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25

C A N A D A.

RETURN to an Address of the Honourable the House of Commons,
dated 5th June 1829;—for

COPIES or Extracts of any COMMUNICATIONS between
the Colonial Office and the Governors of Upper and
Lower Canada; in pursuance of the Recommendations
of the Canada Committee.

Colonial Department, Downing Street, }
18th February 1830.

R. W. HAY.

Ordered, by The House of Commons, to be Printed,
23 February 1830.

L I S T.

- N° 1.—Copy of the Earl of Dalhousie's Despatch to Mr. Secretary Huskisson, dated Quebec, 29th Jan. 1828 p. 3
- N° 2.—Copy of Mr. Secretary Huskisson's Despatch to the Earl of Dalhousie, dated Downing-street, 28th March 1828 p. 4
- N° 3.—Copy of a Letter from the Earl of Dalhousie to R. W. Hay, esq., dated London, 23d Oct. 1828 p. 5
- N° 4.—Copy of a Despatch from Secretary Sir George Murray to Lieutenant General Sir James Kempt, dated Downing-street, 26th Oct. 1828 p. 6
- N° 5.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated Quebec, 26th Feb. 1829 *ibid.*
- N° 6.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated Quebec, 27th March 1829 *ibid.*
- N° 7.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated Quebec, 19th Dec. 1829 p. 8
- N° 8.—Copy of a Despatch from Secretary Sir George Murray to Lieutenant General Sir James Kempt, dated Downing-street, 29th Sept. 1828 p. 10
- N° 9.—Copy of a Despatch from Secretary Sir George Murray to Major General Sir John Colborne, dated Downing-street, 29th Sept. 1828 p. 15
- N° 10.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated Quebec, 22d Nov. 1828 p. 17
- N° 11.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated Quebec, 28th Nov. 1828 p. 18
- N° 12.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, of the same date p. 22
- N° 13.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated Quebec, 13th Dec. 1828 p. 25
- N° 14.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated Quebec, 5th Feb. 1829 p. 28
- N° 15.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated Quebec, 27th Feb. 1829 p. 45
- N° 16.—Copy of the Report of the Attorney General of Lower Canada, relative to the Prosecutions for Libel p. 46
- N° 17.—Copy of a Despatch from Secretary George Murray to Lieutenant General Sir James Kempt, dated Downing-street, 13th April 1829 p. 64
- N° 18.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated Quebec, 7th March 1829 *ibid.*
- N° 19.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated 25th March 1829 p. 67
- N° 20.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated Quebec, 28th March 1829 p. 82
- N° 21.—Copy of Despatch from Secretary Sir George Murray to Lieutenant General Sir James Kempt, dated Downing-street, 30th Sept. 1828 p. 84
- N° 22.—Copy of a Despatch from Secretary Sir George Murray to Lieutenant General Sir James Kempt, dated Downing-street, 16th Feb. 1829 p. 85
- N° 23.—Copy of a Despatch from Secretary Sir George Murray to Lieutenant General Sir Peregrine Maitland, dated Downing-street, 31st July 1828 p. 86
- N° 24.—Copy of a Despatch from Lieutenant General Sir Peregrine Maitland to Secretary Sir George Murray, dated Halifax, 2d Dec. 1828 *ibid.*

COPIES or Extracts of any COMMUNICATIONS between
the Colonial Office and the Governors of Upper and
Lower Canada; in pursuance of the Recommendations
of the Canada Committee.

N° 1.—COPY of the Earl of Dalhousie's Despatch to Mr. Secretary Huskisson.

Castle of Saint Lewis,
Quebec, 29th Jan. 1828.

SIR,

AS the exaggerated and false representations which are circulated in this province, in newspapers opposed to Government, respecting the demission of various officers of militia, may be repeated in the public prints in England, and reach His Majesty's Government, I think it advisable to make you acquainted with the real state of the case.

The temporary laws for regulating the militia which had been in force for many years, and had been from time to time continued for short periods, expired on first of May last, in consequence of the bill for prolonging their duration having fallen through in the Assembly, after being amended by the Legislative Council, who wished to alter the system. One of these temporary Acts had *repealed* two useful permanent militia laws, passed in 1787 and 1789, and the question arose, whether, on the expiration of the temporary repealing statute, the permanent laws came into operation. His Majesty's attorney general reported his opinion that they did, and I acted on that opinion, as it was my duty to do: but as some doubt attended the question, the party opposed to Government took the opportunity to attack its conduct in this respect with violence; and the consequence was, that several officers of militia, either believing or affecting to believe that there was no militia law in force, refused to attend the summer musters, or otherwise exhibited a spirit of disobedience to orders; and these persons have been dismissed, wherever the circumstances of their conduct or situation were such as to make an example necessary.

The enclosed general orders, which I have issued during the last season, will show, however, that the conduct of the militia has almost universally been such as to merit and receive my warmest approbation.

In some few instances, I have thought it my duty to notify the dismissal of particular officers, who had abused the influence they derived from their rank, to support their violent opposition to Government, in a manner that outraged the proper and decent respect due, even in opposition, to the constituted authorities of the State.

I have the honour to be, Sir,
Your most obedient humble Servant,
(signed) DALHOUSIE.

Office of Adjutant General of Militia,
Quebec, 12th Sept. 1827.

GENERAL ORDER OF MILITIA:

His Excellency the Governor and Commander in Chief, takes an early opportunity to express to the battalions of militia in Lower Canada, his sentiments on certain recent proceedings which nearly concern their loyalty and honour.

It is well known that the laws under which the militia force has been regulated for many years, have been enacted for short periods, and have been repeatedly renewed as a substitute for the permanent laws passed in 1787 and 1789.

4 COMMUNICATIONS BETWEEN THE COLONIAL OFFICE

These temporary Acts, however, not having been renewed in the last session of the Provincial Parliament, expired on the 1st of May, and it was immediately notified to the militia, by his Excellency's directions, that under existing circumstances the old permanent ordinances came into force.

Evil disposed persons were not wanting to spread doubts upon the subject; and to these were added gross misrepresentations and calumnies regarding the intentions of the Executive Government, all tending to create discontent and dissatisfaction in the province, but more particularly to induce the militia to object against and disobey the orders issued under those ordinances for the usual musters in summer.

The Governor in Chief has seen with great satisfaction, that the utmost exertions of the ill-disposed have totally failed to disturb the natural disposition of the people to order and obedience. With very few exceptions, and those chiefly of officers holding commissions, the musters of July and August have been unusually numerous and well attended; it is therefore an important and most agreeable duty to his Excellency, to offer his warmest acknowledgments in approbation of that conduct, by which the battalions of militia have shown their loyalty and proper sense of duty.

But while the Governor in Chief thus gives the reward of praise where it is so well merited, he feels that his duty imperiously calls upon him, at this time, to deprive of the distinction of holding commissions in the militia, all such persons as have neglected to attend at the musters required by law, or who, by their conduct or language at public meetings, have failed in that respect which is due to the representative of their Sovereign. This, however, is a work of time and investigation, which, though necessarily attended with some delay, will not fail to receive his Excellency's serious and deliberate consideration.

By order of his Excellency the Governor General and Commander in Chief.

(signed) *F. Vassal De Monviel,*
Adj' Gen. M. F.

GENERAL ORDER OF MILITIA :

Office of Adj' Gen' of Militia,
12th Dec. 1827.

The Governor in Chief, having for some time past occupied himself in considering the reports of reviews by officers commanding battalions of militia, has great satisfaction in again expressing his approbation of the general disposition and orderly conduct of this great national force. The reviews have been fully attended, and there are but few instances in which the Governor in Chief could think it at all necessary to express censure. His Excellency, therefore, conveys to all and to each battalion his thanks for their conduct, trusting that next summer he shall find no cause to repeat the only disagreeable part of duty which remains for him to perform, that is, to publish the names of those officers who can offer no sufficient apology for their neglect of duty and absence from muster.

N° 2.—COPY of Mr. Secretary Huskisson's Despatch to the Earl of Dalhousie.

MY LORD,

Downing Street, 28th March 1828.

I have the honour to acknowledge the receipt of your Lordship's despatch, stating that the temporary laws which had for many years regulated the militia of Lower Canada expired on the 1st of May last, and that His Majesty's attorney general having advised your Lordship that the old laws of 1787 and 1789 again came into operation, you had acted on his opinion, and that in general the musters had been extremely well attended: but as some doubt attended the question, the party opposed to Government took the opportunity to attack its conduct in this respect with violence; and the consequence was, that several officers of militia, either believing or affecting to believe that there was no militia law in force, refused to attend the summer musters, or otherwise exhibited a spirit of disobedience to orders; and that your Lordship had dismissed these persons wherever the circumstances of their conduct or situation were such as to make an example necessary.

necessary. I have to acquaint your Lordship, in reply, that I entirely approve of the measures which you have adopted for bringing into operation the old militia laws, and also the dismissal of officers who have set an example of such decided disrespect and insubordination.

I have the honour to be, Sir,
Your most obedient humble Servant,
(signed) W. HUSKISSON.

N° 3.—COPY of a Letter from the Earl of Dalhousie to R. W. Hay, esq.

SIR,

London, 23d Oct. 1828.

In reply to your letter of the 23d ultimo, I have the honour to state the following circumstances in explanation of the dismissal of Lieutenant-colonel Malhiot, and other officers of militia in Canada, whose complaints and affidavits you have enclosed.

I shall not enter into these papers, which, from complainers, naturally give a false colouring and incorrect interpretation of my acts, in almost every point. A narrative is all I shall state, to give you an idea of this matter.

Soon after the deputies left Canada with petitions of grievance to Parliament, general meetings in the counties were called by the factious leaders, for the purpose of forming what they called "Central Committees," nothing different from the revolutionary committees in France, which led to the convulsions in that country.

In the county of Surrey, in Canada, a meeting was called, and a large concourse of the habitants and landed proprietors gathered at the village of Verchères. This Colonel Malhiot took the lead in the chair, with a party of these named officers. The meeting, however, was attended also by Lieutenant-colonel de Martigny, and a number of officers of the militia, holding opinions directly contrary to those of Mr. Malhiot. It is to be observed, that Mr. de Martigny commands in activity the battalion of militia in Surrey, while Mr. Malhiot is a retired officer and unemployed.

The first measure of Malhiot in the chair was to insult Mr. de Martigny, to order him and his party to depart, and they were by force put out of the house.

Mr. de Martigny made a complaint to me upon the subject, stating the impossibility of his maintaining the discipline in his battalion, or the peace of that county, if such officers as Malhiot, Drolet, &c. might with impunity harangue his officers and militiamen, to shake their allegiance and destroy that authority which as lieutenant-colonel was placed in his hands.

It became the duty of the Executive Government, and especially of the Governor, as commander in chief of the militia, to support the authority and maintain the discipline of that important national force.

Mr. Malhiot's opinions and political feelings were of no consequence; but as an officer of militia, the insulting the officer publicly in command, was the point to which I felt it my duty to attend.

I communicated to Mr. Malhiot and these officers my sentiments by Lieutenant colonel Heriot, my aide-de-camp, and required them to settle the disagreeable affair amicably, by any apology to Mr. de Martigny; all refused; I saw them all afterwards, having taken the trouble to go to the house of Mr. de Martigny, expressly for the purpose of adjusting the matter, and of confirming to Mr. de Martigny the assurances of my good opinion and support in the discharge of his duties.

