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PROCEEDINGS

Comm. P. 1.

Had in the Commons House of Assembly,

ON THE

SUBJECT OF AN ADDRESS

TO HIS EXCELLENCY SIR F. B. HEAD,

FOR CERTAIN INFORMATION

ON THE

AFFAIRS OF THE COLONY.

PRINTED BY ORDER OF THE COMMONS HOUSE OF ASSEMBLY.

R. STANTON, PRINTER.

1836.

WEDNESDAY, 3RD FEBRUARY, 1836.

MR. MACKENZIE, seconded by MR. MORRISON, moves—That an humble address be presented to His Excellency the Lieutenant Governor, praying his Excellency to transmit to this House copy of the correspondence desired to be obtained by its address to his Excellency Sir John Colborne, dated the 19th of January, 1835, relative to the removal of the late Attorney and Solicitor General, the appointment of the present Attorney General, and the re-appointment of the Solicitor General, and concerning the several expulsions of a member of this House in the last Parliament.

Also, any despatches that would serve to explain to this House the apparent contradiction between the royal instructions relative to the dismissal or resignation of public officers, when they cease to give a conscientious support to the measures of the Government, and the continuance in office [of Mr. Hagerman, notwithstanding his unqualified opposition to many beneficial measures recommended by the Earl of Ripon, as it is set forth in the seventh report of the Committee on Grievances. His Excellency will also perceive, on reference to our Journals of the 9th day of February, 1833, that the Solicitor General opposed an address to his Majesty, “thanking him for the “prompt attention that he had been most graciously “pleased to pay to the representations and petitions, “not only of his faithful Commons, but also of His “Majesty’s faithful and loyal people in this Province; “and to express to his Majesty our sincere gratitude “for the many valuable measures that his Majesty “had been most graciously pleased to suggest and “recommend to the Government of this Province, “which are eminently calculated, if acted upon, to

“render his Majesty’s subjects in this Province more “happy and contented;” and which are contained in the despatch sent down, by message, on the 19th January, 1833; which despatch his Excellency is called upon to carry into effect. Mr. Hagerman proposed a measure of a very different character, in the form of an address to his Excellency Sir John Colborne to prevent a vote of thanks to his Majesty, and his amendment was never carried through the usual stages. We do not doubt but that Mr. Hagerman’s opposition to the measures proposed by his Sovereign was conscientious, but we cannot persuade ourselves that he would very sincerely co-operate in effecting the reforms he so much deprecates.

Requesting His Excellency’s attention to the third report of the Committee of Finance of last Session, on the defalcation of Mr. Hagerman, and the proceedings of Mr. Inspector General Markland thereon; and that information may be laid before the House what steps have been taken by the Government on that report, (copy of which is transmitted herewith).

Also, copy of the despatches of his Excellency Sir John Colborne to the Secretary for the Colonies, dated the 12th and 16th of September last, the latter containing his Excellency’s observations on some of the topics embraced in the aforesaid report on grievances, and which have happily engaged the paternal attention of our most gracious Sovereign.

Also, copy of any communications from the Colonial office, relative to the address of this House accompanying a report and evidence from the Committee on grievances, on the complaint of William Forsyth, late proprietor of the Niagara Falls Hotels.

And, copy of all those communications from the Colonial office on matters of public or general interest to the inhabitants of this Province, addressed to his

Excellency's predecessor in the administration of the Government, since the period of the general election of members to serve in the present House of Assembly, and referred to in the despatch of the Secretary of State sent down to this House on Saturday last, as being for his Excellency's guidance and instruction.

By the statute of the United Kingdom Parliament commonly called the Constitutional Act, the Executive Council is appointed expressly to advise the Lieutenant Governor upon the affairs of the Province, and a permanent provision was made by law, on the request of the Government, for the payment of annual salaries to five Executive Councillors. The House is desirous to know the names of the persons who compose his Excellency's Executive Council, with the date at which they were sworn into office, and whether they are considered by his Excellency as appointed in conformity with the spirit of the royal instructions, from among that class of his Majesty's subjects who have given a conscientious support to those measures of the Government which are enumerated in the despatch of the Earl of Ripon of the 8th November, 1832.

Although fully convinced that his Excellency sincerely desires to co-operate with this House in the arduous and important duties which, by the command of our revered Sovereign, we are called to perform, we feel assured that unless his Excellency takes into his Councils men in whose loyalty, patriotism and discretion, his Excellency and this House can place mutual confidence, the reforms sought for by the people, and which it is the anxious wish of his Majesty to accomplish, will not be likely to be brought to an early and happy termination.

