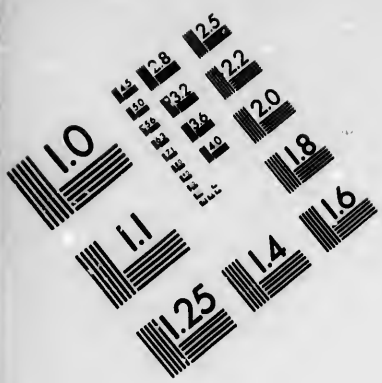

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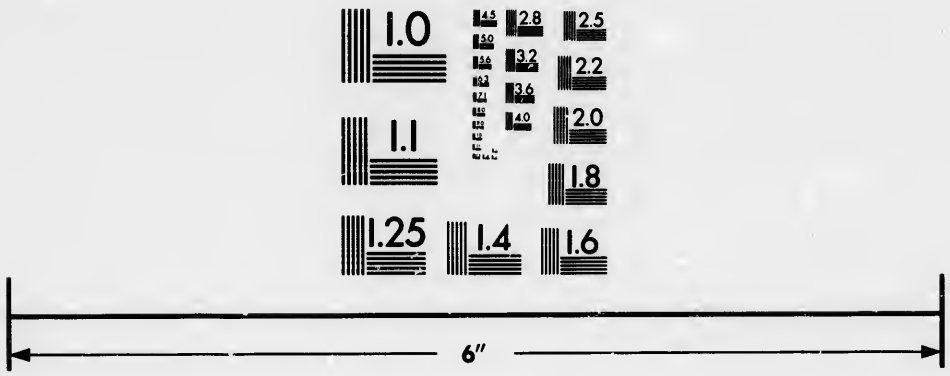

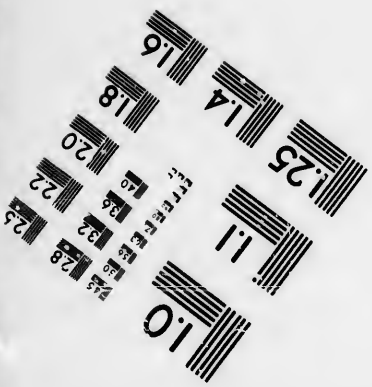

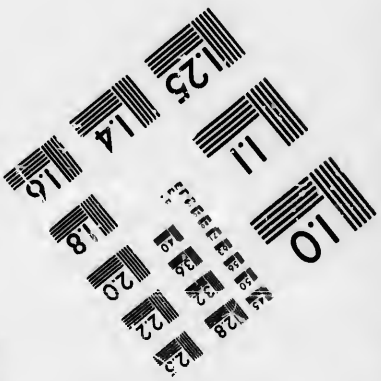

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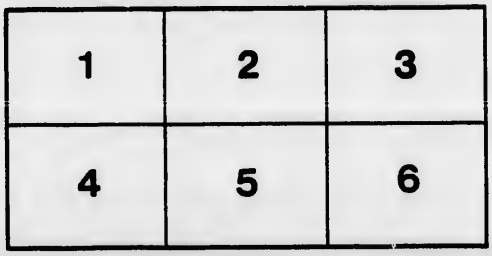

THE

HISTORY

OF THE

SESSION OF THE PROVINCIAL PARLIAMENT

OF

LOWER CANADA

FOR 1828-29.

THE Session of the Provincial Parliament, of which the proceedings are recorded in this volume, was the second Session of the thirteenth Parliament of the Province of Lower Canada. The twelfth Parliament having been dissolved by His Excellency the Governor-in-Chief, the EARL OF DALHOUSIE, the present was called in 1827, and the following Members were returned for the House of Assembly, viz.

J. B. Hertel de Rouville,	for the County of BEDFORD;
Louis Bourdages, J. Bte. Proulx,	for the County of BUCKINGHAMSHIRE;
Joseph Robitaille, Joseph L. Borgia,	for the County of CORNWALLIS;
J. Bte. Fortin, J. C. Letourneau,	for the County of DEVON;
Joseph Samson, Louis Lagueux,	for the County of DORCHESTER;
O. Turgeon, André Papineau,	for the County of EFFINGHAM;
Robert Christie,	for the County of GASPE';
F. X. Larue, John Cannon,	for the County of HAMPSHIRE;

A

François Blanchet, N. Boissonnauit,	for the County of HERTFORD;
Austin Cuvillier, J. M. Raymond,	for the County of HUNTINGDON;
Denis B. Viger, F. A. Quesnel,	for the County of KENT;
Laurent Leroux, Julien Poirier,	for the County of LEINSTER;
Joseph Perrault, Joseph Valois,	for the County of MONTREAL;
M. P. Sales de la Terriere, E. C. Lagueux,	for the County of NORTHUMBERLAND;
François Quirouet,	for the County of ORLEANS;
John Neilson, Michel Clouet,	for the County of QUEBEC;
Jean Dessaulles, Roch De St. Ours,	for the County of RICHELIEU;
Pierre Bureau, Charles Caron,	for the County of ST. MAURICE;
Pierre Amiot, L. J. Papineau,*	for the County of SURREY;
Jacques Deligny, Alexis Mousseau,	for the County of WARWICK;
Jacques Labrie, J. B. Lefebvre,	for the County of YORK;
Hugues Heney, James Leslie,	for the City of MONTREAL, East Ward;
L. J. Papineau,* Robert Nelson,	for the City of MONTREAL, West Ward;
Andrew Stuart, J. R. Vallieres de St. Réal,	for the City of QUEBEC, Upper Town;
Jean Beianger,† Thomas A. Young,	for the City of QUEBEC, Lower Town;
Charles R. Ogden, P. B. Dumoulin,	for the Borough of THREE RIVERS;
Wolfred Nelson,	for the Borough of WILLIAM HENRY.

It is necessary for understanding the circumstances attending the first meeting of this session to state, that the Parliament having met, agreeably to proclamation, in November 1827, the House of Assembly proceeded, as customary, to the choice of a Speaker, which fell upon Mr. L. J. Papineau, but the Earl of Dalhousie, not thinking fit to approve of their choice, and the House persisting in it, the Parliament was prorogued, without transacting any business, and continued to be prorogued, from time to time, until the 21st of November, 1828, when they met again for the despatch of business, under the proclamation of the Administrator of the Government, SIR JAMES KEMPT.

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* Mr. PAPINEAU having been elected for two places, subsequently made his election to serve for the West Ward of the City of Montreal, and F. X. MAILLOT, was elected in his stead for Surrey.

† Mr. BELANGER having died in the interim, THOMAS LEE was elected in his stead for the City of Quebec, Lower Town.

Having given a list of the House of Assembly, it may be proper to add that the Legislative Council was composed at the commencement of the session of

The Hon. JONATHAN SEWELL, Chief Justice of Lower Canada, *Speaker*,
The Hon. and Right Rev. C. J. STEWART, Lord Bishop of Quebec.

Sir John Johnston, Bart.	Sir George Pownall,*
The Hon. Charles De St. Ours	The Hon. John Hale,
The Hon. John Richardson,	The Hon. John Caldwell,
The Hon. H. W. Ryland,	The Hon. James Cuthbert,
The Hon. Charles Wm. Grant,	The Hon. Pre. Dom. De Bartzch,
The Hon. James Irvine,	The Hon. M. H. Perceval,
The Hon. Willm. Burns,	The Hon. Thomas Coffin,
The Hon. Rod. Mackenzie,	The Hon. L. R. Chaus. DeLery,
The Hon. Louis Gugy,	The Hon. Charles De Salabery,†
The Hon. James Kerr,	The Hon. Edward Bowen,
The Hon. W. B. Felton,	The Hon. Matthew Bell,
The Hon. John Forsyth,*	The Hon. Toussaint Pothier,
The Hon: J. T. Taschereau.	

FRIDAY, 21st Nov. 1828.

The LEGISLATIVE COUNCIL being met, the Lord Bishop of Quebec and the Hon. J. T. Taschereau, were sworn in as Members, and a little after two, His Excellency, Sir JAMES KEMPT, the Administrator, having come down in state, and being seated on the throne, the gentleman usher of the black rod was sent to command the attendance of the House of Assembly. The Members of the House of Assembly having come to the bar of the Legislative Council, were addressed by the Speaker as follows:

Gentlemen of the Assembly,

"I am commanded by His Excellency to inform you that he does not see fit to declare the causes for which he has summoned this Provincial Parliament, until there be a Speaker of the Assembly, duly elected and approved. And I am further commanded to enquire whether you have proceeded to the election of a Speaker; and, if you have, upon whom your choice has fallen."

Mr. PAPINEAU then addressed His Excellency in the following terms;

May it please your Excellency,

"In obedience to His Majesty's commands, the House of Assembly has proceeded to the election of a Speaker, and I am the person upon

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* Absent from the Province,
† Deceased during the Session.

whom their choice has fallen. I respectfully pray that it may please your Excellency to give your approbation to their choice."

The Speaker of the Legislative Council, then said:

Mr. Papineau,—"I am commanded by His Excellency to acquaint you that he approves the choice which the Assembly has made of you to be their Speaker, and, relying upon your loyalty, talents and discretion, he doth allow and confirm your election."

Mr. PAPINEAU then thanked His Excellency for the honour which had been conferred upon him, and respectfully prayed that any faults which might be committed by him in the capacity of Speaker, might be laid to his individual charge and not to that of the House over which he presided—that freedom of speech, and the other privileges of the House, might be conceded to them—that access might be had at all times to his person, and a favourable construction might be put on all their actions. These having been granted by His Excellency in the usual form, His Excellency was pleased to open the Session with the following Speech:

Gentlemen of the Legislative Council,
Gentlemen of the House of Assembly,

His Majesty having been most graciously pleased to confide to me the Government of this important Colony, it affords me great satisfaction to meet you in Provincial Parliament.

Placed in a situation of so much importance, at a period of peculiar difficulty, I can not but feel that very arduous duties are imposed upon me; duties indeed, which I should despair of being able to discharge, to the satisfaction of His Majesty, and his faithful and loyal subjects the inhabitants of this Province, if I did not look forward, with a sanguine hope, to the enjoyment of your confidence, and cordial co-operation in my Administration of the Government.

Without a good understanding between the different Branches of the Legislature, the public affairs of the Colony can not prosper; the evils which are now experienced, can not be effectually cured, the prosperity and welfare of His Majesty's Canadian subjects can not be promoted; and you may therefore believe that no exertions will be spared on my part, to promote conciliation, by measures in which the undoubted prerogatives of the Crown, and your constitutional privileges, will be equally respected.

His Majesty's Government has, however, relieved me from the responsability attendant upon any measures to be adopted for the adjustment of the financial difficulties that have unfortunately occurred; and I shall

take an early opportunity of conveying to you by Message, a communication from His Majesty, which I have been especially commanded to make to you upon the subject of the appropriation of the Provincial Revenue.

It will be my duty to lay at the same time before you, the views of His Majesty's Government upon other topics connected with the Government of this Province, to which the attention of the Ministers of the Crown has been called; you will see in them proofs of the earnest desire of His Majesty's Government, to provide, as far as may be practicable, an effectual remedy for any case of real grievance; and you may rely on my affording you every assistance towards the elucidation of any questions which may arise for discussion in the course of your proceedings.

Gentlemen of the House of Assembly,

I shall direct the Accounts of the Provincial Revenue, and Expenditure for the last two years, to be laid before you, as soon as possible, with every explanation respecting them, which it is in my power to afford you.

Gentlemen of the Legislative Council,
Gentlemen of the House of Assembly,

Relying on your zeal and diligence in the discharge of your Legislative duties, I feel persuaded that you will give your immediate attention to the renewal of such useful Acts as may have recently expired; and, indeed, to all matters of public interest that may appear to be of pressing necessity and importance.

Possessing, as yet, but an imperfect knowledge of the great interests of the Province, and the wants of its inhabitants, I refrain, at the present time, from recommending to you measures of public improvement, which it will be my duty to bring under your consideration at a future day. In all countries, however, good roads and other internal communications;—a general system of Education, established upon sound principles;—and a well-organized, efficient Militia Force, are found to be so conducive to the prosperity, the happiness, and the security of their inhabitants, that I may be permitted to mention them, at present, as objects of prominent utility.

But an oblivion of all past jealousies and dissensions is the first great step towards improvement of any kind; and, when that is happily accomplished, and the undivided attention of the Executive Government, and the Legislature, shall be given to the advancement of the general interests of the Province, in a spirit of cordial co-operation, there is no reason to doubt that Lower Canada will rapidly advance in prosperity; and emulate, ere long, the most opulent and flourishing portions of the North American continent.

HOUSE OF ASSEMBLY.

FRIDAY AFTERNOON.

Mr. PAPINEAU reported the approval of the choice of him as SPEAKER by His Excellency.

Mr. NEILSON moved, for leave to bring in a Bill to vacate the seats of Members of Assembly in certain cases therein provided. This Bill had already been before former Houses, and in 1827, had passed both Branches of the Legislature, but did not then receive the Royal Assent. The motion being granted, the Bill was read the first time. The Bill is intended to vacate the seats of all members accepting of office, as is the case in England.

Mr. PAPINEAU then reported His Excellency's Speech to both Branches of the Legislature.

Mr. BOURDAGES moved that the Speech of His Excellency be referred to a Committee of the whole House, instead of a Special Committee, as had been usually the case in former Parliaments. Though an innovation upon the former practice of the House, he deemed it essential that every member of the House should have an opportunity to express his opinion, on the most important Document which proceeded from the Representative of the King during the Session.—In this he was seconded by Mr. L. LAGUEUX, and supported by Messrs. NEILSON, BORGIA and VALLIERES. The latter gentleman argued that, though an innovation upon usual custom, he deemed it an improvement. Instead of having the address prepared before the opinion of the House thereon was taken, and therefore subject to alteration, the method proposed by Mr. BOURDAGES would enable the House, by resolutions which it would pass, to inform the Committee of the substance of which the address should be composed. The House would thereby afford the basis of materials, which it would be the duty of the Committee to put into shape. Mr. OGDEN opposed it, first, as an innovation upon the usual practice adopted in England from time immemorial, and as contrary to the forms hitherto observed in that House ; and secondly, as tending to make the address to His Excellency the patchwork production of the House, instead of the well digested composition of a select Committee, upon the presentation of whose report an opportunity would be afforded to every member to express himself, in the way contemplated by Mr. BOURDAGES. He would not however divide the House, and the motion was granted.

After Mr BOURDAGES had moved for the usual Committees of grievances, privileges, commerce and agriculture, good correspondence with

the Legislative Council, and for other purposes, and for a writ of election for the Lower Town of Quebec, in the room of JEAN BELANGER, Esquire, deceased, the House adjourned.

LEGISLATIVE COUNCIL.

The BISHOP of QUEBEC, and the Hon. JOHN T. TASCHEREAU, took their seats in the Legislative Council.

HOUSE OF ASSEMBLY.

SATURDAY, Nov. 22.

Several petitions were presented from persons praying to be appointed to the vacant place of Assistant Clerk of the House.

Mr. OGDEN moved for leave to bring in a Bill to extend the trial by jury, which was read a first time and ordered to be read a second time on Friday next.

Mr. VALLIERES moved, that, on Tuesday next, the House resolve itself into a Committee of the whole, for the purpose of considering, if it be not expedient to amend and explain the Ordinance 25 Geo. III. c. 2, as far as it relates to Imprisonment for Debt. In giving the above notice, the Hon. member commented on the unjust and hard dispositions of the existing law.

The House then proceeded in Committee of the whole, to the order of the day upon His Excellency's Speech to both Houses. Mr. DE ST. OURS in the chair, Mr. BOURDAGES stated to the House that the method proposed by him was not only just, but appeared to him perfectly reasonable, as it would afford to all the members of the House an opportunity of expressing their sentiments, and of furnishing the grounds or foundation for the Address. He then moved that the Chairman do leave the chair, report progress and ask for leave to sit again, which was fixed for Monday.—The House then adjourned to Monday.

LEGISLATIVE COUNCIL.

The address to His Excellency the Administrator, was agreed to, which, being merely an echo of his Speech, and containing promises of cordial co-operation, does not require to be detailed.

HOUSE OF ASSEMBLY.

MONDAY, Nov. 24.

Mr. W. B. LINDSAY, was appointed Clerk of the House, during the indisposition of Mr. LINDSAY, and Mr. JEAN BOUTHILLIER, permanently, as Clerk Assistant in the place of P. E. DESBARATS, Esquire, deceased.

The House, in Committee of the whole on His Excellency's speech, Mr. De St. Ours in the chair :—

Mr. Bourdages stated that after so conciliatory a speech from the head of the Government, it was the duty of the House to reply in the most gracious manner.—After being sent to their homes as they were last year, they had returned to their duties as firm and honourable men, and friends to order and good government. The arbitrary conduct of the Executive had led to an exposition of the grievances of the Province in England, and the report of the Committee to whom they were referred, was the first step towards alleviating the accumulated evils under which the Province laboured. The beginning of the new administration was apparently conciliating ; the choice of the House had been agreed to, and as a second step to the peace and tranquility of the Province, a most liberal and gracious speech had been delivered from the throne. In that speech, the House must feel gratified to find that His Excellency is in possession of instructions for obviating their principal difficulties. In their address, it will be the duty of the House, to point out the serious complaints of the people of this Province, and patiently await the remedy. He did not wish to allude to the administration that had ceased to exist—it was enough to say that in every quarter of the Province it had excited indignation and disgust. With this brief explanation he would read the draft of an address which he had prepared, for the purpose of acceleration of business, and would afterwards bring forward in the shape of resolutions, the respective paragraphs for the purpose of affording to Honorable members an opportunity of expressing themselves, from whom he expected much.

Mr. Neilson wished to see the resolutions in the English language as well as in French. He would not engage himself to support any Administration, but wished to be free in his opinions. According to the rules of the House there ought to have been a translation of the resolutions.

Mr. Bourdages stated that the translator had not been enabled to get through with them, but he did not think that ought to prevent the House making some progress.

The Solicitor General said that this was one of the evils which he had predicted would arise from a deviation from established rules. On Saturday the Hon. Member (Bourdages) was not ready to bring forward his resolutions, and now another delay was likely to ensue. It might appear indecorous on the part of the House, delaying so long to answer the speech. When the usual practice of referring the speech to a special Committee was adhered to, every Member of the House had a right to enter the Committee Room and know what was going on, and be aware of the nature of the address, but in the present instance, a gentleman in his own lodgings prepares a secret address, and wishes the House, without reflection, to adopt it.

Mr. PAPINEAU deemed that the House should proceed at least upon some of the resolutions in order to shew some diligence. Of those resolutions which might not be deemed an echo of the speech, the consideration might be delayed till to-morrow.

Dr. BLANCHET was of opinion that, as there were, in the proposed address, some extraneous matters, which deserved consideration, delay should be afforded. The first, second and third resolutions were then carried.

On proposing the fourth rerolution, Mr. STUART stated that there being matter therein foreign to the contents of the speech, he trusted delay might be afforded to form an opinion. An adjournment till the next day at 11 was then agreed on.

LEGISLATIVE COUNCIL.

Mr. FELTON, presented a bill for reviving and continuing an act passed in the 3d year of His Majesty's reign, relative to highways and bridges, as far as respects the Townships.

HOUSE OF ASSEMBLY.

TUESDAY, NOV. 25.

The House in Committee of the whole on the address.

The three first resolutions were agreed to.

On the fourth resolution being read, Mr. NEILSON said he did not like some of the words made use of in the resolution. They seemed to promise on the part of the House to support the Administration, but he wished the House to retain the liberty of expressing at all times their opinion on the merits of every Administration. These words might be interpreted against them, and he considered that the engagements therein made by the House are too great to meet with general approbation. By consent Mr. BOURDAGES amended the resolution to meet Mr. NEILSON's objection, and the resolution was carried. The fifth and sixth resolutions were then carried without any discussion.

On Mr. BOURDAGES proposing the 7th resolution, which related to the evils and grievances of the Province, referred to the report of the Committee of the House of Commons, and the advantages which would result from its adoption in this country. Mr OGDEN begged to ask to what part of the address it was intended as an answer—was it to that part which alluded to an oblivion of all past dissessions? When new matter is in-

troduced into an address, the mover ought to be prepared with reasons for such a procedure. How could the House allude to or notice the report of a Committee, which was not before it? He deemed the matter irrelevant.

Mr. BOURDAGES intimated that it contained nothing but truth, and the views of the people, and he could not help it if it did not meet with the sanction of the honourable gentleman.

Mr. A. STUART thought that the hon. mover, with the confidence he had of an overwhelming majority, might so far condescend as to assign some reason for the introduction of this extraneous matter.

Mr. QUESNEL did not see the necessity of entering into reasons when no objections had been taken to the resolution as offered.

Mr. OGDEN said, that if it had not been a new practice, the remark of Mr. QUESNEL might be correct, but when an immense quantity of foreign and extraneous matter was introduced, contrary to precedent, he thought it due to the House to explain motives. The substance of the motion might be true, but that did not overturn his objections, for he could produce a string of truisms equally irrelevant. The objection he made was *in limine*, he deemed the resolution irrelevant, and he called on the hon. mover to prove its relevancy.

Mr. A. STUART was not a little surprised to find that the hon. mover, sensible as he must be of the majority by which the resolution would be carried, would not condescend to say a single word, but shut himself up in the idea of that majority. He had no expectation what he would say would be listened to, for if he was the angel Gabriel he never could hope to convince or persuade a majority. He objected to the adoption of a course entirely novel, and never adopted since the constitution of the House; and he looked upon the present proceedings as positively irregular. Formerly when a Committee of seven were appointed to reply to the Speech, no difference of opinion existed, and a plain simple answer was produced. By the present course, though the address was to be prepared by the whole House, yet in reality, one individual did the whole work of seven—was the whole Committee in himself—draws up the report, and is perfectly independant of the opinions, views or assistance of any other member. This departure from established rules was for the worse. As to the substance of this resolution, he would say that, allowing that every word was true, and received the sanction of members, he could not see how they could introduce them into an answer to an address so conciliatory—*non his locus*. Angry discussions should form no part of their answer. That dissensions in the Province did exist, he would not deny, but at the very threshold of His Excellency's Administration, it was not

becoming to meet him with them. In the name of common sense who ever heard of a report being alluded to, before it had been received or acquiesced in. It might or might not be received, and till before them could not be subject either to their praise or censure. He spoke in the abstract, but *non constat* that it will be received, and how ridiculous the House would look if it should be rejected. As to the terms of the resolution, they might be creditable to a young aspirant in composition just freed from school, but at a future period of his life, if their author should retain all the flowers of imagination, the tropes and figures which adorned the present production, he would certainly be told that his style much wanted correction, and his imagination curbing. He would ask any man to read the present resolution, considering it as an answer to the speech, and as a public document emanating from a deliberative body, and keep his countenance. It would be sent to the other side of the water, where it would argue very little for the education of the country whose representatives could adopt it. If, as His Excellency says, the first step to improvement is an oblivion of the past dissensions, no allusion ought now to be made to the unfortunate differences which have existed.

Mr. VALLIERES stated that to enable the House better to understand the foundation of that part of the address, he would read both the clause of the speech and of the answer as now proposed. If the composition of the answer as he had just read it, bears strong marks of a childish production, it ought not to surprise members, since they had long been treated as children, and if it contained proofs of the weakness and feebleness of childhood, there were mature individuals in the House to correct and amend it. If in England it is to be received as an unfavourable mark of the education of the people, it will also prove the necessity of education being promoted in the Province. Allusion had been made by his Hon. colleague (Mr. Stuart) to forget injuries, but he deemed it impossible to forget a country's wrongs. His Excellency in his address mentions those wrongs, and alludes to the reality of their grievances. If forgetting them would remedy the evils under which they laboured, he would willingly follow the recommendation of his colleague, but till that is effected, they must speak of them and repeat them to His Excellency, the only legal organ of communication between them and the Imperial Government. For himself he could not forget those wrongs and grievances. In the resolution he saw none of the childish or infantile expressions, or flowers of imagination, alluded to—but he saw a fervour which accorded well with their opinions of existing difficulties. As to the allusion that the report of the Canada Committee had not been acted on, he had no doubt the enemies of the country might intrigue and endeavour to suppress it, and it became therefore necessary to declare their opinion of its merits and contents. What had been done by the Committee had proved gratifying to the whole people, and why should not the people's representatives declare their opinion of its contents.

Mr Stuart, in explanation, begged leave to remark, that his comments on the resolution were not intended to be offensive; they applied not to their author, but to the resolution itself, as a public document before the House. As to its fervour, that was the very subject of which he complained, for a plain, formal, complimentary, address, was not a place to introduce passion. It is true what one feels, one can not help expressing, and if abuses did exist in the Government he (Mr. S.) must feel them as much as any other, nor would he allow his hon. colleague to think that he was not as quick in his perception as him, but in an address it was indecorous to rip up old dissensions. In conclusion he begged to remind the House that those who wrote fervidly were apt to write foolishly, and recommended to the members present to get rid of every thing like passion, in a deliberative body, and to listen to the quiet voice of reason.

Mr. Ogden stated that nothing yet had been offered to support the resolution either in form or in substance. It was wrong to have reference to a Committee whose report was not before them. A Special Committee might be imposed upon and deceived by false evidence, false addresses, false resolutions, sent from this country by intrigue, on the part of individuals, and by an exposition of false grievances. In that report, however, he saw that some real grievances under which the Province laboured were noticed, and that we might look forward to a correction of real abuses. He there saw the refusal of that House to appropriate the monies of the Province in the method required by the Executive, distinctly condemned—he saw the conduct of the Executive in relation to the duties of the 14 Geo. III. distinctly justified—and a condemnation of the conduct of that House, in relation to other matters distinctly recorded, but he would not enter into its discussion till regularly before them. That the Committee had positively been led into error, he was perfectly aware, and he pitied the credulity of the member who could believe such sentiments. The House seemed to have little confidence in an usual Special Committee for the address, because they were afraid it might be prejudiced, and a similar want of confidence might be extended to the Canada Committee. Mr. Vallieres had argued like a lawyer but had not made out his case. As to the preceding clause, he had not made objections, and he had allowed the words "arbitrary acts" to pass, because he did not believe any such had taken place.

Mr. Vallieres stated that the House of Commons being strangers to the wants of Canada, required evidence to make them aware of their grievances, but in this Province they had them by heart; they were ocular witnesses of their sufferings, and felt the burden on their shoulders. The House did not require the Report to establish the existence of their grievances, but even if it did, it was before the country. The Official Gazette, which occasionally publishes laws to which they must yield

obedience, has also given it to the public. The wish of the House was to tell His Excellency that the Report is excellent, and this averment, when coupled with the evidence already before the House of Commons, he had no doubt would be sanctioned at home. On a division of the House the resolution was carried by a majority of 32 to 3. (Ogden, Stuart and Christie.)

On the eighth Resolution being proposed, Mr. STUART stated his reason for voting against it was that it was in direct contradiction to His Excellency's recommedation to forget past dissensions. As to the statement that there was no meeting of the Legislature last year from arbitrary and illegal acts he denied it, as the refusal of their speaker could not be deemed one.

Mr. OGDEN agreed with Mr. Stuart, and thought that no allusion ought to be made to last year's proceedings, if the answer was to be conceived in the same spirit as the speech was given. On a division, the same majority carried the motion.

The ninth resolution was carried without discussion.

The Committee then reported the address to the House, who concurred in it, with some few verbal corrections, and Messrs. Cuvillier, Neilson, Bourdages, and Vallieres, were appointed to wait on Sir James Kempt to know when he would receive the whole House with the address.

The address, as concurred in, was as follows :

We, His Majesty's dutiful and loyal subjects, the Assembly of the Province of Lower Canada in Provincial Parliament assembled, humbly thank your Excellency for the Speech which you have been pleased to address from the Throne to both Houses of the Legislature at the opening of the present Session of the Provincial Parliament.

Your Excellency's presence among us, in the elevated character of the Representative of a beloved Sovereign, gives us high satisfaction. We acknowledge with pleasure that, in confiding to your Excellency the government of this important Colony, His Majesty has given a fresh proof of his paternal solicitude and of his Royal benevolence towards his dutiful Canadian subjects.—And, as, in placing you in a situation of such high importance at a time of peculiar difficulty, His Majesty has in a striking manner signalized the high confidence which he reposes in your Excellency, so will we second the wishes of our gracious Sovereign by a cordial and confiding co-operation with your Excellency in your administration of the government. However arduous may be the duties imposed upon you, we have no doubt whatever that your Excellency will discharge them to the satisfaction of His Majesty and his faithful subjects the inhabitants of this Province.

The experience of several years, and the present situation of this Province, unhappily prove too clearly that, without a good understanding among the several branches of the Legislature, it is impossible that the Colony should prosper; alike impossible to remedy the evils now experienced; and to provide for the prosperity and welfare of His Majesty's Canadian subjects. And your Excellency may be assured that we shall hail with pleasure and eagerly second your Excellency's endeavours to establish conciliation, by which measures, the undoubted prerogatives of the Crown and the constitutional privileges of the people of this Province, will be equally respected.

We learn, with the liveliest interest, that His Majesty's government has occupied itself with our financial difficulties, so as to relieve your Excellency from all responsibility attendant upon any measure to be adopted for their adjustment. We have no doubt whatever that those measures have been dictated by the same spirit of justice and greatness which characterizes His Majesty's Imperial government in its conduct towards this country. And your Excellency may rest assured that we shall give our respectful consideration to the communication from His Majesty, which your Excellency intends to convey to us upon the subject of the appropriation of the Provincial revenue.

We are persuaded that good roads and other means of internal communication—a general system of education established on sound principles—and an efficient Militia legally organized and sufficiently protected from the abuse of arbitrary authority—essentially contribute to the prosperity, welfare and security of any country. We shall not fail to deliberate maturely upon matters of such high importance. And the sentiments expressed by your Excellency lead us to hope that we shall apply to them with effect. We shall pay respectful attention to such recommendations as your Excellency may hereafter make to us upon other measures of public improvement, and we feel assured that they will ever be founded on the high interests of the Province and the wants of its inhabitants.

We have ever been convinced of the justice and liberality of His Majesty's Government, and we believe it earnestly intends to remedy as far as possible, the grievances of which we have to complain, of which we find a striking and, to us, consolotary, proof in the results of the petitions laid before His Majesty's Imperial Government by a very large majority of our constituents, against the multiplied and deep-rooted grievances, which have long retarded the progress, and prolonged the infancy and weakness of this colony. As soon as the inhabitants of Lower Canada made known to the King, the sufferings of the country, and suggested the remedy for those evils—as soon as their humble petitions were laid at the foot of the throne,—the Sovereign, ever just towards his faithful sub-

jects, expressly ordered that those petitions should be forthwith submitted to the supreme tribunals of the Empire. The charges and well-founded complaints of the Canadians before that august senate, were referred to a Committee of the House of Commons, indicated by the Colonial Minister. That committee, exhibiting a striking combination of talent and patriotism, uniting a general knowledge of public and constitutional law to a particular acquaintance with the state of both the Canadas, formally applauded all the reforms which the Canadian people and their representatives demanded, and still fervently demand. After a solemn investigation—after deep and prolonged deliberation, the Committee made a report, an imperishable monument of their justice, and profound wisdom, an authentic testimonial of the reality of our grievances and of the justice of our complaints, faithfully interpreting our wishes and our wants. Through this report, so honourable to its authors, His Majesty's Government has become better than ever acquainted with the true situation of this Province, and can, better than ever, remedy existing grievances and obviate difficulties for the future. We feel assured that your Excellency has it personally at heart to provide for the contentment and welfare of the inhabitants of this Province, and we can not doubt of the weight which the recommendations and testimony of a distinguished officer, whose public career has merited and obtained success by rendering important services to the country, must have with His Majesty. By the concurrence of all these circumstances, we perceive in your Excellency a combination of means and facilities for effecting good, such as none of your predecessors has possessed. We shall receive with respectful confidence, and shall consider with mature reflection, the views of His Majesty's Government upon the several topics connected with the Government of this Province, to which the attention of His Majesty's Ministers has been called. We consider these topics as of the highest importance to the tranquility and welfare of the inhabitants of this Province, and we humbly thank your Excellency for the assistance which you are pleased to offer towards the elucidation of any questions which may arise for discussion in the course of our proceedings.

We are sincerely grieved at the arbitrary and manifestly illegal acts, which, by depriving the Province of the aid of its Legislature during the whole of last year, have occasioned very grievous evils, and put your Excellency under the necessity of laying before us the accounts of the Provincial Revenue and Expenditure for two years instead of one. We nevertheless assure your Excellency, that we shall apply the most scrupulous attention to those accounts, when your Excellency shall have laid them before us, and that we shall gratefully avail ourselves of any explanations which your Excellency may be pleased to communicate to us respecting them.

We respectfully assure your Excellency that the sole but infallible remedy for the jealousies and dissensions, of which an oblivion is assuredly

the first step towards improvement of any kind, is a conciliatory, impartial and constitutional administration, such as we confidently expect from your Excellency; and in that conciliatory hope we shall make every endeavour in order that the Executive Government and the Legislature may apply their undivided attention to the advancement of the general interest in a spirit of cordial co-operation. And we doubt not that, with such advantages, Lower Canada will rapidly advance towards prosperity, and emulate, ere long, the most opulent and flourishing portions of the North American Continent.

AFTERNOON SITTING.

Mr. VALLIERES moved for leave to bring in a Bill more effectually to grant a remedy to those having claims on the Provincial Government. This Bill had been two or three times before the former Houses, but had not passed the Upper Branch. He would however make another attempt to have this useful Bill passed. The Bill was read a first time.

Petitions were presented by two different parties for leave to make a turnpike-road from Montreal to Long Point, and from Juste Cayouette, for leave to erect a bridge over the River Etchemin, which were referred to Committees.

Dr. LABRIE made allusion to the offices of the House then vacant, and he begged to direct their attention to the subject. The vacancies were several and the applications numerous. He thought that it was a proper season to examine how far these situations might be abolished, or the salaries reduced. He therefore moved that a Committee of five be named to enquire what situations in the offices are now vacant; the necessity of having them filled up; the amount of salary granted to these offices; what reduction may take place, or any other alterations.

Mr. L. LAGUEUX stated that it was the duty of the House to commence its plans of economy at home, and it could with more confidence then, turn its attention to other departments. He thought it not desirable to reduce the salaries of those who were in office and had enjoyed it for some time, but when new appointments were made, a good opportunity was afforded of making reductions if necessary. A Committee was then named.

IMPRISONMENT FOR DEBT.

The SOLICITOR GENERAL stated that a notice had been given of a motion to examine into the effects of the present law of imprisonment for debt. The severity of that law, the House had softened by several enactments, but he wished to obtain more specific information as to its effects. He therefore moved an address to His Excellency, praying him to give

directions to the Sheriffs of Quebec, Montreal and Three Rivers, to lay before the House a list of the writs of *Capias ad respondendum* directed to them or their predecessors, from 1794 to the 20th October last; of the number of persons arrested in virtue of such writs and imprisoned or admitted to bail; of those arrested by virtue of writs of *Capias ad satisfaciendum*; of the number of persons so arrested who have been admitted to bail in pursuance of the provisions of the 5 Geo. IV. c. 2, and the 7 Geo. IV. c. 7; of the number now in confinement for debt; of the number of those who have received alimentary allowance, stating the length of time during which it has been paid, and the amount, and in all instances to state the amount of the debt for which such writs have been issued, which was agreed to.

The House then resolved itself in Committee of the whole on Mr. VALLIERES' motion for the consideration of the Ordinance 25 Geo. III. c. 2, as far as it relates to imprisonment for debt. Mr. DUMOULIN in the Chair.

Mr. VALLIERES said that by the old common law of the country, imprisonment for debt was only inflicted on those who had contracted engagements as merchants or traders. That law had been changed by the provisions of the 25 Geo. III. c. 2. § 38. which declared that after any individual had been deprived of his goods and real property by writs of execution in part payment of his debts, his person was liable to imprisonment. Had the Ordinance explained that this was to have effect only as to merchants or mercantile transactions, it would have been just, but no exemption was afforded, and clergymen, women, and all classes of society were now liable to confinement. It would be unnecessary for him to enter into details of the evils which arose from this barbarous enactment. They were known to all, and it was too melancholy a picture to contemplate an individual who has surrendered all his property, and had done all in his power to pay his debts, incarcerated in gaol by an unrelenting creditor. The law was unjust as well as cruel, inasmuch as it not only punished the individual debtor, but also his unoffending wife and helpless children—it was inhuman, because, while an individual convicted for crime was detained for the space of two or three months, another who unfortunately could not pay the paltry sum of £10, might be confined for life—it was odious to the spirit of law, and criminal in the eyes of justice. He therefore proposed to resolve that the 38th section of the Ordinance 25 Geo. III. c. 2. imposing imprisonment for debt in all cases, and not restricting them to merchants and traders, is contrary to the common law of the country, and the rules of justice, is useless to commerce, and injurious to the industry of the people.

Mr. CUVILLIER, in seconding the motion, said the hon. mover was entitled to the thanks of the House and of the whole Province for his

benevolent views, but he did not like the precipitate manner in which he wished to hurry the matter. The interests of an extensive mercantile body were affected by the proposed resolution, and he deemed it but right that the consideration of this motion and that which was to follow, should lie over for some time, to let those interested therein make their objections.

Mr. PAPINEAU would wish to learn from the hon. mover his ultimate views in amending the clause now under consideration, whether he proposed to introduce a bankrupt-law similar to that of France or England, or to allow the law pre-existent before the passing of the Ordinance, to come into operation.

Mr. VALLIERES stated his wish to abolish the provisions of the Ordinance *in toto*, except as it applied to merchants and traders. He believed that in no country that he was aware of, did such provisions as these now in force exist, and he could only attribute it to the character of the individuals who framed the law—Doctors, Apothecaries and some Merchants who wished to favour their own interests. The bankrupt-laws of France and England, were favourable to honest and unfortunate debtors. In France, a meeting of creditors took place, and if it is found necessary to institute legal proceedings, one was appointed to prosecute for the whole, and a great saving to the debtor effected, instead of the accumulation of actions and costs generally adopted here. In England the debtor is examined by his creditors before Commissioners of bankruptcy, and should his case prove favourable, he obtains a freedom from arrest, while the dishonest man suffered. He had no objection to delay the further consideration of his motion to a future day. Mr. Vallieres then moved that it is expedient that the 38th clause of the Ordinance 25 Geo. III. cap. 2, be amended and its operation restricted to debts between merchants and traders, relative to the commerce or trade which they carry on.

The Committee reported progress and are to sit again Tuesday fortnight.—Adjourned.

LEGISLATIVE COUNCIL.

Mr. Justice BOWEN brought in a bill for rendering valid conveyances of lands held in free and common soccage, and for other purposes.

A motion was made to enquire in what manner the Act of 6 Geo. IV. cap. 8, has been carried into execution, and to establish from the Returns made in pursuance of said Act, the progress of the augmentation of the population, which was negatived.

HOUSE OF ASSEMBLY,

WEDNESDAY, Nov. 26.

The members went up in a body to the Castle of St. Louis with their address to His Excellency, and His Excellency made the following answer.

"GENTLEMEN,

"I sincerely thank you for this address, which I receive with high satisfaction.

"It is gratifying to me to learn that your sentiments so entirely accord with my own, upon the points to which I adverted on opening the Session; and to receive the assurance, which you are now pleased to give me, of your zealous co-operation in my administration of the government.

"You do His Majesty but justice in believing that he has never ceased to feel an affectionate regard and paternal solicitude for the welfare of his faithful Canadian subjects, and you may be assured that I have nothing so earnestly at heart as to promote their happiness and prosperity by every means in my power."

Mr. NEILSON presented the petition of *P. Chasseur* of Quebec, praying for legislative aid to improve and increase a Museum which he had commenced, and to defray the expenses he had been at in its formation, which was read and referred to a Special Committee.

BILL FOR VACATING SEATS OF MEMBERS.

Mr. OGDEN, previous to the bill being read a second time, would wish to ask whether it was the same that had passed the Legislature in 1827, and was then reserved for His Majesty's assent. On Mr. NEILSON'S stating that it was identically the same, Mr. OGDEN thought that the hon. mover might reserve the further consideration of the bill till he was sure that the Royal assent would not be given, which according to the terms of the Constitution, would be known in March next.

Mr. NEILSON was of opinion that the present bill was not deemed of sufficient importance at home, to be brought before the Sovereign for his assent, and he thought the House ought therefore to proceed upon the bill, and also to renew all bills which had been hitherto rejected, delayed or reserved for the Royal assent.

Mr. OGDEN was doubtful how far it was decorous to discuss a bill, while another branch of the Legislature was now in deliberation upon the same identical bill. It was supposing that the Royal assent would not be given. The two years which the Crown was by the Constitution allowed, before the Royal sanction was required to be declared, would not expire till March next. After what the House had said of their respect for the indubitable prerogatives of the Crown, he hoped that the House would delay the consideration of the bill, while that prerogative was in progress. He would move that the order of the day might be discharged, not that he was opposed to the bill itself, having voted for it when last before the Legislature, but because he did not deem it decorous

in the House to bring it under consideration now while it was in suspension before another branch of the Legislature. He did not think the House was competent to proceed upon the same measure, but had it varied in the slightest degree, either in the title, or the preamble, so as to make some difference, he might have consented to the second reading. He thought the House ought patiently to wait till after March next.

Mr. NEILSON stated that the bill was founded upon resolutions taken in the House of Assembly of 1825. The bill of the Assembly was amended in the Conncil in 1826, and in 1827, the amendments being concurred in by the House, the bill was passed which was reserved for the Royal sanction. His object was, not to delay the passing of a bill which had received the sanction of both Houses. Their present proceedings could not in the least affect the exercise of the Royal prerogative which must be made known in the Province before March next.

Mr. BORGIA, in seconding Mr. OGDEN's motion, concurred in the sentiments which he expressed. On a division of the House, the motion was negatived and the bill was then read a second time.

Mr. NEILSON stated that the principles upon which the bill was framed were soundly constitutional, that no individual, who by the people of the Province had been chosen to be a guardian of the public money, should when enjoying that station, become also a receiver of that revenue. That principle was conformable to the practice adopted in England, but independent of any precedent, it was in coincidence with reason and the terms of the British Constitution. Under all these circumstances he saw no reason to delay the bill till after March next, and perhaps be again delayed two years from that period. By proceeding they at least saved one year. He had made no exception in the bill as to officers of militia or justices of the peace, as these individuals, in present times, received nothing but trouble for their pains. The bill did not aim at any particular members of that House, nor did it declare that officers of the Government were ineligible to a seat in that House. It was intended that as a member entered that House, so he should continue, and should he accept of any offices of profit or emolument, that he should be sent back to his constituents for them to declare if they had the same confidence in him as they had before his acceptance of office.

Mr. CUVILIER did not see the necessity of making any exception whatsoever, for if the rule held good in one instance, it ought to do in all. If a militia officer, from his rank, or other circumstance, received a portion of the revenues of the people while a member of that House, it was sufficient that he held according to the terms of the bill, a place of emolument or profit under the Crown, and accordingly must vacate his seat. The bill referred to a Committee.—Adjourned to Friday.

LEGISLATIVE COUNCIL.

Nothing of importance occurred, excepting a motion for a Committee to consider whether it will be advisable to revlve an act to render voluntary Sheriff's sales, *(decrets volontaires,)* more easy and less expensive, which was granted, and a Committee appointed.

HOUSE OF ASSEMBLY.

FRIDAY, Nov. 28.

Mr. VALLIERES presented a petition from certain mechanics of Quebec, praying to be incorporated under the title of the "Quebec Friendly Society," in similar terms wlth the act of the 57 Geo. III. c. 39, which had passed both Houses, but was reserved for the Royal assent, but which was never signified. A bill for the purpose now prayed for was introduced and passed in 1826, but was amended in the Council, so as to enable the Governor at any time to dissolve the Society. This amendment the House did not then concur in. Petition referred.

Mr. NEILSON presented a petition from *J. B. Morand,* of Lotbiniere, a French alien, who had served in the British Navy, and had resided in this Province for several years, praying to be admitted to practise as a Notary, having served under regular indentures according to law. Mr. NEILSON observed that the petitioner having *bona fide* performed all that the law required of him, was entitled to his commission, notwithsanding the alien laws of England, which were passed at a time when religious opinions disabled persons from holding offices of profit or emolument. Petition referred.

Dr. LABRIE presented a petition from certain inhabitants of the County of York, setting forth various grievances under which they and the inhatants of this Province have laboured from the Administration of Lord Dalhousie, the Attorney General, &c. &c. Petition referred.

The following message was received from H. E. the Administrator.

JAMES KEMPT.

H. E. the Administrator of the Government avails himself of the earliest opportunity of conveying to the House of Assembly, the followlng Communication, which he has received the King's commands to make, to the Provincial Parliament.

In laying the same before the House of Assembly, His Excellency is commanded by H. M. to state, that H. M. has received too many proofs of the loyalty and attachment of his Canadian subjects, to doubt their cheerful acquiescence in every effort which H. M.'s Government shall

make to reconcile past differences, and he looked forward with hope to a period, when, by the return of harmony, all branches of the Legislature will be able to bestow their undivided attention on the best methods of advancing the prosperity and developing the resources of the extensive and valuable territories comprised within H. M.'s Canadian Provinces.

With a view to the adjustment of the questions in controversy, H. M.'s Government has communicated to H. E. Sir James Kempt, its views on different branches of this important subject; but as the complete settlement of the affairs of the Province can not be effected but with the aid of the Imperial Parliament, the instructions of H. E. are at present confined to the discussion of those points alone, which can no longer be left undecided without extreme disadvantage to the interests of the Province.

Among the most material of those points, the first to be adverted to, is, the proper disposal of the financial resources of the country; and with the view of obviating all future misunderstanding on this matter, H. M.'s Government have prescribed to H. E., the limits within which his communications to the Legislature on this matter, are to be confined.

H. E. is commanded by H. M., to acquaint the House of Assembly, that the discussions which have occurred for some years past, between the different branches of the Legislature of this Province, respecting the appropriation of the revenue, have engaged H. M.'s serious attention, and that he has directed careful inquiry to be made, in what manner these questions may be finally adjusted with a due regard to the prerogative of the Crown, as well as to their Constitutional privileges, and to the general welfare of his faithful subjects, in Lower Canada.

H. E. is further commanded to state, that the Statutes passed in the 14th and 31st years of the reign of His late Majesty, have imposed upon the Lords Commissioners of H. M. Treasury, the duty of appropriating the produce of the revenue granted to H. M. by the first of these Statutes; and that, whilst the law shall continue unaltered by the same authority by which it was framed, H. M. is not authorized to place the revenue under the controul of the Legislature of this Province.

The proceeds of the revenue arising from the act of the Imperial Parliament 14th Geo. III. together with the sum appropriated by the Provincial Statute 35th Geo. III. and the duties levied under the Provincial Statutes 41st Geo. III. cap. 13 and 14, may be estimated for the current year, at the sum of £34,700.

The produce of the casual and territorial revenue of the Crown, and of fines and forfeitures, may be estimated for the same period, at the sum of £3,400.

These several sums making together the sum of £38,100, constitute the whole estimated revenue arising in this Province, which the law has placed at the disposal of the Crown.

H. M. has been pleased to direct that from this collective revenue of £38,100, the salary of the officers administering the Government of the Province, and the salaries of the Judges shall be defrayed. But H. M. being graciously disposed to mark, in the strongest manner, the confidence which he reposes in the liberality and affection of his faithful Provincial Parliament, has been pleased to command H. E. to announce to the House of Assembly that no farther appropriation of any part of this revenue will be made until H. E. shall have been enabled to become acquainted with their sentiments, as to the most advantageous mode in which it can be applied to the public service; and it will be gratifying to H. M. if the recommendation made to the Executive Government of the Province on this subject shall be such as it may be able with propriety, and with due attention to the interest and the efficiency of H. M. Government to adopt.

H. M. fully relies upon the liberality of His faithful Provincial Parliament to make such further provision as the exigencies of the public service of the Province, (for which the amount of the Crown-revenues above mentioned, may prove inadequate,) may require.

The balance of money in the hands of the Receiver General, which is not placed by law at the disposal of the Crown, must await the appropriation which it may be the pleasure of the Provincial Legislature to make.

H. E. is further commanded by H. M. to recommend to the House of Assembly. The enactment of a law, for the indemnity of any persons who have heretofore, without authority, signed or acted in obedience to warrants for the appropriation to the public service of any unappropriated monies of the Province. And H. M. anticipates that they will, by an acquiescence in this recommendation shew that they cheerfully concur with him in the efforts which he is now making for the establishment of a permanent good understanding, between the different branches of the Executive and Legislative Government.

The proposals which H. E. has been thus instructed to make for the adjustment of the pecuniary affairs of the Province, are intended to meet the difficulties of the ensuing year, and he trusts they may be found effectual for that purpose.

H. M. has, however, further commanded H. E. to acquaint the House of Assembly that a scheme for the permanent settlement of the financial

concerns of Lower Canada, is in contemplation, and H. M. entertains no doubt of such a result being attainable as will prove conducive to the general welfare of the Province, and satisfactory to His faithful Canadian Subjects.

The complaints which have reached H. M.'s Government respecting the inadequate security heretofore given by the Receiver General and by the Sheriffs, for the due application of the public monies in their hands, have not escaped the very serious attention of the Ministers of the Crown.

It has appeared to H. M.'s Government, that the most effectual security against abuses in these departments, would be found in enforcing in this Province, a strict adherence to a system established under H. M.'s instructions, in other Colonies, for preventing the accumulation of balances in the hands of public accountants, by obliging them to exhibit their accounts to a competent authority at short intervals, and immediately to pay over the ascertained balance into a safe place of deposit;—and in order to obviate the difficulty arising from the want of such place of deposit in Lower Canada, H. E. is authorized to state that the Lords Commissioners of H. M.'s Treasury will hold themselves responsible to the Province for any sums which the Receiver General or Sheriffs may pay over to the Commissary General, and H. E. is instructed to propose to the House of Assembly, the enactment of a law, binding those officers to pay over to the Commissary General such balances, as, upon rendering their accounts to the competent authority, shall appear to be remaining in their hands, over and above what may be required for the current demands upon their respective offices;—such payments being made on condition that the Commissary General shall be bound on demand to deliver Bills on H. M.'s Treasury for the amount of his receipts.

H. E. is further instructed to acquaint the House of Assembly, that although it was found necessary by an Act passed in the last Session of the Imperial Parliament, 9th Geo. IV. cap. 76, sec. 26, to set at rest doubts which had arisen whether the statute for regulating the distribution between the Provinces of Upper and Lower Canada, of the duties of Customs collected at Quebec, had not been inadvertently repealed by the general terms of a later date: H. M.'s Government have no desire that the interference of Parliament in this matter should be perpetuated, if the Provincial Legislatures can themselves agree upon any plan for a division of these duties which may appear to them more convenient and more equitable; and on the whole of the subject, H. M's. Government will be happy to receive such information and assistance as the Legislative Council and Assembly of this Province may be able to supply.

The appointment of an Agent in England to indicate the wishes of the inhabitants of Lower Canada, appearing to be an object of great solicitude with the Assembly, H. M.'s Government will cheerfully accede to

the desire expressed by the House of Assembly upon this head; provided that such Agent be appointed, as in other British Colonies, by name, in an act to be passed by the Legislative Council and Assembly, and approved by the Executive Government of the Province; and H. M.'s Government are persuaded that the Legislature will not make such selection, as to impose on the Government, the painful and invidious duty of rejecting the bill on the ground of any personal objection to the proposed Agent.

H. M.'s Government is further willing to consent to the abolition of the office of Agent as it is at present constituted, but it is trusted that the liberality of the House of Assembly will indemnify the present holder of this office, to whose conduct in that capacity no objection appears ever to have been made. Indeed, without some adequate indemnity being provided for him, it would not be compatible with justice, to consent to the immediate abolition of his office.

H. M.'s Government, being very sensible of the great inconvenience which had been sustained, owing to the large tracts of lands which have been suffered to remain in a waste and unimproved condition, in consequence of the neglect or the poverty of the grantees, it has appeared to H. M.'s Government to be desirable that the laws in force in Upper Canada, for levying a tax upon wild land, on which the settlement duties had not been performed should be adopted in this Province, and H. E. is instructed to press this subject on the attention of the House of Assembly with that view.

The attention of H. M.'s Government has also been drawn to several other important topics; among which may be enumerated, the mischiefs which are said to result from the system of tacit mortgages effected by a general acknowledgement of a debt before a Notary; the objectionable and expensive forms of conveyancing said to be in use in the townships; the necessity of a Registration of Deeds; and the want of proper Courts for the decision of causes arising in the townships. Regulations affecting matters of this nature can obviously be most effectually made by the Provincial Legislature; and H. E. is commanded to draw the attention of the House of Assembly to these subjects, as matters requiring their early and most serious attention.

In conclusion, H. E. has been commanded to state that H. M. relies for an amicable adjustment of the various questions which have been so long in dispute, upon the loyalty and attachment hitherto evinced by H. M.'s Canadian subjects, and on that of the Provincial Parliament; and that H. M. entertains no doubts of the cordial concurrence of the House of Assembly in all measures calculated to promote the common good, in whatever quarter such measures may happen to originate.*

* A similar message, *mutatis mutandis* was of course simultaneously transmitted to the Legislative Council.

Mr. VALLIERES moved that the thanks of this House be presented to H. E. for his gracious message, and on motion of Mr. YOUNG 150 copies thereof were ordered to be printed. Mr. NEILSON, when the first motion was under discussion, stated that the message afforded hopes that the first step was taken towards granting to the people those rights, which he was determined never to abandon.

Mr. LESLIE then presented a petition of certain inhabitants of Montreal, setting forth various grievances, which the inhabitants of this Province have suffered from Lord Dalhousie's Administration. Referred to same Committee as that of the county of York, and the two petitions, on motion of Dr. BLANCHET, were ordered to be printed.

Mr. LESLIE presented a petition from the proprietors of the Montreal Library, praying for a continuation of the Act, 59, Geo. III. c. 22, in their favour, with some alterations.

Mr. VALLIERES brought in a bill to ascertain, establish and confirm in a legal and regular manner, and for civil purposes, the parochial subdivisions of various parts of this Province, This bill was founded on a message of the late Governor to that House on the 12th February, 1827, and had passed into a law that year, but was reserved for H. M.'s pleasure. That assent had not as yet been made known, and he therefore begged to renew the bill.

Also a bill to establish certain qualifications for Jurors and the method of summoning them.

Also a bill for the qualification of Justices of the Peace.

Mr. CHRISTIE presented a petition from certain inhabitants of the Eastern division of the district of Gaspé, praying that the 4, Geo. IV. c. 1, as amended by the 5 Geo. IV. c. 15, for the regulation of the fisheries in Gaspé, Cornwallis and Northumberland, may be continued. The petition was referred to a Committee, and it was moved, as an instruction to the Committee, to enquire whether it would not be expedient to regulate the fisheries of those counties by separate and distinct bills.

Mr. CHRISTIE presented another petition from certain inhabitants of Gaspé, praying that the monies levied in the district might be laid out in internal communications, by the Grand Juries of that District. He stated that the plan proposed in the petition did not meet with the concurrence of all his constituents, as some did not think that they were yet capable of managing their local concerns. The petition was referred to the Committee on the Gaspé fisheries.

Mr. NEILSON moved that that portion of H. E.'s speech which made allusion to the militia of the Province be referred to a Committee of seven.

Mr. LETOURNEAU brought in a bill for preserving the grass growing on the beach, for purposes of agriculture.

On motion of Dr. BLANCHET the House resolved itself into a Committee of the whole, to consider if it be expedient to amend or alter the 28 Geo. III. c. 8, which declares that no person shall practice physic or surgery in Lower Canada, or practice midwifery in Quebec or Montreal, without a licence. Mr. CLOUET in the Chair.

The Committee resolved that it was expedient the Ordinance should be repealed; in which the House concurred, and a Committee was appointed.

Mr. LESLIE presented the report of the late Cmmissioners of the Lachine Canal, which was then referred to a Committee of five.

On the order of the day for the second reading of the bill for extending the trial by jury, Mr. OGDEN stated that the Ordinance of 1785, extended the trial by jury in civil cases, only to those between merchants and traders, or for personal wrongs to be compensated in damages. In the course of his practice he had found the want of the necessary provisions to extend jury-trials to cases which were wholly grounded on matters of fact, and to those cases brought into the Courts of last resort from inferior tribunals, in which matters of fact formed the subject of appeal, and which could best be determined by a jury of the country. He would notice the case of an individual who institutes an action against the proprietor of a mill-dam, for the loss of his rafts and timber. The parties bring in, from the country, 15 or 20 witnesses each, to prove that the dam is injurious and ought to be demolished, or to prove that it does not affect the channel of the river. The examination of these witnesses was protracted by the advocates of the parties—the time for evidence was limited—and such a case would remain in the Court for nearly three years before judgment could be pronounced. By the proposed bill this would be obviated, for all actions for *delits* or *quasi delits* where facts were involved, would be tried by jury, and when the fact was established, the judges would apply the law to the case. The bill, he had no doubt, would be highly beneficial to the public; for while it tended to give immediate compensation to an individual having a good right of action, it would allow the judges to apply more time to the consideration of causes where points of law were involved. He would refer the bill to a Committee, who might obtain much valuable information on this head from a report presented to the House of Commons in 1815, when the jury-system was introduced into Scotland. Referred.

The House then proceeded to the second reading of Mr. VALLIERES' bill for facilitating a legal remedy to such as have claims and demands on His Majesty's Provincial Parliament. Mr. NEILSON stated, in the absence of Mr. VALLIERES, that the bill had already passed the House two or

three times, when no objection was taken to its provisions. The bill was then ordered to be engrossed, and the House adjourned.

LEGISLATIVE COUNCIL.

The Hon. Mr. STEWART moved for the usual annual returns from the Banks, when the Hon. Mr. CUTHBERT stated his intention of bringing before the Council a motion to enquire how far the authorities and powers conferred upon them by their Charters have been exercised for the public benefit, and also to enquire into certain transactions in which the public are much interested.

HOUSE OF ASSEMBLY.

SATURDAY, Nov. 29.

Mr. LABRIE brought up the report of the Committee on the vacant officers, &c. of the House.

Mr. BOURDAGES presented a petition of divers inhabitants of Lotbiniere, praying for an aid for a school; and Dr. BLANCHET, presented one from the British and Canadian school-society of Quebec, praying for pecuniary aid; both of which were referred to the Committee on that part of H. E.'s speech relative to Education.*

Dr. BLANCHET moved, that the Clerk of the House do address a circular letter to all Curés, Ministers and Rectors in the Province, requesting a list of all the schools within their parishes, with a detail of their means of support—number of scholars—mode of instruction, and whether under public or private superintendence.

Mr. VALLIERES thought it better that an address should be voted to H. E., praying him to obtain from these Rev. Gentlemen the necessary information. He could not say how far the Clergy of any of the churches would attend to the requisition of that House, and believed that they would with more alacrity obey the orders of H. E.

Dr. LABRIE stated that certain information formerly called for from the Curés had not, when furnished, met with that attention which it was natural for them to expect, and they might therefore be indifferent to a new application from the same quarter, unless they were assured their labour would not be lost. With such an assurance he had no doubt they would render every information in their power.

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* As all petitions are simultaneously presented both to the Assembly and the Legislative Council, it is only necessary to notice them in one place.

Mr. VALLIERES said that the answer alluded to by the hon. gentleman (on the subject of the tenures, and addressed to the Committee on Waste Lands,) had been printed.

After some conversation Dr. BLANCHET withdrew his motion.

Mr. VALLIERES brought in a bill to regulate the office of Sheriff. The bill had already been approved by the Assembly, and had been amended in the Council. He expressed his regret that he had not been able to obtain the amendments made by the late Judge Perrault, to whose legal qualifications he paid a just tribute, and said he was so well aware of their value, that he should spare no pains to obtain them before the bill should be referred to a Committee.

The SOLICITOR GENERAL called the attention of the House to the returns laid before them by the Prothonotaries of the several districts, of the number of Baptisms, Marriages and Burials within the last two years; in which he had discovered several errors; in that from the district of Montreal no less than *Six* returns were wanting, the purpose for which these returns were called for wouldbe defeated, unless they were rendered in a complete state. He moved that they be referred to a Committee of the whole, when he should move that an address be presented to H. E. praying that the law might be enforced against the gentlemen who had neglected to perform the duties imposed upon them.

The SOLICITOR GENERAL brought in a bill to prevent fraudulent debtors evading their creditors, by escaping from the Province.—Adjourned.

LEGISLATIVE COUNCIL.

The Hon. Mr. RICHARDSON presented a bill, for making mortgages special on all real and immoveable property, held in free and common soccage, and for the enregistration of all deeds and mortgages relative to such property.

The bill for reviving and amending the act, respecting highways and bridges in the townships, was, after debate, and an amendent made, ordered to be engrossed.

HOUSE OF ASSEMBLY.

MONDAY, Dec. 1.

The bill for facilitating a legal remedy to such as have claims on the Provincial Government, was passed, and ordered to the Council.*

* The substance of such bills as passed the Legislature will be found in the abstract of the laws, published herewith. Such as were lost in either House, or reserved for H. M.'s approbation, will in substance also appear in other parts of this work.

