the honour and dignity of the Crown," during the King's Reign, in virtue of its undoubted right of granting the property of its constituents, to such amount, for such purposes, and for such period, as it deems expedient. That House is the judge of the expediency; and, at least since the expulsion of the Stuarts, no one has ever attempted to question the right of that body, or to dictate to it on this subject. In the Colonies, the Assemblies have uniformly judged of the expediency, differently from the House of Commons; probably, because the circumstances, which must guide the judgment in the exercise of every right, were different. If the Royal person could in reality exist among us in the full exercise of all his most beneficent powers and prerogatives, during his Reign; if our Judges held their Commissions, as in England, during good behaviour; if a proper responsibility and accountability were established in the Colony, perhaps the circumstances which have, most probably, pointed out to the House of Commons the expediency of making an annual Grant during the King's life, or the tenure of office, might have equal weight in this Colony.

That the Inhabitants of the Province and their Representatives have, at all times, been, liberally, disposed to provide for the support of their Government to the extent of their means, experience does not warrant the entertaining of a doubt; however, jealous they may have lately shewn themselves of their right to grant. It is the poor man's *peculium*; it is all they have to give.

It is certainly much to be regretted that in a contestation of this nature, we should have heard so much from an authority so high as that of His Majesty's Executive Councillors for the affairs of the Province, about the necessity of supporting "the supremacy of the parent state," about "republican principles and practice." Persons, at a distance, might be led to think that the people of Lower-Canada, as was said in 1810, were ripe for rebellion; or that they had all at once fallen in love with republicanism. If any seriously entertain such opinions now, they are assuredly as much in error, as those who entertained similar opinions in 1775, and in 1810.

On the other hand, it would be a great error to suppose that the Inhabitants of Lower-Canada, whether they may trace their descent from the Gael, the Saxon, or the Norman of former times, or whether, at later periods, their forefathers or themselves have come from the Islands or Continent of Europe, are not fully aware of their rights as British Subjects, and as determined to maintain these rights, as they have proved themselves faithful and determined in the discharge of their duties.

NOTE.

MARTIN has read a Communication subscribed DENIS, which was published in the Quebec Mercury of the 20th Dec. last, and translated and re-published in French in the Gazette published in this City, by authority, of the 30th December.

DENIS' publication is chiefly in support of the pretension of the Colonial Executive to dispose of the monies levied in this Province under the Act of the British Parliament of 1774, in the payment of such expenses of the Civil Government of the Province, as it thinks proper to allow and pay exclusively out of these monies.

MARTIN did not enter into any discussion on the subject of that Act; he merely stated the facts as they appeared to him from the inspection of Documents. The Revenue levied in this country under Legislative Acts of the French King does appear to him to have ceased at the Conquest: it was varied and revived by an Order of His Majesty in Council of the 22nd November 1765, and ordered to be collected by Proclamation at Quebec, of the 5th July 1766. This Order was publicly objected to at the time, in this Colony and in other Colonies to which the Royal Proclamation of the 7th October 1763 extended. It is well known that this Proclamation has been formally decided, in the Courts of Law in England, to have barred the King's right as a conqueror, in so far as the common rights of His Subjects in these Colonies are concerned. It is probable that DENIS, who appears to be a Lawyer, could put his hand on the case as argued and determined. The Revenue Act of 1774, is pretty good proof that it was so understood in Parliament, and Lord DORCHESTER's Message of 1794, conveying a conditional offer of the repeal of this Act, shews that the British Government, at that time at least, had doubts of its constitutionality. If the King's right, as a conqueror, was good, why have recourse to an Act of Parliament? Why could not His Majesty dispose of that Revenue as he thought fit, as he has in fact disposed of the Territorial Revenue, which DENIS very singularly confounds with a Revenue raised on the Subject generally? Why in fact take away from the King a Revenue which was his at common Law, and apply the proceeds as public money for the use of the Colony, under Officers responsible to Parliament? The House of Assembly in 1819, acted more prudently in regard to the Revenues arising from this Statute, than those who are opposed to that Body; it left this Act a moot point. In the Bill providing for all the necessary expenses of the Civil Government for that year, as required by the Governor's Estimate and the King's Instructions, it merely stated that these expenses were to be paid "out of the public monies that now are" or that shall hereafter come into the hands of the Receiver General;" and that the appropriations already made by Acts of the Colonial Legislature, "shall be taken in deduction" of the sums appropriated in the Bill. It is obvious that if the proceeds of the British Revenue Act of 1774, were appropriated beyond the operation of the Declaratory Act of 1778, and the Constitu-

tional Act of 1791, to the expenses of the Colonial Government, any provision of the Bill of 1819, which *might be supposed* to affect that appropriation was a mere *surplusage*. No Act of a Colonial Legislature, (or even of the King's Ministers) can alter, repeal or suspend an Act of Parliament expressly made for a Colony. If the pretensions of the Colonial Executive had been well founded, there was no ground for alarm. By the above mentioned Bill, the expenses of the Government, as they stood in 1817, generally, were allowed by the Assembly, for the first time, after examination. The right of the Executive, if it had such a right, would still have remained good. The Act of Parliament would have supported itself against every thing; and it would have been quite time enough to appeal to it, when it could have been shewn that the Assembly had made the odious and pernicious use of its right, which the Council in its Report of the 17th March 1824, so unwarrantably seems to apprehend, in contradiction to the *confidence* reposed in the People of the Province and their Representatives by the King's Instructions of 1817, requiring an *annual* vote of the Colonial Expenditure, and indeed in contradiction to that confidence reposed in the Colony by the Supreme Authority of the Empire, when the present Constitution was granted.

MARTIN does not think it necessary to enter into a full discussion on the subject of the Revenue Act of 1774, at present; but should it ever be necessary for him to do so, he thinks he will be able to shew the right of His Majesty's Subjects in this Colony, by means of *their* Representatives, to provide by Bill for the application of *every farthing raised in the shape of Revenue within this Colony*, the amount of appropriations already made by Act of the Colonial Legislature, and the proportion awarded, or which may be awarded, to Upper-Canada, *only* excepted; and that the application of no part of that money is legal without their consent.

MARTIN is glad to have had the testimony of so respectable a writer as DENIS, to the facts alledged by him in his statement of the proceedings on our Financial Difficulties down to the close of the Session of 1824, "with a single exception," which *Martin* cannot help thinking had better not have been made. He is very willing that DENIS and the Public should draw such inferences from these facts and ascribe such motives to MARTIN as they think proper.—8th January 1824.