The commissions of militia are "during pleasure," and truly the state and nature of society yet in Canada require that they should be so guarded.

The Governor holds the power to grant these commissions, and also the power to cancel and annul them when he sees cause. In this case it became indispensably necessary to make an example; and I do not hesitate to say, that the peace and tranquillity of the province depended upon the exercise firmly of the powers vested in the Governor.

6 COMMUNICATIONS BETWEEN THE COLONIAL OFFICE

I maintained the public tranquillity, and delivered over to Sir James Kempt a steady, well appointed and well disposed militia of 70,000 men, having certainly weeded it of many seditious and mischeivous characters, whose chief hope to excite "troubles in Canada" rested upon the influence they attempted to obtain over the militia in the counties.

Such are the facts, and the narrative is the only justification I think it necessary to offer on that part of my conduct in the government of Canada.

I have the honour to be, Sir,
Your most obedient humble Servant,
(signed) DALHOUSIE.

N° 4.—COPY of a Despatch from Secretary Sir George Murray to Lieutenant General Sir James Kempt.

SIR,

Downing Street, 26th October 1828.

I have the honour to transmit to you the enclosed papers, accompanied by various affidavits from officers of militia, who were dismissed by the Earl of Dalhousie, complaining that a military punishment had been inflicted on them for exercising their civil rights in signing a petition for redress of grievances, in common with other inhabitants of Lower Canada; and I am to request that you will inquire into the circumstances stated by these individuals, and report the result to me.

I have, &c.

(signed) G. MURRAY.

N. B.—The enclosures to this despatch being very voluminous, were sent in original by the North American mail of November, which having been lost, Sir James Kempt has been unable to prepare a detailed report on the subject.

N° 5.—COPY of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray.

SIR,

Castle of St. Lewis,

Quebec, 26th February 1829.

I have had the honour of receiving the *duplicate* of your despatch (N° 10.) of the 26th of October last, transmitting some papers and affidavits from officers of militia, who were dismissed by the Earl of Dalhousie, complaining that a military punishment had been inflicted on them for exercising their civil rights in common with other inhabitants of Lower Canada; and requesting me to inquire into the circumstances stated by them, and to report to you the result.

As the original despatch, however, is missing, and no papers of any kind accompanied the duplicate which I have named, it is not in my power to comply with your request, having no knowledge of the names of the parties complaining, or of the circumstances into which you desire me to inquire.

I have, &c.

(signed) JAMES KEMPT.

N° 6.—COPY of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray.

SIR,

Castle of St. Lewis,

Quebec, 27th March 1829.

I had the honour to inform you, in my despatch N° 27, that it had been the intention of the House of Assembly to provide by a special Act for the salaries of the militia staff and contingencies for the present year, and that the charge (amounting to 1,530 *l.* 8 *s.* 3 *d.*) had been deducted from the general estimate of the civil expenditure of the province, submitted by me to the Provincial Parliament, on which the bill of supply is founded.

The Assembly did accordingly pass an Act specially providing for this expense, but it contained a clause which, under existing circumstances, the Legislative Council conceived to be objectionable, and this occasioned the loss of the bill the evening before the session closed.

As the House of Assembly had no hesitation in voting the salaries, &c. of the militia staff for the half year ending the 31st of December last, on my requisition, I feel satisfied, from the assurances given me, that the difficulties on the present occasion would have been removed by the introduction of a new Act, if there had been time to have done so; but it was very late in the session before the bill went up to the Legislative Council, and when the objectionable clause was struck out by that branch of the Legislature, a quorum could not be assembled in the House of Assembly.

Under these circumstances, I earnestly request permission to issue by way of loan from the military chest, the sums necessary to pay the expense of the militia staff and contingencies for the present year, under a conviction that they will be repaid by a vote of the legislature in the next session. The half yearly salaries of the staff will become due on the 1st of July next, and as I have no funds at my disposal to apply to this most necessary service, I shall hope to receive your authority before that time, to advance the money in the manner which I have taken leave to suggest.

I think it right on the present occasion to put you in possession of the enclosed paper (N^o 1), in order that you may be aware of the circumstances which occasioned the loss of the militia bill in the Legislative Council, and also of the Act providing for the payment of the militia staff.

The bill was simply a revival of former militia laws, without improvement of any kind, but the House of Assembly has reported the heads of a new bill, which it is intended to bring forward in the next session.

I have, &c.

(signed) JAMES KEMPT.

N^o 1.—MILITIA LAWS.

Clause struck out of Militia Laws revival Bill by the Legislative Council, and which occasioned its loss.

Observations in explanation.

“ Provided always, and be it further enacted by the authority aforesaid, that nothing in this Act contained shall extend, or be construed to extend, to revoke or annul all or any of the commissions of the different officers of militia appointed in this province prior to the 1st of May which was in the year of our Lord 1827, the said commissions being conformable to the provisions of the said Acts hereby revived and continued, in respect to the qualification and residence; and provided always, and it is hereby declared and enacted by the authority aforesaid, that all commissions or changes of officers in the militia, issued or made subsequently to the said 1st day of May, be and the same are hereby revoked and annulled, till such time as further provision be made therein by the Governor, lieutenant governor, or person administering the Government for the time being.”

The temporary militia laws having expired on the 1st of May 1827, the old ordinances of 1787 and 1789 came into operation on that day, and under this authority the militia of the province is at present regulated and assembled.—Doubts however being entertained on this subject, the law officers of the Crown were consulted on the occasion, and they gave an opinion that these ordinances became revived at the expiration of the temporary militia laws; an opinion which was subsequently confirmed by a judgment given by the judges of the court of King's Bench, in a suit brought before that court to try the question; but notwithstanding these legal opinions and judicial decisions, a party of considerable influence in the Assembly still maintain that these ordinances could not be legally revived, and that, in short, no law for the assembling and regulation of the militia has existed

since the 1st of May 1827. The object of this clause was, therefore, to revoke and annul all the militia appointments made by Lord Dalhousie since the 1st of May 1827, thereby virtually restoring to their commissions all those officers who were removed from them by the late Governor in Chief.

Clause struck out by the Council in the Militia Staff Officers' Salaries Bill.

“ Provided always, and be it further enacted by the authority aforesaid, that the foregoing provisions of this Act shall not have any force or effect, unless, during the present session of the Legislature, an Act or Acts should be passed for reviving and continuing the Acts, or any of them, heretofore passed by the Legislature of this province for regulating the militia thereof.”

Observations in explanation.

As the House of Assembly voted the salaries and contingencies of the militia staff, for the half year ending the 31st of December 1828, on being required to do so, and no objection has ever been made out to the charge, there is every reason to believe that the clause would have been withdrawn, and a new bill have passed the Legislature, simply providing for the expense.

N^o 7.—COPY of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray.

SIR,

Castle of Saint Lewis,
Quebec, 19th December 1829.

Having deemed it essential that the militia of the province should be placed on a footing of greater efficiency than that in which I had found it on assuming the administration of the Government, I have the honour to inform you that I recommended the subject to the consideration of the Legislature in my speech to both branches on the opening of the last session.

The subject was accordingly taken up by the House of Assembly at an early period of the session, and a special committee of the House appointed, with instructions “ to inquire into all laws which may now be in force, or alleged to be in force, concerning the militia, and also into its present state, and to report their observations and opinions thereon to the House.”

In the state of excitement which prevailed in the province, in consequence of the numerous dismissals which had taken place in the militia in the years 1827 and 1828, in which dismissals several of the influential members of the House were included, it was scarcely to be expected that a very dispassionate view would be taken by the committee of the matter thus referred to them; and you will observe by the printed copy of the report made by them to the House, which I have the honour herewith to transmit to you, that they took occasion in their report to animadvert in very strong terms on these dismissals, affirming that, in consequence of that measure, the impression had become general in the country that the holding of militia commissions was to be made subservient to political purposes, and declaring their own conviction that the revival of the militia ordinances of 1787 and 1789 had been made use of to give effect to that system. They recommended accordingly that a new and efficient regulation of the militia should be established by law as speedily as possible, such a measure being necessary for the safety and well-being of the province, “ but that the law should be of a nature the least onerous possible to the great body of the population, and particularly that it should remedy and effectually guard against the abuses by which the militia has been assailed by authority, in a way (as the committee conceived) deeply injurious to His Majesty's service, and the security of the province.”—(page 13.)

The committee also made a second report to the House (page 137,) in which they submitted the heads of a bill for the future regulation and government of the militia, but which they recommended should not then pass into a law, deeming it proper (as stated in the report) that those interested in the subject should have an opportunity of expressing their opinion thereon previous to its being adopted; they proposed accordingly that a new militia bill should be introduced similar to that which had expired on the 1st of May 1827, to continue the militia laws for a *limited* period, but that a clause should be inserted therein to declare all militia commissions issued subsequently to the 1st of May 1827, null and void, and that all commissions previously issued should be held to be valid as they stood at that date.

A militia bill was accordingly brought into the House of Assembly, and passed that body, being simply a revival of the former militia law, but containing a clause to the purport recommended by the committee, the effect of which would have been to restore to their commissions all those officers who had been dismissed by Lord Dalhousie, since the expiring of the old militia law and revival of the militia ordinances of 1787 and 1789, and to annul all appointments made since that time.

This

This objectionable clause being struck out in the Legislative Council occasioned the loss of the bill, as I had the honour to report to you at the time in my despatch, N° 29, of the 27th of March, to which, and to the paper N° 1, that accompanied it, I beg leave to refer.

No militia bill having passed during the session, matters have of course remained in the same state as last year, and the usual reviews took place in the summer, under the authority of the militia ordinances of 1787 and 1789.

Having in a former despatch, dated the 26th of February, had the honour to inform you of the applications which had been made to me for redress by a number of militia officers, who had been dismissed by Lord Dalhousie, and of the nature of the answers which I had deemed it expedient to give them, viz. that I felt it impossible to interfere with the acts which had taken place previous to my assuming the administration of the government, but that what had passed should not operate to their disadvantage hereafter; I think it right to apprise you of an impression which I fear is very prevalent in the province, with regard to these dismissals, being very desirous of being informed of your sentiments *as to the mode* of restoring, as opportunities may offer, some of these gentlemen to their former situations.

It has been of course always my intention, in accordance with the profession conveyed in my answers to the applications on the subject, to replace in their former commands, as vacancies might occur, such of those persons as from their stations in society might be qualified to hold commissions in the militia, and I had not anticipated any difficulty in doing so; but these gentlemen having been all dismissed by the late Governor in Chief in the exercise of the prerogative with which he was invested by His Majesty, it appeared to me that, in conformity with the spirit of the answers alluded to, I could only consider them as standing in the same situation as any other gentlemen in the country, and that, were I simply to reinstate any of them in the rank they before held, without issuing a new commission in each instance, it would in fact be interfering with the acts of my predecessor, which I had distinctly stated I could not do, besides exposing me to applications from every individual who had been dismissed, none of whose claims could in such a case be rejected without inquiry.

