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REPORT

OF A

SELECT COMMITTEE

OF THE

**Legislative Council of Upper Canada,**

UPON THE COMPLAINTS CONTAINED IN AN

ADDRESS TO THE KING,

*FROM THE HOUSE OF ASSEMBLY.*

PASSED 15th APRIL, 1835.

OF THE REJECTION BY THE LEGISLATIVE COUNCIL,

OF

*BILLS SENT FROM THE HOUSE OF ASSEMBLY,*

AND

**The Address of the Legislative Council**

TO HIS MAJESTY, ON THAT SUBJECT

TORONTO

R. STANTON, Printer to the KING'S MOST EXCELLENT MAJESTY

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## REPORT, & c.

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THE SELECT COMMITTEE, to whom was referred so much of the Instructions to His Excellency the Lieutenant Governor of this Province, contained in the despatch of the Right Honorable the Secretary of State for the Colonies, dated the 5th December, 1835, and communicated to this House with His Excellency's Message of the 30th January last, as relates to the Legislative Council; with instructions to report upon the subject matter of an Address to His Majesty passed by the House of Assembly in the last Session, complaining of the rejection of certain Bills by the Legislative Council;

BEG LEAVE TO REPORT:—

That in the Despatch referred to them most of the public questions which have from time to time been agitated in this Colony, are clearly stated, and are generally treated in a manner which cannot but be highly satisfactory to those who justly appreciate the excellence of our Constitution, and desire to preserve it unimpaired. Among the most important of these questions is that which respects the Constitution of the Legislative Council, upon which the opinions entertained by His Majesty's Government are no otherwise announced in the Despatch of the Secretary of State, than by referring his Excellency the Lieutenant Governor to an extract given from the Instruc-

tions which had been communicated, in His Majesty's name, to the Commissioners appointed to enquire into the affairs of the Province of Lower Canada.

It is scarcely necessary for the Committee to remark that in this document last referred to, a determination to maintain the Constitution of the Legislature unimpaired is too plainly and strongly expressed, to leave room for the apprehension that any injurious changes will be admitted; and indeed the motives which could alone actuate any men of ordinary intelligence in this portion of the British Empire, to desire the introduction of the Elective principle into the Constitution of the Legislative Council, are so palpable, that if ever the time should come when the Ministers of the Crown are found to afford their countenance to such a proposition, it can only be inferred from it that there is no longer a desire to retain this valuable and highly interesting Province as an appendage of the British Crown, and that the duty of preserving the integrity of the Empire is about to be abandoned. In the few allusions made to the Legislative Council in the Despatch of the Secretary of State, to His Excellency the Lieutenant Governor, the occasion for referring to this House seems to have been produced by statements which had been addressed to His Majesty's Government by the House of Assembly, in which the constitution of the Legislative Council, or their proceedings in regard to particular measures, had been spoken of in the language of complaint. It is not necessary for the Committee to notice those incidental charges

against the Council, because the Assembly have in their last Session proceeded, in a direct manner, to make their alleged causes of dissatisfaction the subject of a formal remonstrance, contained in that Address to His Majesty, upon which the Committee are instructed to report.

It will be the endeavor of the Committee to shew what foundation there is, in reason and justice, for this complaint addressed by the Assembly to the Government of the Parent State.

The last Session of the Legislature, being the first Session of the twelfth Provincial Parliament, commenced on the 15th day of January, 1835, and ended on the 16th day of April. On the 15th day of April, that is, on the last day but one of a Session which lasted ninety-two days, an Address was proposed in the House of Assembly, a copy of which, taken from their Journals, is annexed to this Report. It was read a first, second, and third time, and passed on the same day. From any thing that appears on the Journals, it could not have been known to the Members of the House of Assembly generally, that it was intended to introduce such an Address at that moment. Those Members, therefore, who were present, could scarcely have been prepared for any discussion, which it might have called forth—if, indeed, the time had admitted of discussion; and those who happened to be absent when it was proposed could scarcely have had an opportunity afterwards of voting or speaking upon it, for its introduction and passing through Committee was one continued proceeding:

and the third reading and final vote upon it followed after a short interval, upon the same day. The quantity and the variety of the business before the House of Assembly at that juncture, (a few hours before the Session closed,) did not admit of a full and deliberate consideration of so grave a matter, as will be evident to any one upon an inspection of their printed journals.

The Address, it is to be further remarked, was passed at a time, and under circumstances, which made it certain that the Legislative Council could receive no regular communication of it, nor could even hear by common rumour of its passing, in time to have prepared any vindication of themselves, (if they had desired it,) against so unlooked for an attack.

No step, indeed, was taken by the House of Assembly, nor does any proposition seem to have been moved, for making the Legislative Council aware of this very unusual measure;—a measure which the Council had little reason to anticipate, since the two Houses had co-operated without the slightest interruption of friendly intercourse for a long series of years.

On the 15th April, when this Address was moved in the Assembly, the Legislative Council had before them fourteen Bills which had been sent to them by the Assembly, eleven of which had come up to them within the last two days; and on the 16th of April, (the day appointed for the Prorogation,) the Assembly sent up ten other Bills—so that in the few hours that intervened between the introduction of this Ad-

dress in the Assembly, and the termination of the Session, the Legislative Council had to dispose of twenty-four Bills sent up from the Assembly, among which was one for authorising a loan of £400,000, Sterling, to be contracted for in England, on the credit of the Province, and another was the Civil List Bill, or the Bill of Supply for defraying the charges of the Civil Government and of the Administration of Justice. The former of these Bills came from the Assembly two days before they passed their Address; and the latter, which was framed in a manner entirely unprecedented, came on the same day on which the Address was passed.

It is plain, from this statement, that if the Legislative Council had known of the grave charges intended to be so suddenly preferred against them to His Majesty, they could have entered upon no effectual vindication of their proceedings, during the few hours of the Session that remained, without depriving themselves of the opportunity of considering the most important measures of the Session, and without exposing the public almost certainly to any evils that might result from their being lost.

It was under these circumstances that the Address was passed, and unless it had been doubted whether the most obvious considerations of justice and prudence had any influence in the Councils of His Majesty's Government, it could scarcely have seemed possible to any one that a decision was likely to be made upon such an Address to His Majesty, without any enquiry into the circumstances and man-

ner of its passing, or that with the knowledge of those circumstances which your Committee have stated, any measures would be hastily taken in consequence of such an Address, which could impair the character or threaten the independence of a Branch of the Legislature.

No result of the kind has followed.

Your Committee now proceed to the specific grounds of the complaint preferred in the Address of the Assembly.

They represent that their exertions in a long and arduous Session were rendered unavailing with respect to various objects of great interest by the Legislative Council having rejected their Bills; and they specify the following Bills, as those to which they intend more particularly to allude, and which the Committee will describe by adopting the titles of the Bills themselves, as they came from the Assembly, without repeating here the characters assigned to them in the Address.

- 1.—“ A Bill entitled ‘ An Act to impose a duty on  
“ various articles imported from the United  
“ States of America into this Province.”
- 2.—“ An Act for the more equal distribution of  
“ the property of persons dying intestate.”
- 3.—“ An Act to amend the Jury Laws of this  
“ Province.”