Petitions were presented :

From Maskinongé, for the inclosure of the common, and the establishment of regulations :—from Montreal, for the revival of the Lachine turnpike-act :—from the proprietors of a market-place lately erected in the St. Lawrence suburbs of Montreal, for its erection into a public market : from Mr. George Scott, guager at St. Johns, for an augmentation of salary :—from the Commissioners for the construction of a road from Drummondville to Sorel, for an aid to complete it :—from the inhabitants of the townships of Bulstrode, Blandford, Melbourne, Madington, and Stanford, and of the adjoining seignories, for aid to open a road from Gentilly to Becancour :—from inhabitants of the district of Gaspé, concerned in the whale-fishery, praying that a premium be granted to encourage the said fishery :—and from the Commissioners appointed by the last House of Assembly to examine witnesses on the contested election of Three Rivers, for a remuneration for their services.

A message was received from H. E. accompanying the public accounts made up from October 1826, to 1st Jan. 1828.

Mr. Cuvillier moved that the said public accounts be referred to a Committee of seven.

Mr. Bourdages was not for examining any accounts of the expenditure of any monies, which was not authorised by acts of appropriation passed by the Legislature. He feared that the examination of the accounts might be construed into a tacit acknowledgement of the authority by which the monies were expended.

Mr. Cuvillier could not perceive how the Hon. Member could entertain such an idea, as that the examination of an account acknowledged its correctness.

Mr. Neilson brought up the report of the Committee on *J. B. Morand's* petition. It stated that the Committee had examined the contents of the petition, and were of opinion that a bill should be passed to enable him to practice as a Notary, if otherwise duly qualified. Report referred to a Committee of the whole.

Mr. Neilson moved that H. E.'s message of the 28th ulto. be referred to a Committee of the whole House. He would undertake to draw up resolutions which he then intended to propose; these he would have printed before hand for the information of members.

Mr. Neilson moved that it be an instruction to the Committee appointed relative to the Militia, to enquire what laws are in force or alleged to be in force, and also as to the present state of the Militia of the Province, to report to the House their opinions and observations thereon.

The SOLICITOR GENERAL brought in a bill to facilitate the proceedings against the estates and effects of certain debtors. It was the identical bill as the 4 Geo. IV. c. 13, which expired on the 1st May 1828.

The House in Committee of the whole on the bill for vacating the seats of Members of the House of Assembly in certain cases. Mr. DUMOULIN in the Chair.

When the question of concurrence was put on the 3d amendment which tended to vacate the seats of members appointed to the Executive Council, Mr. PAPINEAU said there was a certain respect due to the other branches of the Legislature, which ought here to be regarded. In this Province, the Executive Council could be deemed of but little influence to excite any feeling of alarm in that House. Their principal duty seemed to be that of granting waste lands, for H. E. was not bound to consult them. In England, however, the Privy Council stands on a different footing to our Executive Council. There the King can do no wrong, and no act or deed which the King performs or grants but requires the signature of some Minister of the Crown, who becomes liable for the consequences. These Ministers, and advisers of the Crown are not culled from a sole branch of the Legislature, but members of the House of Commons are called upon to express their opinions in the councils of their Sovereign. In England no Minister can succeed who has not the House of Commons, as the representatives of the people, in his favour, and the King feels himself obliged to respect the opinion of the people in the choice of his Ministers and Counsellors. It was much to be regretted that this system was not more adopted in the Colonies, and that in this Province the Executive Council, the advisers of His Majesty's representatives, were not called from among those who could truly state the wishes and feelings of the people. There was not a member of the House of Assembly in the Executive Council, and in the present state of public feelings, he very much doubted if a Minister of the Executive Council would be elected by the people into that House. The amendment which the Legislative Council had made upon a similar bill to that now under consideration was perfectly correct, as tending to declare the Executive Counsellors eligible to seats in that House. It ought to be a principle that a Counsellor who gives advice to the Crown should be displaced, if that advice prove contrary to the views of the people. Such was analogous to the practice adopted in England, where the Sovereign found himself called upon to consult the views of his people. It had a tendency to create peace in a country, and it was but just that, in a representative government, the opinion of the people should be told to the government, that it might govern its conduct accordingly. An opportunity would thus be afforded to the people of the country to cast off the imputation which they now laboured under from several who declared that the Canadians were not yet sufficiently advanced to enjoy the blessings of the British Constitution. The Executive Coun-

cil, representing a government which consults the interest of the people, ought to be altered or changed as circumstances, opinions, or feelings altered, but in this country a seat in the Executive Council might be deemed perpetual. A serious objection he was aware would present itself to his views of admitting members of the Assembly to the Executive Council, in the duties which the Court of Appeals legally imposed upon the members of the latter body. He was also aware that it presented that accumulation of judiciary, executive and legislative powers, of which they had already so grievously complained, and it pointed out the necessity of applying an immediate remedy to the constitution of that Court. The House were perfectly disinterested in adopting an amendment which emanated in another branch, and he was sorry to find that amendment disregarded by the Committee, who had introduced a counter-amendment into the bill, by which it was placed nearly in the same state as when sent to the Council for its concurrence. The alterations which it had there met with were perfectly in unison with the principles of the British Constitution, as tending to make approach together in harmony the governing and the governed. He therefore could not vote for the amendment of the Committee.

Mr. Neilson stated that he had introduced the Bill such as it had met with the concurrence of both branches, but on the Committee his colleagues had induced him to alter his opinion upon several points. The members of the Executive Council in this Province are paid, which was not the case with the Privy Counsellors of England. The Bill however did not exclude an Executive Counsellor from a seat in that House, but simply declared that if a member in any way touched the public money, he should return to his electors to ascertain if they have the same confidence in him as before. The Executive Council were, according to the existing law, the only auditors of public accounts—in fact they were the only persons liable for the public expenditure, and how could they consistently audit and examine public accounts, both in and out of the House, when they really ought to be the checks and protection against lavish expenditure. He therefore found it necessary to concur in the amendment proposed.

Mr. Cuvillier stated that his reason for excluding Executive Counsellors from a seat in that House was because they were Judges. The House had already, by Provincial enactments, excluded the Judges of the Court of King's Bench, and he was, by a parity of reasoning, for excluding Judges of last resort. He had no hope of soon altering the present monstrous colonial system of having the Judiciary, Legislative and Executive authority vested in one individual, but as loug as England permitted that system in her Colonies, they must endeavour to obviate its effects as far as lay in their power.

Mr. PAPINEAU stated that as to the audit of accounts vesting in the Executive Council, that was an abuse which had been introduced at the time of the Constitution. The act of 1774, stated that the people of Canada were unfit to receive a representative Constitution, and all the authorities of such a Constitution were conferred upon the Council which then governed Canada. In 1791, when according to the Act 31, Geo. III c.. 31. they were fitted to receive that greatest of the boons conferred on them by the British Government, it was an anomaly for which he could not account, that all those members of the Council who were opposed to the introduction of a representative body into Canada, were continued in the new Executive Council, and those who favoured the people were rejected. The powers of the old Legislative Council were retained by the new Executive Council, and among those the audit of public accounts, while according to the principles of the English Constitution, the whole subject of expenditure from beginning to end, and through all its progress, is the peculiar province of that House. As to the subject of pay or emolument, he thought that the Bill ought to have two principles in view. It was right that the House should carefully protect its own purity and independence, and take every precaution that its members swerve not from the straight line of their duty by undue influence, but they ought not to carry the principle too far. He did not think it essential to the purity of that House that every member of that House who accepted of an appointment in a country parish as a Commissioner, which probably would not yield him £20, should vacate his seat, expose the whole County to the vexation, trouble and expense of a new election, when no essential object was to be attained. The first object to be regarded was purity and independence, but the second, ought to be the convenience and benefit of the public. The Privy Counsellors of England, though not paid, had a certain influence and patronage attached to their offices by which they were enabled to carry on public business, and they also all held other situations which conferred on them large salaries. But, here the allowance of £100, to an Executive Counsellor, could not be considered as having much influence on his opinions, and even that was probably allowed him more as a recompense for his services as a Judge in Appeal than for his service as a Counsellor. He did not think it right to recur to elections often, where no real advantage was to be gained, though the principle was good, that the people should be called to reiterate their confidence in their representatives. But, as in England, honours most commonly were conferred upon those who enjoyed public confidence, so was it wrong here to exclude from the Executive Council those who were chosen by the Canadian people as their representatives, and who might thereby be enabled to influence the Government in its proceedings.

After a few observations from Mr. NEILSON and Mr. CUVILLIER, the amendment was carried on a division, and the 4th amendment passed

unanimously. The House being resumed, the Bill as amended was ordered to be engrossed, by a majority of 24 to 8.

On the 2d reading of the Bill for preserving for the purposes of husbandry the grass growing on the Beach of the St. Lawrence, Mr. Bourdages hoped that the mover would make some provisions to prevent the injury committed by raftsmen and their lumber upon the low lands about lake St. Peter, where much hay was annually obtained.

The House in Committee of the whole on the Bill for extending the Trial by Jury. Mr. Quirouet in the chair.

Mr. Ogden moved in amendment to the said Report, that the provisions of the Bill be limited to actions arising from moveable property only. Mr. Borgia opposed the motion as tending rather to obscure than to elucidato the provisions of the Bill. Mr. Ogden stated his view in limiting his jury trial to matters relating to moveable property, was because a jury in the cities could not correctly estimate the damage sustained by actions relating to real property in a distant part of the province, and it would be wrong to introduce in the present Bill any provisions for summoning distant jurors, when the Hon. member for the Upper Town (Mr. Vallieres) had introduced a Bill for the qualification and method of summoning. The amendment was carried, the Chairman reported progress and the Bill ordered to be engrossed, by a mojority of 25 to 1.—Adjourned.

HOUSE OF ASSEMBLY.

Tuesday, Dec. 2.

Mr. Neilson brought up the Report of the Agricultural Society. This Report states that the Society have continued their efforts to improve the practice of the farmers of this Province—that their endeavours have been attended with success—that they have endeavoured to extend the formation of County-Societies, but they regret the want of sufficient co-operation of the country gentlemen—that £150 of the grant of 1826, is still in the public chest—that they deem a reform in the defective practice of the farmers of this country essentially necessary, and as a remedy, suggest that practical farms of instruction be formed in the Province, to which ought to be attached Lectureships on Chemistry, Botany, Veterinary Surgery, &c.—that some young agriculturists be sent home to study practically, and on their return introduce the best modern systems in the Province—that an attempt ought to be made to introduce a taste for reading among the farmers—that the Society propose to issue an Agricultural paper in French only, gratis for some time, which will cost about £100, that the funds granted in 1826, are nearly expended, and they pray that a grant for five years, successively, be made in their favour.

Mr. LESLIE presented a Petition from the *Natural History Society of Montreal*, praying for an aid to carry into execution several plans which it had formed for the investigation of the Natural History of the country, —to purchase books, instruments, minerals, &c. Referred to a Committee.

Mr. CHRISTIE presented a Petition from *Lt. Col. Vassal de Monviel*, praying for a remuneration for certain services performed in 1815, but which he withdrew on the suggestion of the Speaker, from its being addressed in the shape of a letter instead of that of a Petition.

Mr. CHRISTIE presented a Petition from the inhabitants of Percé, in the District of Gaspé, praying that the monies levied in the District be laid out in its improvement, and that £500 be granted to open a road from Percé to the Grand River of Malbaie, a distance of 12 miles over a mountainous and swampy country.—Referred to the Committee on Gaspé Fisheries.

Mr. NEILSON brought up the Report of the Committee on the Petition of *Pierre Chasseur*. The Report recommended that a sum of £350 be granted to the Petitioner to increase his collection of Natural History, on his putting the public in possession of the said Museum, upon an inventory, as it now stands, and of all additions thereto.

Dr. LATERRIERE presented a Petition from certain mariners resident in Quebec and the District, praying that a depot for provisions may be established similar to those on Anticosti, at St. Anne, three leagues below Cape Chat. Referred to a Committee.

Mr. LESLIE brought up the Report of the Select Committee on the Petition of the proprietors of the *Montreal Library*.

Mr. QUESNEL moved that, in consequence of the circumstances which had attended the opening of the present Session, which could not have been generally foreseen, it was expedient to extend the rule of the House for the receipt of petitions for private Bills, for the introduction of private Bills, and for the Reports of Committees on such Bills. Mr. Ogden opposed the preamble of the motion as contrary to an established rule of that House. Mr. Quesnel thought it was necessary to put on the Journals the reasons which had induced the House to depart from the terms of its rules. He stated he could find precedents in the Journals for such a motion. Mr. STUART contended that precedents were only of use when the objection had been taken. To speak professionally there was a wide difference between a judgment rendered *par defaut contumace*, to that rendered *contradictoirement*. After some remarks from Mr. OGDEN, who stated he would waive the question at the present time, the motion was carried.

Dr. LATERRIERE moved that it be an instruction to the Committee on the petition of the Quebec navigators, to enquire if it be not expedient, and necessary for the purposes of commerce and the security of the country, that pilots be acquainted with the courses, shoals and rocks in both channels, from the port of Quebec to Hare Island, and that on such knowledge being obtained by the said pilots, they be licensed to practice, and that the report of a Committee of the House of Assembly in 1827, relating to the same objects, be referred to the said Committee.

Mr. CLOUET presented a petition from *M. J. Duchesnay, Joseph Roy,* and *W. F. Scott,* Esquires, of Quebec, praying for a remuneration for their trouble and expenses incurred in the examination of witnesses, &c. on the contested election for the Lower Town of Quebec. Referred to the Committee already appointed for a similar petition on the Three Rivers election.

Mr. CHRISTIE brought up the first report of the Gaspé Committee, stating that they had examined the first petition referred to them, and reported by two bills, the one for preserving the salmon fisheries in the county of Northumberland, the other to renew certain acts relative to the fisheries in the district of Gaspé. The said bills were then introduced.

The bill for extending the Trial by Jury and the bill for vacating the seats of members of the Assembly in certain cases, were passed—the former by a majority of 19 to 1, and the latter by a majority of 18 to 2.

The second reading of the bill for facilitating the parochial subdivisions of the Province for civil purposes.

Mr. NEILSON stated that it was one of great importance, and was founded on a message of Lord Dalhousie of 12th Feb. 1827. He moved to have it referred to a Committee of five. Mr. CUVILLIER briefly pointed out several errors in the bill, and also remarked that some of the powers given to the Commissioners were somewhat extensive.

Dr. LABRIE hoped that some measures would be taken to procure *lettres d'arrondissement* for the property of the fabriques of the parishes to be established.

Mr. BORGIA argued at some length that the right of subdividing and formation of parishes, according to the English and French laws, was always vested in the Legislature. By the present bill the House were proposing to sacrifice all the powers which their constituents had conferred upon them, by transferring the authority of forming parishes to three Commissioners. He would allow the Pope to erect spiritualities, but temporal parishes were under the controul of the Legislature. The bill was then referred.

LEGISLATIVE COUNCIL.

On the order of the day to consider of the expediency of an amendment of the clause of 36 Geo. III, c. 3, relative to the mode of proving a patent, which tended to make a copy signed by the Provincial Secretary valid in Court, as an *acte authentique*, it was opposed by Mr. Justice KERR, as introducing another signature, to be received by the judges, in addition to the hundreds already declared to be valid, of the Notaries, Curés, &c. of the Province. It was supported at some length by Mr. Chief Justice SEWELL, and Mr. Justice BOWEN, as the best evidence that could be admitted in a Court. Discussion deferred.

HOUSE OF ASSEMBLY.

WEDNESDAY, Dec. 3.

Mr. PROULX presented a petition from A. G. Douglas, Esq. praying for a reimbursement of monies that he has advanced and expended on laying out roads in the townships.

Mr. DUMOULIN presented a petition from the Fief Grosbois, Maskinongé, praying for some enactment for the conservation of its common.

Mr. VALLIERES presented a petition from the *Dames Religeuses* of the city of Quebec praying some aid.

Mr. LESLIE presented a petition from the *National Free School* of Montreal, praying for aid.

The SOLICITOR GENERAL presented a petition from the inhabitants of the Eastern townships, praying for English laws, Courts of Justice, Register offices, special mortgages, &c. as recommended by the Canada Committee's Report.

Mr. LESLIE presented a petition from the Corporation of the *Montreal General Hospital* praying aid to its funds. These petitions were all referred to several Committees.

MONTREAL GENERAL HOSPITAL.

Dr. LABRIE was of opinion that before any aid was granted to a public institution, it was necessary to enquire if the rules of that establishment were beneficial or injurious to the public interests. He had been informed that a rule existed in the institution, who now demanded public aid, by which no medical man was admitted to the care of the sick, unless he had obtained a diploma from one of the British Universities. Such a regulation was injurious, for in this Province, all medical men ought to be equally protected and supported. He therefore was of opinion that the

rule of which he now complained, should be amended, before any public money be granted. He therefore moved an instruction to the said Committee to enquire if it be not expedient, before any aid be granted, to enquire if there be not certain rules in the institution, which are contrary to the interests of a certain class of H. M.'s subjects.

Mr. Leslie seconded the motion, because he had never heard of such a regulation.

Mr. Neilson could see no objection to granting money to an institution, even with such a rule, and he thought that the founders of that institution were perhaps right in adhering to such a rule.

Mr. Quesnel did not see why the suffering poor should have their wants and complaints unheeded by the Legislature, merely, because some medical men objected to the terms of a trifling rule of an institution, whose benefits to the public were very extensive.

The Solicitor General would certainly vote against such an instruction. The Montreal General Hospital was entirely erected by the munificence of private individuals, and through the labour, the zeal, and the industry of its founders, an institution now existed in Montreal, creditable to the city, honourable to those to whom it owed its existence, and second to no similar institution in the Canadas. Their efforts had been hitherto crowned with eminent success, and the institution had been deemed so useful, that a Royal Charter had been conferred on it. The present question was whether an aid be granted to the institution, and it was the duty of the House to enquire if it was of such public utility as to merit such assistance. They ought to leave the internal arrangement, to those who were capable of attending to its interests. If any medical man has been excluded from attendance on the sick, it is not for him to bring his petty grievances here, but to appeal to the Directors or Governors. The House might as well resolve that no aid be granted to the Hotel Dieu Hospital, unless they increase the number of their nurses, or that they dress in a peculiar uniform.

Dr. Labrie did not deem the reasons assigned sufficient to lay aside the proposed motion. If the institution continued to remain a private one, the rules he alluded to might be very good if no money was asked, but the petition now read states that the institution will fall to the ground should not aid be extended to it. He thought that sanctioning such a rule was sanctioning a species of persecution, for the institution was now deprived of the services of one of the most eminent medical men in that city, universally acknowledged as such. No individual more approved of the Montreal General Hospital than himself, and none more willing to aid in its support, but when the representatives of the people are called

upon to aid an institution, it is right to enquire if there be any thing in its rules which may be remedied. He had not the slightest wish to produce the fall of that useful institution, but he thought that its Directors should take the best and most perfect means to attain the best assistance to the sick. He had been led to believe that the rule of which he complained had past clandestinely, and that several of the Directors were perfectly ashamed of its severity. The rule was dishonourable to the Directors who had passed it.

Mr. STUART begged of members to come down to the consideration of principles. He must attribute good intentions to the mover of this instruction, and that he has the public good now at heart, but a Legislature, in granting money to an acknowledged useful institution, is not to interfere in its management, far less to enter into the private quarrels of certain individuals. An allusion had been made to a rule passed clandestinely, this was a very great and serious change, and he should hope that the Hon. member was wrong in the imputation he had made, through a too easy credence to the statements of individuals acting under bad faith.

Mr. VALLIERES stated the question before the House was to know if an aid should be granted to a public institution. If such an institution is useful to all classes of society, the House ought not to refuse assistance from the public purse; but does this institution limit its benefits to a particular class of society? No such statement has been made, but only that the medical gentlemen shall be of a particular description, and perfectly qualified to render assistance to the public. If the institution declared that its benefits were to be extended to Protestants, and not to Catholics—to Irishmen and not to Canadians, there might be some reason to pause ere aid was granted, and to insist upon their rescinding such a rule. Such a rule is in favour of the poor, and the founders of that institution had a right to choose the individuals, who were to take charge of the inmates, and who could render the best assistance to the afflicted. If an individual wishes to give charity, can he not be allowed to select the servants of his bounty? Are the poor taken care of? Does the Hospital afford assistance to all those who present themselves? The answer is affirmative. Those individuals who are charged with the direction of the institution are not to be deprived of a vote in the nomination of the individuals to take charge of the most important department thereof. As the institution does not in any manner exclude Canadians or other individuals, as medical men, but merely states that they shall be qualified in a certain manner, he considered it the duty of the House to support an institution, and to see that it conferred the benefits upon the public which its supporters declare it does. There are other institutions in the country to which aid has been extended, and with whose rules the House had never interfered. The sum usually given is small, and he saw no reason why the Directors should not have a perfect controul over their own regulations.

Mr. QUESNEL concurred in the opinion expressed by the SOLICITOR GENERAL, and was disposed to vote against the instruction now proposed. But the learned gentleman probably overlooked the circumstance that if the Montreal General Hospital owed its origin to the munificence and zeal of individuals, the other Hospitals there were equally the fruits of the liberality of private persons. The Hospital had a right to establish its own rules, and the House would recollect, some years ago, the refusal of the Ladies of the Hotel Dieu to render accounts for their expenditure, stating that it was contrary to the rules of their institution. But with the Montreal General Hospital, the most minute details of the expenditure—of the invallds admitted, and cured, and of the persuasions of those admitted, were always laid before the public.

Mr. L. LAGUEUX said that the motion entered into details, which more properly would form a subject of deliberation of the Special Committee. The instruction should be rather to enquire what are the rules and regulations of the institution.

Mr. BOURDAGES remarked, that as long as an institution continued private, and requlred no public assistance, it might make what rules it pleased, but when it prays for an aid from the public, it is but prudent to examine the rules of such institution. If a member sees therein an odious exception, repugnant to the feelings of the people, it is his duty to endeavonr to have that rule altered.

Dr. LABRIE was willing to withdraw his present motion, but in reply to an Hon. member (VALLIERES) who thought that British diplomas necessarily carried weight and that their owners were best capable to render assistance to the public, he must say he could not concede such a proposition. That such diplomas were highly honourable, he would not deny; but to say that those who had them not, should not enter the Hospital, was incorrect in principle. The House should not sanction a rule which excluded any particular description of medical men. He withdrew the motion and substituted another, which required the Committee to examine the rules and regulations of the Corporation.

Mr. CHRISTIE presented the petition of *Lt. Col. Vassal*, which he had read last night, in a more formal shape; claiming a balance of £90.

Mr. OGDEN gave notice of his intention to move that an address be presented to H. E. praying that the power of franking as enjoyed by the members of the House of Commons, be conferred on the members of that House during each Session, and for 40 days before and after each prorogation. In looking into this matter, he found that till 1735, it was an unsettled question how far it was one of the privileges of the members. In that year an act had passed, which conferred by enactment the privi-

lege which he now wished to extend to this country, and that could only be done by an address to H. E., to obtain that measure in England.

Mr. STUART presented a petition from certain inhabitants of the city and county of Quebec, praying for improvements on their roads, by Macadamisation. Referred.

A message from the Administrator was received, with the award of the arbitrators, for determining the proportion of duties, to be paid to the Province of Upper Canada, for the four years succeeding July 1, 1828; and recommending some remuneration to Mr. Maitland, the umpire called in by the arbitrators on their disagreement.

The award determines the proportion for those four years to be one fourth annually.

Dr. LABRIE brought up the first report of the Committee on the York and Montreal petitions. In substance it was that H. Griffin, Esq. the Returning Officer for the West Ward of Montreal did not take the oath required by law, was thereby unqualified to act as such, and had therefore failed in his duty—that Robert Froste, Esq. who had administered that oath as Justice of the Peace to the said Henry Griffin, had also failed in his duty—and that though the qualifications of the said Henry Griffin were not valid, yet that the election of members for the said West Ward ought to be maintained as valid, because the freedom of election was in no manner impaired, and that a contrary decision would leave it in the power of the Government, having particular views in injuring the elective franchise relative to certain members, to appoint unqualified Returning Officers, so as to render such elections void at future periods.

Dr. LABRIE moved that the House do now resolve itself into a Committee of the whole on the said report.

Mr. STUART stated that he had very great objections to proceeding on the said report, of which the House had no notice, nor could have any cognizance of its contents. The matters contained in the report were of great importance, and it was certainly contrary to all principles of justice to hurry on the matter as proposed.

Dr. LABRIE remarked that the report related only to one of the grievances complained of in the petition, and certainly not one which required much consideration. The oath required by law, and the oath taken by Mr. Griffin, were only to be compared together.

Mr. OGDEN said that no objection to a delay till to-morrow could reasonably be refused. The report contains charges of no trifling nature, which it ought to be the duty of every hon. member to investigate, but

before any decision could be come to, it would be necessary to examine the oath taken by Mr. Griffin, to look at the whole election-law, to examine minutely ere censure was passed on respectable individuals; not to gallop through a report which scatters imputations of a serious nature.

Mr. L. Lagueux saw no reason to press on the matter before a Committee of the whole.

Mr. Bourdages deemed the question very simple. Among the grievances, of which the petitioners complained, was one that the returning officer was not qualified to act as such. The oath he had taken, and that prescribed by law, were not conformable, and that was all the House were called upon to decide.

Mr. Stuart deemed it most extraordinary in the Committee to come forward and ask of the House to consider their report and accept of their resolutions with eyes blindfolded—arms crossed, and like a flock of sheep, more especially as the report implicates the character and respectability of individuals. When, upon one occasion, he had been concerned in a measure which tended to implicate individuals, nearly a year was allowed to elapse before the consideration was pressed upon the House, and would the House now refuse a few short hours of deliberation. He was sorry to feel himself called upon to express himself strongly, but in his opinion the present motion was an insult to the good sense of the House.

Mr. Vallieres hoped the House were not so lost to all sense of justice as to punish an individual twice for the same offence—to punish the Returning Officer here by their censure, and also by rendering him liable to penalties inflicted by the law. As to the reflection upon Mr. Froste he never could agree. Justices of the Peace in this country did not generally read the substance of the affidavits, which they administered, and he could not see how, in reason, he could be in any manner punished for what he had done. He wished for time to examine the whole affair, nor could he see any reason for precipitation. If they were near the end of a sessions, it might be well, but when they had months before them, he deemed it wrong to proceed rashly, to injure the character and reputation of two individuals of the first respectability, to vote them guilty of a breach of the privileges of the House, without allowing delay to members to prepare themselves for the question.

Dr. Labrie stated that his reason for bringing the question forward at this period was that to-morrow was the last day for receiving petitions for contested elections, and by their decision this evening upon the validity of the election of the West Ward of Montreal, not only depended a point of privilege, but also the effect the invalidity of the oath of the Returning Officer would leave upon the election itself, which might become null and void.

Mr. STUART said it was according to the strict rules of justice that a man, however unknown to that House, however low in rank or station in society, should be heard ere he was condemned. It was insulting to the dignity of that House to be called upon to judge a question, of the merits of which they had not time to consider. He had implicit confidence in the talents and the rectitude of the members of the Committee, but he wished to examine the nature of the report which they had made. How could it be expected that he should be versed in all the matters of the report from a simple reading thereof, and how could the House conscientiously judge thereupon?

The SOLICITOR GENERAL stated that hurrying on the measure to night could in no manner decide the validity of the election. If that election was valid as he believed it to be, they must declare the Returning Officer sufficiently qualified to act as such, and if he was not qualified the election must undoubtedly be null. The House could not pretend to render valid what was declared invalid by an act of the three branches of the Legislature. To-morrow was the last day for the reception of petitions against elections, and it was yet to be seen whether that election was complained against. There were other interests concerned in the present question than the return of the Speaker, who had the honour to represent two places, and while he (Mr. O.) asked for delay, he begged to impress upon their minds that they were a deliberative body.

On a division there appeared 17 for, and 15 against a Committee of the whole, which was accordingly formed, Mr. CLOUET in the chair.

Dr. LABRIE moved that Henry Griffin, Esq. the Returning Officer for the West Ward of the city of Montreal, had not taken the oath required of him by law, and had thereby failed in the performance of his duty.

Mr. VALLIERES stated that, on referring to the 4th clause of the election act, the Returning Officer was required to reside in the county, city, or borough, for which he acted, and in the form of the oath appended to the oath there was some slight variation in terms. The oath which Mr. Griffin had taken he deemed conformable to the letter of the law, for he swore that he resided in the city of Montreal—a fact admitted. If the schedule or form was in any manner confused or indistinct, the House should recollect the rule for the interpretation of statutes, to explain one part by another. The law did not in any manner say that an individual resident in the East Ward is unqualified as Returning Officer for the West Ward, if otherwise qualified—the law only required that he should reside in the city, and be qualified for the Ward for which he acts. He was not aware of any other law in existence which could induce the Committee to come to the singular conclusion prayed for. He therefore moved in amendment, that the oath taken by H. Griffin, Esq. as Returning Officer, was in conformity with the law.

Mr. PAPINEAU could not conceive how a Returning Officer could take upon himself to explain an oath, prescribed to him by law, or to alter, in any way, its express letter. If he finds himself unqualified for the situation to which he has been appointed, it becomes the character of an honest upright man, having a respect for his character, rather to submit to any penalty the law may inflict upon his non-compliance, than to commit a premeditated perjury. The law, he conceived, imperiously required that the Returning Officer should not only be qualified to vote, but should also be resident in the quarter for which he acted. He was certainly much surprised at the opinion advanced by the learned member opposite, (VALLIERES.)

Mr. VALLIERES stated, that he looked at the statute as [illegible] in the whole. In regarding that statute, he also endeavoured t[illegible] out the intention of the Legislature when passing the law. By the 4th clause, the qualification required was residence in the *city* only. By the oath appended, the House would find all the words in the disjunctive "county, city, quarter of city, division of city, *or* borough," why is the word *city* used if it is imperative that he must reside in the quarter or division thereof. He thought the Legislature contemplated all possible cases either a residence in, or out of the ward, but certainly within the *city*. If he lives in the *city* only, and is qualified as elector for the *ward*, it is the imperious duty of the Returning Officer to state such in his oath. If any difficulty presented itself, it was his duty to consult the body of the law for information, and he found the only qualification required there, was residence in the *city*. He had not the least hesitation in pledging his professional reputation as a jurisconsult, that under the terms of the statute, and the oath as taken by Mr. Griffin, no conviction of that gentleman for malversation of office could be obtained in any Court of Justice.

Mr. BOURDAGES deemed it to be the spirit and intention of the law, that the Returning Officer should reside in the place of election for which he acts. The word *city* was introduced in case any city should be erected within the Province, and possessed of no subdivisions, and in that respect the statute looked forward. He could not see why the terms "quarter or division of a city" were introduced, if simply "*city*" were requisite. The objeetions made were, however, serious and merited consideration. He wished for time to reflect, and therefore moved that the Chairman report progress, and ask for leave to sit again.

Mr. PAPINEAU could not see why the Legislature should introduce the term division or quarter of a city, if city were sufficient. The spirit and intention of the law he deemed to be that the Returning Officer should be one duly qualified to vote for the place where he acts, for the law imposes upon him the power of deciding who are the individuals returned

at such election. If the number of votes for two individuals are equal, the Returning Officer is bound, in that case only, to give his vote, and thus to give the preponderance to one. If he is not qualified, the county or city can not be represented in consequence of that equality of votes. The objections raised by his learned friend opposite (Mr. VALLIERES) from his standing in the Province as a jurisconsult, merited reflection, and he thought the further consideration ought to be delayed.

Dr. LABRIE thought, where the terms of the law were deficient, recourse should be had to usage. The present petition was signed by the most respectable merchants, lawyers, notaries and residents in Montreal, who never would have complained of the conduct of the Returning Officer, if they were not of opinion that he had failed in the performance of his duty. If the oath was to be construed disjunctively, Mr. Griffin was perfectly competent to have sworn that he resided in the "county." He, however, also wished for delay to consider the objection raised.

Mr. VALLIERES was surprised to hear the gentleman talk of usage applied to a law passed in 1825, and especially in relation to elections, when only one election had occurred since the law came into force. The oath appeared to have been framed with a want of sufficient consideration, and he as one of the framers of the bill, would attach to himself some portion of the blame. It had been said it related to some future proposed city—probably on the Saguenay—which would afford much gratification to his Hon. colleague (STUART), but it was a rule in law to examine into the circumstances of a country when a law was passed. In 1825, only two cities existed and no prospect of any addition, at least within the time that the act would remain in force, for he believed it was only a temporary law. He therefore interpreted the law, by the intentions of the Legislature when it was passed, in the same manner as a will was interpreted by the intentions of the testator at the time it was made.

The motion for delay was then granted.

Upon motion of Mr. L. LAGUEUX, a Committee of five were appointed to enquire and report as to expired and expiring to laws.

The bills for ascertaining the qualification of Jurors in criminal cases; for the qualification of Justices of the Peace; and for facilitating proceedings against debtors in certain cases; were read a second time and referred. In that respecting Justices of the Peace, Mr. VALLIERES moved that it be an instruction to the Committee to inquire at what time and in what manner the office was first introduced into this Province, the manner in which they have been or are nominated, the abuses that have prevailed and exist in the dismissal of some, and the remedy to such abuses.

In a Committee of the whole on the returns of Baptisms, Marriages, and Burials, laid before the House, Mr. RAYMOND in the Chair.

The SOLICITOR GENERAL considered his duty called upon him to bring before the consideration of the House, the neglect of some public functionaries to fulfil the duties imposed upon them. He enumerated several returns which had not been made for 1826 and 1827. It had cost the Province a good deal to ascertain the amount of the population up to a certain period, and the law had imposed a duty, certainly not arduous, to keep up a continuation thereof. He therefore moved it as the opinion of the Committee that the Ministers, whose registers are wanting for 1826, have not fulfilled the duties imposed upon them by law.

Mr. VALLIERES in seconding the motion thought it the imperious duty of the House to insist upon a compliance with the law. The neglect of these gentlemen to return their registers exposed thousands to a loss of their rights, if their registers are not placed in a safe place of deposit, and much importance was justly placed therein in all civilized countries. In general these Reverend gentlemen have been correct, but in the present instance the House ought to insist on the law being put into full force.

The SOLICITOR GENERAL then moved a similar resolution relative to the Clergymen who had neglected to return the registers of 1827.

The House then proceeded to the consideration of the report of the Special Committee on the vacant offices of the Assembly. The resolutions of the Special Committee were, after some objections by Mr. BOURDAGES and BORGIA, concurred in by the whole House, whereupon the House adjourned.

In the LEGISLATIVE COUNCIL nothing of importance occurred this day.

HOUSE OF ASSEMBLY.

THURSDAY, Dec. 4.

Mr. CLOUET presented a petition from several electors of the Upper Town of Quebec, against the election of ANDREW STUART, Esquire, the principal complaint of which was that women were not allowed to tender their votes by the Returning Officer.

Mr. STUART presented a petition from certain voters of the borough of William Henry, against the return of WOLFRED NELSON, Esquire. This petition stated that a number of women were admitted to vote, that several persons who had voted were now under indictment for perjury, and that one had been convicted of that crime.

Dr. W. NELSON, (the sitting member,) was astonished at the charges made, and cast some reflections on the conduct of the ATTORNEY-GENERAL, (the unsuccessful candidate,) for which he was called to order. He then

animadverted on the mode in which the trial alluded to had been conducted, and complimented the jury which had, in the first instance, thrown out the bills, altho' another was afterwards found that brought them in.

Mr. STUART defended the conduct of the Crown Officers, and expressed his belief that the accusations made by the sitting member for William Henry were not well founded, or at least were foreign to the present discussion. The Grand Juries of the country had always done their duty with credit to themselves, and had rendered important services to the Province.

The SOLICITOR GENERAL presented a petition from the Jews resident in the district of Montreal, praying to be permitted to keep a register of Marriages and Burials, and to hold, by trustees, a lot of ground for a burial place, and a residence for a Pastor.—Referred.

Dr. LABRIE brought up the second report of the Committee, on the York and Montreal petitions of grievances. It announced the receipt of a copy of the Canada Committee Report by D. B. Viger, Esq. which was laid before the House, and referred to the Committee of the whole House on His Excellency's message, of the 28th ult.

The House in a Committee of the whole, on the report of the York and Montreal petitions,—Mr. CLOUET in the Chair.

Dr. LABRIE, in pressing the concurrence of the Committee in the first resolution, viz. that Mr. Griffin had not taken the oath required to qualify him to act as Returning Officer, expressed his willingness to waive the second, which related to the conduct of the Magistrate before whom he was sworn, and pass to the third resolution. That although the Returning Officer was not qualified, yet as the freedom of election was unimpeded and undisturbed, that the election was good and valid. The point insisted on by Dr. LABRIE was, that it was not sufficient for the Returning Officer to reside within the city, but he ought to reside in, and be qualified to vote for the ward in which he acts, as he may be called upon to give the determining vote, if the candidates had equal numbers.

Mr. STUART protested against the course pursued, and deprecated, in allusion to certain parts of the York petition, the transferring of village politics to that House. In regard to the oath taken by the Returning Officer for the West Ward of Montreal, on looking into it, he could see no error, nor any flagrant violation such as complained of. He ridiculed the niceties into which members were inclined to run, and felt no sympathy with feelings that could bring charges so futile as those brough against the magistrate before referred to.

Mr. PAPINEAU supported the resolutions, and noticed the circumstance that fourteen days had elapsed between the date of the writ and its re-

ceipt in Montreal by the Returning Officer, which he attributed to the design of throwing him out of that Ward. He said the public impression was so at the time, and he had been solicited to offer himself for three different counties. The House would not declare an election void upon any trival ground if the elective franchise were not violated. With regard to the election he should make between the county of Surrey and the West Ward of Montreal, for both of which he had been returned, he had always intended to choose his seat for the latter place, but felt a duty not to make that choice till the term fixed by the rules of the House.

Mr. VALLIERES considered the reference made by the Hon. Speaker to the intrigues which had been practiced, was foreign to the question. He maintained the competency of Mr. Griffin as Returning Officer, and the sufficiency of the oath taken by him.

The SOLICITOR GENERAL was anxious to know when and where the Returning Officer would be allowed to justify himself. The House were, with great precipitation, arraigning the conduct of a gentleman of the highest respectability, who had acted under a solemn oath, and they were condemning him unheard. The question, he said, turned on a mere point of law. The conduct of the House in regard to Mr. Griffin was contrary to its own precedent in 1820, when a returning Officer for the county of Bedford, was accused of very corrupt conduct; he, far from being condemned, without a hearing, was allowed his expenses. He justified himself, and the member was turned out; the object in the present case appeared to be the reverse of that which he had cited.

Mr. NEILSON and Mr. CUVILLIER, without casting any reflection on the Returning Officer, or any other individual, from a want of conformity, in their opinion, existing between the oath prescribed, and that taken—would vote for the original motion; which was carried, yeas 26, nays 6.

The 3d resolution, that notwithstanding the Returning Officer was not qualified, yet that the election for the West Ward of Montreal was valid, and its members legally returned, was carried by the same majority. The Committee then reported progress, and leave was given to sit again on Wednesday.

Petitions were presented from the Rev. Archdeacon Mountain, and from F. Languedoc, Esquire, representing the situation in which they stand with regard to the *censitaires* of La Salle, and praying that the remainder of their law-costs incurred in that respect be made good to them.—Referred.

Also a petition from the Quebec Auxiliary Society for promoting Education and Industry, praying for aid. Referred to the Committee on Education.

Mr. BOURDAGES moved an address to H. E. for an advance of £1000, for the expenses of the Session.

HOUSE OF ASSEMBLY.

FRIDAY, Dec. 5.

The following petitions were presented;

From certain wholesale and retail dealers in Montreal, against Hawkers and Peddlers and praying amendments in the laws relative to them.—From Louis Lemieux, seigneur of Ste. Anne, praying that a depot of provisions may be established at Ste. Anne, below Cape Chat, for the relief of shipwrecked persons.—From divers captains of vessels, and branch-pilots, praying the establishment of a light-house on the island of Bicquet.—From the Religious Ladies of the Hotel Dieu of Quebec, praying an aid.—From the Quebec Fire Assurance Company, praying an act of incorporation.—From Jos. Bouchette, Esq. Surveyor-General, relating to his maps and topography of Canada, and praying relief. All which were referred to different Committees.

Mr. CUVILLIER moved for application to be made to H. E. for communication of all instructions received by Government from September 1825 to September 1828, which relate to the finances of the Province generally, to the administration of justice, and to the reports of the Inspector General of public accounts, the Adjutant General, and whatever relates to the office of Receiver General.

Mr. OGDEN opposed the motion, and the House divided, majority 31 to 1

Mr. CUVILLIER moved for copies of the examinations before the Inspector and Auditor General of accounts; copies of the commissions of the Receiver General and of the Auditor and Inspector; also of all reports made under commissions on finance questions since 1825, and all papers and documents relative thereto, and to the office of Receiver General—passed by a majority of 34 to 1.

Mr. CUVILLIER moved for the communication of all such original accounts and vouchers relative to the civil expenditure and revenue of the Province, as may be required by the Committee of public accounts.

Mr. OGDEN objected to the motion, as copies had already been required and furnished.

Mr. VALLIERES contended that copies alone were not always conclusive, and original documents ought to be furnished.

Mr. OGDEN called in question the propriety and delicacy of calling for originals when copies were given—copies furnished by Government were certificates; it must be taken for granted they were correct, or the conclusion was evident that deception was suspected.

Mr. CUVILLIER observed that some copies contradicted others, and whether this arose from mistake or otherwise, it was necessary to call for orlginals.

Mr. OGDEN replied that he should not object to the motion if copies of all documents wanted had not already been furnished ; and the accounts were certainly as plain as those furnished by an *auctioneer*.

Mr. VALLIERES contended it was necessary to have details, and if, for instance, an auctioneer was to charge £25 or £30 for his services, his customer would want to know what he had done to earn it.—Motion carried by a majority of 37 to 1.

A Report of the Committee on roads and communications recommended grants of £900, for making a road from Drummondville to Yamaska, and £500 for maintaining the road from Drummondville to Sherbrooke.

Mr. LESLIE introduced a Bill for the incorporation of the city of Montreal.

THE MESSAGE.

Mr. NEILSON moved that the House resolve itself into a Committee of the whole, to consider the Resolutions drawn up, relative to the message of 28th November.

Mr. OGDEN wished for a day's delay as, from various occupations in his legislative capacity, he had not been able to give the subject that full consideration he wished.

Mr. NEILSON said, he had given a week's notice and did not think delay necessary.

The House then resolved itself into a Committee, Mr. Raymond in the chair.

Mr. NEILSON stated that the Assembly had several times declared its satisfaction with the speech of H. E. on opening the Legislature ; and, had in particular, in its address, in answer, expressed its grateful concurrence with the report on the affairs of Canada, made by the Committee of the Imperial Parliament. It was the wish of all to support and concur in the measures and administration of H. M.'s Government, as long as the rights of the people were respected, which could not any how be compromised or surrendered, in fact the surrender or compromise of those rights would destroy the Government itself, which would then only be nominal, and nothing but the domination of a foreign power, instead of the constitutional exercise of the respective rights of all parties. It would not be necessary however, to enter into any extended

discussion on the merits of the resolutions, as they were proposed ; as abundant opportunity would be afforded when objections to them were urged.

The resolutions proposed by Mr. NEILSON are :—

1. That this House has derived the greatest satisfaction from the gracious expression of His Majesty's beneficent views towards this Province, and from the earnest desire of His Excellency, the Administrator of the Government, to promote the peace, welfare and good government of the Province, as evinced in His Excellency's message of Friday last.

2. That this House has, nevertheless, observed with great concern, that it may be inferred from the expression of that part of the said message which relates to the appropriation of the revenue, that the pretensions put forth at the commencement of the late administration, to the disposal of a large portion of the revenue of this Province, may be persisted in.

3. That under no circumstances, and upon no considerations whatsoever, ought this House to abandon, or in any way compromise, its inherent and constitutional right, as a branch of the Provincial Parliament representing His Majesty's subjects in this Colony, to superintend and controul the receipt and expenditure of the whole public revenue arising within this Province.

4. That any Legislative enactment in this matter by the Parliament of the United Kingdom, in which His Majesty's subjects in this Province are not, and can not be, represented, unless it were for the repeal of such British statutes or any part of British statutes, as may be held by His Majesty's Government to militate against the constitutional right of the subject in this Colony, could in no way tend to a settlement of the affairs of the Province.

5. That no interference of the British Legislature with the established Constitution and laws of this Province, excepting on such points as, from the relation between the Mother Country and the Canadas, can only be disposed of by the paramount authority of the British Parliament, can, in any way, tend to the final adjustment of any difficulties or misunderstandings which may exist in this Province, but rather to aggravate and perpetuate them.

6. That in order to meet the difficulties of the ensuing year, and to second the gracious intentions of His Majesty for the permanent settlement of the financial concerns of the Province, with due regard to the interests and efficiency of his Government, this House will most respectfully consider any estimate for the necessary expenses of the Civil Government for the ensuing year, which may be laid before it, confidently trusting

that in any such estimate a due regard will be had to that economy, which the present circumstances of the country, and its other wants, require.

7. That on the permanent settlement before mentioned being effected with the consent of this House, it will be expedient to render the Governor, Lieutenant Governor, or any person administering the Government, for the time being, the Judges and Executive Counsellors, independent of the annual vote of the House, to the extent of their present salaries.

8. That although this House feels most grateful for the increased security against the illegal application of the public money, which must result from His Majesty's Government referring all persons who may have been concerned in such application to an act of indemnity to be consented to by this House, it will be inexpedient to consent to any such enactment, till the full extent and character of such illegal applications may have been fully enquired into and considered.

9. That this House feels the most sincere gratitude for His Majesty's solicitude to effect the most perfect security against the recurrence of abuses on the part of persons entrusted with public monies in this Province.

10. That this House, has not complained, nor has any complaints been made known to it, respecting the arbitration for the distribution between the Provinces of Upper and Lower Canada of the duties collected in Lower Canada; but that in this, as in every other respect, this House will most cheerfully co-operate in every equitable and constitutional measure, which may be submitted to it as desirable by the inhabitants of Upper-Canada.

11. That this House has seen with sentiments of the highest satisfaction and gratitude, the declaration of the willingness of His Majesty's Government cheerfully to accede to the desires which the Assembly has so frequently expressed during the last twenty years, of having an Agent in England to indicate the wishes of the inhabitants of Lower Canada; and that it is expedient to provide for such an appointment without delay.

12. That so soon as the scheme in contemplation of His Majesty's Government for the permanent settlement of the financialconcerns of the Province shall have been made known and considered, it may be expedient to provide some adequate indemnity to such persons as were placed on the civil establishment of this Province with salaries, prior to the year 1818, and whose offices may have heen found to be unnecessary or require to be abolished.

13. That this House will cheerfully concur in any measure which may appear most likely to be successful in effectually removing the great in-

convenience which has been sustained from the non-performance of the duties of settlement by grantees or holders of land obtained from the Crown, and otherwise remove the obstructions to the settlement of the country which may have resulted or may hereafter result from the manner in which the powers and superintendence of the Crown, in this most essential particular, as affecting the general prosperity of the Province, may have been exercised.

14. That so soon as the inhabitants of the townships, upon a subdivision of the counties in which they are situated by Act of the Provincial Parliament, shall have a full and equitable representation in this House of persons of their own free choice, the House will cheerfully concur in every measure particularly interesting to the townships, which may appear to be the most desirable to the inhabitants and the most conducive to the general welfare.

15. That this House is fully sensible of the distinguished mark of confidence reposed in the loyalty and attachment hitherto evinced by His Majesty's Canadian subjects and their representatives in the Provincial Parliament, by His Majesty's declaration that he relies on them, for an amicable adjustment of the various questions which have been so long in dispute.

16. That amongst the questions not particularly mentioned on the present occasion; this House holds as most desirable to be adjusted and most essential to the future peace, welfare, and good government of the Province, viz:

The Independence of the Judges and their removal from the political business of the Province.

The responsibility and accountability of public officers.

A greater independence of support from the public revenues, and more intimate connection with the interests of the Colony, in the composition of the Legislative Council.

The application of the late property of the Jesuits to the purposes of general education.

The removal of all obstructions to the settlement of the country, particularly by the Crown and Clergy Reserves remaining unoccupied in the neighbourhood of roads and settlements, and exempt from the common burthens.

And a diligent enquiry into and a ready redress of all grievances and abuses which may be found to exist, or which may have been petitioned

against by the subject in this Province, thereby assuring to all the invaluable benefits of an impartial, conciliatory and constitutional Government, and restoring a well founded and reciprocal confidence between the governors and the governed.

That an humble address be presented to His Excellency the Administrator of the Government, with a copy of the foregoing resolutions, humbly praying that he would be pleased to submit the same to His Majesty's Government in England.

After some conversation between Mr. OGDEN, (who wished for the delay of a day to be able to consider the resolutions more maturely,) and Messrs. NEILSON, VALLIERES and BOURDAGES, the consideration was postponed till to-morrow.

LEGISLATIVE COUNCIL.

The bill relative to the repairing and altering highways and bridges in the townships, was passed and sent down to the Assembly.

The Hon. Mr. RICHARDSON introduced a bill to make perpetual the act of 6 Geo. IV, c. 4. ascertaining the damages on protested bills of exchange, &c.

On the second reading of the bill for vacating the seats of members of the Assembly in certain cases, it was moved that it be referred to a Committee of the whole on the 1st of August next; to which an amendment was moved for the 5th of January next, which was concurred in.

HOUSE OF ASSEMBLY.

SATURDAY, Dec. 6.

Petitions were presented by Mr. L. LAGUEUX from the Quebec Education Society for an aid :—and from inhabitants of the township of Frampton, praying for the erection of a bridge over the Etchemin :—which were referred to Committees.

Bills were brought in from the Lachine-turnpike, and Fief Grosbois Committees, in conformity with those petitions.

REPORT OF THE CANADA COMMITTEE.

Mr. PROULX moved for 400 copies to be printed of the report of the Committee of the Imperial Parliament, on the affairs of Canada, and of the minutes of evidence on which it is founded.

Mr. VIGER agreeing to the propriety of full information being given on this important topic, and conceiving that all would concur in the motion;

yet, on account of economy, thought the expense ought to be diminished as much as possible. Part of the evidence might be omitted without any prejudice to the general and important information contained in the minutes, such, for instance as what relates to questions between the Episcopal and Presbyterian Churches, at least much might be compressed for the whole would be too great. He would not desire any thing concerning great political questions to be curtailed, and would be the last to desire that any essential information should be withheld. The body of the population ought to be made fully acquainted, not only with the valuable report of the Committee, but with the great mass of excellent, useful, and interesting information contained in the evidence, no important part of which ought to be curtailed.

Mr. Ogden did not look on the Canada report in the same light as most others of the members did; and was astonished at the extraordinary motion now made. The report and evidence constituted part of the journals of this House, and were accessible to all the members; they are not therefore wanted by members, and motives of economy, now so much the order of the day, dictated that the country should be saved the enormous expense of printing 400 Copies—400 Copies! that would make 8 copies a piece for each member!—what were they to do with them? But if the information to be derived from the evidence, vaunted as so valuable and useful, was so much required by the country, let it be given by some speculative printers—let them undertake it: we want no more than one copy each, which we are sure of having—he cared not by whom it was printed, or who derived profit from it, so that the expense, which for translating and printing could not be less than £1000, were not entailed on the country—we, who talk of economy and cut down every salary, and retrench every office, are now called on to spend £1000 of the public money, for printing and circulating papers which were far from being of the value put on them by some persons!

Mr. Lagueux declared it to be most important for the Province that all these matters should be fully and widely known. We ought not to regret £1000, if the expense were so much, laid out for giving general information. The learned Solicitor General deceived himself much respecting the retrenchment of salaries, which was not so much the object sought after, as the redress of abuses. The learned gentleman was now it seemed, a great advocate for economy—why was he not so before, when lavish expenses were incurred by the Executive without any Legislative authority? It was required, that each member should be enabled, for the satisfaction and information of his constituents, to send two or three copies down to them. The whole country, from one end to the other, should be informed of the manner in which their representatives had been received in England. It would not be doing justice to their constituents, nor to the Mother Country, not to let all be acquaint-

ed, both with the meritorious exertions of those to whom they had confided their cause, and also with the fact, that whenever, and whatever grievances or representations they complained of or made to the British Government, would be promptly and justly heard and redressed. Instead of 400, he wished 1000 copies might be circulated, that each one might read, as in a book of devotion, and instruct their children to venerate that Empire, which had only to know of abuses and complaints, to redress them.

Mr. OGDEN said that if all the constituents of the hon. members must read these documents, schoolmasters must be sent along with them, to teach them to read first; he doubted whether 400 of them could be found able to read. With regard to the report of the Committee, it had been called an imperishable monument; it was one that, in his opinion, might very soon crumble into dust—for a report, we know, when it comes before the House of Commons, may be wholly destroyed. It was an exparte statement, and contained shameful misrepresentations.

Mr. PROULX, in reply, remarked, that reproaches as to the ignorance of the population in Canada, came with a very bad grace from those who caused it. To whom must that ignorance be ascribed? Only ask who is in fault? The cause of whatever ignorance prevailed, which was, however, very far from what had been insinuated by the learned gentleman, was, that none but Protestant schools would be granted or supported; it was, therefore, praiseworthy in those who professed a different religion to refuse having their children so educated. To revert to the question—800 copies ought to be printed in lieu of 400. Economy here must be considered as nothing when set in opposition against the public good, which was all. With regard to the Canada report, which the learned gentleman had stigmatized as exparte, and foretold it would soon crumble to the dust; such ideas might also crumble away, as others of the same nature had done before them, and soon would fall. But he would say, that the prevailing and general opinions, both in Great Britain and here, were proved to be the same. They were principles and opinions that contained, intrinsically, the power of durability—and opportunity should be given to the country duly to understand and appreciate them.

Mr. VALLIERES, said this report had a singular destiny—it was represented as having two aspects, and the learned gentleman chose to look at present at the worst alone. It might, on the other hand, be said, that the printing and sending these documents to the country parishes must tend to promote education—as such would be the eagerness for it, that many would learn to read on purpose to understand it.

Mr. OGDEN must take the privilege of defending himself. He had been charged with inconsistency in both recommending and disapproving

of the report. There were parts he approved, and others he condemned—and these last were the production of exparte statements and evidence, both incorrect and false, and which he would oppose the printing of, as tending to mislead instead of to inform.—The exparte nature of the report was produced by the infamous manner in which the petitions and representations were got up, on which it was founded. Midnight meetings were held—"Mr. Speaker you may laugh"—

(Cries of order, order,—insult to the Chair, &c. and some tumult.)

Mr. OGDEN went on, and declared that no popular clamour should prevent him from expressing his sentiments. His objection was not so much to the report, parts of which he approved, but to the evidence, in which he saw things he was wholly inclined to disbelieve. Now let us send all this forth to the people, and we give a solemn sanction to falsehood, and mirespresentation; false charges are carried among the people, who are not enough instructed to appreciate their nature, or understand their tendency. Nay it would be necessary for the people to have their representatives at their right hand to explain to them what all this meant.

(During great part of the debate, a good deal of clamour existed.)

After a few more words from Mr. NEILSON, and Mr. VIGER, the motion was carried by a majority of 35 to 1, Mr. OGDEN alone voting against it.

THE GOVERNOR'S MESSAGE.

The House in Committee, proceeded upon the resolutions offered by Mr. NEILSON.* Mr. RAYMOND in the Chair.

In proposing the second resolution (the first having been unanimously agreed to,) Mr. NEILSON referred to those parts of H. E.'s message to which this resolution was intended to apply. It was known to all the members that the pretensions set up by the late Administration to the disposal of a portion of the Provincial Revenues without the controul of the Legislature, was the source of all the disputes and difficulties that had occurred. If such a pretension be persisted in, he could not see how any end could be put to those disputes and difficulties. He hoped that it would be plainly seen, both in England and here, in a different light from that which appeared on the face of H. E.'s message, and that all would concur in the conclusion to which the Canada Committee had come, who said that the whole revenue of the Province ought to be under the controul of the country.

Mr. STUART said the silence of the members on the opposite side of the House, indicated a belief of their being sure of success—they did not

* For these resolutions vide *ante*.

think proper to support their resolutions by argument—they were certain of a majority—so he doubted not they were. He did not mean to cast any blame on, or to speak with disrespect of the majority, but spoke of predetermined majorities generally in all countries, and of all times; they had a front of bronze and a heart of marble. The hon. member who takes the lead in moving this string of resolutions, condescends to give no reasons, but with an affected humility leaves each to vote according to his own opinion. What are we here for but to vote according to our own opinions and listen to those of others. But the honourable gentleman will say nothing to influence our opinion—forsooth, he will not guide us, he will leave it all to ourselves." For my part, I am never influenced by opinions that prevail out of this House, but I will not say so with respect to those that are advanced here. Besides, we should be wanting in our duty if we did not give our opinions fully on the subjects presented to us. As to the question before us, I do not see that, if we do not adopt these resolutions, the danger of our difficulties and disputes continuing is quite so great. The resolution states, that "it is possible to infer"—this expression is wrong—there is no doubt on the subject—the right of the Crown to appropriate the revenue under the 14th Geo. III. is distinctly affirmed. Another Jesuitical locution occurs—"may be persisted in"—why, the message is too plain to be misunderstood—it is not a pretension, but a claim. Again, it is said that this pretention was set up in the beginning of the late administration; now this is incorrect—for it was set up and acted on from the first constitntion down to this day.—Let us, in all our public documents, tell the truth, and tell it plainly and simply—it is not true that this claim was first set up by the late administration. I am no supporter of any past administration; but it is my duty to resist any aspersion—the claim was set up long previous to the late administration—the expression is therefore essentially inaccurate. But there is no doubt that the revenue under 14th Geo. III. must be applied to the purposes of the general administration, but by the appropriation of the crown. That is the law—and to say that the 14th Geo. III. is not law is an absurdity. It is expressly reserved under the constitutional act—a reservation directly excluding any repeal by implication. The opinion of the highest law authorities in England have been given that it is and remains law,—so that if the pretension set up by the House be persisted in, our difficulties can not be closed. That act is in full force, virtue and effect,—such is the law. But since Government must apply to the Legislature for all deficiencies which that portion of the revenue will not reach, the only difference is, that instead of the Provincial Legislature exercising a direct controul over the application of the proceeds of the 14th Geo. III. it exercises an equally efficacious controul indirectly and incidentally. This is a discussion, however, that is fit for lawyers and speculative men to enter into, but ought not to stand in the way of removing popular difficulties, and practical men ought not to enter into it. This erroneous position

must operate injuriously on the cause of the country: let us say as we ought, that it is only by the repeal of that act that we can be placed *in statu quo*. This I have always maintained, and conceive that it is the only mode consistent with the prerogatives of the crown and the rights of the people. I would, moreover, ask, what degree of politeness, courtesy, and even sense, can be found in stopping short in the road to conciliation by entering into theoretical disputes relative to the act 14th Geo. III." The learned gentleman concluded by stating, he had expressed himself but shortly, because he knew it was of no use to endeavour to convince the majority.

Mr. CUVILLIER said, that it was surprising, that after the question of the appropriation of the revenue had occupied the thoughts and debates of the House for so many years, it should be thought fit, at so late day, to recur to principles which he conceived had long been exploded. When the act of 14th Geo. III. was passed, the country was too poor to supply the deficiencies in the revenue, and it is only a few years since it has risen to such a state as to be able to provide for its own wants—during that time, it would have been absurd to repeal that statute—it was the only provision we had—but he would contend that it is virtually repealed, not only by the act of 1778, but by others. For a long time, supposing that it was necessary that that act should be repealed, we may be said to have been, as it were, in the minority, and though we desired not to confide the disposal of our revenue to the governors, we could not help ourselves. The hon. gentleman then referred to various acts, and entered into numerous details and statements of accounts, deducing the conclusion that the act of 14th Geo. III., was de facto repealed. He enlarged upon the uncertainty of the amount of revenue derived from that act, and the impropriety of granting a permanent sum of £20,000 per annum, as was now demanded, out of a fund that was so very uncertain. As to the fines and penalties, the amount of which is stated at 4 or £500—if we open the statute book at the 45th Geo. III., it will be seen that their amount is at the disposal of the Legislature, and to argue otherwise, would be treating the Assembly as boys and children. With regard to the scheme mentioned in the message for the permanent settlement of the financial concerns of Lower Canada, he recommended that such a scheme should be proposed by the Canadian Legislature, so as to conquer all difficulties, and make arrangements to leave the disposal of the whole of the revenue of the Province, to the country.