It however unfortunately happens that several of the influential of the dismissed officers (members of the Assembly) have adopted the opinion, which I had before the honour to inform you is maintained by a powerful party in the House, (although such opinion is not expressed in the report of the committee,) that the militia ordinances did not legally revive on the expiring of the old militia laws. You are aware that the law officers of the Crown were consulted on this subject, previous to any step being taken, and that the opinion given by them was subsequently confirmed by a judgment of the court of King's Bench, but this adjudication of the highest court in the country, which must be considered as final, has not been sufficient to remove the doubts expressed by some gentlemen; and according to them, as no law existed for the regulation of the militia since the 1st of May 1827, all the dismissals since that period were illegal, and I have reason to know that many of the dismissed officers would refuse to be restored to their former stations, except under the old commission which they before held.

The opinions thus so perseveringly maintained, will show you the extreme excitement which has prevailed and still exists on the subject in question; you may believe that no exertions on my part shall be wanting to conciliate, and if possible to remove such an impression, but unless I should receive some instructions from you, I shall be indisposed to depart from the rule I have laid down in respect to the restoration of any of the gentlemen in question.

I shall not fail, in the approaching session, to renew my recommendation to the Legislature, to adopt some measure to give greater efficiency to the militia force, and I trust that it may be attended with a better result than before, but at all events, the new division which has been lately made of the province into counties, by the bill for extending the representation, will enable me to re-organize the militia according to the several counties; this arrangement, by increasing the number of battalions, will not only be in itself an improvement, but will also of course afford opportunities of bringing in many of the officers, who it may be deemed expedient to restore.

I have the honour to be, Sir,

Your most obedient humble Servant,

(signed) JAMES KEMPT.

N° 8.—COPY of a Despatch from Secretary Sir George Murray, to Lieutenant General Sir James Kempt.

SIR, Downing Street, London, 29th September 1828.

Your Excellency has been selected by the King to assume the government of Lower Canada, at a period of unusual difficulty and importance.

It would be invidious, and for my immediate purpose it is not necessary, to investigate the causes of that discontent which has unfortunately so strongly manifested itself of late years in the House of Assembly, but which I am willing to hope is not generally felt by the rest of His Majesty's subjects in the province. It is far more important to inquire by what means a good understanding can be re-established between the different branches of the Legislature, and I am persuaded that no exertion will be spared by yourself to promote conciliation by measures in which the undoubted prerogatives of His Majesty and the constitutional privileges of the House of Assembly will be equally respected.

His Majesty has received too many proofs of the loyalty and attachment of His Canadian subjects, to doubt their cheerful concurrence in every effort which your Excellency may make to reconcile those differences which must always be produced when extreme rights are insisted upon by either party; and he looks forward with hope to a period when, by the return of tranquillity, the Legislative Council and Assembly will be able to bestow their undivided attention upon the best methods of advancing the prosperity and developing the resources of the extensive and valuable territories comprised within your government.

As I feel it, however, to be necessary that your Excellency should as far as possible be relieved from the responsibility attendant upon any measures to be adopted for the adjustment of the questions in controversy between the House of Assembly and your predecessors in office, it is the object of my present despatch to communicate to you the views of His Majesty's Government upon different branches of this subject: and here it will be proper for me to remark, that as the complete settlement of the affairs of the province cannot be effected but with the aid of Parliament, I shall confine myself at present to the discussion of those points alone which can no longer be left undecided without extreme disadvantage to the interests of the province.

Among the most material of these points, the first to be adverted to is the proper disposal of the financial resources of the country; and with the view of obviating all future misunderstanding on this subject, I shall endeavour to mark out the limits within which your interference in this matter ought properly to be confined.

The Acts of 1774 (14 Geo 3, c. 83 & 88) and of 1791 (31 Geo 3, c. 31), upon which the present constitution of the Canadas depends, have laid down many general rules which, I need scarcely remark, no authority but that of Parliament can relax. So long, therefore, as those statutes remain in force, His Majesty's Government has no choice but to execute their provisions, according to that interpretation which they have received from judicial decisions, or from the official reports of the chief law officers of the Crown. I am precluded, therefore, for the present, from inquiring how far it might be expedient that the duties raised under the statute 14 Geo. 3, c. 88, should be directly controlled by the House of Assembly of the province. The law, as interpreted by the highest authorities to which it has been possible to resort, imposes upon the Lords Commissioners of His Majesty's Treasury the duty of making that appropriation.

The proceeds of the above-mentioned duties and of the territorial revenue of the Crown, with the produce of fines, forfeitures, and other incidents of that nature, appear to constitute, however, the only fund which His Majesty's Government can lawfully apply at its discretion to the defraying the expenses of the civil government; and those of the administration of justice in the province. It is therefore to be understood for the future, as a fixed and unalterable principle, that, with the exception of the funds already mentioned, no part of the public revenue of Lower Canada must be applied to the public service, nor to any object whatever, except in pursuance of an Act of appropriation passed by the three branches of the local Legislature.

I am by no means insensible to the consequence which must necessarily result from the recognition and the observance of this principle. So long as the Assembly is called upon to provide for and to regulate any portion of the public expenditure, it will virtually acquire a control over the whole. If the entire charge of the civil government

government of the province could be limited to the amount of the Crown revenues, it might be possible to act without any dependence on the Assembly. But whether such a result would be desirable, or would be really conducive to the welfare of the province at large, it is unnecessary for me to inquire. It is sufficient to say, that under the existing law, the Executive Government of Lower Canada cannot be relieved from a state of virtual pecuniary dependence upon the Assembly by any constitutional means, and methods of a different nature must not be resorted to.

By the existing state of things the Government of Lower Canada is placed in this peculiar situation, that the appropriation of a part of the revenue applicable to its expenses is by Act of Parliament allotted to the Crown, which cannot divest itself of the duty imposed upon it by that Act; whilst at the same time a supplemental part of the revenue of the province, which is required to meet the expenses of its civil government, must be the result of a vote of the House of Assembly, and that House acquires necessarily, therefore, an indirect control over the whole.

The expediency of extricating the Government of Lower Canada from this difficulty, as also the means of effecting that object, should it be deemed advisable, is a matter for the discussion of Parliament.

But it is necessary to adopt some immediate decision for your guidance in the approaching session of the Provincial Assembly, with reference to this important matter. I should be most unwilling to leave you in the very painful predicament of addressing that body in terms which might be considered unsatisfactory, from the uncertainty which they held out as to the future, or which might seem to convey a reflection on the measures of your predecessors in the government; and as it would be very difficult for you, uninformed as you at present are as to the intentions of His Majesty's Government, to select any language which might not be open to misconstruction, I have deemed it most expedient to prepare and to transmit to you the draft, which I have the honour herewith to enclose, of an address to be made by yourself to both branches of the Legislature, upon the subject of the revenue for the current year. This document will sufficiently indicate to you the present views and intentions of His Majesty's Government upon this subject. Your Excellency will either incorporate this passage into your speech at the opening of the session, or you will make it the subject of a separate address, as you may find most convenient. You will further consider yourself at perfect liberty to make all such alterations in the particular expressions of the enclosed paper as may be requisite for the correction of any errors as to matters of fact into which I may possibly have fallen, adhering however to the general meaning and spirit of the language I have employed.

The complaints which have reached this office respecting the inadequate security given by the receiver-general and by the sheriffs for the due application of public money in their hands, have not escaped the very serious attention of the Ministers of the Crown. The most effectual security against abuses of this nature would be to prevent the accumulation of balances in the hands of public accountants, by obliging them to exhibit their accounts to some competent authority, at short intervals, and immediately to pay over the ascertained balance; the proof of having punctually performed this duty should be made the indispensable condition of their receiving their salaries, and of their continuance in office.

In the colony of New South Wales a regulation of this nature has been established, under His Majesty's instructions to the Governor of that settlement; and it has been productive of great public convenience. If a similar practice were introduced in Lower Canada for the regulation of the office of receiver-general and for that of sheriff, the only apparent difficulty would be to find a safe place of deposit for their balances. I am, however, authorized to state that the Lords Commissioners of His Majesty's Treasury will hold themselves responsible to the province for any sums which the receiver-general or sheriffs may pay over to the commissary-general. Your Excellency will therefore propose to the Legislative Council and Assembly the enactment of a law binding these officers to render account of their receipts at short intervals, and to pay over the balance in their hands to the commissary-general, upon condition that that officer shall be bound, on demand, to deliver bills on His Majesty's Treasury for the amount of his receipts. I trust that in this proposal the Legislature will find a proof of the earnest desire of His Majesty's Government to provide, as far as may be practicable, an effectual remedy for every case of real grievance.

A doubt having been suggested whether the statute for regulating the distribution, between the provinces of Upper and Lower Canada, of the duties of customs collected at the port of Quebec, had not been inadvertently repealed by the general terms of a

later Act, that question has been set at rest by the Act of the last session of Parliament, statute 9 Geo. 4, c. 76, s. 26. Upon this subject, however, your Excellency will understand that His Majesty's Government have no desire that the interference of Parliament should be perpetuated, if the Provincial Legislatures can themselves agree upon any plan for a division of these duties which may appear to them more convenient and more equitable; and on the whole of this subject His Majesty's Government will be happy to receive such information and assistance as the Legislative Council and Assembly of the province may be able to supply.

The appointment of an agent to indicate the wishes of the inhabitants of Lower Canada, is an object of great apparent solicitude with the House of Assembly. His Majesty's Government will cheerfully accede to the desire expressed by the House of Assembly upon this head. The agent must be appointed, as in Jamaica, and in other British colonies, by name, in an Act to be passed by the Legislative Council and Assembly, and approved by your Excellency. I am persuaded that the Legislature will not make such a selection as to impose upon you the painful and invidious duty of rejecting the bill on the ground of any personal objection to the proposed agent, and of course your Excellency will not object to any gentleman who will be resident in this country, and whose station in society and established character may afford sufficient pledges for the honourable and upright discharge of his duty.

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

There are many other important topics connected with the government of Lower Canada to which my attention has been called, with reference to which, however, it is impossible for the Ministers of the Crown to adopt an immediate decision, for want of sufficient information. Among these subjects may be enumerated the mischiefs which are said to result from the system of tacit mortgages, effected by a general acknowledgment of a debt before a notary, the objectionable and expensive forms of conveyancing said to be in use in the townships, the necessity of a registration of deeds, and the want of proper courts for the decision of causes arising in the townships. It is obvious that regulations affecting matters of this nature can be most effectually made by the local Legislature. Your Excellency will therefore direct their attention to the subjects which I have mentioned, as matters which require their early and most serious attention; and you will afford every assistance in your power towards the elucidation of every question which may arise for discussion in the Legislature connected with any of these topics.

It is represented that the statute (6 Geo. 4, c. 59) for the mutation of tenures has hitherto proved inoperative, in consequence of some deficiency in the instructions which were transmitted from this office to your predecessor in the government. I have not been able to learn what is the defect complained of in those instructions; but as the subject is of great importance, your Excellency will report to me whether any and what instructions remain to be given on the subject of this Act, which would facilitate the proposed change of tenure; what are the obstacles which have hitherto prevented the success of the measure, and in what manner those obstacles can be most effectually surmounted.

I am very sensible of the great inconvenience which has been sustained owing to the large tracts of land which have been suffered to remain in a waste and unimproved condition, in consequence of the neglect or of the poverty of the grantees. It were much to be desired that the laws in force in Upper Canada, for levying a tax upon wild land on which the settlement duties had not been performed, were adopted also in the Lower Province, and your Excellency will press the subject upon the attention of the Legislative Council and Assembly with that view.