- 4.—“ An Act to repeal the several Laws now in  
“ force, imposing Fines on Quakers, Meno-  
“ nists, and Tunkers, for non-performance  
“ of Militia duty in time of peace.”
- 5.—“ An Act to promote Education.”
- 6.—“ An Act to amend the Charter of King’s  
“ College.”
- 7.—“ An Act for the disposal of the Clergy  
“ Reserves in this Province, for the purposes  
“ of General Education.”
- 8.—“ An Act to promote the freedom, peace,  
“ and quiet of Elections of Members to  
“ represent the several Counties, Ridings,  
“ Cities, and Towns in this Province, in the  
“ House of Assembly, and further and more  
“ effectually to secure the independence of  
“ that House, by adopting the mode of voting  
“ by Ballot.”
- 9.—“ An Act to make a grant to the Grantham  
“ and Bath Academies.”

In speaking of the rejection of these or of any other Bills sent from the Assembly, your Committee assume that it will most readily be admitted by the House, that a Legislative Body appointed to co-operate with another in framing laws, owes, in the first place, a duty of courtesy towards that other Body, with which it is appointed to act, and in the next place, a duty of a still more important character towards the community which is to be bound by their laws.

The first of these duties unquestionably requires of the Legislative Council, in respect to all Bills sent up from the Assembly, that they should devote their best attention to them, in order that by examination and discussion they may be able to form a correct judgment of their merits.

Their duty to the community requires that after they shall have thus enabled themselves to judge of the merits of the Bills in which they are requested to concur, they should exercise their judgment honestly and firmly—neither sanctioning by their vote what they do not approve, nor rejecting what they believe to be just and expedient.

Whether the first duty, namely, the devoting their attention to the several measures of the Assembly, has been properly discharged, is a mere fact of which the Journals of the House will always afford information; and it will, of course, be concluded that this duty has been neglected, whenever it can be shewn that Bills which have been for a reasonable time in possession of the Legislative Council, have not been taken up, discussed, and disposed of.

During the last Session the Assembly passed and sent up to the Legislative Council, for their concurrence, eighty-five Bills:—

Thirty-two of these Bills were passed by the Legislative Council, without amendment, of which number four were reserved by His Excellency the Lieutenant Governor for His Majesty's consideration.



Fourteen were amended in the Legislative Council, and the amendments were adopted by the Assembly ;—Of this number one was reserved by His Excellency the Lieutenant Governor for His Majesty's consideration.

Three were amended in the Legislative Council, which were not passed in their amended form by the Assembly, and therefore did not become laws.

Thirty-six were not passed by the Legislative Council, being either rejected, (as the greater number of them were) after discussion and consideration of their provisions, or dropped, as was the case with a few, from inaccuracies discovered in them, of which the Assembly were apprised, and in consequence of which other Bills for the same objects were sent up to the Legislative Council and passed ; or unavoidably postponed, as two or three were, which came from the Assembly within a few hours of the prorogation, when it was impossible to give them the necessary consideration, or even to pass them through the several forms.

With respect to the very few Bills which did not pass, in consequence of the Legislative Council having made amendments in them, to which the Assembly declined to accede, it is probable that the reasons for the amendments will be apparent upon the face of them, as they are recorded in the Journals of the

House; and if not, your Committee have no doubt that the proper explanation given to persons conversant in the subject matters of the respective Bills, would make the reasonableness of the amendments easily appear.

Of the ten Bills which came up on the last day of the Session, six were passed. Whether the four, which were not passed, would have received the concurrence of the House, if time had been allowed to discuss them, your Committee are, of course, unable to say.—They were not rejected by any vote of the House.

Besides the nine Bills enumerated in the Address, eighteen seem to have been rejected after discussion, for reasons which, if it were necessary, it would doubtless be easy to recall to the recollection of the House.

The greater number of these were Bills of a private or local nature, respecting some of which the rules of the House require certain notices to be given, and other forms to be observed, which, for the protection of those interested, it is necessary to insist upon; and it is proper to remark, that in the event of any of these precautions being inadvertently omitted in one branch of the Legislature, or imprudently dispensed with, the only security against injury to private rights or local interests, is the certainty of their being observed in the other branch: and considering that the Legislative Council are not pressed with so great a variety of business as the House of Assembly, it may with reason be expected of them, that they shall be

more studiously careful that individuals, or particular portions of the community, shall not be injured by Acts of the Legislature, passed hastily, and without notice to those whose interests may be affected. It is, however, unnecessary to speak more particularly of the rejection of those Bills, which the Assembly have not thought it worth their while to enumerate.

Your Committee will, therefore, return to the nine Bills, of which the rejection has been represented to His Majesty as particularly unreasonable, and injurious to the Province.

The most important of these Bills, viz:—

2.—The Bill to abolish the right of Primogeniture,

3.—The Bill to alter the Jury Laws,

5.—The Bill for establishing and regulating Schools, and

7.—The Bill to authorize the sale of the Clergy Reserves,

Have in different Sessions been made the subject of Special Reports by Select Committees of the Legislative Council, which Reports were adopted by the House, and it is therefore only necessary for this Committee to refer to them for evidence, that the Bills in question have been minutely examined, and attentively considered and discussed. The reasons which have induced the Legislative Council to dissent from the respective Bills are there stated at length, and it will not be expected of this Committee to remark further upon them.

*Of the other Bills.*

No. 1.—Was intended to place the trade of this Province with the United States of America, on a footing altogether different from that on which it is established, under the recent Statutes of the Imperial Parliament.

It will be recollected by the House, that the main object of the Bill was to impose high protecting duties upon flour, and other articles of provisions imported from the United States,—whether for consumption within the Province, or merely passing through our Canals, or other navigable waters, to other Colonies or countries.

As respected the first of these objects, namely, flour, &c. imported for consumption, the House, it will be remembered, felt difficulty in acceding to the change, on the mere ground of general policy. The consumers in this Province consist in a great proportion of emigrants, who have come to this country without means, and are for several years under the necessity of purchasing provisions for their families, while they are clearing their lands. To subject these and other classes of the population, such as mechanics and labourers, to the necessity of paying an enhanced price for the absolute necessaries of life, in order to give a higher remuneration to the agriculturalist than he would otherwise obtain might perhaps be justifiable under some circumstances; but the reasons that would justify it here, seem not very evident. The soil of Upper Canada is excellent, and the climate as favourable to the growth of wheat as any can be; the farmers

pay no rent, being in general the proprietors of the land ; and they may almost be said to pay no taxes. The Committee do not believe that the price of labour is higher in this country than in the United States, and there does not therefore appear to be any good reason why the farmer in Upper Canada should not be able to sell his wheat in the country in which it is raised, for the same price which the foreign grower is willing to take, under the disadvantage of having to transport his grain to our market. It does not indeed seem likely that a profitable sale could be found for American wheat or flour in this Province, unless under the circumstance of the demand being greater than the quantity raised here can supply ; and whenever that may happen to be the case, it would seem neither just nor politic to expose the people of our own country to pay a high duty upon such provisions as they may be compelled to obtain from abroad.

