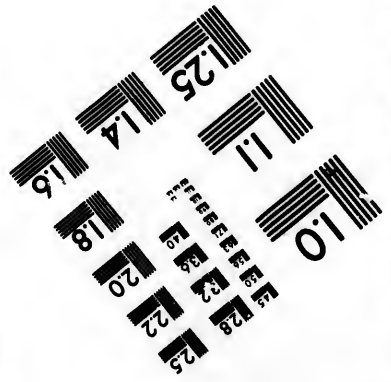
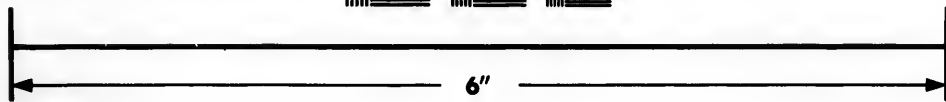
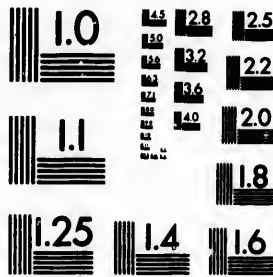


**IMAGE EVALUATION
TEST TARGET (MT-3)**



**Photographic
Sciences
Corporation**

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

10
12
14
16
18
20
22
25
28
32

**CIHM/ICMH
Microfiche
Series.**

**CIHM/ICMH
Collection de
microfiches.**



Canadian Institute for Historical Microreproductions / Institut canadien de microreproductions historiques

11
10
12
14
16
18
20
22
25
28
32

© 1984

Technical and Bibliographic Notes/Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming, are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- | | |
|--|--|
| <input type="checkbox"/> Coloured covers/
Couverture de couleur | <input type="checkbox"/> Coloured pages/
Pages de couleur |
| <input type="checkbox"/> Covers damaged/
Couverture endommagée | <input checked="" type="checkbox"/> Pages damaged/
Pages endommagées |
| <input type="checkbox"/> Covers restored and/or laminated/
Couverture restaurée et/ou pelliculée | <input type="checkbox"/> Pages restored and/or laminated/
Pages restaurées et/ou pelliculées |
| <input type="checkbox"/> Cover title missing/
Le titre de couverture manque | <input checked="" type="checkbox"/> Pages discoloured, stained or foxed/
Pages décolorées, tachetées ou piquées |
| <input type="checkbox"/> Coloured maps/
Cartes géographiques en couleur | <input type="checkbox"/> Pages detached/
Pages détachées |
| <input type="checkbox"/> Coloured ink (i.e. other than blue or black)/
Encre de couleur (i.e. autre que bleue ou noire) | <input checked="" type="checkbox"/> Showthrough/
Transparence |
| <input type="checkbox"/> Coloured plates and/or illustrations/
Planches et/ou illustrations en couleur | <input checked="" type="checkbox"/> Quality of print varies/
Qualité inégale de l'impression |
| <input type="checkbox"/> Bound with other material/
Relié avec d'autres documents | <input type="checkbox"/> Includes supplementary material/
Comprend du matériel supplémentaire |
| <input checked="" type="checkbox"/> Tight binding may cause shadows or distortion
along interior margin/
La reliure serrée peut causer de l'ombre ou de la
distortion le long de la marge intérieure | <input type="checkbox"/> Only edition available/
Seule édition disponible |
| <input type="checkbox"/> Blank leaves added during restoration may
appear within the text. Whenever possible, these
have been omitted from filming/
Il se peut que certaines pages blanches ajoutées
lors d'une restauration apparaissent dans le texte,
mais, lorsque cela était possible, ces pages n'ont
pas été filmées. | <input type="checkbox"/> Pages wholly or partially obscured by errata
slips, tissues, etc., have been refilmed to
ensure the best possible image/
Les pages totalement ou partiellement
obscurcies par un feuillet d'errata, une pelure,
etc., ont été filmées à nouveau de façon à
obtenir la meilleure image possible. |
| <input type="checkbox"/> Additional comments:/
Commentaires supplémentaires: | |

This item is filmed at the reduction ratio checked below/
Ce document est filmé au taux de réduction indiqué ci-dessous.

10X	12X	14X	16X	18X	20X	22X	24X	26X	28X	30X	32X
									✓		

The copy filmed here has been reproduced thanks to the generosity of:

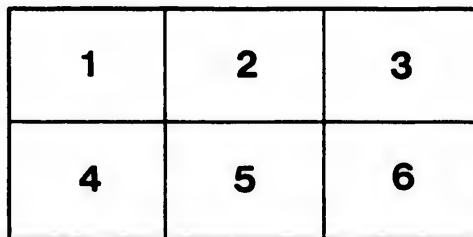
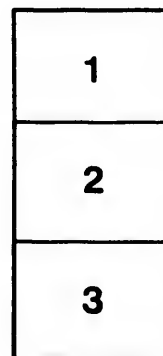
Seminary of Quebec
Library

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

Original copies in printed paper covers are filmed beginning with the front cover and ending on the last page with a printed or illustrated impression, or the back cover when appropriate. All other original copies are filmed beginning on the first page with a printed or illustrated impression, and ending on the last page with a printed or illustrated impression.

The last recorded frame on each microfiche shall contain the symbol \rightarrow (meaning "CONTINUED"), or the symbol ∇ (meaning "END"), whichever applies.

Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



L'exemplaire filmé fut reproduit grâce à la générosité de:

Séminaire de Québec
Bibliothèque

Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Les exemplaires originaux dont la couverture en papier est imprimée sont filmés en commençant par le premier plat et en terminant soit par la dernière page qui comporte une empreinte d'impression ou d'illustration, soit par le second plat, selon le cas. Tous les autres exemplaires originaux sont filmés en commençant par la première page qui comporte une empreinte d'impression ou d'illustration et en terminant par la dernière page qui comporte une telle empreinte.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole \rightarrow signifie "A SUIVRE", le symbole ∇ signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit en un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.

é
s du
modifier
r une
Image

s

rrata
to

pelure,
n à

32X

DOCUMENTS and COMMUNICATIONS addressed to the Honorable LOUIS JOSEPH PAPINEAU, Speaker of the House of Assembly, by the Honorable DENIS B. VIGER and AUGUSTIN NORBERT MORIN, Esquires, named to proceed to England, and support the Petitions of this House to His Majesty and both Houses of the Imperial Parliament.

- No. 1. Letter from the Honorable D. B. Viger to the Right Honorable E. G. Stanley, dated 14th November 1833, with an Enclosure entitled "Considerations &c."
[The said Letter and Enclosure were addressed to the Speaker of the House of Assembly, at the same time with those inserted in the Journal of last Session, but having been mis-sent they were not received until long after the Session.]
- No. 2. Letter from the same to the same, dated 15th March 1834.
No. 3. Letter from the same to the same, dated 5th April 1834.
No. 4. Letter from the same to the same, dated 19th April 1834.
No. 5. Petition of the Honorable D. B. Viger and A. N. Morin, Esquire, to the King, dated 15th May 1834.
No. 6. Letter from R. W. Hay, Esquire, to Messrs. Viger and Morin, dated 30th May 1834.
No. 7. Letter from Messrs. Viger and Morin to the Right Honorable E. G. Stanley, dated 2d June 1834.
No. 8. Letter from the same to R. W. Hay, Esquire, dated 2d June 1834.
No. 9. Letter from the Honble. D. B. Viger to the Right Honorable T. Spring Rice, dated 21st June 1834.
No. 10. Letter from the Right Honorable T. Spring Rice to the Honorable D. B. Viger, dated 25th June 1834.
No. 11. Letter from the Honorable D. B. Viger to the Right Honorable T. Spring Rice, dated 27th June 1834.
No. 12. Letter from the same to the same, dated 6th August 1834.
No. 13. Letter from the same to the same, date 15th August 1834.
No. 14. Letter from the same to the same, dated 23rd August 1834.
No. 15. Letter from the same to the same, dated 27th August 1834.
No. 16. Letter from R. W. Hay, Esquire, to the Honorable D. B. Viger, dated 1st September 1834.
No. 17. Letter from the Honorable D. B. Viger to R. W. Hay, Esquire, dated 5th September 1834.
No. 18. Letter from the same to the Right Honorable T. Spring Rice, dated 16th September 1834.
No. 19. Letter from the Honorable D. B. Viger to the Honorable L. J. Papineau, dated 4th March 1835.
No. 20. Letter from A. N. Morin, Esquire, to the Honorable L. J. Papineau, dated 4th March 1835.
No. 21. Letter from Messrs. Viger and Morin to the Honorable L. J. Papineau, dated 4th March 1835, with three Enclosures marked Appendix Nos. 1, 2, 3.

No. 1.

Letter from the Honorable D. B. Viger to the Right Honorable E. G. Stanley, dated 14th November 1833, with an Enclosure entitled "Considerations &c."

Sir,

I should willingly have sent you at an earlier period the portion of my labours which accompanies this Letter, but the subject under consideration is complicated, and there was some difficulty in making a selection out of a very great abundance of matter. The considerations even now extend to some length; yet, with regard to what has occurred within the Province, I have scarcely even alluded to any but recent facts, although there were a crowd of others of older date which would have furnished matter for important inferences.

There are, indeed, facts enough cited to prove the correctness of the remark I have more than once made with regard to the danger of coming to a conclusion here concerning the state of things in the Colony, on information which can seldom place them in such a point of view as to enable a person to form a correct judgment on the subject. This is not the place to enquire into or to discuss the reason of this; it is sufficient that it should be impossible to deny the reality of this danger.

Passing by this consideration as far as regards recent events, allow me to recall a striking trait in the History of the Province, at a period which is now beginning to be considered as more or less remote from our times.

It is well known in what colours the Province and the public men in it were described, more especially during the three years immediately preceding the last war with the United States. It was nevertheless by the assistance of men who had been thrown into prison under a pretended charge of treasonable practices, and of a people to whom treasonable sentiments were imputed, that the successor of Sir James Craig was able to preserve to the Mother Country, a Province, the Inhabitants of which it was openly asserted, would infallibly turn against His Majesty's Government the arms which might be imprudently trusted in their hands for its defence. One circumstance, among others, is worthy of remark.

A long time previously, the Legislature had been induced to pass an Act for the suspension of the *Habeas Corpus* Act;—and this suspension Act had been renewed each Session, as being necessary for the safety of the Government. The abuses to which this Act had then recently given occasion, was the reason of its being allowed to expire at the very moment when the war was about to break out. Yet the Country was never more profoundly quiet than while the war continued. The clamours

mours of which we have just spoken, were nevertheless recommenced, even before the war was at an end; and thus have since been reiterated many times at short intervals, and have sometimes been continued incessantly for several years.

Of what crimes were the Canadians guilty?—What did they then ask?—What have they since prayed for?—A Government which should afford protection to all and to each individual; equal laws and an impartial administration of them; responsibility in public functionaries. . . . I think it right to leave you to make your own reflection on this subject.

I think myself justified also in pointing out another fact well worthy of attention under the present circumstances. I allude to the manner in which an account of the disturbances in the neighbourhood of Montreal between the soldier and the people of the Country, has been recently drawn. I should not make this a subject of remark, if the similarity which prevails in the account inserted in several Newspapers, and the choice made of those in which it is published, did not appear to have been intentionally calculated to obtain credence for it.

Yet, even from what is stated in the papers in question, it is impossible not to infer that the active and vigilant interference of the Magistrates would have arrested the progress and prevented the effect of these acts of violence. Not to speak of any other circumstance, I must call your attention to the fact that they were continued during several successive days; that it would doubtless have been the easiest thing possible to put a stop to these disturbances and to prevent their recurrence; that on every side complaints were heard against the more than apathy of the Magistrates, who nevertheless allowed eight days to pass before they interfered; and that the manner in which they at last proceeded had not the effect of inspiring the public with confidence. There is not the slightest necessity for now entering into any discussion concerning this conduct:—it is with the facts only that we have to deal.

Before closing, I ought to state, that in the communications which accompany this letter, I have in all that relates to the accusations brought against one of the Judges of the Court at Quebec, endeavored to confine myself to considerations of a public nature, without entering into any discussion of the charges against him. Besides which, if I had passed these bounds, no evil could result from it, since what I had written could be immediately communicated to him.

Be pleased to accept the assurance of the profound respect with which I have the honor to be,

Your very humble and obedient Servant,
(Signed,) D. B. VIGER.

London Coffee House,
Ludgate Hill, 14th Nov. 1833.

The Right Honorable E. G. STANLEY,
His Majesty's Principal Secretary
of State for the Colonies,
&c. &c. &c.

CONSIDERATIONS, &c.

The absence of all responsibility on the part of the public functionaries, who consequently enjoy that inviolability which the Constitution attaches only to the person of the Sovereign, is one of the subjects of the most constant and evidently well founded complaints of the Province.—Armed with every species of power, and domineering over the Executive Government in the Province,—they are enabled to place themselves above the control of that of the mother country.

I have already remarked that the fecundity of this source of abuse in the exercise of authority, was still further increased in the Province by peculiar circumstances.—It is the vice of a system, and the consequences are inevitable. The representations made by those in authority must necessarily be calculated to support views and interests which are as necessarily opposed to those of the mass of the people.—The result, with regard to the subject in question, has been, that instructions have been sent, but which were not always in harmony with the state of things in the Province;—that measures have been adopted, which were sometimes contradictory, and on certain occasions even something more than arbitrary.

It would be useless now to stop to consider the efforts made by the Administration during the last twenty years, to paralyze those made by the Assembly for the purpose of bringing accusations, and obtaining in the first place the suspension of public functionaries against whom charges had been made and proved by evidence, and afterwards their removal from Office. It will be sufficient for me to remark here, that after the opposition had been carried so far as even to deny that the Assembly had any right to bring accusations, all the complaints against public functionaries, prior to the year 1831, had completely failed. Pretexes had been formed under which they had all been successively rendered abortive without any examination of the merits of the questions which they offered for discussion.

At last however, in 1831, charges were brought forward by the House of Assembly against the Attorney General, who after he had been in the first instance suspended on an Address of the Assembly, was subsequently removed from Office, after the charges made against him had been examined on this side of the Ocean.—On other charges brought in 1832, against a Judge of the Court of King's Bench at Quebec, who was at the same time Judge of the Court of Vice Admiralty, no decision has yet been given.

Before I bring under notice the circumstances connected with the two accusations just mentioned, which form the subject of these considerations, I ought to state that the difficulties under which the Province had theretofore laboured in that respect, had been the motive which led the people to desire that there should be established in the Province, a tribunal which should take cognizance of the malversations of Public Officers, and have power to try impeachments against them. At the same time that the people prayed for the Reform of the Legislative Council, they prayed that this power might be given to it:—Bills investing it with this power had been passed by the Assembly, but they had been constantly thrown out by the Council.

His Majesty's Government has shown a disposition to favor a plan of this kind; but only with reference to impeachments against Judges. In this state of things, and while the accusations against the Attorney General were under discussion in England, the Governor was blamed for having suspended that Officer from the exercise of his functions. And he has since refused to suspend the Judge who became the object of charges on which no decision has yet been given, and which have just been mentioned.

On the one hand this censure passed on the conduct of the Governor, and on the other his refusal to accede to the prayer of the Assembly, are not only proceedings in themselves worthy of the most serious attention, but events which have recently occurred in the Province, and the peculiar circumstances under which it is placed, add much to their importance.—These proceedings became also the object of laborious examination on the part of the Assembly, after the Dispatch relative to the Judge whose suspension from Office had been asked for, was communicated

communicated to it.—The Committee to whom the enquiry was entrusted, laid before the House on the third of January of the same year, a Report on both these subjects, which does equal honor to those who drew it up and to the body whose approval it received, by the correctness both of the principles and of the facts brought forward in support of the proceedings of the Assembly.