Great dissatisfaction appears to have been expressed at the manner in which the revenue of the estates of the suppressed order of Jesuits has been applied. Upon this subject, however, I can procure no information sufficiently exact and copious to serve as the foundation for any definite opinion. Your Excellency will therefore have the goodness to report to me what is the extent and value of these estates; what is the gross average annual return from them; what are the deductions to which it is subject, and what is the average net income, and to what particular objects that income

income is applied. You will further report, what are the methods at present adopted for applying the revenue towards the education of youth, and whether by any change in those methods the same end might not be answered more effectually for the general benefit of the province, and with more general approbation from the inhabitants at large. It will be fit also to consider whether the revenue itself might not be increased by a commutation of the feudal tenure upon which I apprehend the land to be at present held.

The constitution of the Legislative and Executive Councils is another subject which has undergone considerable discussion, but upon which His Majesty's Government must suspend their opinion until I shall have received some authentic information from your Excellency. You will, therefore, have the goodness to report to me, whether it would be expedient to make any alteration in the general constitution of those bodies, and especially how far it would be desirable to introduce a larger proportion of members not holding offices at the pleasure of the Crown; and if it should be considered desirable, how far it may be practicable to find a sufficient number of persons of respectability of this description.

The next topic upon which I must request your Excellency to furnish me with information, is that of the clergy reserves. You are of course aware of the warm discussions to which this subject has given rise in Upper Canada; and with a view to some general adjustment of this question, it is necessary that I should receive as complete information as can be obtained as to the extent and value of these lands; the means of most effectually and speedily rendering them a source of profit; the real extent of the inconvenience to which, by their means, the settlers in their vicinity are exposed; the possibility of providing any equivalent and less objectionable mode of maintaining a Protestant clergy; and the numerical proportion, as far as it can be ascertained, which the adherents of the churches of England and Scotland respectively bear to each other, and to other denominations of Christians in the province.

I have thus adverted in order to the various topics connected with the government of Lower Canada, upon which I find that any dissension has recently arisen in that province. One topic, indeed, more material than any other, may seem to have been omitted. I mean the inequality which appears to exist in the present system of representation, and the practical exclusion of the inhabitants of the townships from all share in the legislation of the province. This, however, is a subject on which I am unwilling to enlarge, because without the assistance of Parliament no effectual remedy can be applied, and the present discussion of the question, while it would answer no useful purpose, might tend to excite those feelings which it is my earnest desire to allay. I confine myself, therefore, to desiring that your Excellency will inform me what would be the best principle upon which, in your judgment, the province of Lower Canada could be divided for the purpose of representation, supposing that division were now for the first time to be made; and what would be the probable effect of introducing into Lower Canada the law respecting representation, which has been established in the Upper Province.

In concluding this despatch, I would wish to impress upon your Excellency, and through you upon the members of the Provincial Government, and more especially upon the Executive and Legislative Councils, the necessity of cultivating a spirit of conciliation towards the House of Assembly and of terminating, if possible, those dissensions with which the province has been too long agitated. The first step towards effecting this desirable object must be an oblivion of all past jealousies, and that step will, I trust, lead to a cordial concurrence in all measures calculated to advance the common good, in whatever quarter such measures may happen to originate. His Majesty relies, for the amicable adjustment of the various questions which have been so long in dispute, upon the loyalty and attachment hitherto evinced by His Canadian subjects at large, and on that of their representatives in the House of Assembly; upon the zeal and the upright intentions of the members of Council; and upon your own wisdom and moderation, happily combined, also, with a long personal acquaintance with the province which you have been appointed to govern. When the undivided attention of the Executive Government and Legislature shall be given to the advancement of the general interests of the province, in a spirit of cordial co-operation, there is no reason to doubt that Lower Canada will rapidly advance in prosperity, and emulate ere long the most opulent and flourishing provinces of the North American continent.

I have, &c.

(signed) G. MURRAY.

Draft of part of a Speech.

I am commanded by His Majesty to acquaint you that the discussions which have occurred for some years past between the different branches of the Legislature of this province, respecting the appropriation of the revenue, have engaged His Majesty's serious attention, and that he has directed careful inquiry to be made in what manner those questions may be finally adjusted, with a due regard to the prerogative of the Crown, as well as to your constitutional privileges, and to the general welfare of His faithful subjects in Lower Canada.

I have it further in command to state, that the statutes passed in the 14th and 31st years of the reign of his late Majesty have imposed upon the Lords Commissioners of His Majesty's Treasury the duty of appropriating the produce of the revenue granted to His Majesty by the first of those statutes, and that whilst the law shall continue unaltered by the same authority by which it was framed, His Majesty is not authorized to place that revenue under the direct control of the Legislature of this province.

The proceeds of the revenue arising from these duties, and from the provincial statute 35 Geo. 3, c. 9, may be estimated for the current year at the sum of £. The produce of the casual and territorial revenue of the Crown, and of fines and forfeitures, may be estimated for the same period at the sum of £. These several sums, making together the sum of £., constitute the whole estimated revenue arising in this province, which the law has placed at the disposition of the Crown.

His Majesty has been pleased to direct, that from this collective revenue of £. the salary of the officer administering the government of the province, and the salaries of the judges, shall be defrayed. But His Majesty being graciously disposed to mark in the strongest manner the confidence which He reposes in the liberality and affection of His faithful Commons of this province, has been pleased to command me to announce to you, that no further appropriation of any part of this revenue will be made until I shall have been enabled to become acquainted with the sentiments of the Legislative Council and House of Assembly of the province, as to the most advantageous mode in which it can be applied to the public service. And it will be gratifying to His Majesty, if the recommendation made to the Executive Government of the province on this subject shall be such as it may be able with propriety, and with due attention to the interests and the efficiency of His Majesty's Government, to adopt.

His Majesty fully relies upon the liberality of His faithful Commons of Lower Canada, to make such further provision as the exigencies of the public service of the province (and for which the amount of the Crown revenues above mentioned may prove inadequate) may require.

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

I am further commanded to recommend to you the enactment of a law for the indemnity of any persons who have heretofore, without legal authority, signed or acted in obedience to warrants for the appropriation to the public service of any unappropriated monies of this province. And His Majesty anticipates that you will, by an acquiescence with this recommendation, show that you cheerfully concur with Him in the efforts which He is now making for the establishment of a permanent good understanding between the different branches of the Executive and Legislative Government.

The proposals which I have been instructed thus to make to you, for the adjustment of the pecuniary affairs of the province, are intended to meet the difficulties of the present year, and I trust they may be found effectual for that purpose.

His Majesty has, however, further commanded me to acquaint you, that a scheme for the permanent settlement of the financial concerns of Lower Canada is in contemplation, and His Majesty entertains no doubt of such a result being attainable as will prove conducive to the general welfare of the province, and satisfactory to His faithful Canadian subjects.

N^o 9.—COPY of a Despatch from Secretary Sir George Murray to Major General Sir John Colborne.

SIR,

Downing Street, 29th Sept. 1828.

I have the honour herewith to transmit to you the copy of a despatch, with its enclosure, which I have addressed to Sir James Kempt, administering the government of Lower Canada. As this despatch explains the views of His Majesty's Government upon some topics of great importance connected with the government of Lower Canada, it has appeared to me necessary that you should be apprised of its contents with the least possible delay. However widely the circumstances of the two provinces may in some respects differ, there is so close a resemblance in the general principles and forms of their government, and so intimate a relation between them, that no considerable measure which may be adopted in the one, can be without its effect in the other.

Upon several of the subjects, however, noticed in my despatch to Sir James Kempt, it is unnecessary that I should make any observations to your Excellency, since those embarrassments, which have grown out of the distinctions of religion and of lineage in Lower Canada; do not exist in the Upper Province.

I shall, therefore, confine myself on the present occasion to the following topics:—the revenue, the clergy reserves, education, the Executive and Legislative Councils, and the appointment of an agent. These are subjects in which the two Canadas are both interested, and it will probably be found necessary, therefore, to act upon some common principle with regard to them in the two provinces.

I do not find that the question of the right of the Crown to the appropriation for the public service of the revenue arising from the statute 14 Geo. 3, c. 88, has ever been brought into question in Upper Canada. The Provincial Government, acting under instructions from this department, or in pursuance of warrants from the Lords Commissioners of the Treasury, have applied this money to the public service, without any claim having been put forward on the part of the House of Assembly to control the appropriation. Your Excellency is aware that in Lower Canada the Assembly have not only disputed the right of the Crown as a mere abstract question, but have adopted strong practical measures towards establishing a control over the appropriation of the whole of this revenue. The cause of this distinction between the proceedings of the two provinces appears to have been, that in Lower Canada, the Crown, being unable to sustain the entire public expenditure, had annually to apply for aid to the Assembly, and thus brought the whole of the revenue and expenditure virtually within its cognizance. In Upper Canada, as I understand, the revenue of the Crown has hitherto proved adequate to the support of the civil government and of the administration of justice; and no occasion has, therefore, arisen for financial discussions of a similar nature between the Local Government and the House of Assembly.

On referring to my despatch to Sir James Kempt, it will be perceived that His Majesty's Government has not acknowledged the right of the House of Assembly of Lower Canada to participate in the appropriation of the revenue above alluded to, but has rather maintained, in conformity with the opinions of the principal law officers of the Crown, that this is a duty confided to His Majesty by Parliament, and of which, without the previous sanction of Parliament, the Crown cannot divest itself.

It is impossible not to perceive, however, that discussions may arise in Upper Canada in regard to the method which has hitherto been pursued for appropriating this revenue, and that your Excellency may be pressed with claims to which your predecessors in office have not been exposed. It is with a view to this contingency, that I have thought it peculiarly necessary to supply you with the instructions given to Sir James Kempt upon this subject, that they may serve as a guide to yourself if necessary.

And in that case, you will make to the Legislative Council and House of Assembly a communication corresponding, as closely as circumstances will admit, to the address which I have authorized Sir James Kempt to make to the Legislature of Lower Canada.

But should the contingency above adverted to not occur, no communication need of course be made of the instructions with which I have deemed it expedient that you should be furnished with reference to this subject.

On the subject of clergy reserves, I have to acknowledge the receipt of a despatch from Sir Peregrine Maitland, dated the 12th of May, enclosing an

address from the House of Assembly to His Majesty, praying that the monies arising from the sale of lands set apart in the province for the support and maintenance of a Protestant clergy, may be placed at the disposal of the Legislature of the province, for defraying the expense of certain public works for the internal improvement of the country, and for the promotion of general education.

In this address it is stated that only a small proportion of the inhabitants of the province are members of the church of England, and that the university recently established under the royal charter will produce no practical benefit to the majority of the people, but will be regarded with distrust in consequence of the peculiar privileges which it confers upon members of the English church; it is therefore desired that a new charter may be granted upon more comprehensive principles.

Your Excellency will acquaint the House of Assembly that I have laid their address before the King, and that I have it in command to convey, through you, to the House, the expression of His Majesty's satisfaction in the assurances of loyalty and attachment to His person and government, which are contained in this address. You will further assure them that His Majesty will at all times receive with the most serious attention any representation which may be made to Him by the representatives of His faithful subjects in Upper Canada, in the Provincial Parliament assembled, for advancing the prosperity of this important and interesting portion of His dominions.