There are other considerations attending this question, which your Committee will not at present enter into. It is not impossible, if the Bill had only proposed to lay duties upon provisions imported for consumption, that the Legislative Council might have been disposed to concur with the Assembly in a temporary measure of that description, in order that its policy or impolicy might be proved by experiment.

But the other effect desired by this Bill, namely the subjecting to high duties flour and other provisions merely carried through this Colony, in the way to other markets, besides its manifest impolicy as it regarded the trade and general interests of the Pro-

vince, appeared to this House to be in direct contravention of the existing laws of the Empire.

The warehousing system established by British Statutes, which admits of flour, and certain other articles of provisions produced in the United States being brought into these Colonies, and bonded for exportation, in order that they may be taken from hence to other British possessions, on favourable terms as to duties, is evidently advantageous in a high degree to this country, and at any rate it is expressly established by the supreme Legislative authority of the Empire, and can only be altered by the same authority.

There were several other minor provisions in the Bill, some of which on discussion in the Legislative Council were thought to be clearly repugnant to the British Statutes, such as the prescribing a method for ascertaining the value of goods subject to a duty *ad valorem*, which method was distinctly inconsistent with that laid down in the British Statutes, and must evidently in most cases, have affected the amount of duty.

There were some provisions to which the House, it will be recollected, was favourably inclined, but in a Bill of this nature, the difference of opinion respecting its main principles and objects necessarily prevented its passing.

It is worthy of remark that the consequences of this difference of opinion have not in reality been of any importance to the people of this Province, in respect to one principal branch of the question, namely,

the flour and other provisions imported for consumption ; for it has happened, that since the discussion of the subject, and up to the present time, the people of the United States have come to our markets not as sellers, but wholly in the character of buyers, gleaning every thing from the country that its inhabitants could spare. The Bill therefore, if it had become a law, would in this respect have had no practical effect up to this time ; for our farmers, instead of requiring any protection against those of the United States, have found in that country their most profitable market throughout the past year.

Then as to the flour and other provisions carried through this Province or brought into it for exportation, if the Legislative Council had concurred with the Assembly in an enactment directly repugnant to the Imperial Statutes, regulating foreign and colonial trade, it is not easy to see what advantage the Province could have derived from such an act of legislation. It is besides not very reasonable to reckon it among the proofs of insensibility to the public welfare, on the part of the Legislative Council, that they declined to pass the Bill containing these provisions, when it is remembered that the Assembly has not merely for many years acquiesced in the present system, without an attempt to alter it, but that when such attempts have been made (as they have been on former occasions in the Assembly) they have been negatived in that House, and what is more worthy of remark, the printed journals of the last Session shew that this most important principle of the Bill in ques-

tion occasioned so much doubt and difficulty in the Assembly, that it was once rejected in that House; that in a very full House the decision was afterwards only reversed by a casting vote, and that several divisions subsequently took place upon it in which the Assembly was almost equally divided.

With respect to the Bill No. 4—From the earliest time, a moderate fine or composition in lieu of the duty of attending Militia trainings and drills in time of peace, has been exacted of Quakers and other religious sects who decline to bear arms.

Until lately the sum was twenty shillings annually. A provision of this kind is not peculiar to this country, and it is unnecessary to say that the existing laws on the subject must have originated in the Assembly. In 1834, some one or more of these religious sects petitioned the Council and Assembly to reduce the fine to ten shillings, and to allow the money to be appropriated to the improvement of the Roads. The Assembly passed and sent up a Bill exactly conceding what the petitioners asked for; and in this Bill the Legislative Council concurred.

It is now represented as injurious in the Legislative Council that they declined, in 1835, to repeal an Act which the Assembly had themselves sent up to them in 1834, in literal compliance with the prayer of the parties interested. The Committee need scarcely call to the recollection of the House that the reasonableness of this proposed repeal was fully discussed in the Legislative Council, and that the measure was disposed of after mature consideration.



In regard to the Bill No. 6, for making void the Charter granted by His Majesty to King's College, and making other provision for the establishment of the University.

A careful examination of the Bill will shew how far its provisions are "*in conformity with His Majesty's gracious Instructions,*" as the Address asserts, and how far also they are consistent with opinions formerly expressed by the House of Assembly. The 6th, 7th 9th, 13th, 16th, 20th, 21st, 25th, 26th, 28th, and 29th clauses are to be referred to, and carefully considered by any one who desires to form an opinion upon the propriety of passing such a Bill. If there is in any country an University resting upon principles similar to those which this Bill would establish, it is not known to the Committee, and every one can decide for himself the speculative question how far it would tend to promote the interests of science, to advance religion, morality, and social order, and to maintain discipline within the University, and how far it would be likely to add to the harmony and good understanding between the Government and the Legislature, to have an University of which the principal officers should be appointed and removed by the votes of Legislative Assemblies, and of which the interests and affairs must, in consequence, become mixed up with party politics and dissensions—a University of which the Directors are to choose not only the President but the Visitor, that is, the Superior by whom they are to be themselves controlled, and in which above all, as it is expressly declared, "*Religion shall*

“ *not be taught according to the Creed or Faith of any Christian Church.*”

With respect to the Bill No. 8, rejected by the Legislative Council—Its object was to substitute Vote by Ballot for the English manner of voting *viva voce*, in the election of Members of Parliament.

The subject is one upon which any individuals, or any body of men may, without requiring a great measure of indulgence, be allowed to differ in opinion ; and the Legislative Council, in rejecting the proposed innovation, were merely adhering upon a great Constitutional point, to the practice prevailing in the British Empire, and were adhering also to the opinions which the House of Assembly appears equally to have entertained until the year 1835.

In regard to the Bill No. 9, rejected by the Legislative Council—The Schools or Academies to which that Bill referred are incorporated, and the nature of them will appear on turning to the Provincial Statutes of 1830, chapter 13, and of 1834, chapter 33. It will be seen that these are Schools subject to no public government or control, either as to the appointment of teachers, the subjects to be taught, or the books to be used ; and there is no responsibility to any of the public boards or authorities connected with education.

The resources of the Crown, and of the Province have been appropriated with great liberality towards the supporting an University, a College, a Grammar School in each one of the twelve Districts, and nume-

rous Common Schools in the several Townships—all these are amenable to public regulation.

If the Legislature could devote to Education ten times the amount they now apply, it would be happy for the country, but it is to be presumed that they would always think it proper to dispense their aid through the regular channels, and that public superintendence and assistance would go together.

This Bill would have commenced a new system, of which the end could not be foreseen.

The exertion made to erect and maintain these two Schools or Academies, was creditable to the founders ; but any number of persons making similar exertions would have the same right to expect similar grants. These would all diminish the ability of the Legislature to promote education systematically ; and if any such applications should be refused, the rejection might be ascribed to religious prejudices, or to local preferences, or to other causes tending to excite jealousies and suspicions ; and cases might indeed arise when it would be proper to refuse a public grant, but when the refusal must nevertheless seem ungracious, and might give rise to mis-construction and ill-will.