In reply to the representations of this House to his Majesty, against the constitution and composition of the Legislative Council, the despatch of Lord

Glenelg refers with approbation to the report of the Committee of the House of Commons in 1828. We cannot easily reconcile the principles adopted in that report and despatch with the recent appointment of William Morris, Esq. to a seat in the Legislative Council. Mr. Morris was generally to be found in the minority referred to by his Lordship, when he was a member of this House during the last Session; and our Journals of 24th of January, 1833, shew, that so far from being attached to those reforms, to the progress of which the Legislative Council are so great an obstacle, he moved in this House the resolutions to insult our most gracious Sovereign and Lord Ripon, his Minister, by sending back to the Colonial Office the despatch of the 8th of November, 1832, to the instructions, contained in which, the King continues to adhere.

We are anxious to obtain copies of any communications between the Colonial Office and the Lieutenant Governor, relating to this addition to the numbers of the Legislative Council, a measure not likely to lessen the unhappy differences which exist between the two Houses, one result of which, in the present Session, we greatly deplore, because it involves the continued disfranchisement of the electors of a large and populous county, the interests of which, and of the Province as therewith connected, are neglected and injured, because the Council neglects or declines to sanction a law which would afford those safeguards to the electors which, in times of unusual excitement, they stand in need, as is shewn by the resolutions of special Committees of this House, acting upon oath, in a judicial capacity. We are also desirous to obtain copies of any other correspondence between the Colonial Office and the Colonial Government, concerning the nomination or appointment of any other persons to the Legislative Council, and of the answers made by them, if any, to notifications that such appointments had been made.

On the 15th of April last a resolution was reported to the House from the Committee on Finance, which the House adopted as containing their views on the important question of the appropriation of the proceeds of the natural resources of the country by the Legislature, and especially remonstrating against the Charter and improvident grants to the Canada Company, which have proved, and are likely to continue to prove, very injurious to the country. This resolution was opposed by Mr. Morris, whose elevation to the Council we have already adverted to, but agreed to by a large majority, and sent up to his Excellency Sir John Colborne, to be by him transmitted to his Majesty. As there are several important topics contained in that resolution on which the despatch sent down on Saturday last is silent, or not very explicit, we would gladly receive any communications of the Royal pleasure with respect to these matters, which his Excellency may think fit to transmit to the House.

The office of Speaker of the Legislative Council is held during the pleasure of the Executive by the present Chief Justice of the Province, who not only sanctioned the extraordinary and unusual address and proceedings of the Legislative Council in the matter of Lord Ripon's despatch recommending measures of reform, but is generally understood to have been the author of that address, to which the seventh report of the Committee of grievances has a special reference. Entertaining the political sentiments he has avowed, in opposition to the beneficial declarations of the Government, it appears to us at variance with the principles avowed by His Majesty that Mr. Robinson should continue to hold this office: and this House would consider the administration of Justice as less liable to injurious suspicions if the Judges were to cease to interfere in the political disputes of the day, and confine themselves to their appropriate sphere,

which is the early and equal administration of the laws.

His Majesty was very graciously pleased, in conformity with the petitions of the people, to intimate to the Bishop of Regiopolis and the Archdeacon of York, several years ago, his Royal desire that they would resign their seats in the Councils, and devote their time to their high spiritual functions as Ministers of Religion; notwithstanding which they have since continued to mix themselves up with the secular concerns of the Colony by attending in the Legislative Council as Members of that House. We trust that your Excellency, in fulfillment of the benevolent wishes of the King, will take such steps to carry into effect the royal instructions as may enable the Bishop and the Archdeacon to make their election, either of abandoning their political labors in the Legislature, or of quitting all claim to any salaries, pensions, or other emoluments they now hold or enjoy during the pleasure of the Government.

And that the 31st rule of this House be suspended in so far as it would affect this motion.

Mr. Macnab, seconded by Mr. Boulton, moves in amendment—That the question be not now put, but that this resolution be referred to a Committee of the whole House on Wednesday next; and that it be the first item on the order of the day for that day.

On which the yeas and nays were taken as follows :

Yeas—Messrs. Boulton, Brown, Caldwell, Dunlop, Lewis, McCrae, McDonell, *of Northumberland*, McKay, McLean, Macnab, Malloch, Richardson, Roblin, Rykert, Small, Strange, Walsh, & Wilkinson—18.

Nays—Messrs. Alway, Bruce, Chesser, Chisholm, Cook, Duncombe, *of Norfolk*, Durand, Gibson, Gilchrist, Hopkins, Lount, McDonell, *of Stormont*,

Mackenzie, McMicking, Moore, Morrison, Parke, Perry, Rymal, Shaver, Shibley, Thorburn, Waters, Wells, and Wilson—25.

The question of amendment was decided in the negative by a majority of seven.

Mr. Perry, seconded by Mr. Bruce, moves—That the debate be adjourned until tomorrow, and that it be the first thing on the order of the day.

Which was carried, and the debate was adjourned accordingly.

THURSDAY, 4th FEBRUARY, 1836.

Pursuant to the order of the day the debate on Mr. Mackenzie's motion for address to His Excellency, of yesterday, was resumed.