Your Excellency is, however, aware that the existing Acts of Parliament have placed in the hands of His Majesty's Government a very limited discretionary authority respecting the appropriation of the clergy reserves, or the proceeds arising from their sale: in case of its being deemed proper, however, to bring the whole of this subject under the revision of Parliament, with a view to the amendment of the existing statutes, it will be desirable that I should be provided with returns from your Excellency on the subject of the clergy reserves in Upper Canada, similar to those which I have directed Sir James Kempt to transmit to me with reference to the reserves in the Lower Province.

It would be deservedly a subject of regret to His Majesty's Government if the university recently established at York should prove to have been founded upon principles which cannot be made to accord with the general feelings and opinions of those for whose advantage it was intended.

I have observed that your predecessor in the government of Upper Canada differs from the House of Assembly as to the general prevalence of objections to the university, founded upon the degree of exclusive connection which it has with the church of England; it seems reasonable to conclude, however, that on such a subject as this, an address adopted by a full House of Assembly, with scarcely any dissentient voices, must be considered to express the prevailing opinion in the province upon this subject.

In the event, therefore, of its appearing to you to be proper to invite the Legislative Council and Assembly to resume the consideration of this question, you will apprise them that their representations on the existing charter of the university have attracted the serious attention of His Majesty's Government; and that the opinions which may be expressed by the Legislative Council and House of Assembly on that subject will not fail to receive the most prompt and serious attention.

I have further to acknowledge a despatch from Sir Peregrine Maitland, dated the 15th May last, enclosing an address from the House of Assembly to His Majesty, praying that the chief justice of Upper Canada may no longer be a member of the Executive Council, and that the judges may be rendered independent both of the Crown and of the people. I have had the honor to lay this address before the King, which His Majesty has been pleased to receive very graciously.

I am, however, to observe to your Excellency, that on the subject of the independence of the judges, by which I presume is meant their being commissioned to hold office during good behaviour, and not during pleasure, there are at this moment difficulties to which the Assembly may not perhaps have adverted. In a society so limited in numerical amount, so much dispersed over an extensive territory, and so liable from its popular institutions to be divided into parties, it would, I fear, be very difficult to provide any effective control upon the conduct of a judge who was totally exempt from all personal dependence. The wholesome restraint of public opinion, and even the dread of actual impeachment, might fail sometimes to have sufficient effect upon the mind of a judge, who should, under such circumstances, be actuated by an undue desire of popularity, or be ambitious of the unbecoming distinction, in his station, of figuring as the leader of a party. It is

is however, with a view solely to the welfare of the province, and to the impartial administration of justice, that His Majesty's Government hesitates to remove from the judges in Upper Canada their direct responsibility to the Crown; that responsibility will be enforced, however, only upon the most serious occasions, and a time may be expected to arrive when the proposed change in the commissions of the judges may very properly be made.

But for the present, I conceive that the interests of the province in this matter will be best consulted by postponing the proposed alteration.

With reference to the chief justice retaining his seat in the Executive Council, your Excellency will have the goodness to consider the instruction which I have conveyed to Sir James Kempt upon the subject of councils, as virtually addressed to yourself, and you will transmit to me a report upon that question, embracing the several topics to which I have directed him to advert.

The House of Assembly of Upper Canada have not, so far as I am aware, expressed a wish for the appointment of an agent in Europe: but if they should deem that measure expedient, you will acquiesce in their wishes, subject only to those conditions which I have required in my despatch to Sir James Kempt.

I have the honour to be, Sir,

Your most obedient humble Servant,

(signed) G. MURRAY.

N^o 10. — COPY of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray.

Castle of Saint Louis,

Quebec, 22d November 1828.

SIR,

I have the satisfaction to acquaint you, that I yesterday opened the session of the Provincial Parliament of this province, by a speech addressed to the Legislative Council and House of Assembly, of which the enclosed is a copy.

I have the honour likewise to transmit some printed copies of the speech, as well as of the proceedings that took place previous to the delivery of the same. My time only permits me to make this hasty communication at present; I shall however have the honour to address you a despatch more in detail by the earliest opportunity.

I have the honour to be, Sir,

Your most obedient humble servant,

(signed) JAMES KEMPT.

Speech of his Excellency Lieutenant General Sir James Kempt, G. C. B., at the opening of the Provincial Parliament of Lower Canada.

Quebec, 21 November 1828.

Gentlemen of the Legislative Council;
Gentlemen of the House of Assembly:

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

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

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

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

of conveying to you by message a communication from His Majesty, which I have been specially commanded to make to you upon the subject of the appropriation of the provincial revenue.

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

Gentlemen of the House of Assembly :

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

Gentlemen of the Legislative Council ;

Gentlemen of the House of Assembly :

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

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

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

N° 11.—COPY of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray.

Castle of Saint Louis,

Quebec, 28th November 1828.

SIR,

I had the honour of acknowledging, on the 15th instant, the receipt of your despatch (N° 1.) of the 29th of September last, communicating to me the views of His Majesty's Government on various subjects of great importance connected with the government of this province, and conveying instructions for my guidance in bringing the same under the consideration of the Provincial Parliament. It becomes my duty now to report to you the manner in which these instructions have been obeyed.

The Provincial Parliament met on the 21st instant, as announced to you in my letter of the 22d instant; and I had at the same time the honour of transmitting to you a copy of the speech with which I opened the session.

I thought it best for several reasons not to incorporate in the speech the address respecting the revenue enclosed in your despatch, but merely to state in a general way that I had received His Majesty's commands to make a special communication to the Provincial Parliament upon that subject, and other important topics to which the attention of His Majesty's Government had been called.

I have accordingly made this communication to both Houses of the Legislature, and I have the honour herewith to transmit for your information a copy of the message I this day addressed to the Assembly.

You will observe that the draft which accompanied your despatch is therein inserted, and the blanks filled up with the estimated revenue at the disposal of the Crown for the ensuing year; it amounts altogether, as you will see, to 38,100 L.
sterling,

sterling, including however the duties levied under the provincial statute 41 Geo. 3, c. 13 and 14, which you had omitted to notice; indeed the Act produced no revenue whatever till within the last two years.

The message also contains the substance, or rather a literal copy of your despatch, upon all the subjects which I deemed it right to communicate to the Legislature. I did not think it prudent to advert in any way to those topics on which you desire me to furnish you with information, apprehending that the discussion of them at the *present time* would answer no good purpose whatever. The topics to which I allude are, the mutation of tenures under the statute 6 Geo. 4, c. 59, the Jesuits estates, the constitution of the Legislative and Executive Councils, the clergy reserves, and the representation of the townships. To all these important matters, I shall not fail to give my best attention; but the subjects being quite new to me, it will require time to obtain the information which you desire, and which it will be my endeavour to communicate to you with as little delay as possible.

I have the honour to be,

(signed) JAMES KEMPT.

(signed) JAMES KEMPT.

His Excellency, the administrator of the government, avails himself of the earliest opportunity of conveying to the House of Assembly the following communication, which he has received the King's commands to make to the Provincial Parliament.

In laying the same before the House of Assembly, his Excellency is commanded by His Majesty to state, that His Majesty has received too many proofs of the loyalty and attachment of His Canadian subjects to doubt their cheerful acquiescence in every effort which His Majesty's Government shall make to reconcile past differences; and He looks forward with hope to a period when, by the return of harmony, all branches of the Legislature will be able to bestow their undivided attention on the best method of advancing the prosperity and developing the resources of the extensive and valuable territories comprised within His Majesty's Canadian provinces.

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

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

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

His Excellency is further commanded to state, that the statutes passed in the 14th and 31st years of the reign of his late Majesty have imposed upon the Lords Commissioners of His Majesty's Treasury the duty of appropriating the produce of the revenue granted to His Majesty by the first of the statutes; and that whilst the law shall continue unaltered by the same authority by which it was framed, His Majesty is not authorized to place the revenue under the direct control of the Legislature of this province.

The proceeds of the revenue arising from the Act of the Imperial Parliament 14 Geo. 3, together with the sum appropriated by the provincial statute 35 Geo. 3,

and the duties levied under the provincial statutes 41 Geo 3, c. 13 and 14, may be estimated for the current year at the sum of 34,700 £. ^(a)

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

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

His Majesty has been pleased to direct, that from this collective revenue of 38,100 £. the salary of the officer administering the government of the province, and the salaries of the judges, shall be defrayed. But His Majesty being graciously disposed to mark in the strongest manner the confidence which He reposes in the liberality and affection of His faithful Commons of this province, has been pleased to command his Excellency to announce to the Assembly, that no further appropriation of any part of this revenue will be made until his Excellency shall have been enabled to become acquainted with their sentiments as to the most advantageous mode in which it can be applied to the public service; and it will be gratifying to His Majesty if the recommendation made to the Executive Government of the province on this subject shall be such as it may be able, with propriety, and with due attention to the interests and the efficiency of His Majesty's Government, to adopt.

His Majesty fully relies upon the liberality of His faithful Commons of Lower Canada to make such further provision as the exigencies of the public service of the province (for which the amount of the Crown revenues above mentioned may prove inadequate) may require.

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

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

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

His Majesty has, however, further commanded his Excellency to acquaint the Assembly that a scheme for the permanent settlement of the financial concerns of Lower Canada is in contemplation, and His Majesty entertains no doubt of such a result being attainable as will prove conducive to the general welfare of the province, and satisfactory to His faithful Canadian subjects.

The complaints which have reached His Majesty's Government respecting the inadequate security heretofore given by the receiver-general, and by the sheriffs, for the due application of the public monies in their hands, have not escaped the very serious attention of the Ministers of the Crown.

It has appeared to His Majesty's Government that the most effectual security against abuses in these departments would be found in enforcing, in this province, a strict adherence to a system established under His Majesty's instructions in other colonies, for preventing the accumulation of balances in the hands of public accountants, by obliging them to exhibit their accounts to a competent authority at short intervals, and immediately to pay over the ascertained balance into a safe place of deposit, and in order to obviate the difficulty arising from the want of such place of deposit in Lower Canada, his Excellency is authorized to state that the Lords Commissioners of His Majesty's Treasury will hold themselves responsible to

(^a) 14 Geo. 3. - - - -	£. 25,500	(^b) Casual Revenue - - - -	£. 3,000
35 Geo. 3. - - - -	5,000	Fines and Forfeitures - - -	400
41 Geo. 3. - - - -	4,200		<u>£. 3,400</u>
	<u>£. 34,700</u>		

the province for any sums which the receiver-general or the sheriffs may pay over to the commissary-general; and his Excellency is instructed to propose to the Assembly, the enactment of a law binding those officers to pay over to the commissary-general such balances as upon rendering their accounts to the competent authority shall appear to be remaining in their hands, over and above what may be required for the current demands upon their respective offices; such payments being made on condition that the commissary-general shall be bound, on demand to deliver bills on His Majesty's Treasury for the amount of his receipts.

His Excellency is further instructed to acquaint the Assembly, that although it was found necessary by an Act passed in the last session of the Imperial Parliament, 9 Geo. 4, c. 76, s. 26, to set at rest doubts which had arisen whether the statute for regulating the distribution, between the provinces of Upper and Lower Canada, of the duties of customs collected at Quebec, had not been inadvertently repealed by the general terms of an Act of a later date, His Majesty's Government have no desire that the interference of Parliament in this matter should be perpetuated, if the Provincial Legislatures can themselves agree upon any plan for a division of these duties, which may appear to them more convenient and more equitable; and on the whole of this subject His Majesty's Government will be happy to receive such information and assistance as the Assembly of this province may be able to supply.