The researches made by the Committee make it unnecessary for me to enter into any considerations of detail on the subject; I shall confine myself to some remarks calculated to throw light on those which are to be found in the Report, to which I may with propriety refer on all other points.

With regard to the general question of the suspension of a Public Officer, when the charges made against him are ascertained by evidence received by the House of Commons, who ask such suspension at the same time that they ask his final removal from Office after due examination into the charges brought against him, it would, I think, be difficult not to see that except in those absolutely extreme cases which can with difficulty be supposed possible, the House possesses an inherent right to demand his suspension as the consequence of undoubted principles, and of the clearest possible rules of analogy, —a right sanctioned by constant usage in England, and even by the practice already established in the Province. —The Report of the Committee leaves nothing to be desired on this head.

In the first place if we consider the principles and practice which obtain in England, it will be impossible not to agree that this suspension of a public functionary under accusation, or his being deprived of the power of exercising his functions while under trial, is the inevitable consequence of an accusation brought against him by the House which represents the People, whenever, as I before remarked, the facts on which the accusation is founded are ascertained.—Parliamentary History proves this, and the Committee of the Assembly have cited a case which is alone sufficient to dispel all doubt.—They might in like manner have insisted on the proceedings on the Impeachment of Sir Warren Hastings, and more recently on that against Lord Melville.—And I may add, (as is remarked in the Report,) that the accused was formerly much more hardly dealt with. (1.)

But I ought to remark, that the proceedings of the Assembly, as well against the Attorney General who was removed, and with regard to the accusation against the Quebec Judge, which is still pending, as against Mr. Justice Foucher, in the year 1817, are in accordance with the rules of constitutional law, and with the usage of Parliament. The conduct of the House of Assembly of Lower Canada on these occasions was, as of right it ought to be, an exact imitation of that of the Commons of England.

If it had been possible to make any serious objections to the charges brought by the Assembly, founded on the irregularity of its proceedings, or its want of jurisdiction, no one could have urged them with greater effect than the Attorney General of the Province. In his answers to the charges brought against him by the Assembly, he did not fail to have recourse to every objection of this kind which he could urge against the House. Neither talent nor zeal were wanting in support of the cause he defended. It is nevertheless sufficient to glance at that part of the discussion which relates to this subject, to be convinced that the proceedings of the Assembly cannot be impugned.

It may be seen also in the remarks which form the reply to the said answers to the charges brought by the

(1.) This subject had already been discussed in the Remarks in reply to the answer of the Attorney General to the charges brought against him by the Assembly.

House of Assembly, what the circumstances were, which in 1814, induced the Executive to refuse to accede to the demand then made for the suspension of the Chief Justices then under accusation. The same pretext could not avail in behalf of Mr. Justice Foucher, any more than with reference to the Judge now under accusation, or than they could have done with reference to the Attorney General.

If the argument were confined to the consideration of the rules of analogy, it might be asked whether it can easily be conceived that an accusation brought by that branch of the Government which represents the people of the Country, ought to be of less weight against a public functionary, than the finding of a Jury against an individual; than an inquiry made before a Judge, or a Justice of the Peace, the consequence of any of which to the accused is the immediate loss of his liberty, without his being even able, in capital cases, to claim as a right the privilege of escaping imprisonment, by furnishing bail for his appearance at the time appointed for his trial, and his presence during its continuance.

Some hardship may be found in the inconveniences to which a public functionary is exposed in consequence of his being accused by the House, but no more injustice can be found in them than in those to which individuals are exposed by an enquiry which ascertains the commission of a crime which becomes a subject of investigation in the ordinary course of the law. These inconveniences flow from principles of justice of a superior order. The interest of the individual is made to give way in this instance as in others, to the necessity of providing for the safety of society in general.

On the other hand, have not the country which suffers from the abuse of authority, and those who are the immediate object of such abuses, some claim to protection?

If a mere suspicion existed of the partiality, injustice or corruption with which the acts of the functionary must necessarily be tainted, when the offence is ascertained by an investigation, such suspicion would of itself and alone be an imperious reason for depriving the accused of the right of exercising his functions, until he had satisfactorily accounted for his conduct or proved his innocence.

What would be thought in England, if a public officer was seen to continue to exercise his functions after an enquiry of so solemn a nature, and after he had been impeached by the House of Commons? I refrain from now insisting on the circumstances which render the continued exercise of their functions by the accused, while they are under trial, much more dangerous in Canada, for this reason, among others, that all power is there concentrated in the same hands, or at least in those of men whose views and interests are the same.

I have, besides, already shown in another of my communications, how far the situation of those whose conduct becomes a subject of investigation before the House, is preferable to that of an individual subjected to the enquiries which take place in the ordinary course of the law. Almost all the proceedings against the latter take place out of his presence, he cannot have access to the depositions, in consequence of which he is put on his trial. Before the House, on the contrary, the proceedings are open, the accused can have access to the evidence and to the depositions brought forward against him. In fact, if his conduct is at all susceptible of being defended, he may find and always does find defenders in an assembly composed of men taken from all classes, from all ranks, and from all professions. In the present state of society, in Lower Canada more particularly, it is almost out of the possible course of events, that all should, with one accord, combine to ruin him, and to immolate him to gratify the hatred of his persecutors.

Coming

Coming now to the especial consideration of the motives of the refusal to suspend the Judge under accusation, I must first remark that the terms of the Dispatch would induce a supposition *that it had not been in the power of the accused to have complete access to the evidence given against him. That the means of defending himself had been refused him. That the proceedings of the Assembly had been adopted without observing the ordinary forms of law.* It is absolutely impossible that the Minister could of his own act have persuaded himself that the Commons of the Province had deserved these reproaches; there must of necessity have been something worse than incorrectness in the information laid before the Government, before this language could be held.

I have already said, that the proceedings of the Assembly were conformable to the rules and practice of the Commons in England. I must add that the investigation in question lasted several years, and was continued during each Session from 1828 to 1832. During this time a portion of the Evidence had been printed. The proceedings were so well known, that they formed the subject of a Petition made by the accused. He contented himself, it is true, with praying the Assembly to come speedily to a conclusion, and did not think it necessary to make any further prayer. It assuredly was not the business of the Assembly to require him to pray for for any thing further—as for instance, that he might be heard; it was his business to do so. I must refer to the remarks contained in the Report of the Committee of the Assembly. The objections which it might be endeavoured to raise on this subject, have, moreover, been already the subject of laborious discussion in the remarks in reply to the answers of the Attorney General. I think I may say that they have been proved to be evidently applicable to the conduct of the Assembly.

It is also doubtless, to the manner in which the facts have been represented so as to excite a presumption of injustice on the proceedings of the Assembly, that we ought to attribute the manner in which the Minister looked on them when he styled them a *condemnation*. The enquiry instituted by the House, the evidence received, and in consequence of which it demanded the suspension of the Judge, at the same time that it accused him, can no more be justly styled a *condemnation*, than the proceedings of a Grand Jury, of a Judge, or of a Justice of the Peace, followed in the ordinary course of the law, with regard to the individual who is the object of them by the trial and hardships of which we have already spoken.

And it appears, moreover, that in the case in question, the proceedings were all modelled on the actual practice in England, which those of a Judge in the Province would not be, as is remarked in the Report of the Committee of the Assembly.

In looking at the question in this twofold point of view, it must in the first place be kept in mind, that the House of Lords is not only a branch of the Legislative body, but is at the same time the highest Court of Justice in the Kingdom. Independently of its other functions as such Court, it has the exclusive cognizance of Impeachments brought by the Commons against Public Functionaries.

With regard to the Commons, they cannot bring such Impeachments without a previous investigation, without having before them evidence of the truth of the charges against the accused, who is in consequence thereof subjected to the trial and inconveniences in question. It is after these proceedings have been had, that the Impeachment is brought—that the Lords hear the parties, and pronounce judgment finally against the accused, if they find him guilty, and that in addition to the loss of his office, they may inflict on him pecuniary or corporal penalties. It is unnecessary to make any remark on the

analogy between this mode of procedure and that followed in other Courts. With regard to the Judges in particular, they were formerly removeable in England. It would be useless to add that they might like other functionaries be impeached by the Commons; that they were liable to the same consequences. It was by virtue of Acts of Parliament passed during the last century, that they ceased to be removeable, because they hold their Commissions during good behaviour. But it was thought necessary at the same time to provide means for avoiding the circuitous proceedings abovementioned, and instead of an Impeachment first brought by the Commons, and the subsequent suspension from office and trial of the accused, and his final condemnation and removal, it was enacted, that the Judge under accusation should be removed on a joint Address of the two Houses.

From this statement it is evident that the right of impeaching on the one hand, and of trying on the other, divided formerly between the two Houses, are now the common right of both, as far as regards the Judges and their removal from office. When they pray that such removal may take place, they pass thereby a sentence of condemnation. Hence arises the necessity of a different mode of proceeding, of which there has recently been an instance in Parliament, founded in like manner on a special law.

No consideration drawn from this state of things is applicable to Canada. The Legislative Council is invested with no judicial power. The Commissions of the Judges, like those of all other Officers of Government, are held during the King's pleasure: the Assembly cannot in any way pass sentence of *condemnation* on any public functionary—it has no power over them but that of instituting an inquiry (which forms its peculiar jurisdiction) and as a necessary consequence, the right of accusing them, and demanding their suspension on proof of the charges brought against them; and their subsequent removal, if they cannot prove their innocence.

When this is understood, the idea of any obligation on the part of the Assembly to require the presence of an accused functionary, in order that he may defend himself, will be seen to be as repugnant to received principles, and to the practice of Parliament, as to the rules of analogy. It is for him to pray to be heard. If he does not do so, and suffers any damage from not having presented himself before the House, he can blame no one but himself. We have already seen that private individuals cannot claim the same advantages with reference to the proceedings of which they are the subject, before they are put upon their trial.

The Assembly, then, cannot proceed against the Judges or against any other functionaries, except according to the rules of the common law: but from this fact it follows that the suspension of the accused after the close of the inquest, until the Executive Government (the only tribunal to which application can be made) shall have enquired into and pronounced a decision on the business, is an act imperatively required by public justice, and perfectly in accordance with principles, practice and analogy. It would be easy to show, that to refuse it, would moreover be to offer in some sort a premium to malversation in the Province, and to encourage it by the almost certain hope of impunity.

It must also be unnecessary to enter into detail for the purpose of shewing how much, in the actual state of things, the chances afforded to public officers of eluding the effect of the accusations preferred against them are multiplied. We have already seen with what success their efforts to do so have been crowned. I shall content myself with pointing out some recent facts, and in what situation the Province has been placed, with refer-
ence

ence to this subject, since the British Government has signified its intention to concur, as far as Impeachments against Judges are concerned, in the establishment of a Tribunal which it was wished in the Province, should be established with reference to all public Functionaries.

The Legislative Council would now gladly concur in passing a Bill for investing it with the power of trying Impeachments. The other House on the contrary, during the last Session of the Provincial Parliament, threw out the Bill which it had previously passed for that purpose. It has already been asserted, that in so doing, it acted in contradiction to itself. The same thing might be said of the Council; yet, on considering the circumstances attentively, it will be easy to see that this contradiction is only apparent, and that the two Houses still act upon the principles by which they have heretofore been respectively guided.

When the Assembly demanded that the Council should be invested with the jurisdiction aforesaid, it understood that the Council should at the same time be reformed; that new appointments should place that body in harmony with the mass of the People of the Country, and consequently with that branch of the Government by which they are represented.

This is also what the whole People of the Country prayed for in their Petitions. The facts which I have cited will shew whether the late appointments have produced this effect.

We have seen also that the differences between the two Houses, on questions of Legislation, as on all others, were more strongly marked during the last Session than they had been during any other.

Let any one examine the Address of the Council referred to in the preceding considerations which is also the subject of the remarks which I laid before the Colonial Office on the 17th of June 1833, and to which I am now compelled to return, and say whether it would now be possible that the Assembly should consent, as far as regards Impeachments against Judges, to place the fate of the Country in the hands of men, who forming, as they do, the majority of that body, have publicly avowed sentiments, which so strongly breathe something more than national prejudices, in an Address filled with imputations against the Assembly, which are much more than calumnious and gratuitous.

These violent tirades are used in the said Address in the same breath with reproaches for having refused to pass the Bill for the independence of the Judges, by means of which the authors of the Address would have themselves become Judges between those functionaries and the House! What a Tribunal would that be which should be composed of men, who in so solemn a Document, go so far as to identify themselves beforehand, with the very Judge whose conduct was for years a subject of investigation in the Assembly, and who had already become the subject of an accusation which is still hanging over him; not to mention that they therein come forward as the zealous defenders of the abuses against which the Country has so long remonstrated.

Independently of this forgetfulness of the first principles of impartiality, with regard to the administration of Justice itself, this circumstance so strongly supports some of the remarks laid before the Colonial Secretary (of which I have first spoken) that it becomes my duty to dwell an instant longer on this subject. It may be seen by the Documents which form part of the Evidence received on the enquiry before the House of Assembly relative to the conduct of the Judge in question, that long before the accusation against him was preferred, he gave vent in a correspondence with the Administrator of the Government, to the most bitter calumnies against the House, which the authors of the Address afterwards in-

serted in that Document, which they heightened, and to which they even added others (2.) This is the way in which they chose to preclude the exercise of the judicial functions, which they reproach the Assembly for not having vested in them.

The fees exacted by the Judge of the Court of Vice Admiralty, from those who were suitors in this Court, had furnished matter for the most serious complaint in the Province. They had long been a subject of inquiry on the part of the Assembly, and of a long and rigorous investigation, anterior to that which relates directly to the present accusation. The salary attached to the office held by the Judge, had also been for some years voted by the House, on the express condition that he should not take the said fees. He pretended nevertheless, and notwithstanding this condition, that he had a right to continue at the same time to take the said fees, and to receive the salary voted him. The Administrator of the Government refused to accede to these views, and this gave rise to the correspondence in 1830. The Judge contested the right of the Assembly to annex conditions to its votes of money! He pressed the Administrator to disregard the condition, and to cause his salary to be paid him out of the public monies, although he persisted at the same time in taking the fees in question! It is with reference to the condition annexed to its vote by the House, that he cries about the danger of paying any attention to its Resolutions of taking any notice of a Resolution, which he styled *vain and secret*, though it was passed publicly, and entered on the Journals. He styles them *mental reservations, insulting and humiliating conditions which would deprive the Crown of the services of all who deserve its confidence*. They cover, according to his letter, secret political motives, a spirit of French Democracy, by which the House seeks to absorb all the powers of the Government. The motives of the Assembly were, he says, not only to obtain an indirect influence over the public business, but to gratify the resentment peculiar to all popular bodies, against the individuals by whom their ambitious views are opposed. It was, he continues, by resisting the encroachments of factious and republican spirits, that he incurred this displeasure of the Assembly.

Such was the language used by a Legislative and Executive Councillor, a Judge of the Court of King's Bench, of the Court of Vice Admiralty, and of the Supreme Court of Appeals in the Province. (3.)

Such is the source also whence the authors of the Address apparently thought it right to draw a portion of the imputations which it cast upon the popular branch of the Government. Such is their title to claim the right of becoming Judge between that Branch and the public Functionaries. Does it not seem as if they had on the contrary aimed at justifying the Assembly, and even at putting it on its guard against investing them with that power!—Ought these things to seem credible?—What would be thought in England of such language and such conduct on the part of a public functionary, being a Member of either House, under similar circumstances?