The Committee will offer no further observations respecting those rejected Bills, except the remark that the conduct of the Assembly in regard to the most important of them has been by no means uniform ; and it is therefore not easy to account satisfactorily for the extreme impatience expressed in the

Address, at the circumstance that the Legislative Council did not happen to take precisely that view of them, to which the Assembly had made up their minds in the year 1835.

As an illustration of this remark, the Committee reminds the House that the Bill for abolishing the right of Primogeniture, and making real estate partible equally among all the children of an intestate, has been several times rejected in the Assembly ; and in 1834, (the very year before this Bill was passed by them,) the Assembly concurred in the passing of a Bill sent from the Legislative Council for amending the law of real property, in which the principles of the English law of descent are recognized and confirmed, with such modifications as had recently been introduced in England, upon the suggestions of the “real property Commissioners.”

While this Bill was before the Assembly, it was proposed to engraft upon it the substance of their Bill (No. 2) for abolishing the right of Primogeniture ; but the proposition was negatived. The Assembly had however in several preceding Sessions, of late years, passed such a Bill—though when it was first moved in the year 1822, the Member moving it was even refused leave to bring it in.

The complaint is that the same preference for the English law, which the Assembly avowed in so decided a manner in the year 1822, is still retained and cherished by the Legislative Council.

The Committee having thus stated what has occurred to them in relation to the complaint addressed to His Majesty by the Assembly; it may not be unacceptable to the House, and may perhaps be useful, to offer some explanations in regard to the part which has in reality been borne by the Legislative Council, in the duty of Legislation committed to them, in common with the Assembly.

It is known that confining themselves according to analogy to the course of proceeding adopted by the Upper House of Parliament in England, the Legislative Council does not assume the right of originating what are called money Bills.

By far the greater number of Acts that are passed relate to objects which require a grant or loan of money, or which exact services for which fees or other remuneration must be assigned, or which establish regulations necessary to be enforced by providing penalties.

In the passing of such Laws the Legislative Council can only participate by framing and proposing amendments; and with what degree of caution and attention this duty has been performed, the printed Journals of the Session will shew.

By an examination of the same Journals, together with the Statute book of the Province, it will also be discovered in what measure the services of the Legislative Council have been useful to the Country, in the framing and introducing Laws of a general and permanent character—such as those relating to the constitution and regulation of the different Courts of

Justice, and the amendment of the Law in the Civil and Criminal departments ; measures which concern society at large, and which must therefore have an important influence on the general interests of the Province.

It will be found that within the last four years the Legislative Council has taken its part, and perhaps more than an equal part, in framing measures of this description.

Your Committee adverts to the following list of Laws in the Statute book, taking them in their order of time—(viz.)

The Acts to amend the Law respecting the punishment of Infanticide.

To remove doubts respecting the jurisdiction over offences committed upon the Lakes and Rivers on the frontiers of the Province forming no part of any organized District.

To declare the jurisdiction of Commissioners of Customs.

To facilitate summary proceedings before Justices of the Peace, and to afford to such Justices reasonable protection in the discharge of their duty.

To render the Stock held in Joint Stock Companies liable to the satisfaction of debts due by the Stockholder.

To confirm the titles to real Estates derived through Aliens.

- To reduce the number of Capital offences—to declare what offences shall hereafter be Capital, and to abolish benefit of Clergy, and make certain alterations in criminal proceedings before and after conviction.
- To take away corruption of blood, except in cases of treason.
- To authorise the apprehension of Fugitive Offenders from Foreign Countries and delivering them up to Justice.
- To facilitate the proceedings in Civil Actions against Corporations.
- To dispense with the taking of certain oaths, and also with the receiving of the Sacrament as a qualification for office.
- To amend the law of real estate in respect to inheritance, dower, real actions, the limitation of actions, the execution of wills, the remedy by ejectment, and in respect to tenants wrongfully holding over.
- To secure the independence of the Judges.
- To facilitate the remedy of Replevin.
- To afford security to creditors against the fraudulent practices of debtors in execution.
- To facilitate the issuing of Writs of Error from the Court of King's Bench to Inferior Courts of Record.
- To mitigate the law in respect to Imprisonment for Debt.

To enable Suitors in the District Courts to obtain the attendance of witnesses from other Districts.

To amend the law respecting absconding Debtors.

Besides these, many others of a similar character have been passed by the Legislative Council, either as original Bills, or by way of amendments, and sent down, some few of which have been rejected, but to the greater number they have not hitherto been so fortunate as to gain the attention of the Assembly; and they are Acts of that nature that it appears to the Committee that they have not been passed by the Assembly, merely because they have never been taken up and discussed.

The subjoined table will shew that whatever good has been accomplished for the Province, by the labours of the Legislative Council, has been accomplished in the face of peculiar discouragement, such as perhaps no similar Legislative Body has had to encounter before; and which has probably prevented the amelioration of our Laws, and the improvement of our Civil Institutions in many other important particulars.

An inspection of the table appended to this Report will shew that some of the most useful of these Bills were allowed to be forty or fifty days on the table of the Assembly, and were never discussed or moved, or even read a second time—so that when the Session terminated they were lost, and the labour of the Legislative Council rendered fruitless, merely because no notice was taken of them.



Some of these Bills when sent down a second time in a subsequent Session, have been passed by the Assembly without amendment—there being no difference of opinion as to the propriety of passing them, whenever they were brought into discussion.

Many however have not been so fortunate as to gain attention at the hands of the Assembly at any time, though framed and arranged with care, and though they related to subjects of general interest and importance, and were sent down at an early period of the Session. On the evening before the prorogation of the last Session, (which was by no means sudden, but after the usual notice of the probable time,) and at the very moment when the House of Assembly were passing this Address, they had on their table six Bills, which the Legislative Council had passed and sent down—some of them of a general and important nature, and likely to be extensively beneficial, but which so far as we can find from the Journals, appeared to have gained no attention from the Assembly, never having been read a second time, nor any question moved upon them. These Bills were,

- 1.—A Bill for the amendment of the Law, and the better advancement of Justice, (taken principally from Acts recently passed in England, upon the suggestion of the Common Law Commissioners, and containing many provisions for diminishing the expense and delay to which Suitors are subject, and for simplifying the proceedings of Courts of Justice.)

- 2.—A Bill to amend the law respecting Bills of Exchange and Promissory Notes. (This Bill was intended to introduce two amendments made in England since our adoption of the English law, viz. that respecting accepting Bills payable at a particular place, and that which protects the innocent endorsee for value, against the defence of usury in the making of the note.)
- 3.—A Bill for the relief of the religious sect called Separatists. (This was similar to the Act recently passed in England, and was petitioned for by some of the members of that sect residing in this Province.)
- 4.—A Bill to embody in one Act the many Acts and parts of Acts which regulate the time and place of holding the Courts of General Quarter Sessions of the Peace.
- 5.—A Bill to make the remedy in cases of seduction more effectual, and to render the fathers of illegitimate children liable for their support.
- 6.—A Bill for abolishing the distinction between Grand and Petit Larceny, and to make further provision for the trial and punishment of the crime of Larceny.