Mr. Perry, seconded by Mr. Roblin, moves in amendment—That after the word "office" in the first page, the whole be expunged and the following inserted, "of persons composing the Executive Council and legal advisers of the Government, notwithstanding their opposition to many urgent and beneficial measures of reform, so often and loudly called for by a large majority of the people of the Colony, and recommended by the Earl of Ripon, as set forth in his despatch of the 8th November, 1832, which opposition and utter contempt of the wishes of the people and the recommendation of his Majesty's Government, as aforesaid, will more strikingly appear by reference to the Journals, in regard to proceedings had on the said despatch which was sent down to both Houses by his Excellency Sir John Colborne, in compliance with the instruction of the Earl of Ripon, to make it public in Canada; by which reference it will most distinctly appear, that the above description of persons have not only opposed the carrying into effect the said recommendations, but offered the greatest indignity

to his Majesty and his Minister, by voting to send the said despatch back to his Excellency, in opposition to a motion for printing and publishing it; and on another occasion opposed and prevented the passage of an address of thanks to his Majesty for his prompt attention, displayed in said despatch, to the wishes and interests of the people of the Colony, by moving another address in amendment, of a censurable character, upon his Majesty's Minister, for writing and transmitting the said despatch, which address was afterwards presented to his Excellency as the address of the House, although never carried through its several stages. This House disclaim any wish to prevent any member of either branch of the Legislature from fully and fairly expressing his candid opinion, and giving his vote according to the dictates of his conscience and conceptions of right and wrong; yet, we cannot reconcile with the principles of our constitution the appointment and continuance in office of persons, as councillors and advisers of the Government, who are known to stand opposed to the wishes of the people and recommendation of his Majesty, on great leading measures of reform, and who do not possess the confidence of the people, and acquiesce in their general political views and policy, as expressed through their Representatives.

“That by the statute of the United Kingdom Parliament, commonly called the Constitutional Act, the Executive Council is appointed expressly to advise the Lieutenant Governor upon the affairs of the Province, and a permanent provision was made by law out of the Revenues of the country, at the request of the Government, for the payment of annual salaries to five Executive Councillors and two legal advisers; and feeling assured that unless those who are called upon, from time to time, to counsel and advise the Lieutenant Governor on matters of deep interest and concern to the welfare and peace of this Colony, are

men in whose principles, policy and integrity, this House, as well as his Excellency, can place full confidence, the reforms and improvements sought for by the people, and which appear from his Majesty's several despatches to be his most anxious desire to see accomplished, will not be brought to an early and happy termination; therefore, we most earnestly solicit his Excellency, as speedily as possible, to lay before this House a statement of the several persons who compose his Excellency's Executive Council, and of his legal advisers, with the dates of their appointments, and at which they were severally sworn into office; and that his Excellency will please to inform this House, whether it is considered that their appointments and continuance in office are in strict conformity with the spirit of the Royal Instructions, and that they are taken from among that class of his Majesty's subjects who have given a conscientious support to those measures of the Government which are enumerated in the despatch of the Earl of Ripon, as aforesaid.

“That in reply to the representations of this House to His Majesty against the composition of the Legislative Council, the despatch of Lord Glenelg refers with approbation to the report of the Committee of the House of Commons on Canadian affairs, in the year 1828, and we cannot, by any possible ingenuity, reconcile the principles laid down in that report and that despatch with those acted upon in the recent appointment to seats in the Legislative Council, (if we may believe general report,) inasmuch as all those said to be lately appointed to the said Council, who were members of the last Parliament, (including the gentleman who has, during the present session, already taken his seat,) took a most conspicuous and prominent part in the contemptuous proceedings on the Earl of Ripon's despatch; which a reference to the Journals of this House will most amply shew;

and all said to be so appointed have always been understood to be violently opposed to the principal measures of improvement and policy so long required by a large majority of the people; thereby increasing, if possible, instead of diminishing, the great obstacle to the reform necessary to be accomplished, in order to secure to the people of this Colony peace, happiness, and prosperity, and the full enjoyment of their civil and religious rights and privileges. We, therefore, desire to obtain copies of any communications between the Colonial Office and the Government of this Colony, relating to the late appointments to the Legislative Council, or those of any other persons whose appointments have not been acceded to or confirmed by the King,—and to be informed who, among those lately appointed have taken the oath as Legislative Councillors, and who, if any among them, have declined accepting of the appointment, and requesting his Excellency, as early as may be, to call upon any such as have been so appointed, either to accept the said appointment, and take the necessary oaths, &c. or to decline the same; also, setting forth that this House and the country have long felt much aggrieved not only by observing the appointment of the Chief Justice to a seat and the Speakership in the Legislative Council, which we consider highly improper and incompatible with the office of Chief Justice, thereby affording just grounds of suspicion and complaint of the partial and impure administration of justice, but have also had the mortification to see the Bishop of Regiopolis and the Archdeacon of York neglecting their high and spiritual functions and care of souls, and clinging to their seats in the Legislative Council, and devoting their time and talents to political strife and secular concerns, in direct opposition, and contrary to the express desire and pleasure of his Majesty, as set forth in the said despatch of Earl Ripon, and at the same time permitted to hold

and enjoy offices of emolument and profit. We, therefore, trust that your Excellency will take immediate steps in fulfilment of the gracious wishes of the King, to carry into effect his benevolent intentions, and as desired by the great body of the people of this Colony, by calling upon the said Bishop and Archdeacon either to withdraw from the said Legislative Council altogether, or resign their other offices, and forever quit all claim to any other salary, pension, or other emolument they now hold or enjoy during the pleasure of the Government.