How also, under this state of things and as long as it lasts, is it possible to think of placing the two Houses of the Provincial Parliament as far as regards the Judicial power in question, on the same footing as those of the English Parliament?

These proofs of the hostility of the Council towards the Assembly are so strongly marked, that it is absolutely useless to say more on this head. I may now re-

(2) Letter of the 2d June 1830, marked No. 17, in the Report of the Committee of the House of Assembly.

(3.) His Majesty's intervention was found necessary in order to terminate this long discussion and to force the Judge to make his option.

B

turn to my Remarks and state distinctly some circumstances which will be placed in a clearer light by what has been said above.

I have already remarked in the commencement of these considerations, that the influence of prejudices was necessarily on the side of the public functionaries, at the same time that they possessed easy means of communicating with His Majesty's Government, which were not within the reach of the people of the Country. They must in general be powerfully seconded by the Executive Government of the Province, whose measures are entirely regulated by them. They form a distinct body, whose Members united as they are by a common interest, are brought together in the Inferior Courts, the Superior Courts and the Courts of Appeals, and even in the Magistracy, in the Public Offices and in the Executive Council. The *velo* of the first branch of the Government as well as that of the Upper House in their hands.

It was therefore an act of absolute necessity on the part of the Assembly to take measures for ensuring support in England to its claims and remonstrances made in the name of the Province it represents. The Members who form the majority in the Council, and whose work the Address in question is, urge His Majesty's Government to repulse the person who is charged by the Assembly to interpret its sentiments to that Government, because his appointment did not receive their sanction! But they who are themselves the organs of the public functionaries, constantly rejected during twenty years all the Bills sent up by the Assembly for the appointment of an Agent for the Province, more especially during the last four Sessions of the Provincial Parliament. They first contested the right of the Assembly to bring complaint against public functionaries, and then the right of complaining without *their* concurrence,—that is to say, in other words, without the sanction of the delinquents. They now insist on having the right of deciding between those delinquents and the Assembly. Would not this be to make the accused Judges in their own cause?

In the mean time, private individuals are allowed to support with the Government demands of more than one kind, some of which even concern the Provincial Revenue. Those who form the majority of the Council second some of these schemes, in which certain of its Members have a direct interest; and at the same time they pretend in some sort to deny to His Majesty even the right of listening to him whom the Assembly has charged to explain its demands, and to support the interests of the People in whose name it acts,—while they themselves, the self constituted defenders of all abuses, as well as of those whose conduct provokes the remonstrances of the Assembly, make its complaints a crime, distort all its proceedings for the purpose of drawing odium upon them, and heap on it something more than insult. Such is the sense of justice which breathes in this Document, such are the lessons of justice which are given in it to the Ministers of the Government of the Empire.

After having labored for more than half a century with a view to ensure themselves salaries independent of the votes of the Assembly, the public functionaries endeavour to consecrate, as it were, the principle of their inviolability. Being above all control, they could then, more particularly in what relates to themselves, easily dictate Laws even to His Majesty's Government. Would it be consistent with the honor of that Government any more than with its interests, with justice or with sound policy, to stifle the voice of a People who raise it against these pretensions?

Letter from the Honorable D. B. Viger to the Right Honorable E. G. Stanley, dated 16th March 1834.

Sir,

After having given my attention to the numerous Documents which I have at different times received from Canada, it was my intention to communicate to you some further remarks relative to certain facts which it appeared to me important to particularize; when certain Extracts from Despatches to the Governor of the Province reached me, after they had been made public by being printed. In addressing to you my remarks on this subject, I yield to a feeling of duty with which it is impossible for me to trifle. There are some observations on this subject which cannot escape us; but there are some of another kind which lead me to beg you to recall to mind the remarks I have already laid before you.

It is right that I should add, that looking at my position in other respects, you cannot fail to see that a most powerful motive must have been necessary to determine me to remonstrate against the proceedings of those who compose the Branch of the Legislature of the Province to which I belong. Was it possible that I could, is it possible that I should now, seek to wound the feelings of men against whom I have no personal reason of complaint, and among whom there are some of whose friendship I should be proud, and others whose good will I should have powerful reasons for wishing to secure? But before I was a Member of the Legislative Council, I was one of the people of my Country,—I was a subject of His Majesty's Government; my duties in this double capacity are not to be outweighed by affection for or community of interest with the body to whom I belong, and still by considerations peculiar to myself, or those concerning other individuals rather than my own interests. To proceed to the Extracts from the Despatches; if I do not mistake the meaning of that which relates to the Address in which the Assembly prays for a change in the Constitution of the Legislative Council, it was thought that a very wild expression had been chosen when the Address was merely styled *extremely inconsiderate*, yet some of the most enlightened Statesmen of whom England can boast, had raised their voices against the Bill which went to create in a Country where the materials of an aristocracy were entirely wanting, a second branch of the Legislature in imitation of the House of Lords in England. Others of equally distinguished talents, have within these few years past, given utterance to remonstrances of a similar nature in the Imperial Parliament.

It will no doubt be difficult for the Inhabitants of the Province to comprehend how it can be made a crime in them to partake sentiments emitted even by some of those who are among the number of His Majesty's Ministers.

Was not the Assembly reason to fear that the reproaches to which it is subjected, have their source, on the one hand, in representations similar to those mentioned in the considerations I have laid before you, and in accusations of which it has no knowledge, and which it has for that reason no means of rebutting,—on the other hand that they depend on some of those associations of ideas from the influence of which the most enlightened men cannot always escape.—The Despatch in question designates as a *National Convention*, the species of Assembly suggested in the Address, to consist of persons to be chosen by all the Electors possessing a certain income arising from real property, superior to that required for ordinary

Right
1834.

erous
ceived
ate to
facts
arize;
Go-
been
to you
f duty
re are
escape
ad me
ready

ny po-
that a
to de-
ngs of
ure of
that I
and the
reason
whose
e good
to se-
isative
try.—I
my da-
ghed by
body to
to my-
er than
om the
of that
sembly
egisla-
expres-
merely
most en-
ust, had
create
y were
isature
Others
ese few
a simi-

of the
rime in
some of
y's Mi-

pproach-
the one
oned in
necusa-
has for
er hand
of ideas
ned men
n desig-
Assem-
ersons to
an income
quired for
ordinary

ordinary Electors, to deliberate on a single and special subject, as the means of removing all doubts which may have been excited as to the sentiments of the People of the Country on this subject. But the expressions on this head in the Despatch are liable to be mistaken. They are susceptible of an interpretation much more injurious to the Commons of the Province; and a feeling of justice will lead you to regret that this should be the case.

In its Address, the House appealed to the wish openly expressed by men who were the organs of His Majesty's Government, that His subjects in the North American Colonies should see nothing to envy in the situation of people of the neighbouring States.—I must beg you to cast your eyes on the facts which I have successively brought under your notice, with regard to the State of the Province from the year 1810, (when under the chimerical pretext of treasonable practices, a great number of Citizens, and a Member of the Assembly in particular, were thrown into Prison, immediately after the House had offered to provide for the Expenses of the Civil Government of the Province) down to the Montreal Election in the year 1832, when the blood of the Citizens was spilt by the Military under circumstances to which I have called your attention,—and on the subsequent events of which I have sketched a picture.—These facts are I think sufficient to enable any one to judge, whether the conduct of the depositories of authority has been constantly in accordance with the laudable views of His Majesty's Government.—I beg you to recollect also the offer I made to afford every necessary explanation in support of my considerations on these subjects.

If the Constitution of the Legislative Council was such as naturally to produce or to perpetuate this state of things, it would be equally difficult to persuade one's self that it could have the effect of inspiring the People of the Province with a very profound respect for the Monarchical form of Government, or of strengthening the bond of union between them, as the Despatch appears to suppose it has.

I beg you to believe at the same time I have not failed to appreciate that part of another Despatch which relates to the Address of the Legislative Council, and more especially to the sentiments it breathes towards His Majesty's subjects in the Province, whose faithful interpreter I was, when I claimed in their name equal protection and equal Laws for each and all without any distinction,—a principle which is inculcated in the Despatch.—I ought to add that however imperfect might be the analogy between that branch of the Provincial Government and the House of Lords, the subjects of the complaints made by the Country during so many years, would have yet to arise, if that principle had been constantly respected by the Provincial Administration.

The Extract from a Despatch which relates to the Bill for providing for the Expenses of the Civil Government of the Province, thrown out by the Legislative Council in 1833, has necessarily been the object of my particular attention.—I can with difficulty believe that the right of the Commons to annex conditions to their gifts of money for the public service should be misunderstood. They ought certainly to use this power with discretion, but their jurisdiction, at least on this behalf, cannot be contested.—In England the question could never give rise to a discussion.—In the Province the right has been sanctioned even in practice for several years. It may be seen that its effects have been salutary and advantageous to the Government instead of embarrassing its operations.—Without entering into minute details on this subject, it will be sufficient to instance among others, the Act relative to the salary of the Lieutenant Governor passed a few years ago, and the votes for the Salary of the Judge of the Court of Vice Admiralty, during several successive Sessions.—The fer-

mer was granted on condition of residence within the Province, and the latter on condition that the Judge should not exact fees from the suitors in his Court.—It would be useless to make any comment with regard to the salary of the Lieutenant Governor with reference to which provision was made by an Act of the Legislature; and with respect to that of the Judge, it is sufficient to remark that it was the subject of a long discussion of which you have seen the result in the considerations I have laid before you:—that result leaves nothing to be desired.

But on turning our attention to the conditions inserted in the Bill of 1833, which was thrown out by the Council, we shall see that some of them were, that those who received salaries for filling any Office, (those salaries being generally very ample, and many of them equalling or surpassing, with a few exceptions, the incomes drawn from the most extensive Landed Estates in the Province) should not be already in the receipt of equal or larger salaries arising from other Offices, or that they should not hold any other incompatible Office, or the duties of which they could not at the same time perform.—It must doubtless have been impossible to consider as a violation of the Constitution, conditions which can have no other effect than to cause its best established principles to be respected, and moreover, how is it possible to deny the right of the Assembly to introduce into its Bills, conditions which are obligatory on the Executive Government, even without their being entered on the Journals of the Commons. Of this kind were those relative to the salary of the Judge of the Court of Vice Admiralty which like many other analogous ones, and like those which are found in the Acts of the Provincial Parliament, have been respected by the Executive.

I shall say nothing of the possibility of inferring from the tenor of certain parts of the said Extracts, that a demand of Supply ought to be considered by the Assembly as an order which should admit of neither examination or discussion.—I ought not to allow myself to suppose for an instant that His Majesty's Ministers intended to invoke a doctrine like this.

On the several occasions of which I have just spoken, the Provincial Assembly acted on a principle which is formally enounced in the Resolution of the Commons of England, declaratory of their rights, and repeated in the Resolutions of the Assembly.—I believe no doubt has been entertained with regard to this right in itself, since the opinions and ideas on this subject have become fixed.—If it is not necessary to exercise it in England, it is because the Executive Government, instead of creating a necessity for doing so, itself sets the example of respect for the rules prescribed on these matters by the Constitution.—The remedy for the supposed inconvenience attending the said conditions is in the hands of the local Administration. It would be sufficient to imitate the conduct of the Government at home, and to remove, as it has the power to do, the abuses which occasioned them.

Passing over some considerations connected with the principles of the strict Constitutional Law, and viewing the matter with reference to those Rules which are common to all Governments, we remark that Acts of Legislation ought not to be multiplied upon subjects of secondary importance.—I shall not here cite the known maxims which this simple remark will suffice to recall to mind.

Ministers ought not, at the close of each Session of the Provincial Parliament, to be forced to involve themselves in a labyrinth of details and petty differences between the Commons and the other branches of the Government. It cannot surely be necessary to recur to the Imperial Government to know whether a public officer ought to be allowed to retain half a dozen incompatible offices, or the duties of which he cannot perform at the same

same

same time ; or to learn and be convinced that he is sufficiently well paid, when the salary voted him for one of the offices which he holds, places him, in point of income, on an equal footing with the greatest landed proprietors of the Country.

What would be thought in England if any of the public officers should complain that they were not sufficiently paid for their services by a salary equal to the income of the first Peers of the Realm, or even to the annual profit of the richest Bankers in it. The Government doubtless, would not insist, for example, on the necessity of giving and preserving to one of the said Peers, a Commission as Sheriff, to *continue or to be revoked at pleasure*, with a salary and emolument far exceeding his income, from the landed property of which he was before in possession.—But what would be said, if for the purpose of compelling the Commons to gratify all the wishes of the office holders, the House of Lords were highly applauded for rejecting Bills to provide for the Expenses of the Government,—if the necessity of submitting to these pretensions, were formerly intimated to the Commons,—if the recommendations made to them on the subject were susceptible of being construed by them into a command ?

As to the suggestion which may be gathered from the tenor of the said Extracts, that each object of this nature should be attained by a separate Law, it would be right, in order to form some idea of the probable consequences of such a practice, to consider what have been the results of the constant opposition of those whose ascendancy in the other branches of the Government, and with the Administration, is without check to the views of the popular branch ; not to mention subjects on which the privileges of the latter are less peculiar. For instance, what a length of time was required to obtain successively, first the assent of the Legislative Council, and then that of the local administration—or even the sanction of the Government in England, to Bills sent up by the Assembly, to enable the Inhabitants of different localities, such as Parishes and Townships, to establish at their own expense, Elementary Schools, or those of a couple of Towns to superintend and control the application of the proceeds of the Assessments which they pay to defray the cost of opening and repairing their Streets and Roads ! I do not speak of a crowd of other Bills which the Assembly sends up frequently as uselessly, or which the Administration paralyzes by its *veto*, when they have obtained the assent of the Council. It is sufficient for me to remark, that one Bill among those passed by the Assembly, which has been re-introduced repeatedly during twenty five years, the object of which is the same as that of Acts passed by almost all other Colonies without exception, and one of acknowledged utility and evident justice, with reference to which His Majesty's pleasure cannot be mistaken, has not even yet obtained the assent of the Legislative Council.

Compelled as I am to confine myself within narrower bounds than those of a strict analysis, I ought not to adduce further examples. What would be the consequence if I were to enter into detail, even without speaking of the peculiar circumstances which give to these anomalies a character of importance, and cause them to produce more serious effects in the Province than they could possibly do in any other Country.

Proceeding now to what relates to the Writ of the Election for the County of Montreal, in another of the said Extracts, I must remark, that there is no renunciation of fixed principles, or formal rules susceptible of precise application according to the species or difference of the circumstances in any given case. This is a reason with me for abstaining from entering into any direct discussion on the subject. I shall only ask whence arises the propriety of submitting to the decision of the person who holds the reins of Administration, or even to the

opinions of those whose advice he may take, with respect to questions of privilege, independently of the principles connected with the exclusive jurisdiction of the Assembly on these matters ; is it possible that the House, more especially in the present state of things, should acknowledge this species of Tribunal ? Ought it to hold itself constitutionally bound to abide by the mere opinion of the Ministers, however enlightened they may be, upon subjects often complicated, and relating to privileges necessarily undefined ; when experience attests the difficulty of constantly seizing the true points under discussion, and proves at the same time that opinions have been constantly varying on these matters, and that after more mature consideration, we sometimes find ourselves forced to return to those which we had at first rejected as errors ?