It will appear from the subjoined table that several Acts, which were of a highly beneficial character, have remained unnoticed by the Assembly for forty or

fifty and even eighty days, and at length the Session has closed without their having been discussed or moved in.

Your Committee believes it will be difficult to find an instance in a long course of years in which any Bill of a general and public nature coming from the Assembly, three days before the conclusion of the Session, has not been discussed and disposed of on its merits ; and they need scarcely remind the House how very large a proportion of the business of every Session would have fallen through, if the Legislative Council had separated without discussing such Bills as came from the Assembly within twelve days of the Prorogation, the shortest time that any one of the unnoticed Bills of the Legislative Council lay on the table of the House of Assembly.

Having presented this contrasted view of the degree of attention which the respective measures of each of the respective Houses receives from the other, the Committee offers no comment upon it ; their only object being to shew that with respect to the conduct of the two Houses, in regard to the obvious duty of examining and discussing the Bills which have been matured by the one branch of the Legislature and sent to the other, no comparison can be drawn to the disadvantage of the Legislative Council. It cannot be thought unfair to seek for the grounds of a comparison in this respect, in the proceedings of the same Session in which this Address to His Majesty was passed. By turning then to the Journals of the two Houses, it will be seen that of eighty-five Bills

passed by the Assembly in 1835, the Legislative Council discussed and decided upon eighty-one—adopting, rejecting, or amending them, after consideration and debate; the four which were not thus disposed of having probably not been four hours in possession of the Council.

On the other hand, of ten Bills passed by the Legislative Council and sent to the Assembly, six received no notice whatever, and were neither discussed nor moved in, two rejected, and two passed.

Of the eighty-five Bills sent to the Legislative Council, forty-six came up within the last fourteen days of the Session; while of the ten Bills sent down from the Legislative Council there was not one that was not twenty-eight days in the possession of the House of Assembly.

As it has been for some time understood in both Houses, that it is the intention of His Excellency the Lieutenant Governor to Prorogue the present Session on Wednesday next, it may not seem premature in the Committee, if they venture at the end of ninety-three days which have elapsed since its commencement to form a conjecture of the probable fate of all or most of the Bills which have been passed by the Legislative Council on this occasion, and which are now before the Assembly.

They are twelve in number and are enumerated in the following table, viz. entitled—

An Act for the further amendment of the Law  
and the better advancement of justice.

**An Act to abolish the distinction between Grand and Petit Larceny, and to enable Courts of General Quarter Sessions of the Peace, and any Court having the like powers to try all cases of simple Larceny, under certain restrictions, and to amend the laws respecting the punishment of Larceny.**

**An Act to appoint the time and place for holding the Court of General Quarter Sessions of the Peace in each of the several Districts of this Province, and to repeal the several laws now in force for that purpose.**

**An Act to amend the law respecting Bills of Exchange and Promissory Notes.**

**An Act to make the remedy in cases of seduction more effectual, and to render the fathers of illegitimate children liable for their support.**

**An Act to allow the people called "Separatists" to make a solemn affirmation and declaration instead of an oath.**

**An Act to appoint Trustees to carry into effect the provisions of the will of John White, Esquire, deceased.**

**An Act to continue and amend an Act passed in the third year of His present Majesty's reign, entitled "An Act to facilitate legal remedies against Corporations."**

**An Act to alter and amend an Act passed in the eighth year of His late Majesty's reign, entitled An Act to confer upon His Majesty**

certain powers and authorities necessary to the making, maintaining, and using the Canal intended to be completed under His Majesty's direction, for connecting the waters of Lake Ontario with the River Ottawa, and for other purposes therein mentioned.

An Act to protect the public against injury from Private Banks.

An Act for the relief of William Conway Keele.

An Act to provide more effectually for the punishment of certain offences, and to enable the Governor, Lieutenant Governor, or person administering the Government of this Province, to commute the sentence of death in certain cases for other punishment in this Act mentioned.

Of these twelve Bills two only have been passed, and one other has been sent up with an amendment, upon which the Legislative Council found it necessary to request a conference, as it was evident the amendment had proceeded from a misapprehension respecting the existing law. The message requesting a conference was sent down on the third day of March last, and is still unnoticed; a circumstance to which the Committee is satisfied no parallel can be found in the proceedings of the Legislative Council, since the Legislature of Upper Canada was constituted.

From the facts which the Committee have thus brought under the notice of the House, it cannot but be plain to every one that if the Assembly, in order to

answer any ulterior object of policy, had in fact formed the resolution of depriving the Legislative Council of all possibility of exercising the powers, and privileges conferred upon them by the Constitution, for the good of their fellow-subjects, they could scarcely have acted in a manner more certain to attain that object. The measures which the Legislative Council in the face of such singular discouragement has succeeded in passing are on the Statute-Book ; and can be judged of by the people for whose benefit they are framed. The many other Bills to which they have hitherto failed in attracting the attention of the Assembly, are unfortunately not so open to general examination, while they lie unnoticed on the table of the Assembly ; but if it be thought necessary they can be made public, and all who may take the trouble to inform themselves of their provisions, will discover that they are measures involving no rash or doubtful political changes, but are intended to remedy evident defects in our laws, to save trouble and expense to suitors, and to obviate difficulties in the administration of Justice. It will be seen that they are framed with consideration and care—that they can have no object in view but the general good, and that several of the most important are merely adoptions with necessary modifications of the improvements in the law of England, which have been sanctioned by the British Parliament, upon the suggestions of men of the soundest judgment and greatest experience.

When the House of Assembly voted their Address to His Majesty they were of course conscious that such a statement as this Report contains, could be

made with truth, and it certainly was necessary to have a firm conviction of the defective understanding of the people of this Province, or of their determination to judge unjustly, before any hope could be indulged that upon such facts an opinion could be formed that the occasion for complaint was on the side of the House of Assembly.

The statement which the Committee has made can be verified at once by a reference to the Statute-Book, and to the printed Journals of the two Houses, and it establishes clearly these points :—

- 1.—That the business of the House of Assembly is so conducted, that the Legislative Council has not that opportunity for deliberate discussion of important Bills sent up to them, which the interests of the public demand, and which a proper consideration of what is due to the co-ordinate branch of the Legislature, should lead the Assembly to afford.
- 2.—That with this disadvantage prevailing to an almost incredible degree, the Legislative Council invariably bestows the most prompt and diligent attention upon every measure proposed to them by the Assembly, leaving nothing undecided which time will admit of being discussed and disposed of.
- 3.—That in their efforts to meet, to the fullest possible extent, the desires of the Assembly, the Legislative Council constantly towards the close of its Session dispenses with its rules of proceeding, and even exposes itself to the reproach of acting with a degree of



waste unbecoming a Legislative body; rather than to suffer Bills to drop, for want of time, which come up in great numbers within the last few hours of the Session.