Mr. VIGER, in an animated speech, spoke to the general principles upon which the proceedings of the House were grounded. Honourable members had told them of errors, mistakes, and misrepresentations, but let the whole go forth to the people, the people can judge for themselves, and it is a duty to instruct them fully. It was impolitic and improper to make invidious distinctions; the people ought not to be divided; it is the

misfortune of slaves, that the rights and qualifications of one part of society separate them from another, and all ought to be put upon an equal footing in that respect. Where that is not the case, nominal liberty only can exist, and a slavery to laws not emanating from themselves, is as much slavery, as under absolute despotism. From the time of the conquest, till 1774, the rights of people were not respected: in that year, they were first acknowledged, and the declaratory act of 1778, went far in confirming them; but that act was one intended for the whole British Colonial Empire, and not for Lower Canada alone. The imposition of all duties save those that related to commerce, was renounced; and the disposal of all the revenues of all the Colonies, was left to their own Assemblies. Are not then our claims founded on the positive terms and assurances of the declarations and statutes of the King and Parliament of Great Britain? And it can not be believed that these will be denied or evaded. We have now experience enough in Legislation, to do our duty to ourselves and to the empire; and pretensions that are contrary to law, to justice, to honour, and to expediency, will not now be persisted in. It was in 1791, that we were first put in possession of all the rights of British subjects. It is true, we were not then sufficiently enlightened for their full enjoyment; but government, trusting to futurity, granted us the means of arriving at what we are now, and fears ought to be needless under the declaratory act, passed to dissipate all jealousies between the mother country and its colonial possessions. On the subject in debate, we have the opinion of Ministers, the laws of the country, the declarations of His Majesty, and the report of the Commons, in our favour. But other considerations pressed themselves upon him. We were the descendants of a nation among whom the rights of the people were not respected. Let us contrast our situation with that of the other French Colonies, and to what cause can the calamities that have befallen them be attributed, but to the despotism that was practised there. We, on the other hand, have become free British subjects, and all we call for, are the rights of such; with the example before them, can it be the interest of government to say to the inhabitants, you shall not have those rights which the other subjects of the empire possess? this would be a doctrine not only inimical to liberty, but eventually injurious to the empire. Do not the people here know that they are not actually and truly in the full enjoyment of those rights, to which they are entitled? and may not this knowledge, if those rights are longer withheld, sooner or later excite feelings, the consequences of which can not be looked at with apathy. This is a great and important consideration for the British government. It should be their study, not by depriving the people of their rights, but by confirming them to them, to give energy and stability to the Canadas, and thereby cement and promote the interests of both Great Britain and its possessions here. To do otherwise would be to give to the Executive, the power to crush the people, and turn the mass of them into slaves to foreigners. Our attachment and

loyalty to Great Britain, are now at the height, let them not be weakened. In every respect, it is the great interest of Great Britain, to attach her Colonies to herself; and Canada, from its situation, was of more importance than any other. He should not have extended his observations any farther, if all principles of policy and right had not been violated by the late administration. He believed the value of those principles and their bearings, were well understood throughout the country, and although much education was not to be expected under the existing circumstances, he had frequently listened to the reasonings and discussions upon those important topics, by many of the common people, which yielded not to those of the most intelligent and enlightened men. Let us foster and sustain those principles among them, and the justice of government can not refuse to sanction them by its conduct.

Mr. YOUNG took up the arguments employed by the honourable member for Huntingdon, and went into a long detail of the different Acts both of the British Parliament and of the Provincial Legislature, that bore upon the question of the application of the revenue under the 14th Geo. III., upon the alleged virtual repeal of that act, and upon the incompetency of the Provincial Parliament, to pass any act that was contrary to any act of the British Parliament. From all he had collected on the subject, it was his decided opinion that the act of 14th Geo. III., was law; and that the whole appropriation of all the sums claimed by the crown to allot to the uses of the Province vested in His Majesty; but looking at the recommendation of the Canada Committee, and the propriety of the whole revenue being at the disposal of the Legislature, his vote should be given in a way to advance that object.

Mr. OGDEN had sat ten years in the House, and had heard the same subject discussed over and over again—but he was not sorry to follow the country in the course they had pursued in resorting to Great Britain, for the question now in agitation had there been decided against the pretensions of the Assembly. After cursorily perusing the minutes of evidence laid before the Committee of Parliament, he could not but feel that the three honourable members who had been deputed for that purpose, had failed to produce the conviction they desired. The Committee of Parliament had declared the 14th Geo. III. to be law; as to the opinion expressed by them immediately following that declaration, that it would be best for the Crown to give up the whole revenue to the controul of the Legislature, that would go for little. Be it so or not, it was the House of Commons alone could decide, who alone could confirm that opinion, for it was only the power that made that law, that had power to take it away. An opinion can not alter or influence the law, and until the House of Commons abrogated it, it was and must remain law. The hon. member for Kent, had made allusion to the rights of British subjects; but there were duties as well as rights, and the duties of subjects is to obey the law. If

the 14th Geo. III., is law, let it then be obeyed. We were as much bound by the 14th Geo. III., as by the 31st Geo. III., which entitled members to sit there. Adverting to the wording of the resolution, it was wrong in speaking of a pretension put forth by the late administration. All had been done before; and he could quote an authority which the honourable gentleman on the other side, would be least of all inclined to dispute, to shew that the question of the 14th Geo. III., had been very recently set at rest. It was on the authority of Sir Francis Burton, in 1825, who informed Lord Bathurst that the Legislature had acknowledged the principle of that act: and it was in this spirit and understanding, that the grant of that year was accepted, the only objection to it being, that it was only a grant for one year, instead of a permanent one. It was the opinion of all sound politicians, and had always been his own, that the maintainance of the administration of justice, should never be governed by an annual vote. He had not risen with a hope that his arguments would have any effect on the House, but merely to support his consistency, in advancing the same opinions he had held before, and which were such as were supported by the highest law authorities, by the Committee of the House of Commons, and by the present Colonial Minister.

The 2d resolution was passed by a majority of 35 to 3.

On the 3d resolution, Mr. STUART said there was no doubt as to the controul of the Legislature over the whole of the revenue, but this controul was direct in some cases, and only incidental in others; the right was admitted, inasmuch as in those cases, in which the appropriation existed in the Crown, the Assembly had an indirect controul by its right of enquiring into the expenditure, and of refusing supplies if not satisfied. As he conceived the words of the resolution meant the direct controul of the whole, he should vote against it.

The resolution was passed by a majority of 34 to 4.

Upon the 4th resolution, Mr. STUART said that this was also exceptionable. They were not called upon to enter into the question; there was nothing in the message that required a direct answer of this nature. It is not called for by the occasion, nor growing out of any circumstances before them. It is neither one thing nor the other. It goes to lay down a general principle which is not required to be proposed.

Mr. VALLIERES stated that it was called for, inasmuch as several acts had been passed by the British Parliament, which interfered with the internal concerns of the Province. The tenures act was one. That by which Parliament endeavoured to regulate the disputes between Upper and Lower Canada, which indeed might be justified in other points, was passed with great want of information. Parliament certainly did it for

the best, but they misunderstood, and were misinformed, as to the interests of both Provinces, and we have ever since been liable to disputes. The act of 1814 was contradictory to the declaratory act, and the 58th clause of the constitutional act, had been lost sight of. Other instances might be brought forward. The necessity of the interference of the British Parliament with our concerns, had ceased with circumstances; and where attempted, had embroiled matters instead of doing good. Now, here was cause sufficient why we should tell the Imperial Parliament what is proposed by this resolution. Suppose any act was to be passed there directly against the constitutionel act, or any part of it—would that be legal? Certainly not. The constitution in all its parts, had been granted in perpetuity, and could not be taken away. It was only in extreme cases that a reservation of supreme authority was made; and none such have yet occurred.

Mr. STUART only rose that silence might not be considered as acquiescence. There were many objects relative to the Province which required to be regulated by the Imperial and not the Provincial Legislature—but what the precise line was, that was to be drawn, could not be ascertained. That line had divided the opinions of men of the most brilliant and penetrating minds. Among others, Lord Chatham and Burke, were to be instanced. Burke felt the extreme danger of metaphysical politics,—statesmen were not agreed on this point—don't let us then enquire what the precise limits are—it is unnecessary—it is more—it is dangerous—and in the present case, looking at the parental and unexampled attention bestowed by the Mother Country upon the representations made from Canada, it is both ungracious and perilous—it may put in jeopardy the obtainment of redress for those grievances that have been complained of. He would not here introduce any thing about the tenures act, his sentiments on which were well known. But that we should have all that was right and just, all know we had the guarantee of British honour and British truth. The case of the former British Colonies, now the United States, was far different—they were called on to bear their full proportion of the expenses of the Empire, without having any voice in raising the funds, put of which they had to pay—the results were well known—but what have we to pay; nothing but for own local benefit—do we pay any thing for the powerful protection of a mighty Empire? do we pay any thing towards the thousands and thousands of soldiers, and the one thousand ships of war, that guard the Empire, maintain its dignity and interest, and protect British subjects in all parts of the globe? We are British subjects—it is a privilege equal to the citizens of ancient Rome, and we can say in every part of the world, as they did, *Civis sum Romanus*, I am a British subject—touch but the hair of my head, and the bayonets of those thousands and thousands of soldiers and those thousand ships of war, for which we pay nothing, will be ready to avenge the insult. He did not intend to have gone so far in the argument, but he had been

drawn to it, when he saw men loaded with great benefits still craving. Look across the line, look at the Americans—see what taxes they pay—how different in that respect is their situation with ours.

The 4th resolution was passed by a majority of 34 to 4.

The 5th resolution, Mr. STUART asserted was false in principle, or if not, yet all general propositions are dangerous. Although it may be generally true that interference in the internal affairs of a country is impolitic, there may be cases that may demand it. The precise line has not been fixed, and could not be fixed.

Mr. NEILSON observed this was merely the expression of the House, that all interference was to be deprecated, especially at the present juncture. The resolution was moreover in conformity with the precise words of the report of the Canadian Committee.

This resolution was passed by the same majority.

The 6th resolution was passed unanimously.

The 7th was passed, without any discussion, by a majority of 34 to 4.

On the 8th, Mr. OGDEN observed it was too general, as it alludes to the application of all the public money, and then also alludes to that of the 14th Geo. III. There could be no objection to grant bills of indemnity to those, who under the calls of necessity had appropriated the public money without any authority, but it was wrong that bills of indemnity should be required for the making use of that which had already been permanently appropriated.

Mr. STUART'S principal objection was, that this resolution conveyed erroneous impressions. Its construction might extend too far. It is true that, the different branches of the Government not being agreed, the necessity existed, in order that the whole machine might not be stopt, that the public money should be made use of; but then annual reports were made of such applications, and distinctions were required to be drawn. The resolution was in terms, perhaps formally true, but virtually untrue.

Mr. NEILSON said, that whatever necessity might exist for the illegal application of the public money, all was to be ascribed to the Executive, It was because the bills were refused to be passed that appropriated the money.

Mr. STUART, in reply, said, that it was the manner of appropriating the money that the parties differed upon. Who was right or who was wrong ought not now be enquired into, that difference existed, and the neces-

sity, the manifest necessity arose. This necessity was justly attributable to both parties; the one persisting in sending up objectionable bills, and the other in refusing them. No matter which was right, all must agree that the necessity was a consequence of the difference of opinion. Up to this time it was supposed the authority of the British Parliament would have sufficed to settle those differences, but it seemed as if they must be settled all one way.

Mr. VALLIERES.—"We all know that the laws of necessity must be obeyed.—We are all convinced of the necessity of reasonable expenditure. We know both what we do, and what ought to have been done by others. We know the Executive were compelled to act without authority, but we want to look, not at the necessity, but to the manner in which that necessity was supplied; to look at the accounts, examine the amounts of items, and if such surpass the necessity or not, act accordingly, and approve, censure, or withhold approval, as the cases may require.

Mr. STUART said the question of necessity was one of fact. He feared the course now taking might occasion the recurrence of the same necessity.

The resolution was passed by a majority of 34 to 4.

The 9th and 10th resolutions were passed unanimously.

On the 11th resolution, Mr. OGDEN observed that he should have objected to the term of twenty years being mentioned as that during which the Province had been desirous of having an agent in England. If so long a period had elapsed, it was to be attributed to the unconstitutional and obstinate course pursued by the Assembly, during a great portion of that time, in proceeding by "Resolutions" instead of by bill; which, in his opinion, was justly resisted by the Legislative Council. He would not, however, insist on the inaccuracy of this resolution being removed; and the resolution was passed unanimously.

The 12th resolution passed unanimously.

On the 13th being read, Mr. OGDEN rose and said, this ought to be taken in connection with the subsequent resolution. The 13th made promises, but in the 14th came the conditions, namely, that as soon as the townships shall have a full and equitable representation, they shall have the benefit of the 13th, and not before. The townships were alone interested in these resolutions. Any thing more insolent was never offered to the consideration of the Assembly. What! are we to attach conditions to the performance of duties? We are declaring the inhabitants of the townships a proscribed people, put out of the pale of the attention of the Legislature as to their wants, their wishes and their welfare; and that only when we have subdivided them, according to our own pleasure,

they shall be heard, and the evils they complain of redressed. I declare they are an oppressed people—they have hitherto been denied the rights of legislation; and now, before we will relieve them from the oppression they endure, we impose a condition which it is in our power to prevent compliance with.

Mr. NEILSON said, that great discussion had taken place respecting the townships. We only wish to know what they really want, and they would find in the House a ready disposition to grant all they could in reason desire. It was mere imagination in the learned gentleman to call them an oppressed people. But why distinguish between one part of the Province and the other, let all be equally represented, and justice would be done to all.

Mr. VALLIERES said, that in this, as it were, separate district, in order to give satisfaction to the inhabitants, it had been thought proper to give them a separate administration of justice, and after two years they were dissatisfied with it. We never have known what to do for them, because they had no authorised agents to express their wants and wishes. It was going blindly to work to legislate upon unauthorised representations and surmises. It was not becoming in the learned gentleman to call them a proscribed people, and represent them as out of the pale of our care; we are anxious for their welfare, and want them to have a share in our deliberations, in which they have now no one legally appointed to speak for them. It was the interest of the country to have a satisfied, free, vigourous and prosperous body of men along the important border of the Province; without a due representation they could not be so, and there was a great necessity for passing laws to give it them.

The 13th resolution was passed, by a majority of 34 to 4.

An amendment was made in the 14th Resolution, which now stands as follows:—

"That it is the desire of this House to take, as speedily as possible, every means in its power that the inhabitants of the townships, upon a subdivision of the counties in which they are situated, by Act of the Provincial Parliament, shall have a full and equitable representation in this House, of persons of their own free choice, and that the House will cheerfully concur in every measure particularly interesting to the townships, which may appear to be the most desirable to their inhabitants, and the most conducive to the general welfare."

It was then passed unanimously; as was the 15th Resolution.

Upon the 16th Resolution, Mr. Stuart remarked, that it appeared to go beyond the occasion. The British Government had confined their

present measures to objects of immediate necessity. By multiplying sources of discussion, we should run a risk of protracting the difficulties laboured under, and perhaps of creating anew the necessity respecting the application of the public money, which had been so much talked of.

The Resolution was passed by a majority of 35 to 3,—and the Resolution to present an address was then also carried.

The House then resumed, and upon Mr. Neilson's motion for the concurrence of the House in the Resolutions, they were passed by the same majorities as in the Committee, excepting the 13th, which, as his objection to it had been removed by the amendment made in the 14th, Mr. Stuart said, he should now vote in favour of; and excepting that for the address, upon which Mr. Ogden moved an amendment that the 2d, 3d, 4th, 5th, 7th, 8th, 13th, and 16th, Resolutions should be left out, which was negatived by a majority of 36 to 2.

On this occasion, Mr. Stuart took the opportunity of stating his opinion, that as the consideration of the Provincial Parliament was required upon the important topics contained in the message, the best course to have been taken would have been to have gone in concurrence with the Legislative Council, and had a conference with them previously to sending up their Resolutions, which might be considered as the ultimatum of the Assembly. He had had an idea of moving a string of counter-resolutions, but considering it as labour in vain, he should abstain.

LEGISLATIVE COUNCIL.

The House was chiefly employed in Committee on a bill to repeal and amend part of the act 36th Geo. III. for the safe custody and enregistering of all Letters Patent for waste lands of the Crown, &c.

HOUSE OF ASSEMBLY.

TUESDAY, Dec. 9.

Statements of the different Banks were laid before the House, and referred to a Special Committee.

The following petitions were presented:—

From the British and Canadian School Society of Montreal, praying an aid; referred to the Committee on Education.—From Alexander Wood, Esquire, of Upper Canada, praying for a return of duties paid by him in 1814, on goods imported direct from London to Upper Canada,—From John Lane, Esquire, praying an additional compensation for his services in the Provincial Secretary's Office.—From John Adams, Surveyor, praying an aid to enable him to meet the expenses attending his Survey of the

city and suburbs of Quebec.—From Wolfred Nelson, Esquire, member of the borough of William Henry, complaining of the conduct of James Stuart, Esquire, Attorney General, the unsuccessful candidate at the election for the said borough.

The petition being read, Mr. Andrew Stuart could not quietly sit and hear the calumnious assertions contained in the petition. As far as he was acquainted with the facts, he would say, they were what the courtesy due to the House must prevent him from stating in that forcible language which his feelings dictated. He would throw down his gage to the man who made such unfounded and pretended——. (He was here interrupted by the Hon. Speaker, who reminded him that his language was unparliamentary.) He would not call those statements by the names they merited; he would not do so in that House—but he would throw down his gage——. (He was here again called to order by the Speaker.) He submitted, and would now dismiss every thing that might be considered personal, and be what we all ought to be—dispassionate and cool: This was a counter-petition intended to operate against that which had been presented against the election of the sitting member. If the facts are true, that petition must fall to the ground. The House can known nothing of whether they are true or false—nor would he enter farther into that question than to speak his conviction that they were altogether untrue. As to the abuse and vituperation so abundant in this petition, he cared not for it; nor could the House come to any conclusion without evidence was produced—and he firmly believed, that no evidence could be produced. What belief might be placed by others in the allegations of this petition, he knew not—but this he knew, that the Attorney General was not capable of what was imputed to him in it; this he knew as a man; but could not know it as a lawyer;—as a lawyer, however, he would say, that to present a petition like this, pending the discussion of that which was presented against the election; to attempt a justification by recrimination before the trial came on, was to prejudice the House, to prejudice the judges who were to sit upon it, who could not enquire into the merits of the last petition, till the first was disposed of. The legal question was, whether these matters should be the subject of a petition to the House or not; he apprehended not; for it would be fully open to the sitting member to enter into the whole matter, when his defence came on. The petition against him is of the same nature as that presented against his own return for the Upper Town of Quebec. The question is, whether it would be right for him to present a petition against that which had been presented against him. He was satisfied it would not. He had no desire to resist enquiry. It was well known he was a friend to enquiry in all things; but when the petition against the sitting member came on, all these matters would or should come before the House; and if he thought not, he himself would second the motion for the reception of this peti-

tion. Adverting to the personal allusions made, he could not regret what he had already said, and would only further say, that he believed the whole was a foul calumny.

Mr. BOURDAGES said, the petition could not be objectionable, because it entered into the same subjects that are mentioned in the petition against Mr. Nelson; it was, he knew, the intention of the petitioner to prove the facts he alleged. There was very grave and serious matter in the petition, in refutation of the allegations that had been made against the return of the sitting member, who, he believed, would have it fully in his power to prove his statements.

Mr. VIGER introduced a Bill to authorise Counsel to address Juries in the behalf of prisoners in capital cases.

The House went into Committee to consider the expediency of amending the Judicature Act, and passed a resolution on the expediency, which was concurred in by the House. Mr. Viger then introduced a Bill to facilitate the Administration of Justice throughout the Province.*

On this occasion Mr. Viger made several observations on the necessity of rendering justice accessible to all, by administering it without that delay and expense, the excess of which had ever been the reproach cast upon the Courts of Justice in most countries. It was intended by this Bill to facilitate also the trial of appeal-causes. Every one feels the sacred character with which Courts ought to be invested, and that the people ought to bear esteem and affection for the administration of justice. It is the Courts that people throng to, to acquire the rules of morality and of honour, it is there they are taught their duties to their country, to their neighbours, and to themselves. A citizen of every state where the laws are impartially administered, without delay or vexation, acquires an energy of character, when he percelves this, and that the judges are uncorrupted and incorruptible, which the subjects of other countries can not feel. The contrast between France and England shews this in the greatest degree. In criminal matters, in the former country, the accused has little chance of escape, unless through favour; prejudice and partiality condemn, and scarcely any thing but favour acquits. In England how different!—the lowest may safely rely on the integrity of the Courts before whom he is brought. If any thing may be said to be the fundamental pillar of the British Constitution it is this. In his late voyage across the Atlantic† he had the opportunity of comparing the dif-

* This Bill having been ultimately lost, the substance of it will be found in the Appendix.

† Mr. Viger was one of the gentlemen appointed to convey the Lower Canada Petition to the Imperial Parliament.

ferent systems of Judicature in different countries; and he must say that no other European nation had acquired, or seemed capable of acquiring, those correct principles of administration of justice which prevailed in England. Let us therefore follow them, and give vigour to our judicature by giving facility to its administration.

On motion of Mr. BLANCHET it was ordered that it be an instruction to the Committee on light-houses, to enquire into the expediency of erecting light-houses on the *Pillars, les Islets de Bellechasse, La Pointe St. Laurent,* and other places in the River St. Lawrence below Quebec.

The House in Committee on the vacant offices of the House, passed a resolution fixing the salary of the English translator at £200 per annum.

The House in Committee on the Ordinance of the 25th Geo. III. cap. 2, passed a resolution, that the 38th sect. of that Ordinance, in so far as the same authorises the imprisonment by execution of a debtor, not being a merchant or trader, is contrary to the common law of the country, to the rules of justice, useless to commerce, and extremely injurious to the other branches of industry, and ought to be amended.

The House in Committee on the vacant offices of the House, resolved:—that before filling any future vacancy, enquiry be made as to the necessity of such office, the amount of the salary and emoluments, and such salary to be fixed *de novo* at every change.

In Committee of the whole House, on the report of the Committee to whom was referred the petition of J. B. Moraud, a native of France, who had served his usual term with a Notary, had resided more than seven years in the Province, and had been refused his commission, on account of being an alien, on which the Special Committee had reported they were of opinion, a bill should be passed to enable him to act as a Notary.—After some introductory remarks from Mr. NEILSON, who had presented the petition—

Mr. Speaker PAPINEAU rose and said, he had never seen a question, which, in its general bearings, was so highly important, and likely to be productive of incalculable consequences, however trifling it might appear as concerning an individual, introduced into that House so lightly and with so little consideration. He was surprised to find that the weight of the question which it in fact agitated, had escaped the penetration of the Committee. It was, in fact, a question of proscription, not on account of birth-place or alienship, but on account of religion. In ages of ignorance, in ages which were, or ought to be, long gone by, all Churches and States had been intolerant, and people of the several religious creeds were persecuting and proscribing, persecuted and proscribed. This prevailed in the greatest part of Christendom, and intolerable persecution preceded

the struggle between bigotry and toleration. The laws of England unfortunately partook too much of the same spirit. England, even at the present day, the country of liberty and religious toleration, appeared, in this respect, even to be less enlightened than other European nations, if we perhaps except Spain and Italy: for, in England, dissenters from the established religion, whether Catholic or others, were under a certain ban, which deprived them of part of their rights as citizens, and as freemen. And here, in a country which form san important part of the Empire, and where all religious creeds are, and ought to be, not only tolerated, but equal in rights, it is attempted to introduce the restrictions and proscriptions of barbarous times. To sanction this, would, independent of political considerations, sap the foundation of the tranquility and property of hundreds of families. In a former age, England, which knew the advantage of populous and prosperous Colonies, to favour their growth, departed, with respect to them, from her own restricted system, and permitted the naturalization of all Protestant emigrants, no matter of what country, by the mere fact of residence. By this general law, which is here called forth from the grave, to operate in this individual case, a French Protestant would be naturalized *de jure* merely by residence, whilst a French Catholic would be denied that privilege. But, practically, the laws for the naturalization of all Protestants, have never been enforced, nor could be, without destroying their very essence. When they were passed, England did not own any distant Catholic dependencies as she does at present. Capital and population ought to be introduced into this country; and there is no reason why Catholic population and capital should be repulsed, as would result from a blind adherence to the letter of law, by which all foreigners are required to take the sacrament in some Protestant Church. The obvious incongruity of this, defeating entirely the objects of the law, was the cause why it has never been acted on, or is practicable to be acted on. Intolerant principles and the desire to uphold the establishment of the Church of England, was, during the early days of the American Revolution, one of the chief causes which brought on the crisis, and created great alarm throughout the Colonies. Strong endeavours were made by the Episcopalians to cause all of a contrary persuasion to be considered as disloyal and rebellious; and nothing tended more to foment discontent and cement the union of the disaffected, than this indiscreet attempt of the Church-men to proscribe dissenters. This, too, we have seen tried in Upper Canada; but the people of Upper Canada have raised their voice against it—the attempt has been in vain, and will, it is to be trusted, never be repeated. Many absurd and incongruous laws appear in the historical records of nations; but this which would exclude from this Colony, French Catholics, and admit French Protestants, if it can be considered as in existence, is worst. It is null of itself—but it has never been in force;—thousands and thousands of settlers have been received in all the British Colonies, and, without enquiring what was their religious creed,

have been admitted to a full participation of the rights of British subjects. But, particularly as regards Canada, let us open our eyes. By sanctioning the maxim attempted to be adopted in this case, we should justly alarm the whole country. How many have come into this country upon the faith of Government that, as emigrants from any part of the globe, they were entitled to become settlers—have purchased and settled lands—acquired property—sold, transferred, willed, or left it to their children—and now comes an old raked up law, a *droit d'aubaine*, that will sweep all away they have acquired, because it was not convenient or practicable to enforce it when they, or their ancestors, came in. In fact, by sanctioning this, we should tell them, ye are all aliens, and have no right either to the landed property you purchase, or that which you inherit from persons in this proscribed predicament. It is singular that it should have escaped the Committee, that laws which have become obsolete, which for more than 60 years have never been thought of, which Government have never enforced, should be all at once brought forward, and that in a case where it seems so little required. That Government never thought of them may be proved in numerous instances. There are members of the Councils, who are persons of foreign birth, who have not conformed to the requisition of the law, and who have not, as far as we know or believe, been required to go and take the sacrament before admittance to office. But, more still, the individual whose keen eye first saw this flaw in the privileges of Mr. Moraud, one of the Prothonotaries of the Court, though he saw the mote in another's, could not see the beam in his own eye. He is himself a foreigner,—he stands in the same predicament. He may be, and no doubt is, an useful member of society, but so may others be, and if one be excluded from a situation of public trust and emolument, because being a foreign Catholic, he can not take the sacrament in the Church of England, then let others be because they can not do so. More especially when we consider that Catholics are peculiarly and favourably situated here. The Catholic religion is not one that is merely tolerated,—it is an established religion,—acknowledged as such by the State,—and protection and favour can not be refused to it, without a breach of public faith. It is not by favour, but by right, the Catholic religion prevails here; and if, by the operation of this law, foreign Catholics are not to be allowed to be naturalised here, what is it but to say, though we are obliged to permit the Catholic religion, we will not allow of its increase more than we can help, and no addition at least shall be made to the Catholic population by emigrants from abroad. But, if it be good policy to draw emigrants, to attract capital, labour, industry, and intellect, into a new country, such a system of restriction ought not to be suffered, particularly in a country where the exercise of every religion is free to all, why should we say, as we should, if we were to sanction the technical objection made against the admission of this individual, it is not convenient to increase the population by the introduction of Catholic emigrants—it is

not convenient to increase our stock of industry and intellect by importing them in the persons of foreign Catholics? The spirit of the old laws alluded to was such;—let us not look too narrowly to the letter—or be prone to refer to the laws of Elizabeth or the Henrys, on subjects that have so materially changed since their times. But, maugre all other laws, the laws of war, which are paramount in times of war, have given us our privileges in this case. Our capitulation guaranteed our religion; and in war, the King, or his Generals in his name, are Legislators without appeal or contradiction. Ours is only one out of many capitulations which grants the free exercise of the religion of the inhabitants. That of Malta goes farther, and declares that the Roman Catholic religion shall be the sole established religion of the island, and the Protestant religion only tolerated. Supposing the Catholic religion to be against the intolerant laws of England, the King, though he certainly can not, in England, do any thing contrary to those laws, may and does in time of war, in the places which his arms may conquer, make such laws, through his generals, as the times and circumstances may require. He is a supreme legislator in those cases, both by the law of nature, and the laws of nations. The capitulation, and the subsequent treaty of 1763, therefore, valid and binding as they are upon the Crown of England, and upon the people of the province, annulled, repealed in effect, and destroyed, the operation of such antecedent laws as were contradictory to them; and consequently, even if that law under which the objection is now made, had not previously fallen into disuse, it became abolished by them. It has been abolished for upwards of 60 years—proof the many foreigners who have received offices here—offices of all kinds, high and low, and none, that we know of, have been called on to take the sacrament. We have had, and have, other notaries in the country who are natives of Old France, and were not, according to the present doctrine, duly qualified. Shall we, by such a vote on this question as is recommended by the Committee, say, all the acts they have passed are null?—shall we sweep them away to the utter destruction of families, and the confusion of all property that has passed through their offices? The bringing forth of this attempt at this moment, leads to very bad thoughts and sinister suspicions as to the intentions of those who may want to lead the public blindly, and by surprise, into an admission of their doctrines. This seems as if it could not be the sole act of *un greffier chicanneur*, but as if it were instigated by those who have for years been seeking to vilify and oppress the Catholic population, and exclude as much as possible, all natives and Catholics from office or success in life. If we overlook this and are cajoled or led into an admission we can not retract, we must look to a repetition and increase of such manœuvres. It would be dangerous and pregnant with evil consequences if the House were to sanction them.

Mr. Viger, in corroboration of what Mr. Speaker had said, enumerated various instances by name, in which foreigners had been admitted to

offices of trust, honour and emolument, secretaries, notaries, justices of the peace, &c., without being qualified according to the law under which Mr. Moraud was considered objectionable.

Mr. NEILSON regretted it did not appear likely Mr. Moraud would get his commission. It is not a light matter, when an individual comes before the House, for him to suffer the pangs of delay and uncertainty; and if this case be not disposed of, others may occur. Would Mr. Speaker have the people suffer for ever? if they suffer injustice, they should come forward and declare it; that is what Mr. Moraud had done. If he has the right, let him have his admission. That he is personally qualified in every respect there can be no doubt, whatever doubts may exist as to the law. But is there no remedy? undoubtedly a representation to Government, or an act to the Imperial Parliament might produce a remedy, but were people to wait for having justice done to them till such measures could be preferred?

Mr. PAPINEAU said, the objection was not to the petition, or to the subject of it, but to the conduct of the Committee, who had done what they ought not to do, and left undone what they ought to have done. If he has a right to be admitted, the Committee ought to have said so. If after this, he was not admitted, then, as not only injustice would be done to him, but great numbers of others would be put in jeopardy, let application be made on the subject in such form, and such measures pursued as may be thought right; but he did not think this necessary;—the laws, the capitulation, the constitution, all concur that he has a right to be admitted. The Committee had not duly considered the consequences of what they were doing.

After a few more words from Mr. Neilson the Committee rose.

The Order of the Day on the contested Election for the Upper Town of Quebec, was postponed, and on the one for the borough of William Henry, it was Resolved, that if the grounds and reason of complaint set forth in the petition of the Electors are true, the same are sufficient to make void the said Election.

A variety of routine business was transacted, and the House adjourned.

LEGISLATIVE COUNCIL.

A Committee consisting of the Hon. Messrs. HALE, RICHARDSON, FELTON, CUTHBERT and BELL, was appointed to consider that part of the Report of the Canada Committee, which had reference to the Legislative Council.

HOUSE OF ASSEMBLY.

WEDNESDAY, Dec. 10.

The messengers with the address, to cause the clergymen who have not made their returns of baptisms, marriages and burials, to be prosecuted, reported that, His Excellency would comply with the said address.

Mr. VIGER introduced a bill to remove all doubts concerning the law of *Cessio Bonorum* being in force.

Mr. LESLIE introduced a bill for extending the act for the benefit of the Montreal Library.

Mr. BLANCHET introduced a bill for inspecting the Receiver General's chest, and settling his accounts.

The same gentleman gave notice of a motion for next week for establishing a General Hospital, to be supported by a duty on tonnage.

Mr. VIGER presented a petition for a rail-road from St. Johns to Longueuil.—Referred.

Mr. VALLIERES presented a petition from B. C. A. Gugy, Esq. Advocate, charging Mr. Justice Kerr with various offences as Judge of the Courts of King's Bench and Vice Admiralty.—Referred.

Mr. VALLIERES introduced a bill to limit imprisonment for debt.

The report of the Committee of the whole on the vacancy and salary of the English translator, was concurred in, and Mr. Speaker informed the House that the clerk, with his sanction, had appointed Mr. Samuel Waller to the situation, in which appointment the House concurred.—Adjourned till Friday.

LEGISLATIVE COUNCIL.

The bill for rendering valid conveyances of lands in free and common soccage was passed and sent to the Assembly.

The Hon. Mr. M'KENZIE brought in a bill to revive the act of 57 Geo. III., to facilitate the administration of justice in small matters.

Also bills to revive certain acts of the present King for the more speedy remedy of divers abuses prejudicial to agricultural improvements and industry.

HOUSE OF ASSEMBLY.

FRIDAY, Dec. 12.

A certificate from the clerk of the crown in chancery of the election of Thomas Lee, Esq. for the Lower-Town of Quebec, was laid before the House.

The following petitions were presented:—

From the inhabitants of the parish of St. Anne de la Parade, praying an aid for the erection of school-houses; referred to the Committee on Education.—From divers electors of the borough of William Henry, in favour of the return of Wolfred Nelson, Esq. [This petition as well as the two previously presented on the subject of that election, were ordered to be printed.]—From divers inhabitants of the parish of St. Philippe, in the county of Huntingdon, representing distress through the loss of their crop, and praying relief.—From Frederick Pearl, who had suffered five years imprisonment for debt, and was now under bail on the limits, praying a law to abolish imprisonment for debt.

In presenting the above petition from 63 freeholders of the borough of William Henry, Mr. BOURDAGES expressed much astonishment that the petition of the opposite party should have complained of practices to which they had themselves resorted, and far worse. Many were forced by threats to give their votes contrary to their wishes; and by requiring the oath to be administered to all, a field was opened to perjury—independent of the folly of requiring old men, whose grey hairs bore witness to their advanced ages, to swear they had attained their 21st year. Complaining of this had been ridiculed both in and out of this House; but it was, to say the least of it, an absurdity that ought to be rectified. But scarcely any thing could compare with the expression attributed by the petitioners to the opposite party at this election—"make them swallow the oaths." This, if true, required the severest reprehension the House could bestow; though, perhaps, not more so than other shameful malpractices—such, for instance, as the endeavours to persuade a respectable woman, the wife of one of the freeholders, to go up and vote in virtue of the same property for which her husband had already voted, because it was reserved to her in her marriage-contract. He urged the necessity of the allegations on all sides being fully examined, and should move for 50 copies to be printed, of the three petitions—that against Mr. Nelson's return, that of Mr. Nelson himself, and that of certain freeholders.

Mr. OGDEN thought the hon. member ought to satisfy the House of the necessity of printing and circulating the petitions which contained so many reflections on both parties. If sent forth to the public, they must create impressions which probably no subsequent proceedings could eradicate:

Now this would be wrong—for if the charges against the sitting member be true, he is not entitled to his seat; and the same on the other side—if the charges are true, neither could the Attorney General take a seat in that House. You can not create a member out of either—two blacks can not make a white, and the imputations against both, no matter now whether true or not, are so strongly marked, that if they go forth to the public, they will necessarily create strong and violent prejudices. These things should not be printed before they are proved. A petition was presented the other day against a high official character, (Judge Kerr,) and should we be justified in printing and sending forth to the world, what might be mere calumny. We ought not to subject any individuals to pre-judgement.

Mr. Bourdages did not see the difference between these petitions and others proposed to be printed. Enquiry was but justice. Not only were such petitions entitled to be received, but to be circulated.

Mr. Ogden said the hon. member had misunderstood him:—he did not object to enquiry or to doing justice—but would it be expedient for the ends of justice to prejudice the public mind? after reading these petitions, could such witnesses as might be called on come impartially, and without prejudice to give evidence? He could not see how printing them could answer any good purpose.

The House divided on the motion for printing, which was carried, 24 for, and 3 against.

The Special Committee on the bill for the qualification of Justices of the Peace presented to the House their first report.

A bill to repeal and amend part of the act 36th Geo. III. relating to letters patent of grants of crown lands, was received from the Council. (This bill provides that all copies of letters patent certified by the secretary of the Province or his deputy, shall be allowed, in all His Majesty's Courts of Law in this Province, to be good and sufficient evidence of such letters patent, and of the contents thereof;) also a bill for rendering valid conveyances of lands in free and common soccage.

A bill was brought in by Mr. Blanchet for appointing an agent in the United Kingdom.

A bill was brought in by Mr. Vallieres for continuing the Provincial Parliament in case of the death or demise of His Majesty, His Heirs and Successors.

The bill relating to the common of the fief Gros-Bois, was passed, and ordered to the Council.

Thomas Lee, Esquire, returned for the Lower Town of Quebec instead of J. Belanger, Esq. deceased, took his seat.

On the second reading of the bill to remove doubts respecting the benefit of *Cessio Bonorum*, a debate took place, which is here incorporated with that which arose on its first introduction, in order that a more condense and clearer view may be afforded of the arguments used.

Mr. VIGER in introducing this bill meant to revive the humane provisions of the old French Law, as far as related to merchants and traders, which, by the Ordinance of 25th Geo. III. and the interpretation given to it by the Judges, (which he, and many others, contended was erroneous,) had been destroyed in this country. In a Colony, whose inhabitants were derived both from France and England, in both which Kingdoms provisions had been made both for the protection of trade, and for the relief from oppression of unfortunate debtors—in a Colony, where it was for the interest of commerce that well defined, just, and humane, regulations should exist—yet in such a colony we are deprived of the manifest benefits that resulted both to trade, and to the community in general, from the law of *cession de biens*. Yet this is opposed by persons who pretended to be the friends of commerce, who pretended to understand its fundamental principles, and yet do not see how much these would be advocated, and trade really benefited, instead of being injured, by the measures he now proposed. This bill had nothing to do with persons not in trade, it left them as before, it only related to the law of imprisonment for debt, as between merchant and merchant. The law, as it was now supposed to stand, was calculated to destroy the interests of trade instead of favouring them. By the old law, creditors might pursue and take the property of their debtors, and when all failed to pay, they might, that is in mercantile concerns, proceed to *contrainte de corps* (imprisonment)—so they might now.—But by the old law the debtor was allowed to make a *cession de biens*—to give up all his property, and thereby save himself from imprisonment, and obtain his discharge; but the judges had interpreted the statute of 1785 that no *cession de biens* could be permitted—the creditor after taking all the property he could find, had a right to take the body of his debtor, and confine him till the whole was paid, that is, for his life. How much more equitable, how much more consistent with common sense and humanity, that, after all is taken from him, or that he has given up all, the debtor should be free. In England when a debtor gives up his property, he obtains a certificate which protects him in future from all antecedent claims.

Mr. VALLIERES adverted to the supposed objections made to the introduction of the law of *cession de biens*, in lieu of that of imprisonment, namely, that it would give occasion to fraud, and fraudulent transfers of property, but these might be obviated by proper regulations, not perhaps so severe

as those which the laws both of England and France inflicted in those cases; for in both countries, in certain aggravated cases, even death was decreed as the punishment of the fraudulent debtor who made false *cessions*, or secreted his property when he pretended to give it up. But the old French Ordinances exist, and have only been suspended by the mode in which the statute of 1785 has been made to operate—why not then have recourse to them, and declare them in force?

Mr. STUART was embarrassed to know how these supposed regulations and checks upon dishonest debtors could be brought about. The question is both to protect honest debtors from oppression, and to protect the interests of fair creditors. It is difficult to say what is to prevent fraudulent debtors from deceiving their creditors, and on the other side it was hard and cruel that the honest debtor should suffer because others were dishonest. So with creditors it is hard to make them suffer for the want of due means of constraining unwilling or dishonest debtors to pay them on one hand; or to put a malicious creditor upon the same footing as a liberal one. All these objects ought to be considered in any measure to be taken. For his part, he had not so great a sympathy for debtors in general as others had. He wished all honest debtors to be relieved, but he did not believe there were a great many—how many fraudulent debtors do we not see who live in luxury and ease, in defiance of their creditors.—In his professional practice for 21 years, he could call to mind but one instance of an honest man who suffered in that respect, unjustly. Generally speaking debtors were rogues. He held it to be very unsafe to untie all the bands of justice between debtor and creditor, by which people were, in a measure, compelled to be honest for the fear of consequences. A man considers it a very hard case to see his goods sold, and harder still to see his landed property go, and he will try means, good or bad, to prevent it. Yet it is necessary his debts should be paid—so he may contrive to make a *cession de biens*, which shall pay them, release himself from liability, and yet leave him in possession of property. But this measure it seems will not extend beyond mercantile matters; and professional men, artists, mechanics, &c., are not to be affected by it. He did not see the justice of this. Surely the law ought to operate equally on all.

Mr. VALLIERES contended that whatever might be urged as to the interests of commerce, nothing could be farther from sound sense than that when every thing was taken away, and the debtor was disabled from paying he should be imprisoned. The proposition is simple, although it certainly bore on various matters that required discussion and consideration. If it were a general proposition to change general laws and principles long established, it would require more hesitation; but this was merely to revert to old principles, and correct the evils derived from a law of comparative recent occurrence, or rather the interpretation of that law

by which the hatred, malice, or stubbornness of creditors were permitted to defeat all the good intentions of the law both to themselves and their debtors. We are not making laws that will affect the stability of commerce, but in fact for its better support; for, if the trader who fails can not pay the whole of his debts, the *cession* will give the creditors all they can get; and if he makes no cession, then they have the same remedy as before, *contrainte de corps* (imprisonment.) It is a reproach to us that we have suffered these abuses to exist so long. With regard to the abstract question as to what right creditors ought to have over their debtors, they ought to have as much favour shewn them as possible to pay themselves out of the property of their debtors, having regard also to whatever can prevent the delay, or lessen the expense, of recovering debts, but no more. But we ought also to consider that whatever laws we can pass on this subject, whether ostensibly in favour of debtors or of creditors, reach them in a double capacity. There is no debtor simply or creditor simply, —we must look upon debtors, as they really always are, creditors of others—the chain goes round, and in one capacity or other, the law will affect both. It is extremely difficult to consider the general question, but this we do not now do—this is only a law of exception, to exempt such as do make a *cession de biens* from the persecutions which they may be otherwise obliged to endure from the inveteracy of their plaintiffs. I will admit that now many a debtor secretes his property, but an unfortunate man, with a wife and children, with the prospect of a prison before him, can not starve; he is therefore forced to be dishonest; whereas, if all could be given up, and himself free to go on in the world again, he would not have the same temptation to deceive, and his creditors would get that which he must necessarily expend for the maintenance of himself and family during his confinement. Various laws in this respect prevailed in different parts of Europe, all of which were made for the purpose of favouring commerce, and in all the honest trader was discharged from his debts on giving up his property. Trade had all the security it ought to have, and the debtor was secure that his exertions to redeem his lost situation in life would not be impeded. Here, as the laws stand, there is no difference, the honest man is treated in the same manner as the greatest rogue. In such alterations as he proposed to make in the law, he did not dare to touch the ancient laws of the country—his attack was directed against that part of the new law, which was more barbarous than the other. He would not risk any measure as yet that would put us on an equality in those respects with England, whose bankrupt-laws could not, in all instances, be applicable or useful here.

Mr. Neilson trusted that in whatever was done in altering the law of debtor and creditor, nothing would be introduced that would impair commercial confidence. With respect to the justice between them, if a debtor was a dishonest one, it is certain the creditor, even though he may be irritated or vindictive, ought not to be punished by being de-

prived of every means of enforcing his demand; but on the other hand, to leave the punishment of the debtor to his angry and injured creditor, can not but be unjust.

Mr. VIGER in the debate on Friday, (when his own bill for removing all doubts as to the law of *cessions de biens* being in force, and Mr. Vallieres, for confining the act of 1785, to mercantile concerns alone, were both separately discussed,) stated that the practice of the principle of the *cession de biens*, was very different in France and in England—in the former it was voluntary on the part of the debtor, and his discharge was given by the Courts. In England it was compulsory in case of bankruptcy, and the discharge was given sometimes by the creditors as in those cases, and sometimes by the Court, as in cases of insolvent-acts. He would not think of introducing the bankrupt-laws of England here, which, however well adapted for that wealthy and commercial country were not, in many respects, fit for Canada. Let us rather have recourse to the old French law of *cession*, which will be found more suitable both to the situation of the country, and the dictates of policy and humanity. The bankrupt-law of England sentenced even to the gallows, the trader who fell under its operation, and secreted only £10 of his property. In France, the debtor who made a fradulent *cession* was imprisoned for life; and those who absconded for the purpose of cheating their creditors were disgraced for the whole remainder of their lives. But we want to have a civil law which, while it protects the interest of creditors, by enabling them to pursue and take the property of their debtors, shall also enable the honest debtor, by freely giving up all that property to them, to be saved from future persecution. He was convinced and all jurisconsults who were thoroughly versed in their profession, would agree with him, that our civil law was the plainest and simplest possible—perhaps only surpassed in plainness by the Code of Napoleon—and yet he had heard, and it was a very general thing among those who had not studied it, many persons of great acquirements, intellect, and education —some who had spent many years in this country, perhaps most of their lives—revile it as complicated, unintelligible, and unfair. It was surprising to him such sentiments could prevail—it was quite the contrary, and he had occasion to know that even the common people of the country, readily comprehended, both the practical and rational part of the civil law. This indeed was an advantage derived from the habitual desire of the inhabitants to attend the Courts. The ideas they imbibe there, they carry home, and discuss in their families, and with their neighbours. Hence too, both the Judges and Bar, knowing the audience are imbued with judgment to consider the propriety of their pleadings and decisions, feel themselves bound to respect the opinion of their audiences. This is a traditional chain binding together the people and their juridical superiors, which has descended to us from our forefathers.

Mr, Lee had heard the hon. member state the various laws and regulations that had existed in other countries on the subject of bankruptcy and imprisonment for debt—for these, however, he had, at present, only the hon. gentlemen's statement, and he thought they ought, if possible, to be substantiated by evidence—so too of the opinions of jurisconsults, although as legislators we are not bound to take the opinions of lawyers, and are able to judge for ourselves without being such ; and probably merchants were fully as able to decide the matter as lawyers.

Mr. Vigier remarked on the singularity of asking for the production of proofs which existed in public records, documents and books, accessible to all mankind, which therefore could require no oral testimony, even if it could be produced. If he saw any advantage could be derived from calling for the opinions, (for little testimony could be produced that was not merely opinion,) of professional men, of merchants, or of others, he would accede; but it would be entering into a long discussion, and occasion a procrastination of the measure, without any object that he could perceive. In all countries, the recorded opinions of men of law who had written on those subjects were resorted to, as to theory, and the public records, as to practice. Men of commerce might undoubtedly be very proper judges, but they must finally be guided by such laws as they themselves had concurred in making, after which law-authorities were the best.

Mr. Lee considered that if legislators could not be judges of what came before them as to legal matters without being lawyers, it would be evident that the Legislature was very ill chosen. When he asked for proofs, he did not ask for what was impossible. The Code Napoleon had been mentioned, but its provisions in this respect had not been detailed. If facts are to be established by words, it was contrary to his maxim, which was the reverse, viz : that words were to be established by facts, facts were proofs and nothing else. He hoped what he said would not be attributed to any desire to impede the bill in its passage ; but the merchants allege it will be prejudicial to their interests—let them be heard, let them bring proofs if they can, and then let other proof be produced, if it can, that they are wrong—these are some of the proofs he wished. Here is a bill based on the laws of France, which intermixes with the English laws ; and this is not the first infraction made in the civil law of this country by engrafting upon it portions of the English law. He wished for more proof of the impropriety of the statute of 1785, and of the preference to be given to other laws and enactments ; and by examining closer to prevent contradictions in decisions.

Mr. Vallieres wished to know how it could be possible to prove that such and such laws existed in France or in England, but by law-books. If we were to attempt such a thing by personal proof, we should be ex-

posed to receive very erroneous testimony, and that while we had undeniable and good evidence at hand. If we were to call merchants to our bar, they are said to be interested, and lawyers would only repeat what has been already said. With regard to the proposed law itself, we must consider that bankruptcy, *(faillite)* is incident both to debtors and creditors; the creditor who puts his debtor in prison may fail the next day; we are therefore legislating for both, and want to do justice to both. In cases of insolvency it is, in the first place, desirable to ensure a just distribution of the effects, and in the next to relieve the honest debtor. The bankrupt-laws of England go farther in this respect than those of France. In England the honest debtor receives a percentage of the produce of his estate, by way of recompense for his honesty, and that he may have something to begin the world again with. He would recommend something of that kind to be introduced here. He conceived the honest debtor was not only entitled to his discharge, but, in order to render the debtor who might be tempted to be dishonest otherwise, to a reward in proportion to the property he produced to satisfy his debts.—With regard to the criminal part of the English bankrupt-law, no one would advocate its introduction into Canada. But we could not adopt the English bankrupt-laws, for we have no court of Chancery, which is the court there that has jurisdiction in those cases. The *cession de biens* was the best substitute—under that, the distribution of the property of the insolvent was made by the Tribunals—as the law now stands that could not be. The English law was however, in another respect preferable. The French law liberated the person of the debtor, but left his future goods liable; but future property was discharged as well as the person, by the English law. We might successfully adopt provisions from both laws; and then the merchants' interest would be best consulted.

The blending of French and English law can produce no evil, if we adopt from each that which is most convenient to our situation—there are parts of both that can be taken with benefit, and parts that must be avoided. As things are at present, it is known from one end of the province to the other, how defective the laws are in this respect, and we ought to satisfy the public mind, and shall satisfy it, if we adopt such salutary provisions as we may find either in the English or the French law.

With respect to his bill for amending the Ordinance of 1785, in that he did not mean to enter into the case of merchants, and traders; his object was to amend that part of the law which made all who purchased an article at the store of a merchant or trader, liable to be dealt with in the same way as if he were a trader himself—there was no exception—ecclesiastics, women, all classes and sexes, if they only bought an article of necessity at a tradesman's shop, for which they could not immediately pay, were as much liable to imprisonment as the dealer who got trusted

for the wares, from the profit upon which he had to live. It was no impossible case to put, that under this act the *superieure* of a convent of religious ladies, might be put into the common prison, for a debt due to a baker for bread, furnished for the sisters of the establishment. By the old law of France, none but bona fide merchants and traders were subject to the *contrainte de corps*—professional men, divines, women, mechanics, workmen, &c. were exempt. But by this strange interpolation in that law, all were subjected to the same process. The Ordinance of 1785 was as much against the interests of trade, as it was barbarous, deceptive, and immoral. What has ensued from it? A dealer says, "I will trust this man because, if he don't pay me, I can put him in gaol, and get my money some how or other;" but when he is brought to do that, the scales fall from his eyes, and he finds that imprisonment is neither security nor payment. If this were not the case he would be slow in giving trust. In mercantile matters credit is essential; but in the other concerns of life, the least it be resorted to the better, both for the seller and the purchaser.

Mr. Lee was surprised to find that it was endeavoured to shelter professional men, lawyers, physicians, divines, and others from imprisonment, while traders were to be subjected to it. But he hardly saw where the line was to be drawn—many of those were partially engaged in trade, and the numerous bills of exchange and notes of hand, which were seen, with the names of persons not directly engaged in trade, proved that at least they meddled with a very material part of traffic. The learned gentleman certainly knew the law better than he did, but he always thought that if a man put his name to a note, he was not only obliged to pay it, but became a trader under the laws of exchange. It is said to be very hard that persons not engaged in trade should be liable to the same consequences as those who were, he could see no difference—were they not equally obliged to pay their debts? And in these cases instead of creditors imposing on their debtors, it was constantly the reverse—the debtors imposed on their creditors by taking upon credit what they knew they were unable to pay. In such a system there was the greatest danger of encouraging cheating and fraud. Must men of different professions, not precisely traders, be allowed to run in debt to their tailors, shoemakers, bakers, butchers, &c.—to clothe, to warm, and to feed themselves—at the expense of others. As to the misery and unhappiness of the debtor liable to imprisonment, the world is made up of happiness and misery—if we were all happy, we should want neither laws nor lawmakers—it is the natural state of society. He conceived the happiness of society in general, would be best promoted by protecting laws for the rich—by giving preponderance to those who possessed property, they would be both not only less inclined to do ill towards their fellow-creatures, but would promote the happiness of those beneath them. Now

debtors have constant inducements to act wrong—they have recourse to falsehood and evasion to put off their creditors—they sometimes even defy them, and would do so more, if they were certain of escaping the consequences that now hang over them. The *cession de biens*, if not subjected to strict rules, would be nominal—property would be hidden under fictitious names, and the creditors laughed at. The merchants were chiefly interested in this question, and ought to be consulted. They, if they are imprudent or unfortunate, are left liable to imprisonment; and why not controul the extravagance and imprudence of other professions, by protecting their creditors in the same way? He would not wish, not likewise to protect the honest but unfortunate debtor, but saw no reason for the distinction drawn between traders and others.

Mr. VIGER remarked that the hon. member for the Lower Town, had mistaken one part of the question. If professional men enter into any branch of business, they would place themselves on a par with traders. The *cession de biens* both protects the honest debtor, and gives to the creditor all he can desire; whilst the seizure of the property of debtors by the process of law, obviates every difficulty, if there is no *cession*. Thus he who is the creditor of a professional man, stands on as good ground, as the creditor of a trader, except that he can not have the pleasure of seeing him die in prison.

The bill being referred to a Committee of five, the petition of Frederick Pearl was also referred to the same Committee.

LEGISLATIVE COUNCIL.

The bill to repeal and amend part of the act 36th Geo. III. for the safe custody and registering of Letters Patent for waste lands of the Crown, was passed, and ordered to the Assembly.

HOUSE OF ASSEMBLY.

SATURDAY, Dec. 13.

Mr. NEILSON presented a petition of the Wesleyan Society of Quebec, praying that they may be allowed the privileges enjoyed by other denominations of Christians, with respect to marriages, births, and burials.—Referred.

Mr. OGDEN, from the Committee on the claims of the Israelites to have a place of worship, to keep registers of births, &c. introduced a bill for that purpose.

The bill to extend the provisions of two acts for the benefit of the proprietors of the Montreal Library was passed and ordered to the Council.

The bill to facilitate the Administration of Justice throughout the Province was read a second time, on which occasion Mr. VIGER rose, and said, he had several times addressed the House on this most important subject. The whole frame of society was built upon the due administration of justice, and where that is defective, society is shaken to its base. A good administration of justice produces good citizens; a bad one proportionably otherwise. By receiving protection in the courts of justice, men learn to value themselves and their country, and feel their exemption from being oppressed by tyranny. A bad administration of justice was nothing but an organised tyranny. He was sorry to say the courts of justice here were far from being a sample of what they ought to be. We have an advantage it is true, in the greater number of our superior courts in proportion to the population, than was enjoyed elsewhere, but Government had failed in establishing an administration of justice here, fit for the country. Before the French Revolution, the great evil, and which still exists there, was the great number of inferior tribunals, with no counterweight in superior judges—there were no juries, and an infinity of judges—so many small courts scattered over a country can not be for the advantage of the public; the consequence is, that in small places, the inferior judges were so much connected with the places where they resided, and the people surrounding them, that it was almost impossible justice could be done;—justice, however, should be like the wife of Cæsar, not only virtuous, but above suspicion. He entered iuto some details respecting the system of judicature in France, and drew the conclusion, that it could not at all suit this country. But it is notoricus that a new system is wanted here. Let us, therefore, renounce the old system, founded on that of France, which is neither recommended by theoretical opinion nor by practical experience. He would recommend, on the contrary, the adoption of the English mode for the administration of justice—certainly not the whole, for great, enormous, and acknowledged abuses prevailed in it—abuses descended from ages of ignorance and barbarism, and which the best efforts of English statesmen and lawyers had yet been unable to eradicate. Eminent jurisconsults are now, however, sedulously employed in the task, which has been a favourite object for these 20 years past in that country. Notwithstanding these defects, however, no system can generally be better than the English. The number of judges there was not many—the superior courts were but few—but both are held in the highest respect and veneration; the independence and integrity of the judges are known to the whole nation, and religiously confided in. But it is to the admirable institution of juries that the excellence of justice is to be ascribed. There are, indeed, two Courts, that of Chancery and of Doctors Commons, which are only constituted out of the ministers of the law—but these are obliged, in matters of fact, to have recourse to juries, and to send them to trial by juries, before they can decide on many of the cases that are within their peculiar

province. The hon. gentleman proceeded to make the eulogium of juries—juries drawn from the body of the people,—called upon to sit in judgment upon their fellow-citizens, their neighbours, their equals—and when they have performed those duties, returing back to their homes and their own circles. Hence it is, that the body of the people feel that confidence in, and respect for, the tribunals of justice there. Every Englishman can say, that not a hair of his head can be touched by the hand of power, unless his country has passed sentence on him; and, if a jury declares a man innocent, or decides between two disputants, there there exists no power within the monarchy that can alter even an iota of their verdict. It is this that makes the English so energetic a people—it is not their riches, nor their power, nor their favourable situation—but it is the institution of juries and the sovereign rule of the law, as enacted by the people, that makes them what they are—which gives them industry, enterprize, energy, and self-confidence—and thence produces wealth and power. The circuit-courts in England are admirably adapted for the impartial administration of justice: here we have none such but what are comparatively useless—from the want of juries. It is true, in criminal cases, we have the benefit of juries. He came now to the question of the composition of juries—which, had often engaged their attention, but still remained in a defective state. How could juries drawn only from the inhabitants of cities, be proper for deciding in the cases of the other inhabitants. The giving this power to the cities, was making the many slaves of the few. All the inhabitants ought to be called on, in turn, without distinction: it was their right to be so called on, and it was their duty to obey that call. But under the present system, juries must necessarily be partial—unacquainted with the habits, manners, laws, and probably even with the language of the suitors whose causes they were called on to adjudge—how could they be proper jurymen? But this ubuse is peculiar to this Province; the hon. gentleman had seen in Upper Canada the Highlandmen in Glengary, who spoke and understood no other language than Gælic, summoned from the whole extent of the county, to sit as jurymen in the causes of their countrymen, and who were obliged to have interpreters to interpret between them, the bar, and the bench. There it was considered as an imperative duty to have a jury of the inhabitants; and the judges, no doubt, properly considered that a verdict rendered by any other jury would be invalid and illegal. But here by a law, most extraordinary in such a country—an imprudent and improper law—made in the childhood of the Province, when the Canadians knew not the value of juries, and scarcely of personal liberty; by the statute of 1785, it is enacted that juries in personal causes should be taken only from the citizens of Montreal and Quebec! How can they, judge such causes as were brought before them by the rest of the inhabitants? Angels from heaven could not do what they were expected to do. Yet this is still done every day. To the honour of these city-juries, however, it must be said that

they had often represented, not only that the burthen imposed on them was too great, but that it was derogating from the rights of their fellow-citizens in the country. This system is just the same, as if deputies from the citizens of Quebec, Montreal, or Sorel, were called upon to legislate for the whole Province. Criminal juries too are similarly ill-constituted—this however, is not wholly the fault of the law or of the judges. The precepts of the courts are properly issued, directing juries to be summoned from the body of the district. Yet never, that he knew of, had the Sheriffs properly complied with the precept. In the ulterior proceedings in criminal cases the least error is often sufficient to set them aside, and arrest the voice of judgment; but this main and essential error in the outset, is overlooked and contemned. Have we not even the declaration of a sheriff in 1817, that he had not followed the precept issued to him *because it did not suit him!* Is this the way the law ought to be administered? The hon. gentleman again compared the different systems that prevailed in France and in England. In France it was well known, and would be confirmed by every page of its legal history, the accused had no chance, he was abandoned by his friends for fear of being involved with him—he was lost to society, and with all the politeness imaginable, his friends and relations would say to him, "excuse us, you know we must leave you, we must not countenance or assist you, or we shall be suspected, and sacrifice ourselves uselessly for you." Even at his trial, lawyers scarcely dared venture to plead his cause, and if they did, always ineffectually when power and prejudice were set in array against him. Now let us pass the narrow channel that divides the two empires. Here we see the effects of that excellent and admirable institution, the purity and universal extension of which I am recommending to my countrymen. However poor, low, friendless, or obnoxious to the great and powerful, the accused could safely say to the judges on their bench, I ask not for your favour I have only to appeal to my country, to the jury who is to decide my innocence or guilt. In every other country in Europe, an individual pursued by the great *(les grands)*, is a lost man. In England no power, no intrigues, no influence, have weight—and we have lately seen instances wherein all the mighty powers of government have been brought to bear against individuals, who have juridically triumphed over them. That cases of libels on government have been frequent in England is true—yet we must not say the people are not attached to their King and Government; none are more so, none more loyal—because they know the sovereignty of the law, not upheld by military force, or arbitrary power, but by its own firm strength, based on the popular voice. There a simple constable, with his little wand bearing the insigna of the King, can impose silence on a tumultuous crowd and disperse a mob, without contest or force. That there are exceptions is also true—but in general this is a true picture. He hoped that the efforts he was making, and the effects he wished to produce on the public mind, would produce an assimilation

to the laws of England both in civil and criminal matters, which would be a full recompense for the labour he had undergone, the nights spent, and the difficulties encountered, in studying and investigating these subjects, which were those of the greatest interest and anxiety to him. He had lately heard a great deal about education, but to establish courts as suggested by the bill, would be to establish a system of education by which all classes could profit, learn justice, equity, law, trade, even language, and fit themselves to serve on juries, and even to sit in this Assembly. But, however, juries ought to be part of the people, judges ought to be disconnected with them, and above all suspicion of being partial. The Canadians were represented as uninstructed, and he must confess they were not as yet so much so as was desirable, but they were sufficiently so to serve on juries—the qualifications of a juryman were different from those of a merchant, a lawyer, a philosopher, or a statesman; and the advantages of the yeomanry and mechanics of the country, serving on juries, was fully felt and acknowledged in England. With respect, however, to the moral and religious education of the Canadian peasantry, he would maintain that it was at least equal, if not superior, to that of the peasantry of every other country; they were moreover generally proprietors of their little lots of land, intimately woven in with their neighbours, and the country around them; and when the solemnity of an oath was added to all this, why should they not be as fit to be jurymen as any set of citizens in the world? He was sure if they had been called on regularly for the last forty years as they ought to have been, to have served on juries, they would be so at this day, and in a few years, if so called on, would be found fully adeqnate to the performance of their duty—were the citizens of Montreal and Quebec as much acquainted with those duties 20 or 40 years ago as they are now? assuredly not. He did not mean to call their verdicts in question, they were generally sound, honest and just; and such would be those of the countrymen if they were restored to that right, and the performance of that duty, which he wished them to exercise. If this bill passed, juries would be the palladium of this country as they were of England. He flattered himself that what he had said would conduce to the great ends he had in view, namely, the liberty and prosperity of ourselves and our posterity.