The appointment of an agent in England to indicate the wishes of the inhabitants of Lower Canada, appearing to be an object of great solicitude with the Assembly, His Majesty's Government will cheerfully accede to the desire expressed by the Assembly upon this head, provided that such agent be appointed, as in other British colonies, by name, in an Act to be passed by the Legislative Council and Assembly, and approved by the Executive Government of the province; and His Majesty's Government are persuaded that the Legislature will not make such a selection as to impose upon the Government the painful and invidious duty of rejecting the bill, on the ground of any personal objection to the proposed agent.

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

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

The attention of His Majesty's Government has also been drawn to several other important topics; among which may be enumerated, the mischiefs which are said to result from the system of tacit mortgages effected by a general acknowledgment of a debt before a notary; the objectionable and expensive form of conveyancing said to be in use in the townships; the necessity of a registration of deeds, and the want of proper courts for the decision of causes arising in the townships. Regulations affecting matters of this nature can obviously be most effectually made by the Provincial Legislature, and his Excellency is commanded to draw the attention of the Assembly to these subjects, as matters requiring their early and most serious attention.

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

Castle of St. Louis,
28th Nov. 1828.

N^o 12.—COPY of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray.

SIR,

Castle of Saint Louis,
Quebec, 28th November 1828.

Having had the honour to transmit to you a copy of the speech with which I opened the present session of the Provincial Parliament on the 21st instant, I now take leave to enclose for your information, copies of the addresses presented to me by the Legislative Council and Assembly, in answer to the same, together with my replies to both Houses.

I have the honour to be, Sir,
Your most obedient humble servant,
(signed) JAMES KEMPT.

To his Excellency Sir James Kempt, Knight Grand Cross of the most honourable Military Order of the Bath, Captain General and Governor in Chief in and over the Provinces of Lower Canada, Upper Canada, &c. &c. &c.

May it please your Excellency,

We, His Majesty's dutiful and loyal subjects, the Legislative Council of Lower Canada, in Provincial Parliament assembled, beg leave to return your Excellency our humble thanks for your speech from the Throne. At the same time we desire to express our gratitude to His Majesty for having chosen an officer of your Excellency's distinguished character, talents and experience, to administer the government of this province.

The important situation to which His Majesty has been pleased to appoint your Excellency is at this period one of peculiar difficulty; but the confidence we place in your Excellency's qualifications leaves no doubt on our minds of your fulfilling the duties of your high office to the satisfaction of His Majesty, and the benefit of his faithful and loyal subjects in this province; and we beg leave to assure your Excellency of our cordial co-operation in your Excellency's administration of the government.

The exertions of your Excellency towards conciliation, and the re-establishment of a good understanding between the different branches of the Legislature, will not fail materially to promote the prosperity of the country; and we have the fullest confidence that your Excellency's measures will be so directed as to maintain alike the prerogatives of the Crown, and the constitutional privileges of both Houses of the Provincial Parliament.

We shall receive with respectful attention such communications from His Majesty, upon the subject of the appropriation of the provincial revenue, and of the views of His Majesty's Ministers upon such other topics connected with the government of the province, as your Excellency shall be pleased to lay before us; and we thank your Excellency for the assurance of your assistance in the elucidation of such questions as may arise in the course of our proceedings.

Your Excellency may be assured of our giving immediate attention to the renewal of such Acts as have recently expired, and to all matters of public interest, as shall appear of pressing necessity and importance; and on all occasions, when your Excellency shall be pleased to recommend to us measures of public improvement, we shall not fail to give them our most serious consideration.

We justly appreciate the great advantages to be derived from good roads and other internal communications; and we coincide with your Excellency in opinion, that a liberal system of education, and a well organized and efficient militia force, are indispensable to the happiness and security of the inhabitants of this province. We shall, therefore, with zeal and assiduity endeavour to promote these very important objects to which your Excellency has been pleased to direct our attention.

We trust your Excellency will find us earnestly disposed to proceed in a spirit of harmony and conciliation to the dispatch of public business; and it will be to us a source of the purest satisfaction to co-operate in your Excellency's enlightened views, for the general interests of the province, to remove all cause of jealousy and dissension, where such may be found to exist, and to contribute by every other means in our power to render this part of the British dominions one of the most opulent and flourishing portions of the American continent.

Legislative Council, Saturday, 22d November 1828.

Ordered—That the Honourable Messrs. Hale and Debartzch do wait on his Excellency the Governor in Chief, humbly to know what time his Excellency will be pleased to appoint to be attended by the whole House with the said address.

Attest.

(signed) *Wm. Smith.*

To which his Excellency was pleased to return the following answer :

Gentlemen,

I thank you most sincerely for this very gratifying address.

In discharging the duties of my station, the prosperity of the province, and the happiness of its inhabitants, will be the great objects of my endeavours; and I receive with peculiar satisfaction the assurance which you are pleased to give me of your cordial co-operation in my administration of the government.

To his Excellency Sir James Kempt, G. C. B., Administrator of the Government of the Province of Lower Canada, &c. &c. &c.

May it please your Excellency,

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

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

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

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

We are persuaded that good roads, and other means of internal communication, a general system of education established on sound principles, an effective militia legally organized and sufficiently protected from the abuse of arbitrary authority, singularly contribute to the prosperity, welfare and security of a country. We shall not fail to deliberate maturely upon matters of such high importance; and

the sentiments expressed by your Excellency lead us to hope that we shall apply to them with effect. We shall pay respectful attention to such recommendations as your Excellency may hereafter make to us upon other measures of public improvement ; and we feel assured that they will ever be founded on the high interests of the province and the wants of its inhabitants.

We have ever been convinced of the justice and liberality of His Majesty's Government, and we believe it really desires to remedy as far as possible, the grievances we have to complain of, of which we find a striking, and to us a very consolatory proof, in the result of the petitions recently laid before His Majesty's Imperial Government, by a very large majority of our constituents, against the multiplied and deeply rooted grievances which have long retarded the progress and prolonged the infancy and weakness of this colony. As soon as the inhabitants of Lower Canada made known to the King the sufferings of the country, and suggested the remedy for those evils, as soon as their humble petitions were laid at the foot of the Throne, the Sovereign, ever inclined towards *constantly faithful subjects*, positively ordered that those petitions should be forthwith submitted to the supreme tribunal of the empire. The charges and well founded complaints of the Canadians before that august senate, were referred to a Committee of the House of Commons, *indicated* by the Colonial Minister; that Committee, exhibiting a striking combination of talent and patriotism, uniting a general knowledge of public and constitutional law to a particular acquaintance with the state of both the Canadas, formally applauded almost all the reforms which the Canadian people and their representatives demanded and still fervently demand. After a solemn investigation, after deep and prolonged deliberation, the Committee made a report, an imperishable monument of their justice and profound wisdom, an authentic testimonial of the reality of our grievances and of the justice of our complaints, faithfully interpreting our wishes and our wants. Through this report, so honourable to its authors, His Majesty's Government has become better than ever acquainted with the true situation of this province, and can better than ever remedy existing grievances, and obviate difficulties for the future. We feel assured that your Excellency has it personally at heart to provide for the contentment and welfare of the inhabitants of this province ; and we cannot doubt of the weight which the recommendations and testimony of a distinguished officer, whose public career has merited and obtained success by rendering important services to the country, must have with His Majesty. By the concurrence of all these circumstances, we observe in your Excellency a combination of means and facilities for effecting good, such as none of your predecessors has possessed. We shall receive with respectful confidence, and shall consider with mature reflection, the views of His Majesty's Government upon the several topics connected with the government of this province, to which the attention of His Majesty's Ministers has been applied. We consider these topics as of the highest importance to the tranquillity and welfare of the inhabitants of this province ; and we humbly thank your Excellency for the assistance which you are pleased to offer towards the elucidation of any questions which may arise for discussion in the course of our proceedings. We are sincerely grieved at the arbitrary and manifestly illegal acts, which, by depriving the province of the aid of its Legislature during the whole of last year, have occasioned very grievous evils, and put your Excellency under the necessity of laying before us the accounts of provincial revenue and expenditure for two years, instead of one only. We nevertheless assure your Excellency that we shall apply the most scrupulous attention to those accounts when your Excellency shall have laid them before us, and that we shall gratefully avail ourselves of any explanations which your Excellency may please to communicate to us respecting them.

We respectfully assure your Excellency, that the sole but infallible remedy for the jealousies and dissensions of which an oblivion is assuredly the first step towards improvement of every kind, is a conciliatory, impartial and constitutional administration, such as we confidently expect from your Excellency ; and in that consolatory hope we shall make every endeavour, in order that the Executive Government and the Legislature may apply their undivided attention to the advancement of the general interest in a spirit of cordial co-operation ; and we doubt not with such advantages Lower Canada will rapidly advance towards prosperity, and emulate ere long the most opulent and flourishing portions of the North American continent.

To which his Excellency was pleased to return the following answer :

Gentlemen,

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

It is very gratifying to me to learn that your sentiments so entirely accord with my own upon the points to which I have adverted upon opening the session, and to receive the assurance which you are now pleased to give me of your zealous co-operation of my administration of the government. You do His Majesty but justice in believing he has never ceased to feel an affectionate regard and paternal solicitude for the welfare of his faithful Canadian subjects; and you may be assured that I have nothing so earnestly at heart as to promote their happiness and prosperity by every means in my power.

N° 13.—COPY of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray.

Castle of St. Louis,

Quebec, 13th December 1828.

SIR,

In my despatch, N° 17, of the 28th ultimo, I had the honour of transmitting for your information, the copy of a message which I sent on that day to both Houses of the Provincial Parliament, communicating to them the substance of your despatch of the 29th September, upon the subject of the Provincial Revenue, and other matters of great importance to which the attention of His Majesty's Government had been called.

I have now the honour to inform you that the Legislative Council and Assembly acknowledged this communication in the usual manner on the following day; and it further becomes my duty to transmit to you the enclosed address of the Lower House, which was presented to me yesterday, together with the accompanying Resolutions, which I have been requested to transmit to His Majesty's Government.

I had entertained a hope that the House of Assembly would have been disposed to accede to the arrangement suggested in the message, in respect to the appropriation of the revenue, after the public declaration of His Majesty's sentiments and gracious intentions, and of His Majesty's inability to divest himself of duties which the Acts of the 14th and 31st of the late reign had imposed upon the Crown, so long as the first of these statutes shall continue unaltered by the same authority by which it was framed; but you will see by these Resolutions, that the Assembly deny the right of the Crown to appropriate, through the Lords of the Treasury, the duties levied under the 14 Geo. 3, or any other duties levied in the province, without their direct superintendence and control, although the statutes under which they are levied may have placed the duties at His Majesty's disposal.

Upon this question I do not venture to give any opinion. It has engaged the attention of His Majesty's Ministers, and the highest judicial authorities in England; and His Majesty's Government will doubtless take such measures upon the occasion as may appear to them to be proper and expedient; but I am very desirous of receiving instructions from you for my guidance, as to the mode and manner of my accepting of the sums required (in addition to the revenue at the disposal of the Crown) to defray the expenses of the Government.

I have been given to understand that the Appropriation Bill, accepted by Sir Francis Burton in 1825, will be proposed to me in the present session; but it was deemed by Lord Bathurst to compromise the rights of the Crown; and being in possession of his Lordship's despatch of the 4th of June 1825, and the sentiments of His Majesty's present Ministers, as to the undoubted right of the Crown to appropriate the revenue placed by law at the disposal of His Majesty, I shall not consider myself authorized to sanction any measure of a similar nature, if proposed to me, without instructions from you to do so.