It ought to suffice to examine the proceeding itself, to which this Despatch relates, to be convinced that the Assembly did not pretend (as the terms used in the Extract in question would lead one to suppose it did) to establish Laws for qualifying or disqualifying Candidates or Electors. It followed the practice of the Commons by ordering a new Election in a case where one of its Members had accepted office after he had been returned to Parliament. It no more intended to shut him out if he was re-elected, than to deny the Electors the right of giving him their votes.

On the other hand the Resolution of the Assembly with regard to such of its Members as may accept office, is not of recent date. It is also nothing more than a repetition of that of the Commons of England on the same subject. It was under this Resolution that the Assembly acted on this latter occasion. Far also from giving a forced construction to the Resolution, as the terms of the Extract would lead one to suppose, the Assembly conformed to it in the very strictest sense which it will bear. Let us now add that this Resolution is itself only a consequence of anterior Resolutions of the House to be *guided by the rules and practice of the Commons of England in all analogous cases, for which no applicable provision could be found in the Constitutional Act.*

Such is in fact the tenor of one of the permanent Rules of the House, adopted during the first years of the existence of the Provincial Parliament, and which, far from having given rise to any remonstrances, has been on all hands cited as one that ought to be strictly enforced. The Assembly moreover, could have recourse to no other principles for its guidance in a case of this nature. As to the manner in which its jurisdiction has been considered even in England, there are documents on that head too recent to make it necessary to instance them here in a particular manner. Neither do I for the same reason think it necessary to overburden this letter with details as to what has at different periods taken place in the Province on this subject. But I must remark that the Executive Government in Upper Canada, has for several years past scrupulously respected the decisions of the Assembly, with regard to the expulsion of one of its Members. His Majesty's Government has itself done the same thing,—and this, notwithstanding the representations made by a considerable number of the Inhabitants of different parts of the Province, against this exercise of jurisdiction on the part of the Assembly, and more especially in spite of the remonstrances of the Inhabitants of the Country, most important by its position and by its population, said to be equal to one-seventh of that of the Province, and which the House deprived of the Representation of its choice, after he had been several times unanimously elected. After having made known its opinion on the nature of these proceedings, His Majesty's Government could not render a more solemn homage to the principle of the independence of the Assembly of the Province on this subject.

What

What particularly deserves notice is that the Assembly of Upper Canada had not in its favor on these occasions, the received principles and established practice of the Commons of England, while it is easy to see that every rule and custom, and something more than analogy, the absolute identity of the reasons of decision, were all in favor of the proceedings of the Commons of Lower Canada.

Be pleased to accept the assurance of the respect with which I have the honor to be,

Your very humble
and obedient servant,
(Signed,) D. B. VIGER,

London Coffee House,
Ludgate Hill, 15th March 1834.

The Right Honorable,
E. G. STANLEY,
His Majesty's Principal Secretary of
State for the Colonies, &c. &c. &c.

No. 3.

Letter from the Honorable D. B. Viger to the Right
Honorable E. G. Stanley, dated 5th April 1834.

Sir,

Before submitting to you the remarks which it is my duty to add to those in my last communications, I must beg you to recall to mind some of my anterior remarks on the difficulty there is in treating subjects so complicated, to make such a selection from a great abundance of matter as to avoid detail and any thing which could be considered as of only secondary importance.

In order to leave nothing to be desired, it would have been in some sort necessary to write the history of the Province during the last thirty or forty years, and perhaps from a still more remote period.—On the other hand, your own remarks, and those which have by your order been repeatedly communicated to me, on the multiplicity and urgency of the business before you, necessarily sufficed to determine me, to confine my remarks within the strictest possible bounds.—Nor can I avoid believing, that the manner in which the facts I have laid before you are connected with each other will not escape your penetration, any more than will the consequences to be deduced from the facts themselves, the remote causes of this state of things, or their necessary results,—although I should have wanted talent and skill to point them out or to present them with advantage.

I am afraid, however, that I have sometimes carried this reserve too far.—I think it my duty at this moment to supply some omissions of this kind in my last Letters.

It appears to me to be necessary, with regard to subjects of consideration mentioned in my Letter of the 30th October last, to point out in the first place some facts which might be lost sight of or absolutely unknown on this side of the Ocean, although they are of public notoriety in the Province.—Not only are they worthy of consideration from their importance in themselves, but the reflections to which their being pointed out will naturally give rise, are equally applicable to every matter which after being a subject of discussion in the Province, may subsequently become a subject of examination for the Government in England.

From what has been said in my preceding communications, a tolerably correct idea may, I think, be formed of the Addresses of the Legislative Council, and of the feel-

ings by which they were dictated.—As to the accusations they contain against the Assembly, they do not merely deserve censure, because they are not supported even by a pretext.—You must have seen, and you may now see still more clearly, that it would be very difficult for the Inhabitants of the Province to look upon them as mere errors.—But with reference to the imputation against the Assembly contained in one of the Addresses of the Council,—that it pretended to the right of *preserving the Lands of the Province in order that they might be settled exclusively by Inhabitants of French origin*,—there are some circumstances which it becomes my duty to particularize.

In the first place it appears that several of the Members of the Council who ventured to invoke something more than national prejudice against their Canadian fellow subjects, were among the Members of a certain Company, who were themselves then asking for the said Lands, in order to make them the object of a trading speculation, by buying them and selling them again at a profit in the Province! They pretended at the same time to deny the Assembly all means of supporting its remonstrances to His Majesty's Government against the demand they were then making, or of rebutting the charges they brought against it, while those who partook their interested views in the speculation aforesaid, were actively carrying on their solicitations and negotiations in order to obtain the said Lands from His Majesty's Government. They threw out, at the same time, the Bill sent up by the Assembly for the appointment of an Agent!—I abandon this subject to the reflections which it must necessarily occasion.—I also pass over the consideration of the results.

I think I have on a former occasion sufficiently shown the object of the Lessee of the St. Maurice Forges, when he solicited in the Province the extension of his Lease, which was granted accordingly by the local Government, without the slightest regard to the representations previously made by the Assembly, and of which it is impossible to pretend to deny the wisdom and equity, and moreover without observing any of the customary formalities which up to that time had always been considered indispensable.—I must now add with reference to the further extension which the Lessee has since solicited and which has become the subject of his negotiations in England,—that he demanded, that to the Lands comprised in the old Lease others should be added forming part of the public property, namely, of the Jesuits' Estates, placed under the care of a Commissioner appointed to manage them by the Executive Government.

There is no need that I should remind you of the care, the extreme vigilance which has been exercised in order to prevent any knowledge of these proceedings from reaching the Assembly, or of the repeated refusals of the Executive to furnish it with the communications it asked on the subject; but I must remark that the Lessee is one of the Members of the Legislative Council: his Agents were no doubt active in their proceedings in his favor in England, while the Council on its side brought the charges in question against the Assembly, and laboured at the same time to deprive it of all means of supporting its remonstrances or of justifying its proceedings!

The local Government had to furnish to the Government in England the information relative to the Land to be taken out of the Jesuits' Estates in order to include it in the new Lease.—In order to procure this information in the Province it was necessary to apply in the first place to the Commissioner appointed to manage them.—This Commissioner is, like the Lessee of the St. Maurice Forges, a Member of the Legislative Council;—he is also a Member of the Executive Council, to which, in his quality of Commissioner, he was to furnish the information in

C

question.

question ;—he was then as a Member of the said Council, to advise with his fellow Councillors, in order that a Report to the Government in England might be drawn up from the information thus given.—We can conceive with what views these proceedings would be adopted. He had the same thing to do with regard to the demands of the Lessee and to those of the Company engaged in the aforesaid trading speculation on the Lands of the Crown :—and they would of course both join the other Members of the Legislative Council when they were preparing and voting the Addresses against the Assembly.

It is, perhaps, also proper while on this subject, to recollect, that the granting of Lands, the object of complaints so constantly made in the Province, and the justice of which has been acknowledged, has also been under the control of the Executive Council, the Members of which, with the two Chief Justices, form the supreme Court of Appeals in the Province.

These remarks are sufficient with regard to the particular objects aforesaid in the Addresses ; but with regard to the remainder of their contents relative to certain proceedings of that branch of the Legislature during the same Session, as well as to some other subsequent events, I must add in the first place, that besides the Chief Justice of the Province there are among its Members, the Commissioner for the sale of Crown Lands and Inspector of Woods and Forests ; another person who bears the title of Master in Chancery in a country where there is no Chancellor, and who is at the same time Clerk of the Executive Council, besides receiving a Pension and other emoluments ; then follows the Receiver General. Another again is (as I have elsewhere remarked) that same Sheriff of the District of Montreal under a Commission which may be continued or revoked at the pleasure of the Executive, who receives the emoluments I have before spoken of, and whose conduct has become the subject of such serious complaints with regard to the selection of the Grand Jurors after the catastrophe witnessed by the Inhabitants of Montreal in 1832, during the Election of one of their Representatives.

I must pass over other considerations of a similar nature. I shall not speak of those persons who cannot feel any of those ties to the Province which result from association of ideas or community of interests, or even from the possession of property. I shall content myself with mentioning in this place, certain facts with regard to one of the Members of the branch of the Legislature in question, which will of themselves and alone form examples sufficient to give some idea of the State of the Province in the point of view in which we are now considering it.

He had been for a long time the depositary of the public money. The Courts of Law, several years ago, declared him to be in that capacity a defaulter in a sum superior in amount to that of the whole Expenses of the Civil Government of the Province for one year. His father, whom he succeeded as Receiver General, had before him and by drawing from the same source, acquired among other property one of the largest Estates in the Country, and had improved it in order to increase its value, and the income to be derived from it. He died, in 1809, when he was known to be a defaulter : it was under these circumstances that the office was given to the son, who held it about fifteen years.

Instead of endeavouring to discharge the debt aforesaid, he drew still more largely from the public chest, continued at great expense to improve the property acquired by his father, and wound up by finding himself a defaulter for much more than double the amount ; and Judgment was given against him accordingly.

But if some small portion of his property was sold in execution of that judgment, he has not ceased to enjoy and

to receive the income arising from the very extensive landed property of which I have spoken. It has been left in his hands on condition of his paying annually into the public chest, a sum equal to about one-third of the interest of his debt. But according to the wording of the Judgment, that debt *does not bear interest*. It may after all that we have already seen, appear possible that it will some of these days be inferred, that from the moment when the amount of these successive payments added together, shall nominally equal that for which judgment was given, the Debtor in question ought to go clear without paying any interest whatever ; that is to say, that in consideration of the third part of the interest of the Capital paid in so easy a manner, the Capital itself with the interest on each of the sums employed in the speculations aforesaid, during the twenty or thirty years preceding the failure of the son, and the interest which has since accrued and is still running on, or, in other words, the income arising from the property which represents the Capital with its progressive increase, will remain in his hands as his clear and lawful profit.

The importance of this subject may properly lay me under the necessity of returning to it. It is right therefore that I pass over the details which will more naturally find their place among remarks specially appropriated to this subject.

I must here say, that in order to form any idea of the gravity of the abuses which provoke complaints in distant Colonies, and with regard to which no point of comparison can be found in England, it appears to me it would be expedient to imagine the sensation which abuses of the same nature would produce in the latter Country. What would be thought there, if one of those in whose hands the Revenue arising from the taxes paid by the Nation, had been deposited, were seen constantly drawing from it during so long a period the means of living in more than comfort, of acquiring Estates of which one in particular should equal in extent one of the middling sized Counties of the Kingdom, and should in fact comprise one entire County, and of increasing the value and revenue of this Estate, by costly improvements, by expensive establishments,—and if at the same time, although known to be a Defaulter, he should not be in any way called to account as such ? Let us suppose that at his death, his son, succeeding to his property, far from being himself called to account, should be invested with the same office, and that instead of endeavouring to discharge his debt, he should continue for years, and under the eyes of the Executive, to use the public money in augmenting his own fortune, and should become a defaulter in a sum much exceeding the amount of the national expenditure for one year.

Not to speak of the conduct of an Administration, which, far from seeking to put a stop to this flagrant and long continued pillage, should have in some sort encouraged it from one generation to another. What would be the first feelings of the public on seeing the debtor find means to elude the effect of the Judgment rendered against him, remain in possession of one of the finest Estates in the Kingdom, receive the income arising from it, and expend large sums for the purpose of increasing that income ? But if it appeared possible that the annual payment for a given time for a sum equal to one-third of the interest of the debt, or of the income arising from the said Estate, was to be sufficient to discharge the entire debt, and enable the debtor to preserve on that condition the riches accumulated during so great a number of years, and transmit them to his posterity as the fruits of his honest labor, of his virtuous economy !

..... These suppositions appear monstrous ; in the Province they are facts. To enter into detail would be to

to give them a more marked character of improbability, and yet the picture would only be the more faithful and exact.

It would be useless to dwell on the facts last mentioned; but I may be allowed a few words of remark on the system adopted by the Colonial Administration for the purpose of concealing from the public, and from the Assembly in particular, proceedings like some of those now in question. If their object alone did not by the Constitutional principles of our Government, render their publicity necessary, the measures adopted by the Government would even then be inexplicable, because that publicity would still be requisite in consequence of a rule every where admitted, and of the universal acknowledgment of the advantage of competition. But how was it possible to resolve on covering with a veil of impenetrable secrecy, arrangements which might affect and in fact did most seriously affect the public Revenue, when the practice universally received was alone sufficient to make publicity a matter of obligation?

Such are nevertheless the circumstances under which the Lessee of the Forges of St. Maurice, as well as the Company engaged in speculations on the Crown Lands have been able to carry on their negotiations, and appear to have done so successfully in England and I must add, that very recently it was thought right to meet the prayer of the Assembly for communication of the result of some of these negotiations, by a refusal I could point out several analogous cases of equally recent date.

Among so many subjects of painful reflection, to which facts of this kind naturally give rise, there is one to which circumstances give at this moment a most marked character of importance. It is the almost inevitable danger which Ministers incur of having their good faith surprised by representations made by men, of whom some have a direct interest in the subject of discussion, and others with whatever intentions, use every effort to support their proceedings in opposition to the views as well as to the prayers of the Commons of the Province, who are at the same time deprived of all means of becoming acquainted with the said proceedings and representations, and for that reason, if for no other, of the means of supporting their own remonstrances to His Majesty's Government.

Some of the facts I have just cited are the necessary consequences of the *cumulation* of offices frequently opposite and contradictory in the same hands, or of the exclusive manner in which they are given away, which produces the same effects; a subject on which I have formerly made some observations which it is not necessary to repeat here. But I think it my duty to dwell for an instant on certain considerations connected with some of the subjects of which I have just been speaking, as well as with some of the recent proceedings of the local administration.

In addition to the subjects of the negotiations aforesaid with reference to which the Provincial Executive must have furnished information to the Government in England, it must also have furnished some relative to the difficulties which arose on the Assembly's Bill for providing for the Civil Government of the Province, thrown out by the Legislative Council in 1833. I need not say that in this case as in all others, the Commons of the Province are unacquainted with the nature of the information so furnished. After the circumstances I have mentioned, can it be supposed that it was scrupulously correct,—that it bore the stamp of strict impartiality? With regard to the Despatches received by the Provincial Executive from the Government in England, mere extracts from them are too often all that is communicated to the Assembly. This has been more

particularly the course adopted during the present Session. When one of these extracts was communicated to the Assembly, it was thought right to go so far as to leave that body in ignorance even of the date of the Despatch from which it was taken.