Mr. Lee complimented the hon. gentleman on the ability with which he had argued, and the evident interest he attached to this important subject—but on this, as on another occasion, he hoped that personal evidence would be produced before the Special Committee, on the matters set forth by the hon. proposer of the bill.

SALMON FISHERIES.

House in Committee on the bill for the preservation of the Salmon Fisheries in the counties of Cornwallis and Northumberland.—Mr. Quirouet in the chair.

Mr. Speaker PAPINEAU opposed the bill. He had not heard of any petitions from the inhabitants of those counties praying for such a bill. This did not relate to the fisheries at sea, but to those in the rivers, and would tend to make fishermen of those who ought to be agriculturists. He was not very partial to that sort of foresight, which would preserve either the fish, or the game, of new countries—both which gifts of nature should be left to the settlers. It was besides impolitic to establish a police, as this bill would do, by which the inhabitants were set in array one against the other, and tempted to become informers. Such restrictions seem borrowed from Europe, where indeed they prevailed more for the sake of contributing to the pleasures of the rich, than to the benefit of the people. At all events, why could it be necessary to prohibit people from fishing for the use of their families? Any regulations of the fisheries here should be confined to the appointment of inspectors, to see to the salting, packing, and fitting for exportation, of fish intended for sale—that by the brand of the inspector that sale might be facilitated, and trade encouraged. Here too was a summary power given to justices of the peace, to destroy, and call upon the inhabitants to assist in destroying, nets or other obstructions placed for the purpose of catching fish, of the nature of which the justice was constituted sole judge—this power is very repugnant to all ideas of right and wrong, and to liberty and policy. He would rather that all the salmon in the river should be destroyed, than such a power be given to any man. Free liberty of hunting and fishing exists all over the country, and one part of it ought not to be restricted in them more than another. He wished to know the value and amount of the fishery.

Mr. CHRISTIE said this was a bill to continue in force another that had been passed in the 4th year of His Majesty's reign, and was about to expire. The provisions of the bill were not new, they had been in force for several years.

Dr. BLANCHET said, there were very few rivers in the settled part of the county of Cornwallis where the salmon fishery could be carried on. He thought, with the honourable Speaker, the inhabitants of Cornwallis ought to have full liberty of fishing—it formed great part of their subsistence; to prevent it would be ruinous to many of them, and would deter others from settling. He had himself a large interest in that county, and was possessed of lands which he desired to get settled, to which this bill would be a great obstacle. No petition on the subject had come from the inhabitants themselves, and he would not wish to legislate for them in a point so important to them, without consulting them. He objected also to the jurisdiction given to justices of the peace, and the power to make seizures, levy fines, &c. The fishery chiefly takes place on the shores of the St. Lawrence, and the concessions in the rear depended principally upon the fishery for their subsistance. Bread stuff was both very scarce, very indifferent and very dear; and many inhabitants lived

entirely on fish and game. What would it signify if half a century hence fish should become scarce? In a wild country, a wilderness, mostly inhabited by the beasts of the forest, who would bring in a bill to limit the chase of martins, otters, beavers, &c.? and it is the same with respect to fisheries.

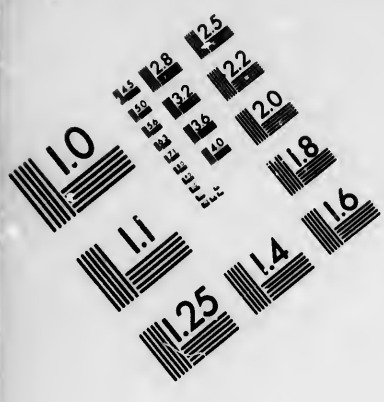
Mr. VIGER, after adverting to the game-laws of Europe, and shewing their dissimilarity to the present measure, contended that, instead of abridging the liberty of fishing, it extended it, by preventing any obstacles being placed at the mouths of rivers, so as to hinder the fish from going up to those who lived farther off.

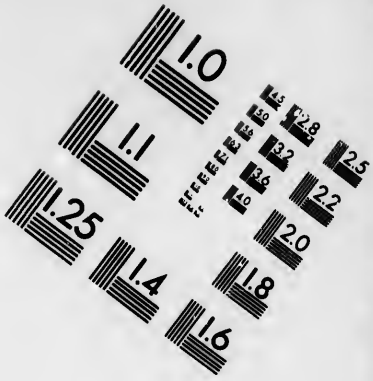
Mr. SPEAKER said, the honourable member for Gaspé had a singular mode of replying to objections. If he is asked the amount and value of the fishery said to want protection, he virtually replies, the bill has passed in a Special Committee! Do we sit in general Committee to have our mouths so stopped?—He says the same bill is already in the statute-book—but why was it enacted only for four years—because we might argue on it afterwards, and at its expiration continue it if found advantageous, or abandon it if otherwise. It has also been answered, that the object of the bill was to prevent the mouths of rivers from been obstructed, so that the fish might go up them. This appears to be part of the bill: but another part, and the principal part, prohibits any one from catching salmon, and makes it penal to do so for nearly half the year. Here is a strong motive for deterring settlers—settlers who might not be able to obtain a footing in more cultivated tracts, and who would encounter the hardships of these, because they might have the great advantage of deriving a certain subsistence from the waters. Every one is forbidden to take even a single salmon, to give his family a dinner—nay more, an Indian wanting bread, may not sell a salmon to get it. When he found a law of this kind proposed, he could not but exclaim against it, as tyrannical, contrary to natural liberty, and consequently, if in no other view, prejudicial to the country.

Mr. CHRISTIE said, if this bill was tyrannical, it did not originate with the Committee—the penal clauses were the same as in the former bill—it had been recommended by the members of the counties in question, whose opinions should not be dispised.

Dr. BLANCHET alleged, it was a law that suited neither the manners nor the wishes of the inhabitants. If its object were to preserve the salmon, it ought to be extended all over the shores of the St. Lawrence. Salmon were taken in most of the rivers both above and below Quebec.

Mr. LATERRIERE maintained that the experience that had been had of this law, shewed that such restrictions did good. Before it, the inhabi-





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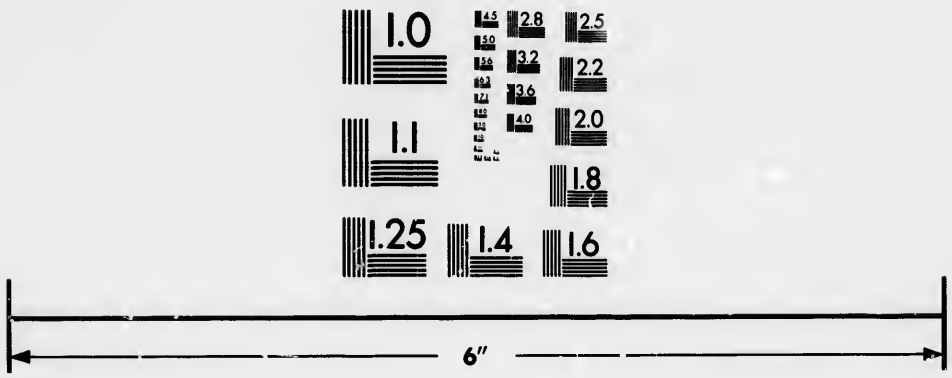

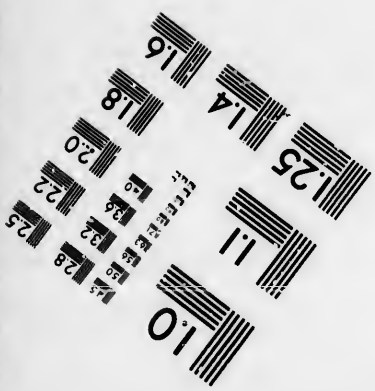

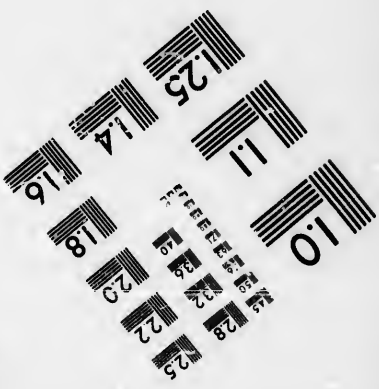

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bants of Cornwallis fished at all seasons, and had nearly destroyed the fishery. It is a fact, that since then salmon has been more plentiful.

Mr. LEE wanted to know whether this bill was intended to protect private, or public, property. It was very dangerous to attempt to legislate as to the common property of all. He should be for leaving all at liberty. Every one should be left to the exertions of his own industry and experience. He recollected petitions presented against fishing by torch-light. In that respect, as in this, and others, restrictions were good for nothing. If every one is left to himself, he will find out that which it is his interest to do, and if he finds it against that, he will not go on.

Mr. E. C. LAGUEUX made some remarks on fishing by torchlight and on the shoals, and observed that restrictions or permission there, made no difference as to destroying or preserving the fish—those that were driven away from there, did not return to the ocean, but went up higher, and were caught. He should like to know what would be the effect of this bill on the River Ristigouche, which formed the boundary between this and the Province of New Brunswick—if it extended thither, the Canadians, on one side, would not be allowed to take any, and the New Brunswickers, on the other, would get all.

Mr. VALLIERES said, that salmon, and other sea-fish, were considered by jurisconsults as the common property of all; and a legislature, acting for the common good, may make laws for common property, whilst they could not interfere with private property. The man who makes a fortune in ten years out of the property of the public, as perhaps might be in the salmon fishery, is taking too great a share of that property, and ought to be restricted in it. A beneficial trade had been lost to this country by the want of due regulation. Ginseng found in this country by the Jesuits, and sent to China, (for they were merchants as well as ecclesiastics,) was a source of considerable profit—but it was left, as the honourable gentleman for the Lower Town would have the fishery, to the industry of individuals, who gathered it at improper seasons, whence its quality became very inferior, and the produce diminished—so that the Canada ginseng lost its reputation in China, and the trade was lost; which would not have been the case, had it been subject to proper regulations. The industry of the people should be regulated, not only on that ground, but because the natural cupidity of man, when it is found that it can be gratified by preying upon the common property of all, will go on to destroy those blessings, which, if enjoyed moderately, and under proper restrictions, would be sources of national prosperity.

Mr. LEE contended, that even in the instance adduced by the learned gentleman, of ginseng, if regulations had been made, they would have converted the trade into a monopoly. Monopoly was the great moving spring

of all such laws, and probably was of this. Monopoly was the bane of commerce every where where it got footing—restrictions were the beginning of monopoly. All should be left to the individual efforts, and experience of the men who might or might not find it their interest in following any pursuit.

Mr. Bourdages was convinced that many persons would do all they could to make money out of the public property, by intercepting large quantities of salmon as they were going up the rivers. Regulations of this kind were so evidently necessary, that even the Indians had them amongst themselves for preserving the beaver. If the Act had been productive of evil, complaints would have been heard; and we ought not to hesitate to pass an useful law because no one had petitioned for it. With regard to obstructing rivers, he had himself seen that five or six leagues up a river, not a single salmon was to be got, while they were caught in abundance below.

Mr. Papineau was of opinion, that if no remonstrances were made against the former bill, it was because it was scarcely at all enforced. It was one of his greatest objections to this bill, that it would appear in the Statute, like many others, to the disgrace of the present age; and the only answer to be given was—it was a dead letter—it was never actually in force. It has been stated that the fishery has been increased since these restrictions were placed. It was, however, certain, that salmon had always increased in price in Quebec ever since. He compared this measure to the ordinance of the Intendants for the peservation of partridges. Fishing and hunting were not fit subjects for legislation in a civilized country. Encouragement given to agriculture, the raising of useful animals, and the clearing of the country, were infinitely of more importance. He always thought restrictive laws were injurious to industry. As to posterity, it was having a poor opinion of their enterprise and research, if they could not discover sufficient other means of subsistence, if we were even to deprive them of so small a portion as that to be derived from fishing. The first clause of this bill was a cruel and barbarous edict to prevent people from fishing for their subsistence, where nature gave them an ample provision; but the introduction of the system of informers, fines and penalties, was a far greater evil than any diminution that could take place in the salmon. In a great measure, too, it was not executable. In the King's posts, for instance, would not the proprietors make a jest of it? and it could therefore, only operate along a little part of that shore.

Mr. Vallieres said the supply of fresh salmon to the Quebec market, was certainly not an object to be much thought of, nor was it the object of the bill. But its importance existed in its operation upon the external trade to which, by proper regulations, the salmon fisheries might be

made a great support. The bill could not be extended all the way up the St. Lawrence, for first, the quantity taken higher up, was trifling, and the periods the salmon arrived later, of course, in each river. But in the counties of Cornwallis and Northumberland, the salmon fishery was abundant; fostering it, would foster Canadian industry, and create capital to give weight to the balance of trade. He knew agriculture to be highly important, but the fisheries were also important, and did deserve the attention of the legislature.

The House in Committee on the bill for ascertaining, establishing and expounding the Parochial subdivisions of the Province; after all the clauses had been gone through and passed, an objection was taken by Mr. Speaker Papineau against the preamble which recited the recommendation of this measure, by the Earl of Dalhousie, in his meassage of the 7th February, 1827, which he concluded was unnecessary and improper, unnecessary in as much as the House would have, and had, without that recommendation, done the same thing, and improper, inasmuch as it seemed an act of servility and sycophancy towards an administration under which the country had suffered, and against which such grievous objects of complaint existed. This was almost a solitary act of justice which Lord Dalhousie, during his long and calamitous administration, had performed towards the inhabitants, and the ecclesiastical establishments of the country, who by the long state of uncertainty, as to civil objects, with respect to the divisions of the parishes, the building of churches, parsonages, and burial places, &c., in which they had been left, could only see in the general system which was the cause of this uncertainty, the pursuit of the dominion sought to be obtained over them their liberties, and their religion, by that very small party who had held the sway too long in this Province.

Mr. Vallieres defended the preamble on the ground of its necessity, as the right of establishing parishes, was, by the British Constitution vested in the Crown, and that that right existed here as well as in England; hence, by the bill shewing on the face of it, that it was a measure recommended by the Crown, there could be no pretext for withholding His Majesty's assent—it was a pledge that the bill would pass into a law. As to its being a solitary act of justice, if it be the only act of justice performed by Lord Dalhonsie, it is but right that we shonld do him justice too. Devil as he has been represented, let us give the devil his due, and acknowledge that he has for once done right. As to its being an act of servility or flattery, he could not see it in that light; he would be one of the last that would consent to servile flattery of any governor; but Lord Dalhonsie was gone, he was no more governor, the House owed him no gratitude, but they owed courtesy both to him and to themselves, and if it were only on that account the message ought to be alluded to; but it was both politic and legally necessary, on the grounds he had stated.

Mr. SPEAKER in reply, asserted that the right did not vest in the Crown; that the parishes were in actual existence by the ecclesiastical constitution of the country, and that it was in consequence of the undeviating system which had been attempted to be pursued, to destroy that constitution, that the judges had been influenced to determine that the division of some, and the erection of other, parishes, was not legal for civil purposes. Under these circumstances it was necessary indeed to pass a law by which the ecclesiastical exercise of the right to which the church was entitled, should be explained to extend to, and be binding for, civil purposes also, and by confirming the same, to remove all doubts on the subject: but he would not admit that the right vested in the Crown in this country; for it was always through his Parliament here, that His Majesty acted in such, and in other cases, in which in England his own prerogative sufficed.

The House divided on the question, whether the preamble should stand as it was—Majority, 21 to 2.

LEGISLATIVE COUNCIL.

The bill from the Assembly, for extending the benefit of the trial by jury, was passed, without any amendment.

The Hon. Mr. FELTON introduced a bill for the nomination and appointment of parish and town officers in the townships.

HOUSE OF ASSEMBLY.

MONDAY, 15th Dec.

A petition was presented from the widow Tanswell, for relief.—Referred.

Mr. BOURDAGES brought in a bill for the relief of poor farmers in the country-parishes, by the loan of seed-wheat, and other grain. The necessity he represented as pressing, from the bad produce of the last crops; and as no time was to be lost, wished it to pass the House, without going to a Committee.

Mr. CUVILLIER admitted that scarcity existed, but did not think the necessity so pressing as was represented. A Committee should be appointed, in order that preliminary enquiry might be made.

Mr. VALLIERES thought the expectation of such aid would tend to encourage waste and imprudence. For instance, a man might purchase a sleigh for himself, gowns for his wife, and so on, and promise, as was very customary in the country, to pay in wheat—and thereby exhaust what he ought to have saved for seed, or perhaps even apply that very seed-wheat, so loaned to him, to pay his debts.

Mr. Bourdages thought, that we ought not, for fear there might be one or two dishonest or imprudent individuals, who abused the benefit, to withhold it from the body of the people, who were distressed and required relief. The members from the country-parishes must be satisfied of the necessity that existed to relieve the farmers, by an advance of seed; and security would be required for its being repaid out of the crops.

Mr. Vallieres brought in a bill for establishing a Provincial Court of Appeals.

Mr. Ogden begged to call the attention of the House to a circumstance that had struck him forcibly in looking over the return made from the Grey Nun's Hospital at Montreal. It appeared that out of 126 children admitted within the year, not less than 71 had died. He thought this extraordinary mortality worthy of enquiry. He meant not to lay any blame any where, but the circumstance was so strong and striking, that he could not avoid noticing it. He should move, that the return in question, be referred to a Special Committee.

Mr. Neilson stated, that if the bills of mortality were examined, it would be found all over the world, that half the children that are born, die at an early age. It was the less extraordinary, that there should be a greater degree of mortality amongst these children, when it was considered, that they were the offspring of the dissolute and debauched; that they derived their existence frequently from diseased parents, and were hereditary victims of vice.

Mr. Viger followed the same argument, and added, that besides disease, the children generally brought with them abundance of all kinds of vermin.

Dr. Blanchet stated, as a professional man, that it was a known fact, that a very large proportion of the children born throughout the world, died in the first month.

Mr. Ogden would not press his motion, but thought he had shewn enough to arrest the attention of the House. As the hon. gentleman was an advocate for the establishment of an hospital for emigrants, he might perhaps find room in it for a foundling hospital.

Mr. Bourdages presented a petition from Three Rivers, complaining, in very severe terms, of the general administration of Lord Dalhousie, particularly also dwelling on the treatment experienced by Mr. Mondelet in the prosecution against him for libel. This petition was signed by upwards of 5300 individuals.

Mr. Ogden asked how many of these signatures were affixed to the petition when it was brought to Quebec. He would answer his

own question, and state that he saw the petition this morning, when it was lodged in the Committee Room in that House, and there was not one single signature to it—all he saw was a quantity of crosses on a separate sheet of paper. He had further seen an hon. member, (the House would permit him to name him,) Mr. Turgeon, put a pen into the hand of a Mr. Gallepé, to sign the petition, which he did; after which, he (Mr. Ogden,) had asked Mr. G. whether he had read the petition, who answered that he had not, but had been desired to sign the petition and would. Here was one instance within his knowledge, and that of several other members of the House who were present, of one who knew not what he signed, and how many there were of those crosses made by persons who had not read the petition, or knew what its contents were, might be judged from that and other circumstances. That is the way then petitions are got up—a very ready way to vilify the conduct and character of any Governor. He looked on it, as an imposition on the House. The signatures on the petition itself had all been filled up since this morning; when he saw it, it was a blank, and was no petition.

Mr. VALLIERES said, that in the Parliament of England it was understood, that any petition purporting to be from more persons than those named in its preamble, must be signed by at least six, on the same paper or parchment on which the petition was written—this was indeed not a rule—but it was a usage acted on there—but has never been formally adopted here. But this petition possessed that formality—it was signed by more than six names on the body of it. As to the separate sheets with other signatures—it was impossible to carry it all over the country, or to read it to all—but all felt the grievous evils that had arisen in Canada from the conduct ef the late administration—all that it was necessary for the signers to know was, that it was a petition complaining of those evils, which they all knew by rote, without having their memories refreshed. The learned gentleman had seen it before it was presented, and says that it was not then signed, although there was a separate paper of signatures—it was then no petition—but he looked at it now, and saw that it was a perfect one—he saw no names to the body of the petition but those of persons who had an interest in the district whence it came. Is it any objection that a petition from Three Rivers should be signed in Quebec, by residents of the former district who happened to be here? The signatures appended were certainly for the most part done at Three Rivers. Admit it, however, to be irregular or informal, it ought not to be rejected; if it contains falsehoods and calumny, the enquiry that may result from it will enable the administration of Lord Dalhousie to come forth triumphantly. But the learned Solicitor General foresees a different result, and it is to the matter of the petition that he in fact objects, by means of the form. His opinion was, it was correct in both.

Mr. OGDEN said, he was no more inclined than the hon. member to reject a petition for want of some formality; and yet he could not help

calling to mind, that, on other occasions, the hon. member had been more nice, and that the mere omission of the customary conclusion, "and your petitioners will ever pray," was thought a good objection. With regard to the contents of the petition, they were mere matter of moonshine—he knew what their effects would be here, and what they would be elsewhere.

Mr. VIGER said the question was very simple; the petition was signed partly in Three Rivers and partly in Quebec. The right of the subject to petition was too sacred to be parlied with for the sake of trifles. The question was not whether the complaints set forth were well founded or not—the petitioners had a right to make them, if they thought them true.

Mr. BOURDAGES—As long as there was no signature on the body of the petition, it was not one, and could not be presented, was it not necessary therefore to put it in a proper form? But it is the substance and not the form which displeases. But it is the general voice of the people; it is the cry of the public, echoed and re-echoed through the Province—all the world know and utter these heavy complaints. It is neither the first, nor the only, nor the last, petition. The disgusting grievances which the whole country has suffered from the misconduct of the late administration, produce this universal cry. Three Rivers has had its share, and something above the lot of other districts. As to Mr. Gallepé, he had enquired of Mr. Turgeon whether he had not afterwards explained to him what he had signed, and Mr. Turgeon's answer was, yes, he had.—But he would remark, that all the representatives who were sent from the district and the town of Three Rivers had signed this petition, excepting the learned Solicitor General.

Mr. OGDEN disclaimed any disrespect to the hon. gentlemen who had signed this petition, or to him who had presented it—but he did not see what respect was acquired by running about the streets to get the carters to make their crosses to petitions like this. When it came here, it had not one signature;—a separate paper indeed contained a vast number of crosses, but how many of these were the crosses of Quebec carters, or how many of the 5364 crosses annexed to it, were procured in the same way in which Mr. Gallepé was induced to put his name down, he could not tell; but there are hundrends of names, of course with crosses, which are put down in a handwriting that was familiar to him, Mr. Mondelet's, and hundreds of others, in another handwriting equally well known. On the whole he could not but look on the petition as an imposition on the House.

A member observed that the learned Solicitor General seemed to allege that there were none but crosses to the petition—looking only to the first page of it, he saw 53 names signed by hand, and so on with the

others ; besides, there were proper certificates at the bottom of each page that the crosses that were made, had all been made before witnesses, and voluntarily.

The House divided on the question whether the petition should be received, and Mr. Ogden was left alone in the minority.

Mr. Bourdages then moved that the petition should be printed.

Mr. Ogden wished that all the signatures and facsimiles of the crosses should also be printed—probably this might not be usual, but he believed that it was customary at home for all petitions against ministers of the Crown to be printed with the signatures. It was, he thought, necessary in this instance, that it might be known what sort of people were the accusers of Lord Dalhousie. He would not, however, make any motion to do so.

The bill for making perpetual the act respecting damages on protested bills of exchange, was brought down from the Council.

The House in Committee on the bill to prevent fraudulent debtors from evading their creditors by crossing the lines, Mr. Speaker Papineau, did not object to the principle of the bill, but, pending that which related to the qualifications of justices of the peace, to whom the executive part of this bill would fall, it ought to be seriously considered in how far they were proper persons ; for, from the arbitrary and partial manner in which those offices had been bestowed under the late administration, persons without respectability or responsibility acting as Magistrates, might do the creditors, who sought redress against absconding debtors, more harm than good, and might seek to gratify their desire for power and profit, at the expense of the community.

Mr. Ogden said the power was not given to the Magistrates, but to the Courts of King's Bench, who were to appoint Commissioners for the purpose ; this, and the moderate fees proposed to be paid to the Commissioners, would prevent any appearance of grasping at power or profit.

LEGISLATIVE COUNCIL.

The House was principally occupied in Committee, on that part of H. E.'s message respecting the establishment of Courts of Justice in the townships.

HOUSE OF ASSEMBLY.

Tuesday, Dec. 16.

Mr. Neilson brought in a bill, in conformity with the report of the Special Committee, for granting to the Wesleyan Methodists the same

privileges as to marriages, etc. as were enjoyed by other religious classes.

The Committees on the petitions of Lieut. Col. Vassal, and John Lane, reported unfavourably thereon.

A message was received from H. E. the Administrator, transmitting an extract from a representation of the Grand Jury of Montreal, of the insufficiency of the Gaol of that city, and of the great inconvenience suffered from the want of a House of Correction there, and recommending the same to the consideration of the House.

Mr. LATERRIERE presented a petition from the inhabitants of St. Paul's Bay and other parishes, in the county of Northumberland, praying an aid to complete the road from St. Paul's Bay to Quebec, which was referred to the Committee on the report from the Commissioners for opening the said road.

On motion of Mr. LEE, a Special Committee was appointed to draw up a statement of the monies appropriated since 1814, for roads and other local purposes.

On this occasion Mr. Lee prefaced his motion by stating his conviction of the high importance of every thing being done to facilitate internal communication; he could not object to the large sums that had successively been appropriated for that purpose; but the application and expenditure of those sums, were essential to be inquired into, and if a Committee were appointed to investigate such, it ought to be an instruction to the Committee, to report as to the amounts expended for local objects, in particular Districts, so that the House might be able to judge of the real benefit derived to the public from them.

Mr. CUVILLIER wished to ascertain whether the hon. member meant to found any specific measure upon the result of such return and enquiry; and that he should explain what his object was in making this motion.

Mr. LEE replied his object was to gain information as to the appropriation and expenditure of the large sums devoted anteriorly to the objects of internal communication; without reference to any ulterior measure to be founded on such information.

Mr. CUVILLIER conceived the hon. member took too narrow a view of the subject. He supposed he wished to ascertain what proportion of money was given to, and expended respectively, in the districts of Quebec, Montreal and Three Rivers, to compare the same, and censure perhaps a larger sum being employed in one district than in another. It might often be the case, and was, that large sums expended in one district was for the benefit of the whole Province. He believed the hon. member

was jealous of the larger amount that was allotted to the district of Montreal than to the others. But in the statements for Montreal would be included the Lachine Canal, and other objects, the benefits of which were felt not only in the lower Districts, but in Upper Canada—although the expense might appear to the debit of the Montreal district, the advantages would appear on the credit side of the whole of both Provinces. So it was with other cases; the opening of roads, construction of canals, bridges, &c. if of immediate advantage to one local portion of the country, were of ultimate advantage to every portion, and perhaps even more so to distant parts, than the spot where they were made. The district of Quebec derived as much advantage from the improvements in the district of Montreal, as that district itself did; and so it was throughout the country.

Mr. Lee disclaimed any idea of setting one district up against another. But there were often objects which engrossed the attention of parties in their own neighbourhood, which had the preference over those of general advantage. Montreal, he would admit, from its centrical and advantageous geographical situation, was a place where facilities given to general communication could not but have their influence widely extended. Yet the preference might be carried too far. The Eastern townships were more in want, to bring them into value and utility to themselves and to the province, than any other portion of the country. He thought the district of Montreal had received more favour in this respect than was due to it in the general scale. He had been asked what measures he intended to propose in consequence of his enquiry. He could not answer that question. He wanted to commence an enquiry, the end of which he could not foresee. He wished to go as far as he could go in that enquiry, and when he found he could go no farther, or that the enquiry produced no good, he should stop. He could not specify any measure he had at present in contemplation; that would depend on the result. Perhaps none, perhaps an important one.

Mr. Neilson thought we need not go so far back as 1814; a statement of all such appropriations was called for in 1823, and appeared on the Journals of the House. With regard to the question of enquiry, it would certainly be interesting to know what good has been done with the money appropriated, both as to general and local interests; and though he agreed with the hon. member for Huntingdon, that it was not any local advantage that should be chiefly considered, but the general interest which the province derived from the expenditure of money in any particular district, yet much of the money thus appropriated, had been expended for objects that did not regard the general benefit of the province. It could not be denied that it was an advantage to every district where such improvements were to take place, that as much money as could be got, should be expended in their own district—every one received part of

it—it circulated and did good to individuals, if not to the public—this was natural—but the general Legislature ought to know all these particulars—they ought to know, not only how and where all the money was expended, but how it had been accounted for. In 1826 a large sum had been so appropriated, which had not satisfactorily been accounted for. Legislatures may vote advances and appropriate money, but unless they receive prompt, faithful, and detailed accounts of its expenditure, they might go on voting money, without end, and finally, without object.

On motion of Mr. NEILSON, it was Resolved, that it is expedient that Commissioners be appointed on the part of this Province, to meet any Commissioners that may be appointed on the part of Upper Canada, to treat of, and report, upon matters of common concern to both Provinces, respecting the imposing and collecting of duties on importation, the improvement of the navigation of the St. Lawrence and the Ottawa, and roads of communication between the two provinces:—and that an address be presented to H. E. to transmit the same to the Lieutenant Governor of Upper Canada, for the information of the Legislature of that Province.

On making his motion Mr. Neilson said, that he wished to signify to the Legislature of Upper Canada that we were ready to enter into a full and amicable discussion of whatever objects might require it, between the two provinces. His proposal was strongly supported by the message received from H. E. the 28th November, where it would appear that the government in England had no desire to interfere in the concerns between the two provinces, provided the Legislatures of each could agree among themselves. This was in conformity with the report of the Canada Committee, and the liberal spirit of the British government was, he trusted, amply answered, by that which now prevailed between the two sister provinces. It is indeed a long while since any official communications have taken place between them. He would not enquire how that arose; but now the best understanding existed between them, and he had no doubt that when the commissioners on both sides met, every thing that regarded the mutual interests of both provinces would be agreed to, and settled to the perfect satisfaction of all. To these resolutions he added one, to send the same to the Legislative Council, to request their concurrence therein.

On motion of Mr. Cuvillier, an address was voted to H. E. for communication of the record book of reports of the Auditor General of Public Accounts.

On the order of the day for the consideration of the petition presented against the return of Mr. Andrew Stuart for the Upper Town of Quebec being called, Mr. Bourdages moved that it be referred to a Committee of the whole House on Saturday.

A good deal of desultory conversation took place, and it was the opinion of some members, that, even if the ultimate discussion were deferred, the subjects to be argued were of such importance that it might be well to enter into them in a preliminary way, that all might be better prepared.

Mr. VALLIERES had bestowed great pains in investigating the momentous points involved in this petition, and had, at present, concentrated the matter contained in it, into two points—one was the irregularities alleged to have attended the election, by means of violence, personal threats, &c., and the informalities of the poll book, &c., and the second and main point was that of the right of women, possessed of freeholds, to vote. This was a question of the greatest importance, and would bear, not only in this and other cases pending, but on the whole future representation of the province. The learned gent. expressed his fear, derived from the laws recognized in England, and the authorities he quoted, particularly that of Paley, that it was incontrovertibly the practice of all representative governments, both ancient and modern, to exclude women from any share therein, and that therefore he could not decide in favour of the ladies. Messrs. Papineau, Viger and Bourdages appeared to be in favour of the admission of women as voters.

The House in Committee on the bill for regulating the office of Sheriff, Mr. DE ST. OURS in the chair. A considerable discussion took place, as to the sums for which the respective Sheriffs should give bail. Mr. VALLIERES contended that, as the provisions of the bill, by compelling the Sheriff every three months to present a statement upon oath, of the monies received by them as Sheriffs, and those paid, as well as to prove to the satisfaction of the Judges that they had the money for the balances appearing upon those statements actually in hand, gave ample security to the public, it was not necessary to require very heavy bail, and he proposed that that of the Sheriff of Quebec, should be £5,000.—The bail to be given was afterwards settled, as per abstract of the act.

On the 18th clause of the bill, by which Sheriffs are made liable for the escape of prisoners for debt, to the amount of the debt for which they were confined—the Committee could not come to a determination, Mr. Vallieres stated the difference in this respect between the French and the English law; the French law forced the officer either to pay the money or to *réintegrer* the plaintiff in the same position as he was before, by the re-capture and re-imprisonment of the defendant, for which a period of six months was allowed him, whilst the English law made the Sheriff immediately and instantly liable to pay the creditor the whole amount of his claim. The former appeared to him so much more reasonable and just, that he should wish it to be adopted. The consideration of this clause was postponed; and the Committee reported progress and obtained leave to sit again.

LEGISLATIVE COUNCIL.

A motion was made that all Peers, sons of Peers, and members of the Executive Council, shall have seats below the Bar of this House, which, after debate, was negatived.

HOUSE OF ASSEMBLY.

WEDNESDAY, Dec. 17.

Mr. NEILSON presented a petition from Mr. B. Ecuyer, Surveyor, for payment of a judgment against the commissioners of internal communications for Dorchester, which a judgment of Court had prevented from being satisfied by a sale of their effects.

Mr. LESLIE presented two petitions from the Committee of Trade, of Montreal: the first against payment of duties at Quebec.—Referred to a Committee—the second, against the bill for exempting certain classes from imprisonment for debt—referred to the Committee on the bill.

Mr. VIGER introduced a bill for adding five days to the criminal terms.

Mr. LEE introduced a bill to incorporate the city of Quebec.

Mr. BOURDAGES introduced a bill to authorise purchasers of real property at Sheriff's sale, to retain the money at interest, on giving security till judgment of distribution.

Mr. LEE observed, that a bill for this purpose had been passed in 1823, and, though much wanted by the people, was rejected by the Council. The money was by no means so safe in the hands of the Sheriff as in those of the purchaser, particularly if he held a mortgage. The passing of the bill of 1823 would have saved many persons from severe injuries suffered by the Sheriff of Quebec. The Sheriffs pay no interest, and that is a great object. A poor man who has nothing to live on but the interest of money due to him, might often starve before obtaining his right. In case of oppositions, which are frequent, the Sheriff was obliged to keep the money for years, it might be for five years. In the course of his business as a Notary, he had often known such cases. The property was always sold for cash, yet nothing could be obtained. He hoped the bill would pass, and it would then be seen whether the Council would concur with the voice of the Country.

Mr. OGDEN remarked, that, by the law now in force, creditors who held mortgages on real property, and became purchasers of it, were entitled to retain; but this bill gave other creditors a chance of doing the same.—The propriety of this was doubtful. The person at whose suit the property was sold, obtained what it called good and sufficient security. But

at the expiration of a year, when he has to demand his money, the security may have become insolvent, and he can obtain nothing. Interest was but of secondary importance. He did not oppose the bill, but he did not think its merits so clear and indisputable as to entitle it to be hurried on without investigation.

A message was received from H. E. the Administrator, with papers and instructions, relative to the finances of the Province: as follows:

" His Excellency, the Administrator of the Government lays before the Assembly, in compliance with their addresses of the 5th inst., copies of the Commissions of the Receiver General, the Auditor General of Public Accounts, and the Inspector General of Public Provincial Accounts, together with copies of the instructions which have been given to the two latter officers for their guidance; no particular instructions appear to have been given to the Receiver General; but that officer having, on his entering upon his office in the year 1828, suggested some rules that he considered it would be desirable to observe in making payments from the Chest, and those suggestions having been acted upon since that time, a copy of his letter, in which they were submitted for the approval of the late Governor in Chief, is transmitted.

" His Excellency likewise lays before the Assembly copies of several dispatches received between the month of September 1825 and the month of September 1828, having reference to the finances of the Province, and directing payments to be made from the different funds at the disposal of the Crown, and also copies of the warrants from the Lords of the Treasury for the appropriation of those funds for the year 1827; also copies of two reports of the Council made in the month of December 1826, upon a system proposed for the audit of the Public Accounts.

" His Excellency in transmitting these several documents to the Assembly, has endeavoured to meet the wishes of the House, as expressed in their address of the 5th inst., and they contain all the information that he has in his power to afford."

Mr. VALLIERES brought in a bill for preventing fires in the woods.

The engrossed bill for parochial subdivisions being read the third time, Mr. BOURGA opposed the bill. He said the House had no right to delegate its power to Commissioners, and referred for confirmation of his position to many authorities in the French practice. We could not make such a delegation without betraying the interests of our constituents. The House occupied the place of the *Arrêts* and *Ordonnances* of the old government; and these admit no delegation of their powers.

Mr. VALLIERES approved of the regulation, referring in confirmation to the English law of *Mortmain*. He observed that the *ordonnances* and

arrets were not legislative acts; and, if they had been such, their nature would have been altered by the country's passing into the hands of another government. The question had now changed its aspect. The King of England, is not only the head of the Executive Power, but also, by the constitution, the head of the Church; and as such was entitled, with the concurrence of the Legislature, to regulate the boundaries of parishes. The Legislative body, therefore, including his Majesty, had a right to proceed in this matter according to their best judgment; and in a subject of such vast importance, we ought not to seek for objections in ancient usages, or modern technicalities.

The House divided and the bill was passed by a majority of 23 to one, (Mr. Borgia.)

The bill for granting the benefit of counsel to prisoners on trial for felony; the bill continuing the Provincial Parliament in case of the demise of the King; and the bill for the preservation of the salmon-fishery in the counties of Cornwallis and Northumberland; were also passed and ordered to the Council.

The bill for continuing the Session of the Provincial Parliament in case of the King's demise, gave rise to a discussion on the relative import of the words, *death*, *demise* in English, and *mort*, *démission* in French, as used in the wording of the bill. It was observed, in accordance with authorities produced, that *demise* was equivalent to *death*, and limited by etiquette to royal personages. *Démission* was explained to mean *resignation* or *abdication*; but though used in this extended sense, was considered, from the precedents referred to, as being the best translation of the English technical phrase *demise*.

A motion was made, that the bill received from the Legislative Council, respecting lands *in free and common soccage*, should be referred to a Special Committee. Mr. VIGER said, that, by giving our approbation, we should sanction the act of the Imperial Parliament affecting the tenures of lands in this country. The interference of the British Parliament in the internal affairs of this country, ought in all cases to be opposed. If this was not done, there was an end to the liberties of the people.

Mr. BOURDAGES thought a Committee of the whole House preferable to a Special one.

Mr. VALLIERES approved of this proposal, because, by referring this bill to a Special Committee, they might seem to pledge themselves to a principle which he hoped they never would adopt, namely, that the British Parliament had a right to decide on the laws of property in Canada.

Mr. NEILSON did not see so much objection to the Special Committee, as to the bill itself. We were called upon in it to confirm and consolidate

the laws of England, as to lands in *free and common soccage*. We should thus pronounce the English laws to be consistent with the *civil law* in this country. If they were so, there was no need for us to declare it. He wished to see the *Canada Tenures Act* completely done away with. This is what ought to be our object. We must not allow the slightest expression to escape us, that could be interpreted to imply an admission of the right of the British Parliament to legislate in our internal affairs. We must protest against every such interference. We have had the entire management of our domestic concerns for nearly forty years. We must now consider every interference with that management, as an infraction of our constitutional rights. There is nothing of which the English nation are so jealous, as of any attempt of others to make laws for them. It is right that we should be equally jealous of such attempts. In England, they are jealous of the power of the Crown; here, we must be jealous of the metropolitan Parliament. The necessity of a supreme power in both cases, is evident. But the power of the Crown has its limitations, so has that of the Parliament of England as respects us. That Parliament may be called upon to amend our constitution, but it must be called upon by the colony itself. That Parliament may be called upon to decide upon differences between British Provinces in North America, but the requisition must come from the provinces themselves. He had no hesitation in saying, that the *Canada Tenures Act* had invaded the rights of the province. Let us do nothing that shall wear the appearance of approving that act.

The House in Committee on the Gaspé Salmon Fisheries. Mr. VALLIERES proposed as an amendment on the clause empowering Justices of the Peace in general Sessions, to make regulations as to the Fisheries; that such regulations should be submitted to the Provincial Parliament within a year after they were made, and that such only as received the concurrence of the Legislature, shall remain in force. The amendment passed. The blanks in the bill were filled up, and its duration limited to two years.

LEGISLATIVE COUNCIL.

Only routine business this day.

HOUSE OF ASSEMBLY.

FRIDAY, Dec. 19.

A bill for making mortgages special on all lands in free and common soccage, and for establishing register-offices for the same, was received from the Council.

Mr. Bourdages presented a petition from divers inhabitants of Longue Pointe, &c. against the establishment of a turnpike-road from Longue Pointe to Montreal.

Mr. Bourdages moved for a Committee of the whole House, on Monday, to consider the expediency of erecting Court-houses and Gaols, in the most populous parts of the Province the most distant from Quebec, Montreal and Three-Rivers, so that Quarter-Sessions of the Peace may be held for the trial of minor offences.

Mr. Viger objected to this proposition, as it did not extend to civil matters, which he thought it ought to embrace.

Mr. Bourdages had expected that every measure tending to facilitate the administration of justice would have had Mr. Viger's support. He had often laboured in that House to remedy the many abuses which prevailed, none of these were more pernicious than to cause those who were accused of minor offences, to be transported a great distance, with their prosecutors, witnesses, &c. The provisions made in the bill for the better administration of justice in civil causes, would give facilities to the present measure. Sheriffs and officers would be found in the Circles—and the machinery of that bill might be applied, in many respects, to the holding of Quarter Sessions of the Peace in the Circles. No one would defend the present system—a delinquent accused of a petty theft was hurried to Montreal or Quebec, the witnesses were kept there for days, and even weeks, and after all, perhaps no indictment was found, and the expense and trouble were useless. As to blending the measure with one for deciding minor civil causes, he should have despaired of success had he proposed it.

Mr. Viger still thought the proposal was not general enough. He gave credit to the hon. gentleman for his exertions. He too had not been idle in this large field—he had for years been lifting up the veil, and shewing the deformities and defects in the administration of justice. It was a subject which had employed his studies day and night; and even if measures brought forward appeared to him imperfect, he would do all he could to aid them, as being part of a general system of reform of abuses.

Dr. Blanchet considered the proposal as imperfect. Courts in distant Districts ought not be established alone for trifling thefts or misdemeanours, but they ought to be for the general administration of justice both in civil and criminal cases. His opinion and that of his constituents was that justice should be brought home to every man's door throughout the country; people should not be forced to go 60, 80, or 100 miles, or perhaps twice that distance, as was now the case, to obtain justice. But how was that to be done?—not merely by passing laws in the Assembly for

such purposes—a material other part was wanting, that of erecting Court-houses, and providing the necessary accommodations for the administration of justice. We should make the measure as ample as possible; and should endeavour to do away that odious distinction which had too long prevailed between the cities and the country parishes, and distant settlements. It was time to destroy that distinction, so fruitful a source of discord and jealousy.

Mr. OGDEN perfectly agreed to the motion and did not see how it was incompatible with the views of the hon. Gent. who spoke last, nor what was to prevent this measure from going farther, during its progress through the House. The hon. member for Kent had gone great and laudable lengths in his efforts to advance the better administration of justice—but in his bill on that subject he saw no provision made for the accommodation of his system of justice—he wished he had moved for the erection of gaols in the circles he proposed—to these should be added Court-houses, which might be built over the prisons, and every accommodation included in one building. It would be competent for any member to make such a motion in the Committee.

Mr. VALLIERES brought in a bill for the association of the Quebec Friendly Society.

The following bills were passed and ordered to the Council:—

To prevent fraudulent debtors from evading their creditors.—To facilitate proceedings against debtors in certain cases.—For relieving the poor by the loan of wheat and other corn seed.

On the second reading of the bill for the establishment of a Provincial Court of Appeals, Mr. Vallieres explained the causes which had led to, and necessitated, this measure, and mentioned some cases in which the jurisdiction and practice of the present Court of Appeals had been found incompetent and oppressive; the object was by the appointment of two associate Judges, expressly for that Court, and the alternate session of a Judge from each of the districts of Quebec and Montreal, to obviate the suspicions which at present hung over the Court of Appeals, of partiality.

Mr. LEE admitted that, when well organized, a Provincial Court of Appeals was not only useful, but necessary—but it was a question with him, how we should disembarrass ourselves from the principal objection which lay against the present Court of Appeals, nor did he see that any provision was made in this bill against that objection. The first step that ought to be taken, should be to exclude the Judges of the Court of Appeals from the Legislative Council—without that, the evil would be augmented instead of being decreased. Here [illegible] two other Judges to be

appointed—no doubt they would be good men and good Judges—men of law and high standing—but what was to guarantee us from their being rendered incompetent, as it were, to act without prejudice and partiality, by being called to the Council?—He was borne out in this by the report of the Canada Committee. He would not consent to a bill which would augment the number of the Judges, without disqualifying them from being members of the Council.

Mr. VALLIERES said, that it would be competent for the hon. member to move in the Committee for a clause to exclude the Judges of the Court of Appeals from being members of the Councils—in such a clause he would himself concur—for it was his firm opinion, that in order to render the administration of justice complete, the Judges should not meddle with politics, or be called upon for their advice on political questions, how much soever they were proper and fit to give their aid and opinions on legal points.

Mr. OGDEN observed, there were but two ways of doing a thing—the right way and the wrong way. Judges had not a right to sit in the House of Assembly, and he should be inclined to say, from a parity of reasoning they also ought not to sit in the Legislative Council; but this was not the way to exclude them. We must hold fast by the prerogative of the Crown as much as we do by the rights of the people. There were two ways, and it would be the wrong one to make any statute which infringed on that prerogative;—the right way was for the House to address his Majesty to exclude Judges from seats in the Councils. No doubt it would be duly considered—and no doubt the Crown would, for the general benefit, in this instance, waive the exercise of its prerogative of choosing its counsellors—but it would be encroaching on that prerogative to say, that such and such persons shall not sit in the Councils—the King has a right to call any of his subjects to a seat in any of his Councils. But we find nothing in the Constitutional Act of this Province that will warrant such an interference with the prerogative. He denied the right of interfering with it, but admitted in full the privilege of petitioning against its exercise, in any instance where it was supposed to be prejudicial to the public interest. For his own part, he would second any motion which should have for its object an enquiry into the inexpediency of Judges holding seats in the Legislative and Executive Councils; and would go to the whole length of supporting that doctrine; but he would never consent to a sweeping clause in any bill by which the prerogative of the Crown was invaded, and by which we took upon ourselves to exclude from his Majesty's Councils any person he might think fit to call to them. With regard to the bill itself, he admitted the principles on which it was founded—he wished it to pass. It is assuring to the country a Court of ultimate jurisdiction, less liable to objection than that which has hitherto

existed. It went much farther towards the due administration of justice than the bill for that purpose before the House. That was a bill for nothing more than Petty Courts of £10 causes, and that at the expense which would arise from the erection of no less than 113 new offices, to be paid by the country, and two new Judges into the bargain. But again as to this bill, he did not see why the associate Judges of this Court should not also be criminal Judges in other Courts. He did not conceive what an appellant, had to do with a criminal, jurisdiction, which renders them inconsistent with each other. The Judges of this Court of Appeals, no doubt, would be handsomely paid—and so they ought—but they ought likewise to work, and here would be five Judges who would have about forty causes to try in a year. Give therefore, these associate Judges a concurrent jurisdiction in criminal cases in other Courts—they would then be employed. The hon. member for Kent had, on a former occasion, reminded the House that all the law duties in England were performed by twelve Judges. Now we had already eleven—by this bill two more would be added, and two more by the bill introduced by the hon. member for Kent, which would make fifteen in all. That they ought all to be above suspicion and independent, he must concede—and the more elevated and dignified their station and circumstances, the less suspicion could be entertained by the country that it might not receive justice at their hands. But multiplication of office ought, nevertheless, to be avoided.

Mr. Quesnel said it could not be denied that the Ministers in England have not only now had cognizance of the evils that prevailed in the administration of justice here, but the report of the Canada Committee shewed that the grievances of the country were felt there, as well as the desire of redressing them. Amongst the grievances represented, the sitting of the Judges in the Councils was a prominent one. If we can not deny the prerogative of the Crown, neither can we deny the rights of the people on the other hand; nor that the case in question was one which pressed strongly for reform. We can not certainly exclude from the Councils, those Judges who have already seats there; but he did not see why we might not say to any new Judges, you shall have your salaries only on condition that you do not sit there.

Mr. Vallieres thought the learned Solicitor General would not consider that remonstrating against the undue exercise of any prerogative of the Crown was unconstitutional or improper—nor that to petition His Majesty to abandon a part of his prerogative which was found detrimental to his people, would be disrespectful or irrelevant; now he would contend that every bill presented to His Majesty by any of his Parliaments, was, in fact, a petition, and partook so much of the nature of a petition that it rested upon the Royal will to grant it or not. If such a clause were in-

serted in the bill, it would, in fact, be a petition from the Legislature to the King not to allow the Judges in this Province to sit in Council; and he contended it was a respectful as well as a constitutional mode of petitioning the Crown, and it is a petition of the greater weight, inasmuchas it comes, not from individuals, but from a co-ordinate branch of the Legislature. With respect to the King's prerogatives, those were only given to him for the good of the people—they have been declared to be not inherent in the Crown—the people, that is the three branches of the Legislature conjointly, had a controuling voice over them. The prerogatives of the Crown had in former times been much stretched; and there had been a long continued struggle to confine them within proper limits, to abridge them, to hem them in, to besiege them as it were, and blockade them on all sides, so that they might not endanger the liberties of the people. As to the number of judges, the Solicitor General had not stated the matter correctly—his reasoning was plausible, that as twelve Judges were enough for the whole of England, eleven were enough for us—but the statement was erroneous, instead of twelve there were more than twenty, for besides the twelve in England, there were four for the principality of Wales, and separate Judges for the counties palatine of Durham, Lancaster and Chester, to say nothing of the ecclesiastical courts and those of chancery and vice admiralty.

Mr. Ogden could not agree that it was constitutional to attack the prerogative of the King by means of a bill—nor to the position, that a bill passed in that House might be considered a petition. But the hon. member forgets another branch of the Legislature which must be consulted; a branch instituted for the preservation of the balance between the others, to prevent both the Commons from encroaching on the Executive, and the Executive from encroaching on the Commons—a branch which has as great a right to discuss all matters regarding both, as the House had, excepting in originating any money-bills. Exceptions make rules,—and the Legislative Council had the right to make any amendments they choose in other bills—and would do so, he conceived, whenever they found the House invading the prerogatives of the Crown. A case in point had occurred in the Province before. Judges had been returned as members to sit in that House—and the House came to a resolution that Judges had no right to sit. What was the consequence? A dissolution of the Parliament. The House here had taken a right from the people, who were not constitutionally bound to refrain from electing Judges to be members. In the following Parliament, a message was sent down to the House, intimating that if they proceeded in a constitutional manner, the measure would be acquiesced in. The House came to its senses—(A cry of order and hear him!)—He was not out of order—he spoke fearlessly, and would repeat it—the House came to its senses, and proceeded by bill, and not by resolution. The constitutional mode now to be followed, would be to address His Majesty not to admit Judges into

the Councils. Address His Majesty against the Judges having seats in the Council—propose such an address to-night—and he would second it—approach the throne—represent what you like against the exercise of the prerogative, but do not attempt to arrest it by an act for which you can have no authority.

Mr. VIGER asked what the royal prerogative was, other than that personal power and influence which the law gave to the King for the benefit of the people? and if any branch of the prerogative was injurious to the people, they had a right to curtail it. Blackstone would prove, that the prerogative could only be exerted for the advantage of the subject. The Solicitor General advises an address, and, of course, maintains, that the King may, if he likes, say the judges shall not sit in the Council. If the King may say so, certainly a law to be enacted by the three estates may say so—and if it did, would not the King be bound by that law? A law is a rule both for King and people; and history will shew, that many laws have been made for limiting the royal prerogative. The learned Solicitor General had a peculiar method of arguing—and indeed did not always treat a matter of importance with that gravity it required—because we want what he himself wants, what the judges want, what the Canada Committee have recommended, what the King himself will grant if we apply for it—we are attacking the royal prerogative. But we have the happiness to live under a constitution by which the people, by their representatives, are allowed to judge what is best for themselves and the common good—and, when concurred in by the other branches of the Legislature, to enact what is right for the whole, without either affront to, or infringement of the rights of, any one branch.

On the second reading of the bill for granting to the Wesleyan Methodists of Qnebec the same privileges as to the keeping of registers, as to the Episcopal and Presbyterian Churches in Canada, it was remarked that the bill on this subject formerly brought in, and sent to England for His Majesty's approbation, had failed, from the amendments proposed in the Legislative Council, and because of the great number of dissenting denominations which were included therein. There were more than one hundred denominations of dissenters enumerated—the very names of many of which were wholly unknown at home—and it had been properly observed let each particular sect apply by itself.

The House in Committee on the expediency of establishing a General Hospital at Quebec; Dr. Blanchet stated the Hotel-Dieu had convenient accommodation for no more than sixty patients, and, if crowded eighty. There was no other General Hospital in Quebec, and with regard to the Emigrant's Hospital, he had known it to contain at one time 125 sick. Another strong reason for a General Hospital was that the Hotel-Dieu would not receive any sick afflicted with contagious disorders—these

therefore had to wander about the city, and endangered its general health. The Hospital now proposed was chiefly for seamen and sick emigrants. The opinion of merchants had been called for, and it appeared that when seamen belonging to ships in port were sick, they could not be taken care of in private houses but at an expense of 6s., 7s., and even 8s., a day. If we were to impose a small tonnage duty on all vessels, which he would propose should be 10s. for every 100 tons burthen—which the merchants who had been examined, considered as reasonable, it would make £1000 to defray the expenses—which would be more than wanted. As to the buildings, commissioners might be appointed with an authority to borrow money—and with the donations, which it might be reckoned would be bestowed on the hospital, by subscription, legacy or otherwise, there would be a sufficiency for all purposes.

Mr. Cuvillier suggested that it would be proper to impose a higher tonnage-duty on those ships which brought sick persons, whether seamen or emigrants, than on those which did not. There was a great distinction to be made, he thought, between ships that brought emigrants, and those employed in the freightage of goods. But generally he thought it impolitic to augment the port-duties. Ships were even now much discouraged by their being so heavy at Quebec, and many preferred Mirimichi, and the lower ports, on that account.

Mr. Speaker Papineau was in favour of the measure, and argued that the developement of the resources and prosperity of the country would require a proportionate increase of accommodation of this kind. Not twenty years ago, fifty or sixty ships were the average number that arrived at the port of Quebec; now they amounted to several hundreds and were annually augmenting. The rapid settlement of a new and large extent of country would have its natural consequence; ships and seamen would be doubled, and double accommodation must be given to them. No port that he knew of had less accommodation in that respect than Quebec; an inconvenience which ought not to be longer endured. He thought the measure should be extended, and that the lumbermen and raftsmen who repaired hither from the Upper Province and from the States, should also be considered—it might be practicable by a light tax upon the lumber brought down to secure their relief in case of sickness.

Mr. Solicitor General understood the measure would be so worded, as to include beside sick seamen, other sick strangers and non-residents—now he had heard nothing of the ways and means proposed for the relief of any besides seamen—and he conceived it would be unjust and impracticable to call on the shipping interest to pay a tonnage-duty for relieving others—that tonnage-duty ought to go exclusively to the relief of seamen, and other ways and means should be resorted to for the rest.

Dr. BLANCHET contended that, if it were only for the safety of the city, emigrants should also be relieved—and as that was for the good of the public, the public ought to pay first. Seamen would be provided for by themselves—and as to raftsmen, he had known them to apply to the emigrant's hospital and offer to pay for admission—they generally had money and were not unwilling to pay—perhaps too, some additional rate might be imposed on ships that brought emigrants.

Mr. NEILSON said there ought to be two hospitals, one for general patients, and one, a lazaretto, for contagious disorders. It would not be very proper he thought to tax the ships that brought emigrants. The tax would in fact fall on the emigrants themselves, as the captain would make it up by charging more passage money—and we ought to do every thing to encourage, instead of discouraging, emigration and the population and settlement of the country.

The Resolution that it was expedient to establish an hospital at Quebec for such seamen, emigrants, and other strangers and non-residents, was passed, and referred to a Committee of five, with instructions to enquire into the probable expense of erecting the buildings required, and the most convenient mode of providing for the expenses.

The House in Committee on H. E.'s message respecting a Gaol and House of Correction at Montreal.

The following Resolutions were proposed by Mr. Quesnel,

1st. That the gaol of Montreal is insufficient, and that it is necessary to construct a new one sufficiently spacious for the purposes intended.

2d. That the said prison ought to be built at the expense of the province.

3d. That said prison ought to be built according to the plan submitted by the late George Blaicklock, Architect of Quebec.

4th. That a sum not exceeding £20,000—is necessary for the above purpose, including the purchase of the ground, and the building of the walls to surround it, and such as are wanted to divide the court-yards.

5th. That out of the said sum of £20,000, a sum not exceeding £6666 13s. 4d. should be annually advanced during three years, for the above purposes, the revenue of each year to be charged with no more than such annual amount of £6666 13s. 4d.

Nothing was said about the House of Correction, because it is understood that when the new gaol is built, the old one will be converted into a House of Correction.

In discussing these Resolutions, Mr. Quesnel exposed the very defective state of the present gaol, its insufficiency to contain the increased number of prisoners, and to secure them. Escapes had been frequent, and as there were no surrounding walls, and the sewers in a bad state, through which many attempts at escape had been made, it was scarcely possible by any vigilance to guard against them. The gaol was ill constructed and unhealthy—prisoners being deprived of all means of air and exercise, which the reports of the physicians fully confirmed. There were no means of classing the prisoners properly. The accused were intermingled with convicts—men, women, boys, girls, all were to be met with, even lunatics, and outrageous madmen were confined there. The prison was also used for a House of Correction, and there would be found there an union of all that is bad in both sexes. The plan for a new gaol by the late Mr. George Blaicklock, had been most approved of.—It embraced that desirable object, the classification of the prisoners, and separate wards would be found in it, for debtors, for minor offenders, for accused persons, for convicted felons, &c. Court-yards for the different classes would be found included within the surrounding wall. There would be an infirmary, and a large room in the upper story for a chapel. It would be substantial, safe and spacious, as well as comfortable for the prisoners.

Mr. Borgia remarked, that it was now only eighteen years since that prison had been built—and it was now declared insufficient, and in a state of decay—he hoped in the new edifice they would employ builders and use precautions, to prevent an early recurrence of the same necessity. But this was unfortunately too often the case with public buildings in this country. He did not think it just the province should pay for this new prison; he would be an advocate for each district to pay for its own prison; it would be more just that the expense of buildings for local purposes should be defrayed by the districts in which they were situated. The rich and populous district of Montreal could easily afford to pay this expense.

Mr. Viger said, this prison was required in a district whose population was full half of the population of the whole province—and was a population that was formed not only from its own inhabitants strictly speaking, but by a confluence from the other districts—from Upper Canada, and from the adjoining States of New York and Vermont.—Montreal was a centre which drew persons from all parts around it. That the prison must be spacious there could be no doubt, as it must serve for convicts from all parts of the country. It would be a prison in the utility of which Quebec as well as Montreal was concerned. It was for the benefit of the whole, and the province ought naturally to pay for it.

Mr. Borgia observed, the people of Montreal were for having every thing on a large scale; they must have a vast church for the souls, and a vast prison to confine the bodies, of those who were represented as flocking to their city, as to a centre of attraction—there seems to be a kind of magic circle there, in which are raised, as by enchantment, magnificent churches, spacious prisons, squares and canals, which are all said to be for the benefit of the whole province—but the money is laid out there. In eighteen years the present gaol was unfit for them—so might the next, and so might the next, to the end, if we chose to pay for their extensive projects. We were divided into three districts—and might be considered as three families, relations, but still different families settled in different parts, each family should pay for its own buildings. In a few years we shall probably experience the same want here—in fifty years hence perhaps this new and spacious gaol may be found to be too small. We ought not to vote money so heedlessly. If required to do so, his answer would always be no, no, no.