- 4.—That on the other hand the Assembly has evinced a disposition towards the Council so perfectly opposite to this, that it is with the greatest difficulty their attention can be gained to any Bill proceeding from the Council; and contrary to the usage of all Legislative bodies, Messages from the Council upon various important subjects are left without reply or notice of any kind.
- 5.—With respect to the specific complaint against the Legislative Council for rejecting many Bills of the Assembly, that is of course no injury unless the Bills were such as ought to have been passed. Upon those, which the Assembly have specified, it is easy to form a judgment from the materials which the Committee have supplied; and upon the subject of rejection of Bills generally, the Committee believe they may say with great safety that more have not been rejected than ought to have been. They would not undertake so readily to maintain that there have not been some Bills concurred in by the Legislative Council which ought rather to have been rejected; on the contrary they are sure it will be generally remembered, and admitted by the House that upon several occasions a desire to meet the wishes of

the Assembly, particularly when a measure has been repeatedly and earnestly pressed, has prevailed with the House to give its assent to Bills, which seemed to them to be of doubtful expediency. They would of course not recede from their opinion, where any question of justice or any important principle was involved, but in many cases where the measure was one of minor consequence, or of that nature that the responsibility might be allowed to rest chiefly with the Assembly, the House have not been by any means rigidly tenacious of their opinion.

It would not be difficult to remind the House of instances in which this disposition has been perhaps carried farther than could be easily justified ; but that in any single instance the Legislative Council has rejected a measure of the Assembly from a feeling of the opposite kind, and contrary to their own sincere judgment upon its merits, can most certainly not be affirmed with truth.

The Committee are indeed aware that there is an imputation sometimes heedlessly cast upon the proceedings of the Legislative Council, in consequence of their occasionally passing Bills of the Assembly which they had before rejected, and perhaps repeatedly. But to minds of ordinary candour the explanation is obvious : it sometimes arises from a reluctance on the part of the Council to oppose themselves, in matters of a doubtful and unimportant kind, to the often repeated wishes of another branch of the Legislature.

In some instances facts and circumstances may have altered, and may have rendered proper a different course of conduct ; in others there may have been a change in the opinion of individual Members, and as it is no part of the duty of a Legislator to maintain a character for consistency at the expense of truth and sincerity, a change of opinion will naturally be followed by a change of conduct. But probably the cause which, more frequently than any other, may have occasioned a measure to meet in one Session with a different result from that which it had met before, is one which it might be supposed could scarcely fail to occur to any person upon the slightest consideration. The Legislative Council consists of about thirty Members, who reside in various Districts of the Province—some of them remote from the seat of Government. It must of course therefore constantly happen that in different Sessions, and in different periods of the same Session, the House is variously composed—the numbers of the Members are in truth continually varying. It would be an ill compliment to the Assembly to suppose that all their measures which may have been at any time rejected, were so manifestly unwise that they obtained no support, and occasioned no difference of opinion in the Council. It happens not seldom, as it is reasonable to conceive that there is much diversity of opinion upon them ; and sometimes the Council are so nearly divided that it is always uncertain while the Bill is in progress, what may be the final result. It can be no wonder therefore, if a vote taken upon such a Bill in one Session, should not express the sense of a House composed of other individuals in the next Session.

Against this apparent inconsistency, it is out of the question to guard. It occurs probably much more frequently in the Assembly than in the Legislative Council.

There is one other point on which the Committee think it material to observe. Much industry has been used to inculcate the persuasion that the Legislative Council is a body composed of persons solely connected with the Government by official station, and therefore unlikely to exercise an unbiassed and independent judgment.

An inspection of the Journals for several years past will shew that the endeavour to excite discontent on this ground has been unjust and unreasonable.

There are certainly some Members of the Legislative Council who hold offices of emolument under the Crown, but either from the circumstance that the duties of their offices require their constant attention, or from other causes which they may have it in their power to explain, they have not for many years been in the habit of attending, and they are but rarely to be found in their places in the Council. It is perfectly well known, and the public are daily witnesses of the fact, that the most important and critical measures before the Council, as well as the more ordinary business, have been for years past constantly discussed and disposed of in an assembly of gentlemen, among whom perhaps there was not one, and seldom more than two or three who held any public office of emolument, while the great majority of those usually present are in fact as independent of the Crown as they

are independent from their circumstances and station in society. Your Committee have noticed this fact only for the purpose of shewing that where the object is to unsettle the existing order of things, and to procure if possible injurious changes, it matters little what can be stated with truth, for such statements are sure to be made as are thought most likely to promote the end in view.

The rare attendance of those Officers of the Crown is not intended to be represented as a public advantage. On the contrary it is to be regretted that the Legislative Council has not commonly the advantage of their experience and their knowledge of the arrangements and affairs of the Government.

The Committee having thus presented to the House such facts and observations as appeared to them material in respect to the matters referred to them; they recommend that a copy of their Report, if it shall be adopted by the House, shall be transmitted through His Excellency the Lieutenant Governor to His Majesty's Secretary of State for the Colonies, accompanied by such an Address to His Majesty as may appear to the House proper for introducing the subject of the Report.

(Signed)

W. ALLAN, CHAIRMAN.

P. ADAMSON.

JAMES CROOKS.

W. MORRIS.

JOHN MACAULAY.

*Legislative Council Committee Room,* }  
18th April, 1836. }

BILLS ORIGINATING IN THE LEGISLATIVE COUNCIL.

WHEN SENT TO THE ASSEMBLY.

REMARKS.

BILLS ORIGINATING IN THE LEGISLATIVE COUNCIL.	WHEN SENT TO THE ASSEMBLY.
For the protection of the interests of certain bodies of Indians in this Province.	17th Feb'y. 1830.
To declare the Jurisdiction of Commissioners of Customs	21st Jan'y. 1831.
For the relief of Prisoners confined for small debts,.....	24th Jan'y. 1831.
For protecting Justices of Peace in their duty,.....	29th Jan'y. 1831.
For ascertaining the jurisdiction over offences committed on Lakes and Rivers,	2nd Feb'y. 1831.
To amend the law for the punishment of Infanticide,....	11th Feb'y. 1831.
To make certain provisions respecting the transportation of Convicts,	19th Dec'r. 1832.
To afford relief against the loss of the Register Office in the District of Nagara, by supplying proof of Registry,	12th Jan'y. 1832.
To facilitate the remedy by Replevin, .....	29th Nov'r. 1833.
To enable Sutors in the District Courts to compel the attendance of Witnesses from other Districts,	19th Feb'y. 1834.
To prevent expense in suing out Writs of Error,.....	22nd Feb'y. 1834.
For the amendment of the law, and the better advancement of Justice,	5th March, 1835.
For the relief of the Seet of Separatists, .....	27th Feb'y. 1835.
To amend the law respecting Bills of Exchange,.....	2nd March, 1835.
To reduce into one Act the laws regulating time and place of holding the Courts of Gen'l. Qr Sessions.	5th March, 1835.
To make the remedy more effectual in cases of Seduction, and make the fathers of illegitimate children liable for their support,	6th March, 1835.
To amend the law in cases of Larceny,.....	18th March, 1835.