But although the Bill just mentioned was thrown out, the local administration did not the less dispose of a large portion of the public Revenue. This is not the time to examine or discuss its pretensions on this head, but it is proper to remark in the first place, that even supposing it had the right of disposing of so large a proportion of the monies levied on the People, without the consent of their Representatives, I think I am not mistaken in saying that the amount drawn by it out of the public chest greatly exceeds the extent of its avowed pretensions.

It would further appear that the Receiver General, a Member of the Legislative Council, considers himself bound to act implicitly on the Warrants of the Governor in Chief in that behalf, and he has done so by paying the amount of the sums for which they were issued. And, moreover, the sums of which the Administration has disposed have not been distributed on an equal scale among all the public officers. A great number of them have received no portion of them. There are others who have been paid one third of the salaries ordinarily voted for the offices they hold. As for the Judges they received one half.

These are doubtless very fruitful subjects for reflection. We may at least here ask, what species of information is to be expected from those who, within the Provinces, have taken a part in these proceedings, or for whose advantage they were adopted? Let us confine ourselves to considering for an instant what must be the final result of the conviction after an attentive examination, that the proceedings of the Administration relative to the application of the public monies, as well as to some of the other subjects of which we have been speaking, are illegal, and that the information furnished to His Majesty's Government has borne the stamp of error; and in fine, of a resolution to appeal to the Courts of Law on the subject.

With regard to the application of the public monies in particular, it would be necessary in the first place to apply to Judges who are become parties interested in the subject of discussion, not only in the way which I have just pointed out but in many others also. Independently of considerations of another kind which might influence their decisions on these subjects, as well as on all the others just mentioned, the case might in every instance be carried by Appeal into the Supreme Court in the Province, composed of the Governor, the two Chief Justices and the Members of the Executive Council who are themselves functionaries receiving salaries for other offices also, and would decide in their own cause after having beforehand asked and obtained the approbation and intervention of His Majesty's Government in support of their pretensions and proceedings! What indeed, could be expected from the official body of the Province?

For the rest, if an example be required, it is easy to turn to what passed in the Province with regard to three hundred families, proprietors of an equal number of lots of land under deeds of concession from the Seigniors of La Salle, and to see how many years passed away before the Assembly were able to procure the adoption of measures for preventing their spoliation which the Courts both of original Jurisdiction and of Appeal had made lawful:—whatever was the importance of the object of this contention, it arose solely out of the speculations of a couple of individuals who labored to appropriate

propriate to themselves the patrimony of these three hundred families. I need not add that with regard to the other subjects I have mentioned, the considerations which might influence the Judges would be far more powerful, since they would not only be connected with their personal interests but with those of all and of each of the public functionaries, which would be identified with each other and at the same time opposed to those of the whole Province.

I do not think I should do right in closing without remarking, that after having disposed of the Revenue in the way I have just mentioned, the Executive Government thought proper at the commencement of the Session of the Provincial Parliament this year, to refuse the Assembly the advances necessary for defraying its Contingent and daily Expenses, in proceeding with the despatch of business!

It is scarcely necessary that I should add, that this refusal like some others was then without example in the Province. Such is the progress made by the local Administration. I leave it to be judged whether these are changes on which the People of the Country ought to congratulate themselves!

In spite of the facility of watching what happens on the spot where they are present, we see that Ministers may sometimes be deceived with regard to things which take place at the seat of the Empire, or to individuals placed, as it were, under their eyes. I leave it to be imagined from this what may be the effects of a system under which delinquents in a Colony in another hemisphere, who are, in the first place, themselves the Judges when official malversations are denounced by that Colony, can after having silenced it become its accusers to the Government in England, and finish triumphantly by obtaining or keeping in their hands all that had made the subject of its remonstrances?

Laws are vain wherever the organization of society does not offer a guarantee that they will be executed. The feeling of duty is powerless against that of interest or of ambition, in those whose power is without a check. It may well be asked what must be the prospects of a Country exposed to the insults of those for whom abuses are a source of credit, of riches and of honor, if, while they are able in that Country to laugh at the complaints their conduct occasions, they can also ridicule them for ever when it is compelled to appeal to the justice of His Majesty's Government in the Mother Country.

Be pleased to accept the assurances of the profound respect with which,

I have the honor to be,
Your very humble
and very obedient Servant,
(Signed,) D. B. VIGER.

London Coffee House,
Ludgate Hill, 5th April 1834.

The Right Honorable E. G. STANLEY,
His Majesty's Principal Secretary
of State for the Colonies,
&c. &c. &c.

No. 4.

Letter from the Honorable D. B. Viger to the Right Honorable E. G. Stanley, dated 19th April 1834.

Sir,

The perusal of a public Document which fell into my hands the day before yesterday, has shewn me, that in

my Letter of the fifth instant, there is an error with regard to one of the Members of the Legislative Council. In the first place it there said that he is a *Master in Chancery*, an Office which is held by a Member of the Executive Council.—I ought to have said *Clerk of the Crown in Chancery*. The Legislative Councillor in question held the latter Office when I left Canada.—I see by the Document above mentioned that he has resigned it since my departure.

With regard to the year 1809 which I have stated to be that of the death of the first Receiver General the father of him whose defalcation is in part the subject of the remarks in that Letter, it is possible that it may be merely the period when the Office was given to his son, and that this was previous to the death of the father.

These mistakes on subjects of detail, may easily escape one as far as I am from the spot where I could obtain information. They do not, however, in any wise weaken the importance of the considerations which I submitted to you either in that or any of my previous Letters.

Be pleased to accept the assurances of the profound respect with which,

I have the honor to be,
Your very obedient
and humble Servant,
(Signed,) D. B. VIGER.

London Coffee House,
Ludgate Hill, 19th April 1834.

The Right Honorable E. G. STANLEY,
His Majesty's Principle Secretary
of State for the Colonies,
&c. &c. &c.

No. 5.

Petition of the Honorable D. B. Viger and A. N. Morin, Esquire, to the King, dated 15th May 1834.

To the King's Most Excellent Majesty.

May it please Your Majesty,

The humble Petition of Denis Benjamin Viger, Esquire, Member of the Legislative Council of Lower Canada, and of Augustin Norbert Morin, Esquire, Member of the House of Assembly of the said Province,

Respectfully sheweth to Your Majesty,

That Your Petitioners are now at the seat of Your Majesty's Government for the purpose of representing to Your Majesty and to Parliament the views and prayers of the House of Assembly of Lower Canada, by which they have been specially delegated for that purpose, as well as for that of supporting the complaints made by it in the name of the People whom it represents, concerning the grievances and abuses which exist in the Government of the said Province.

That early in the year one thousand eight hundred and thirty two, when it became probable that a Company of Speculators would be formed in England, whose object it would be to monopolize either the whole or a portion of the Waste Lands of the Crown in the Province, the House of Assembly regarding the operations of the said Company as contrary to the rights and interests of its constituents

constituents, and believing that any favor or privilege granted to the said Company by Your Majesty's Government in England, without the intervention of the Provincial Legislature, would be contrary to the rights of the said Legislature, and would tend to perpetuate existing abuses, prayed Your Majesty by its humble Petition voted almost unanimously, not to grant any such favor or privilege to the said Company, representing to Your Majesty at the same time the reasons of the opinions it emitted.

That the said House of Assembly, and the Inhabitants of the Province in general, had, at a recent period, received no intimation of Your Majesty's intention on the subject of the said Petition, but had, on the contrary, strong reasons to believe that such privileges had been granted to the said Company, by Letters Patent from Your Majesty, and that Your Majesty's Government had been pleased to enter into an arrangement with the said Company on the subject of the said Lands, in a manner contrary to the prayer of the said humble Petition.

That Your Petitioners have lately learned with feelings of sorrow which cannot fail to be participated in by every individual in the Colony, that a Bill confirming the said Letters Patent and confirming to the said Company other numerous and extensive privileges, had recently passed the two Houses of the Parliament of the United Kingdom, and waited only Your Majesty's Royal Sanction to become Law.

That independently of what is set forth in the said Petition, the said Bill, in the humble opinion of Your Petitioners, which they venture most respectfully to submit for Your Majesty's consideration, (although they in no wise doubt the benevolent intentions of Parliament) is an Act of Legislation on the part of the Parliament of the United Kingdom on the internal affairs of the Colony, upon which the Legislature of the Province would have been fully competent to deliberate.—And Your Majesty's humble Petitioners without pretending to suggest to Your Majesty in what cases such enactments might be consistent with the rights of all parties, and with the formal assurances given by the Government in a Despatch from the Right Honorable Viscount Goderich, dated the seventh of July one thousand eight hundred and thirty one, will lay the circumstances of the present case before Your Majesty, with the declaration of their firm conviction that the said Bill is of a nature to create serious discontent among Your Majesty's faithful subjects in Canada, to impede the settlement of the difficulties which have heretofore prevailed, and greatly to aggravate the evils occasioned by bad Administrations, to the detriment of the Mother Country and of the Colony.

That the effect of the said Act is to confirm and extend other anterior Acts of the same nature, and particularly that passed in the third year of the Reign of His late Majesty George the Fourth, intituled, "An Act to regulate the Trade of the Provinces of Lower Canada and Upper Canada, and for other purposes relating to the said Colonies," and of another Act passed in the sixth year of the same Reign, intituled, "An Act to provide for the extinction of Feudal and Seigneurial Rights and Burdens on Lands held *à titre de fief* and *à titre de cens* in the Province of Lower Canada, and for the gradual conversion of those tenures into the tenure of free and common soccage, and for other purposes relating to the said Colony;" which Acts the House of Assembly unanimously, and the very great majority of the People, have prayed may be repealed, as relating to subjects of which the Provincial Legislature could constitutionally and more efficaciously take cognizance,—as being insufficient in practice and drawn up without proper regard to the condition, wishes and wants of the People,—and as being a violation of the Laws guaranteed to

the Inhabitants of the Country, and by which their property and their persons have been happily governed and protected since the first settlement of the Colony.

That the said Bill is moreover calculated to introduce great confusion into the system of Laws in the Province, because it is not adapted to those now existing, even if the Acts last mentioned be not repealed; in as much as it is not in accordance with the provisions of an Act of the Parliament of the United Kingdom, passed in the first year of Your Majesty's Reign, intituled, "An Act to explain and amend the Laws relating to Lands holden in free and common soccage in the Province of Lower Canada," or to those of another Act passed by the Legislature of Lower Canada, intituled, "An Act for rendering valid conveyances of Lands and other immovable property held in free and common soccage within the Province of Lower Canada, and for other purposes therein mentioned," to which Your Majesty was graciously pleased to give the Royal Assent, on the eleventh day of May, one thousand eight hundred and thirty one, which Acts are not mentioned in the Bill in question, although their object was to explain and amend the Acts herein first above cited.

Wherefore Your Petitioners humbly pray that when the said Bill shall be presented for the Royal Sanction, Your Majesty will be graciously pleased to declare that Your Majesty will advise upon it.

And Your Petitioners as by inclination led as well as in duty bound will ever pray, &c. &c. &c.

(Signed,) D. B. VIGER,
A. N. MORIN,

London, 15th May 1834,

No. 6.

Letter from R. W. Hay, Esquire, to Messrs. Viger and Morin, dated 30th May 1834.

Downing Street,
30th May 1834.

Gentlemen,

I am directed by Mr. Secretary Stanley, to inform you that he has received and laid before His Majesty, your Petition dated the 25th instant, expressing your regret, that a Company has been incorporated for holding and selling Lands in Lower Canada, and praying that the Royal assent may be withheld from a Bill which has passed both Houses of Parliament, granting certain powers to the new Company. Mr. Stanley desires me to acquaint you that His Majesty has not signified any commands on the subject of this Petition. I am at the same time to observe, that upon one of the points mentioned in the Petition, there seems to Mr. Stanley to exist a misconception which he is anxious to remove. You appear to suppose that the Land Company's Bill contains a special confirmation and extension of certain former enactments respecting the Tenure of Lands in Lower Canada, setting aside the alterations which have since been made by competent authority, and rendering the rules laid down by the present Bill, so far as regards Lands acquired by the Company, perpetual. No such effects, Mr. Stanley apprehends can be attributed to the Bill. The only clause to which as it originally stood, your remarks must be supposed to apply, was altered in Committee, and it now merely contains a declaration, that with respect to the Commutation of Seigneurial Rights, the Company shall

D

shall

shall be subject to the same rules as any person not being a body corporate, and that with respect to the descent and alienation of Lands holden in free and common soccage, persons who acquire such Lands from the Company, shall not be otherwise situated than if they had acquired the Lands directly from the Crown. The whole effect of the clause is to provide that any Lands belonging to or derived from the Company, shall fall within the general laws, whatever they may be, of the Province. This provision cannot be objectionable, and Mr. Stanley is happy to have an opportunity of explaining to you its real nature. A copy of the clause alluded to is enclosed.

I have the honor to be,

Gentlemen,

Your most obedient humble servant,

(Signed,) R. W. HAY.

D. B. VIGER, Esq.

A. N. MORIN, Esq.

" And be it further enacted, that in case any lands, tenements and hereditaments, situated in Lower Canada, or the dependencies thereof, holden *à titre de Fief et Seigneurie, à titre de Fief en arrière Fief, or à titre de Cens*, shall or may be granted to or contracted for, and purchased or acquired by the said Company, it shall be lawful for the said Company to apply for, obtain and take a commutation and release from the Feudal and Seigniorial rights and burthens, due upon and from such lands, tenements and hereditaments, and to apply for, obtain and take a change of the tenure by which the said lands, tenements and hereditaments are holden into the tenure of free and common soccage, in like manner as may be done by any person or persons not being a body corporate; and that all lands, tenements and hereditaments which shall or may be granted by His Majesty, His Heirs or Successors, to the said Company in the Province of Lower Canada or the dependencies thereof to be holden in free and common soccage, may and shall after the sale, grant, bargain or alienation thereof by the said Company, be by any and all person and persons grantees of the said Company, their heirs and assigns, held, granted, bargained, sold, aliened, conveyed, and disposed of, and may and shall pass by descent in such manner and form, and upon and under such rules and restrictions in all respects as would have been the case if such lands, tenements and hereditaments had been granted directly by His said Majesty, His Heirs and Successors, to any such person or persons, their heirs and assigns, to be holden in free and common soccage; and the said Company may do all other acts and things in relation to the affairs and business of the said Company in all respects as beneficially as any other body politic or corporate, or any subject of this Realm is by Law entitled to do."

No. 7.

Letter from Messrs. Viger and Morin to the Right Honorable E. G. Stanley, dated 2d June 1834.

Sir,

On the thirtieth of May we received Mr. Hay's Letter of the preceding day, informing us from you, that His Majesty had not signified any order with regard to our Petition, and entering at the same time into the explanation of certain difficulties which had been mentioned as likely to arise out of the provisions of anterior Acts, cited in the latter part of our Petition.

While we beg you to be pleased to accept our thanks for this communication, it is our indispensable duty to remark, that the subject of the said difficulties, however serious it must have appeared, and as you have yourself considered it to be, could not be of equal importance with the other subjects of the Petition. We must also here beg you to observe that our Petition related particularly to the system, and to the Acts of Internal Legislation concerning the Province, on subjects which are within the cognizance and jurisdiction of the Colonial Legislature, passed in this Country without its participation or knowledge, and to the Bill which was in question when the Commons of the Province, among other means employed by them, presented Addresses to His Majesty's Government in order to make it acquainted with the wishes and remonstrances of the people of the Country; and more especially when they prayed that an Act previously passed in England, might be repealed, as being, like all other measures of the same kind, only fit to create uncertainty and confusion.