Mr. Quesnel disagreed with the hon. gent. who spoke last, as to the different districts being required to pay their own local expenses. If this were carried to its extent, you might say let each district pay the salaries of its own judges—and surely no one would think that right. Such a plan would be a signal for awakening and bringing more into contact the jealousies that already exist between different portions of the country.

Mr. Speaker Papineau said, the jealousies and animosities that prevailed between districts and sections of the country, as to their respective shares in the expenditure of the public money, ought not to be revived, and counteract that which was evidently for the benefit of the whole. If we were to allow that local erections should be made at the expense of the parties in their immediate vicinity, it would follow, that no work of public advantage could be prosecuted, if the parties composing the locality, could not afford to pay for it—a proposition as absurd, as it was impossible. Such local distinctions tended to create and perpetuate antipathies, jealousies, and misconstructions, between branches of the same family. But let us examine the question in its proper light. It is one for the general good—and all are required to contribute towards it. But who contribute more to increase the general revenue of the province than the people of the district of Montreal? Look at the proportion of imports whence the revenue was derived. He feared no contradiction when he stated, that two-thirds of the whole arose from Montreal. It is not surely the merchants who import that we must look at, but the consumers—it is they, in fact, who pay the duties—and the greater the population, the more duties are paid. We are now paying taxes which the Parliament of England have imposed upon us, *malgré nous*, taxes, in the shape of duties on imports, and, therefore, legal, but wholly inconsistent with the state of

trade and the wants of the country: let us take care that these taxes, so imposed *malgré nous*, shall be expended for our benefit. We have £100,000 now in the chest of the Receiver General. This money was raised from the people—let it be expended for the benefit of the people. He certainly could not coincide in the idea that the division of the Province into separate districts, created distinct families. In a few years we must have more sub-divisions, and our families would increase in proportion—yet, it is one and the same—it is all one population—old settlers, emigrants, all formed but one family—and it was not so much the interest of the locality in which improvements were made, which was consulted in those improvements, but the public good. It might, perhaps, at a future time, be a matter of consideration, that, although the prisons of the three chief districts ought to be erected at the public expense, whether those of the inferior districts, which were only for minor offences, should not be borne locally. This, however, was not now to be considered.

Mr. VALLIERES had often heard in that House, that Montreal had more than its share of the public money appropriated for public purposes, and he had as often heard the Montreal gentlemen reply, that they had not got their share, considering the wealth and population of that district.—Perhaps there might be some propriety in discussing the local share which districts had in such distribution—it was not proper or fit, however, in the present instance, or at the present moment. It would not be honourable for us, Quebeckers, to object to a grant for a prison at Montreal, when ours had been built at the expense of the province. A local district tax for such a purpose would be doubly disadvantageous, as, in the first place, he did not think it could be made to suffice, and secondly would be always an object of antipathy and jealousy, between districts, which ought all to be united as one. As a whole, the people of Montreal or Quebec, pay in the shape of duties, more than they ought—more than they ever consented to—more than was required—let us get back as much as we can of these imposts, indirectly if we can not otherwise. In this respect, let us be unanimous—get it back,—no matter who profits individually, or locally—get it back for the benefit of the whole. The time will come that all the districts, both those existing and those hereafter to be created, will find that they are all one—when that times comes, it is not Quebec and Montreal that will be foremost, but all will be equal in the strife to support each other. The time will come too, when we here shall be under the same pressing necessity as the district of Montreal was, with respect to a goal; and he was sure when that time came, Montreal would not be backward in bearing its share in providing for it. There was a pressing and indispensable necessity for a new gaol in Montreal—and locality ought not to be considered in voting money for such purposes:

LEGISLATIVE COUNCIL.

The bill for the benefit of the proprietors of the Montreal Library was passed, without amendment.

HOUSE OF ASSEMBLY.

SATURDAY, Dec. 20.

Mr. BORGIA presented a petition from inhabitants of Cornwallis, praying that the persons who subscribed a certain sum for a College, and had acquired land to erect it upon, may be incorporated and praying pecuniary assistance; also another petition from Cornwallis, praying the establishing of a Court of Justice and jail—both petitions referred.

A message was received from H. E. recommending the Assembly to make provisions for insane persons, and foundlings.

Mr. VALLIERES moved an address to H. E. to carry into effect the acts for making the Chambly canal and the appointment of commissioners for the improvement of the navigation of the Richelieu. These acts had received H. M.'s assent, but had not yet been put into operation, although it was much wished for in that section of the country.

Mr. NEILSON thought the matter ought to be first referred to a Special Committee, to report as to the practicability and propriety of the work proposed being executed, as well as the expense that would attend it. It was necessary to modify our improvements according to our resources. This canal would entail upon the country a large expenditure, and not only the advantages expected to arrive from it, but the means we had to meet the advances required, should be looked into.

Mr. VALLIERES contended that the Legislature would not have passed the bill in 1823, if they had not been convinced both of the practicability and utility of the canal. With respect to the money required, the act itself provided how it was to be taken—only a certain sum was to be taken from the unappropriated revenue of the Province annually. It had not been till after long and lively discussion in the House that the bill had passed in 1823, and it was surely nothing but justice to that important part of the country that it should now be put in execution.

Mr. NEILSON said we ought to be doubly on our guard in expending money for canals after the experience of the Lachine canal. This had cost upwards of £100,000 and there was £30,000, that had been borrowed for the purpose, which remained unpaid. That canal was not found to answer the expectations held out; it was badly constructed; and he did not know but it would have to be destroyed and a new one of greater dimensions made. We do not know to what extent we should

be forced to go when once we began; and how we were to get the money for these expensive undertakings, he could not tell. We must inevitably have recourse to taxes to effect them. This act had lain dormant five years, which was no great proof of its execution being required so pressingly.

Mr. VALLIERES was astonished at the difference of the ideas as to our resources between those which prevailed yesterday, and those expressed to-day. Yesterday we voted freely £20,000—certainly for a very important object, the gaol of Montreal, and it was roundly maintained that we had £100,000 surplus in the public chest; and now that an act, which had stood on the statute-book five years, was called upon to be executed, and that part of the surplus which had been appropriated towards its execution, to be applied for that purpose, we were to hesitate, and determine whether what was law should be executed or not.

Mr. BOURDAGES said it was easy to account for the measure having lain by for five years. It should be recollected that the Chambly canal could not be began till after the Lachine canal was finished—that was the condition expressed; and the Lachine canal could not be said to have been completed till last year. When an additional sum was applied for and voted in order to complete the Lachine canal, it was granted upon the understanding that the Chambly canal should follow in its turn. It had been stated the Lachine canal was ill made—if so, it only gave more reason to make the Chambly canal better. The hon. member wished for an enquiry to decide whether an act passed long ago should be carried into effect or not:—if we wanted to do away with that act, let him move for its repeal. But it was an act that had been passed with *connoissance de cause*—the legislature had concurred in deciding its utility, and his Majesty's sanction proclaimed, in addition, how desirable it was.

Mr. LEE was an advocate for all improvements of this nature, and particularly for such as had the local recommendation, which the Chambly canal had. It should be an object now to encourage as much as possible the opening of communications on the south side of the St. Lawrence; for hitherto both the attention of the Provincial Government and of the Government at home had been most given to the north side. With respect to the attention of the British Government so bestowed, in a military and political point of view, it had probably been very proper: but if we consider the question in its local and commercial bearings, and examine the proceedings of the House of Assembly, it would be seen that every thing had been done for the north side, and nothing for the south. He had himself a considerable local knowledge of those quarters, but even the mere inspection of the maps must satify every one that it was from the south that the chief current of trade must flow to us. The natural course of things must be that a great part of the produce of the Northern

States must descend the St. Lawrence—no matter whence trade comes, or where in the Province its chief emporium may be—it was indifferent whether Montreal or any other place, was the place of deposit for American goods. If a communication between St. John's and Montreal were proposed, he should as cheerfully vote for it, as he would for the Chambly canal. As to the funds for its construction—they were provided—and with regard to the application of the money voted for the Lachine canal; if it had been ill expended, could not that be enquired into? This is an existing law, and it is nothing but a reasonable request, to ask why it had not been executed. It was not a new subject; it had been under consideration for twelve years. The population on the south side of the river was daily increasing, and traffic must chiefly come to us from that side.

Mr. QUESNEL said the Lachine canal had been finished two years, and if it turned out inefficient for the purposes contemplated, the more reason there was for opening other and better inlets for external commerce, and the more reason for enquiring why the Chambly canal had not been executed. He represented a county that would not only be benefitted by the Chambly canal, but which also received much advantage from the Lachine canal, as much as had been said against it. What was principally alleged against the Lachine canal, was that it did not correspond in size with the Welland canal, and that the communication was therefore interrupted. The large schooners of 150 tons which navigated Lake Erie, and would be admitted through the Welland canal, could certainly not come down to Quebec, unless the Lachine canal was enlarged, which he supposed would one day or other be the case; but in the mean time vessels of 40 tons could carry on a great internal trade. He thought the Chambly canal would be highly useful—and he could not but consider the conduct of the Executive as very blameable in neglecting it. It was a dangerous precedent to leave a law of this kind unexecuted, and might lead to many abuses.

Mr. L. LAGUEUX conceived that we were not to ask the Executive for reasons why such a law had not been executed, but to require that it should be executed. It would be indecorous at least to refer a law that had been passed, after due consideration, to a Committee of enquiry.—Here is a law that the Executive has left unaccomplished for eighteen months, and it is the duty of the House to see that it be accomplished. A law for a canal was as valid as any other law. This is an undertaking which the Legislature declared years ago would be conducive to the advantage of the country, and we can not now consistently declare that to be bad, which we then declared to be good. It was well to consider economy, but economy did not consist in withholding our surplus-revenue from purposes which had been solemnly determined by the Legislature to be advantageous for the increase of commerce, and of the

resources of the country; which this canal would be by drawing the American trade from Lake Champlain into the Province. Objections were made, at the time, to the expense, to obviate which it was modified so that none should be incurred till after the Lachine canal was finished. That is now finished, and we are told that part of the money is not yet paid. He need not enquire the reasons why the Executive had not done its duty as to this canal—he could tell them—it was because an administration upon which such epithets had been bestowed as he would not now repeat, found it more convenient to spend £100,000 or £150,000—of the public money, in every other way than according to the wishes, or for the advantage, of the country. That is the reason why the late administration has violated this law, as it has several others. It has been asserted that the Lachine canal is ill constructed—suppose it to be so, that is no reason why it should not still be part of the chain of communication from Lake Erie. Even were all the money laid out on the Lachine canal considered as lost, that could be no reason for not constructing the Chambly canal, and constructing it on a better plan. He did not mean to deny that, whatever could make the Lachine canal a means of communication with the great lakes, and the vast interior of Upper Canada, ought to have the preference: but that was now in progress; and the opening of the Chambly canal would be another link to the chain, and tend to the advantage of the whole Province. He did not think it right to enter into any question as to the population of any particular portion of the country, or the number of canals or internal communications, and the money laid out on them, in particular localities, or whether the north side of the St. Lawrence was more favoured in that respect than the south side. We are not, as had yesterday been said, three distinct families, divided into three different districts—we are all one family—the districts are not one to the other, elder or younger brothers, neither step-sons, nor step-fathers, and we ought to expunge from our parliamentary language in that respect, such words, as the district of Montreal, the district of Quebec, the city of this, and the city of that. We had £100,000 in the public chest—it ought to be laid out for the good of the whole; which we shall be doing, if we cause this law, which appropriates part of it, to be executed—a law that is neither repealed, nor proposed to be repealed.

Mr. Viger thought that the expense of this proposed canal was not necessary. A large proportion of produce was stated, or supposed, to be derived from Lake Champlain: he had had occasion, to make enquiry and satisfy himself in this particular—it was very unimportant—it was trifling. Particularly now, at a time when the Government of the United States places every obstacle possible in the way of the importation of English goods into their territories. In the present state of our commercial relations with America, can we expect that the same quantity of produce, which it was anticipated five years ago would come to us by means

of the Chambly canal, would now come? A comparison had been made between the north and the south side of the St. Lawrence. In his opinion, the attention of Government had been wisely drawn to a point, which, both in a commercial and military point of view, was of the utmost importance. The deficiency and difficulty of communication had been severely felt during the last American war. The English Ministry had felt this, and wisely adopted those measures which would remedy that defect. These principles and measures were followed up by the distinguished military minister now at the head of the English Government—and no man could understand better than the Duke of Wellington what the grand interests of the nation demanded in that respect—when these were complete, there would be an uninterrupted line of communication from the furthest extremity of Lake Superior, and the whole line of the Ottawa with its lakes and rivers, to the ocean. Now all this, though on the north side of the St. Lawrence, was not more for the advantage of that north side, or of Montreal, than for the advantage of the rest of the Province, of Quebec, of all the British possessions in America, and in fact of the whole empire. It has been stated that we have £100,000 in the chest—yet he doubted whether we had enough for our necessary expenditure. The Lachine canal had cost £105,000—and when it was recollected that the line of the Chambly canal was double that length, it was not improbable it would cost £200,000. It is said the act only authorizes £20,000 to be laid out, but when you begin you must go on—and the expenses in completing it may be double, treble, or even five times that amount. There was, however, another consideration. As time proceeded, new views and new inventions and discoveries arose, which superceded the old. If the communication with Lake Champlain was so desirable, another better and less expensive mode offered itself than by a canal. He alluded to a rail-road. Canals had had their day, and it was now universally acknowledged, both in Europe and the United States that rail-roads were preferable to canals. The celebrated canal of the Duke of Bridgewater in England was now superseded by a rail-road—a rail-road would be full as useful and less expensive than a canal in this case.

Mr. Stuart said, it was always his political creed, that we ought to pay implicit respect to the laws.—Here was a law that had been passed by the three branches of the Legislature, and which ought to be executed. This was a general principle there was no controverting. A law that ordains a canal to be made, declares, that it is a useful and proper expenditure of money. Much had been said about the cost of the Lachine canal; but when money was granted for that purpose, it was expressly understood, that money should also be granted for the Chambly canal. It was on that principle and pledge that the Lachine canal was voted. Had we now a right to go back;—even if no law existed, we

could not, in honour, go back—but the law existed and must be executed. It would be a great dereliction of our public duty, if we did not do that which we were bound by every principle to do. The God of Nature had made the channel of the Richelieu—it was an outlet of the waters of Lake Champlain—and nature pointed it out as a channel of communication which ought to be made useful. He had long ago learnt the lesson of obeying the law—he was not a slave to any government, nor to a majority of that House—but he was a slave to the law; a law regularly passed, is a supreme authority to which even a majority must bow. Where does the hon. member for Huntingdon find that we shall vote away £200,000, by desiring the execution of this law? Here is no more than £50,000 in the Act. The Legislature said £50,000 was enough—and I am bound to believe them. The question is not what money is in the public chest—for the law says that the money shall be taken from the first unappropriated money—and as long as there is £50,000 in the public chest, that money is not ours—it does not belong to us to dispose of—for it is already appropriated. He really had not heard any sufficient reason why the law should not be put in force. No motion or resolution of this House could affect the law, and to attempt it would be flying in the face of the whole Legislature, themselves, the Legislative Council, and the Royal assent.

Mr. Neilson was not convinced by any thing the hon. member had said, and should now move that it be referred to a Committee to enquire into the reasons why the acts of the Chambly canal had not been executed. It was useless and irrelevant to talk of respect for the laws,—we all respected them—but experience had proved that all laws were not salutary. We had been deceived in passing the Lachine Acts—at first only £40,000 was said to be wanted—and the expense has exceeded £100,000—if we don't take care we shall be deceived again, and it behoves us to do what we can to avoid being deceived.—He should add to his motion, one for the appointment of Commissioners to enquire as to the best means of improving the navigation of the Richelieu.

Mr. Vallieres, said that after the Legislature had determined upon all the matters that were now again brought forward,—after they had maturely examined them—to want to enquire afresh into them was futile and indecent. The law expressly says that after the Lachine canal shall have been completed—this shall be made.—Eighteen months or more have elapsed and nothing has been done. Nothing could deprive the law of its virtue and effect, but a repeal—no special Committee can prevent the execution of any law; and it was only in a general Committee that a repeal could be argued. The hon. member for Kent, had become a convert to a new system—Canals, it seems, were gone out of fashion—and the immense undertakings in that way in the United States—the

whole of their expense, and the trade carried on by them—were to be classed with things gone by—Rail-roads were to be put in their place—a comet had appeared in the horizon to bewilder and frighten all who were once advocates for canals—we had to go back 4,000 years, and revert to wheels—one of the earliest inventions of mankind—amongst the ancients some put their trust upon chariots and upon horses, but the hon. member put his trust upon railway waggons—now the chariots and horses of Egypt had perished in the Red Sea, but, had there been a good snug canal there, that catastrophe might not have taken place. The American tariff-law has been alluded to, and it has been concluded that in consequence of that, all trade between the countries would cease. He viewed it in a different light—that measure would cause an underhand trade to be carried on, by which many of the markets in the United States, would seek to supply themselves with English goods from Canada, which would reap all the advantages of such a trade, while the Americans would be smarting under the effects of their tariff. Returns must come in the produce of the States, and the Chambly canal would flourish. Montreal would not suffer by it,—the facility of the navigation from Sorel upwards would give that city a share. The completion of this communication was not less important now than it was five years ago. It was needless to enquire as to what would be the probable expense of the canal —that had been decided five years ago, and, if any thing, it must be less now than then, as the price of all timber had materially fallen since —but even if the expense surpassed by some thousands the £50,000 appropriated, what did that signify? There was much chicane on the arguments used. If hon. members want the law repealed—let them say so, and go about it in the right way.

Mr. Viger, said that the learned gentlemen who were opposed to his views of the subject, were found, instead of arguments, to have recourse in inapplicable metaphors—to laws being straws—and railroads comets—to chariots and horses—to Pharaoh and the Red Sea.—According to them it is a crime to touch a law, and if experience has taught that railways are preferable to canals, we must still stick to canals, because they were voted when the advantages of railroads were not properly known. He could, if he had thought right, have entered into a detail, which would have shewn how much they were better. As to the American tariff he was misrepresented when it was said he looked on it as excluding all trade with them. He said that it would tend to diminish the commercial intercourse, not to destroy it. If commercial relations and commercial views had changed, ought we not to change with them, and accommodate ourselves to existing circumstances, instead of those which prevailed twelve years ago?

Mr. Lee observed that nature had formed the communication between lake Champlain and the St. Lawrence—why not improve it whether by

railways or canals? but the last was ordained by law, and ought to be put in practice. Railways might be better in some cases than in others, and we should take advantage of improvement; it was better to Macadamise the streets than to be sticking in mud-pools. We can not, however go against an enacted law.

Mr. NEILSON still contended the law was wrong, for £50,000, would not be enough—it could not be done, he would say for £100,000—after five years have elapsed it was our duty to ascertain whether circumstances had not changed. As to the American regulations and tariff—he paid no regard to them; laws passed in contradiction to natural wants, the nature of things, and the feelings and wants of mankind, could not stand; they must fall sooner or later. Nevertheless his object was to look again before we leapt. The Lachine Canal, had cost £100,000, has not answered, and has not £3000 income.

Mr. NEILSON's motion for a Special Committee was negatived by a majority of 24 to 11.

The motion for an address to H. E. to carry into effect the act for making the Chambly canal, was carried by the same majority; and to carry into effect the act of the appointment of Commissioners to improve the navigation of the Richelieu, unanimously.

The bill from the Council relative to roads, &c. in the townships was passed, with an amendment, and ordered back.

The resolutions for the erection of a new gaol at Montreal, (*vide acte*) were agreed to by the House, viz:—

The 1st and 3d resolutions without division;—the 2d by a majority of 20 to 3;—and the 4th and 5th, by a majority of 23 to 3.

Mr. QUESNEL then brought in a bill for providing for the erection of the said gaol, on which the House divided, and it was received by a majority of 22 to 5.

The House in Committee on roads and internal communication.—Mr. St. OURS in the chair.

Mr. BORGIA having spoken in favour of the aids prayed for from the county of Cornwallis, reports from the Special Committee for which, he presented, Mr. Speaker PAPINEAU said, that as we had but limited means to apply to such purposes, it was but just that we should give the preference to the most necessary. Local applications of the funds we had at our disposal for such objects, should be made with caution, and he thought none should be granted until we had taken a view of the whole.

It was only when we knew how much we had to lay out, that we could say, give £1,000 for this, and £10,000 for that.

Dr. BLANCHET observed that all the Special Committee had to do was to report—they were commanded to do so by the House. This they had done, and the House were to take ulterior measures. He for one should not object that the determination of these objects should be deferred to a later period, when it might be better seen how much we could afford to expend. Let this, and similar matters be put off—he concurred in wishing that a period should be fixed for them to be taken into consideration, after we knew what our ways and means were.

Mr. CUVILLIER declared we could not afford to expend a single shilling more of the public money. We had yesterday and to-day, voted large sums for particular purposes, which indirectly, and in their consequences, would amonnt not to £100,000—but probably to upwards of £200,000. Local interests, and private individuals must wait—we can not now afford to give them aid.

Mr. L. LAGUEUX observed that the hon. member for Huntingdon seemed inclined to frighten the House. He appeared in great alarm—the unfortunate vote for the Chambly canal, had thoroughly frightened him—and made him see things in so bad a light, that he supposed he would propose regulations for snuffing the candles of the House economically. But £26,666 was the whole amount that had been voted last night and to day, that was to be taken out of the current revenue for the year—£6,666 for the Montreal gaol, and £20,000 for the Chambly canal. The hon. gentleman multiplied this by his fears into £200,000—but perhaps of the £20,000—voted for the canal, no more than £5,000 might be called for in the year—but certainly it could not, nor would not exceed the £20,000 specified in the act. It might be right to defer these matters—but we must not let it be understood that we had done—had gone as far as we could, and should have nothing more to give.

Mr. Speaker PAPINEAU suggested that as the accounts of the year would not be made up till 31st December, it would only be in January that any thing effectual could be done in this respect.

LEGISLATIVE COUNCIL.

The Hon. Mr. CUTHBERT brought in a bill to continue for a limited time, two acts relating to the trial of small causes.

The Hon. Mr. DEBARTSCH having presented the petition from Three Rivers complaining of grievances, it was moved that the same be rejected, and after a debate thereon, the consideration was postponed.

HOUSE OF ASSEMBLY.

MONDAY, Dec. 22.

The following petitions were presented:—

By Mr. CLOUET. From the Hon. John Hale, praying to be reimbursed for expenses in building a vault for the safe custody of the public monies.

By Mr. LESLIE. From certain inhabitants of Montreal, praying an amendment in the act establishing a new market-place, and for authority to raise a loan not exceeding £12,500. From the Fire Clubs of Montreal praying for incorporation, and exemption from certain duties.

By Mr. BOURDAGES. From certain inhabitants of Mascouche and Lachesnaie, against the Longuepointe-turnpike. From certain inhabitants of Bedford, praying for a continuance of the acts relating to the trial of small causes and agricultural improvements. From certain inhabitants of Buckingham and Dorchester, praying for a bridge over the Chaudiere. From certain inhabitants of Surrey and Kent, praying for a road from the Richelieu to Varennes.

By Mr. NEILSON. From Augustin Wolfe, of Berthier, a retired schoolmaster, praying for a continuation of his salary. From divers merchants of Quebec, against the bill for the abolishment of imprisonment for debt in certain cases. From the Hon. Pierre Bedard, Provincial Judge of Three Rivers, praying for certain changes in his situation, and a retirement in case of being prevented by ill health from performing his duties.

By Mr. STUART. From the congregation of St. John's Chapel, Quebec, praying the privilege of registering, &c. From certain individuals praying an extension of the Order in Council, limiting the time for paying the location-fees of grants of land to the 1st January last, on account of the incapacity of many poor settlers and militia-men to do so.

By Mr. VALLIERES. From certain inhabitants of Quebec, praying for a House of Correction and a House of Industry.

Which petitions were severally referred to various Committees.

Mr. NEILSON on presenting the petition signed by about 100 of the principal merchants of Quebec, against the alterations proposed in the laws respecting imprisonment for debt, remarked particularly as to the want of security, experienced by creditors, in consequence of there being no registry-act, and that credit being given on the faith of the ostensible property in possession of debtors, creditors were liable to the greatest deceptions.

Mr. VIGER could not be silent, when any thing was brought forward which related to that barbarous practice—a practice that lacerates every principle of humanity—It could not be too strongly reprobated, and ought to be put down; or at least placed on such a footing as would more reconcile it to reason and policy, than it was now. He saw nothing in the petition, but what had been said over and over again before, and over and over again refuted.

Mr. VALLIERES looked upon the petitioners, as men who neither understood their own interest, nor that of their country. They were fools enough to suppose that imprisonment added to their security—with the cupidity natural to trade, a man gives credit to another, without sufficient grounds of enquiry, trusting to the quicksands of imprisonment, which often swallowed up the pursuer as well as the pursued. After having made advances, or given credit, most foolishly and imprudently, they were afraid to look at the consequences of their folly, and blindly resorted to taking a man's body, as the means of getting at his pocket, which was all the time more tightly closed.

Mr. NEILSON, in reply said, that cases of imprisonment for debt, for any long period, were not, he believed, so frequent as had been represented. Nevertheless, they were salutary as examples. Executions in criminal cases, were also rare; but both made salutary impressions. A man, seeing how others fare, will be apt to consider a little before he runs himself into debt beyond his ability to pay. Poverty is no vice, but it often leads to many dishonest acts; and distress would often convert an honest man into a fraudulent one. In all countries and in all times, laws have been made to protect creditors, not so much against the consequences of their own folly and imprudence, as against the folly, imprudence, and dishonesty of their debtors. These laws were the basis of commercial confidence between sellers and buyers, which ought not to be shaken. It would not be denied that commercial affairs, in this country, were in a bad state, and any thing that destroyed that confidence, would make them worse. At all events, it would be very unjust that those persons who had trusted others on the faith of the present existing laws, should be deprived of the advantage, whether real or ideal, which they had promised themselves from them.

Mr. VALLIERES, on the petition respecting located lands, moved that it should be an instruction to the Committee "to enquire and report whether it would not be just and reasonable that the time allowed by their location tickets to the officers and men to whom lands have been granted in consideration of their services in the military of this Province, should be enlarged in those cases, in which the accomplishment of the conditions of such location, within the time allowed, has been prevented by the want of roads by which the said lands could be got at. And whether it would

not be advisable, that patents should be granted for such lots, as well as to those officers and men who served in the militia during the last war, and have not demanded the grant of land to which they were entitled within the time fixed, by the government for that purpose."

Mr. NEILSON said, the fees demanded often rendered it impossible to make the application.

Mr. VALLIERES thought, in such cases, the Province should bear the expense.

Dr. BLANCHET observed, that to grant lands, upon the payment of fees which exceeded the means of the parties, or in places to which there lay no access on account of the want of roads, was the same as granting no remuneration at all. It would be better in such cases to grant a sum of money.

Mr. VIGER recommended an enquiry to be made, whether the persons who received these fees were not already sufficiently remunerated by their salaries. He thought the Surveyor General and Attorney General were well paid, and ought not to burden the public with additional fees for doing their duty.

Mr. STUART said, with regard to fees, there might exist indeed a great deal of high romantic feeling, and generosity, an exalted emulation who should devote most of their time, their vigils, and their continued exertions to the public advantage, and of these there were ample proofs in the conduct of the hon. member who had last spoken on the subject. But this was not the common rule. The bulk of mankind followed the rule of *meum* and *tuum*. Public functionaries could not be expected to give their time for nothing; nor could the public expect it of them. Reason and common sense concur in establishing the maxim that the labourer is worthy of his hire. If patents for these lands were gratuitously made out, those who perform this duty for nothing, might be expected to do it imperfectly. The effect would be numberless disputes, and endless, interminable, doubts as to limits and boundaries. The duties of Surveyor General and Attorney General, whose fees had been mentioned, were laborious, tedious and painful, and would be augmented by the motion before us, by others to be done for nothing. When the hon. gentlemen makes these observations, he is influenced by his own generous and liberal intentions; he feels that, in his mind, the public good outweighs all private considerations. Thus, led away by his own generous feelings, he expects, even in this selfish age, to realize the Utopia of Sir Thomas More, or the visionary propositions of the Mentor of Telemachus. But in fact such a scheme was never practical, never more than theoretical. No one would labour for nothing, no one ought to do it,

He had no disposition to ask for immoderate rewards for performing public duties; but they must be performed, and, in the state of society now existing, they must be paid for too. Notwithstanding his experience, and the experience of us all, that nothing could be done for nothing, he was ready to give the hon. gentleman all credit for his generous feeling, for his broaching the pleasing idea that we ought to do all for the public good; he felt the more inclined to do so, when he recollected the serious exertions, the sleepless nights and the numberless anxieties which the hon. gentleman had undergone, and not unfrequently mentioned in this House. He knew the generous sentiments of that hon. member, he knew that in this instance he was an exception to the usual bias of human nature. But it was not the less true that human nature had that bias. The Attorney General and Surveyor General had arduous duties to perform, they had a fair remuneration for these, and when the duties connected with the granting of land patents, came to be added to their other engagements, it was demanded that all this should be performed without any additional remuneration. If the hon. gentleman would only try to perform all this laborious and additional duty but for one year, with all his generosity of soul, with all his romantic elevation of mind, he would be compelled to awake to the reality of things and wish the land patents at the devil. But this was not the question; the enquiry was whether we ought to refer to a Committee the consideration of assigning to militia-men a longer period for the performance of the settlement duties. When the Committee had considered this, and made its report, then it would be time for the hon. gentleman to enlighten them, then was the time to raise his torch and to light the wandering travellers, to bring them back to the path which they had lost, and were seeking their way amidst tempests, darkness, and rain; amidst the deserts, swamps, and marshes of those lands which had been assigned them. He was happy to see, even in these degenerate times, still one instance of a mind retaining all the generosity of youthful years, and all the sanguine expectations that usually distinguished early life.—He was happy to meet with one who had reached his tenth lustre still retaining the ardent spirit which was commonly abandoned in the advance of life. But he was mortified on recollecting that to expect other such instances, would be mere illusion. We must return to realities, to things as they were, to the sordid, base, world in which we live, in which nothing can be done for nothing, and in which to look for any thing else was futile. We must return to the scripture maxim, that the labourer is worthy of his hire.

Mr. Vallieres observed, that the House were in the daily habit of considering the fees given to bailiffs and other minor officers, connected with the various bills before us; it was strange that we should haggle about fees that had been long established, and laboriously earned. And if this labour were performed gratis, who was to pay for the expenses of paper, parchment, &c.;—neither could be furnished gratuitously. If the Attorney

General, by his salary of £300, and his professional emoluments, receives more than a fair compensation for the duties performed, the error was in giving him so much at first; but if we impose upon him new duties not originally contemplated, they must be paid for in addition.

Mr. VIGER complained of personalities being ascribed to him which he never intended. He had not in view the fees of the Attorney General or any other officer. Their labours must be rewarded. But the object he had in view was the situation of parties contemplated in this motion. They had been aggrieved in various ways, and ought to be relieved. They ought to have justice done them without expense, or at the expense of the public. The motion was adopted, without a division.

Mr. VALLIERES, from the Committee to which was referred the petition of B. A. C. Gugy, Esqr., moved an address to His Excellency for certain records of the Court of Vice-Admiralty. After a short debate, the motion was withdrawn, it being understood that the House possessed the right of calling for such documents from that Court.

Dr. BLANCHET, moved that 300 copies of the first report of the Committee on the qualifications of Justices of the Peace be printed for the use of the House ;—granted.

LEGISLATIVE COUNCIL.

The motion for rejecting the petition of grievances from Three Rivers was negatived.

On the bill for granting the benefit of Counsel to prisoners on trial for felony, it was moved, and agreed to, that the said bill be read a second time on the 1st of August. (*)

Fifty copies of the report of the Special Committee upon the report of the Canada Committee, as far as relates to the Legislative Council, were ordered to be printed, for the use of the members of the Council only.

HOUSE OF ASSEMBLY.

TUESDAY, 23d Dec.

Petitions were presented, and separately referred to special Committees, viz :—by Mr. Leslie, from divers landholders and others in the District of Montreal, praying that Sheriff's advertisements, and legal notices respecting lands in that district, be inserted in the Montreal Gazette, published by authority :—from divers inhabitants of St. Anne's

* This bill being thus lost, the particulars of it will be found among the abstracts of those in the same predicament.

suburbs in Montreal, representing the bad state of the roads therein :—by Mr. Lee, from divers inhabitants in Quebec, recommending the construction of a wharf or pier from the Lower Town to Beauport shore, for the purpose of making a tide-dock in the river St. Charles, and praying for the incorporation of a company to effect the same :—by Mr. Stuart, from the Township of Caxton, praying aid to open a road to the Township in the rear of Fief Gatineau :—by Mr. Vallieres from Printers and Editors of Quebec praying that newspapers may be allowed to go through the post-office in Canada free of postage, as in Great Britain.

Mr. VALLIERES in presenting this petition said he believed that the post-office made certain charges for newspapers sent by post, without authority. The post-office rendered no account to Government of the money paid on this account. Yet it was public money, and the people of Canada ought to have the same privilege as the people of England.

Mr. NEILSON brought in a bill for the relief of certain religious denominations, and for extending to them and others the privileges of registry, &c.

Mr. VIGER wished a clause had been introduced for the extra parochial missions of the Roman Catholic persuasion, which were liable to the same difficulty.

Mr. NEILSON said these had not been introduced, because they were supposed to enjoy those rights by their Ecclesiastical Constitution. But he could have no objection to any clause being introduced to extend to, or include, all Christian Communities.

The bill for establishing a turnpike from Montreal to Lachine was passed and ordered to the Council.

LEGISLATIVE COUNCIL.

The bill for continuing the acts relating to the summary trial of certain small causes, was passed, and ordered to the Assembly.

The Resolutions of the Assembly for the appointment of Commissioners on the part of Upper Canada, were concurred in.

The hon. Mr. Justice Bowen, from the committee to whom was referred the act to render Voluntary Sheriff's Sales, *(Décrets Volontaires,)* more easy and less expensive, reported that it was not advisable to revive the same, but instead thereof, brought in a bill "for the more effectual extension of secret charges and encumbrances on lands."

The hon. Mr. Stewart brought in a bill for the more effectual execution of the duties of the Naval Officer, and the better collection of certain dues and duties.

HOUSE OF ASSEMBLY.

WEDNESDAY, 24th Dec.

Petitions were presented, viz :—by Mr. Stuart, from the National School of Quebec, praying for aid :—by Mr. QUESNEL, from Chambly, for the erection of a bridge, over the river Montreal ;—by Mr. PERRAULT, from divers inhabitants of Montreal, for leave to make a turnpike-road, on the system of McAdam, from Montreal to Longue Pointe ;—by Mr. NEILSON, from divers merchants of Quebec, praying for a grant to defray the expenses of a commercial agent in England ;—and from the Quebec Library for an aid ;—by Mr. LESLIE, from St. Lawrence suburbs in Montreal, praying for a market in the main street thereof ;—by Mr. LEE, from magistrates and others of Quebec, for a new market, on the north side of St. Paul street ;—by Mr. DUMOULIN, from Three Rivers, for a bridge over the St. Maurice ;—which were severally referred to Special Committees ; and one by Mr. BOURDAGES, from Three Rivers, complaining of certain parts of the conduct of the administration of Dalhousie, which was referred to the Committee of grievances.

A message was received from H. E. the Administrator, communicating the Attorney General's report of the proceedings against John Caldwell, Esquire, late Receiver General, since January, 1827. It also stated that Mr. Caldwell had proposed to give up the whole of his property to indemnify the public, on condition of being allowed to remain possessed of the seigniory of Lauzon, upon payment of £2000 a year ; that this arrangement had been admitted by the Lords of the Treasury, in their letter of March 21, 1826 ; that in the mean time Mr. Caldwell had paid over £4000 to the present Receiver General ; that the validity of the entail of the said seigniory had not been admitted either by the Court of King's Bench, or the Court of Appeals ; that the said John Caldwell had, in consequence, now proposed to continue as lessee of the Crown for the seigniory, on condition of paying the same sum of £2000 a year ; but that he prayed to continue as such lessee for a term of 5 or 7 years instead of holding it annually ; and that His Excellency, before transmitting this proposal to the Lords of the Treasury, would be glad to receive any suggestion that might present itself to the House on the subject ; which message and accompanying documents were referred to the Committee of Public Accounts.

Mr. LATERRIERE, presented the report of the Committee on the navigation of the St. Lawrence. The Committee came to the following opinions ;—that it is absolutely necessary that the pilots should know every channel and pass of the river ; that a knowledge of the North channel and several other passes, having never been required of the pilots, it is necessary the Trinity-house should license such persons as are acquainted with

them as pilots, and to induce the pilots already licensed to become acquainted therewith, to grant an additional pilotage of 5s: per foot, for conducting vessels through the North channel, for five years, to be paid by the Province: that no new pilots be licensed who are not able to conduct vessels in all the different channels; that when Captain Bayfield's chart is published by the Admiralty, 100 copies should be ordered out, to be distributed among the pilots; and that a depot of provisions for the relief of ship-wrecked persons, is necessary, at the river Ste. Anne below Cape Chat. One hundred copies of this interesting report were ordered to be printed.

Mr. L. LAGUEUX, from the Committee on the Quebec Education Society, reported favourably as to an aid to the same.

Mr. NEILSON brougat in a bill for appropriating a sum of money for the encouragement of Mr. Chasseur's Museum.

Mr. L. LAGUEUX, brought in a bill to authorise Juste Cayouette to build a toll-bridge over the river Etchemin.

The bills relating to the Gaspé fisheries, and to extend certain privileges to the Wesleyan Methodists, were passed and ordered to the Council: also the bill from the Legislative Council to repeal and amend part of an act for the safe custody and registry of letters patent of waste lands of the Crown, with several amendments.

The Committees upon the petitions for claims of money by Benjamin Ecuyer, and Alexander Wood, reported favourably thereon; and a bill was brought in by Mr. LESLIE, authorising the payment of £50 3s. 5d. to Alexander Wood.

On the order of the day for considering the expediency of establishing court-houses and gaols, in distant and populous parts of the Province, Mr. VIGER said, that carrying courts of justice all over the Province was the best method of securing the due administration to the people—yet, at first, these ought not to be burthened with too great an expenditure. There was no necessity for court-houses to be built in the country-places—convenient buildings for that purpose could be hired, and he was sure, the very best house in the country might be had for £500 a year. But if thought necessary to build, we were not going to erect palaces, *(palais de justice)*—homely buildings, provided they were adapted for the purpose, would suffice—it was an advantage, too, that the farther you went into the country the cheaper and more accessible the materials. Timber was to be found every were, and stone and lime almost every where, without the expense of transport. We had voted £6666 per annum for a Montreal gaol—he thought £500 per annum, for each of the subdivisions might be voted for these purposes, until they were successively accomplished. It

certainly would not be becoming in the house to be too limited and narrow in these cases, but we should go on gradually, when expenditure was considered.

Upon motion of Mr. VIGER it was ordered ; that it be an instruction to the Committee to enquire whether it would not be advisable that buildings should be erected in the subdivisions of the districts, to serve as court-houses and prisons, and also as places for holding circuit-courts of criminal as well as civil jurisdiction.

The House in a Committee thereon, Mr. PROULX in the Chair.

Mr. BOURDAGES stated that the principal object he had in view was the establishing of court-houses and gaols in the distant parts of the Province, from the want of which numerous minor offences went entirely unpunished—petty thefts of provisions, produce, poultry, and wood, which though perhaps supposed by many to be of little consequence, were not only of importance in country places where all had to depend on their own industry for the subsistence of themselves and families; but were also the fruitful source of multiplying crimes, and increasing them to those of a higher pitch. But these went unpunished, because, to prosecute the offenders in Montreal, Quebec, or Three Rivers, was utterly impossible for the injured parties. A court of quarter-sessions ought to be established for each county at least—but in the situation in which the country was at present, he would admit it might not be practicable to point out the properest seats of such courts at first—but even if inconvenient or improper ones were selected, they might be changed. He wished, however, in the first place, to call the attention of the Committee to the most distant parts of the district of Montreal; both the southern and the northern parts require attention—but he did not hesitate to say the southern division suffered the most. He was sorry the hon. member opposite, (Mr. VIGER,) seemed to think he was interfering with his plans for reforming the administration of justice altogether. He could not but render justice in every instance to his good intentions; yet his plan did not exactly coincide with the ideas he entertained. His subdivision of circles he was not prepared entirely to approve ; and he considered that confining the causes to be determined by his circuit-courts to the value of £10, was but a petty and partial remedy for the evils sought to be redressed. If a man had only a claim of £15, he must go to Montreal or Quebec. He mentioned this, however, only *en passant*. It was absolutely necessary that courts of quarter-sessions should be established, and of course prisons—but it would be right to consider what parishes are parts of seigniories, and what are not included in them, to avoid the necessity of making changes. His first resolution would be, "that it is the opinion of the Committee, that it is expedient to establish court-houses and prisons in the remote and populous parts of the Province, in order that quarters-sessions of the peace may be held there for the due administration both of civil and criminal justice."

Mr. VIGER said, the wholesome and due administration of justice was the safe-guard upon which the lives, the property, the liberty, the interest, and the morals of the people depended. Whatever tended to promote that object was highly laudable, and conferred benefit on the country. His only objection to the proposal of the honourable gentleman was, that it did not extend far enough. There were other parts of the Province which suffered as much as those within the immediate view of the hon. gentleman—and the iniquity of iniquities which they suffered was, that they were compelled to go a great distance, and submit their causes to the decision of city-jurors, men unfit, and unacquainted with their customs, concerns, and even with their language. This glaring defect had not even escaped the attention of the crown-officers—and in the early part of the administration of justice here, they themselves felt the great inconvenience of their own ignorance in those respects. The iniquitous system, which had been established by a law, now sought to be abrogated, was a scourge to all parts of the Province; and had, in numerous cases been availed of, for the purpose of oppression, by an administration, of which all must speak in words of detestation—an administration whose sole view was the enslaving of the country. The destruction of this system was the fervent desire, the wish, and the expectation, of the people—and the hon. gentleman was too sincere a friend to his country not to feel that every step we take in that career should be stamped with the impression of the grandeur of the object we had in view. To isolate, therefore, as his proposal would do, one part of the people from another, would be to paralyse the efforts of the Assembly, which should be directed towards the whole. The public would say—here is a House of Assembly, composed of Canadians from all parts of the province, who only occupy themselves with a small corner. This would be an ill founded conclusion, he would admit; but it would afford a pretext for cavillers to suspect the general principles of the Assembly. These we must sacredly maintain, and we ought to take every opportunity of putting on our Journals, if only by resolutions, our determination to be the guardians of the rights and liberties of the whole; to evince our desire of having those English institutions which are consonant to our situation, brought in in their purity. Should it unhappily be that the other branches of the Legislature do not join us in these sentiments, yet, the expression of our sentiments goes forth to the people—to a people who have learnt to understand the laws by which they ought to be governed—a people that have now been occupied for many years in discussing great political questions—a people who have been calumniated and reviled, jeered at, and nicknamed. He did not pretend to know much of the inhabitants of all parts of the Province, but in the part where he resided and had his connections, those *honnêtes habitans*, who were derided and buffeted, who had not been treated as citizens and fellow-subjects, but as an abject and servile race, he would bear witness, that they now at least know their rights, their

privileges, and begin to feel, as they ought to do, their importance, as being the sinews of the country—the events of the last two years have formed them—have taught them political wisdom—which was political strength. To revert, however, to the hon. gentleman's observations. He had attacked the bill for the better administration of justice, in a point, where, perhaps, it was vulnerable—he had called it petty and partial, because it went no farther than the customary jurisdiction in civil matters of the inferior courts. He acknowledged he might have gone farther; but he was deterred by considering that a circuit-judge often decides in haste; and until the system was fully organised and experience was gained, it would be dangerous to [illegible] sums be dependent upon the decisions of these courts. Moreo[illegible] greater part of the causes which occurred in the country, were rural [illegible]es, relating to wages, to work, to agriculture, to boundaries of land, and seldom could amount to heavy sums. He should not, however, object to £15 being put instead of £10—and let us at least have two or three years experience how the system will work before we extend it. As to the particular object at present before the Committee, he hoped it would be altered so as to meet more general views; and, at all events, so as that, though we may not now be in a situation to do all we want, yet, that we may declare it to be our intentions to do so, and to provide either by building, purchase, or hiring, the accommodations necessary for every part of the country.

Mr. Bourdages had no objection to any addition or improvement upon his plan; and felt equally that the districts of Quebec and Three Rivers should be taken into consideration, as well as that of Montreal, though he thought the most pressing necessity existed in the last.

Mr. Vallieres asked whether there was an idea of abandoning the plan of instituting quarter-sessions of justices of the peace in the country, or to persevere in it?—these had their advantages and their defects.—In England itself they were not devoid of inconveniences—and justices of the peace were not always immaculate.—Here we knew they were often the reverse. The best institutions and the best men, when corrupted, became the worst, *corruptio optimi pessima*,—what was there, for instance more precious, more entitled amongst juridical institutions, to be called the best, than that of juries—yet if not duly regulated—if not narrowly and jealously watched, what abuses might not flow from them? English history points out many—and our own experience here shews the same. Suppose there was no restriction, and that the friends, the relations, the dependants, of either party might be called on, by a partial or corrupt Sheriff—suppose men accused by government, instances of which we have seen, oppressed by all the power, the influence, the wide stretched arm, of the executive, were compelled to abide the decision of chosen, packed and special juries—how could such juries do their duty? He strongly advocated the system that country-juries should be appointed

apart from those of cities—they could understand and know, the claims and circumstances of their country neighbours; which merchants, traders, and citizens could not.—The administration of every part of justice ought to be carried to every door in the country. But he must observe, with respect to sessions of the peace, they could not be safely entrusted to our present magistracy. When the magistracy was sifted, purified, and put upon that proper and respectable footing which it ought to be, and from which the late administration had prostrated it, then courts of quarter sessions might be useful, and not till then.

Dr. BLANCHET trusted that the court-houses and prisons talked of were intended to serve the purposes both of civil and of criminal judicature; it would never do to have them only as appendices to courts of quarter sessions. The hon. member for the Upper Town had, in an eloquent manner, described the evils that arose from the corruption of the course of justice, from juries being packed or partial, and from an ill-chosen and subservient magistracy. The main reason which existed for the incorporation of the cities of Montreal and Quebec, was on account of the presidents of their quarter sessions—but despotism had had its triumph—have we not even known, in the county of Gaspé, a president of the quarter sessions appointed, against the express vote of the House? There is now a petition before the House from a populous county, (Cornwallis) for the erection of a court-house and gaol, from which the extension of such to other parts would originate. That there was a great necessity for them in the remote parts of this district in particular, was evident. The evils of dragging petty delinquents up to Quebec were insufferable, and drew from the country parts larger sums than we were aware of. But now, as to ways and means for making these buildings—the hon. member proposed to build them, but did not say how they were to be paid for. If we had £100,000 at our disposal, then if we give £20,000 to one place, £20,000 to another, something for education, something for gaols, and something for canals; then if every parish, of which there are 184 or 190, received only £10, it was manifest that our ways and means would be exhausted. Ways and means, however, could still be found, by requiring every county to erect its own public buildings. He could not say that his plan was matured. There were about twenty-four counties. The whole would require re-organization. The magistracy must be thoroughly reformed. Powerful efforts would be required to retrieve that body from the degraded state into which they had fallen.

Mr. BOURDAGES said, the hon. member had come forward with an exaggerated and distorted statement of what had been granted, compared with our means—besides, he had concurred in the former resolution of the House, to inquire into the subject of the erection of court-houses and gaols, and he could not, consistently, withdraw.

Dr. BLANCHET certainly had voted for the resolution, but it was because he wanted the matter to be discussed, as now was the case; and by voting for enquiry, he did not pledge himself to acquiescence.

Mr. BOURDAGES said, be it so—yet, there was no occasion for making so great an outcry. Ways and means were not usually thought of till after the expediency or inexpediency of any measure had been determined on.

The resolution was then agreed to and the further discussion of the subject deferred.

HOUSE OF ASSEMBLY.

FRIDAY, Dec. 26.

Petitions were presented:—by Mr. NEILSON, from merchants and others of Quebec, praying for a road from the Lower Town to Sillery-cove:—by Mr. LESLIE, from Edward Holland, gaoler of Montreal, praying for an increase of salary;—from inhabitants of Montreal, praying for an incorporation of that city;—by Mr. VIGER, from inhabitants of St. Charles, Richelieu, for aid to an elementary school they had established;—by Mr. BOURDAGES, from inhabitants of the townships of Grenville, Lochaber, Buckingham, Templeton, and Hull, and the seignory of La Petite Nation, complaining of the insufficiency of a road formerly planned, representing the necessity of having a grand voyer for that part of the country, and praying redress and aid;—by Mr. STUART, from merchants and others of Quebec, praying for legislative provision for the relief of shipwrecked mariners and others;—by Mr. L. LAGUEUX, from Jos. Tardif, keeper of the Court-House of Quebec, for an increase of salary; by Mr. NEILSON, from the Scotch Church at Quebec, praying for an aid to build a school-house;—by Mr. YOUNG, from inhabitants of the Lower Town, Quebec, praying relief to obviate several inconveniences complained of;—which petitions was referred to various existing and special Committees.

Mr. NEILSON brought in a bill to authorise the payment of a compensation to Benj. Ecuyer.

On the third reading of the bill for the erection of a new gaol at Montreal, Mr. CUVILLIER was against its passing in its present shape, as it made no provision for the impartiality of the Commissioners to be appointed for its execution—who, if landed proprietors there, might be influenced by views of personal interest in purchasing the ground on which it was to be built; as well as by the desire of obliging their friends.

Mr. VALLIERES, gave credit and weight to the observation of the hon. gentleman; but as the bill was in that state of forwardness and its neces-

sity was obvious, he rather wished that no impediments should now occur in passing it.—The House divided and the bill was passed by a majority of 16 to 7, and ordered to the Council.

The bill from the Council relative to damages on protested bills of exchange, was passed, with an amendment, and ordered back to the Council.

On the bill from the Conncil for "making mortgages special on all real property, which now are or hereafter may be holden in free and common soccage, and for the establishing offices for the enregistration of all deeds and mortgages relative to such property," being read a second time, Mr. VIGER moved that the consideration of it should be postponed. It was a bill which deserved the most mature consideration, as it affected the political rights of the Province, and in particular regarded the interests of the inhabitants of the townships to whom every justice ought to be done, consistent with law and propriety.

Mr. NEILSON thought that this was one of those bills, which, peculiarly affecting the townships, ought not to be passed, until they were represented in the House, and that they had authorised agents, which could not be till then, to make their wants and wishes known.

The motion of postponement was then carried.

The bill from the Council, for continuing the acts relative to the trial of small causes in Commissioners' Courts in the country, being read a second time, and proposed to be referred to a Committee of five; Mr. PROULX said there were many objections to be made to these Courts, and he would move an amendment that the bill should be read a third time on the last Monday in August next.

Mr. CUVILLIER spoke with *connoissance de cause* when he stated that whatever might be the case in the other counties—in that which he represented, the Courts for the trial of small causes had done much good.

Mr. VALLIERES said he had himself no particular objection to the principle of the bill—but he had heard great complaints as to the mode of appointing, and the persons of, the Commissioners. The hon. member for Huntingdon may have found much benefit arise in that county—he doubted it not—but it must have been by mere chance, by haphazard, by an exception to the general rule, that in that county proper Commissioners had been appointed by Government. Such appointments ought not to be made in the way they have been—they ought to be made more to depend on the opinions and feelings of the country. In the way they had been managed it might, and had sometimes happened that enlightened men were selected in some parts—but generally in others it had been other-

wise. In Buckinghamshire, for instance, and in the county of Quebec, the establishment of these Courts had given occasion to much complaint. In many instances, instead of alleviating the difficulties to which the obtainment of justice was subjected, they increased it, by occasioning appeals from their inferior to the several superior Courts. The act had done more harm than good, and ought not to be continued, unless completely changed in the practical part. We now know from experience what it is—and if the House thought it necessary that the little good that had resulted from it should be preserved, it would require much modification.

Mr. BOURDAGES, referring to some facts which were within in his own knowledge, wished the bill to be softened and modified so as to be more useful than it had hitherto been.

Mr. NEILSON would be ready to consent to such a law if it were the will of the majority. This bill, which had come to us from the Council, he did not see was of that objectionable nature that would induce him to defer it till August without further consideration.

Mr. FONTIN, who had seconded the motion for a Committee, said that in his county the act had generally been well administered, and gave satisfaction. He wished it might not be laid aside.

Mr. VIGER had opposed himself to this act, when it had been first proposed, but he had ceded to the wishes of the House in that instance. He was aware that the administration of justice was in so defective a state, that the Courts were virtually null for doing right to the people. Both the superior and inferior Courts were so much opposed to the interests of justice, that a partial redress seemed likely to ensue from the appointment of Commissioners for the trial of small causes. That was his only motive at the time, although he foresaw the evils that might arise from the measure. These evils had arisen, they had been felt, and felt very generally. If the House were convinced the act had done more harm than good, it ought not to be revived, unless fundamentally altered. Only look at the last nomination of Commissioners—in that it appeared to have been the study of the Executive to disgrace some of the best men in the country, and to set up in their stead men who were the mere tools of government. He confessed he should prefer a Special Committee, to giving the matter a go by; for he trusted there was sufficient energy in the House, when it came before them, to do their duty to the people in not allowing power again to be given to those who had sought to undermine all their rights. The opinion of the public on these subjects would sooner or later make itself heard, and it would soon be throughout acknowledged, that in no case in this Province, ought a small set to govern the majority, or a small number succeed in paralyzing the efforts which were making for the public good.

Mr. L. Laqueux said it was too true that it was only by chance that any proper persons had been appointed Commissioners. If we had not even had experience of six or seven years, the perusal of the bill alone will be convincive of its impropriety. If you take into view what qualifications ought to be required for the office of Commissioners, and looked at the nominations, we should see that the Executive, who had those nominations, did not in the least consider qualifications, but the political opinions of, and countries to which their favourites owed their birth. Instances could be adduced of parishes in which Commissioners were wanted, and who had named those they wished for, who, instead, had partizans of the late administration thrust upon them. A law more capable of making the administration of justice liable to be made a tool of injustice, could scarcely exist.

Mr. Speaker Papineau observed, that there was a petition before the House which prayed for the institution of small courts, in lieu of the inferior jurisdiction of St. Francis.

Mr. Vallieres was certainly inclined to give weight to the petitions from the townships, which prayed for a cheap and acceptable mode of administering civil justice.

Mr. Neilson begged to say, that it was but a small portion of the townships that had petitioned on that subject. There was more than one petition purporting to be from the townships before the House—and we must take care not to look upon any one petition from the townships as being the petition of the majority of their inhabitants.

Mr. Vallieres allowed that might be the case. With regard to the mode in which the act had been put in practice, it was for the interest of the country that we should, as soon as possible, disencumber ourselves of this wretched law. Commissioners were refused to be appointed in consequence of the votes they gave at elections, and those were preferred who had sacrificed their independence at the shrine of government influence.

The House divided on the amendment for putting it off till August, which was negatived by a majority of 13 to 11, and the motion for referring it to a Special Committee was carried.

Mr. Vallieres moved that it should be an instruction to the Special Committee to enquire into the manner in which the laws that relate to the trial of small causes in Commissioners' Courts have been executed—the abuses that have resulted, and the means to prevent the recurrence of such abuses.

LEGISLATIVE COUNCIL.

The House was principally occupied, in Committees, on the bills relative to Parochial subdivisions, to prevent fraudulent debtors from evading their creditors, and to facilitate proceedings against the estate and effects of debtors.

HOUSE OF ASSEMBLY.

SATURDAY, Dec. 27.

On the engrossed bill being read for regulating the office of Sheriff, Mr, BOURDAGES wished that a clause had been inserted to exclude Sheriffs from sitting in the Councils. Mr. VALLIERES said, there had been full time before, and if such a clause was necessary, why not bring it forward before? Mr. VIGER enquired, how it could be possible that an executive and subordinate officer of a court, as a Sheriff was, could be eligible as a member of council—it involved a contradiction—a judge could not be a judge in his own cause. A member of the Council had the privilege of not being proceeded against in cases in which a Sheriff must be liable.—A little further conversation took place, in which Mr. NEILSON joined—if the hon. member had wished this introduced, he ought to have done so before; the bill was good, and ought not to be impeded in its progress; it was for the remedy of abuses, and would have that effect.

The bill was passed and ordered to the Council, as was also the bill for compensating Mr. Alexr. Wood.

LEGISLATIVE COUNCIL.

The bill for the relief of the poor by the loan of seed-wheat, &c. was passed, with some amendments, and ordered back to the Assembly.

HOUSE OF ASSEMBLY.

MONDAY, Dec. 29.

Mr. LESLIE presented a petition from the Presbyterian American Society of Montreal, praying for the privilege of registering marriages, births, and deaths, holding property, and suing and being sued.—Referred

Mr. QUESNEL moved the appointment of a Committee to enquire into the present state of the administration of civil justice in the Superior Courts of King's Bench at Montreal; into the present number of undecided cases; the number of those which are inscribed as well in the *rôle de droits* as in the general and special *rôle d'enquête*; the number of days that were appointed in last October term, to take *Enquêtes* in the follow-

ing vacations; and the number of causes in which the *Enquête* was completed during those days; also to enquire whether any and what inconveniencies exist in the present system of taking *Enquêtes*, and if they exist, what are the best means of affording a prompt and efficient remedy.

Mr. QUESNEL stated that the Superior Court of King's Bench at Montreal was overladen with business, and *Enquêtes* were so numerous and necessary, that they could not be got through in the time appointed for them. The consequence was that the decisions were long delayed, and suitors were put back; obliged to return term after term, and vacation after vacation. He had not included the other districts in his motion, not being so well acquainted with the circumstances attending their superior terms.

Mr. VIGER said the delays in the Courts of Montreal were intolerable. Since he had been at Qnebec, he had received representations from there which shewed the absolute necessity of going on in the great work which he had at heart to see completed. To reform evils, it was necessary to give a picture of them, and when the abuses were exposed, constitutional principles, as well as general feelings, demanded their removal. But it seemed to him that the bill for the better administration of justice provided the remedies wanted.

Mr. L. LAGUEUX, considered that the district of Quebec, suffered the same inconveniences as that of Montreal; and needed the same remedy. The enquiry should extend to the other districts.

Mr. LEE wished to know something more as to the object of the motion, whether it was to be one in conformity to the bill for facilitating the administration of justice, by which Commissioners of *Enquête* would be appointed for the country, or to cause other Commissioners of *Enquête* to be appointed for the cities. The cities were not the sufferers in this respect compared to what the population of the country suffered—there the evil was felt, If the object was simply to relieve the Superior Courts of King's Bench in the cities, from a part of the burthen that lay upon them, he did not think it necessary. Relieving the country in general from the obstacles which had hitherto been placed in the way of the administration of justice was a more important object than alleviating the labour of the courts. If he understood it right, much of that labour would be relieved by the *Commissions d'Enquêtes* for the country, before proposed. It seemed to be supposed that proper persons could not be found in the country as Commissioners. This seemed strange. If any question came before the House for proposing Commissioners of *Enquête* in the cities, he should oppose it.

Dr. BLANCHET was against applying partial remedies—the more general the evil, the more general should be the remedy. The present adminis-

tration of justice can not remain—from one end of the Province to the other there was but one cry for its reformation. The insufficiency and absurdity of the present system was apparent, and partial remedies would not do.

Mr. QUESNEL, thought if the learned Doctor would revert to his professional practice, he would find that, in many cases, partial remedies might be applied, in order to prepare the patient for more complete attacks upon his disease. He coincided however perfectly with the proposition for extending the motion to the other districts.

Mr. BOURDAGES believed that as well in Quebec as elsewhere there were a vast number of suspended cases; and he hoped that, under the new reign of the law which was in progress, an efficacious remedy would be found for all those evils, which had been so sorely felt and exclaimed against. He voted for the motion because he wished to discourage every kind of delay, whether arising from an over accumulation of business in courts, from defects in the law and practice, or from supineness or neglect in those who administered it. He wished the hon. member for Kent had given us more extended Circuit-courts. Lawyers in the country were fully adequate to fill the office of Commissioners of *Enquête*. The whole field of law seemed now like a road full of *cahots*; these we had to remove—let it be done as much as possible at once.

Mr. VIGER wished to throw out a few more general observations on this subject.—It was the unfortunate country-people who suffered. These *Jours d'Enquête* in the cities, were one of the most burthensome grievances they experienced. A man who has a claim for £20 must attend, with all his witnesses, during the five or six days that are allowed for that purpose—but a cause comes on which absorbs perhaps three of those days,—little time therefore is left for the rest—many other causes are pending, 20, 30, 40 or more witnesses are in attendance on expenses—the time goes by, and they have all got to come back again at the next *Jours d'Enquête*. As has been before often said, these delays absolutely destroyed justice, for they frequently occasioned the abandonment in despair, of the most just suit. These were the manifest hardships endured by the country people—the inhabitants of the cities, though also partially suffering, were much better off. They were on the spot—they had their witnesses at hand—within reach and at no expense.—In matters of business, a clerk if not wanted one day, could attend the next, and still attend to his employer's affairs—and so on from day to day.—Thus merchants, possessed of wealth, paid nothing for getting justice, whilst the poor, miserable, oppressed peasantry, those who could least afford to spend either time or money, ineffectually, could not get it, even by paying for it;—they were not put on an equal footing in that respect, with citizens and traders. No more were they in jury-cases—jury-cases, which however

it were wished they could be throughout introduced, could not be so, as long as juries were formed on the system now practised. All the country people in the district of Montreal, within the bounds of his knowledge, feel the advantage of jurors in civil as well as criminal cases, but dare not wish to resort to them, as long as they may be compelled to submit their claims to juries—to city-juries—who knew nothing about them, or their affairs.