I send this despatch by the way of New York, thinking it of importance that you should be in put in possession of the Resolutions of the House of Assembly,

herewith transmitted, with as little delay as possible; and I shall hope to be honoured with a communication from you, in answer to the same, in the course of the month of March.

I have the honour to be, &c.

(signed) JAMES KEMPT.

To his Excellency Sir James Kempt, Knight Grand Cross of the most honourable Military Order of the Bath, Lieutenant General and Commander in Chief of all His Majesty's forces in the Provinces of Lower Canada and Upper Canada, Nova Scotia and New Brunswick, and their several Dependencies, and in the Island of Newfoundland, and Administrator of the Government of the Province of Lower Canada, &c. &c. &c. :

May it please your Excellency,

We, His Majesty's dutiful and loyal subjects, the Commons of the province of Lower Canada, ever anxious to accede to His Majesty's gracious intentions for the happiness and prosperity of His faithful Canadian subjects, have most respectfully taken into consideration your Excellency's message of the 28th of November last, and have come to certain Resolutions as expressive of our sentiments on the important matters therein contained.

We most humbly pray your Excellency to receive these Resolutions, which we have now most respectfully to present; and that your Excellency would be pleased to transmit the same to His Majesty's Government, with our humble assurance of a sincere desire to merit a continuance of His Majesty's confidence in our loyalty and duty.

(signed) *L. J. Papineau*,
Speaker of the House of Assembly.

House of Assembly, Lower Canada,
Saturday, 6th Dec. 1828.

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

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

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

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

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

Resolved,

Resolved, That in order to meet the difficulties of the ensuing year, and to second the gracious intentions of His Majesty for the permanent settlement of the financial concerns of the province, with due regard to the interests and efficiency of His Government, this House will most respectfully consider any estimate for the necessary expenses of the civil government for the ensuing year, which may be laid before it, confidently trusting that in any such estimate a due regard will be had to that economy which the present circumstances of the country and its other wants require.

Resolved, That on the permanent settlement before mentioned being effected with the consent of this House, it will be expedient to render the governor, lieutenant-governor, or person administering the government for the time being, the judges and executive councillors, independent of the annual vote of this House, to the extent of their present salaries.

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

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

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

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

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

Resolved, That this House will cheerfully concur in any measure which may appear most likely to be successful in effectually removing the great inconvenience which has been sustained from the non-performance of the duties of settlement by grantees or holders of land obtained from the Crown, and otherwise remove the obstructions to the settlement of the country, which may have resulted or may hereafter result from the manner in which the powers and superintendence of the Crown in this most essential particular, as affecting the general prosperity of the province, may have been exercised.

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

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

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

The independence of the judges and their removal from the political business of the province; the responsibility and accountability of public officers; a greater independence of support from the public revenues, and more intimate connection with the interest of the colony, in the composition of the Legislative Council; the application of the late property of the Jesuits to the purposes of general education; the removal of all obstructions to the settlement of the country, particularly by crown and clergy reserves remaining unoccupied in the neighbourhood of roads and settlements, and exempt from the common burthens; and a diligent inquiry into and a ready redress of all grievances and abuses which may be found to exist, or which may have been petitioned against by the subjects in this province, thereby assuring to all the invaluable benefit of an impartial, conciliatory and constitutional government, and restoring a well-founded and reciprocal confidence between the governors and the governed.

Attest. *W^m B. Lindsay,*
Dep^y Clerk of Ass^y.

N^o 14.—Copy of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray.

SIR,

Castle of St. Louis,
Quebec, 5th February 1829.

I have the honour herewith to transmit to you an address which was presented to me this day by the Legislative Council of this province; and in compliance with the request therein expressed, I also transmit the exposition which accompanied it.

I have the honour to be, &c. &c. &c.

(signed) JAMES KEMPT.

To His Excellency Sir James Kempt, Knight Grand Cross of the most honourable Order of the Bath, Lieutenant General and Commander of all His Majesty's Forces in the Provinces of Lower Canada and Upper Canada, Nova Scotia, New Brunswick, and their several Dependencies, and in the Island of Newfoundland, and Administrator of the said Province of Lower Canada :

May it please your Excellency,

His Majesty's dutiful and loyal subjects, the Legislative Council of Lower Canada, in Provincial Parliament assembled, beg leave to approach your Excellency, for the purpose of laying before you an exposition of such parts of their public conduct as have been made subjects of animadversion on the proceedings had before the Select Committee of the House of Commons, appointed to inquire into the state of the civil government in Canada, and in the report of that Committee.

These proceedings were entirely *ex parte*; yet they have been printed by order of the House of Commons, and ordered by the Assembly to be reprinted in English and French, for public circulation, and entered "in perpetuam rei memoriam," in the Appendix to their Journal.

The Legislative Council, under these circumstances, have felt it to be imperiously their duty to adopt the course which they are now pursuing. Their silence might be construed to be an acknowledgment of the truth of the calumnious and injurious accusations which are contained in these proceedings; and to such an imputation they cannot submit.

The Legislative Council therefore most humbly pray, that your Excellency will be pleased to transmit, with all convenient speed, to the Right honourable the Secretary of State for the Colonial Department, the accompanying exposition of their motives and conduct, to the end that such course may be adopted therein as to

His

His Majesty's ministers may seem most fitting, for the more effectual maintenance of the honour, the integrity, the constitutional rights, and the independence of this House.

Legislative Council Chamber,
4th February 1829.

Signed by order,
J. Sewell, Speaker.

AN Exposition by the Legislative Council of Lower Canada, in vindication of such parts of their public conduct as have been made subjects of animadversion in the proceedings had before the Select Committee of the House of Commons, appointed to inquire into the state of the Civil Government in Canada, and in the Report of that Committee of the 22d day of July 1828.

THE Legislative Council of the Province of Lower Canada have seen, with surprise and regret, in the proceedings had before the Select Committee of the Honourable The House of Commons, appointed in the last session to inquire into the state of the civil government of Canada, as established by the Act 31 Geo. 3, c. 31, and in the Report of the said Committee founded thereon, insinuations and opinions which deeply affect their public character, and call for observations, which they trust will effectually show that the imputations preferred against the honour and constitution of the Legislative Council, to which they refer, are entirely without foundation.

The Legislative Council have been guided, in the important trust confided to them, as a co-ordinate and independent branch of the Provincial Legislature, by the general principles of the British constitution, under a limited monarchy, and by the practice of the Houses of Lords and Commons, as being, from analogy, and in other respects, the most fit to govern their proceedings under the abovementioned Act, which established the provincial constitution of Lower and Upper Canada, with a closer approximation to the British model than that of any other colony.

It is therefore a source of the greatest concern to the Legislative Council, that their proceedings should be considered as having been improperly influenced, and that the rejection of or refusal to concur in bills passed by the Assembly should be attributed to such influence, when no instance can be adduced in which any member of this House has been influenced by the King's late representative, or any other of his Majesty's representatives in Lower Canada, against any measure proceeding from the Assembly; and by reference to the Journals of this House, it will be found that members of the Legislative Council, holding offices with salaries, and others holding seats in the Executive Council, have frequently voted and protested against bills and other measures alleged to be acceptable to government, which were passed by a majority, including members who held no office under government.

It must not escape attention, that the contest between the Legislative bodies in Lower Canada has involved principles, and not mere forms, and that those principles which have governed the Legislative Council cannot be abandoned, unless an Act of the Imperial Parliament shall alter the present provincial constitution, and direct a change of proceeding; for the Legislative Council never can consent to degrade themselves into a body acting as if merely instituted *pro forma* to register the decisions of another branch of the legislature, instead of one constitutionally and expressly established to check encroachments, either of the Crown or the people, and to bear a part in the important duties of legislation. To fulfil those high duties they necessarily must exercise the right of free and independent discussion, deliberation and decision, upon all public measures submitted to them; and such a course of conduct they consider as entitled to approbation, instead of censure, either direct or implied.

For an exposition of the principles and reasons which induced them to reject four bills of Supply and Indemnity, sent up by the Assembly in 1823, the Legislative Council refer to a Report of a Committee of their House of the year 1823, and the Address to His Majesty of the 6th March 1824, founded thereon.

One important point of difficulty was the revenue raised in this province, under the Act of the British Parliament, 14 Geo. 3, c. 88; and here the Legislative Council contend, that in their construction of that Act, they are borne out by its plain meaning, by the confirmation of it by subsequent Acts, by the opinion of the law officers of the Crown, and by his Majesty's message to the Legislative Council

of the 28th November last, nor can any other construction be adopted without involving consequences the most inconsistent with any just and reasonable principle of interpretation; for if the appropriation of the duties levied under that Act could be considered as abolished by the 18th Geo. 3, c. 12, the power to levy them must also be held to have been abrogated, and it would follow, that all that has been collected since 1778 must, in such case, have been unlawfully taken; but the Legislative Council have uniformly held, that it is legally beyond the power of the Provincial Legislature to alter or apply those duties by any vote of theirs, nor can they be touched but by the same authority that imposed them; and they have always proceeded upon that principle.

The Legislative Council have derived further argument, in confirmation of this principle, from a grant of 5,000*l.* sterling a year having been permanently appropriated by the Provincial Act, 35 Geo. 3, c. 9, "towards further defraying the expenses of the administration of justice, and of the support of the civil government in the province." The terms of this Provincial Act furnish additional proof of the continued and present existence of the revenue and appropriation under the 14th Geo. 3, and of the propriety of the construction for which the Legislative Council contend, since the Provincial Act uses the very words of appropriation contained in the other, and designates the grant as a further appropriation, or in addition to that made by the British statute; for there was no other Provincial Act at that period for raising and applying revenue for those purposes to which this *further grant* could be taken to refer.

But the Assembly having attempted to make an annual appropriation as well of the monies levied under those two Acts, although already permanently appropriated, as of the King's casual and territorial revenue, it appeared to the Legislative Council that this attempt of the Assembly to interfere in the application of the revenues under the 14 Geo. 3, c. 88, amounted to a denial of the right of the British Parliament to impose and continue the duties in question, and was a direct attack upon its acknowledged and necessary supremacy. And the Legislative Council have further maintained, that appropriations once made by the whole legislature are clearly paramount, and not to be changed by a vote of one branch of it, and that the Assembly can have no other power of interference than to see that they are applied to the purposes intended.

Another claim of the Assembly which the Legislative Council have firmly resisted, as tending to the assumption of the substantial powers of the executive government is, that of making every public officer annually dependent upon the popular branch of the legislature for his salary; but the council contend for the establishment of a civil list, by which a reasonable security may be afforded to the officers of Government for the recompence due to their services, in conformity to the practice of the United Kingdom.

The application of this principle as to salaries will be best illustrated by the votes of the Committee of the Assembly in 1825, and the Bill of Supply founded thereon, by which votes the salaries of the lieutenant-governor of Gaspé, and of the French translator to government were left unprovided for, although established and paid before the present constitution existed, that of the latter office being granted under the King's sign manual in 1775, and by the same votes the Assembly refused to provide for the allowance to the judges for circuits, being a part of their established emoluments, and for other heads of expense, all of which they had allowed in the appropriation for 1818, but disallowed in 1825, without substituting any indemnity to the incumbents of those offices for the injury they thus sustained, as invariably practised in the mother country. The reduction of the judges emoluments, though they had been previously sanctioned by the Assembly, and though the remuneration of those functionaries was already below the standard at which their ordinary and unceasing labours ought in fairness and reason to be rated, appeared to the Legislative Council to be not only contrary to justice and consistency but destructive of judicial independence.