“ That his Excellency will lay before this House any other information or instruction that he may have received (if any) from his Majesty’s Government, beyond what has already been sent to this House, relative to the administration of the Government, or in answer to a resolution transmitted to his Majesty through his Excellency Sir John Colborne, which resolution was reported to this House by the Finance Committee, and adopted by the House, as containing the views of the House on the important question of the appropriation of the proceeds of the natural resources of the country by the Legislature, and strongly remonstrating against the Charter and improvident sale to the Canada Company which has proved, and is likely to continue to prove, exceedingly injurious to the Province; and also, copies of answers to any other resolutions or addresses of this House transmitted to his Majesty by its order; or correspondence between his Majesty’s Government and the Government of this Province on the same, especially relative to the address reported by the Committee on Grievances, and adopted by this House, on the complaint of an outrage on William Forsyth, late proprietor of the Niagara Falls Hotels; also, a copy of the despatch of his Excellency Sir John Colborne to the Secretary for the Colonies, dated 12th and 16th of September last—the latter containing his Excellency’s observa-

tions on some of the topics embraced in the seventh report of the Committee on Grievances; also, copies of all other communications between the Colonial Office and the Executive Government of this Province, on matters of public or general interest to the inhabitants of this Province, since the period of the general election of members to serve in the present House of Assembly, and referred to in the despatch of the Secretary of State, sent down to this House on Saturday last, as being for his Excellency's guidance and instructions; also, requesting his Excellency to lay before this House a statement of the proceedings and steps taken by the Government relative to a special matter contained in the third report of the Committee on Finance, of last session, in reference to a defalcation of monies by the late Collector of the town of Kingston, which defalcation had for several years been reported, and appeared in the public accounts, but which was omitted to be stated by the Inspector General in the last accounts sent down to this House, without any authority to do so from the Legislature."

And that the 31st rule of this House be dispensed with so far as relates to this motion, and that Messrs. Roblin and Shaver be a Committee to draft and report said address.

On which the yeas and nays were taken as follows :—

Yeas.—Messrs. Alway, Bruce, Chesser, Chisholm, Cook, Duncombe of *Norfolk*, Durand, Gibson, Hopkins, Lount, M'Intosh, M'Micking, Moore, Morrison, Parke, Perry, Roblin, Rymal, Shaver, Shibley, Small, Thorburn, Waters, Wells, Woolverton, and Yager, 26.

Nays.—Messrs. Boulton, Caldwell, Cornwall, Dunlop, Lewis, M'Crae, M'Donell of *Northumberland*, M'Kay, M'Lean, Malloch, Richardson, Robinson, Rykert, Strange, Walsh, and Wilkinson, 16.

The question of amendment was carried in the affirmative by a majority of 10.

On the original question, as amended, being put, the yeas and nays were taken as follows :—

Yeas.—Messrs. Alway, Bruce, Chesser, Chisholm, Cook, Duncombe *of Norfolk*, Durand, Gibson, Gilchrist, Hopkins, Lount, M'Intosh, Mackenzie, M'Micking, Moore, Morrison, Parke, Perry, Roblin, Rymal, Shaver, Shibley, Small, Thorburn, Waters, Wells, Wilson, Woolverton, and Yager, 29.

Nays.—Messrs. Boulton, Caldwell, Cornwall, Dunlop, Lewis, M'Crae, M'Donell *of Northumberland*, M'Kay, M'Lean, Malloch, Richardson, Robinson, Rykert, Strange, Walsh, and Wilkinson, 16.

The question, as amended, was carried in the affirmative by a majority of 13, and it was,

Resolved, That an humble address be presented to his Excellency the Lieutenant Governor, praying his Excellency to transmit to this House, copy of the correspondence desired to be obtained by its address to his Excellency Sir John Colborne, dated the 19th of January, 1835, relative to the removal of the late Attorney and Solicitor General, the appointment of the present Attorney General, and the re-appointment of the Solicitor General, and concerning the several expulsions of a member of this House in the last Parliament.