After a further short debate the motion was so worded as to include the Districts of Three Rivers and Quebec, and referred to a Committee.

An address was voted to H. E. for a list of Commissioners appointed for the trial of small causes shewing the dates of their appointments, and also a list of such of the Commissioners and Clerks, as may have been removed from office with the sanction of the Governor, shewing the dates of their removals.

LEGISLATIVE COUNCIL.

The bill for preventing fraudulent debtors from evading their creditors, was passed, with some amendments, and ordered to the Assembly; as was the bill for facilitating proceedings against the estate and effects of debtors.

The Speaker introduced the following bills;—viz: for repealing various statutes relative to the benefit of clergy, and to larceny and other offences;—for consolidating and amending the laws relative to larceny, and to other offences;—for improving the administration of criminal justice;—for further improving the administration of justice in criminal cases;—and for consolidating and amending the laws relative to malicious injuries to property.

HOUSE OF ASSEMBLY.

TUESDAY, Dec. 30.

The amendments made in the Legislative Council to the Bill for the relief of the poor in the loan of wheat, &c. were agreed to, and the bill, as amended, sent back.

The bill for compensating Benj. Ecuyer, and the administration of justice bill, were passed and ordered to the Council.

HOUSE OF ASSEMBLY.

WEDNESDAY, Dec. 31.

A petition from inhabitants of the parish of St. Ambroise, for an aid to Macadamize the road there, was presented, but withdrawn, on account of

a deficiency in form, the Administrator's previous sanction, customary as to all applications for pecuniary aid, not having been obtained.

The report of the Committee on the Gaspé petitions was delivered in by Mr. CHRISTIE. Detailing a mass of information respecting the county of Gaspé, the northern part of that of Cornwallis, the lakes Metis and Matapediack, and the communication between Lower Canada, and New Brunswick, it recommended the grant of £1150, for opening various roads.

HOUSE OF ASSEMBLY.

FRIDAY, Jan. 2, 1829.

Mr. BOURDAGES from the Committee on the petition for a bridge over the St. Maurice, reported, that, although the necessity and advantage of such a bridge was a matter of public notoriety, and required no additional information, they did not think it their duty to recommend it this year; but recommended a grant of £100, for a survey of the best spot where to erect such a bridge, and plans thereof.

Mr. LESLIE from the Committee on the petition from St. Anne's suburbs, Montreal, reported against the appropriation of any public money for purposes so strictly local.

LEGISLATIVE COUNCIL.

The bill for the Lachine turnpike, with amendments, was passed and sent to the Assembly; and that for continuing the Provincial Parliament on the demise of the King, was passed without amendment.

On the second reading of the bill for the appointment of parish and town-officers in the townships, it was moved that it be an instruction to the Committee to extend the provisions of the bill, to such parts of the Province as may deem it advantageous to them.

On the second reading of the bill for facilitating a legal remedy to such as have claims on the Provincial Government, the Speaker laid before the House a letter from the Civil Secretary, stating that H. E. having noticed that bill, desired to acquaint the Legislative Council, that, as far as the Crown is concerned, he leaves it to the Council to do thereon as to them may seem right; but thinks it necessary to add, that he shall deem it his duty, in case the bill be passed, to reserve it for H. M.'s approbation.

HOUSE OF ASSEMBLY.

SATURDAY, Jan. 3.

Mr. NEILSON proposed a motion, founded on the petition from the inhabitants of St. Ambroise, for macadamising the roads there, that it be

an instruction to the Committee on the petition from Quebec for macadamising certain roads for nine miles from the city, to enquire as to certain other principal public roads that led to Quebec, and whether the same measures should not be extended to them.

Mr. Lee, as one of the members of that Committee, considered this would be imposing an additional duty on them, for which they were not prepared, and which would delay and impede them in their report.

Mr. Ls. Lagueux, said he thought the matter brought before the Committee was too much narrowed—he saw no reason why other roads and other persons should not receive the same benefit as those which had been particularly referred to in the Quebec petition. The roads on the north side of the river were preferred, but those on the other side ought also to be partakers of them.—He particularly considered those to Point Levy, as being highly important both to the city and to the back country from which they led—he should move that it be an instruction to the Committee, to enquire and report also as to those roads.

Mr. Neilson observed that the county of Dorchester was a part of the Province that was not mentioned in that respect, in any petition.

Mr. Bourdages said that if the enquiries and reports of the Committee were to be extended so much, he would recommend the hon. members for Montreal, who were always anxious that their district should have a full share of all improvements and expenditure, to propose that the roads round Montreal should be included. To follow up the suggestions of the hon. member for Dorchester, would be to open the barriers, and turn all the roads of the Province through the Committee.

Mr. Lee, said that even if other petitions had been presented—he did not see why they should be referred to this Committee—bad roads were above many things proper subjects for representation—and probably the people of Point Levy might have their share—it was not his wish to prevent them from being improved—but if you sur-charge this Special Committee, with inquiries into other roads, the reference would defeat itself—it would be just as if we had referred all questions that arose respecting every Court in the Province to the Committee on the Judicature bill.

Mr. Ls. Lagueux, contended that the roads on the south side were as much deserving of attention as those on the north—and that they properly came within the scope of the present Committee.—Point Levy and Bout de l'Isle, were within a short distance from the city—only one mile—and the Committee was instructed to report on roads that were nine miles distant. But the fact is, on this side, the land and property is of greater value, the inhabitants or persons interested in Beauport, Charlesbourg and St. Croix, &c. were more alive to their own interest; they were

wealthier, had more influence, and had been more alert in applying to the Legislature—but the Legislature ought to supply the deficiency in those respects of others—other persons and other roads were in the same situation as those who had petitioned—the circumstances were the same—they were all roads centering in this city, requisite for its supplies, and its communication with the interior—such measures should not be looked on as if they were chiefly for the advantage of the individuals who had applied but for the general advantage of all—those who had not petitioned should be put on the same footing as those who had, in whatever regarded the public good.—He, as the representative of those who had not been so alert as others, and had omitted in their own persons to apply, considered it as his duty to supply their deficiency, and to apply for them, by the motion he had submitted. To do otherwise would be to say we will shut our eyes to the wants and necessities of all who are not sufficiently importunate. If there were no analogy between the roads, concerning which the petition had been presented, and the roads in favour of which he had made his motion, he would allow it would be wrong to lay new objects before the Committee—but they were alike in their local circumstances, in their peculiar wants, and in their being part of the same whole, the avenues that led to the city of Quebec. If public good be the object pursued—all such ought to be included.

Mr. VIGER, said the Committee were already charged with a special object—and it was now wanted for them to enquire into one that was foreign to the first. If this were admitted, other members would have a right to propose that other roads should be referred to the same Committee. A main objection was the inconvenience and disorder such a practice must occasion in a special Committee, and, by compelling a report which might be far advanced, to be entirely changed, occasion much unnecessary delay.

Mr. BOURDAGES, said that if the hon. member only wanted to establish the fact that the roads he spoke of were bad, it might perhaps be not so objectionable; but it would follow that an aid would be required for them —money to be expended—and in that case the customary previous consent of H. E. was wanting. It was an object that belonged rather to the Committee on that part of the Governor's Message that related to internal communications.

Mr. LAGUEUX said, hon. members had assumed that if this motion were granted, other members might introduce other roads and other improvements foreign to the objects of this Committee—but this was not a foreign object—it was in effect one and the same—roads all centering in one point—and the particular mode of improving which was specified and approved of. With regard to the objection taken as to the want of the Governor's previous consent, that did not apply—there was no question

of an additional aid,—it was only whether part of that which was intended to be expended on the road of St. Croix, Charlesbourg, Lorette, &c. might not be expended to equal advantage, on other roads which were in the same state, all tending to the same central spot, and the only difference between which was, that the inhabitants of the parts through which they ran, were neither so alert, so rich, nor so wise, as others.

The House divided on the motion of Mr. Lagueux, which was negatived by a majority of 13 to 11; and Mr. Neilson's previous motion was carried.

Mr. BOURDAGES presented a petition from certain inhabitants of Nicolet, in favour of the Court of Commissioners for trying small causes in that place, and praying for its continuance.

Mr. PROULX opposed the reception of this petition—it had been got up by a few individuals, under the immediate patronage of the Commissioner there—a Commissioner who had been named, from political motives, under the disastrous administration of Lord Dalhousie. Another petition from the same part of the country had been sent up, signed by 450 names of respectable persons, praying the removal and abolishment of the court.

Mr. VIGER said that under those circumstances, he thought it of importance that the petition should be referred to a Committee.

Mr. VALLIERES, was inclined to give every facility to such petitions—a patient hearing, and a prompt decision—this petition was contrary to his own views on the subject—but that made no difference—in fact it would comport with his views, and those of all who wished well to the country that these matters should be thoroughly sifted, felt, and understood. Here were a set of men, under the immediate influence,—so he understood it to be—under the rod of a person who had been selected by the late administration as a proper tool for their purposes—who was their Colonel—their Commissioner—their every thing—and who was himself at the beck of the Executive—this might not be so—and we ought in justice to give them an opportunity of proving it—the more publicity was given to these matters the better.

Mr. BOURDAGES, said that, in consequence of what had been said, he should move that the petition be referred to the Committee, to whom was referred the consideration of the propriety of continuing the acts for the trial of small causes in the country.

The House in Committee on the bill for the qualification of Justices of the Peace, Mr. LATERRIERE in the chair.

The first clause being that all Justices of the Peace should be appointed by the advice of the Chief Justice, and His Majesty's Executive Council,

Mr. SPEAKER held it very improper to entrust the appointment, (or what was the same thing) the recommendation, of Justices of the Peace to the Executive Council. That Council was a secret and invisible body, to which past experience had shewn we could not entrust this important duty. In the appointment of the Commission of the Peace the people of the Province had been extremely ill used. Dismissions and appointments had been made without respect to character, influence, property or ability for the office. Every thing was made subservient to party-purposes.—The Executive Council was chiefly composed of those who depended entirely on the Administration, and who used their office with servility, secrecy, and views of advancement. Every thing combined to make their nominations dependant on the caprice of the Governor. In such appointments probity, honour, character, respectability were disregarded or put into the opposite scale. Thus men who were fit for these offices were disgusted with the company they were obliged to keep. No person of merit or standing in the country, would consent to hold them. Such offices were degraded. Men who identified themselves with the suffering cause of the people were expelled and driven into retirement. Upstarts, unknown and contemned, were substituted in their place. Such were the enormities committed by the Executive under the system which we are now called upon to support. Shall we then place it in the power of the Administration to practice the same system over again, by leaving the appointment of Justices of the Peace to the Chief Justice and Executive Council alone? Another reason why the members of that Council were unfit to be so trusted, was that they resided chiefly at Quebec; they were hangers-on, officers of Government, having little local knowledge of the districts and places for which they were to appoint Magistrates, and were obliged to to depend for their direction upon the information of others. The appointment ought therefore by all means to be left to men more honest, more upright, more thoroughly acquainted with the country. The Judges were preferable to the Council, and, all things considered, the best that could be adopted. From the duties of their situation they became acquainted with all the parts of the country, they had personal qualifications, and by their sacred character they were known and responsible men. But the Executive Council was not so constituted; its invisable, mysterious, forms destroyed all accountability. The members of it were frequently so far from being the unsuspected rulers of the country, that they often governed the Governor.

Mr. LEE said it had been publicly asserted throughout the Province, and had been admitted in that House, that the Chief Justice was an unsuitable person. It had been so represented to the Government. An accusation had been prepared against the Chief Justice, had been partly proceeded in, but not thoroughly followed up; the only consequence was that £1000 had been added to his salary. The Chief Justice had above all others been pointed out as the source of the evils complained of, in

consequence of the advice he had given to the Governor. But perhaps the pricipal blame attached neither to the Executive nor to the Chief Justice, but to the Ministry at home, for the Governor is enjoined in his instructions to consult the Chief Justice, who was thus constituted his chief legal adviser. He was of opinion, however, that neither the Executive Council nor the Judges should have the power of naming and recommending Justices of the Peace. The office might be made elective. According to the constitution, the inhabitants of the country elected their representatives, why not also their magistrates? A bill for enabling them to do so, would have been better than the present one, and would have had his support. The frequency of such elections would have secured a controul and responsability which could not exist otherwise. The inhabitants depended so much upon Justices of the Peace, that they ought to have an opportunity of knowing them, ought to be sure of having those who would suit them; and this could best be done by making them of their own election. As to qualification, he thought locality was the best guide, and that the property of the Justice should be in the parish to which he was appointed.

Mr. VALLIERES found it difficult to see his way through these contradictory opinions. The Honourable SPEAKER had objected to the Honourable Counsellors, but approved of the Honourable Judges. The Honourable member for the Lower Town has objected to the Honourable Judges also, and to their Honours of the Legislative Council. But if we reject this Honourable Gentleman and that Honourable Gentleman, this Honourable Body and that Honourable Body, not one Honourable person would remain to advise His Excellency the Governor in the appointment of Justices of the Peace. Objections are made to the Chief Justice, as he is the legal adviser of the Governor, the chief person in the Council, and holding other places of trust. He would state how the case was in England. Justices of the Peace were there ultimately appointed by the King; they were named to His Majesty by the Lord Chancellor, and submitted to the Privy Council. The Lord Chancellor, in addition to this dignity, was Speaker of the House of Lords, was the King's Counsellor, and emphatically styled Keeper of the King's conscience, Guardian of minors, protector of all lunatics and idiots in the United Kingdom, and supreme judge in bankrupt-questions; yet all this was not thought inconsistent with his duty of nominating fit persons as Justices of the Peace. Yet it was certain that neither the King, nor the Lord Chancellor could know any thing of these individuals, nor of their fitness for such places. They could not be personally acquainted in every part of the kingdom. Justices of the Peace were recommended to the Chancellor by the Judges of Assize, and to the Judges of Assize by the Magistrates of each county. These Magistrates were thought competent to recommend to the King, first through the Judges, and then through the Lord Chancellor, the persons who are thought fit to hold the office of Justices of the

Peace. He wished to assimilate the appointment of Justices in this country as much as possible to that of England; but he agreed with the Hon. Speaker, that His Majesty's Judges in his Courts of Justice were, in all probability, the fittest persons to be entrusted with that power in this country. The proposal for making the office elective, could not be seriously entertained. In England that office had never been elective.—We are proud of enjoying the same liberties as the people of England. Such a degree of rational liberty would make us happy and prosperous; but we can not go farther. As an English colony we must not pretend to more freedom that John Bull. John Bull is subject to a limited monarchy; we must not claim to ourselves a republican government. The office of Sheriff indeed, was once elective in England, but altered by statute. Magistrates never were elective. Magistrates are the hands of the King, by which he reaches and protects the most distant classes of his subjects. He has a right to call upon all the subjects whom he chooses to act in that capacity. He has an interest in the happiness of all his subjects; but to prevent abuses arising from the impossibility of the King's knowing all those to whom it might be necessary to confide those important duties, certain qualifications had been provided by law. The King possessed the right of appointiug, but exercised it upon the recommendation only of his constitutional advisers. He thought it correct to say, however, that by giving this power to the Executive Council, we should do that which we ought to avoid, viz. recognize the legal existence of that body in this country. Our only resource, therefore, must be in the Judges of His Majesty's Courts in the several districts. It had been suggested that the property which formed the qualification of Justices should lie in the parishes in which they were appointed. But Justices of the Peace were not appointed for parishes, nor for counties, but for districts; and ought to have power to act in that capacity throughout the district for which they were named. No alteration could be made in this respect without a new division of the Province, and it was impossible to make subdivisions for the purpose. He would move that the clause should run "by the Judges of the Courts of King's Bench, and of the Provincial Judges in their several districts."

Mr. Neilson asked to whom those counsellors were accountable in case of giving wrong advice to the Governor in the choice of Magistrates? This clause if expressed so, would throw all the responsability upon the Judges over whom we had no power, and removed it from the Governor. It was more easy to punish a Governor than a Judge.

Mr. Vallieres said, it would be absurd to leave this choice entirely to the Governor. Before he had been two or three years, or even before he had been two or three months, in the country, he might be called upon to appoint Justices of the Peace, while he knew nothing of their character. There ought to be responsable advisers upon whom he would depend.—

He was not aware that Judges could not be made accountable. We had failed in one instance it is true, but what was the reason and who was to blame? Accusations had been brought forward, and proceedings instituted against the Chief Justice, but they had been abandoned. If any one was to blame, it was this House. If they had known how sure they were of success, and had known how to proceed, they would have gone on and succeeded. He hoped this would not happen again. If, in the operation of this law, a bad choice of Magistrates should be found to have been made, they would know where, and against whom, to remonstrate. They ought not to believe that the Government would be deaf to the remonstrance; but even if it were they knew that all were liable to the responsability of public opinion. Neither favour, nor influence, nor fear, nor even a dispatch from the Ministers in England, ought ever again to deter us from preferring accusations against Judges, who might be found culpable. If we were so deterred, we should be like the boy in the fable who called out a wolf! a wolf! when there was none, but when the wolf came, he could get nobody to listen to his well founded alarm.—Just so we should act if we raised alarm without following up our accusations. But he hoped this would never happen again. At the same time, when the Judges should be removed from all political interference, he saw now no reason to doubt of their conduct being impartial, honourable, and disinterested. In all that had been said of the Chief Justice, he was anxious to let it be understood, that nothing was meant to be said against his conduct as a Judge, against his great skill in the law, and his fitness in every respect for his official duties, whenever political questions were out of view. His industry and application to business were pre-eminent. Early and late he was at his post. He, himself, had often been obliged to wait on the Chief Justice, not only at seasonable, but also at unseasonable hours; but it made no difference, his courtesy and affability were known to all the members of the bar; his integrity, and skill as a Judge were undeniable; and if—there was the if—if he had never engaged in political questions, he would never have been blamed. Upon reviewing the whole question, he concluded, that the Judges were the persons to whom this matter could best be intrusted; now especially when there was a probability of their being excluded from the Councils, and removed from all chance of being influenced by political motives.

Mr. Neilson knew that Judges, like all public men, were responsable to public opinion. But he wished for real responsability, without which public men were too ready to despise public opinion. The impeachment of Judges was a difficult and tedious way of obtaining justice. The House would recollect that a message on this subject was sent down by the Prince Regent, now the King, that the Legislative Council was to be the Court for trying such impeachments. Subsequently, another message had come down, that such impeachments must go home. There existed too little certainty, and consequently, too little responsability.

Mr: PAPINEAU allowed, that hitherto it had been impossible to attack the Judges for any real or supposed misconduct. The analogy with England, where an impeachment was carried on by the House of Commons before the House of Lords, could not obtain here, on a trial before the Legislative Council. The Judges had seats in that Council, and although they might not be personally present on a question that respected themselves, they would be present as to the influence of their friends, and colleagues, and others possessing the same feelings. As things now stood, no justice, he admitted, could be obtained against the Judges, or against any whom they took under their protection; but that was not merely on account of their being Judges, but on account of their being what they ought not to be, political characters, and effective parts of the Government. But the question of the impeachment of Judges might be delayed to another time. The period of their removal from the Councils could not be distant; he hoped before the end of the session this important question would receive a last and favourable termination. Is was above all others essential to the liberty and prosperity of the country. As to the appointment of Justices, it must ultimately rest with the Governor, but could only be made through recommendation. And, as to the power of recommending, he saw none better qualified than the Judges, to determine upon the ability, character, and property of those who should be appointed. The Judges were in continual contact with persons of all descriptions within their districts. To entrust such recommendation to them, would not encrease their power as Judges, which, when they were removed from political power, could not be too much respected and venerated. Considering then the prospect which he foresaw, of their being debarred from political power, he thought the Judges in the different districts the most proper persons, as a body, to recommend suitable Justices of the Peace. The mischiefs arising from the political power of the judges, were not so much owing to the government as to the ambition of individuals, which led them to aim at being members of the Councils, on account of the power and influence, which they had thus an opportunity of acquiring. The door of their future entry into the Councils would soon be barred. The English House of Commons, by their Committee, admit the unsuitableness of judges for being members of Councils. It would be more honourable, more gracious, more suitable to their own dignity, if they would now allow themselves to be warned by the voice of the people, and by that of the Imperial Parliament, and give in their resignation rather than be compelled to go out. As advisers of the Crown they ought to resign; they have now a glorious opportunity for displaying their public spirit, an opportunity which may never come again. By voluntarily abdicating their seats in the Councils, they would be honoured for their magnanimous conduct, and their future career as judges alone, would procure them more permanent respect, than attempting to hold that which it is impossible for them to retain.

Mr. LEE, observed, that all that had been said only served to confirm his position, that no responsability could be obtained but by making the appointment elective, and the elections frequent. It was no objection, that this was different from the established English practice. What were the reforms now going on in England, but so many innovations upon established practices? If such changes were for the general benefit of the country, it made no difference whether they were similar or not, to practices adopted in the United States, or any where else. Granting that the judges were excluded from the Councils, they would still, from the nature of their situations, associate much with the Governor, and might still influence his opinions and even his measure. The chief objection to the late administration, in relation to this subject, was not for appointments, but for dismissals. And it was impossible to be assured, that the judges would not be guided by personal or political reasons in recommending dismissals and making nominations. Even if there was no other reason, the judges, who had so many offices to perform, ought not to be embarrassed with additional duties. There was no way so effectual for securing the object in view, as making the office of justice of the the peace elective. It was no derogation from our loyalty as British subjects, to adopt a practice that had proved extremely beneficial to our neighbours. All such offices ought to be elective.

Mr. VALLIERES observed, that the enlightened practice of the British Government, did make those persons responsable who were concerned in the recommendation of Justices of the Peace for each county. The responsability of public opinion had been treated lightly. He considered it in this case as of great weight. The responsability would fall upon two or three conspicuous persons in each district, who, according as their choice was well or ill made, would receive praise or censure, honour or disgrace. And is it to be conceived, that men in such stations, or indeed, in any station, would be regardless of public opinion, which, in all probability, would soon find public expression? At present, no individual can be distinctly pointed out, as the cause of the disgrace of the Magistracy and the recommendation of unfit persons to fill it. But let it once be enacted, that the Judges shall recommend persons to fill this office; and then we shall know who advised any wrong choice that may be made; and the public will freely bestow their applause or their censure, upon those who deserve either.

Mr. NEILSON wished to reply to what had been again advanced, by the hon. member for the Lower Town. Whilst this Province, continued a Colony of Great Britain, Justices of the Peace must be ultimately appointed by the King. The election of them by the people, did not suit the constitution. The example of the American States had been quoted.—But it was only in some parts, that this was the case, and only for a few years. Even there, the experiment had not answered. There were many

complaints, that the people made their choice from party-considerations, and that the Judges, decided partially, and in favour of the party by whom they were elected.

Mr. VIGER confirmed this, and observed, that in the State of New York, the office of Justice of the Peace, having lately become elective, had given rise to many heavy complaints. The frequency of the elections was a serious evil. It was a continual strife who should be *in*, and who should be *out*.

Mr. NEILSON wished to add to what he had said on the impeachment of Judges. The reasons given by the Privy-Council, for their decision was, that rendering the Governor's advisers responsable for his acts, would destroy the responsability of the Governor himself.

Mr. BORGIA said, if we wished the bill to pass, he did not see how we could deprive the Executive Council of the power of advising the Governor in the nomination of Justices. If we did so, the bill would not pass. At present the Judges were only appointed during the King's pleasure; he wished it were during their own good behaviour. If this bill give the nomination of Justices to the Judges, this power ought to be limited to them, during their good behaviour. There was no responsability in a Judge if he could be dismissed at the King's pleasure. With regard to adopting the American plan of election, it might suit the people of the States, but not us. Under the British constitution, the appointment of Justices is vested in the King alone, the law can only direct the mode of recommending and naming them. If this mode produced some harm, one evil would expel another. He wished however it were possible to insert a few words in the bill, which would authorize the Curés and the principal residents to make recommendations to the Governor.

The amendment, moved by Mr. VALLIERES to leave the nomination to the Judges of the King's Bench, and the provincial Judges was then carried.

The second clause excludes Attornies, Solicitors, and Proctors, from being Justices of the Peace.

Mr. VALLIERES said he had been considering whether or not it was proper to incapacitate ecclesiastics from acting as Justices. He did not like to see them act in that character, yet he did not like to see them excluded. In England clergymen acted as Justices, and he would prefer following the English laws as closely as possible.

Mr. NEILSON said, the combining the office of Justice with that of a clergyman in England, had been thought to produce many abuses, which we ought to avoid.

Mr. VALLIERES was unwilling by the single stroke of a pen to disqually the many intelligent and respectable gentlemen who filled the church. He would rather leave the clause as it stood; and if inconvenience resulted, it might be afterwards rectified.

The clause was carried without amendment.

On the 3rd clause, containing the qualification, some discussion arose, whether leases for more than 21 years, or the usufruct for life, were to be considered as property according to the intention of this act.

The SPEAKER was afraid this might give rise to simulated deeds for the purpose of appearing to possess a leasehold estate. Usufruct was also liable to difficulties. In the case of elections, *donataires* who had reserved a single room and half an acre of land to themselves, had been known to come forward as 40s. freeholders, as well as the persons to whom the rest of the house and garden had been made over.

Mr. VALLIERES replied, that by another provision of the act, any Justice of the Peace, who was said to act without due qualification, would have the burden of proving himself duly qualified laid upon himself. He would also be obliged to deliver in writing to the plaintiff a statement of all the property on account of which he claimed the qualification, for the purpose of being fully examined. He thought this would remove the difficulty. Leases for a long period of years were not so much used in this country as in England. Yet in many parts of the suburbs of Quebec, property was let on leases, or *baux emphytéotiques* of 80 years and upwards. Of course the rents reserved by these leases were to be deducted from the annual value of the property. Leaseholders in England, were not considered as freeholders, nor admitted to vote. Here the case was different. Leaseholders have votes, and, for the purposes of this act, if their leases, be valuable, they should be considered as freeholders. He had no doubt that in time long leases would be more generally used here, and before twenty years, their utility would be better understood.

The other clauses of the bill were then agreed to separately; when Mr. FORTIN begged to enquire whether it was meant to be permanent. Mr. VALLIERES said he meant it to be a permanent law. He had done little more than copy the laws of England on this subject; if we had not had the benefit of the experience of the mother country for so many years, it might have been proper to make it only temporary; but having so great an example to guide us, and to avoid the necessity of renewals, we might safely make it permanent. Mr. FORTIN would prefer making it temporary, and then, according to the result of experience, it might either be left unrenewed or enacted permanently. The SPEAKER said that an act of this kind did not require to be temporary. It did not augment the power of

the Executive, or entrust it with any thing of which we might be jealous. On the contrary, it rather circumscribed the executive power; and for that reason it ought not to be temporary, as if so it might give the administration an opportunity of refusing to renew the bill on its expiration.

LEGISLATIVE COUNCIL.

The amendment made in the Assembly in the bill for making, repairing and altering the highways and bridges, in so far as respects the Townships, was negatived.*

The bill for the preservation of the Salmon fisheries in Cornwallis and Northumberland, was passed without any amendment.

HOUSE OF ASSEMBLY.

MONDAY, 5th Jan.

A return was made of the election of F. X. Malhiot, Esquire, for the county of Surrey, in the place of L. J. Papineau, Esquire, who had made his election to serve for the city of Montreal.

Mr. LESLIE, from the special Committee, brought in a bill for the establishment of a new Market in Montreal.

Mr. LEE brought in a bill to disqualify the puisne judges of the Court of King's Bench and the provincial judges of the inferior districts from sitting or voting in the Legislative Council. In Mr. Lee's prefatory observations, he alluded to the report of the Canada Committee, that imperishable monument, as it had been denominated; and to the voluminous evidence that belonged to it. Both in that evidence and in the debates of Saturday, it appeared, that those who had been deputed from the province to England, were not perfectly agreed as to the power and influence to be given to the judges. The Chief Justice was, in the opinion of many, to be excluded from the Council—this might or might not be his own opinion, but in his bill he had not included the Chief Justice in the disqualification, because he had wished to pursue the same course as had before been followed.

Mr. NEILSON observed, that the substantial meaning of the report of the Canada Committee was, he conceived, that all the judges should be confined to the business, already multifarious, of their own courts. No peace, no confidence, no safety, could be found in the country until they were so confined. If that were the case, they might be sure of gaining

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* The amendment negatived, and whereby this bill was lost, was, to strike out the words "to the end of the next Session of the Provincial Parliament."

honour and reverence, and the confidence of the country, and they would then be as much venerated as the judges were in England.

Mr. LEE said, he had not included the Chief Justice in his disqualification, both because the opinion of the Canada Committtee related, he thought, alone to the puisné judges, and because, on some occasions, the presence of the Chief Justice at the deliberations of the Council was both desirable and necessary.

Mr. BOURDAGES moved that the House should, in a general Committee consider the expediency of repealing an ordinance of 25th Geo. III. respecting surveyors and the measurement of land.

Mr. L. LAGUEUX observed, that as this was an an ordinance that came under the description of acts that had expired or were about to expire, and a Committee had been appointed to enquire into the expediency of renewing or continuing such acts, it would be better to wait till the report of that Committee should be received.

Mr. NEILSON said, that, in looking over the English Statutes, he had found it had, in former times, been customary, though not of late, for the English Parliament to enact the revival, by one act, of a long series of acts expired or about to expire, according as such were found necessary. He thought it might be right, as we had so many temporary laws, to follow that example, for, without interfering with the liberty of discussion, it would occupy less time, and save some expense.

In Committee on Mr. Bourdages' motion, it was resolved that it would be expedient to repeal the ordinance in question.

The reports of the Committee on the qualification of justices of the peace; on the first clause being read, Mr. Lee objected, on the ground that the appointment of justices of the peace, ought to be amalgamated, in principle, with those of municipal offices, under the incorporation-acts for cities, now in progress—it was one and the same thing—police-magistrates were justices of the peace, and *vice-versa*—so that if one office was elective, so ought the other to be.

Mr. VALLIERES pointed out the difference. The division of the country in England into counties, for which justices of the peace were to be appointed, was made by the King, and to him was reserved the appointment of such. In places which were incorporated, the King renounces his right, and gives to those corporations the right of appointing, and even by making by-laws for the regulation of the magistrates they may appoint. So here, the districts, and such corporations as might be made, were similarly situated. It could not be said that they interfered with

each other in England—where some of the corporations were older than any statutes relative to the office of justice of the peace, and others of very modern date—they never clashed there, why should they here?

Mr. Lee said, the more he reflected on the elective system he had before recommended, the more he was convinced he was right. Whatever inconveniences might attend it, they were not to be compared to the absurdity of putting the same power into the hands of those who had already so much abused it. This act, confining the nomination of justices to the judges, would nevertheless make them political agents, or put them in the temptation of becoming so. He believed it had been the custom to send lists of persons, supposed to be proper for the situation, to the Chief Justice, and he had drawn his pen through several whom he did not approve. The same thing would happen to the judges—they could equally erase from the list those who did not agree with them in politics, or whom they might otherwise wish to disgrace. If, on the contrary, the office was elective, the people would feel themselves secure in entrusting to men of their own choice the disposal of their properties and liberty. What was the strongest argument for the incorporation of the cities, but that by making the city magistrates elective, the citizens would be secure from oppression and injustice? He did not see the difference sought, in this respect, to be established between the cities and the country. The inhabitants of the country had as much good sense, and were as well able to elect their own magistrates, as the citizens. Besides, it was wrong to impose new duties upon the judges who had already, as was represented, more on their hands than they could well go through. The example of the mother-country was adduced—in some instances it might be right to follow it, and in others wrong. The mother country itself had suffered much from adherence to old and unsuitable laws and opinions—this country was very different, and ought to have its choice in modelling itself upon the best part of those old institutions, and not be burthened with that which was defective. He thought this bill, in its present shape, would do harm—the office ought to be left open for the people to fill—he spoke without either interest or ambition—he had no pretention to aspire to the dignity of a magistrate—he had far other wishes and pursuits—but as long as he was in that House, every time the liberties and rights of the people were concerned, he would speak his mind freely and fearlessly. He represented a city, but he would speak as much for the rights of the peasantry as the citizens. The country-people must know best who would suit them for justices of the peace—the Governor could not know—the judges could not know—or even if they did, the best intentioned men would be swayed by some bias, some feeling, of which they may be unconscious, to nominate persons in whose favour they were interested.

Mr. Viger said this was not the time to discuss the question which had been agitated by the last speaker. The whole House in Committee,

had unanimously voted the clause as it now stood. For the rest, the hon. member might be an advocate for establishing a new theory and a new system—but the elective system could not be recommended by practice; many people who live in the United States complain bitterly of its evil effects, and the opening it gives to fomenting party-spirit, to corruption, and injustice. It would be much worse here. It was desirable to put the whole administration of justice in this country as much as possible on the same footing as in England. This bill, as far as regarded Commissions of the peace would go far towards doing so; and in doing away with that system of oppression by which the voice of the people had been despised, and all their feelings outraged.

Mr. VALLIERES said, the House in Committee had resolved to follow as nearly as possible, the mode of appointing justices in England. Under its present liberal and stable constitution the British nation had prospered beyond all example; the rational freedom which they enjoyed, the wisdom and stability of their institutions, contributed to develope both the physical and intellectual resources of the people. With this example full in our eye, we ought not to be too eager to attempt any essential alterations. All changes were not for the better; and the introduction of elective justices of the peace would be an infringement on the constitution which, he thought, would be attended with calamitous consequences. This would be especially the case if they followed the unrestrained system of the Americans, which had been so warmly urged. He doubted whether the people were proper judges in this case. They were no doubt very fit judges who should be their representatives in Parliament. But this was widely different. Their representatives were elected for the whole province, and did not come in contact with their constituents. Justices of the Peace were local, were among the people themselves, and might be led to partial decisions, for or against those who had favoured or opposed them. By this means, the justices would become the slaves of the people, who might depose them at their frequent elections. This was known to be the case in the States. This deprived magistrates of their independence, and had in fact, created great dissatisfaction. The principle of election had been carried a great length in America. County judges were elective, although the judges in the supreme courts were permanent. The consequence was, that the latter were learned, independent, honourable and impartial; a strong contrast to those who were elective. The decisions and arguments of the supreme court in the States, were read and quoted at the English bar. But the judges elected by the people, were in danger of selling themselves and their integrity, for continuation in office. Under the present plan, men of information, of some fortune, and real interest in the country, would be laid before the Executive, and the justices of the peace would be what they ought to be, and what they are not now. At present we scarcely know who are legally appointed magistrates. No qualifica-

tion has been required ; new commissions have been given to agents of the Government, to new-comers, and no condition seems to have been required, but that they should speak English. Persons wholly unqualified have been appointed to a situation which required intelligence, education, and a knowledge of the language of the country ; a situation which required men who considered it as a debt due to the country, and to their own character, a debt of honour, to emulate one another in the proper fulfilment of the duties of their station. It is to such persons that we seek to open the door. A justice of the peace had the power of doing more mischief in his small circle than a judge on his bench. A constable armed with a justices warrant, could be, and has often been, the instrument of the greatest injustice. He would only adduce one that took place in Quebec. A respectable Canadian Citizen (naming him) had been apprehended on a charge of purchasing a Waterloo medal ; he had been taken before a magistrate, who was a foreigner, ignorant of his language, and of the persons and circumstances connected with the alleged crime ; bail was refused, and under this accusation, afterwards proved to be false, the man was hurried into jail, which he who once enters, according to our Canadian prejudices, can never again hold up his head. He himself had been directed to bring a suit against the magistrate, but had persuaded the man, though injured, to drop it, as it would only be throwing good money after bad. What could be expected from a magistrate who had no property in the country. To conclude ; on the subject of election, he thought the proposal aimed at a complete change in the constitution. In possessing the same liberty as the subjects of the United Kingdom, we had that degree of liberty which was rational, and need not travel abroad to seek for visionary perfection.

Mr. Neilson said, under a monarchical government, we could not adopt the forms and systems of a republic. If he had lived under a republican government, he would have supported it. So would he support the constitutional monarchy of Britain. After all, a limited monarchy was not widely different from a republic, or rather it was fundamentally the same, the people had the chief power in both, in England they ruled through the King, in America personally ; yet in both the people were the real sovereign. He admitted, that the people of this country were as fit to choose their magistrates as those of the United States ; but such an experiment would only be a doubtful good. It was best to confine ourselves to the practice which the experience of the mother-country had shewn to be good.

Mr. Lee again rose, amidst cries of question, question, hear him ! He still said the people in the country were worse situated than others, and it was more necessary for them than for the people in cities, to choose their own magistrates. The question being loudly called for, the clause was

carried by a majority of 25, Mr. Lee being the only one in the minority. The other clauses and amendments of the bill reported by the Committee were then carried.

The House in Committee on the petition from Three Rivers for a bridge over the St. Maurice—Mr. Proulx in the chair.

Mr. Bourdages explained, that doubts having arisen from what had been brought before the special Committee, as to the expediency of a bridge, as prayed for in the petition; it had been resolved to recommend the grant of £100, for causing a survey and plan to be made, and an estimate of the expense of such a bridge, and he proposed a motion to that effect.

Mr. Neilson was averse to this measure, because it would lead to the expectation of the bridge being to be constructed upon the plan and estimate that were to be presented. But estimates were very fallacious guides—an estimate was invariably incorrect in result—in every case within his recollection, the cost had exceeded the estimate—doubled—and even tripled it. Public competition would be best—and there had better be two or three plans produced, out of which the best might be chosen.

Mr. Cuvillier wished it to be also fully understood, that in procuring a plan and estimate for the bridge in question, the House should not be pledged to the construction of the bridge. Very many heavy expenses had been entailed on the Province, which arose from implied engagements argued to be made by such preliminary steps.

Mr. Neilson certainly would not come under any such engagement. Several times before, we had voted money for surveys and estimates, and gone on afterwards to vote money for following them up, which was not always well laid out. Besides, it was a question that might involve an inconvenient expenditure; and we had been going on at that rate that the time would soon come we should be obliged to stop. It would seem from the petition, that the inhabitants there had not sufficient means for constructing this bridge, though they did not directly pray an aid. Now, supposing it to be begun, either with or without aid, and that it remained in an unfinished, and perhaps, dangerous, or ruinous state, from the want of funds,—the public would have to supply the whole—the Grand Voyer would bring forward his *Procès Verbal*, and oblige the parish to go on with the work. And if that parish alone could not finish it; then several others must assist. And so it would go on till at last the whole province would be required to finish the structure. However, if the motion led to no engagements, but only to enquire and to decide on ulterior measures afterwards, it seemed no way objectionable.

Mr. Borgia understood from the petition, that the petitioners were not in a condition to erect the bridge, and consequently, parliamentary aid was expected. The fact was, they prayed the House *to obtain for them the convenience of a bridge;* what else is that than to say, *construct it for us?* They should have plainly petitioned for the construction of a bridge, and paid for the survey themselves.

Mr. Bourdages wondered why the grant of £100, for a plan and estimates, should be considered as pledging the House to build a bridge. It had occurred to the Committee, that a better spot for building it on than that mentioned in the petition might be found. This was the reason why the Committee thought further information and a new survey desirable. It involved no pledge of ulterior measures.

Mr. Fortin thought £100 a small sum; yet if the House was unwilling to grant any aid towards building the bridge, they ought not to grant even that.

Mr. Lee thought if the House voted £100 for a survey, it would certainly shew a disposition to assist in the erection.

Mr. Viger wished to correct an error of some consequence into which, in the warmth of debate, the hon. member for the county of Quebec had fallen, and which ought not to be allowed to go farther. He appeared to suppose the Grand Voyer to possess an arbitrary power, a power to tax the whole Province, indirectly and without appeal. The Grand Voyer, in the cases alluded to, could, by his *Procès Verbal*, only call upon the parish where the case lay, and then submit his *Procès Verbal* to the Court of Quarter Sessions, in which all who thought themselves aggrieved were entitled to be heard, and the Court decided on the form and merits of the proceeding. He could not go beyond one parish, and to say that he could proceed farther, and by degrees extend his tax to the whole Province, was erroneous. It would be an arbitrary power of a singular nature, that could not be endured, and would be disgraceful to the laws and to the Government. It was the more necessary to expose this error, because it had also been given out in the British House of Commons, founded upon the testimony of a person who ought to have been better informed. (Mr. Gale.) That person had given out that the Grand Voyer's Procès Verbal was irreversable, and only laid before the Quarter Sessions for the purpose of being legally sanctioned, as being done according to law, and when it appeared to have been done according to the prescribed forms, the Court did not think itself authorized to make any further interference. This gross error had been stated as truth in the House of Commons, and had given occasion for reproaching the laws and institutions of Canada, with being arbitrary and absurd; and they would have been so, if this had been the fact; if a Grand Voyer, merely by the observation of certain

forms, could oppress, and perhaps ruin without appeal, any portion of the inhabitants. The idea thus given of the power which a Grand Voyer possessed by means of a Procès Verbal, was excessively erroneous. He begged hon. members would be careful in making assertions that would propagate error throughout the world; to be guarded in what they said in that House; especially now when their arguments and proceedings were made public; when reporters were within hearing who recorded every sentiment, whether right or wrong that was uttered; when their opinions and even their phrases, were conveyed by the newspapers to their constituents, to all the Province, even to the British public and the British Parliament. The bridge in question he had only to say, if it could with propriety be erected, would be a general benefit to the Province, no less than to the district of Three Rivers.

The motion was negatived by a majority of 14 to 11, and the Committee rose without reporting.

HOUSE OF ASSEMBLY.

WEDNESDAY, Jan. 7.

A message was received from H. E. the Administrator, recommending the case of the inhabitants of Lotbiniere, who were distressed for want of food, to the House. And Mr. BOURDAGES presented a petition from the Curate, Church-wardens and Elders of the parish of St. Louis de Lotbinere, representing the distress of the inhabitants, and praying for a loan of £1000, repayable in three years, out of the funds of the *Fabrique*, secured by mortgage; which message and petition were referred to a special Committee, to whom was also referred the petition of the inhabitants of St. Philippe, of 12th Dec. last.

On this occasion, Mr. LEE was afraid this might give rise to other applications. He believed £50,000 had already been voted by the Assembly for charitable purposes, which had done more harm than good. If it was proper to relieve the distressed parts of the country out of the public money, Quebec had never been in a state of greater distress than it now was. He saw no reason why the labouring poor in Quebec, who were dying from starvation, ought not to be as readily assisted as the inhabitants of a country-parish. The Provincial Revenue was not raised for the purpose of charity. He had no opinion of the security offered. How could it be realized? There was no money, no purchases; and funds could not be raised even in Quebec upon good security. He considered it a dangerous precedent, to give away the public money from motives of professed humanity and compassion. He would not, however, oppose its being referred to a Committee.

Mr. BOURDAGES said, it was a loan that was asked for, not a donation, (Mr. LEE said the expressions were here synonimous.) The hon. gen-

tleman wished to alarm the House by quoting former grants. In the year 1817, money had no doubt been granted, it may be £28,000, which had not done all the good that might have been expected. But that was because the House, with the best intentions, had suffered themselves to be deceived. This was no reason for being deaf to new and well founded calls upon their compassion.

Mr. BORGIA from the Committee on the petition for a college at Kamouraska, moved for leave to delay the report till the 14th January.

Mr. VIGER thought the delay contrary to the established rules of the House. The time had been when the House had fallen into the greatest confusion by departing from its rules. The periods when private bills could be received, reported, and introduced, were all fixed by the House, and even published in the papers. It was every one's duty to know these established rules, and those who were required to give evidence before the Committees, failed in the respect due to the House, if they delayed to do so beyond the time appointed. The House would fail in the respect which it owed to itself, if it deviated from these rules, except for the most urgent reasons. It would expose itself to the reproach of partiality, if, for convenience, or on account of individual neglect, it infringed on its own regulations, which were published, and which it was essential to follow.

Mr. BORGIA cited the example of the British House of Commons, and thought the rules of the House were made for its own convenience, and might be dispensed with, when that convenience required. The petition had been presented the 20th Dec. The distance from Kamouraska, the season, the occupations and duties of the gentlemen to be examined, many of them Curés, and other professional men, were sufficient reasons why the Committee should obtain more time to report. In addition to all these reasons, this petition, though a private one, being in favour of a public institution, ought to be considered as of a public nature.

Mr. VALLIERES was inclined, from the petition having reference to the important subject of education, to consider it as of a public rather than a private nature.

The House divided, and the delay was granted by a majority of 18 to 4.

Mr. LEE moved that the petition of Judge Bedard should be printed.

Mr. VIGER from the Committee on the Quebec Fire Insurance Company, brought in a bill for its incorporation.

Mr. VALLIERES introduced a bill to secure to plaintiffs the payment of costs on prosecutions upon judgments against real property.

Mr. VIGER thought this would be a dangerous instrument in the hands of lawyers. It might render many unfortunate persons destitute of the means of supporting their families; and leave them at the mercy of unprincipled lawyers: for the hon. gentleman must be aware that some lawyers were actuated by different principles from himself, and some by none at all but avarice and cupidity.

Mr. VALLIERES insisted that the bill was proper and just. It often happened that lawyers advanced money on account of their clients, who had nothing to pay. They got judgment indeed, but another creditor starts up with a mortgage, who profits by the measures taken. The lawyer is perhaps as little able to lose the money as the debtor, and is actually defrauded of the advances he has made, and feels the French proverb verified, *au plus pauvre la besace.* According to the French laws, law-expenses were considered as privileged, and as having a preference over other claims. It was right that they should be so considered.

The House in Committee on the report respecting pilots and the navigation of the St. Lawrence. Mr. QUIROUET in the chair.

Mr. LATERRIERE offered a series of five resolutions. A main object was to render the North Channel, if a good one, equally available for navigation as the South Channel, which was alone at present in use. Capt. Bayfield, of the Navy, had, under the orders of the Admiralty, surveyed the whole of it, and the islands and passages from Quebec to *Isle aux Coudres.* This North Channel, is entirely free from shoals all the way from the Isle aux Coudres to the old Traverse, off Cape Tourmente. The old Traverse passes between sands, which are dry at low water, and would be perfectly safe if buoyed as the Traverse of the South Channel is. This Channel had been entirely disused since 1776, and perhaps earlier. It was formerly preferred to the South Channel, and the reason was, that the settlements were then principally on the North side of the river; and when the South side became more populous and cultivated, the South Channel came into general, and afterwards, exclusive use. The North Channel was also much longer open—a fortnight longer—the ice that came down chiefly passed into the broader South Channel, and formed itself sooner on the shoals and rocks than in the North Channel, where there were few or none. Had this Channel been frequented last year, many vessels that had got entangled in the ice, and some of them lost, would not have suffered. Blame rested on the Trinity-House for not having made enquiries and surveys—blame which they would have escaped, if they had taken for a principle, that the licensed pilots ought to be acquainted with every part of the river, instead of, on their examination, solely questioning them as to their knowledge of the South Channel.

The resolutions proposed were,

1.—That in order to obtain a more secure and fortunate navigation of the River St. Lawrence, it is absolutely necessary for the pilots to be acquainted with all the channels and passages through which ships may proceed, as well as on the North side, and between the islands, from the harbour of Quebec downwards as far as Hare Island, as with the South Channel of the said river, respecting which they are alone examined.

2.—That in order to improve the navigation and to enjoy as early as possible the benefit of such channels, it is expedient to authorise the Trinity-House to license, upon their giving satisfactory proof of their capacity in that respect, persons experienced in the navigation of the North Channel, and to give them the same rates of pilotage as is given by law to the other pilots.

3.—That to induce the pilots already licensed to acquire a knowledge of the navigation of those various channels and passages, it is expedient to grant to them, for five years from the 1st of May, 1831, a premium of five shillings per foot upon the draught of every vessel, over and above what is at present paid to them by law, which they shall conduct either up or down through the North Channel; to be paid out of the revenues of the Province.

4.—That no apprentice-pilot shall be licensed, after the 1st of May, 1829, without having been examined as to, and proved, his ability to pilot vessels in those several channels.

5.—That to facilitate the navigation of the Traverse between Cape Tourmente and *Isle aux Reaux*, buoys shall be placed thereon.

Of these the 1st, 4th and 5th were agreed to, and the 2d and 3d postponed for further consideration.

Mr. Papineau conceived that chance first caused the North Channel to be frequented by the early navigators, and afterwards when the South Channel became the general route, the signal-stations, beacons and buoys which had been placed along the North Channel, were neglected and finally ruined. As to the Trinity-House, it had not been established till long after the South Channel was the only one that was frequented. The charts constructed from the surveys of Capt. Bayfield, chosen by the Admiralty for the purpose, from among the professionally scientific men with whom the navy abounded, would be invaluable, and could not be too soon made public. According to his own judicious suggestion, as his charts were to be transmitted to the Admiralty, engraved and published, it would be right for a representation to be made to the Admiralty, of the great importance of such charts to our navigation, which would hasten their publication, and render them available for general use at an earlier period than otherwise. In addition, therefore, he would suggest

an address to H. E. requesting him to obtain from the Admiralty the earliest possible publication and transmission to this country of those charts.

Mr. Fortin said that it appeared in the evidence that several shipwrecks had occurred of vessels taking the North Channel, and in one instance only five out of seven had come safely through. Captain Bayfield's skill and experience could not be doubted; yet the opinion of other navigators was different. The very abandoning of the North Channel, was a proof that navigators generally considered the South Channel as preferable.

Mr. Laterriere said that the hon. gentleman probably relied on the evidence of Mr. Lambly, whose opinion was that no benefit could be derived to the navigation in general by an acquaintance with the North Channel—if the hon. gentleman referred to that, he ought also to have seen that Mr. Lambly was but slightly acquainted with the North Channel

Mr. E. C. Lagueux did not want much evidence on the subject. That before the House was clear and explicit—but that was scarcely wanted—the fact of the North Channel having been the principal one—and of the English fleet of several ships of the line, coming through it—was enough. He had himself lived till he was upwards of 25 years within view of it—and he never saw one shipwreck. The North Channel was in fact preferable—and a good ship with good anchors and cables ran no danger—pilots should be appointed for that Channel, for at present the pilots for the South Channel, are acquainted with but a very small part of the river.

Mr. Quesnel observed, that if a ship took a pilot for the North Channel, it might happen the weather might prevent the pilot from carrying her that way—and then she must take the South Channel—a knowledge of both Channels was, therefore necessary for all the pilots, which the hon. mover of the resolutions did not seem to contemplate.

Mr. Laterriere meant, that there should be pilots licensed distinctly for the North Channel, who might or might not be pilots for the South Channel—and the premium of 5s. per foot additional would operate as an inducement for all to become acquainted with the North Channel, which was a main object; and in a few years the pilots for that Channel would become sufficiently numerous.

Mr. E. Lagueux believed that one summer would be sufficient for a seaman to become acquainted with the North Channel, to enable him to act as pilot; ten or twelve pilots for the North Channal would be wanted.

Mr. Papineau said, that after having declared that it was absolutely necessary that pilots should be acquainted with all the Channels, (the first resolution having been agreed to,) it was equally necessary to do all that

could be done to follow that up—a pilot who had only a knowledge of the South Channel might by stress of weather be driven into such a situation as to require a pilot for the North Channel. The Trinity-House, therefore, ought to cause a certain number of such pilots to be kept at Crane Island, Isle aux Coudres, Malbale, and other places, to assist vessels; and it occurred to him that the stations of such pilots might be designated by signal-poles for the information of mariners. It certainly appeared to be a defect in the law, that hitherto an acquaintance with all the channels and passages of the river had not been required of pilots—and it would be by no means a hardship imposed upon them to acquire that knowledge—it was for their own advantage to become more perfect in their profession.

Mr. Boissonault did not think so much of the necessity of all this, as other gentlemen did. Let all the present pilots come forward, and there would not ten of them be found who were not acquainted with the North Channel. He doubted whether the Province ought to be called on to pay the proposed premium. Those who were more immediately concerned—merchants and shipowners—were fitter. Pilots are not now confined to a knowledge of the South Channel. (A member observed, but they are only examined as to that Channel.) The reason why they are not examined is because they know it.

Mr. Papineau said, let the Trinity-House examine all the present pilots and give certificates to those who do know the North Channel—and then there could be no objection to employing them for both Channels; and when the case occurred of a vessel being obliged to take the North Channel, and a special pilot for that Channel came on board, all the other pilot would have to do, would be to shew his certificate. This too would obviate an objection that had occurred, namely, that the premium proposed would operate as an incitement to the cupidity of pilots, who were not well qualified, to undertake that passage; which none ought to undertake but such as had undergone a full examination. It was true that in case of misfortune, they were subject not only to lose their pilotage, but to dismissal; this, however, might not be sufficient to deter an unskilful pilot, as to that Channel, from running his chance of gaining the additional premium. Thus too they would have a strong motive given them to acquire proficiency in their calling. With regard to the amount that such premiums would take out of the public money during five years, it was of little consequence compared to the public and private advantage that would be derived from a thorough knowledge of the North Channel. There were two consequences;—either the North Channel is better than the South, or the South better than the North—if, after a few years experience, the North Channel is found to be the best, it will be most followed, and no more premiums required; but, if the reverse, then will the South Channel be preferred. The premium proposed, is sufficient to cause the North Channel to be preferred if it be better or equal, but not sufficient

to cause the abandonment of the South Channel, should that be found to possess the greatest advantages.

Mr. Boisonnault observed that the premium of 5s. per foot would make all pilots take the North Channel in preference ; and calculating at the rate of only ten or twelve dollars a vessel, the amount to be paid by the public could not be less, and probably more, than £3600 per annum, a sum which might with as much utility be expended in giving premiums to those vessels who sailed round the Cape of Good Hope.

Mr. Viger said if merchants and Captains found their interest in the North Channel being most frequented—they would do so—they were certainly more interested than any other persons, yet he had heard of no application from them in favour of this measure.

Mr. Laterriere believed the hon. member for Hertford rather exaggerated the amount of the premiums that would be payable—but were it £3600 per annum, what was that compared to the loss of lives and property caused by the shipwreck of only four, three, or even two vessels? —What would even £4000 or £5000 be compared to the contributing to the safety of the navigation of the St. Lawrence, now frequented by many hundreds of ships from all parts.

House in Committee on Mr. Christie's motion for the encouragement of the Fisheries, Mr. Proulx in the Chair.

Mr. Christie, said this was a proposal merely to enquire whether it was expedient to make legislative provision for the encouragement of the Fisheries. Fisheries were in all countries, which possessed the means of prosecuting them, considered as material objects of national industry, a source of prosperity and wealth, and merited liberal encouragement, or at least were well worth the attention of every legislature. Accordingly every maritime nation had felt their importance, and gone far to encourage and extend them ; particularly on the ground of their being a nursery for seamen. Great Britain had been lavish and the United States not less so, in doing all they could to nourish and increase this national fountain of riches—nor had France been backward. The Fisheries on the coasts that belonged to this Province and to the other British Provinces in America, were a gold mine which had yet, as regarded this Province, scarcely been explored, and would be found to contain inexhaustable treasures, if property cherished. The Fisheries in and adjacent to the Gulph of St. Lawrence had been a great object of jealousy and envy to the United States,—they coveted its participation—and every commercial treaty and convention made with them, shewed their eager desire to avail themselves of them. Such being the case, the only difficulty he saw in the question, was what was a reasonable encouragement, and how far we might go in that respect with a due consideration of the object,

and of our means. He would detail the encouragement already given to the Fisheries by law. The encouragement given by the British act of 6 Geo. IV., cap. 114, is in general terms, that "any sort of craft, food, and victuals, except spirits, and any sort of clothing and implements or materials, fit and necessary for the British Fisheries in America, imported into the place, at or whence such Fishery is carried on, in British ships," shall be "*duty free.*" This enactment of the British Parliament, it would seem, is understood in the neighbouring Provinces of Nova Scotia and New Brunswick to supercede all colonial acts, or bye-laws, by which any duties may have been imposed on such necessaries, &c. That, however, is not the case in this Province. Provincial duties imposed here are not disturbed by this act, and the duty of 2½ per cent., on goods imported into this Province, is paid, as well upon articles necessary for the Fisheries, as on all other merchandize. By an act passed in February last year, the legislature of N. Scotia voted £5000 for the encouragement of the Fisheries of that Province, to be distributed in bounties, viz :—1s. on every cwt. merchantable dry cod fish; 5s. per ton to vessels employed for three months in the fishing of cod, haddock, mackerel, &c. on the coasts of Nova Scotia, and Gulf of St. Lawrence :—3s. 8d. additional per ton, for such vessels as fish on the coasts and banks of Newfoundland, and in the straits and shores of Bellisle, and Labrador :—5s. additional per ton, for such vessels as land their cargoes of fish within the Province of Nova Scotia :—and £500 to be distributed in premiums for the greatest quantity of dried cod-fish caught, cured, and brought to market, at the harbours and fishing-stations of the Province.

With respect to the encouragement given in New Brunswick, he was not provided with the authority of a Provincial Act; but he had a private letter, by which it appeared that there, all necessaries for the Fisheries were duty free, and that bounties were given of 1s. 8d. per cwt., for all cod-fish brought in fit for exportation, and 20s. Halifax per ton on all vessels that fished in the Gulf of St. Lawrence or on the banks of Newfoundland. These advantages enjoyed by the New-Brunswick fishermen, were peculiarly illustrative of the propriety of giving encouragement to our own. On the New Brunswick side of the Bay Chaleur, opposite and within sight of our own sedentary fisheries, these advantages were enjoyed, whilst our fishermen, deprived of those privileges, consequently go to market far less advantageously than their neighbouring fellow-subjects. He was unable to state the encouragement given by the French government, but it is certain that liberal encouragement is given to their *armateurs* and fisheries at the islands Miquelon and St. Pierre, and at Newfoundland. With respect to the fisheries as they now are, although comparatively trifling, they are yet something, even on the score of consumption of our agricultural produce. They consume a proportion of it. He had not been able to procure any precise statement of the exports to Gaspé, it not being customary to make entries of produce,

shipped thither, but from memoranda furnished by some mercantile gentlemen who have establishments there, some idea of the consumption by the fisheries of such produce may be given. It appeared that one house had sent in 1827, upwards of 900 barrels flour, and upwards of 500 quintals of biscuit, besides pease, pork, beef, and butter; and last summer, although a very unfavourable season for the fishery, nearly as much. Another establishment had exported thither 1200 barrels flour, 325 quintals biscuit; and 300 barrels pork—and another 700 barrels flour, 200 quintals biscuit, and 200 barrels pork. These supplies were but a small proportion of the whole of what went. There had been cleared from the port of Quebec for the fisheries in 1828, 138 vessels, the tonnage of which was 5738. But some of these vessels had cleared out more than once during the season, the number of vessels therefore appeared greater than it really was:—perhaps one half of the number would be about the truth. He could not precisely state the tonnage of the small vessels employed in the country-trade of Gaspé, but from a sketch furnished by a gentleman conversant in it, there were about 30 vessels of from 35 to 70 tons, which generally made three or four trips to Quebec, besides several others, and about 15 shallops of from 15 to 20 tons, that are employed in the coasting-trade in fish of the district and lower parishes. The whale-fishery was also carried on from Gaspé-Bay, which was subject to peculiar risks and disadvantages, and yet, as being the beginning or germ, as it were, of that profitable pursuit, was highly deserving of encouragement and of the attention of the house.—For some years past, 4 vessels have been employed from Gaspé in that fishery, manned with from 12 to 16 men, besides a few employed on shore, called tryers, to melt the blubber. Their outfits come very high; he had an estimate of the outfit of the schooner Amos, of 75 tons, which amounted to £450.—A bounty for the cherishing of this fishery, would be expedient. Upon the whole of his object was the encouragement of the fisheries in the province in general, and not merely for those of the county he represented. It was his intention to move for a Committee to take into consideration the most eligible means of obtaining the end desired; and it seemed to him that the following propositions would deserve attention. 1st. A premium to the Quebec merchants for the exportation of fish, equivalent at least to the freight from Gaspé, or the Gulf, to Quebec.—2d. A drawback of the 2½ per cent. on all articles necessary for the fisheries, sent from Quebec thither.—3. Premiums or bounties to the three barges or boats at every fishing-station, that shall catch and cure the greatest quantity of merchantable cod-fish.—4. A tonnage bounty to whalers and bankers, sufficient at least, in case of an unfortunate season, such as the last one, to save them from ruin.—The bounties and premiums should be so arranged as to go into the pockets of those who are actually engaged in taking the fish and preparing it for market.