Never moved in, though the House continued 17 days in Session.
Not moved in, though the House continued 54 days in Session. The same bill being again sent down in 1832, was passed without amendment.
Not moved in, though the House continued 51 days sitting. In a subsequent Session, when sent down as an amendment to a bill from the Assembly, it was passed by them.
Not moved in, though the House continued sitting 46 days. Being sent down again in 1832, it passed without amendment.
Not moved in, though the house continued sitting 42 days. Being sent down again in 1832, it passed with an amendment.
Not moved in, though the house continued sitting 33 days. The same bill being sent down in 1832, passed without amendment.
Thirty-six days afterwards, the House in Committee, rose without reporting; same bill sent down again 23rd November, 1833—not moved in, though the House continued sitting 82 days.
Passed the Committee in 1832, but not read a third time, though the Assembly continued sitting 16 days. The bill being sent down again in 1833, was passed.
Not moved in, though the House continued sitting 76 days. Sent down again in 1834, was passed by the Assembly.
Not moved in, though the House continued sitting 15 days; being sent down again in 1835, it passed with amendment.
Not moved in, though the Assembly continued sitting 12 days. The same bill being sent down again in 1835, was passed without amendment.
Not moved in, though the House continued sitting 42 days.
Not moved in, though the House continued sitting 48 days.
Not moved in, though the Assembly continued sitting 45 days.
Not moved in, though the Assembly continued sitting 42 days.
Not moved in, though the Assembly continued sitting 41 days.
Not moved in, though the Assembly continued sitting 29 days.

TO THE KING'S MOST EXCELLENT MAJESTY.

**MOST GRACIOUS SOVEREIGN:**

We, Your Majesty's dutiful and loyal Subjects the Legislative Council of Upper Canada, in Provincial Parliament assembled, respectfully beg leave to address ourselves to Your Majesty, upon the subject of a complaint which the House of Assembly of this Province thought fit to prefer to Your Majesty when they were last in Session.

Having for a long series of years co-operated in the most amicable spirit with the House of Assembly, in passing laws for the peace, welfare, and good government of this Colony, we find with regret, and not without astonishment, upon this occasion of our re-assembling, that during the last few hours of the preceding Session, and while we were occupied in discussing and disposing of a great number and variety of measures which had been proposed for our concurrence, the House of Assembly employed themselves in framing a sudden remonstrance to Your Majesty, injurious to the Legislative Council, and inconsistent, as we conceive, with that regard for the just independence of all branches of the Legislature, which it is the common interest and duty of every subject of Your Majesty to maintain.

We are sensible that we owe it not more to ourselves than to the people of this Colony, to maintain with firmness that independent position which the Constitution has assigned to us as a branch of the Legislature; and we are persuaded that it could not

be thought unbecoming in us to pass over in silence the attack which has been made by the Assembly, and to decline entering into any vindication of our conduct as a Legislative body.

But the course of events sometimes produces exigencies, in which a departure from ordinary rules is not only justifiable, but may even become necessary.

The affairs of the two Provinces of Canada are engaging at this time, in a particular manner, the attention of Your Majesty's Government, and we believe the present to be an occasion on which it is desirable, for reasons affecting the general welfare of this Colony, that the Legislative Council should descend to explanations which under ordinary circumstances it might be more proper to decline.

In the Report which accompanies this Address it has been our endeavour to present such facts and to direct attention to such evidence as will place the conduct of the Legislative Council in its true light ; and we do not doubt that Your Majesty will approve of the feeling which has prompted us to demonstrate, (as we believe we have done successfully,) that the powers committed to us by the Constitution have been justly and faithfully exercised.

For many years the Legislative Council of Upper Canada consisted of but four or five Members, connected with the Executive Government by the most confidential relations, and forming in reality a body scarcely distinct from the Executive Council of the Colony, except as they were associated for the discharge of different duties. During that period how-

liable for their support,  
To amend the law in cases of Larceny..... } 6th March, 1835.  
18th March, 1835.

Not moved in, though the Assembly continued sitting 41 days.  
Not moved in, though the Assembly continued sitting 29 days.



ever, the several branches of the Legislature being diligently occupied in making laws for the peace, welfare, and good government of the Province; no complaints were made that the Legislative Council was dependent, or inefficient, or insensible to the public interests. It is only of late years, after its numbers have been much increased, and when the great majority of its members is composed of persons wholly unconnected with the Executive Government, and independent alike in fortune and in character, that it appears to be thought necessary by the House of Assembly to instil into the public mind the opinion, that the Legislative Council does not answer the ends for which it was instituted. Your Majesty may not improbably conclude that it is by no accidental coincidence that at precisely the same moment attempts are made in this, and the adjoining Colony of your Majesty to break down the strongest and safest barrier against measures, which are considered by many of Your Majesty's subjects to be subversive of the Royal authority, and destructive of the Constitution.

It is not because we entertain the slightest apprehension that efforts of which the tendency is so obvious, will obtain from your Majesty's Government any countenance, that we have thought it expedient to repel these charges of the Assembly.

On the contrary the recent assurances of Your Majesty's determination to uphold the Constitution are so explicit and satisfactory, that they leave Your Majesty's subjects in this Colony nothing to fear.

But it is our desire that Your Majesty should be enabled to oppose facts to the injurious representations which have been conveyed to the Throne, upon a subject of deep interest to the people of this Province, and that Your Majesty should possess the satisfactory assurance that a Constitution which in principle, is well adapted to secure the liberties and advance the prosperity of this Colony, has not in practice been abused by the Legislative Council.

If in vindicating the Legislative Council from the imputation of being hostile or indifferent to the interests of Your Majesty's subjects in this Province, we have had occasion to state facts which place the proceedings of the Assembly in an unfavourable light, we desire it may be considered by Your Majesty that such representations are made, with no other object than to render more apparent, the unreasonableness of the attack which has been made upon the Legislative Council. We beg it may be understood that we prefer no complaint against the Assembly; that we make no appeal, and desire no interference. We are fully sensible that it must at all times be in the power of either of two Legislative bodies, which can act only in concert, to recall the other to a reasonable observance of courtesy and respect. The remedy is plainly in our own hands. But we have hoped, and we still hope to find redress for what at present is unquestionably a public evil, in the voluntary return of the Assembly to that course, which justice and good feeling cannot fail to point out.

We have waited patiently for this change, and have not hitherto suffered our deliberations or proceedings to be influenced in a single instance by any of the discouraging circumstances which we have stated.

As loyal subjects of Your Majesty, we are impelled by a sense of duty to declare our conviction, that it can hardly have been a sense of injury received which prompted the Assembly to this unexpected course. It is known and felt that to preserve the Constitution of this Province against injurious changes, to support the Royal authority, and to uphold with constancy the best interests of the people, are duties from which the Legislative Council, as it is now constituted, are not likely to be driven.

It is doubtless in the power of Your Majesty and of the Imperial Parliament to remove this barrier to the adoption of measures which it would perhaps have been wise to have more speedily, and decidedly discountenanced.

If through any unhappy misunderstanding of the true interests of this Province a change in the Constitution of this branch of the Legislature shall ever be assented to, the Members of the Legislative Council will be no otherwise affected than in common with the rest of the community; but it will then be most assuredly discovered that an error has been committed which it may not be possible to retrieve, and of which the effects will in our opinion be fatal to the peace and welfare of Upper Canada, and dangerous to the continuance of Your Majesty's authority.