Referring, on all other points to the said Petition, and avoiding the mention of a crowd of other analogous documents, we shall content ourselves with adding, that it also related in particular to the monopoly of the Crown Lands for the profit of individuals of particular classes, to the exclusion of the mass of the Inhabitants of a Country who have bathed it with their sweat in rendering it fertile, and with their blood in defending it and in cementing its union with the Mother Country. This abuse which has been for so many years the subject of their constant remonstrances, and reiterated complaints the justice of which has been acknowledged, had been also the subject of the attention and solicitude of the Government in England; and finally of communications which afforded the best founded hopes of its disappearance.

We believe this simple statement to be sufficient on these points; but after the explanations you have been pleased to give us, we ought not to allow you to be ignorant of some circumstances directly relative to our Petition.

In the present state of things it was scarcely possible for us to suspect that an Act of Legislation of this nature was contemplated. The Bill in question also, which had never been notified as a public measure, only came to our knowledge as it were by chance, after it had passed the House of Commons, where we have not seen that it was the subject of any discussion. It was then rapidly passing through the House of Lords.

The greatest diligence on our part was therefore necessary, and we had necessarily to refer to the printed copy of the Bill in order to make our observations upon it. Setting aside certain matters of detail, we need only add, that there is in the Bill an express provision that it shall be a public Act.

We venture to believe that nothing more is necessary to heighten very much the already great importance of the preceding considerations, with regard to which further explanations would not be wanting if they were thought requisite.

Be pleased to accept the assurance of the respect with which we are,

Sir,

Your very humble
and obedient Servants,
(Signed,) D. B. VIGER,
A. N. MORIN.

London Coffee House,
Ludgate Hill, 2d June 1834.

The Right Honorable E. G. STANLEY,
His Majesty's Principal Secretary
of State for the Colonies.

No.

No. 8.

Letter from Messrs. Viger and Morin to R. W. Hay, Esquire, dated 2d June 1834.

Sir,

Accept our thanks for the Letter you addressed to us on the 30th of May, and which reached us on Saturday.

The explanations it contained rendered some remarks on our part necessary. We take the liberty to lay them before the Secretary of State for the Colonies.

Be pleased to accept our assurances of the consideration, &c.

(Signed,) D. B. VIGER,
A. N. MORIN.

London Coffee House,
Ludgate Hill, 2d June 1834.

R. W. HAY, Esqr.
Colonial Office.

No. 9.

Letter from the Honble. D. B. Viger to the Right Honorable T. Spring Rice, dated 21st June 1834.

Sir,

The business before you being necessarily exceedingly multiplied at this moment, I should have wished longer to defer soliciting your attention to certain subjects of urgent interest to the Province of Lower Canada. I shall mention at present, the Bills to the number of fourteen, passed by both Houses of the Provincial Parliament in the course of the two last Sessions, and reserved for the signification of His Majesty's pleasure by the Colonial Administration.

Not only is the Province deprived of the advantages expected from these measures, but the delay (with regard to some of these Bills in particular) may occasion the irrecoverable loss of establishments of acknowledged utility and even of indispensable necessity.

As a few words of explanation may have the effect of clearing up many difficulties on this subject, I should beg you to grant me a moment's audience whenever the business before you will permit you to do so.

Be pleased to accept the assurances of the profound respect with which,

I have the honor to be,

Sir,

Your very humble and
obedient Servant,
(Signed,) D. B. VIGER.

London Coffee House,
Ludgate Hill, 21st June 1834.

The Right Honorable T. SPRING RICE,
His Majesty's Principal Secretary of
State for the Colonies.

No. 10.

Letter from the Right Honorable T. Spring Rice, to the Honorable D. B. Viger, dated 25th June 1834.

Colonial Office, June 25th 1834.

Sir,

In consequence of your representations to me on the

subject of several Provincial Bills from Lower Canada, on which His Majesty's pleasure has not yet been signified, I have made enquiry into the matter. I have now the honor to acquaint you, that to two of the three Bills reserved by the Governor in the Session of 1833, I shall have the satisfaction of advising His Majesty to give His assent; and my attention will be turned to the third, which relates to the Incorporation of the College of St. Hyacinthe, so soon as I shall receive the opinion of the Law Advisers of the Crown, to whom it has been referred.

Of the Bills which passed the House of Assembly and Council in the course of last Session, eleven have been reserved for His Majesty's pleasure by the Governor, but as these were only received by me on the sixth instant, nothing has yet been decided upon them. I beg you however to believe that no delay inconsistent with the importance of the subjects which they embrace, shall impede the final decision upon them.

I have the honor to be,

Sir,

Your most obedient
humble Servant,
T. SPRING RICE.

(Signed,)

D. B. VIGER, Esqr.
London Coffee House.

No. 11.

Letter from the Honorable D. B. Viger to the Right Honorable T. Spring Rice, dated 27th June 1834.

Sir,

Your Letter of the 25th reached me too late yesterday evening for me to thank you earlier for your prompt attention to the Bills spoken of in mine of the twenty first instant, and more particularly for what you say with regard to the advice you intend offering to His Majesty concerning two of the three Bills reserved at the close of the Session before last of the Provincial Parliament.

The reasons for which these Bills were reserved being absolutely unknown in the Province, I should fail to comply with the desire you expressed to me to look at every Bill in the most correct point of view possible, if I did not now remark that among those reserved last Session, there is one resembling, and one or two others more or less analogous to, that for incorporating the College of St. Hyacinthe.

This remark may be so much the more worthy of attention because these subjects ought to be considered relatively to the jurisprudence and peculiar institutions of the Province, with reference to which I shall make it my duty, whenever I may be called upon, to give any explanation it may be in my power to offer.

Be pleased to accept the assurances of the profound respect with which I have the honor to be,

Sir,

Your most humble and
obedient Servant,

(Signed,) D. B. VIGER.

London Coffee House,
Ludgate Hill, 27th June 1834.

The Right Honorable
T. SPRING RICE,
His Majesty's Principal Secretary of State
for the Colonies, &c. &c. &c.

No.

No.

No. 12.

Letter from the Honble. D. B. Viger to the Right Honorable T. Spring Rice, dated 9th August 1834.

Sir,

I think it my duty now to beg a moment's audience of you. A few words of private conversation upon some of the subjects of my Letters of the 21st and 27th of June last, would, I think, be of real utility. I can say, too, that in begging this favor I am acting upon the views which you have yourself communicated to us.

Be pleased to accept the assurances of the profound esteem with which I have the honor to be,

Your very humble and obedient Servant,
(Signed,) D. B. VIGER.

London Coffee House,
Ludgate Hill, 9th August 1834.

The Right Honorable
T. SPRING RICE,
His Majesty's Principal Secretary of State
for the Colonies, &c. &c. &c.

No. 13.

Letter from the Honble. D. B. Viger to the Right Honorable T. Spring Rice, dated 15th August 1834.

Sir,

I beg you will accept my thanks for your note of yesterday, informing me that I can see you on Saturday between four and five o'clock, at which time I shall not fail to be at the Colonial Office.

I have the honor to be, with profound respect,

Your very humble and obedient Servant,
(Signed,) D. B. VIGER.

London Coffee House,
Ludgate Hill, 15th August 1834.

The Right Honorable
T. SPRING RICE,
His Majesty's Principal Secretary of State
for the Colonies, &c. &c. &c.

No. 14.

Letter from the Honble. D. B. Viger to the Right Honorable T. Spring Rice, dated 23d August 1834.

Sir,

I find myself deceived in the hope I entertained that by waiting a few days I should receive information which would enable me to add something to that part of my Correspondence of which we were speaking last Saturday, and which I have just enclosed and addressed to you.

If one of these communications should appear to you not to be strictly within the rules you then insisted on, I beg you to consider that this arose from peculiar circumstances. The explanations I could give you on this subject would be perfectly satisfactory to you.

If the species of memoirs which you will find in this collection should be faulty as regards composition, I can at least say that they have the merit of containing correct statements of facts;—it is in this point of view only that I can believe them worthy of your attention. As to the facts themselves, their importance cannot escape you.

I beg you to recollect the remark I made to you with regard to my communications, that the English is a translation hastily made, &c. and printed in the same manner (as the original was also) during the Sessions for the use of the Members. Errors would necessarily creep in. It is easy to remedy this in reading the original, but it is not quite so easy to do the same with respect to the Translation.

I regret that my Correspondence posterior to the 30th of December last, which is to be found in the Colonial Office, is not yet printed. The consideration of many facts therein stated, being essentially connected with that of a great number of those set forth in the preceding part, I ought to add that they have acquired a peculiar degree of importance under existing circumstances.

I beg you to observe that these Memoirs were for the most part composed on the occasion of successive events, which accounts for the apparent want of order which might be remarked in the classification of the several subjects therein discussed.

I beg you to be pleased to accept the assurances of the profound respect with which I have the honor to be,

Your very humble and obedient Servant,
(Signed,) D. B. VIGER.

London Coffee House,
Ludgate Hill, 23d August 1834.

The Right Honorable
T. SPRING RICE,
His Majesty's Principal Secretary of State
for the Colonies, &c. &c. &c.

No. 15.

Letter from the Honble. D. B. Viger to the Right Honorable T. Spring Rice, dated 27th August 1834.

Sir,

I should think I was failing to act upon the views you again communicated to me the last time I had the honor of seeing you, if I did not ask a moment's conversation with you on some of the subjects to which I have taken the liberty of soliciting your attention. I will venture to say that a few words of explanation with regard to them will not be without importance.

Be pleased to accept the assurances of the profound respect with which I have the honor to be,

Your very humble and obedient Servant,
(Signed,) D. B. VIGER.

London Coffee House,
Ludgate Hill, 27th August 1834.

The Right Honorable
T. SPRING RICE,
His Majesty's Principal Secretary of State
for the Colonies, &c. &c. &c.

No.

No. 16.

Letter from R. W. Hay, Esquire, to the Honble. D. B. Viger, dated 1st September 1834.

Downing Street, 1st September 1834.

Sir,

In answer to your Letters of the 25th and 27th ultimo, I am directed by Mr. Secretary Spring Rice to inform you that, at the present, the press of business is such as to render it impossible for him to name any day on which he can receive you.

I am, Sir,

Your obedient Servant,
(Signed,) R. W. HAY.

D. B. VIGER, Esquire,
London Coffee House.

No. 17.

Letter from the Honble. D. B. Viger to R. W. Hay, Esquire, dated 5th September 1834.

Sir,

It has not been in my power earlier to acknowledge the receipt of your Letter of the 1st instant, (which reached me only yesterday) in answer to mine of the 23d August to Mr. Secretary Spring Rice.

I have the honor to be,

Sir,

Your very humble Servant.
(Signed,) D. B. VIGER.

London Coffee House,
Ludgate Hill, 5th Sept. 1834.

No. 18.

Letter from the Honble. D. B. Viger to the Right Honorable T. Spring Rice, dated 16th September 1834.

Sir,

On the 5th of this month I received by the two penny Post a Letter from Mr. Hay, dated the 1st. wherein he informs me, in answer to my Letter to you of the 23d of August, that the press of business rendered it impossible for you to name any day on which you could receive me.

I regret this on account of the importance of the subjects on which I intended speaking to you, besides some of those which formed the subjects of our conversation when I saw you on the 16th of August.

I ought to tell you that I was earnestly desirous of following the advice of a person worthy of all confidence, by laying before you, previous to my departure from England, a faithful representation of the various subjects of complaint, with regard to which the Inhabitants of the Province have for so many years been soliciting the attention of the Government, and are at this present time appealing to its justice.

It would have required more time than I had at my disposal, to employ the very large quantity of matter before me, and to arrange the whole in a clear and methodical order.

It would above all have been necessary that I should know on what points it was especially necessary to throw light on this side of the Ocean, in order

that I might not place new difficulties in the way of the examination of questions already complicated enough, by rendering them still more so.

For these reasons I think it right to confine myself to the following considerations, which are, as it seems to me, adapted to throw light on some of the subjects of this examination.

The Petition of the House of Assembly laid before the House of Commons during the last Session of the Parliament, contains, on the subject of the grievances complained of, a statement, in the analysis of which I can see no difficulty.

On the other hand these complaints do not relate solely to isolated facts of recent date, to the circumstances of the moment susceptible of being looked at in divers manners, and of affording grounds for different conclusions.

The fact is precisely the reverse; these complaints are founded on a long series of facts, some of which occurred at a period already remote, and which are connected with each other and have been the subjects of continually renewed remonstrances for a great number of years past.

These facts are of public notoriety in the Province. They already for the most part belong to its history. It is no more possible to shake their certainty than to efface their remembrance. And moreover, independently of their number and their importance, they relate to subjects so various that it is impossible to ascribe them to accidental or transient causes.

As regards explanations, there are I think sufficient, at least with respect to the most important of these facts, in the observations I have at different times laid before the Colonial Minister since I have been in England. They have the merit of correctness in their favor.

There is one circumstance which with reference to this subject is worthy of attention. The discussions which arose in the Assembly on the subject of this Petition were long and frequently repeated; yet I think I may say that the facts there cited were not in any instance denied by those who opposed the proceedings of the majority, although in the course of the debate, they were repeatedly challenged to point out those which they thought capable of being controverted. Their opposition was unconnected with any consideration of this nature.

But even if it were admitted that the statement of facts in the Petition is not rigorously exact,—that it might on this side of the Ocean appear to fail on certain points;—yet from the moment when the principal facts were established, it would be very useless to engage in a minute and detailed examination of those which are only of secondary importance.

After giving a moment's attention to some of the grievances which may be regarded as holding the first rank among the subjects of the remonstrances in question, it must be felt that all the rest follows as a necessary consequence,—as an inevitable result:

Is it possible to expect that order and impartiality should prevail in the Administration of the Government of a Country, when the greater part of the Legislative authority, and, nearly without exception, all the Executive and Judicial power are in reality concentrated in the hands of a particular and distinct class, forming but a trifling portion of the Inhabitants of the Country, and having no community of ideas, affections or interests with them, and who for that reason alone must necessarily have others of an opposite kind?

Is it possible to be persuaded that there is not some essential vice in the Constitution of this Government, when some of its recent proceedings are taken into consideration;

E

tion; when the class in question having the majority in the second branch of the Legislature is seen openly to pretend to this species of monopoly as a right inherent to their origin; and to claim in like manner the power of constantly paralyzing by an irresponsible *veto* all the efforts of the People to obtain the adoption of measures and rules of conduct suited to their wishes and their wants?

When the administration of the Criminal Law is seen to have remained so long sullied with abuses, and these abuses to continue unmitigated in spite of the remonstrances of the Country, and to be still in existence after formal instructions from His Majesty's Government that they should be remedied,—when it is seen that even when these instructions are partially complied with, care is always taken to leave means of ultimately eluding them;—is it possible, (setting aside those that relate to the administration of Justice in civil matters, and to the composition of the Courts) to be persuaded that the subjects of complaints of the Country can be illusory?

Some of these pretenders to dominion have ventured to claim for the privileged class, the exclusive right of deciding on matters relating to the liberty and honor of the rest of their fellow subjects and of exercising the power of life and death over them!—This was, as will be seen, the effect of an impulse from a higher quarter.

The Law Officers of the Crown had also claimed the monopoly of all prosecutions in criminal matters, and their claim had been maintained by one of the Courts.

Of what use could it be after this to examine curiously and piece by piece, the particular acts of abuse pointed out as arising from this source?

Was it possible for those whose conduct forms the subject of these complaints, to resist the temptation to avail themselves of these powers for the purpose of forwarding their personal interests or those of their caste, instead of using them for the general good?