Mr. Neilson, said the system of encouraging the fisheries, was in the odour of sanctity, both in the United States, and in the neighbouring

British Provinces—and one reason was, they were anxious to depress and discourage ours, for fear of rivality, which our fisheries were yet very far from being capable of. No one can doubt of the great utility, in a national point of view, of fisheries; all nations were agreed in that; as they furnished abundant supplies of food, the means of commerce, of wealth, and of creating seamen. It had been contended that fisheries were against the agricultural interest of the country; not so—the more persons are found to consume the produce of the country, the more agriculture would flourish—a maritime population, including fishermen, were a class of men who purchased largely articles of consumption from the agriculturists. It was additional classes of consumers alone, that made agricultural countries flourish—they could not do so without such—if all were agriculturists—very little or no surplus produce would be raised. Look at Great Britain—whence arose the high state of her agricultural riches?—only from the numerous additional classes who came in, as consumers, to buy the produce of the land. No instance would be found of any nation solely addicted to agriculture, which had prospered like others. To encourage fisheries was also to encourage agriculture. Now we do nothing to obtain the advantages that might be got from Gaspé and Chaleur; we suffer the Americans to carry off all. Whether this may be attributed to the superior enterprize and energy that are said to characterize our neighbours, he would not enquire; but this was certain, that their Government did much to encourage their fisheries. They gave a bounty of 20 cents on every cwt. of fish; and bounties of from $3\frac{1}{2}$ to 5 dollars per ton, upon every vessel employed in fishing, provided it did not exceed 360 dollars for one ship. It was likewise provided by their laws in this respect, that the crew of such vessels should be engaged on shares, and all the men should share in the bounties—and further that three fourths of the crew should be native Americans. They knew the value of these fisheries, which were almost entirely carried on, on our coasts, as a nursery for seamen, and they enacted that restriction as to the crews on that account; for with regard to the other portions of their mercantile shipping, instead of three fourths of their crews being native Americans, he believed three fourths of them were Europeans. They had long been endeavouring to monopolize the fisheries that lay at our own doors, and annually sent a ship or two of war to protect their fishermen in the Gulph of St. Lawrence, and on the coast of Labrador. We ought to profit by their example, and take ourselves as much as we could the advantages which the Americans were carrying off from us before our faces. Industry generally would raise itself, but here rivalry of every kind came in to keep its exertions down. It should be our policy to come to their aid, and by so doing we should finally enable them to overcome competition.

Mr. Papineau observed, that in our situation the examples of other countries ought not to be allowed any weight. The situation was widely different. As commercial and maritime states, their political relations

were different from ours, and ought to have no influence on our conduct. This colony was essentially agricultural, and nothing ought to be introduced to withdraw the attention of the people from that occupation. Only a small part of the Province could be engaged in maritime objects and fisheries. Countries that have a great extent of coast, will naturally have a numerous maritime population, the surplus of those engaged in agriculture, when carried to its height; but in this country, with a vast extent of land uncleared and uncultivated, it would be wrong to withdraw the attention of the people from agriculture and direct it to fisheries; to encourage them by preminms and drawbacks, to abandon the permanent sources of prosperity which the hand of nature had opened up. The inhabitants were suffering distress from the failure of the crops, and it would be very impolitic, to lay out expenses upon a distant and very thinly peopled portion of the Province. The attempt to convert Canada, which had but one outlet to the sea, into a maritime country, and to bring her into competition with the United States, and with the Provinces of Nova Scotia and New Brunswick, would be as preposterous as if Austria, which possesses only two sea-ports in one corner of the empire, were to aim at becoming a great maritime and mercantile power. The practice of neighbouring Provinces, ought to be no argument for us to give bounties. They were compelled, by their situation, to depend much on the sea. But we were not so situated, and if we wanted fish, it would be better to buy it of those colonies. It would be cheaper to do so than to catch them here by means of bounties and drawbacks. Nature also presented serious obstacles to prevent the fisheries in question from rising to importance.—The navigation here was sooner closed and the dangers greater than in other countries. The 2½ per cent duty, which is now paid by all consumers, was a part of the Provincial revenue, of which all ought to share equally. But this would not be the case, if one part, however small, were exempted. This exemption would form but a small encouragement to the fisheries if they deserved it, and it would be an act of injustice to the rest of the Province, and would be so considered. He did not think it expedient to encourage the fisheries in the way that was proposed.

Mr. Christie observed, that though we might not rival the other Provinces, we ought to aim at having our share in the fisheries. If we can not get all that we wish, let us get what we can.

Mr. Viger said that there were exceptions to political, as well as to other theories: A state might be essentially agricultural, and yet find it exceedingly useful to devote part of her attention to other objects. To grant encouragement to fisheries was no more unjust to the rest of the country, than giving aids for roads, bridges and other local objects. It had been objected that only a small part of the population was to be benefitted by this measure; but the fisheries might become useful to the whole; and at all events small portions were entitled to the attention of

the House as much as large ones. If it is but a small object, we ought to make the most of it. If we had but one opening into the ocean, every part of it ought to be made available, with the greater ease. The less sea-coast we possessed, the more pains we ought to take to render it useful, and to derive from it all the advantages it can afford.

Mr. Bourdages said that the 2½ per cent duty was a specific part of the revenue in which Upper Canada was interested, and with which we could not interfere without the consent of that Province. With regard to the question itself, it might be asked, why does not the district of Gaspé prosper, why does its population not exceed 5000? The answer is, because we had not encouraged them in the pursuits for which that territory is most suitable. It is indeed best calculated for fisheries, and for that reason ought to be encouraged in that branch of industry which is congenial to it. By affording them encouragement in this way, we should draw out the resources of the district, bring capital into it, and in the end improve agriculture by the encrease of population that would follow.

Mr. Christie begged to correct a mistake with regard to the population of Gaspé. No official census had been made, but from various circumstances it appeared that the population must far exceed 5000, and even the Surveyor General estimates it 7400. During the years 1824, 5, 6 and 7, the revenue had exceeded £800; and in 1828 was expected to exceed £1000. He could also assure the House, that the agriculture of Gaspé had been much improved during the last ten years; and, that the population raised the whole of their subsistence, except what was required for the fisheries.

Mr. Neilson said Gaspé ought not to be so much under-valued. The Provinces adjoining to it prosper and increase in population, commerce and agriculture, why should not Gaspé? Its climate was not worse, its soil was like theirs, its harbours, bays and coasts, were similar to theirs. Though we may not know its value, they do. If we thought Gaspé burthensome to the Province, it would be easy to get rid of it. New Brunswick would grasp at it, would be glad to have it added to her territory. The separation of Gaspé had been spoken of in England; but he hoped that would never take place. It was an integral part of Canada as much as any other. He considered the whole of Canada as one. If any man should ever propose either here or in England, to cut off Gaspé or any other part of our territory, he would consider him as an enemy to Canada, and his country.

Mr. Christie's resolution was then carried, the House resumed and the resolution was referred to a Committee of five, with instructions to enquire into the state of the fisheries, and the best means of advancing them.

The Committee to whom was referred the petition of the inhabitants of Frampton, praying for aid in constructing a bridge, reported in favour of granting £200 for the purpose.

LEGISLATIVE COUNCIL.

On the third reading of the bill "for preserving for the purposes of husbandry, the grass growing on beaches," it was resolved that the order of the day be discharged, and the bill be read a third time on the 1st of September next.

HOUSE OF ASSEMBLY.

FRIDAY, 9th Jan.

Mr. QUESNEL brought in a bill for establishing a new market-place in the city of Montreal, and Mr. LESLIE one for establishing a new market-house in the St. Lawrence suburb, Montreal.

Mr. BOURDAGES brought in a bill to regulate the exercise of the rights of proprietors and lessors against their tenants, and lessees.

Mr. VALLIERES presented a petition from the Eastern townships on the River St. Francis, representing the state of the roads, for an aid to the amount of £6800, for the repairing and opening them, and for road-laws, and a land-tax for their maintenance :—referred to the Committee on the Petition from the Eastern townships.

Mr. CUVILLIER presented a petition from the town of Dorchester, (St. Johns,) praying for the establishment of a Court of Justice, which was refused to be received, the time for receiving such petitions having expired.

Mr. LESLIE, from the Committee on the petition of the American Presbyterian Society of Montreal, brought in a bill to afford them the relief prayed for.

Mr. NEILSON from the Committee on the merchants' of Quebec petition for reimbursement of charges in sending a commercial agent to England, reported thereon unfavourably :—on the petition for a road to Sillery-Cove, favourably :—and unfavourably on that for opening avenues from Champlain-street to the river.

Mr. BOURDAGES reported favourably to the petitioners for the loan of seed-corn, &c.—also from the Committee on the petition from the counties of Bedford, Richelieu and Surrey, for an aid for roads ; favourably ; —and from the Committee on the Drummondville road, reported in favour of a grant of £900, to improve the road already commenced from *Drummondville* to the Seigniory of *Delery*, and £500 for the improvement of the road from *Drummondville* to *Frampton*.

Mr. Bourdages in bringing in the first report of the Committee on the petition from Lotbiniere for relief, moved for a Committee of the whole to consider of the report. The Committee had so far been satisfied, that the distress was real and the case urgent—that they recommended an address to His Excellency to advance £200 for the immediate relief of the sufferers. It appeared there were actually 35 families who had no possible means of support, and had had none since the 1st of January last; and other families, making up the number of 83, who possessed a greater or smaller portion of provisions, but would, in a short time, be destitute. Of all laws, the law of hunger was the most pressing and peremptory—there was no putting that off for a single day—and it was, therefore necessary the report should go immediately to a general Committee.

Mr. Viger begged the hon. mover to recollect that, on a former occasion, after very strong representations, and when almost £30,000 had been voted for the relief of alledged distresses, yet after five or six weeks of cool examination, it had been found that the distress was much exaggerated. If there were 35 families in that parish that were destitute he had no doubt that 35 other parishes might very soon be found in which there were also 35 distressed and destitute families.

Mr. Solicitor General said, this case was not analogous to that which had been alluded to. There the recommendation came from the Crown, whilst, in the mean time, the Governor had provided for the urgent want that existed—had put his hand into the coffers, and first removed the distress, and then applied for an indemnity for so doing. The difference was striking also in another point—then £30,000 was required—now only £200—and that to relieve 35 families who were perishing for want of subsistence. It had been usual in cases of aid to allow at least two days for consideration—but the reasons urged for an immediate consideration were undeniable. Besides, that part of the country, and every part of the country, ought to understand that their representatives were alive to their wants and representations. Let it go to a general Committee, and there and then only can it be decided whether it should be postponed even another day.

House in Committee on said petition, Mr. Larue in the Chair.

Mr. Bourdages gave a short history of the petition, and a sketch of the distress on which it was founded. Meetings had been held, and respectable persons sent round the country to ascertain the extent of the relief required. A sum of £1000 was wanted, and the *Fabrique* there had come to the determination of mortgaging its property in order to obtain that loan. The Curé and a deputation had come to Quebec, and had endeavoured to borrow the money in the city upon that security, but in vain, and now came to the legislature for aid. It was not alms they were seeking, but a

donn, to be repaid, and for which the security was ample. That the distress was real, great, and urgent, was fully proved, and he appealed to the compassion and humanity of the House. He would mention a fact that had come to his knowledge only that morning. The notables of Lotbiniere, in order to procure food for the destitute, had themselves gone along shore to the fisheries of *les petites morues* (tommy-cods,) had purchased a considerable quantity, and distributed it among the distressed families, and such was their eagerness and their hunger, that in many instances, the fish was instantly devoured raw. He should propose an address to His Excellency, requesting him to advance £200, in order that those 35 destitute families might receive immediate succour, whilst the Committee were considering of the expediency of advancing the remaining £800 wanted.

Mr. Neilson thought this case was one of real distress—one of those particular cases that might be excepted from general rules of form. The respectable gentlemen who had come hither would not, and were incapable of deceiving the house. He knew, himself, there was a great deal of distress in the country—and though this was opposed, in his opinion, to proper forms, and general system, he would give his consent.

Mr. Papineau said, the House had not had time more than to glance at the statements, and yet were pressed to come to an instant determination. The distress of this parish was not singular—it is very general and great, and it would be proper to do what could be done to alleviate it—but we must do it with discretion. It would be right maturely to consider whether there was not some exaggeration. There could be no doubt that the respectable gentlemen who had taken up the cause of their destitute neighbours, were themselves convinced of the entire truth of what they represented, but the very humanity, and sensibility of their dispositions which induced them to do this, might likewise betray them into imposing upon themselves, as to the extremity of distress described. Distress among agriculturists often arose from the bad calculations or improvidence of farmers, and, independent of bad seasons, might happen in all places and at all times. We must make people depend more on themselves. A precipitate grant of money on such occasions would make people negligent and less prudent, if they supposed they could at any time go to the legislature, and by making out a story of distress, get a supply to make up for their own want of foresight. Endeavours were making to suppress mendicity in detail, but this would be to encourage mendicity by wholesale. The Assembly ought not to carry a poor-box to their constituents. The general business of the Province was their proper object; although such cases, were there was more than ordinary want, might be exceptions. But there was another objection to take and distribute the public money in this way. We have been blaming and condemning one branch of the Legislature for taking the public money and applying it without the con-

sent of the other branches; and now we are doing the same thing. The other branches of the Legislature have privileges in that respect; and if we want to prevent the Executive from doing what we have blamed it for, let us not set the example ourselves of a disregard for the rights of the other branches. If we wish to proceed by address, we should send a message to the Legislative Council, to request them to join us in an address to the Administrator; or if by bill, since the case was one of emergency, the bill might be passed, sent up on Monday, and His Excellency's approbation obtained forthwith. These were the only two proper ways, and he thought proceeding by bill was the best.

Mr. Lee had been at first opposed to the grant, but after reading the report, and being convinced of the truth of the distress described, and the respectability of the persons applying, he thought relief ought to be afforded. He must, however, say something as to the Hon. Speaker's objections to an address on the subject, from the House, to His Excellency. This, in his opinion, was depreciating the House. It was this House alone that could grant money; and they need not go to another branch and ask their concurrence. There had been no example in England since the Revolution, of the Lords or the King, refusing to sanction any grant made by the Commons. A vote of the House of Commons was considered sufficient. In cases of loans, the *agioteurs*, those who subscribed for the loans, depended alone on that vote, and go to work raising the money, the very moment it is passed in the House—and before the formalities of the consent of the Upper House and of His Majesty, were gone through, paid it into the Exchequer. Many instances appear of money granted by the Commons without those previous formalities being attended to. Perhaps, however, members fell now into the mistake which the House made in the appropriation-bill of 1826, by which the monies granted by that bill were directed to be accounted for to *the Legislature* instead of to *the Assembly*, which involved a great absurdity. The Governor, as one of the branches of the Legislature, would have thus to lay his own account before himself. Perhaps this was considered a sufficient ground for supposing that, as by this act the whole Legislature had to audit the accounts, the branch which possessed the sole power of granting money, could not vote it without the concurrence of the other two. The appropriation-bills of Upper Canada were drawn up with greater constitutional propriety. They specially stated that the accounts were to be laid before the Commons House. He hoped the House would be alive to this essential difference this Session. With regard to the question before the House—if he voted for this measure, it would only be on the score of humanity.

Mr. Viger wondered how any Hon. Member could contend that we might vote money, and, without the consent of the Legislative Council, apply it as we liked. The other branch has a voice also—it has its veto—and though in money bills they could make no amendment, they might

throw them out altogether. If we can do so for £200, we can do so for £200,000—and then the constitution would be destroyed. The case was an isolated one, when at the close of the Session of 1826, as mentioned by the hon. member for the Lower Town, the Assembly voted the appropriation-bill, and he did not feel the bearing it had on the question. As to the question itself, though the distress might be great and urgent, yet, many other places were as badly off, or worse. He could, he believed, confidently state, that one-fourth, perhaps one third, of the district of Montreal were in the same predicament. Half the Province was nearly in the same situation. Yet, if the Committee thought it one of those cases that required to be excepted, he should concur, and hoped it would not be similar to those, which, in 1817, had caused a profuse expenditure of public money, without being half so much wanted as was represented.

Mr. Solicitor General said, that if the present question was one similar to that of 1817, when a large sum was voted in a lump, for the relief of the distressed parishes, he should hesitate; but this was small, a trifle, £200, to save from famine 35 families, who had nothing to eat, and would be destitute for many months. The chief argument which had been used was, that other parts of the Province were in like distress—but that is no reason—that distress is not officially before us, and this is—these petitioners come here moreover as a last resource—they have gone from door to door—tried to remedy their wants within their own confines—come to Quebec, at expense and risk—tried all they could here—and finally come to the Assembly—but they don't come cap in hand to beg charity; they come with offers of adequate security to reimburse the Province for its assistance in their calamity. He differed entirely from the hon. member for the Lower Town as to the rights of the Assembly in voting money. He hoped it would be recollected, that though we were the purse-holders, we had no right to draw the purse-strings without the concurrence of the other branches of the Legislature. If we had, we might send a message to the Legislative Council to pack up their trunks and be off—that we had no need of them. But we have need of them—they have a constitutional veto upon all our proceedings, and the stronger in money-matters, because in those they have nothing but a veto. It should be remembered that they form the balance of power—the balance between the Assembly and the Crown—and we must let them hold the scales. He hoped the hon. member who had so humanely and honourably stood forward to advocate this measure, would follow it constitutionally up, by proposing to send this resolution to the Legislative Council, and request their concurrence. Then all would be right—all would be done constitutionally—and the money might be forth-coming on Monday or Tuesday next.

Mr. Lee wished to explain the difference as to money-votes in the House of Commons. Their sole controul of the public money was acknowledged, and confirmed by the Bill of Rights at the Revolution in

1688. They alone could propose taxes and means for raising a revenue, which required the consent of the Lords and the King; but when raised, as they alone had the appropriation of it, they might vote that money away, by an address to the throne, as they liked;—and large sums had been appropriated in that way. In this House a similar course had been often pursued—and he did not know that any difficulty had arisen in consequence.

Mr. QUESNEL said, that, considering the urgency of the case, the many speeches that were made on the occasion, put him in mind of the schoolmaster in the fable, who, whilst the boy was drowning in the river, preached to him a long discourse on his imprudence, and the danger he had thereby exposed himself to. It had been said, that if we encouraged this application, we might be every day pestered with similar petitions. What then? when they came, we might consider and examine them; but we should not every day find so well authenticated a case as that now before us—but why should we now speak so much of general distress—the short crops, &c. We have nothing officially besides this petition before us, except that from St. Philippe, which was now also under consideration. As to the mode of proceeding, he should have preferred it to have been by bill—but as it would not be possible to carry a bill through in sufficient time, he should prefer communicating by message with the Legislative Council, who were deliberating on the same subject, a simultaneous message having been sent to them by His Excellency.

Mr. VALLIERES, in reply to the observations as to the rights of the House, said, there could be no doubt that the right of granting money vested alone in the Assembly, but the concurrence of both the other two branches was necessary. But he would not at present dwell on that question. It is a question of disposing of part of our funds—part of our public riches—part of these were to be expended for supporting the first and most essential kind of riches which a country possessed—which was men—population—and here we are called upon to preserve a part of those essential riches—a part of our population—a great number of individuals—who, if not relieved by us, or by some remarkable interference of Providence, will be condemned to perish of hunger. If even by this we expose ourselves to other appeals—be it so. We will dispose of them when they come, on their respective merits. If proofs are demanded of this case—what more can we have? Some things prove themselves—we have seen, in times of great distress, many applications made for relief—but did we ever see an entire ecclesiastical establishment, with the Curé at their head come forward, and offer to pledge all their temporal property, private and public, to provide their parishioners with food—this proves itself—the distress must be great and crying. Let it be kept in mind, it is not an alms, a gift, a charity, they ask, but a loan with security. Stress had been laid on the probability that by granting aid in cases of distress, we

should encourage improvidence, and destroy the energy and self esteem which would prevail with those who depend solely on themselves. It would be in some respects the contrary. These poor people, these distressed families, are now all possessed of property—all have their little lots of land—drive them, by their dire necessity from these, their homes, and compel them to go a begging from door to door, and from parish to parish, what becomes of their energy and self-esteem? They lose both and fall down to the lowest class—to mendicants, and dependents on casual charity.

Mr. Bourdages' motion for an address to His Excellency was then agreed to, and the Committee rose.

In the House, when resumed, a debate arose as to when the report should be received. It appeared that it was a rule of the House, that on all questions involving the giant of money, 24 hours must be given for its consideration.

Mr. Viger and Mr. Neilson were for observing this rule in the present instance.

Mr. Bourdages and Mr. Ogden argued on the other side; and in result the report was ordered to be received to-morrow.

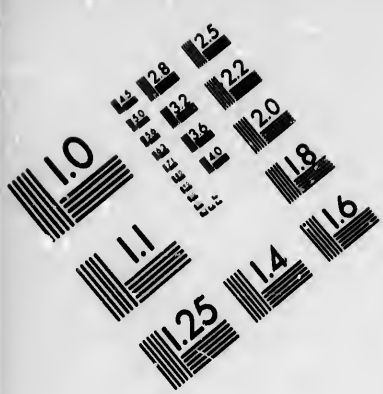
LEGISLATIVE COUNCIL.

The bills for a compensation to Benj. Ecuyer, and to repay a sum of money to Alexander Wood, were passed.

HOUSE OF ASSEMBLY.

Saturday, 10th Jan.

Reports from various Committees were received :—viz :—On the petition from Chambly, for a bridge, evidence without remark.—On the petition relative to turnpike roads ; favourably.—On the petition from St. John's Chapel, Quebec ; favourably.—On the petition from the Trustees of the Quebec Library ; that it is deserving of public encouragement.—On the petition of Judge Bedard ; in favour of a pension, and that the Judge of Three Rivers should have the same rank as other Judges.—On the petition from the Natural History Society of Montreal ; in favour of an aid of £200.—On the petition from Caxton ; to lay the evidence thereon before the Committee of roads.—On the Montreal General Hospital, and Grey Nuns Hospital ; respecting the mortality amongst foundlings, and recommending grants of money for insane persons and foundlings.—On the petition for a bridge over the Chaudière River ; unfavourably, from the uncertainty as to the best place where to construct it, and for



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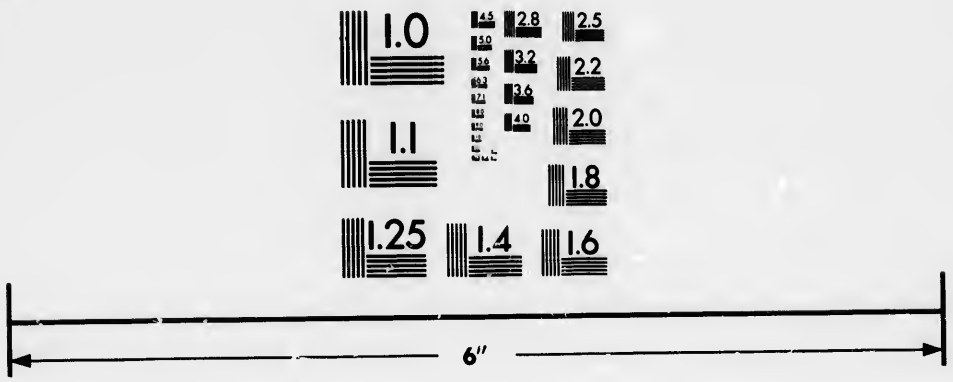

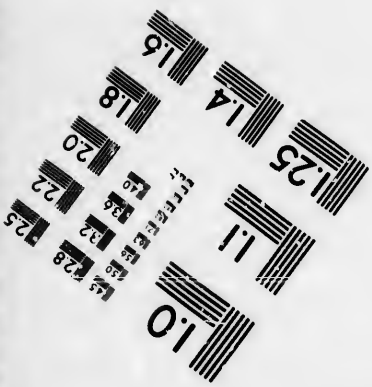

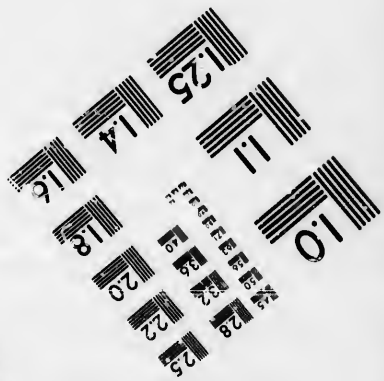

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want of necessary plans, and information.—On the petition for improving the Quebec roads; favourably.—On the projected pier across to Beauport, and a tide-dock, in the St. Charles; recommending the undertaking, as one of great importance:—(in evidence, the expense is variously estimated by different persons from £80,000—to £300,000.)—On the petition for a new market in St. Roch's suburbs, Quebec; that a new market is indispensible.—On the petition of the Surveyor General, for an aid towards his topographical map, &c. that it is expedient to encourage him by taking a certain number of copies.—On the incorporation of the Quebec Friendly Society; favourably.

Mr. CUVILLIER from the Committee on Public accounts, presented their first Report; as follows:—

FIRST REPORT of the special Committee to whom were referred the Public Accounts for the year 1827; His Excellency's message of the 17th ult. accompanied by various documents requested by the address of the House of the 5th ult; and also His Excellency's message of the 24th ult. relating to the hon. John Caldwell, late Receiver General, and the papers accompanying the said message.

Your Committee report, that they have bestowed on the said message of the 24th December last their most serious consideration, as well as to the documents accompanying the same, consisting of an extract from a letter of the hon. John Caldwell, dated the 23d October, 1825, addressed to His Excellency the then Governor in Chief, together with a schedule of property proposed to be surrendered by him; a letter from the same to His Excellency the Administrator of the Government, dated the 2d December, 1828, and the Report of the Attorney General on the state of the proceedings in Mr. Caldwell's case, dated the 3d December, 1828.

By referring to the report of a Committee of the House on a reference of the 1st December, 1823, of the Governor's message relating to the defalcation in the Receiver General's chest, it appears by the evidence thereunto annexed, that the said defalcation was known to the Governor in Chief in March or April of that year, and it became publicly known by the appointment in August following, of two gentlemen to act in his office. This defalcation according to the account rendered by the said Receiver General, dated 17th November, 1823, amounted on the 16th August, 1823, to £96,117 13 0 1-4 sterling, besides £119,332 15 11 1-2 of advances, for which no warrant had been issued; the amount of cash avowedly deficient was £97,117 13 0 1-4 sterling being equal to one year's net revenue of the Province. Of this money nothing appears to have been recovered at the end of five years, saving the £4,000 mentioned in the present message, while the revenues of estates, the possession of which has been retained by Mr. Caldwell, even at the rate of the late payments, amounted to £10,000. The state of things has left your

Committee under the most painful impression, in regard to the security of monies in the hands of public accountants in this Province, and they have been led to the conclusion that either the laws in regard to them are deficient in their provisions, or that their execution is tardy and inefficient.

Your Committee with a view to satisfy themselves on this subject had already applied for any opinions of the Law Officers of the Crown heretofore given on the responsibilities of His Majesty's Receiver General in this Province, under the existing laws; but they have been informed that no such opinions have been given to this Government; your Committee must presume that the laws in being, have been considered sufficient by the Executive authority which has been charged in the Colony with the controul over the Receiver General, exercised by the Lords of His Majesty's Treasury, as no further Legislative provision has been required for the security of the subject in this important particular.

Your Committee has also referred on the subject of this message to the humble address of this House to His Majesty, dated the 3d February 1824, claiming a reimbursement from His Majesty's Government in England for the public uses of this Province, of the amount of the defalcation referred to, on the grounds that the said money was deposited in the hands of the Receiver General, in conformity with the special instructions from His Majesty, communicated to the Legislature on the 26th February 1798, by which the Governors were "instructed by His Majesty respecting enacting laws in this Province," and under which it was required in all acts of that description, that "a clause be inserted declaring that the due application of such monies pursuant to the directions of such law, shall be accounted for unto us through our Commissioners of our Treasury for the time being in such manner and form as we shall direct," the said Receiver General being the officer appointed by, and accounting to, the Treasury to receive the same, and having been actually acquitted by the Treasury for the Provincial Revenue to the 20th April 1810, by a *quietus* of the 11th August 1819.

They have also had before them the message of His Excellency the Governor in Chief of the 2d February 1826, with the dispatch of His Majesty's Secretary of State for the Colonial Department, dated the 10th January 1825, in relation to the said defalcation; and also the message of His Excellency of the 31st January 1827, inclosing "an extract of a letter recently transmitted to him by His Majesty's Secretary of State for the Colonies dated Treasury Chambers, 30th Oct. 1826;" wherein it is stated, that my Lords can not admit that the Province of Lower Canada has any legal or equitable claim upon the Government of the United Kingdom of Great Britain and Ireland to make good the loss which has been sustained by the insolvency of Mr. Caldwell, the Receiver General of the Province.

Under this refusal on the part of the Lords of His Majesty's Treasury to consider His Majesty's Government in England as responsible for the acts of their officers in the Colony, over whom they had exercised an exclusive controul, your Committee could have hoped that their Lordships would have recommended that the controul in this and in all the cases respecting the public accountants in the Colony should be left to the Legislative authority of the Colony, who, by the aforementioned decision, are to bear the losses of mismanagement, if any.

Your Committee think themselves bound to remark, that under the said decision of the Lords of His Majesty's Treasury, the situation of the people of this Colony can in no way be compared with the situation of His Majesty's subjects in England. When receivers or other public accountants there become defaulters, if there is any ultimate public loss, then it falls on that public under whose authority these receivers and accountants were regulated and controuled; but in this Coloney, when such loss occurs it would fall on those from whom all share in regulating and controuling these receivers and accountants is withheld, under the paramount authority and power of the mother country.

Notwithstanding the difficulties and losses to which this Province has been exposed in the present instance, and those which may hereafter occur, your Committee are of opinion, that the House ought not to interfere in the renewed transactions between the authority of the Lords of His Majesty's Treasury, and the late Receiver General, but that it would be expedient to make a solemn appeal to the Justice of His Majesty and Parliament, for the recovery of the monies deficient, and praying that in all time to come the cantroul over the receipts, payments and expenditures of all monies arising in this Province, be in the Legislature of the Province, and that all British statutes and instructions to the contrary be repealed or rescinded.

Mr. Lee, from the Committee, presented a statement of monies appropropriated by the Legislature for roads and other local objects, from 1814 to 1827, amounting in the whole to £455,320 10 3.

Mr. Neilson moved, for a statement of all applications made during this session for grants of money—the probable amount of the money that would be required for the same—the amounts recommended by special Committees—and the amounts voted either in Committee of the whole House, by bill, or by address—and that the same be entered in a book for the information of the members. His object was that we might have a clear view of what we had done before going too far—particularly as we do not yet know the state of the public chest. All these matters, indeed, appeared on the journals, but it was inconvenient and productive of delay, for members to revert to them on all occasions.

Mr. Bourdages remarked, that these statements could not but be imperfect—there were many Committees who had not yet reported, or had only reported partially.

Mr. Neilson said, his intention was that in this book all should be entered as it occurred—not only what had actually taken place, but a continued record kept in it of all monies applied for, recommended and voted—so that every day, and as far as it could be known, we might have it before us. The motion was agreed to.

On the order of the day for receiving the report of the Lotbinière petition; for addressing H. E. to advance £200; Mr. Bourdages said it had been suggested that a previous communication with the Legislative Council was requisite. If this was necessary to further and hasten the measure, he should not refuse to let it be done—but he would declare and maintain, and would cite numerous examples, that this House need not do so—that it was what they were not accustomed to, in cases when they voted money by an address—the House has, in fact, its own privileges, which render such a formality unnecessary. In this case, too, it was peculiarly improper—the succour, if given, must be prompt. If we communicate with the Legislative Council, they may require time to consider, and delay would wholly destroy the object and utility of the application. He had searched through the journals of the House from 1814, and had found no precedent of the House having, when voting money by address, applied for the concurrence of the Legislative Council. The first case that occurred was that of an address to the Governor to advance £5000 for the expenses of sending agents to England, to which at first a favourable answer was returned, and although it was subsequently, from the turn affairs had taken, not carried into effect, it shewed the opinion of the House then, that no consent was required from the Legislative Council. The next was for an advance of £5000, to provide a service of plate for the Governor, Sir George Provost—to which it was replied, that H. E. could not accept such a gift without H. M.'s consent; still, no concurrence of the Legislative Council was thought necessary. There was also an address, voting a pension of £300 to the Widow Panet; and another for £165 to J. B. Bedard, for surveys. All these, and other precedents shewed what the opinions of the House had been on this subject—the concurrence of the Legislative Council was never thought of. He would further instance a case more strikingly in point—it was that of an address, 1817, to vote a salary of £1000 a year to the Speaker of this House—which the Government acceded to, accompanied by the suggestion that the House should also vote a salary of £1000 to the Speaker of the Legislative Council, which was also done. Now, if ever there was a case that required the concurrence of the Council, it was this—and yet it was not thought necessary. He could see no possible reason why, in the present circumstances, we should deviate from the constant practice.

Mr. Neilson conceived that the analogy between England and this Province did not, in this respect, exist to the degree that was supposed. It had for a long time been thoroughly understood and acted on, that the House of Commons had the sole controul over the whole revenue of the kingdom—there was no dispute—no contest whatsoever—the principle had been firmly and permanently settled—founded on the experience of all former times—whatever the House of Commons voted was instantly considered as the act of the whole Legislature. Here it was widely different—we had been, and still might be, in constant collision with the other branches, as to what revenue was under our controul, and what not—and we could not take it for granted that no opposition would be made to what we voted away—and therefore, if we wished success to such a measure, we should proceed regularly, so that at least no opposition might be made on the score of informality. The precedents cited by the hon. gentleman would not all perhaps shew so much in favour of his proposition as he supposed. That first mentioned, for £5000, was for the expenses of the projected impeachment of the Chief Justice—and here it was evident no application for concurrence could be made to the Legislative Council, of which the Chief Justice was the Speaker. This was a case, therefore, that stood by itself, and could not be compared with others. The next was also nugatory—it was for a service of plate to Sir George Provost, which he never had. As to that of the pension to the Widow Panet, that was in consequence of a recommendation from the Governor, which was given because no pension could be granted in the Province without the consent of the Assembly. With regard to the instance of the salary voted to the Speaker by address, and the subsequent grant of the same to the Speaker of the Council, it had something mysterious in it. There was an understanding on the subject that both Speakers should be provided for—(Calls from several quarters, prove this! shew it!)—He would go on, however, to give the hon. gentleman his help, by citing another instance, which he thought far more in point. It was in 1818 when an address was made, to provide for the expenses of the Governor; and although the Legislative Council had afterwards concurred in it, it was not till after they had resisted, and protested, and made a great deal of noise about it. Nevertheless, the principle was here, as well as in England, that no money could be granted without the consent of the three branches—but in England, the supreme power of the House of Commons over the whole receipt and expenditure is so well known and understood, that the Lords never interfered in those matters between the Commons and the Crown. Here, as before said, it was different—and he should hesitate a good deal before granting money by an address, without the concurrence of the Upper House.

Mr. Lee said, it was generally known and conceded, that the House of Commons in England had a right, by their votes, to do what they liked with the public money—and no sooner was it known to whom or to what

uses they had destined it, than their votes were acted on. The usage, the law, were in favour of the principle, that the House having the controul of the public money, their appropriation of it ought to be respected. Now a proposal is made to make an exception to that usage and that law—and in favour of whom? In favour of the Legislative Council, who have so often thwarted the views of the Assembly, even in money matters, with which they ought to have nothing to do. The Commons in England seem to understand the privileges and interests of the Commons of Lower-Canada better than they do themselves—for the report of their Committee says, that the receipt and expenditure of the whole public revenue should be placed under the superintendence and controul of the House of Assembly. And here, instead of claiming that privilege—instead of claiming the superintendence and controul over the whole of the receipts and expenditure—it is asserted, that we can not vote any of our own money without the consent of the Legislative Council.

Mr. Bourdages had cited the many instances he had referred to, not to shew that the House had been always successful when they addressed the Government to apply the public money according to their votes, but to shew the House felt, at all times, that they had the power in themselves, and were not necessarily obliged to consult the other branch. He had cited fourteen precedents proving that the House never once doubted but they might apply for money to the Governor, when it was wanted, without the consent of the Legislative Council. Yet, as before said, not to run the chance of losing the measure, he would consent to send a communication to the Council—but it would be against his will and his better conviction—it would only be an expedient to overcome the obstacle, if it presented itself, whilst he would continue to maintain the right of the House to do so, without the Council meddling in the matter.

Mr. Viger, in searching for precedents, had found one in the House of Commons of England, by which a large sum of money, £160,000, was voted, in 1787, for the Prince of Wales. (his present Majesty,) by address; in which, on the same day, 28th May, the consent of the House of Lords was entered on the journals, though it did not appear that their previous concurrence had been requested. The vote appeared to be simultaneous.

Mr. Lee said that was a case quite analogous to the present one. A message from the Crown had been sent simultaneously to both Houses—so it was here—they had both acted simultaneously—and the record of the Lords' consent was only their constitutional acknowledgment of the sole right of the Commons to grant money—it did not appear that that consent had been given in consequence of any application to concur.

The resolution was then passed; viz:—That an address should be presented to H. E. for an immediate advance, as a loan, of £200, to the

Fabrique of St. Louis de Lotbinière, for the relief of the distressed families there, assuring H. E. that the House will make the same good.

The amendments made by the Council to the bill to facilitate the proceedings against the estates and effects of debtors in certain cases, and to the bill to prevent fraudulent debtors evading their creditors in certain parts of the Province, were concurred in, and the bills ordered back to the Council.

HOUSE OF ASSEMBLY.

MONDAY, Jan. 12.

The messengers appointed to present the address of yesterday to H. E. for an advance for Lotbinière, reported the following answer:—I regret exceedingly that it is not in my power to comply with the wishes of the House of Assembly in this instance; H. M.'s Secretary of State having instructed me, in a dispatch, dated 29th Sept. last, not to apply any part of the unappropriated Revenue of the Province, to the public service, or to any object whatever, except in pursuance of an act of appropriation passed by the three branches of the Legislature."

The bill for the qualification of Justices of the Peace, was passed, and ordered to the Council.

The House in Committee on the petition of the Ladies of the Hotel Dieu in Quebec.

Mr. VALLIERES observed that though it appeared that £600 would be required in aid of this institution, the immediate advance would only be £200, and he should move accordingly, that that sum be granted. The Hotel Dieu had much additional expense entailed on it from the increased population and increased commerce of the country; fifty more beds had been supplied, and to support this additional expense it was necessary that some of the public money should be disbursed.

Mr. LEE thought there ought to be an account rendered. He did not deny the utility of the institution or the meritorious conduct of the ladies of the community, but he wished an accountability to be established, that we might know how our money was expended, and a general account ought to be rendered of the funds and expenditure.

Mr. VALLIERES was ready to admit that though this was an establishment which had its origin from private persons, it might be considered as a public institution. Under the French Government, the Intendants were vested with the power of enquiring into the administration of their finances—but no accounts had been rendered since the conquest, and he

could not discover to whom such accounts in the present day, were to be rendered—nor did he know how to establish any accountability for the sums granted in aid of their benevolent exertions by Government.

Mr. NEILSON said the institution was established by the benevolence of individuals, and was the property of individuals. Their charity had set on foot what we now availed of. They are at liberty to manage their own affairs, and we have no right to manage them for them, or call them to account. We certainly might enquire how the money we now give them was to be expended, but let us be content with that.

Mr. Speaker PAPINEAU said it was but common sense and common justice to call for accounts of what we granted—nor should we do justice to our constituents if we gave away their money without ascertaining upon what grounds we gave it, and how, generally, the revenues of the Hotel Dieu were conducted. No doubt could be entertained that a sense of duty, and feelings of religion and charity, animated those religious ladies, and they administered the worldly matters confided to their care with the best and most laudable intentions, and to the very best of their ability; but it must be allowed that, however bright were their virtues, or the zeal, piety and charity, with which they fulfilled their religious duties; these very virtues and the seclusion in which they lived from the world, rendered their capacity to administer the revenues of an establishment like theirs, less than if they had better opportunities, and minds more adapted to consider what accounts, and accountability for pecuniary matters, were. Under the old French government, the Intendant and the Council directed and controuled their pecuniary concerns. Now there is not any person or body to do that. This was the more required since their revenues had, from the change of circumstances, greatly increased; but if their revenues had increased, so had their expenses—and this was our fault, because we added to their charitable labour, more charitable labour—but if we add to their means of supporting these expenses, wehave a right also to enquire as to how they are incurred.

Mr. CUVILLIER observed that the condition of submitting their accounts to Government was not likely to be approved of by the parties. Other similar institutions had similar aids, but did not think themselves called to render accounts. They had actually refused the assistance of the Legislature when it had been tendered to them on the condition of accounting for it.

Mr. VIGER, bore testimony to the frugality, the merits, and industry of the communities of religious ladies, and to the circumstance of their expenditure going beyond their ordinary revenue. Upwards of 100 patients were taken care of by the Sœur Grises at Montreal; and many of the sisters were obliged to work as sempstresses and otherwise, in order

to help to support the house-expenses. With the most moderate means they maintained a large establishment, by economy, constant labour, and unlimited zeal.

Mr. VALLIERES admitted that as public institutions they ought to be submitted to some kind of accountability—but how, was the question? If they come to us annually for assistance, it seemed indispensable to enquire as to the property and resources they possessed, and their annual expenditure, in order to judge of the propriety of our grants. Their accountability to the King of France, through his Intendants, had been done away with—what to substitute he could not yet tell—and it might be a subject of very serious consideration. Such institutions had been called, and were, *administrateurs des fonds des pauvres;* yet, in that capacity, they can not be prosecuted for malversation—for the poor are not incorporated—they can not sue or be sued. Under the French Government there was an instance, however, of the sisters being prosecuted, and found guilty of great dilapidation in the property they administered. He certainly was disposed to accede to a plan for procuring an accountability; but how to do so with delicacy and propriety he did not at present see.

Mr. NEILSON scouted all ideas of mismanagement or malversation amongst those religious ladies—their property was much better administered than ours—they expended their income in the way their duty required, without talking so much about it. If they come to us for aid, it was because we first went to them, and saddled them with duties and expenses which did not orlginally belong to them—we surcharged them, and put additional burthens on them, and then want to find some fault with them for what they have done, and to pry into their private concerns, which were better conducted than ours.

The Committee rose, reported progress, and had leave to sit again.

The House in Committee on the bill from the Council for rendering valid conveyances of lands in free and common soccage.

Mr. L. LAGUEUX hoped that this bill would be referred to a Special Committee, and that means might be found for basing an address to the Imperial Parliament, to request the entire and total repeal of the Tenures-act, which had given so much umbrage.

Mr. VIGER rose and said that the question here was whether we had, or had not, the right to legislative on the cases premised by the bill. It could not, he thought, be said we had no right. The provisions of the Constitutional act of 1791 gave us the right. It was thereby declared that lands might be granted in free and common soccage, both in Upper and Lower Canada; but, and specially with respct to Lower Canada, it

left to the Legislature of this Province the right to enact laws as to all consequences emanating from grants of lands in free and common soccage; to enact all that they might think proper, provided they did not trench on the tenure of the lands so granted. It had been said that the granting of land in free and common soccage was quite contrary to feudal tenures and the laws of France. No such thing—lands granted in *franc aleu* (allodial lands) were the same thing. These were recognised by the laws of France; these were specially recognised by the *coutume de Normandie*, by the laws of Normandy, and from Normandy they became part of the English law, and engrafted on it. This French law of *franc aleu* is in fact the parent, the ground, the same, as the tenure in free and common soccage. The difference is that it less frequently and indeed seldom occurs in French proceedings, whilst it has been one that has been generally introduced and adopted in English practice. It was a question of great importance, which as it involved the future destiny of the landed interest of the country, required the most mature deliberation—it was not to be argued lightly—or with reference to one side only. He would be inclined to declare that the Provincial Legislature had full power to legislate in this matter. The general power given them by the Constitutional act, was in this particular case, specially confirmed and extended by the 43d clause. If the Committee be convinced of the truth of this, they will see that they have the right to legislate on this subject—they will see that the Canada-tenures act is nothing but a declaratory act, founded on the Constitutional act, and that, authorised by the Constitutional act, they have the power essentially to make laws, consonant with the nature of the tenure in free and common soccage, for the lands held under it—to confirm, to alter, to annul. No act merely declaratory can stand in the way of this. To suppose otherwise, would be to introduce a chaos, and the rights of widows and orphans, grantors and grantees, lessors and lessees, purchasers and sellers, might be all confounded, by a distant legislature, enacting laws most superficially and without any knowledge of the premises, if, as had been wisely reserved by the Constitutional act, we had not the right of enacting what might be deemed expedient as to the consequences of such tenure in free and common soccage.

Mr. Borgia said there were various ways of considering the subject—and it was hardly possible to know which to adopt as a guide. The act before us and the tenures act, were built on the Constitutional act, which left the choice to settlers, whether to have lands under the seignorial tenure or in free and common soccage; and considering the vast extent of unsettled lands compared with those which were held as seigniories, it was natural that a great nation, having adopted in their own country the tenure of free and common soccage, should wish to make it general in its dependencies.—It was very clear that from the continuance of this feeling arose the Canada tenures act, and he did not see but that it was perfectly

competent for the Imperial Parliament to pass an act giving the choice of changing the nature of their tenures to those who desired it. Now this Legislature could not go beyond what the British Legislature had done—they could not repeal an act of the Imperial Parliament—and it was a question whether we had a right to name a special Committee to consider of it. Besides what would be the use of it?—let them report as they like—or bring in the sketch of the finest bill in the world—if it be one which we have no right to pass—if it be one contrary to an act of the Imperial Parliament, it is all labour in vain. The report of the Canada Committee recommends the declaratory enactment of the tenures act to be retained, it is therefore premature to discuss this question, for, though we have the report of the Committee, we do not know what the ulterior proceedings of the House of Commons may be. He felt surprised too that the Legislative Council, a body composed chiefly of His Majesty's servants *des grands personnages*, should have proposed a bill which interfered with, and engrafted further provisions upon, an act of the Imperial Parliament. The hon. gentleman alluded to the coutume de Paris, to the coutume of Normandy—the Parliament of Tours—the representations made by the British inhabitants of Canada, through Mr. Lymburner, previous to the Constitutional act—the proceedings on the proposed union of the two Provinces, &c., and concluded, that he did not know but it would be best to request the Legislative Council to join in address, to the King, Lords, and Commons of Great Britain, to let us alone, and let us legislate for ourselves.

Mr. VIGER taking up that part which related to the feelings entertained in the House of Commons, both now and at former periods, as to Canada, said, we owed a debt of gratitude to that body, for that both early and late, then and now, when not imposed upon by misrepresentations, they were and had been ready to do us justice. It did great honour to the House of Commons, in the early part of our political history, that they did not listen to the insidious and false representations made by interested persons at their bar. The speech and evidence of Mr. Lymburner at their bar, alluded to by the hon. gentleman, was an instance. If for any thing we owed them gratitude it was for clearly judging on those occasions between the interested representations of a few European settlers, and the wants and wishes of the people. The same scene had been acted over again. It was and remains the principle of the House of Commons, to give and preserve to the Canadians their laws, their religion, their manners, their language. They felt that in the same proportion as they themselves cherished those blessings, so did others—and the attempts that have been made to tear from us by piecemeal, those rights which had been generously and amply given to us *en gros*, were not to be ascribed to the House of Commons, nor to the Ministry, nor to the Crown, nor to the British people, but to those intriguers and deceivers who, dwelling in the midst of us, have shewn themselves our worst enemies. This appears to be a

question as it were between two Legislative bodies. The Commons of England and the Commons of Canada—we can not make them alter their laws, even supposing them made upon wrong impressions, nor can we force laws on them—we can alone consult them and counsel them—and the same in return. It had been alledged, that little inconvenience and no damage would ensue from letting things remain as they were. Setting aside all other parts, here in the immediate neighbourhood, the whole of the beach around Quebec was held in free and common soccage, the most valuable premises had been erected, sales, transfers, leases and underleases made, and all was generally done according to the formalities of the French law. Now, whether done according to the French or to the English law, to leave so valuable a property in a state of uncertainty, liable to disputes and litigation for generations, could not be a matter of small moment. With respect the confidence in the good intentions of the Parliament of England and of His Majesty's Ministers towards this country, it ought not to be shaken, if at particular times they were surprised, or misled, into improper and impolitic measures. Laws made by metropolitan countries for their colonies at a vast distance, must ever be defective. The French always undertook to make laws for their colonies, and never allowed them a voice—and woeful were the consequences. Great Britain has followed a different system—and if this country had any cause of complaint, it was not justly attributable to the Government at home, but to misrepresentation and delusion, and local misgovernment on this side.

Mr. Lee did not believe that to change the laws in any country, relative to the holding of real property, was so much to be dreaded, and would produce such evil consequences, as many persons apprehended. There was a country of great extent and value, which had undergone many changes in that respect, and was now prospering under a new system of laws, entirely different from the preceding. It was Louisiana. That fine country was first a French territory, and subjected alone to the laws and customs of France. It afterwards became Spanish, which overturned the whole of those laws. Then again French, when partial changes again took place; and when finally it became part of the American Republic, all was in utter confusion—but this has been wisely removed, by its new occupiers, introducing at once an entire set of new laws—their own laws—founded on those of England. After the conquest of Canada, it was evident, from the history of those times, that England did not employ herself so much about the Canadian population, as about the encouragement of English settlers, and the rendering it an English colony. In fact the English laws were alone in force here till 1774, when the ideas of Government at home took a new turn in consequence of the disturbances in the American Colonies. The Canadians, however, had still occasion to complain—and finally, the Constitutional Act in 1791, settled all. By that Act, however, the unchanged wishes of England were also shewn

for the right was reserved of granting lands in free and common soccage in Lower Canada, and in Upper Canada all lands were thereafter to be so granted; all shewing how desirous the British Government were to assimilate both the Canadas to their own laws and their own mode of tenures. It appeared evident, that, whilst it was always the intention of England to leave to the Canadians the enjoyment of their laws, it was equally always the intention, that those who came from England, should also enjoy their own laws—those which they understood and were used to. He would, however, here just observe that he verily believed that if the inhabitants of the Eastern townships, who were chiefly involved in this question, knew the French laws better, they would not be so prejudiced against them; but then as they were chiefly used to the laws of the United States, which were founded on those of England, they preferred, as was natural, the English system, which he conceived ought to be given them. Hence they prefer the tenure of free and common soccage, that is landed property on which nothing was paid whatsoever, and which could be sold and alienated without consulting any one, and without the exaction of any dues. The *franc aleu* was subject to several of the same burthens which lay on the Seigniorial lands. People came out here on the faith of enjoying their property without encumbrance, according as they or their progenitors were used to—but when they came, and sought to purchase land, and did so, then came the intricacies of marriage-contracts, and dowers, and *communauté de biens, droits prefixes*, mortgages, &c., from all which, some of which were not discovered till after the death of various parties, the greatest uncertainty and insecurity prevailed. This was the cause which deterred British settlers—there was no security for their acquired property. To this too, must be ascribed the evident anxiety of the British Government to draw a line of distinction, to leave to the Canadians their own laws and usages, and to endow British settlers with different privileges. What does the report of the Canada Committee say? It says that the Canadians should in no degree be disturbed in the enjoyment of their religion, their laws, and their privileges—and that there would be no objection, if it were required that other unoccupied lands in the Province should be granted to them, or their descendants, *en fief* and *seigneurie*, provided such lands were kept apart from, and not intermixed with, the townships; all which shews that distinct provision is wished to be made for the two classes of inhabitants. The hon. member says, and properly, we have a right to legislate for ourselves—but, in so doing we have no right to legislate for the empire of which we form a part. The observations made on this subject are tantamount to saying we have a right to repeal the Tenures act. We have no right to repeal an act of the Imperial Parliament. Supposing we were to pass an act, whose effect would be to repeal the tenures act, and it were to go to the Crown for approbation, the King could not constitutionally assent to it. Every such proposition, therefore, would be worse than useless.

Mr. VIGER said the hon. member for the Lower Town had, he believed, much deceived himself on some points. The example of Louisiana was not quite so apt as he represented. That country had been very much neglected by France, neither had Spain under her recent circumstances, been able to pay any attention to it—no wonder it ran into confusion; it was inhabited by several mixed races of men, of whom the Americans formed one of the least numerous, but the Americans had not acted so injudiciously as the hon. member said, they had *wisely* done, in giving Louisiana an entire new system of laws of their own. After Louisiana had become part of the States, the most eminent lawyers and magistrates to be found there, whether of French, Spanish or American extraction, were consulted. Much of the French law was retained, and incorporated with the new system, so as to make a whole. He had also deceived himself as to the tenures act. That was not an enacting law, it was only declaratory, and was founded on the Constitutional Act. He likewise egregiously deceived himself as to its ever having been the policy or plan of England to divide the inhabitants of Cannda into two classes. It was an unworthy supposition, and would, if true, reflect disgrace on the Councils of a great nation, caluminate them and destroy the confidence justly reposed in them. True, many attempts had been made to anglicise the Colony, to sow dissensions, and draw that line of distinction between the Canadians and the British inhabitants of the country, which was said to have been in the contemplation of the British Government. Intrigues and domestic enemies had often been at work. In 1814, every thing was done in their power to exclude the Canadians from any share in the Legislature; and at an earlier stage of our history the exclusion of all Catholics from a share in the government or from office, was planned and actually effected. But this, and subsequent similar attempts, particularly that of the Union, were not measures of the British Government or the British people—they were what he had already described them to be, those of a little knot of deluders and intriguers, who had been perpetuated from time to time, but would never, he trusted, succeed in their sinister purposes. But we were all one, all British subjects, never to be separated into tribes and tongues. Every where we were entitled to say with the citizens of ancient Rome, *Civis Romanus Sum.* We lived under a Monarch, the brightest gem in whose crown was, that all the subjects of his extensive empire, in all the four quarters of the globe, were equal in rights, were equally under the protection of the empire, and under the empire of the laws.

Mr. LEE rose in explanation. He did not say, or mean to say, that the British Government wanted to make a distinction between the people, but only such a distiction as would arise from the distinctive line they had drawn between Seigniorial lands and those in free and common soccage. It was impossible he thought to give a different interpretation than he had done in that respect to the act of 1791. With regard to the immediate question, the introduction of English forms, might indeed occasion some

confusion, as well as the different tenures of land; but there was a confusion of the same nature incident to the laws of England herself. If those that apply to us are complained of or found injurious, we could not repeal them, all we could do, would be to apply to those who made them, for those who made laws were alone competent to unmake them.

Mr. Borgia said those who made laws could unmake them; the Imperial Parliament might annul the constitutional act, and then we should be deprived of the power that gave us to make our own laws and even to amend the laws of the Imperial Parliament when they related to our internal affairs. We had better let it alone, give the question the go-by, and adjourn the Committee *sine die*.

Mr. Ogden, said, a vast deal of time had been spent to little purpose, and the members seemed so little inclined to come to a final decision that the best way would be to move, as he did, that the Committee rise, and report progress, with the understanding that a special Committee shall be appointed to examine and report on the bill. Hon. members had said, that we were about repealing the Canada tenures Act—no such thing, this bill was bottomed on the Canada tenures Act, and tended to confirm it rather than otherwise. But as by the 43d clause of the constitutional act the power is given to make laws confirming, or relative to, the grants of lands in free and common soccage, that power incontestably rests with the Assembly and the Legislative Council; and a principal object in a special Committee in his opinion would be that this bill, or any law we might choose to make on the subject, instead of being bottomed on the tenures Act, should go to the fountain-head, and unequivocally declare that it was enacted in virtue of the power given by the 43d sec. of the Act of 1791.

The Committee rose, reported progress, and the bill was, after a division of the House, (24 to 1, Mr. Borgia,) referred to a special Committee, to which was also referred the bill from the Council, for making mortgages special on all lands in free and common soccage, and for the establishment of Registry-offices.

House in Committee on the North Channel and Pilot bill, Mr. Proulx in the chair.—

Mr. Laterriere, in proposing the second and third resolutions, (vide previous debate of 7th Jany.) observed that he thought sufficient had been said to convince the Committee of the propriety of concurring in them. That the present Pilots ought to be fully acquainted with the North channel as well as the South, was agreed on all hands; and that those who were not would have a sufficient stimulus to become so, by the premiums proposed in the third resolution, he thought would also be admitted.

Mr. BOISSONAULT enquired whether the present Pilots did not consider themselves as having a right to act as such throughout the whole river from Hare Island upwards. They might use the North channel as well as the South; and if they did not, it was because they knew it to be too dangerous. Besides the greater difficulty in coming to an anchorage in the North channel, another was, that in that channel, owing to the nature of the shores, it was very difficult to land; but in the South channel you might land any where. He would ask too who were to examine the Pilots as to their knowledge of the North channel? Of all the members of the Trinity House, he believed about two might be found who were mariners. When you ask the Pilots whether they know the North channel, they all say they do; and they would say it would be hard to make men undergo a second apprenticeship to learn what they have already learnt. The premium, which would put the Province to an annual expense of from £3,600 to £4,000, would only tend to encourage Pilots to hazard going through a channel they knew to be dangerous, for the sake of the additional reward.

Mr. VIGER said there were now 140 Pilots who had all performed their regular apprenticeship of five years, and made the two voyages to Europe required by law. The licences they had obtained were their property, were their estate, and it would be a degree of injustice to burthen that property, and deteriorate its value, by increasing a competition, and giving premiums to their competitors, the more so since he was informed that it was at present a kind of tacit regulation of the Trinity House, that the Pilots should not frequent the North channel—they were, in fact, enjoined not to do so on account of its being so little known. He thought the giving a premium would both infringe upon the licences—the property of the old Pilots—and offer inducements to do wrong. Pilots, when they had charge of a ship, should only consider which the best way was to conduct her to her destined port; but if they were offered more for one channel than another, they might choose to tempt fortune, and in order to gain a few more pounds, run the chance of losing a valuable ship and cargo, and expose lives. It would be right, to take measures, so that the Pilots, both present and to come, should become acquainted with the North channel, as well as with all the channels and passages of the river, as expressed in the first resolution; but that was all that could, in justice to the Pilots, and to the public, be done.

Mr. FORTIN said, although it might, on various grounds, be desirable to have the Pilots acquainted with the North channel, one year at all events was sufficient. The premium would give rise to a species of competition that might be very injurious to the interests of navigation. That apprentices in future should acquire a knowledge of the North channel was right. He was against giving any premium.—There was another ground of objection. Pilots were not all faultless, many indeed were not the

soberest of people, and some not the most principled ; besides, they were often out in boisterous weather, suffering great hardships, and were ten or fourteen days without meeting with a ship. In this situation and in these cases, Pilots might not be over-scrupulous, and seek at all hazards to gain the highest price, to make up for their lost time.

Mr. E. C. Lagueux said it happened occasionally that when Pilots brought or found ships in a situation for taking the North channel, they brought the vessels to an anchor, and when the Captains asked why they did so, it was because they did not know the channel before them. Granting the premiums proposed, would be the means of inducing all Pilots to become acquainted with that channel, and the inconveniences which occurred here in 1827, would not recur. There were, in November of that year, seven or eight vessels in the port wanting to proceed to sea in the best way, in order to avoid the accumulating ice, full twenty branch Pilots were here, to whom both merchants and captains applied to take their ships out by the North channel, but they did not know it, and, in consequence, several disasters occurred among the ice, which would probably have been avoided by taking that channel, which according to the testimony, remains free from ice for several weeks after the South channel has been filled up. There is a channel too between Isle aux Coudres and Goose Island, divided into two parts, which until the evidence now brought forward, was not known even to exist by any of the Pilots; but the inhabitants of those shores and islands, the peasantry and the fishermen, know those passages and channels, and are often employed to assist the licensed Pilots when they find themselves in difficulties, and indeed are well paid for it.

Mr. Laterriere said that, from the information before the House, and from his own knowledge, the House might be assured that the North channel was as good, if not better, than the South. When the Pilots find themselves in those situations which would require a knowledge they have not, they are glad when the *habitans* along shore come to their assistance ; —these they have to pay, (tho' they are not so well paid as might be supposed,) and consequently possessing that knowledge, there would be so much saved to them. The inhabitants of the Isle aux Coudres are natural Pilots, they do not require licences, they serve as such and get paid, tho' not very liberally, as it is. There would not, however, be any objection to make half a dozen or perhaps more of them, in whom full confidence can be had, licenced Pilots for that particular purpose, the first resolution says that it is necessary for all the passages to be known ; and we must try all means to do so, and Pilots for parts of the river would contribute to that end, and by degrees all would acquire the requisite knowledge.

Mr. Quihouet said, the entrance of the North Channel, it appeared, was worse than that of the South, and there were a great number of

eddies, which rendered the navigation very troublesome. The inhabitants of the Isle aux Coudres, generally hasten on board of ships as soon as they appear off the island and do so willingly, as they are well paid. In two or three months any one of them might be made a good pilot for the North Channel.