We beg to renew upon this occasion our assurances of entire devotion to Your Majesty's person and Government.

(Signed) JOHN B. ROBINSON,  
SPEAKER.

*Legislative Council Chamber,* }  
Nineteenth day of April, 1836. }

*Address from the House of Assembly, referred to in  
the foregoing Report.*

TO THE KING'S MOST EXCELLENT MAJESTY.

MOST GRACIOUS SOVEREIGN:

We Your Majesty's most dutiful and loyal Subjects, the Commons of Upper Canada in Provincial Parliament assembled, humbly represent that we have applied ourselves with the greatest diligence during the present Session of the Provincial Parliament to various subjects of great interest to our constituents; and although our proceedings have been unavoidably interrupted to a degree altogether unprecedented, by the trial of controverted elections; and although many of the Members of this House, have laboured under the disadvantage of having been without Parliamentary experience, yet the necessary measures on the subjects to which we have alluded have been brought to a satisfactory conclusion, and completed as far as depended on this House, and have been sent to the Legislative Council. It is, with no ordinary mortification and regret however, that we find our exertions during a most laborious Session, rendered unavailing in respect to most of these measures by the rejection of them by the Legislative Council. Among such as have shared this fate are: Bills to protect the agricultural interests of this Province from a ruinous foreign competition—to provide for the just and equal distribution of the property of persons dying intestate—to secure an impartial trial

by Jury, and to take from the Sheriffs, who hold their offices during pleasure, the power which they now possess of packing Juries—to relieve an excellent and meritorious class of your subjects from burthens and penalties, which are imposed by the Militia Laws of this Province, and which are oppressive on them, and which in time of peace are altogether unnecessary—to improve the system of our Common and District Schools, and to increase the public funds for their support—to amend the Charter of King's College in conformity with Your Majesty's gracious recommendations, and with the wishes which have at different times been strongly expressed to Your Majesty by your faithful subjects in this Province, so as to put that institution into operation on just and liberal principles—to provide for the sale of the Clergy Reserves, and the application of the monies arising therefrom to objects of common benefit, and great utility to Your Majesty's subjects in this Province, in accordance with Your Majesty's gracious invitations, and with the well-known and often-expressed wishes of Your Majesty's subjects—to promote the peace, freedom, and independence of Elections of Members of Parliament, by adopting the mode of Voting by Ballot—to grant one hundred pounds per annum for five years to the Grantham and Bath Academies, (institutions of education established by the voluntary contribution of the people, and on liberal principles.)

All these measures, and others which we will not trouble Your Majesty with enumerating, have been rejected by the Legislative Council without amendment; and the labours of this House during a Ses-

sion which we think we may justly declare has been distinguished for unprecedented diligence and application to public business, almost entirely baffled and rendered useless by the course pursued by the Legislative Council. If there were any reason to hope that these difficulties could be obviated or materially diminished in future, we should not trouble Your Majesty; but the experience of years convinces us, that on many subjects of great and general interest, there is such a disagreement of opinion between the Legislative Council, as now constituted, and the Representatives of the people, as to bring us to the conclusion, which indeed the Legislative Council itself has expressed in relation to one of the most deeply interesting of these subjects, namely, that the Legislature of this Province cannot concur in any measure that will be satisfactory to Your Majesty's subjects in this Province. We are aware that Your Majesty has been officially informed by His Excellency Sir John Colborne that, "composed  
 " as the Legislative Council is at present, the Province  
 " has a right to complain of the great influence of the  
 " Executive Government in it. That it consists of  
 " seventeen Members, exclusive of the Bishop of Que-  
 " bec; that of these from accidental causes not more  
 " than fifteen ever attend to their Legislative duties;  
 " that thus out of the number generally present six  
 " are of the Executive Council, and four hold offices  
 " under the Government; and that His Excellency  
 " had therefore intimated his intention of recommend-  
 " ing to Your Majesty to increase the Legislative  
 " Council." And it was no doubt with the desire to

remedy this evil, equally felt by the people and His Excellency, that Your Majesty has since added to their number. But it is our duty to assure Your Majesty that this change has not abated the evil of which we have such serious cause to complain, while it has on the contrary produced the further division of responsibility amongst its Members, which lessens the consciousness of individual accountability without establishing any community of feeling or sentiments of respect between them and the people. We do not wish to advert to this unpleasant and mortifying condition of our public affairs in language that shall be disrespectful or offensive to the Legislative Council, nor do we presume to prescribe to Your Majesty what expedient should be adopted to afford relief in the premises to Your Majesty's dutiful and loyal subjects in this Province, who, we are confident, desire that Your Majesty's attention should be called to it and that we should humbly leave it to Your Majesty's wisdom to apply a suitable remedy.

In connection with this subject we feel bound to represent to Your Majesty, that it is the earnest desire of Your Majesty's faithful subjects that Your Majesty's Government in this Province should be conducted by the advice of those who should be actually and practically responsible for their proceedings, and who would as a consequence, be likely to recommend and favour such public measures as may be most desired by Your Majesty's subjects, and in their opinion most conducive to their interests. We behold Your Majesty, in the administration of the affairs of the great Empire which Providence has committed to Your Majesty's



hands, graciously consulting the wishes of your faithful people as expressed by their Representatives, in the choice of responsible advisers to manage under Your Majesty, the affairs of the Government, and we have been accustomed to regard it as an essential and invaluable feature of the glorious Constitution of our Mother Country. The same principle we wish to see applied in the practice of our Colonial Government; until that is done, we cannot expect that the Administration will give satisfaction to Your Majesty's subjects, or that there will be any real and permanent harmony between the Government and the Representatives of the people. It is true that we might withhold the annual grant for the support of the Government as a mark of our dissatisfaction with this state of things, and as a means of procuring redress, but being anxious to evince our forbearance and desire to avoid, as long as possible, contention and difficulty, as well as to shew our confidence in Your Majesty's paternal regard for your faithful people in this Province and gracious attention to their Constitutional rights; and being reluctant to resort to a measure, which we are aware must greatly embarrass the Government, until all other Constitutional means of seeking redress have been tried and proved unavailing—We have preferred thus to appeal to Your Majesty for Your Majesty's gracious and effectual interference in our behalf, and have notwithstanding our just dissatisfaction with the existing state of things, and notwithstanding the pecuniary distress which prevails in the Province, granted for the present year the necessary supplies for the support of the Government in the confident hope that

effectual steps will immediately be taken for the removal of these obstacles to the peace, welfare and good government of the Province.

When it is considered that the Ministers, who sometimes in rapid succession fill the Colonial Department, under Your Majesty, are strangers to our Province, and too distantly situated to acquire, through channels often contradictory and interested, a true and correct knowledge of the wants, wishes, and genius of Your Majesty's Canadian people, the practical need of local responsibility becomes more apparent and imperious.

(Signed,)

**MARSHALL S. BIDWELL,**

**SPEAKER.**

*Commons House of Assembly,*  
15th April, 1835.

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