The most undeviating wish to do what is right, the most constantly honest intentions could not prevent them from falling into error, nor, therefore, from committing acts of injustice, the inevitable results of their more than anomalous and contradictory position.

What would be the consequence if I went into detail? I shall be content by way of example, to ask under what well organized Government it would have been possible to allow the public chest to remain in the keeping of a Receiver General who had been for so many years a defaulter for sums which he had taken out of it for the purpose of making large acquisitions;—to give the Office to his son instead of compelling the father to refund the said sums, and to leave the son in possession of the Office for an equal or longer space of time, with the means of diverting the public monies to his own use, to an amount three times as great, and much superior to that of one year's Expenses of the whole Civil Government of the Province; and finally, among other circumstances not less extraordinary, to keep in his hands the fortune thus acquired, as if it was the reward of his services, or a tribute of gratitude for them?—Since this time it has been no more possible for the Assembly to obtain the concurrence of the other branches of the Legislature to the measures it has from time to time proposed for the purpose of ascertaining the state of the monies in the public chest of the Province, that it was for it previously to succeed in its efforts of a similar nature to prevent their embezzlement!

..... Returning now to general considerations of the nature of those before mentioned, I would ask again, how it would be possible that any illusion should exist as to the vices of a system like this, even if its practical effects had not been distinctly ascertained by experience? Yet the Inhabitants of the Country which feels

the weight of these effects, are reproached with the vivacity of their complaints.

Can it be expected that they should remain quiet and apathetic, when they have been for so many years the witnesses and the victims of these abuses?—If they did, they would be accused of more than ignorance and even of meanness.—Are not these pretences and proceedings so frequently renewed, more than outrages on them, since they are so many threats and attempts to fix the stamp of servitude on them for ever?

Ought they quietly to allow the developement amongst themselves of the seeds of a corruption, the germ of which having been sown among a People who form part of the Empire, during the barbarism of the middle ages, has never since ceased to spread and to ramify through all the veins of the body politic; to such an extent as still to resist at the present day the progress of modern intelligence and civilization, and as it were to defy the efforts of the most skillful Statesmen to remedy it?

There is still one more circumstance which deserves a place here.—It is the existence and the activity of the efforts made to induce the belief that these ideas are foreign to the Canadian People,—that they are exclusively those of a small number of demagogues who speculate on what is called the ignorance of the People, and labour to make them believe in the existence of grievances which they in no wise feel.—I should think myself wanting in respect for my Country if I took the trouble of stopping to refute these assertions, or the equally extravagant reasons heaped together in order to give them the color of a pretext.

I have elsewhere shewn to what other imputations the Canadians have been constantly exposed, and what treatment they experienced more especially just before the breaking out of the last war in North America. It was impossible however to avoid putting arms in their hands. The rest is known. But their conduct did not silence insult. The outrages which have been prodigally heaped upon them have served as a means of advancement. A recent appointment seems to attest that they are still a title to fresh favours. What new trials moreover have they not been compelled to undergo since the period aforesaid?—What interests have they which have not been injured?—What affections which have not been wounded?—Let us suppose that decided changes had taken place in their feelings, who is to blame if their hearts are ulcerated?

Let us remark that their attachment to the Mother Country now furnishes matter for sarcasm. Some of their neighbours in the United States add to it bitter reproaches, first, for having refused to unite their efforts to those they were themselves then making for the preservation of their own liberty, and then for having repulsed them when they offered to share that liberty with them by breaking the bonds of a union, which is, according to them, the cause of all the evils which form the subjects of the complaints of the Canadians, and of their want of power to remedy them.

I must pass over the reflections arising from this fruitful source, in order to dwell for an instant on two of the Grievances of the Province which have lately acquired additional importance. In the first place, the abuses which had crept into the manner of disposing of the Crown Lands and had long been the subject of the complaints of the Country, had in like manner become that of the attention of his Government, whose views in this instance as in many others had not been followed up. The Country naturally returned to the charge, and the Assembly in particular claimed for the local Legislature the right of superintendence, the only means which can be effective. It had the strongest reasons for expect-

ing

ing that its proceedings would be crowned with success, when after its remonstrances had been repeated it saw in 1831, His Majesty's Government penetrated with the necessity of giving free scope to competition on this subject, and ready to give the fullest and most serious consideration to any suggestion the Assembly might make, and to its recommendations for modifying the proposed plan for attaining this object.

The Country complained also that the Imperial Parliament had passed Acts of Internal Legislation for the Province, which, (not to mention the Jurisdiction of the Legislature on such subjects) had introduced confusion into the laws by which property was governed. It was in fact admitted that the subject was one of local and internal policy on which the deliberate judgment of enlightened men within the Province, ought to have more weight than any external authority whatsoever. The same thing was admitted with respect to the propriety of leaving exclusively to the Provincial Legislature the passing of all laws requisite for the government of property therein. These were, among many others, some of the views of His Majesty's Government which were calculated to keep up the hopes of the Country.

Such was the state of things when, notwithstanding all this, the report that a Company of individuals had been formed who proposed to acquire the Crown Lands for the purpose of making them the subject of a trading speculation, gave birth to uneasiness which was authorized by the experience of the past, and which I thought it right to mention to the Colonial Minister in the latter part of a Letter written in December one thousand eight hundred and thirty two.

It is not necessary to dwell in this place on the hopes which the proceedings of His Majesty's Government had been calculated to raise, any more than on the principles of which we have just been speaking, or on the rules of political economy relative to the species of monopoly which establishments of this nature necessarily carry with them; or to show that the circumstances which might in some other Colonies furnish motives for making exceptions to these rules are absolutely foreign to Lower Canada,—that, on the contrary, this kind of monopoly of landed property would be there much more at variance with these rules than one which should relate to food or to any ordinary article of Commerce.

Moreover, to allow any such monopoly either to a greater or less extent, was to place between the purchaser and the Province, a numerous body of men necessarily actuated by considerations of a different and opposite personal interest, with proportionate means of forwarding it at the expense of the former as well as of the latter.

While the persons who were to form the Company were laboring in the advancement of their schemes, the Assembly in the Province, was refused the information it asked on subjects connected with them, and about which the local Government was then occupied. It met with a similar refusal with regard to other analogous information relative to the Public Revenue. The individuals interested were not however the less busy in negotiating on this subject with the local Government, and with that in England at the same time.

The Assembly on its part applied to the latter, for the purpose of obtaining from it that justice which it claimed in vain from the former.

I ought here to refer to the fact, that while the Assembly was remonstrating against the scheme relative to the Crown Lands, the Legislative Council was on the other hand engaged in voting Addresses to forward

it, and that some of its Members, who were likewise Members of the Company, had a direct interest in the deliberations on the subject.

I may add that after using many insulting expressions, and appealing to national prejudices against the Assembly, the Council assigned no reason for so doing except that the Assembly had set up a claim to reserve the Lands in question in order that they might be exclusively inhabited by Canadians of French origin. I have elsewhere shewn that this assertion is not merely devoid of pretext: it is in contradiction to the whole conduct of the Assembly. Let us add, that no one of the reasons which may have been urged upon His Majesty's Government in favor of this scheme, has yet seen the light, with the exception of this more than extravagant assertion.

It is after these events, that the People of the Province learn that a Bill in favor of the said Company, brought into the House of Commons as a private Bill, was passed by that House, without any discussion on the subject having been heard of;—that it had in like manner passed rapidly through the House of Lords, and that in addition to enactments relative to objects of Internal Legislation in the Province, it contained a special provision making it a public Act;—and lastly, that it had been sanctioned!

I think it right to confine myself for the present to referring to the representations laid before His Majesty's Government by Mr. Morin and myself, when it accidentally came to our knowledge that this Bill had passed;—a period when it was perhaps too late for them to produce any effect for the moment.

I shall only remark here, that the sufferings of a People placed at so remote a distance can scarcely produce any very lively feeling on this side the Ocean, where, moreover, parallel examples are wanting by which they can be appreciated.

Independently of these obstacles to the success of their remonstrances, they have against them that prejudice by which a struggle against power is commonly confounded with resistance to lawful authority.

Besides the peculiar circumstances which render this prejudice more powerful with regard to Lower Canada, the means of Communication with the Government in England, which are every where open to the holders of Office, are crowded with innumerable difficulties for the People of the Country when they seek to make their remonstrances heard.

The former, not to speak of old habits, and official connections of long standing, with many other circumstances which militate in their favor, may doubtless now reckon on a new source of support.—The English Stockholders in the Company, can see nothing but profits to be realized in a speculation which is common to them and to all connected with the local Administration.—On the other hand, the opposition made by the People of the Province cannot fail to wound their strong feeling of self interest.—Even supposing them all to be strangers to prejudices of another kind, yet being impelled by this feeling more likely than any other to create illusion, they will necessarily use every effort to defend the cause of those to whom the Province ascribes those evils which the hope of seeing them remedied might render lighter, or cause to be forgotten; while the authors of these wrongs can never forgive the People for entertaining this hope; more especially when resistance must excite fears in them lest they should see the source whence they draw wealth by the exercise of unchecked power, dried up, and must therefore necessarily inflame their resentment in which they have now more than ever the means of causing numerous partizans in this Country to participate.

I leave you to judge whether it can be made a crime in the Canadians that they see something melancholy in the prospect which these events present to them.

I stop here—I flatter myself that if you are able to give your attention for a few moments to this sketch,—its imperfections will not in your eyes eclipse the importance of the considerations included in it.—For the rest, I must refer to those I have already on different occasions sent to the Colonial Office, and more particularly to my Letter of the second of September of last year, and to the considerations analogous to the present by which it was accompanied.

I beg you to observe, that with regard to those facts mentioned in this paper which might at first sight appear to bear the stamp of improbability, I have, far from seeking means of eluding their discussion or examination, constantly solicited both, and have always been ready to throw light upon them if the opportunity had been afforded me.

Be pleased to accept the assurances of the profound respect with which,

I have the honor to be,

Sir,

Your very obedient
and humble Servant,

(Signed,) D. B. VIGER.

London Coffee House,
Ludgate Hill, 16th Sept. 1834.

The Right Honorable T. SPRING RICE,
His Majesty's Principal Secretary
of State for the Colonies,
&c. &c. &c.

No. 19.

Letter from the Honorable D. B. Viger, to the Honorable
L. J. Papineau, dated 4th March 1835.

Sir,

I have thought it my duty to place in your hands as early as possible, that portion of my Correspondence with the Colonial Office, which I had not been able to transmit to you before my departure from England, in order that the Honorable the House of Assembly may have communication of it during the first days of this Session of the Provincial Parliament.

I should have thought it also my duty to render a separate account of my Mission to be laid before Your Honorable House; but on considering the multitude as well as the variety of the subjects to which I had been under the necessity of giving my attention during so long a space of time, it will, I think, be easy to perceive that (independently of every other consideration) it was almost impossible that I should at the moment perform that task.

I may also, with reference to this subject, remark, that my Correspondence with the Colonial Office contains an exact analysis of the principles and facts to which I appealed in support of the remonstrances of the Country, as well as a faithful record of my conduct and proceedings with His Majesty's Government, during the whole period of my stay in England, and of those proceedings which were common to myself and Mr. Morin, in the equally laborious and important Mission with which he was himself charged, and of which he so worthily acquitted himself.

Considerations of detail could scarcely throw light on the numerous subjects of my Communications, and might

even have a contrary effect.—I must also beg that Your Honorable House will be pleased to call to mind the remarks contained in the Letter I had the honor to address to you on the 30th December 1833, which was afterwards printed by order of the House during the Session of 1834.—It would, moreover, have been necessary that I should be made acquainted with the points which required elucidation, in order that I might not so swell the work as to render it worse than useless.—And, besides, I need not add that I shall always be ready to give any explanations in my power with regard to any of the said subjects, if it should at any time become necessary for me to do so.

I ought now to say that after the 24th of September last, (the date of my departure from England,) I should perhaps have considered it my duty still to remain there and to continue to follow the affairs and watch over the interests of the Province, if some of those to whom we are indebted for the most noble efforts in support of its claims had not advised me to recross the Ocean at a moment when in their opinion it was possible that my presence in the Province might be of some utility, while under existing circumstances it appeared to them not to be necessary in England.

It now remains for me to beg that you will once more request the House to accept my grateful acknowledgments for the marks of confidence with which it has been pleased to honor me.—I have done all in my power to merit that confidence, and to acquit myself worthily of the obligations imposed on me by the charge entrusted to me. If I have been wanting either in talent or in skill, I have not been wanting either in zeal or constancy in defending the cause and supporting the interests of our Country.—

Be pleased to request the House to accept, and to accept yourself, the assurance of the profound respect with which,

I have the honor to be,

Sir,

Your very humble
and obedient servant,

(Signed,) D. B. VIGER,

Quebec, 4th March 1835.

To the Honorable

L. J. PAPINEAU, Esquire,
Speaker of the House of Assembly,
&c. &c. &c.

No. 20.

Letter from A. N. Morin, Esquire, to the Honorable L.
J. Papineau, dated 4th March 1835.

Sir,

Having been appointed by the Honorable the House of Assembly, by its Resolutions of the first of March last, to convey and place in the hands of the Honorable Denis Benjamin Viger, the Agent of the Province in England, the Petitions on the State of the Province addressed to the two Houses of the Parliament of the United Kingdom, and to support the same jointly with the said Honorable Denis Benjamin Viger, I have now to render an account of the manner in which I acquitted myself of the duties thus assigned to me: and although I have been far from being able to perform them in a manner worthy of their high importance, I have bestowed on them all the attention of which I was capable.

After reaching London on the fifth May, I immediately placed

placed the Petitions and the Documents which accompanied them in the hands of Mr. Viger.

The Documents already laid before the Honorable the House of Assembly by Mr. Viger, and our joint Report dated this day herein inclosed, will furnish information on all those points connected with my Mission of which it is necessary that the House should be informed.

I remained in London until the prorogation of the Imperial Parliament, in order that I might be on the spot in case the affairs of the Province should again become the subject of discussion.—I left it on the 19th of August by the advice of Mr. Viger and of the other friends of the Province in England.

I must beg you, Sir, to express to the House my entire devotedness, and my gratitude for the honor it conferred on me.—I beg you like wise to accept my assurance of the respect and high consideration with which,

I have the honor to be,

Sir,

Your very humble
and very devoted Servant,
(Signed,) A. N. MORIN.

The Honorable

LOUIS JOSEPH PAPINEAU, Esquire,
Speaker of the House of Assembly,
&c. &c. &c.

No. 21.

Letter from Messrs. Viger and Morin, to the Honorable L. J. Papineau, dated 4th March 1835.—With Appendix Nos. 1. 2. 3.

Sir,

We have the honor to add the following summary to the Documents already transmitted to you, on the proceedings which have taken place in England with regard to the public affairs of this Province, since the last Session of the Provincial Parliament.—It refers principally to the period of time between the arrival in London of the Petitions of the Honorable the House of Assembly to the two Houses of the Imperial Parliament, and the close of the Session about the middle of August last.

When Mr. Morin, one of the undersigned, reached London on the 5th of May, a Committee of the House of Commons had already been appointed on the affairs of Canada, and was busied in considering them:—An inquiry was ordered, in the course of which Mr. Morin was examined several times.—The proceedings of the Committee were nevertheless brought to a close sooner than could have been anticipated, and on the 3rd of July they made the Report hereunto subjoined.—(Appendix No. 1.)

The Petition of the Honorable the House of Assembly to the House of Commons, was presented by Mr. Roebuck in the course of May, and was referred to the Committee above mentioned.