Mr. Speaker PAPINEAU enquired how the North Channel could be declared a bad or dangerous one, when it appeared to be fully acknowledged that the pilots, who ought to know best, knew nothing about it. In his own opinion he was inclined to believe that the South Channel was the best, from the simple circumstance of the North Channel having been abandoned without any particular cause being assigned; but we ought to know how it really was, and as was resolved, it was necessary that all the Channels should be thoroughly known. Licensing branch pilots to conduct vessels from the Isle aux Coudres to Quebec would not be an injury to the licenses already given; for at present, when at the entry of the North Channel, the pilots themselves received those men on board, and put themselves under their guidance. Now if a pilot possesses a certificate from the Trinity House of his capability as a pilot for the North Channel, he has no need of these men and can exclude them, and if not, he is only punished for not acquiring a knowledge, which he could attain in a summer-excursion in his boat of 5 or 6 weeks, nor could he be deprived of more than the pilotage for that part of the voyage which he could not safely perform. The granting licenses to pilots at Isle aux Coudres, or other proper stations, would have another proper effect. How do Captains, and even the licensed pilots who may be on board their vessels, feel in the midst of storms and dangers, among rocks and breakers, in trusting to a habitant who comes off from the Isle aux Coudres, and says he knows the way? what is to inspire them with the confidence that he will not run them on the first rock they come near? But in the emergency they trust to him, but doubtingly and with fear. If this man had a licence, it would be a guarantee to them that they may confide in him, and would produce prompt and confident exertions in the crew to obey his voice, and their revived courage and hopes, and well secured confidence would often save a ship, which doubt, fear, and lothness to obey a stranger, would have lost. It will be a happy circumstance for navigation when the Admiralty charts are completed and published, so that the pilots may have them; the bearings and soundings will then become familiar to all; but in the mean time he should conceive most pilots would think five or six weeks leisure time well spent in exploring and surveying the North Channel themselves.

Mr. BOISSONNAULT observed, that those of the old pilots who did not know the North Channel, though there were many that did, were not in fault, it was the fault of those before whom they passed their examination, who only examined them as to such and such particular points. With all

the personal respect he owed to the members of the Trinity House, he could not say he had the highest opinion of their nautical knowledge.

The second resolution (*vide ante*) was put to the vote and negatived, yeas 10, nays 14.

The third underwent the same fate, yeas 7, nays 14.

Mr. VIGER then moved, that it is expedient that the pilots already licensed, should, between this and the 1st of May 1831, submit to an examination, and prove their ability to pilot vessels through the North Channel.

Mr. LATERRIERE said, that obliging pilots to do this, was what he did not approve of; it was an act of compulsion which he thought they might justly complain of, but he had the success of the measure in some way or other so much at heart, that however strong this was, he would consent to it.

The resolution was then agreed to *nem. con.*, as was likewise another, proposed by Mr. LATERRIERE, that the Clerk of the Assembly be instructed, as soon as the chart, which is to be engraved by the Admiralty of England, of the scientific surveys made by Capt. Bayfield, shall be published, to cause 100 copies thereof to be procured, in order to be distributed amongst the pilots, and to serve for the information of seamen, and of the officers of the Trinity House.

HOUSE OF ASSEMBLY.

TUESDAY, Jan. 13.

Mr. VALLIERES presented the petition of Silas H. Dickerson, Editor and proprietor of the British Colonist, a paper printed at Stanstead, complaining of oppression and misconduct on the part of Mr. Justice Fletcher, of the repeated fines and imprisonments to which he had been subjected in consequence of some paragraphs which had appeared in his paper, and various other arbitrary and illegal acts of Mr. Fletcher as a Judge of the Provincial Court for the inferior district of St. Francis. This was, he said, a petition against one of the grand depositaries of the royal authority, one of the chief functionaries of justice, which contains allegations, that it is impossible to pass over without enquiry. If only one hundredth part of what is alleged in this petition be true, and justice be not obtained, we may cease to sit here; the country would be lawless and barbarous without relief.

Mr. VIGER would be inclined to doubt the truth of what is stated in this petition, from his inability to comprehend how so dreadful a picture could be the reality. It was next to impossible to conceive that such enormities could exist. Immediate enquiry was necessary, and if found

to be a fact, immediate measures to remove from the seat of justice a Judge who was so unworthy of it; and to prevent the recurrence of such crying injustice of which the house had just heard the details; but the examination ought to be deliberate and impartial.

Mr. Lee said, that as long as he had any recollection of Parliamentary proceedings, the fate of petitions complaining of the malversation of public officers had been similar; a great outcry had been raised on the subject at first, and at length it died away, and left behind nothing but the obloquy that was thrown on the characters of those who were petitioned against. If these accusations had come in any other shape, they would have constituted a libel. He must object to whatever may subject individuals to public censure, especially those in public life, who if accused in this way had no means of defending themselves, and could not expect an acquittal. He thought that by entertaining this petition the House would be assuming to do what belonged to the Courts of Justice, would be interfering with the law, and convert themselves into a court of judicature. In a case of an accusation against a judge, the Legislative Council was the tribunal before whom the charges were to be made. But when a petition is read in the House, the facts are taken for granted,—many persons think the Assembly, by receiving a petition, sanction its contents, and that as there are so many lawyers in the Assembly, who can judge and speak of those matters, the cause, both of the accused and the accusers, will have many pleaders; but they were often satisfied with holding up things and persons in an odious light; and then leave them there for the public to gaze at.

Mr. L. Lagueux said the hon. member for the Lower Town seemed to think it strange that a Judge could be accused of such crimes, and that the very bringing of them before the House must be libellous, because they were incredible. He participated in the astonishment of the hon. gentleman, that such things could be and were alleged against a judge, but they were before them, and whether probable or not, they ought and must be enquired into. That a Judge in an English Colony could be accused of such crimes, certainly also astonished him, they were, as regarded the administration of justice, horrible crimes, crimes which would disgrace a Turkish Administration of Justice; a picture was here presented of abuses the most crying, the most disgraceful, if true, which could disgrace, not only the Judge who had committed them, but the wretched country where they were suffered to be perpetrated. Who could listen to such a harrowing detail of injustice without shuddering, without trembling with indignation? The wonder would have been, if in an English Colony, it could have been listened to, without murmurs, for who could listen to such a tale of oppression without emotion? The reason given by the hon. member for the Lower Town, why this petition should not be received, which was the sole question before the House, was that it would

be fore-judging the accused, and that the accused should always be presumed innocent until he was proved to be guilty. But a Judge accused of crimes in his judicial situation was not placed on the same footing with other culprits. Crimes against individuals, from parricide down to stealing a hen, were objects of jurisdiction for the various criminal courts, but where could the public come for justice against a public officer, a Judge, a depository of the law, of the executive power, but to this House? What if on former occasions, the House had brought accusations against Judges and had afterwards abandoned them, it would not be so now. Circumstances were quite changed, and justice would take its due course.

Mr. STUART said he did not find fault with that ardour of feeling which had been excited on this occasion—but he thought it was carried too far—that the petition should be received there could be no doubt, and he believed all were agreed on that question, which was the only one before the House; but it was going too far when a petition against an individual is presented, to raise an outcry at once against him; to condemn him, (at least the effect on the public mind would be such,) unheard. That was neither a maxim or principle of the constitution, of the law, or of the christian religion. Time ought not to be given for the impressions which this petition might produce on the public mind, to ripen into prejudice,—it therefore ought to be received and examined into immediately. True or false, the allegations ought to be forthwith examined; but let us not condemn the man beforehand.

Mr. OGDEN said one hon. member was horror struck; another could not believe such atrocious acts had been committed, because of their atrocity; and another exclaimed about Turkish justice. But how was it at other times? This horror, this astonishment, this indignation, were not felt at the time when he (Mr. Ogden,) had risen in his place in the House, to prefer an accusation against Judge Bedard, of Three Rivers, charging him with the illegal imprisonment of His Majesty's subjects, with the imposing of fines upon advocates at the bar, for simply exercising their duty to their clients and themselves. The hon. member for Kent, who felt so indignant on the present occasion, merely then shrugged up his shoulders, and said nothing; so did others—and the matter was stifled—and why?—why the difference between the two cases? The hon. Judge Bedard had then a seat and a majority in the House of Assembly in his favour; and now Judge Fletcher had nothing—neither influence nor friends.

Mr. VALLIERES had heard a great deal said, and he had, with others, been accused of saying too much in the present stage of the business; but he was yet to be instructed as to the precise time that might be occupied, and the precise number of words used, in presenting a petition, or in making a motion, or seconding it. In the House of Commons in

England, the mere presenting of a petition often occasioned a debate of three or four hours. It had been insinuated that the receiving a petition of this kind was like summoning an accused to our bar; like a preliminary sentence of condemnation. By entertaining the petition, and ordering an enquiry, we had not, and could not, prejudice the individuals. Neither he, nor the House, would or could say at present whether the petition was founded on facts or not—enquiry alone could prove that, and would best illustrate the maxim, that the accused must always be presumed innocent till he is found guilty. This maxim ought not to interfere with it; on the contrary, it was best followed up by the putting of the accused upon his trial. It seemed to be imputed as a crime to the petitioner, that he had the hardihood to prefer such accusations against a Judge; but the heavier the accusations, and the more elevated in station, the more necessity there was for entertaining them. The accusations now brought forward were painful to peruse—painful to listen to; but he would repeat that if only the one-hundredth part of them were proved, and they were not remedied, we might cease to sit here as the representatives of the people.

Mr. Lee conceived that in a matter to which such importance was attached, it would be proper to increase the number of the Committee, so that there might be sufficient amongst them to take the part both of the accuser and the accused.

Mr. Vallieres said, you had better propose a Committee of the whole House.

Mr. Lee thanked the hon. member for his suggestion, and said that in the House of Commons in England, such proceedings were usually instituted immediately before a Committee of the whole House, and evidence was produced at the bar of the House. There was a great difference between examinations before a Special Committee, and before the whole House. A leading member of a Special Committee, put leading questions to the witnesses, and the examination resulted, of course, in such a way as that leading member desired. We must not by anticipation constitute ourselves into judges between the public and individuals. We are only the slaves of the public—

Mr. Vallieres, "Servants of the public, not its slaves."

Mr. L. Lagueux was surprised we should be called "the slaves of the public," we were not its slaves—we were its servants. The members of that House were actuated by very different motives from those of slaves—slaves sought their own interest, the gratification of their own feelings, by subserviency to their masters—we sought to promote the good of our constituents and not our own—we were their representatives, their attorneys, their guardians, their servants if you please, but not their slaves.

In a preceeding part of the debate, allusion had been made to the great proportion of lawyers in the Assembly, and that the public were dissatisfied that it was so, He believed the people themselves knew best who to send to Parliament as their attorneys, and it did not signify what their profession or practice was, whether they practised pleading at the bar, or grinding seed in an oil-mill—provided they discharged their trust with ability and fidelity.

Mr. VIGER observed that the debate had taken a singular turn. We had a right to examine witnesses at our bar, if we chose it—the question, however, was whether it was expedient. He did not attempt to prejudge the cause of the accused—but we ought to hasten the enquiry on both sides—and then proceed in it deliberately—and the best method was by a Special Committee. The bulk of the population were looking up to us for justice, as the accused would also on his side—and a Special Committee was not exactly like a grand jury. The accused has a right to come and demand being present at such an enqairy. Part of the petition, too, referred to the decision of a court of justice, in which a suit had been brought against a judge for acting extra-judicially, yet the court had considered itself as incompetent to decide; whilst extra-judicial conduct was that which, if any thing did, rendered a judge liable to the jurisdiction of another court.

The petition was then referred to a Committee of five members.

Mr. VALLIERES said, the first petition he had presented was against a judge, and he had now another to present against a court. This was a petition signed by Mr. F. A. Evans, in behalf of a number of the inhabitants of the eastern townships and in the district of Three Rivers, complaining of the mode in which justice has been administered in the provincial courts—of the arbitrary and oppressive conduct of the judge, of the vexatious rules, and heavy expenses—and praying that the proviucial courts might be abolished.

Mr. VIGER had foreseen, when the provincial court for the inferior district of St. Francis was first established, that it would neither answer the purposes of justice, nor be satisfactory to the inhabitants. It was, however, a favourite plan with the then administration, and gave them additional patronage and power. Two years did not elapse before the people for whose alleged benefit it had been established, wanted it to be abolished.

The petition was referred to the same Committee as Mr. Dickerson's.

The report of the Commissioners for the relief of Insane and Foundlings in the district of Quebec, was referred to a Special Committee, with an instruction to enquire into the amount unexpended of former appropriations or unaccounted for by former Commissioners.

Mr. VALLIERES from the Committee on the qualifications and summoning of jurors in criminal cases, presented their first report. This report, historically deducing the history of juries, enumerated the various statutes that relate both to grand and to petty juries, and recommended a complete alteration in the Provincial Ordinance of 27 Geo. III. relative to jurors, as being false in the preamble and dangerous and imprudent in its enactments.

A Committee of three were appointed to search the journals of the Council as to what proceedings are therein on the bill for vacating the seats of Members of the Assembly in certain cases.

The House in Committee on the first report of the Committee on public accounts, relative to the defalcation of the late Receiver General, the Hon. John Caldwell.

Mr. CUVILLIER entered into an historical detail of the circumstances connected with the defalcation, and with the message that had been received from H. E. on the subject, and moved the concurrence of the House in the report.

Mr. OGDEN saw a good deal in the report, and a good deal that was no answer to the message of H. E. but it appeared that the Committee had not given full attention to the message, and indeed had left the main object of it untouched. H. E. wished for their advice, and for suggestions from them as to the mode in which he should address the Lords of the Treasury in communicating the proposal made by Mr. Caldwell—that is, whether it would be advisable to let him have a lease of the seigniory of Lauzon, for five or seven years. This they had overlooked. It was not exactly decorous, nor a proper answer to the message, which in fact went little farther than to say, " give me advice whether I shall recommend the Treasury to grant a lease of Lauzon to Mr. Caldwell for five years." A specific answer to that part of the message ought to be added to the report.

Mr. CUVILLIER said, the Lords of the Treasury had agreed to Mr. Caldwell's first proposal of holding Lauzon, pending the decision of the law-suits on the subject, for the annual rent of £2000, without consulting the Assembly, and had received the pittance of £4000, in part payment of £96,000. We can not intermeddle in any arrangement between the Treasury and Mr. Caldwell—a question with which we have disclaimed having any thing to do. To take any part in it would be to abandon our claim for indemnity upon the British Government, which, whatever might be thought and said of it in England and here, was just and equitable; and, he trusted, also legal, and must be persisted in. After taking upon themselves to make an arrangement in the first instance, the Lords of the Treasury should go through with it. We could not interfere.

Mr. Ogden said the Treasury and the Assembly seem to be in one respect on the same footing—each claims to be relieved from responsibility.—That the Lords of the Treasury had agreed to receive £4000 for the two years pending the litigation, was no assumption of the defalcation as a debt due to the province. If he thought so, he would certainly say it would be right not to intermeddle—and conceiving that that did not make the Treasury liable, neither therefore could he see that the Assembly joining in making or recommending any arrangement on the subject would injure any claim they might have on Government on that score. Mr. Caldwell was placed in a curious predicament—he can not find a creditor for the large sum he owes—the Lords of the Treasury say, you do not owe it to us—the Assembly says, you owe us nothing. He saw no reasonable objection to the answer being given to the message, on that subject, in the same spirit in which it was requested. It would at least be more decorous than to pass it over as the report does.

Mr. Neilson contended that the report of the special Committee does give an answer, by saying it is their opinion that the House can not interfere in the transactions between the Treasury and the late Receiver General. There could be little doubt that by interferring we should incur some responsibility—not perhaps to the extent apprehended—but why should we incur the least, and interfere in a matter which was not ours?

HOUSE OF ASSEMBLY.

Wednesday, Jan. 14.

Mr. Proulx presented a petition from Nicolet, against the Court of Commissioners for small causes;—referred to the Committee on the bill from the Council on the Court for trial of small causes.

Mr. Bourdages presented a report of the Committee on the Lotbinière petition, in favour of completing the aid to the petitioners, by a grant of £800, by way of loan, and the House being in Committee, he stated, that the truth of the distress suffered had been verified.

Much conversation ensued, principally relating to the kind of security offered, and upon a division of the House of 22 to 2, the sum of £800 additional was voted, as a loan on the security of the curé and marguillers, repayable in four years.

The bill for the encouragement of Chasseur's museum, was passed and ordered to the Council.

Mr. Stuart, one of the Commissioners for exploring the Saguenay country, delivered in the report.

Mr. LESLIE brought in a bill for a turnpike-road from Montreal to Longue Pointe.

On motion of Mr. L. Lagueux 300 copies of the report of the Committee as to the qualification of juries in criminal cases were ordered to be printed.

An address was resolved on to H. E. to communicate the report of the special Committee on the subject of the late Receiver General, Mr. Caldwell, and H. E.'s message of the 24th Decr.

On the second reading of the bill for securing costs to plaintiffs bringing real property to judgment.

Mr. LEE said, it was essential to know exactly what was meant by *fraix de justice*. It is supposed that, in cases of previous mortgage, the last creditor, or he who proceeds to judgment, loses his costs—this is not always so—but if costs be at all events secured to him, the consequence will be that every one will proceed to judgment as soon as he can. Those who hold mortgages will be alarmed, merchants who hold judgments equally so, and all will run a race—by which the lawyers alone will profit—for they will get paid at all events, whoever remains unpaid. This law would compel an indulgent man, who wishes to give his debtor a chance, to act the inexorable creditor, and hasten to get judgment—and whatever little personal property remained, would be swept away by a preferent claim for law expenses.

Mr. VALLIERES looked upon this measure as one of great utility—one highly just and equitable—one much called for. This law only declares that those costs which are necessary to obtain the first judgment shall be considered as *fraix de justice*. This was on the principle that he who first proceeds to judgment does the business of all—does good to all the creditors. The preference of law-costs over other claims was drawn from the old French law—but there, when a debt was acknowledged under *scelle authentique*, no judgment was required, and the costs were a privileged claim before it came to the distribution of the effects of the debtor. But here, by the law of 1785, no distribution can be made till after judgment is obtained—it follows, therefore, since the necessary costs are privileged by the French law, the costs of judgment, which, though not necessary in France, have by statute, become necessary here, should, if we follow that doctrine, be privileged also. Is it not unjust that an anterior creditor, who has done nothing, and waited till some one else has sued out judgment, should receive all the benefit of those proceedings, to which he was no party—whilst the last creditor, who has had all the trouble and expense, must pocket his loss? He meant such cases in which, for instance, a mortgage for £1000 exists on land, which lies dormant. A

subsequent creditor, before whom there may be perhaps twenty other mortgages, knowing nothing of this, proceeds to judgment, and the sale is effected—the land produces only the £1000 for which it had been originally mortgaged—then comes the first mortgage-creditor, takes the £1000, and leaves not a penny to cover the costs disbursed by the person through whose active means he finally got his money. If in the case he had stated, the £1000, mortgage creditor had proceeded to judgment, he would have had to pay the costs—but by availing of the diligence of another, he gets his principal, and leaves the costs to be paid, by the second, third, or twentieth creditor, who has deemed it necessary to proceed. An appeal had been made on a former occasion against this bill, in favour of the unfortunate debtor, who having lost his whole property, would still be liable to pay heavy costs afterwards—but it was not the debtor who lost, but the creditor—the debtor was and would be a gainer, as long as he could act with the bad faith which the present system gave him the opportunity of doing. He got the money of his creditors—paid the first, left the others unpaid,—and finally saddled the costs on the lawyer who had advanced the amount. Personal property is liable to many preferent claims—why not real property in a case like this? This bill has been attempted to be identified with the interest of lawyers—few would be affected by it—lawyers generally prefer to have their clients as creditors than to trust to what they may get from the distribution of the effects of the debtors they sue. But it seemed as if the word lawyer was a bye-word, a word of reproach—as a lawyer he would say it was not the interest of the profession he had studied in introducing this bill, but that of real justice to creditors, who when they discover that they are the last, and have transacted at their own expense the business of others, find themselves the losers in every way, without hope of redress, but from such a bill. He would compare them to those who, in a storm at sea, throw their goods, their riches, their money, overboard, to save the general property from destruction, and who have therefore in justice, as well as by mercantile usage, a claim to be idemnified by those who have benefitted by their loss.

Mr. Vigor was very sorry the hon. gentleman who had just sat down had treated the matter in the manner of a special pleader, arguing in favour of his clients, who were evidently those creditors he represented as suffering hardship and expense for the good of all, and their lawyers. The justice recommended was one of a limited and private nature—it related only to the inconveniencies which might be suffered by some individuals, but it seemed to have been lost sight of, what was due to other creditors, to debtors, and to the good of the public. This bill would be equivalent to a monopoly-bill and would force them out of their natural course. All countries in which laws were made in favour of one class of men, without considering the joint interests of all, were impoverished. Here you want to give extraordinary privileges to men who are better able to lose a

little surplus-money, at the expense of the man who is deprived already of his property, and knows not how to support himself. If you want to force a man to pay more than he has, you can not get it, and incapacitate him from ever doing himself or his country good. But let us examine how the creditor is situated. A seigneur, or a merchant, in a new settlement gives credit or makes advances to many persons in the parish, who prosper in their way with the assistance thus obtained: then comes a small creditor for £10 or £12, perhaps, sues the unfortunate debtor, upon the faith and knowledge that he will at all events be sure of his costs, proceeds to judgment, and deprives the anterior creditors of £100 or £500 or £1000, although they may if they have had the precaution of securing themselves by mortgage, get part of their debt, at the expense of the remainder, by ruining the man. Upon the principle which this bill would establish, every man must hasten to sue all who own him, saying to himself, if I don't, others will, as they are sure of their costs; and this would force, as had been well observed, the most indulgent creditor, ever so much inclined to respect the honesty, and encourage the industry of his debtor, to become a hard-hearted plaintiff. He would illustrate the comparative advantages of the different systems of lenity, and patience towards debtors, with that of rigorous pursuit, by two cases within his own knowledge in the district of Montreal, in the country parishes of which he would bear witness, the inhabitants were generally honest, industrious and prudent. One Jacob on his death left a property of £5000—which had all been lent to country people; and which the executors wisely left in their hands on interest, taking such payments as they could make from time to time, and in a few years the whole was paid off —the people prospered, and the heirs reaped the benefit. Had there been a law of this kind in existence then, a few small creditors would have broke up all. On the other hand, not long ago, a merchant of Chambly proceeded at once against 20 or 30 of his debtors—when through the distress of the times they were not able to pay him. All their lands were sold at little more than, if so much as, one fifth of their value; the people were ruined, the merchant not paid, and the country injured. When the interests of society in general are concerned, ought we not, even at some risk of individual detriment or loss, which however was but trifling, give full encouragement for the capitals of those who did not employ them themselves, to confide them to the hands of industry, and thus increase both the revenue and the capital of the country? For this purpose we should leave it fully in the power of those who were inclined to be indulgent to their debtors to be so, and offer them no temptations to take their money out of those hands, by which it was adding to the public stock. The hon. member says the lawyers will not be much benefited by this bill—certainly not lawyers like him, high in practice and in principle, of undoubted honour, integrity, and talent, adapted to make his way to the highest rank in his profession—but so were not all—to many the prospect of putting £20 or £30 in their pockets, and being secured in so doing,

would be an insuperable temptation—there were many members of the profession not very nice as to how they got their money. He could unfold a picture of iniquity that would not meet the belief perhaps of a man like the hon. member, whose upright and honourable mind would reject it as improbable. But he begged him to consider all lawyers were not like himself.—A farmer comes to a lawyer to enter a suit for him. He might otherwise perhaps hesitate, and require a deposit of money, but he would now have the double security for his costs, of his client and of the future and ever during liability of the debtor—and avarice—the *auri sacra fames* would spur him on. Let the hon. member listen to the dictates of his own heart, and picture to himself what a scourge this bill would be to the inhabitants of both town and country—the enormity of the costs—an additional temptation to lawyers in a small way—the compulsion every creditor would feel to proceed at law as soon as any debt was due, for fear of being forestalled—the distress of that man, who after seeing his land sold, and all his means taken from him, but perhaps the value of £20 or £30, finds that too swept away by the operation of this bill. Let all this be taken into consideration, and it would appear that this bill was neither required by justice, by right, by humanity, nor by policy. Again, it was a maxim of law that costs followed the principal debt, and like interest upon capital advanced, was only an accessory that shared the same fate of the principal—why change this maxim—change the nature of costs, and from being merely accessory constitute them into a principal? That the measure is not adapted to promote the public good would best appear from the circumstance, that certainly nineteen out of twenty debtors who were left in possession of their property and in the exercise of their industry, prospered and ultimately paid; and that scarcely one creditor out of twenty who did otherwise got paid at all. It should likewise be observed with respect to mortgages, that landed property by no means retained its fixed value, and that the outcries against those who had serveral mortgages on their estates were not always founded. What was worth a large sum at one time, and would bear heavy mortgages, was of a very small comparative value at another. In 1812 and in 1814, real property in the district of Montreal was at a high rate, far beyond what it ought naturally to be—but in five years it had deteriorated no less than three fourths. Creditors were there disappointed, and debtors ruined by forced sales; and the evils arising from this would be augmented by this bill.

Mr. Ogden thought that an individual prosecuting to judgement against immoveables, and who should get his costs secured, would get more than his due—for a judgement stands on the footing of a second or third mortgage, and to secure costs to the judgement-plaintiff, who is thus the last mortgagee, is derogating from the rights of others who are not so secured. But all that been said on the subject would be unnecessary, if the House would but agree to a registry bill, by which all the evils detailed would be done away with. It was a blindfold game that was now playing.

Mortgage upon mortgage was made over and over again, and no means allowed for ascertaining the facts. No stronger arguments could be brought than those adduced in the present debate for the establishment of register offices—and as this bill would not tend to force that, but the contrary—he should oppose it on that ground.

Mr. VALLIERES said that when he had two years ago proposed the means by which creditors might ascertain what mortgages existed on the lands of their debtors, it had been objected to. It had been objected that all curious people might apply in order to get information as to the affairs of their neighbours—this ought certainly to be guarded against, but the principle was right that a creditor, acknowledged as such, should have the knowledge of that of which the law now keeps him in ignorance. Of this, the debtor being the principal cause, and the creditor perfectly innocent—is it not just that he should at least get what he had expended in bringing the matter to issue?

Mr. LEE considered this as a matter of such importance that it ought to be deferred so long as to give sufficient time for its full consideration by all the members. The hon. member for Kent had given instances from his own personal knowledge of what had occurred in this respect in the district of Montreal. To give full time, he should now propose an amendment, and that the matter be taken into consideration on the 28th of September next.

Mr. NEILSON thought that under all circumstances, and considering the situation of the country, it was not now the time that such a measure was expedient.

Mr. VIGER said it was not merely the expediency or the justice of a measure that should be canvassed—but its moral effect—its effect upon the public mind, and the minds of individuals who might see in it the means of gratifying their avarice.

Mr. VALLIERES could not perceive the *good* moral effect which would be produced by discarding this bill; he thought, on the contrary, it would produce a *bad* moral effect to encourage and strengthen debtors in their endeavours to over-reach their creditors, if we did not do all we could to repress the dishonesty of debtors—we should be merely legislating for them—we should be converting this country into an asylum for fraudulent debtors—we should protect them—in the means of deceiving, duping, cheating and defeating their creditors—a state of society which would be the reverse of every thing that looked like public morality.

Mr. LEE said, let the plan of the hon. member be again introduced, let him have a law, by which copies of all mortgages shall be required to

be deposited in the Prothonotaries' office—that would supply the place of registry-offices. He should be prepared to concur in such a system.

The House then divided on Mr. LEE's amendment that the discussion be deferred till 28th September next, which was carried by a majority of 19 to 8.

House in Committee on light houses in the Gulf and River St. Lawrence.

Mr. YOUNG referring to the report of the Committee recommended the adoption of their resolutions, the substance of which was, that it is expedient to construct two light houses on the island of Anticosti; that £15,000—be appropriated for building light houses, and £300—for the annual expenses thereof; and that a tonnage duty be imposed on shipping to defray the expenditure.

Mr. Speaker PAPINEAU observed that the report of the Committee not being printed, it was hardly possible for members to make up their minds on those questions—they ought to have full information before them—and however laudable the object, voting £15,000—and imposing a tonnage duty on navigation were objects that required it, he thought it would therefore be expedient to defer the consideration.

Mr. NEILSON, said the passing of the first resolution, would not pledge the House to pass the others; and probably a difference of opinion as to the amount absolutely necessary to be expended would prevail. Two light houses on the island of Anticosti were proposed, but Captain Bayfield had himself admitted that one at the east end might suffice for the present. On the other hand, he had recommended a floating-light to be placed in the Traverse; now, combining these objects, we might vote such as appeared most indispensible, and declare that it would be expedient for us to do more at a future period. If the funds of the Province would permit, this way of employing them would have his support—but he was afraid not, and we were yet much in the dark as to what we could afford to lay out. An expenditure of this kind would, he believed, do the public more good than many others that had been, or might be, voted. We have the testimony of an experienced and scientific seaman, Captain Bayfield, who tells us that one light house at Anticosti is positively necessary, and that the whole of the navigation from the Gulf upwards till the light house at Green Island is made, is extremely dangerous from the want of proper beacons.

The Committee then rose, reported progress and had to sit again.

The House in Committee on the expenses of the Commissioners for the contested elections of Three Rivers and Quebec, in 1827.

Mr. NEILSON said the House ought to pay the expenses—it was the commonest rule in every kind of business that whoever ordered any kind of work to be done ought to pay for it.

Mr. CUVILLIER, objected, as the enquiries had not been carried through, and the Commissioners had not completed the work for which they were appointed, which, if it had been done, the unsuccessful candidates would have had to pay and not the public.

Mr. NEILSON said it was not the fault of the Commissioners the election had not been decided, because the Parliament had not been dissolved; and he would ask, how would the House on future contested elections get Commissioners to act, if they felt it was uncertain whether their expenses would be paid. The liberties of the subject, the purity of the House, and the maintenance of the Constitution, were all involved in the questions of contested elections, and no hindrance should be put in their way.

Mr. Speaker PAPINEAU observed that it was a defect in the law that it had not provided for this contingency. The expenses, in such cases, might be much higher than those at present under discussion—there would be difficulties however, in making regulations about them. If the expenses were thrown upon the country it would bring on frivolous contests; and on another hand, look at the situation of the country, which was such that elections ought to be jealously looked to, and guarded from abuse. In the present case, the expenses were but a small sum—there was no fault to be found with the petitioner,—nothing was amiss,—and it might be proper to grant this money,—and afterwards correct the law, and put it upon such a fixed footing that the question might not again arise.

Mr. L. LAGUEUX, begged to call the attention of the Committee, to the difference that existed between the two. The Three Rivers Commissioners had gone through the enquiry—but those for the Lower Town of Quebec had not, nor could not.—They had taken the oaths, and got the papers from the Speaker—when a protest by the unsuccessful candidate was made against their proceedings—they came to the House to ask what they were to do—the House hesitated—a day was appointed—the matter was referred to a special Committee and postponed—in the interim came the prorogation, and then the dissolution, before which the sitting member died. But that had nothing to do with it—it was the indecision of the House that caused the delay.

Mr. NEILSON maintained that in strict justice, it being the duty of the House to examine into contested elections, if we delegate Commissioners to take the trouble off our shoulders, it was our business to pay them.

The House divided, and the report was agreed to by a majority of 14 to 6. The Three Rivers Commissioners are to receive £73 15s. and the Lower Town Commissioners £44 13s. 9d. to be charged to the contingent expenses of the House.

LEGISLATIVE COUNCIL.

The bill for facilitating such as have claims on the Provincial Government, was passed, with one amendment, and ordered back to the Assembly.

HOUSE OF ASSEMBLY.

FRIDAY, Jan. 16.

The bill for a new market in Montreal was passed, and ordered to the Council.

Mr. VALLIERES presented a petition from a number of merchants and traders of Quebec, complaining of the Montreal Bank, of the general manner in which their business is conducted, of their partiality in discounts, of their not redeeming their notes in Quebec, altho' they have a branch-bank there, of their introducing deteriorated coin into the country, &c.

Mr. LEE rose to oppose this petition. It would open a door to let in matters with which we have nothing to do. It is complained that the bank circulate coin that does not possess a sufficient intrinsic value, but that was not the fault of the bank—it was the fault of the Legislature in giving a legal currency to such coins. If any one had been injured by the conduct of the bank, it is a matter for the Courts of Justice to enquire into. Banks are no more than individuals, in respect to their dealings—and to interfere with them was as if we were to legislate for a merchant, as to whether he should give credit or not to Tom, Dick or Harry—and we had nothing to do with why the bank discounted one man's paper and not another's. Even if it be alledged that they have done any thing contrary to the conditions of their act of incorporation, the Courts of Justice are the tribunals to which resort must be had, not the Assembly; and if the Courts give no decision, or misinterpret the law, then apply to the Assembly for a remedy, by praying them to alter the law. What business had any persons to reproach the Montreal Bank for discounting or not discounting? It was their own money—and refusing discounts was like a merchant refusing to give his goods on credit—no complaint could be made against him for that, nor would a complaint of that kind lie against

banks. He thought banks needed not incorporation; he could establish a bank here himself if he chose, and issue notes, some of them payable in Quebec, some in Montreal, and some in Three Rivers, and employ agents at those places. What was to prevent the Montreal Bank from having an establishment at Quebec, or one at Three Rivers, if they chose. It was a matter of speculation. As to their notes—they redeemed here those notes which were payable here and not the others. The conditions were specified, and it was not any cause of complaint whatever, for the conditions respectively were tacitly agreed to by the taker when he received the notes.

Mr. VALLIERES stated that the mere discussion of the question, as one of law, was not sufficient. The hon. gentleman says, that to do any thing in this matter, would interfere with individual industry and exertion. But banks are public bodies, incorporated by us, for the advantage of the public. Now, if it be proved that they are prejudicial to the public, or to a great part of the public, we, who have incorporated them, have a right to interfere—have a right to enquire, to alter, even to recall, our grant. When the public interest is in question, we have a right to interfere with private concerns. As to the notes, he would not agree that there appeared no cause of complaint. It is complained that the condition of where payable has been added—that it is a condition not calculated on at the time of the issue. He did not mean to say this was so—but the complaint said so—and if true, the complaint was just—no condition added afterwards could be valid. As to the circulation of coin, what does the petition say?—that they have traded in the current coin of the country—bought it up, as bullion—and issued it at its nominal value; and, moreover, that this was worn-out, deteriorated coin, which banished the better coin from circulation. The petition certainly contained very heavy charges, and complained of serious grievances. He could not answer that they were true—but that ought to be enquired into; that they were real or imaginary grievances, could only be proved by receiving the petition and considering it. If they are decided to be unfounded, then reject it; but not now at its first production. The right of petitioning was sacred; and it was our duty to receive all petitions.

Mr. VIGER observed, that this petition complained of heavy grievances; that the Montreal Bank had fettered and obstructed the operations of commerce—that they had been partial in their discounts—which was as much as to say, they would not give credit to people who were not able to take up their notes. It would be thought strange to complain of a merchant who declined to discount a bill offered him, or to renew the bills he held, when it did not suit the parties to pay them. He observed a complaint was made of the issue of small notes for one and two dollars: if these were a prejudice to the public, which remained to be proved, the Montreal Bank was not to blame for it. As to the place of payment—Montreal

was the place where the Bank was held—there was its office—and though they might have another, he did not see there was much injustice to decline paying their notes any where but at their own domicile. It is true, an *ex post facto* addition of the conditions of payment, required investigation.

Mr. VALLIERES stated, that notice was given in the newspapers, that after a certain date, no notes should be paid at their office in Quebec, but such as had the words "payable at Quebec," stamped on them. This notice admitted, that previous to the date specified, others were, and had been, payable there: therefore, as to all that were not presented there within the prescribed time, this was, without doubt, an *ex post facto* addition to the conditions on which the holders had taken them.

Mr. LEE said, it was not till after the Montreal Bank had given that notice, that they stamped on their notes, "payable at Quebec." Without that they were only payable in Montreal; but it must be remarked too, that this stamp was not put upon them till after they had come back to the office at Montreal, and when they were re-issued. As to the unstamped notes which remained in circulation, the Bank could not tear them out of the hands of those who held them, for the purpose of stamping them; but when they came back in regular course, and were issued in regular course, then they were stamped. But this was not the chief objection to the petition which was, that it interfered not only with the course of mercantile industry and with private concerns, but also with the jurisdiction of the law and of the courts of justice. Commercial industry and speculation ought to be left to themselves—they would work their own way, and if there arose any fraud or injury to others in the course of the transactions they gave rise to, the courts of justice were open. It was they who had to decide—they who had to protect and redress those who had cause to complain. And should cause of complaint exist after their decision, then might people come to the Assembly and call on them to pass an act to remedy the evils which a court of law could not remove; or even to cancel an incorporation which was found to be productive of evil. He knew that a great number of persons complained of the Banks, because they could not get from them what the wanted. Many seemed to consider Banks as charitable institutions. That a bank was a kind of refuge for the destitute, that it was a place where those who could not get money any where else were entitled to go for it. If the Bank had done what individuals have, there would have been much more commercial difficulty, the Banks had been too indulgent; if blame be attributable to them, it was because they shewed more lenity than they ought to, to those who did not feel the commercial obligation of punctuality in the payment of bills. There was a system to be observed in that respect, and if the Banks had deviated from the true system, it was exactly in a contrary direction to that which the petition complained of. As to trading in coin or bullion, has not every individual a right to do so?

why not a Bank? is not money as much an article of trade as any other? it is always held so, and every one has a right to speculate in it. If not, let it be explained and enacted by an act of the Legislature, but till that was done, the trade in coins was open to all.

Mr. CUVILLIER said, if he were called on to speak as to the management of the Bank of Montreal as a public body, and as to its utility to the public, he must say it had been of the greatest advantage. They gave liberal assistance when they were safe in so doing. But every needy man seemed to think he had a claim upon the Montreal Bank for assistance, and why should the Bank of Montreal be obliged to satisfy the cravings of such men, who the more they got, the more they wanted. As to trading in coin, the Bank was not the only one, the chief speculation in that way had been made by Jews. To reproach the Bank with trading in coin was as little to the purpose, as if they were reproached with selling their bills of exchange on London at New York or Boston because they could get a higher rate there than here. He would say in his place, as a member of that House, and in the face of the petition, however respectably it was signed, that the Bank of Montreal had ever acted in the most proper way, both for the advantage of the public, and the interest of stockholders.

Upon Mr. VALLIERES' motion for its being referred to a Committee, Mr. LEE proposed an amendment, for its being ordered to lie on the table. Mr. VALLIERES considered this as neither gracious nor regular. Mr. OGDEN contended it was regular, and that it was competent for any member to move an amendment for it to lie on the table, or even, if he chose, for it to lie under the table.

Mr. VALLIERES took the opportunity of the debate being resumed, to remark that, although the notes were certainly nominally payable in Montreal, yet as they had for years been paid in Quebec, to make a distinction between some notes and others, was really imposing on the public. What is the use of bank-notes, but as a regular circulating medium, for which cash can be got at any time, but by this arrangement the holders of those notes found themselves in quite a different situation from that in which they were. As to the traffic in coin, if that were one that belonged to Jews, then he should say the bank of Montreal are a Jewish Bank. They have introduced a superabundance of light coin, which bore an ideal value here, but which ought to be considered as to its intrinsic value, and through their operations, as it was alleged, had banished a proportionate quantity of better and heavy coin from the country. But, if part of a petition be not maintainable, that is no reason for rejecting it *in toto*, and not enquiring into the other parts.

Mr. LEE said, if the law permits us to pay in French half crowns, what should prevent a Bank more than individuals from doing so. The law does not prohibit speculating in coin, it is no reproach to do so, no more

than to speculate in lumber, or corn, or any other article of trade. It was nothing but this, the Bank proved to be more industrious, enterprising, and alert than others, and even therefore envied. The question was reducible to the simple proposition that the Bank being incorporated, even if they had done wrong, we could not interfere till the Courts of Justice had decided, and if they had acted contrary to their charter, it might be taken away.

Mr. L. Laguеux said, the mercantile gentlemen who had spoken might be better acquainted with its bearings than he was; but we were not bound to give more credit to the assertions of an hon. member in his place, than to what the petitioners say; both should be put to the test of enquiry. The arguments of the hon. member for the Lower Town involved also a contradiction. He seemed astonished there was no law to prevent trafficking in coin, and then forms the conclusion that as there is no law, it was all right, and we had no business to enquire, but this again was all the more reason for enquiry. He argues, that individuals may do so, then why not Banks, who, he says, are the same as individuals—but they are not individuals, they are public bodies, they have applied to the Legislature to give them more privileges and power than others; and we ought to see that those privileges and powers are not abused, so as to tend to the detriment of the public, instead of its advantage. All reasons combine to show that we ought to enquire, whether the fault lies in the Banks, in Individuals, or in the law. The hon. members for the Lower Town and the Upper Town were at issue, as to the addition of "payable at Quebec," being an *ex post facto* condition. The hon. member for the Lower Town contends it is not so, as it is only made when they are re-issued; but the condition extends to those notes which may be quietly reposing in the port-folios, or chests, of individuals who never dream of it, who may have long had them in possession, and who upon the faith of their having been taken up without distinction before, think them quite as good as others; and when they go to purchase an article, or exchange a bill, are told no—this won't pass—it is not payable at Quebec—you must go to Montreal for it. This was imposing on, and inconveniencing, the public. We have a petition before us complaining of these practices—if they are not true, or prove to be no grievances—so much the better for the Montreal Bank; but we were bound to enquire. As the representative of a free country, he considered himself bound to receive and to consider all petitions, whether relating to a wealthy Bank, or a persecuted individual: we were here to listen to petitions, to enquire into them, and redress grievances.

Mr. Bourdages remarked that a material part of the petition had escaped notice. It was that which related to the unsatisfactory statements rendered to the Legislature by the Banks—and especially he thought the suggestion as to the bad debts due to the Banks being distin-

guished from the good, ought to be taken notice of—without which their returns could not but be fallacious.

Mr. Lee's amendment for the petition to lie on the table was then put to the vote, and negatived by a majority of twenty-two to two.

It was then referred to a Committee of five, with instructions to enquire into the operations of the other incorporated Banks within the Province, and as to the practice adopted by the Banks of England, Scotland, and the United States, with respect to taking up the notes issued by the Mother Banks, at their different branches.

On the motion for printing the petition against the Montreal Bank.

Mr. Ogden thought it ought to be a rule that no petition should be printed until it had been proved that the allegations were correct. It might otherwise be made the vehicle of libel. The petition against a judge had recently been ordered to be printed—this was circulating through the country what might ultimately prove to be a libel. He spoke generally as to all petitions which involved characters. These ought not to be circulated until the allegations were proven. In the latitude with which petitions were received, language which was decent as regarded the House—(all that was required)—might be very inflammatory as regarded the individuals, and to publish and to circulate such language was libellous. It was true, in this case the Montreal Bank did not care the twentieth part of a farthing, for all that was said against it—but the principle was the same—it ought not be printed and published—and the expenses of printing of the House were enormous. There had been laid before the House that evening the returns of the Sheriffs of the different districts, of the several actions, capiases, &c. from 1814 to 1828, which, instead of being returns merely of the number of actions and amounts, had been swelled to an enormous size by the names of all the plaintiffs and defendants for those 14 or 15 years being made part of the returns—an addition that was as indelicate and improper as it was useless—and by which an extraordinary expenditure was incurred, which nothing justified.

Mr. Bourdages, contended that as this petition was presented on public grounds—it ought to be printed for the benefit of the public. As to any objection in point of expense, he had only to say, that, it always happened in that House, when a paper was required to be printed, if it proved agreeable to the wishes of the members, there was money enough—but if it was not so—then they had no money to spare.

The House in Committee on the petition of Judge Bedard.—The Resolutions of the Committee were read, viz:

1. That the Provincial Judge for the District of Three Rivers is placed in a situation wherein, to obtain leave of absence in case of sickness, he is obliged to take out a commission for a Judge in his stead, and to obtain a new commission for himself before he can resume his situation, whereby the present Judge has on two several occasions been exposed to various inconveniences and disadvantages.

2. That it is expedient to amend the act of 34 Geo. III. so as to place the Provincial Judge of the District of Three Rivers on the same footing as to title, rank, power, and authority, in all cases, as the Justices for the Districts of Quebec and Montreal, and to empower the Governor, &c. for the time being, to substitute any one of the Justices of the said Districts, to act in the stead of the said Judge, in the case of sickness or necessary absence, without any new commission for that purpose.

3, That a sum not exceeding £400 sterling, annually be granted to bestow a pension on Pierre Bedard, Esquire, Provincial Judge for the district of Three Rivers, in the event of the said Pierre Bedard being obliged by ill health to resign his office.

Mr. NEILSON proposed that the pension of Judge Bedard, on his retirement, should be the amount of his present salary, viz ; £600 sterling.

Mr. Sol. Gen. OGDEN would cheerfully accede to the two first resolutions, but would wish another substituted for the third. He had always been at a loss to conceive why, in the Judicature act of 1774, the Judge of the district of Three Rivers was called a Provincial Judge, or why he should not be called as the others were, a Judge of the Court of King's Bench. Had it been so, the cause of complaint now exhibited could not have existed. All other Judges now take precedence of him, from the circumstance that he is obliged, after every absence from indisposition or otherwise, to take out a new commission, from the date of which only he takes rank. He is obliged to sit at the left hand of Judges, who have been raised to the bench ten or fifteen years after him. There was no reason why the Judge of Three Rivers should not be a Judge of the Court of King's Bench. In civil cases, the whole responsibility rested on him, and the whole of the labour too. He was the only Judge—well or ill—he was the man—and was subjected to degradation and inconvenience. If he happened to be unable at any time to discharge his duty, he had to get another Judge to do duty for him—he had to hire another Judge to take his place. But Judges ought not to be liable to be hired. But the remedy for all this was, that the Judge of Three Rivers should be put on the same footing with the Judges of Quebec and Montreal ; not only in point of rank and dignity, but also as to salary. The Judges of Quebec and Montreal had £900 salary—the same salary ought to be given to Judge Bedard, and then, after having served fifteen years, he should, on his retirement, as in England, be entitled to a pension of £600—the amount of his present salary. That was the mode on which it ought to be managed.

Mr. NEILSON said, the hon. Solicitor General was wrong in speaking of ages being paid to other Judges for officiating in Judge Bedard's stead —in fact, no Judge that did duty for him ever thought of such a thing.

Mr. OGDEN explained, that what he meant to say was, that no Judge ought to be put in a situation to receive wages—he by no means meant that any had actually done so.

Mr. VIGER thought the inferiority in point of extent and population of the district of Three Rivers to those of Quebec and Montreal did not require the Judge of that district to be put on the same footing as those of the others.

Mr. NEILSON stated, that the population of the district of Three Rivers, including 15,000 in the inferior district of St. Francis, amounted to 50,000, which was nearly half of that of the district of Quebec, 125,000; and it ought to be recollected that there were four Judges here, and therefore one was not an adequate proportion for that district.

Mr. Speaker PAPINEAU referred to the history of the Province, for the reason why the Court established at Three Rivers was considered as inferior to those in the other districts. Under the old French Government a Court had existed there—but from its comparative unsettled state, that Court had been suppressed. Hence, when English Courts were introduced, being considered as a less important district, an inferior jurisdiction was established. Since that time, the country had rapidly developed itself, and was consolidated into such a state of growing importance, that it was now necessary to place the Judges of the district of Three Rivers on the same footing as the Judges of the other districts—they ought to have the same rank; the other inferior districts would go on progressively—and, in like manner, will, probably, ere long, require to have stationary Courts of King's Bench established in them. In this case, a question occurred, as to whether we ought to give, by anticipation, a pension to a Judge who had not as yet resigned. It was a practice that was not usual. To obviate any objection of this nature, he was inclined to agree with the proposal of the hon. Solicitor General, that he should have the same salary as the other Judges, and then, whether he enjoyed that salary for one year or one month, he would be entitled to a proportionate pension on his retirement. If we make it a precedent to grant the entire salary of a Judge as a pension to him on retirement, it might be productive of abuse—and a Judge might, on slight grounds, represent himself as too ill to perform his duties, for the purpose of having the salary without the labour.

Mr. NEILSON said, he was ready and willing both to take time himself and to give time to others to reflect on any measure. He did not think, like the hon. Speaker, in one respect: he conceived it impossible to sup-

pose, in any case, that any Judge could, or would, pretend illness, in order to get a pension. They were incapable of it. The maladies under which Judge Bedard laboured, were fully established; had he, from his private fortune, or from the savings of his salary, had the means of retiring, he would probably never have troubled the House with any application. Must a man wait till he is dead to ask for a pension? He asks for it now by anticipation, because without an assurance of that kind he can not afford to resign, be his infirmities ever so great. The wants of his family required his continuing to sit as a Judge, though ever so much affected, because there was no certain provision for him after.

Mr. VALLIERES concurred in the observation, that it was not possible for Judge Bedard to resign, under his circumstances, without an assurance of a proper provision. As to the inferiority of the district, it rendered his situation only the more cruel. He had all the duties to perform in ordinary cases, and in others, he sat below the other Judges. The Judge who is always present, ought to preside, and the others to be considered only as his assessors. The resident Judge should be president, and to stick to the letter of the law, as to precedence arising from the date of commission, in this instance, illustrated the saying, *summa justicia, summa injuria.*

Mr. STUART remarked, that Judge Bedard asking now for a pension, after a long period of hard service, and all knowing and acknowledging his merits and the justice of his request, the only real question was that of the *quantum.* Let us not add to the other injustices he had suffered—which all admitted had been the case—that of making his retiring-pension less than that of the other Judges. This ought not to be measured out by arithmetical division: whether the pension should be a half, a third, or fourth of any given sum, ought not to be the question—but can he live on so much? The least provision hitherto given in the Province for a retired Judge, was £500. Judge Bedard ought to have the same sum as would be now given to other Judges in similar cases, which would be £600. He had filled his arduous station at Three Rivers for many years, on an allowance one third below that of any other Judge; and this was only a greater reason that he should, on his retirement, have as much as the other Judges on theirs.

Mr. VIGER considered the salaries of Judges as being very high in this country, in proportion to its general situation as to wealth and expenditure. Three Rivers was a place where the incomes of the richest were but moderate. It was a place where the means of living were less expensive.

Mr. OGDEN said this was the first time he had heard that the salaries of Judges were to be regulated by the current price of the market.

The first and second resolutions, were then passed.

On the third resolution, Mr. NEILSON said, it was not his intention to press this question to issue now, but to give time for members to consider of it.

Mr. STUART was not prepared to agree with the hon. Solicitor General for granting an increased salary to the Judge, and then give a pension in proportion to it. This did not appear to him a necessary preliminary to the discussion of the question of quantum. Every one seemed to be of opinion that Judge Bedard had now too small a salary, but that was not now the question. It had been argued we ought to take certain proportions of a salary as a principle. That was no proper criterion. If one has a salary of £1000, one fourth of it, £250, may be enough to live on; but such as may have only £100, would die of starvation upon one fourth of that. Some certain sum was necessary for the maintenance of every man, and particularly of every man, who by the very circumstance of having a pension, was presumed to have no other means of a livelihood. Proportions were blind and bad guides. A man may live on a loaf a day perhaps—he may half starve on half a one, but if you cut it down to a quarter or an eighth, you will find him dead on a bundle of straw. The argument was stronger when one went to higher sums, a salary of £10,000, cut it down as you like, would enable a man to live in affluence on a proportionate pension,—and what would one of £50, do? All men must eat and drink, and the Judge of Three Rivers as well as other Judges. £500 is the least we have hitherto given; and it was quite as necessary for him to have £500 as other Judges. But he shonld wish it to be £600—not, however upon any principle of proportion to salary; but because he wanted it, and ought to have it.

The discussion of the amount was postponed; the Committee rose, reported progress, and had leave to sit again.

LEGISLATIVE COUNCIL.

The bill for facilitating a legal remedy for such as have claims upon H. M.'s Provincial Government, was passed, with one amendment, and ordered back to the Assembly.

HOUSE OF ASSEMBLY.

SATURDAY, Jan. 17.

Mr. VIGER moved for an address to H. E. for a copy of a dispatch to Sir Francis Burton, of the 30th September, 1825, having reference to another dispatch of the 4th June preceding.

Mr. SOLICITOR GENERAL opposed the motion, as he would always do when he found the object was to pry unnecessarily into the private cor-

respondence between the Government and His Majesty's ministers. The House might put itself into a situation to have their application rejected—if they wanted any particular information—apply for it—well and good; but to ask the Governor to lay before them the whole of the private and confidential dispatches from Government, was too much; ask for as many particulars as you will, but not for the whole of a dispatch.

Mr. VIGER said the distinction of the hon. Solicitor General was improperly drawn between the Government and the House. The Assembly was part of the Government, and was entitled to know the measures and feelings of the other part, in order to guide their own, without which no cordiality could take place, and the Government would be like that of the inquisition, where information was only doled out at the option of the inquisitor.

Mr. VALLIERES asked whether there could be, with propriety, any paper or any dispatch in the possession of Government that ought not to be communicated to the people if wanted? Whatever may have been before, there was now no cause for concealment. There can now be no papers that contained the plans, or purposes of a conspiracy against the people. All mysteries between the Governors and the governed destroy confidence. He thought there was now no risk of being refused; we had H. E.'s assurance that he would afford the House all the information in his power; we had no reason to doubt or mistrust him. He would allow, refusals had before occurred, but that was when persons had influence and power who wanted to blind both the people and ministers. He conceived there existed no more difficulty now in procuring any kind of paper, than there was in asking for it.

The House then divided on the montion, yeas 22, nay 1.

Mr. SOLICITOR GENERAL begged to call the attention of the House to a subject which had before occupied it, but which he should now take up on different grounds. He should refer first to the proceedings in the House in 1816, on the subject of building a bridge over the St. Maurice. The decision the other evening, when he was absent, did not touch the question of whether the bridge should be built or not, it only negatived the grant of £100 for a survey and estimate, and it was right in so doing, for such documents are already in possession of the House. He referred to the journals, in which it appeared that, several years ago, when the same measure was proposed, the surveys and estimates of J. B. Bedard were obtained. He wished now to bring it to the point, and to induce the House to say positively yea or nay to the erection of a bridge.

Mr. LEE, considered that it was not the usage of Parliament to entertain any subject which had been previously disposed of the same Session, no more by indirect means, than directly. This question had already

been decided, and it would be derogatory to the House to consider it again, though brought forward in other words. It was a dangerous precedent to introduce by indirect means a question which had been already put to rest.

Mr. OGDEN said that instead of its being his intention to agitate the same measure, it was a quite different one. That was merely to vote £100 for a survey. It was right it should be negatived; for taking up the Journals, the records of Parliament, the very papers wanted are already here, without any further expense; and upon those, upon the previous proceedings of the House in a former Session, upon its own records, which had adopted the measure before, he would found his motion. It might be inconvenient to go so far as to vote for the erection of the bridge, but if a pledge were given for its being built hereafter, it would have some effect; altho' knowing the dreadful loss of lives which had once occurred by the want of this bridge, it could not be too soon begun, if it was to be begun at all. It was contrary to all reason to refuse to enter into the discussion; and instead of admitting that he was by indirect means bringing on the same question that had been before decided, he conceived he was proceeding in the most direct manner and had proposed to the House a different question from the other.

On the motion being presented to the Chair, Mr. SPEAKER refused to receive it, as it was his opinion that it was an indirect mode of again proposing the same question. A petition for a bridge had been presented, it was referred to a special Committee, the special Committee had not in their report recommended its erection, their report had been laid before a general Committee, which had risen without leave to sit again.—Besides which, the erection of a bridge was in the nature of a private petition, which it was now too late in the Session to consider.

Mr. OGDEN did not coincide with the Chair, and appealed to the House on which the House divided, and sustained Mr. SPEAKER's decision by a majority of 19 to 4.

Mr. OGDEN then presented a motion for the House to resolve itself into a Committee of the whole to consider of the expediency of constructing a bridge over the St. Maurice, to which the Speaker again objected on the same grounds, that the question had been already decided this Session, and could not be again be agitated. The motion being rejected, another division of the House took place, and the Speaker's decision maintained by a majority of 17 to 7.

Mr. OGDEN then moved that the Committee on roads and internal communications, be instructed to inquire into the expediency of improving the communication between Montreal and Quebec, and particularly between Three Rivers and Quebec. This was objected to on the same grounds,

and the House again divided, and decided in favour of the Speaker by the same majority as before.

Mr. Bourdages introduced a bill to relieve the distressed of Lotbinière.

Mr. Neilson introduced a bill to regulate curing, packing and inspection of Beef and Pork.

Mr. Bourdages introduced a bill to revive and amend the Ordinance for the regulation of Surveyors.

Mr. Neilson reported from the Committee on Hospitals, &c., at Quebec; referred to Committee on the whole on Montreal General Hospital, &c.

On motion of Mr. Vallieres, the House on the Message from the Council asking documents, &c. relating to the bill for the qualification of Justices, agreed to a resolve "that it has not been the practice of either "House of Parliament to desire of the other the informations on which "they have proceeded in passing any bill, except where such informa-"tion has related to facts stated in such bill as the ground and formation "thereof, and that the Assembly think this reason sufficient for not giving "at this time any further answer to the Message of the Legislative "Council."

A message from H. E. was received furnishing the instructions and documents relating to the present system of granting lands in the Province, and another as follows:

"H. E. regrets to inform the House that it has been found impossible under the act of 1801, to form a separate Committee of the Royal Institution, for the exclusive regulation and superintendence of Roman Catholic Schools, as recommended in the late Governor in Chief's message of the 13th February, 1827, that act not authorizing the Governor to add a sufficient number of members to the Board of Trustees for that purpose.

"It being, however, most desirable that an arrangement of so much importance, and one which will secure the co-operation and assistance of the Roman Catholic Bishop and the Clergy of that Church should be carried into immediate execution, H. E. recommends the House to amend the act of 1801, in so far that the necessary power may be vested in the Governor to encrease the number of Trustees, in order that a separate Committee may be formed for the superintendance of the Roman Catholic Schools. In connection with this subject, H. E. lays before the Assembly a memorial which he has lately received from the Revd. Dr. Mills on the subject of his salary, as Secretary of the Board of Royal Institution, to which office he was appointed by Letters Patent bearing date the 13th December, 1819, and having satisfied himself of the nature and extent

of the duties Dr. Mills has been called upon to perform, H. E. considers it due to him to recommend the prayer of his memorial to the favourable consideration of the Assembly."

The House in Committee on the petition for a College at Kamouraska.

Mr. BORGIA proposed a first resolution, purporting that Kamouraska was the most central and advantageous place for the establishment of a College.

Mr. FORTIN said, that as the population of the three contiguous parishes of Kamouraska, St. Anue and Rivière Ouelle, exceeded that of the whole county of Cornwallis, he should be of opinion that the erection and incorporation of a College at Kamouraska, might be advisable, but should not be inclined to vote any aid towards it. Whenever the Province appropriated part of its revenue to the purposes of public education, Kamouraska would have its share. There were doubts however, as to the most proper place, Kamouraska had its advocates, so had the Rivière Ouelle, and Mr. Painchaud, the curate of Ste. Anne, had already a College there. The opinion of the Bishop also did not seem to favour the mode adopted. He could not recommend any pecuniary aid, and thought that, for better information and consideration the report ought to be printed, and the Committee to adjourn.

Mr. VIGER did not see how Kamouraska which was represented as rich and populous, should ask for aid to build a College. He was against voting money where it was not wanted, Kamouraska asks for an incorporation to build schools. Why not build them first as they had the means?

Mr. BORGIA having at considerable length enforced his previous arguments, Mr. QUESNEL said, the hon. gentleman had pleaded the cause at great length, but he had too much overloaded his plea, and had totally omitted all that might be said against it. The object of this application is to engage the Assembly to vote a considerable sum of money for a College at Kamouraska, whilst Kamouraska with all her riches does not even possess a common school. There is a school or a college at Sainte Anne, about which we ought to get more information, In most parts of the country, schools were wanted, but the schools chiefly wanted were those in which elementary knowledge was taught, reading and writing, English and French, arithmetic, &c.

Mr. VIGER remarked, that they had got into a discussion foreign to that before the House; general elementary education was not the question. It was for a particular college for the county of Cornwallis, and although the central point was stated to be Kamouraska, the application did not regard that parish alone. Yet it was one he did not think ought to be

granted; or if an incorporation was given, every thing else must be provided for by the parties who applied.

Mr. BORGIA rose again, to state that Mr. Taché, the Seigneur of Kamouraska, had offered a piece of land for the erection of the college.

The House divided on the first resolution, which was negatived by a majority of 22 to 1, Mr. Borgia being the only yea.

On the second resolution, that it would be expedient that a college should be erected for the county of Cornwallis, and [illegible] an act for its incorporation; Mr. VIGER moved, that the c[illegible] now leave the chair.

After some discussion, Mr. STUART said, he was sorry such a measure, which was intended for the promotion of education should be lost, either through irregularity or precipitacy. His own feeling was, that the public money ought not to be expended in establishing a college at Kamouraska; but it at least ought to be considered, and we ought to defer it till another day. Upon the motion for the chairman's leaving the chair being put, it was carried by a majority of 20 to 2, (Borgia and Stuart,) and the Committee rose without reporting.

HOUSE OF ASSEMBLY.

MONDAY, Jan. 19.

An answer was received from H. E. to the address praying for a communication of a dispatch to Sir Francis Burton of the 30th Sept. 1825, stating that the dispatch in question not being of record in the office, nor in his possession, he could not comply with the desires of the House.

Mr. LESLIE brought in a bill for the establishment of a Fire Society in Montreal.

Mr. VIGER presented a petition from inhabitants of Chambly against the petition formerly presented for a bridge over the Little River Montreal.

On motion of Mr. SOL. GENL. 200 copies of the report of the Commissioners for exploring the Saguenay country were ordered to be printed, and the report referred to a Committee.

The bill to extend certain privileges to persons of the Jewish faith was passed, and ordered to the Council.

The House in Committee on the petition of Judge Bedard.

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