Also, any despatches that would serve to explain to this House, the apparent contradiction between the Royal instructions relative to the dismissal or resignation of public officers, when they cease to give a conscientious support to the measures of the Government, and the continuance in office of persons composing the Executive Council and legal advisers of the Government, notwithstanding their opposition to many urgent and beneficial measures of reform, so often and loudly called for by a large majority of the

people of the Colony, and recommended by the Earl of Ripon, as set forth in his despatch of the 8th November, 1832, which opposition and utter contempt of the wishes of the people and the recommendation of his Majesty's Government, as aforesaid, will more strikingly appear by reference to the Journals, in regard to proceedings had on the said despatch, which was sent down to both Houses by his Excellency Sir John Colborne, in compliance with the instruction of the Earl of Ripon, to make it public in Canada; by which reference it will most distinctly appear that the above description of persons have not only opposed the carrying into effect the said recommendations but offered the greatest indignity to his Majesty and his Minister, by voting to send the said despatch back to his Excellency, in opposition to a motion for printing and publishing it; and, on another occasion, opposed and prevented the passage of an address of thanks to his Majesty for his prompt attention, displayed in said despatch, to the wishes and interests of the people of the Colony, by moving another address, in amendment, of a censurable character, upon his Majesty's Minister, for writing and transmitting the said despatch, which address was afterwards presented to his Excellency, as the address of the House, although never carried through its several stages. This House disclaim any wish to prevent any member of either branch of the Legislature from fully and fairly expressing his candid opinion, and giving his vote according to the dictates of his conscience, and conceptions of right and wrong; yet we cannot reconcile, with the principles of our constitution, the appointment and continuance in office of persons, as councillors and advisers of the Government, who are known to stand opposed to the wishes of the people and recommendation of his Majesty, on great leading measures of reform, and who do not possess the confidence of the people, and acquiesce in their general political views and policy, as expressed through their representatives.

“That by the statute of the United Kingdom Parliament, commonly called the Constitutional Act, the Executive Council is appointed expressly to advise the Lieutenant Governor upon the affairs of the Province, and a permanent provision was made by law out of the Revenues of the country, at the request of the Government, for the payment of annual salaries to five Executive Councillors and two legal advisers; and feeling assured that unless those who are called upon, from time to time, to counsel and advise the Lieutenant Governor on matters of deep interest and concern to the welfare and peace of this Colony, are men in whose principles, policy and integrity, this House, as well as his Excellency, can place full confidence, the reforms and improvements sought for by the people, and which appear from his Majesty’s several despatches to be his most anxious desire to see accomplished, will not be brought to an early and happy termination; therefore, we most earnestly solicit his Excellency, as speedily as possible, to lay before this House a statement of the several persons who compose his Excellency’s Executive Council, and of his legal advisers, with the dates of their appointments, and at which they were severally sworn into office; and that his Excellency will please to inform this House, whether it is considered that their appointments and continuance in office are in strict conformity with the spirit of the Royal Instructions, and that they are taken from among that class of his Majesty’s subjects who have given a conscientious support to those measures of the Government which are enumerated in the despatch of the Earl of Ripon, as aforesaid.

“That in reply to the representations of this House to His Majesty against the composition of the Legislative Council, the despatch of Lord Glenelg refers with approbation to the report of the Committee of the House of Commons on Canada affairs, in the

year 1828, and we cannot, by any possible ingenuity, reconcile the principles laid down in that report and that despatch with those acted upon in the recent appointment to seats in the Legislative Council, (if we may believe general report,) inasmuch as all those said to be lately appointed to the said Council, who were members of the last Parliament, (including the gentleman who has, during the present session, already taken his seat,) took a most conspicuous and prominent part in the contemptuous proceedings on the Earl of Ripon's despatch; which a reference to the Journals of this House will most amply shew; and all said to be so appointed have always been understood to be violently opposed to the principal measures of improvement and policy so long required by a large majority of the people; thereby increasing, if possible, instead of diminishing, the great obstacle to the reform necessary to be accomplished, in order to secure to the people of this Colony, peace, happiness, and prosperity, and the full enjoyment of their civil and religious rights and privileges. We, therefore, desire to obtain copies of any communications between the Colonial Office and the Government of this Colony, relating to the late appointments to the Legislative Council, or those of any other persons whose appointments have not been acceded to or confirmed by the King,—and to be informed who, among those lately appointed have taken the oath as Legislative Councillors, and who, if any among them, have declined accepting of the appointment, and requesting his Excellency, as early as may be, to call upon any such as have been so appointed, either to accept the said appointment, and take the necessary oaths, &c. or to decline the same; also, setting forth that this House and the country have long felt much aggrieved, not only by observing the appointment of the Chief Justice to a seat and the Speakership in the Legislative Council, which we consider highly improper and incompatible with the office of Chief

Justice, thereby affording just grounds of suspicion and complaint of the partial and impure administration of justice, but have also had the mortification to see the Bishop of Regiopolis and the Archdeacon of York neglecting their high and spiritual functions and care of souls, and clinging to their seats in the Legislative Council, and devoting their time and talents to political strife and secular concerns, in direct opposition, and contrary to the express desire and pleasure of his Majesty, as set forth in the said despatch of Earl Ripon; and at the same time permitted to hold and enjoy offices of emolument and profit. We, therefore, trust that your Excellency will take immediate steps in fulfilment of the gracious wishes of the King, to carry into effect his benevolent intentions, and as desired by the great body of the people of this Colony, by calling upon the said Bishop and Archdeacon either to withdraw from the said Legislative Council altogether, or resign their other offices, and forever quit all claim to any other salary, pension, or other emolument they now hold or enjoy during the pleasure of the Government.