The Petitions of the People of the Province in support of the proceedings of the Assembly were also presented by Mr. Hume and Roebuck in whose hands we placed them as they arrived.

Having learned, as it were by chance, that a Bill in favor of a Company of individuals residing principally in London, whose chief object was to speculate on the Lands of this Province, had passed one of the Houses of Parliament, and was on the point of passing the other, we addressed a Petition to His Majesty on the sixteenth of

May, praying that the Royal Sanction might be withheld from the said Bill.—We placed this Petition in the hands of Mr. Stanley, then Secretary of State for the Colonies; and at the same time gave him such explanations as we thought necessary to support it.—In the mean time the Bill had passed the House of Lords.—On the first of June we received a Letter from Mr. Hay, Under Secretary for the Colonies, dated the 30th of May preceding, informing us on the part of Mr. Stanley that His Majesty had not signified his pleasure on our Petition, and replying to some legal difficulties which we had pointed out in the Bill.—We acknowledged the receipt of this Letter, and thought it proper to write at the same time in direct reply to Mr. Stanley, confining our remarks chiefly to the constitutional rights of the Assembly and of the People, and to the principles on which our Petition was based.—We learned, however, that the Bill had received the Royal Sanction.

We abstain from introducing on this occasion the Documents just mentioned, because they have already been laid before the Honorable the House of Assembly.

By the advice of the friends of the Province in England, we did not take steps for causing the Petition addressed to the House of Lords to be immediately presented. Nevertheless, as the end of the Session was approaching, we addressed to the Lord Chancellor, on the 5th of August, the Letter hereunto annexed, (Appendix No. 2) accompanied by a Note from Mr. Roebuck to the same effect.—The Session closed without our having received any answer. We left the Petition with Mr. Roebuck, to make such use of it as he might think best.

There is one other circumstance of which it appears to us to be our duty to give an account to the Honorable the House of Assembly, more particularly than we should have done, had it not been for certain subsequent events and occurrences of a public nature which are essentially connected with it.—On the twenty second of June last, Mr. Roebuck and ourselves had a conversation at the Colonial Office with Mr. Spring Rice who had then become Secretary of State for the Colonies.—A minute of this conversation drawn up as correctly as possible the same day, is hereunto annexed.—(Appendix No. 3).—We thought that under existing circumstances it was impossible for us to avoid giving an account of it in the most ample manner, and we believe that we should have found Mr. Roebuck of our opinion if it had been in our power to consult him. The minute of this conversation will suffice to show how it took place, and is a faithful record of its bearing on the then existing circumstances to which the several portions of it related.—It is right that we should abstain from offering any opinion on this subject. It will be for the Honorable the House of Assembly, if the occasion should present itself, to pronounce an opinion founded on this statement of facts, and on the subsequent events which have made it our duty to lay these details before the House.

We have the honor to be,

Sir,

With the most perfect consideration,
Your very humble and
very obedient Servants,
(Signed,) D. B. VIGER,
A. N. MORIN.

Quebec, 4th March 1835.

To the Honorable

LOUIS JOSEPH PAPINEAU, Esqr.
Speaker of the House of Assembly.
&c. &c. &c.

APPENDIX

F

APPENDIX No. 1.

Report of the Canada Committee, presented to the House of Commons, Thursday, 3rd. July 1834.

The Select Committee appointed to enquire and report to the House how far the grievances complained of in the year 1828, on the part of certain Inhabitants of Lower Canada, have been redressed, and the recommendations of the Committee of this House have been complied with on the part of His Majesty's Government, and to enquire into the matter of certain other grievances not then brought under the consideration of this House, but now set forth in Resolutions of the House of Assembly of Lower Canada in the present Session, and to report their opinion thereupon to the House, and to whom several Petitions were subsequently referred, have pursuant to the order of the House examined the matters to them referred, and have agreed to the following Report:—

Your Committee have taken into serious consideration the matters referred to them on the subject of the Affairs of Lower Canada.

Your Committee have examined several witnesses on these matters. They have also considered attentively the Despatches and Letters which have passed between the Colonial Office and the Governor of the Province since the year 1828, which correspondence has been laid before them without the least reserve.

Your Committee consider it their duty to declare their opinion that a most earnest anxiety has existed on the part of the Home Government to carry into execution the suggestions of the Select Committee of 1828, and that the endeavours of the Government to that end have been unremitting, and guided by the desire in all cases to promote the interests of the Colony; and Your Committee have observed with much satisfaction that in several important particulars their endeavours have been successful. It is however with deep regret that Your Committee perceive that in others they have not been attended with that success which might have been anticipated; heats and animosities having unfortunately arisen and differences continuing to prevail between the branches of the Colonial Legislature as well as between the House of Assembly and His Majesty's Government; those unhappy differences appear to Your Committee no less calculated to check the progress of improvement in one of the most important of our Colonial possessions, than to affect most injuriously the general interests of the British Empire.

Your Committee believe that they will best discharge their duty by withholding any further opinion on the points still in dispute. It has appeared to them that some mutual misconception has prevailed, and when Your Committee consider the extreme importance that a perfect reconciliation of these differences should take place, they express their earnest hope that these misconceptions being removed, many of the present difficulties will no longer exist, or may be amicably adjusted.

Your Committee are also induced to take this course by their persuasion that the practical measures for the future administration of Lower Canada may best be left to the mature consideration of the Government responsible for their adoption and execution.

Your Committee are of opinion that it would not be expedient to apply for powers to lay before the House the Evidence of the witnesses examined, or the Documents that have been laid before them.

APPENDIX No. 2.

Letter from Messrs. Viger and Morin to the Right Honorable the Lord Chancellor, dated 8th August 1834.

My Lord,

We have the honor respectfully to transmit to Your Lordship a note from Mr. Roebuck. We hope that after having conferred with the Honorable Mr. Spring Rice, Your Lordship will be pleased to lay on the Table of the Lords the Petition of the House of Assembly of Lower Canada, similar, except as to its form, to that presented to the House of Commons in May last.

We shall wait on Your Lordship with this Petition, or transmit it in any way which Your Lordship may direct. We flatter ourselves that in this proceeding on our part Your Lordship will see a proof of our confidence and of our reliance on the justice of His Majesty's Government.

We beg to be allowed to seize this opportunity of conveying our assurances of the profound respect with which we are,

My Lord,

Your Lordship's

Most obedient and

most humble Servants,

(Signed.) D. B. VIGER,
A. N. MORIN.

London Coffee House,
Ludgate Hill, 8th August 1834.

The Right Honorable
The LORD CHANCELLOR,
&c. &c. &c.

APPENDIX No. 3.

Minutes of a Conference between the Right Honorable T. Spring Rice, J. A. Roebuck, Esquire, M. P., the Honorable D. B. Viger, and A. N. Morin, Esquire, on Sunday, the 22nd June 1834:—laid before the House of Assembly during the Session which has just closed.

We arrived at the Colonial Office at about two o'clock, accompanied by Mr. Roebuck, at the request of Mr. Rice repeatedly expressed to Mr. Roebuck in several conversations on Canadian affairs. Mr. Rice having entered, requested us to wait a short time, as he had to absent himself on some business. He informed us that he had requested the attendance of a person to whose presence at the conversation we should not probably object. He referred to Mr. Labouchere. We replied that we should be very happy, and that that gentleman had deserved the particular gratitude of our Country on several occasions. Mr. Rice retired, and returned a short time afterwards alone. He began by saying that he was desirous of acting with frankness and confidence—that the greatest proof he could give us of his confidence was to return alone; but that the presence of his friend Mr. Roebuck, who had his confidence and ours, was sufficient. He requested that this conversation should be purely confidential; he should consider himself very fortunate if it should have the result which he expected. If the contrary

trary should be the case, it must be looked on as not having taking place, (*non avenue*.) Mr. Roebuck had probably informed us of the turn which affairs had taken in the Canada Committee; (Mr. Rice) had just been added to that Committee without having followed its proceedings, and without having, ever, in his public career, occupied himself in a particular manner, with the Colonies. The Committee appeared desirous to confine its Report to the question, whether the recommendations of the Committee of 1828, had, or had not been executed, and appeared to have come to the conclusion that misconceptions, on both sides, had prevented their execution. But whether the present Committee should report that the recommendations had been entirely executed, or that they had been neglected, and whatsoever circumstance that neglect may be attributed to, his (Mr. Rice's) proceedings would not be at all embarrassed by the opinion of the Committee, as to the measures to be adopted with regard to Canada. He was not connected, even in the most distant manner, with any party in the Colony or with any system of Colonial administration; neither was he bound to follow the policy of any of his predecessors in office; he had entered office with the firm desire to enquire after the truth, and to render justice without regard to persons, and to act in the manner which should appear to him the most conformable to the general good of the Country, and of its Inhabitants without distinction of origin. He asked us if these principles accorded with ours, and if we were disposed to coincide with the views of Government, and to act with the same frankness!

We thanked him for the intentions which he had just expressed; we found them just and were disposed to act with the same frankness towards him. Having expressed our desire to address him in French, he told us that he would speak English and we French, and that he would not consider us the less good subjects on that account;—he considered himself happy in understanding French sufficiently to do justice to the representations made in that language.

Whilst admitting the propriety (*convenience*) of the Province regulating all that appertained to its Internal Legislation, he said that he could not at that moment give a decision on any of the points in dispute. He required time to examine the numerous subjects of discussion, and he entertained a firm desire to do so. We might be assured that the conduct of the Government would be equitable and conciliatory:—In all the public documents which might emanate in any manner from the Colonial Office, the People and the Assembly would be treated with due respect: In particular he entertained the same respect for the House of Assembly in the exercise of its functions as he entertained for the House of Commons; if at the end he was obliged to differ with it on some points, we should have every reason to be satisfied with the manner in which he would conduct the discussion. He desired to know from us what difficulties could prevent the Province from granting to His Majesty's Government the time which it required, if the People were convinced of the dispositions just now expressed, which he assured us to be sincere.

We told him that we could not doubt the sincerity of his intentions as much on account of the manner in which he had expressed them, as of what Mr. Roebuck had told us. We were not so unjust as to exact from him an immediate decision on all the points, and we believed the House of Assembly as well as the People, if they were convinced of those dispositions, would not think differently from us. We declared to him, however, that

the public confidence in His Majesty's Government had been very much shaken in the Province for some years by the conduct of the Colonial Administrations, and on account of the contradictory policy of Ministers; that during the greatest part of the last twenty years, the Provincial Administrations had caused themselves to be known only by the evil which they had done, and by their constant opposition to the wants and opinions of the People; that in every other respect it might be said that at the present moment the Country was almost without Government; that even here promises had been made and engagements entered into which had been of no effect, but on the contrary had been contradicted by subsequent acts; that, therefore, something more than a manifestation of conciliatory dispositions was necessary to re-establish confidence in the Country, and to engage it to lend itself to the preliminaries which the Government might desire previous to proceeding to a final redress of grievances and abuses; that the admission of the essential principles upon which our demands were based, would facilitate ulterior arrangements, but that if His Majesty's Minister was not ready to enter thereupon immediately, he ought at least, to hasten to establish impartiality and justice in the Administration of the Colony:—(that proof should be first given of those dispositions by recalling the present Governor justly accused by the country, and who by the part which he had taken in favor of the abuses, and the manner in which he had treated the People, and the Assembly, could no longer meet the one, nor possess the respect of the other. Another act which would tend to create dispositions towards confidence, would be the sanction of a great number of Bills reserved during the two last Sessions, for motives which could not be comprehended.

Mr. Rice having demanded what the nature of those Bills was, and having received from us some explanations, said that he should be sorry to prevent the Canadian Legislature from legislating on its own affairs, that all the Bills which were unconnected with the Constitutional points upon which he had to decide, would be taken into consideration immediately on the morrow, and sanctioned at the first sitting of the Privy Council. He did not explain himself relative to the recall of the Governor, but he said shortly after, in the course of the conversation, that every thing was to be expected in favor of a good understanding, and that circumstances were the more favorable, as business would be transacted between a new Minister and a new House of Assembly, and that all discussions of a *personal* nature would be removed which would be a great advantage, as these quarrels were always hurtful; that he was an Irishman, and had learned this from the politics of Ireland, which had taught him a little of the politics of Canada.

He told us, also, that as to the Report of the existing Committee, which was a Report rather of form than otherwise, we ought not to be surprised if the conduct of his predecessors was not entirely disavowed:—that, on the other hand, every expression which could indicate a censure, or a want of respect towards the People of Canada and the House of Assembly would be carefully abstained from. Upon our expressing our regret that the Committee appeared to have come to a determination of that nature, Mr. Rice told us that if he came forward himself with a different Report, he was sure to meet with a rebuff; that therefore it would probably be more for our advantage to allow the Executive Government to act; that, as he had told us, the Report of the Committee would be no impediment to him, and that he should not scruple to act in a contrary sense if he found the thing conscientiously just as a Minister of the Crown. It was also probable that the Committee would still receive as information

information some other evidence, but that it appeared to be the intention of the Committee to regard the evidence as private.

As to the time which would be requisite to examine the affairs of the country, the difficulty was to provide in the interval for the support of the Civil Government in the Province; that every thing there was already at a stand; that by making it provisional, and in a manner not to compromise any claim on its part, the House of Assembly would evince its confidence in the Government, and would enable it to occupy itself, with advantage, with the affairs of the Province. This provisional arrangement was equally for the advantage of the two Governments, and he demanded it on that footing, and not *in forma pauperis*. We must have remarked that a measure connected with the Finances had been projected by his predecessor. That measure had now fallen through. There was another plan which he (Mr. Rice) could have adopted; he could obtain from the Imperial Legislature a vote *en gros* for defraying, in the interval, the Expenses of the Government. He did not wish to do so—he did not wish to give the House of Assembly reason to suspect that he wanted to do without it, and he thereby gave a mark of his confidence—he confided entirely in the House of Assembly.—He placed himself in a very delicate position, and had taken upon himself a great load of responsibility in case of refusal—he hoped that if we were satisfied with this proceeding, he would not have occasion to repent it. He felt equally that it was a delicate affair for the House of Assembly. As for doing more for the moment than shewing dispositions of justice and of frankness, and the most conciliating views, he could not; it ought not to be exacted from him. But if he came to the management of affairs without a knowledge of the matters in dispute, he had likewise the advantage of eu-

tering on their consideration unprejudiced. He asked us if we thought that such an arrangement was possible. We answered that we did, *provided that by Despatches or otherwise he would make his intentions known to the House of Assembly, and that the grant should be demanded in the sense above explained, and as a provisional arrangement.* With the exception of the points above mentioned it was not for us to indicate the means which he possessed to demonstrate the intentions of the Government, even previous to the next Session of the Provincial Parliament. As for the two measures which he had mentioned as alternatives, they would not only impede all arrangement, but would render it altogether impossible. He enquired when the Elections would take place, when the Legislature would be convoked? We replied that the Elections would take place in the course of the summer, and that November would be the best time for opening the Session.

Mr. Rice then said that in order to avoid misconceptions, on the subject of the proposed temporary arrangement, and to come to something precise, he proposed that it (the arrangement) should take place by means of a Bill similar to those which had been passed under the administration of Sir James Kempt. We declared that we were of the same opinion with him on that point. He enquired if the Legislative Council would oppose it? We answered that we thought they would, but after all, that would be their affair, and that that would afford a more exact idea of the views and principles of that body; that moreover every thing that could facilitate such an arrangement was in the hands of His Majesty's Government.

Thereupon, after expressions of mutual satisfaction on the manner in which this conference had been conducted, we separated.