“ That his Excellency will lay before this House any other information or instruction that he may have received (if any) from his Majesty's Government, beyond what has already been sent to this House, relative to the administration of the Government, or in answer to a resolution transmitted to his Majesty through his Excellency Sir John Colborne, which resolution was reported to this House by the Finance Committee, and adopted by the House, as containing the views of the House on the important question of the appropriation of the proceeds of the natural resources of the country by the Legislature, and strongly remonstrating against the Charter and improvident sale to the Canada Company which has proved, and is likely to continue to prove, exceedingly injurious to the Province; and also, copies of answers to any other

resolutions or addresses of this House transmitted to his Majesty by its order; or correspondence between his Majesty's Government and the Government of this Province on the same, especially relative to the address reported by the Committee on Grievances, and adopted by this House, on the complaint of an outrage on William Forsyth, late proprietor of the Niagara Falls Hotels; also, a copy of the despatch of his Excellency Sir John Colborne to the Secretary for the Colonies, dated 12th and 16th of September last—the latter containing his Excellency's observations on some of the topics embraced in the seventh report of the Committee on Grievances; also, copies of all other communications between the Colonial Office and the Executive Government of this Province, on matters of public or general interest to the inhabitants of this Province, since the period of the general election of members to serve in the present House of Assembly, and referred to in the despatch of the Secretary of State, sent down to this House on Saturday last, as being for his Excellency's guidance and instructions; also, requesting his Excellency to lay before this House a statement of the proceedings and steps taken by the Government relative to a special matter contained in the third report of the Committee on Finance, of last session, in reference to a defalcation of monies by the late Collector of the town of Kingston; which defalcation had for several years been reported, and appeared in the public accounts, but which was omitted to be stated by the Inspector General in the last accounts sent down to this House, without any authority to do so from the Legislature."

That the 31st rule of this House be dispensed with so far as it relates to this motion; and that Messrs. Roblin and Shaver be a Committee to draft and report said address.

FRIDAY, 5th FEBRUARY, 1836.

Mr. Roblin, from the Committee to draft an address to his Excellency the Lieutenant Governor, founded upon the Resolution of the House passed yesterday, present a draft, which was received and read twice.

On the question for adopting the address,

Mr. Solicitor General, seconded by Mr. McKay, moves in amendment, that the address be not now adopted, but that it be,

Resolved, That this House views with gratitude and cordiality the renewed proof of His Majesty's paternal solicitude for the welfare of his loyal subjects in this Province, evinced in the despatch of the Right Honourable the Secretary of State for the Colonies, of the 5th December last; and that this House, actuated by an earnest wish to co-operate with his Majesty in his gracious desire to increase the prosperity of this interesting and valuable portion of his dominions, will exert itself to advance and maintain the principles of Government, set forth in the despatch referred to, as also in that of the Right Honourable the Earl of Ripon, of the 8th November, 1832, addressed to his Excellency Sir John Colborne: and that fully impressed with the conviction that an undeviating adherence to the spirit and principles of those despatches, in the administration of the public affairs of this Province, will be viewed with satisfaction by all classes of his Majesty's subjects in the Colony, and have the effect of strengthening the attachment now universally felt by them for his Royal person and Government, this House earnestly hopes that his Majesty will forthwith banish from his counsels all such persons as shall attempt, by any means whatever, to counteract the beneficent and gracious instructions laid down for the guidance of his public servants in this Province.

On which the yeas and nays being taken were as follows:—

Yeas.—Messrs. Boulton, Caldwell, Cornwall, Dunlop, Lewis, McDonell of Northumberland, McKay,

McLean, Robinson, Rykert, Solicitor General, Strange, and Wilkinson, 13.

Nays.—Messrs. Alway, Bruce, Chesser, Chisholm, Cook, Duncombe of *Norfolk*, Durand, Gibson, Gilchrist, Hopkins, Lount, McDonell of *Stormont*, McIntosh, Mackenzie, McMicking, Moore, Morrison, Parke, Perry, Roblin, Rymal, Shaver, Small, Thorburn, Walsh, Waters, Wells, Wilson, Woolverton, and Yager, 30.

The question of amendment was decided in the negative by a majority of 17.

On the original question, the yeas and nays being taken, were as follows:—

Yeas.—Messrs. Alway, Bruce, Chesser, Chisholm, Cook, Duncombe of *Norfolk*, Durand, Gibson, Gilchrist, Hopkins, Lount, McDonell of *Stormont*, McIntosh, Mackenzie, McMicking, Moore, Morrison, Parke, Perry, Roblin, Rymal, Shaver, Shibley, Small, Thorburn, Waters, Wells, Wilson, Woolverton, & Yager, 30.

Nays.—Messrs. Boulton, Caldwell, Cornwall, Dunlop, Lewis, McDonell of *Northumberland*, McKay, McLean, Malloch, Richardson, Robinson, Rykert, Strange, Walsh, and Wilkinson, 15.

The question was carried in the affirmative by a majority of 15, and the address was read a third time.

On the question for passing the address, the yeas and nays were taken, as follows:—

Yeas.—Messrs. Alway, Bruce, Chesser, Chisholm, Duncombe of *Norfolk*, Durand, Gibson, Gilchrist, Hopkins, Lount, McIntosh, Mackenzie, McMicking, Moore, Morrison, Parke, Perry, Roblin, Rymal, Shaver, Shibley, Small, Thorburn, Waters, Wells, Wilson, Woolverton, and Yager, 28.

Nays.—Messrs. Boulton, Caldwell, Cornwall, McDonell of *Northumberland*, McKay, McLean, Malloch, Richardson, Robinson, Rykert, Strange, Walsh, and Wilkinson, 13.

The question was carried in the affirmative by a majority of 15, and the address was signed by the Speaker, and is as follows:—

*To His Excellency SIR FRANCIS BOND HEAD,
Knight Commander of the Royal Hanoverian Guelphic Order, and of the Prussian Military Order of Merit, Lieutenant Governor of the Province of Upper Canada, &c.
&c. &c.*

MAY IT PLEASE YOUR EXCELLENCY :

WE, His Majesty's dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, humbly pray your Excellency to transmit to us copy of the correspondence desired to be obtained by our address to His Excellency Sir John Colborne, dated 19th January, 1835, relative to the removal of the late Attorney and Solicitor General, the appointment of the present Attorney General, and the re-appointment of the Solicitor General, and concerning the several expulsions of a member of this House in the last Parliament.

Also, any despatches that would serve to explain to this House, the apparent contradiction between the Royal instructions relative to the dismissal or resignation of public officers, when they cease to give a conscientious support to the measures of the Government, and the continuance in office of persons composing the Executive Council, and legal advisers of the Government, notwithstanding their opposition to many urgent and beneficial measures of reform, so often and loudly called for by a large majority of the people of the Colony, and recommended by the Earl of Ripon, as set forth in his despatch of the 8th November, 1832, which opposition and utter contempt of the wishes of the people, and the recommendation of His Majesty's Government, as aforesaid, will more strikingly appear by reference to the Journals, in regard to proceedings had on the said despatch, which was sent down to both Houses by his Excellency Sir John Colborne, in compliance with the instruction of the Earl of Ripon, to make it public in Canada; by which reference it will

most distinctly appear that the above description of persons have not only opposed the carrying into effect the said recommendation, but offered the greatest indignity to his Majesty and his Minister, by voting to send the said despatch back to his Excellency, in opposition to a motion for printing and publishing it; and, on another occasion, opposed and prevented the passage of an address of thanks to his Majesty, for his prompt attention displayed in said despatch, to the wishes and interests of the people of the Colony, by moving another address in amendment, of a censurable character upon his Majesty's Minister, for writing and transmitting the said despatch; which address was afterwards presented to his Excellency as the address of the House, although never carried through its several stages. This House disclaim any wish to prevent any member, of either branch of the Legislature, from fully and fairly expressing his candid opinion, and giving his vote according to the dictates of his conscience, and conceptions of right and wrong; yet we cannot reconcile with the principles of our Constitution, the appointment and continuance in office of persons, as councillors and advisers of the Government, who are known to stand opposed to the wishes of the people and recommendation of his Majesty, on great leading measures of reform, and who do not possess the confidence of the people, and acquiesce in their general political views and policy, as expressed through their representatives.

That by the Statute of the United Kingdom Parliament, called the Constitutional Act, the Executive Council is appointed expressly to advise the Lieutenant Governor upon the affairs of the Province, and a permanent provision was made by law out of the revenues of the country, at the request of the Government, for the payment of annual salaries to five Executive Councillors and two legal advisers; and as we feel assured that unless those who are called upon, from time to time, to counsel and advise the Lieute-

nant Governor on matters of deep interest and concern to the welfare and peace of this Colony, are men in whose principles, policy, and integrity this House as well as your Excellency can place full confidence, the reforms and improvements sought for by the people, and which appear, from his Majesty's several despatches, to be his most anxious desire to see accomplished, will not be brought to an early and happy termination; therefore, we most earnestly solicit your Excellency, as speedily as possible, to lay before this House a statement of the several persons who compose your Excellency's Executive Council and of your legal advisers, with the dates of their appointments, and at which they were severally sworn into office; and that your Excellency will please to inform this House whether it is considered that their appointments and continuance in office are in strict conformity with the spirit of the Royal instructions; and that they are taken from among that class of his Majesty's subjects, who have given a conscientious support to those measures of the Government which are enumerated in the despatch of the Earl of Ripon, as aforesaid.

That in reply to the representations of this House to his Majesty, against the composition of the Legislative Council, the despatch of Lord Glenelg refers with approbation to the report of the Committee of the House of Commons on Canada affairs, in the year 1828, and we cannot, by any possible ingenuity, reconcile the principles laid down in that report and that despatch, with those acted upon in the recent appointment to seats in the Legislative Council, (if we may believe general report,) inasmuch as all those said to be lately appointed to the said Council, who were members of the last Parliament, (including the gentleman who has during the present session already taken his seat,) took a most conspicuous and prominent part in the contemptuous proceedings on

the Earl of Ripon's despatch ; which a reference to the Journals of this House will most amply shew ; and all said to be so appointed have always been understood to be violently opposed to the principal measures of improvement and policy so long required by a large majority of the people, thereby increasing, if possible, instead of diminishing, the great obstacle to the reform necessary to be accomplished, in order to secure to the people of this Colony peace, happiness, and prosperity, and the full enjoyment of their civil and religious rights and privileges. We, therefore, desire to obtain copies of any communications between the Colonial Office and the Government of this Colony, relating to the late appointments to the Legislative Council, or those of any other persons whose appointments have not been acceded to or confirmed by the King, and to be informed who, among those lately appointed, have taken the oath as Legislative Councillors, and who, if any among them, have declined accepting of the appointment ; and we request your Excellency, as early as may be, to call upon any such as have been so appointed, either to accept the said appointment, and take the necessary oath, &c. or to decline the same. We assure your Excellency that this House and the country have long felt much aggrieved, not only by observing the appointment of the Chief Justice to a seat and the Speakership in the Legislative Council, which we consider highly improper and incompatible with the office of Chief Justice, thereby affording just grounds of suspicion and complaint of the partial and impure administration of justice, but have also had the mortification to see the Bishop of Regiopolis and the Archdeacon of York, neglecting their high and spiritual functions, and care of souls, and clinging to their seats in the Legislative Council, and devoting their time and talents to political strife and secular measures, in direct opposition and contrary to the express desire and pleasure of his Majesty, as set forth in the

said despatch of Earl Ripon, and at the same time permitted to hold and enjoy offices of emolument and profit. We, therefore, trust that your Excellency will take immediate steps, in fulfilment of the gracious wishes of the King, to carry into effect his benevolent intentions, and as desired by the great body of the people of this Colony, by calling upon the said Bishop and Archdeacon either to withdraw from the Legislative Council altogether, or resign their other offices and forever quit all claim to any other salary, pension or other emolument they now hold or enjoy during the pleasure of the Government.

We also request that your Excellency will lay before us any other information or instruction that you may have received (if any) from his Majesty's Government beyond what has already been sent to us relative to the administration of the Government, or in answer to a resolution transmitted to his Majesty, through his Excellency Sir John Colborne; which resolution was reported to this House by the Finance Committee, and adopted by the House as containing our views on the important question of the appropriation of the proceeds of the natural resources of the Country by the Legislature, and strongly remonstrating against the Charter and improvident sale to the Canada Company, which has proved, and is likely to continue to prove, exceedingly injurious to the Province. And also copies of answers to any other resolutions or addresses of this House transmitted to his Majesty by its order; or correspondence between his Majesty's Government and the Government of this Province on the same; especially relative to the address reported by the Committee on Grievances and adopted by this House, on the complaint of an outrage on William Forsyth, late proprietor of the Niagara Falls Hotels: also a copy of the despatch of his Excellency Sir John Colborne to the Secretary for the Colonies, dated 12th and 16th of September last; the latter containing his Excellency's observations on some of the topics em-

braced in the seventh report of the Committee on Grievances: also copies of all other communications between the Colonial Office and the Executive Government of this Province, on matters of public or general interest to the inhabitants of this Province since the period of the general Election of Members to serve in the present House of Assembly, and referred to in the despatch of the Secretary of State sent down to this House on Saturday last, as being for your Excellency's guidance and instructions.

We also request your Excellency to lay before us a statement of the proceedings and steps taken by the Government relative to a special matter contained in the third report of the Committee on Finance of last Session, in reference to a defalcation of monies by the late Collector of the Town of Kingston, which defalcation had for several years been reported and appeared in the public accounts, but which was omitted to be stated by the Inspector General in the last accounts sent down to this House, without any authority to do so from the Legislature.

MARSHALL S. BIDWELL,

SPEAKER.

Commons House of Assembly,
5th February, 1836.

On motion of Mr. Perry, seconded by Mr. Roblin,
Ordered, That Messrs. McMicking and Chisholm be a Committee, to wait on his Excellency, to know when he will be pleased to receive the address, and to present the same.

On motion of Mr. Perry, seconded by Mr. Solicitor General,

Ordered, That besides the Journals, two thousand copies of the address, together with the amendments proposed, with the yeas and nays on the several questions, be printed in pamphlet form for the use of members.