With respect to the Supply Bills passed by the Assembly in 1825 and 1826, the Legislative Council deem it proper to observe that the first of those Bills was concurred in by a great majority of the council. But the Governor-in-Chief having, on the 14th day of March 1826, transmitted to both Houses of the Provincial Legislature a copy of a despatch from the Secretary of State, dated 4th June 1825, addressed to the lieutenant-governor while in the administration of the government of this province, entirely disapproving of that bill; the last paragraph of which despatch is in the following words: "As the bill is limited to one year, I shall

not

not think it necessary to recommend to His Majesty to disallow it, but confine myself to instructing His Majesty's representative in the province of Lower Canada not to sanction any measure of a similar nature." The Legislative Council therefore, when a similar bill was sent up to them in the session of 1826, amended the same; the consequence of which was, that the Assembly upon its being returned to them did not proceed upon it, and it was lost, although they proceeded upon other bills amended, and returned them at the same time, and even introduced and passed a new bill relating to the trade with the United States.

The Legislative Council have never denied to the Assembly the right of originating all appropriations of money not before appropriated when constitutionally required, but in such cases they deny that the Assembly have a right to consider their vote on grants so originated as conclusive, until it shall have been concurred in by the Legislative Council and assented to by the representative of the Sovereign.

That the system of judicature in Lower Canada requires revision and amendment to adapt it to the extended and increasing population of the province, is universally admitted, and the constitution of the Court of Appeals especially requires alteration in order to substitute a permanent for a fluctuating tribunal, a defect which must continue while there is no connecting and controlling tribunal to be resorted to short of the King in Council, a resource too remote, except upon extraordinary occasions; whereas the Legislative Council maintain that a permanent court of appeals in Lower Canada, exercising also a criminal jurisdiction for the whole province, would remedy the principal defects of the present system, and by producing uniformity of decisions and practice, tend to diminish the number of appeals in civil causes to the provincial court, and still more to the King in Council.

The Legislative Council, therefore, convinced that an amended and improved judicature bill would be in the highest degree advantageous to this province, has twice under recommendations from His Majesty's representative taken that subject into consideration, and sent down to the other House bills for the amendment of the Judicature Act, upon a system calculated, in their opinion, to remedy the evils complained of and felt, but they never were returned from that House with or without amendments.

The Assembly indeed, in the year 1826, sent up to the Legislative Council a bill for certain amendments to the judicature, in respect to inferior objects, without comprehending those of higher moment; but its enactments appeared to the Legislative Council so incapable of execution, that after attempting to amend it to such an extent as to change it in almost every important part; the bill with the amendments was printed for the information of the legislature, yet, towards the close of the following session, the same bill as before was sent up by the Assembly without attention to any of the amendments proposed by the Legislative Council.

One object of the bill thus persisted in was the appointment of an additional number of judges, without making any new or additional provision for paying them; and it carried the jurisdiction in civil cases into local subdivisions of the province, with the idea of introducing jury trials in those subdivisions without any preliminary provisions adapted and indispensably necessary for effecting this purpose, such as court-houses and other requisite local establishments, so that the professed object would have been unattainable, while the principal evils of the present system were left wholly without remedy.

The Legislative Council have studiously endeavoured, without success, to introduce various improvements, by bills for establishing register offices, for explaining and amending the laws applicable to the tenure in free and common socage, for quieting titles acquired by transfer of lands held by that tenure, and for adapting thereto the forms of future transfers and alienations, as authorized not only by the Canada Tenures Act, 6 Geo. IV, c. 56, but by the Constitutional Act, 31 Geo. 3, c. 31. They even confined the proposed bills for establishing register offices to the socage lands, so as to avoid the application thereof to the lands held under French laws in the seigniories; but these efforts did not meet with the concurrence of the Assembly.

The Legislative Council admit, that they found it necessary to oppose a bill sent up by the Assembly, for a new division of the province, so far as it related to an increase of the representation, which would have been delusive as to any remedy it professed to afford for the long existing and neglected complaints of the population in the townships, this bill proposed to add thirty-eight members to the present

number of fifty, of which thirty-eight members it is certain that not more than five would, under the new division projected by the bill, have been chosen by the townships.

Another point of essential difference between the Legislative Council and Assembly relates to the duration of laws. The Legislative Council considering that all acts, not in their nature experimental, should be permanent, while the Assembly have endeavoured to make every act temporary. As an example of their adherence to this practice, the Legislative Council refer to the instance of the act for regulating the militia of the province, an object assuredly of permanent importance, unless the public defence be considered a matter of indifference. The militia was first organized under a perpetual ordinance, yet unrepealed, which was passed before the existence of the present constitution. The Assembly have at various times since amended this ordinance by temporary acts, which, in two instances, also contained enactments repealing it; and, in the last instance, introduced a clause foreign to the bill, whereby a separate act containing an appropriation of money for payment of the militia staff, was declared to be null and void, though not repealed. The Legislative Council having amended the bill by striking out this clause, the Assembly refused to concur in the amendment, and the proposed temporary act having thus failed, the permanent ordinance in consequence revived.

No bill for the general regulation of fees of office was ever sent to the Legislative Council; but an attempt was made under the pretext of regulating the fees of the clerks of the markets, to set aside a permanent act which authorizes the justices of the peace in the court of quarter sessions, to make regulations of police for Quebec and Montreal, which include those fees, and this bill being a temporary one, and operating an indirect repeal of the permanent act, it was for that reason objected to by the Legislative Council.

A further proof, and there are many, of the evils attendant upon temporary acts, will be found in the instance of one which was passed to enlarge the terms fixed by the judicature act, for the trial of criminal causes at Montreal, which, in consequence of the increase of population and crime in that district, were found to be too short. The extension being proved to operate beneficially, the temporary act was once continued, and when the Assembly proposed to pass it again for a third limited period, the Legislative Council, seeing increased cause for making permanent this extension of the terms, amended the bill accordingly, to which the Assembly objected, and the bill being lost, the terms were reduced to their original duration, and special courts of oyer and terminer, though they thus become indispensably necessary, have since been made subject of complaint before the Select Committee of the House of Commons.

The Legislative Council have further to point out a remarkable difference that exists between the practice of the province of Lower Canada and that of every other British colony having a representative legislature, as to the levying and applying the public monies for general or local purposes; in other colonies a distinction is made between those purposes; but in this province none, although almost all the public revenues, with the exception of the casual and territorial revenues of the Crown, and fines and forfeitures, have arisen from duties upon importations.

In Lower Canada, the present gaols and court-houses, contrary to British and Colonial practice, have been built by public not local means; but it being considered necessary to erect more extensive gaols in Quebec and Montreal, the Legislative Council, seeing the error of the past, thought it a fit occasion to apply a remedy for the future, and accordingly rejected a bill for erecting a new gaol at Montreal, as it provided for the expense by appropriations from the public revenue, and not from local means; they contended that this expense should be defrayed by taxation of the local division or county; and that when gaols and court-houses, or other buildings of that description, shall be required in the other localities or counties of the province, the expense shall be borne in like manner by them.

The Bill for the independence of the judges would have been concurred in by the Legislative Council, had it in any degree resembled the measure recommended by His Majesty's Secretary of State, communicated by the message of the Governor in Chief to the Legislative Council and Assembly on that subject, or provided a proper allowance to the judges, upon their retirement in consequence of old age or infirmity. But, on the contrary, it made their salaries dependent on an unconstitutional

stitutional condition, and directed them to be paid out of funds which the Council maintain that neither the Assembly nor the Provincial Legislature can legally apply; and it contained, besides other provisions foreign to its professed purpose, a clause disqualifying the judges from sitting in either Council. This was viewed by the Legislative Council as an attempted restriction upon the Royal Prerogative, directly at variance with the Constitutional Act, 31 Geo. 3, c. 31, which enables His Majesty to call to his councils such of his subjects as he may see fit; and as an unnecessary provision, in a prospective point of view, should the Crown deem it advisable in future not to call the judges to seats in either Council; and on these grounds the Legislative Council withheld their concurrence.

Copies of the message and bill above referred to are contained in the Appendix hereto.

*Vide Appendix,
No. 4.*

In respect of the exclusion of the judges from the Legislative Council, which appears to have been particularly pointed at in the Report of the Committee of the House of Commons, the Legislative Council think it right to remark, that no incongruity has hitherto resulted from their presence in the Council; on the contrary, the intelligence and assiduity of the judges have afforded most important assistance in matters of the highest moment; and this House feels it a duty to say, that their presence is necessary, inasmuch as the Legislative Council does not enjoy the advantage possessed by the House of Lords, in the attendance of the judges to give their advice and opinion on matters of law, which important distinction appears to have escaped the attention of the Committee; but in the estimation of the Legislative Council, it leads inevitably to the conclusion, that the real interests of the province will be best consulted by refraining from any attempt to change the constitution of this House, by controlling the indisputable right of His Majesty to choose the persons whom He may see fit to call to His councils.

The bill respecting the receiver-general was rejected by the Legislative Council, because it was contrary to His Majesty's instructions, restraining the Governor from giving the Royal Assent to any bill for the appropriation of public money, unless it contained a clause directing that such money should be accounted for "to His Majesty, through the Lords Commissioners of His Majesty's Treasury;" instead of which, this bill directed that all accounts of public money received, or to be received and paid, with vouchers therefor, should be delivered to a board to be appointed by the Assembly, consisting of members thereof, who were to examine and audit the same, in direct opposition to those instructions, and to the provisions contained in every bill appropriating money since the commencement of the present constitution.

The bill for incorporating the cities of Quebec and Montreal, and for an agent to reside in England, were opposed by the Legislative Council from a sincere conviction that they were not calculated to promote the true interests of the province.

The bill for establishing a qualification for justices of the peace, appeared to the Legislative Council to be inapplicable to the then state of the population, and likely to augment the number of justices unfit for that office, and diminish the number of those who are competent to it; for by the qualification proposed, many persons of intelligence, and particularly the greater part of the commercial body, would have been excluded from the commission of the peace.

Before closing this exposition of facts, the Legislative Council deem it incumbent upon them to remark on another subject of complaint against them, that in March 1827, they suspended proceedings upon several money bills for local purposes, which were sent to them by the Assembly, and which by the prorogation were finally prevented from passing. The Legislative Council avow the fact, and they assign as the reason, that the Assembly having frequently practised the sending up, at the close of the session, bills containing appropriations for local institutions, while the supply bill was kept back; the Legislative Council therefore determined in that session to bring forward all the bills for local appropriations to the same stage, and then suspend them until the public supply bill should appear, and its character be ascertained; and the Legislative Council maintain that they were right in so doing, on the ground that the public supply is entitled to precedence over every other, it being of importance to all that the Government should not be dissolved from want of means of carrying on the public service.

It would be easy for the Legislative Council to show, that in consequence of the reception of ex parte testimony by the Committee of the House of Commons, it has been assumed that many evils have grown out of the conduct or the constitution of the Legislative Council, which cannot in truth be imputable to either. But

deeming it sufficient to have thus explained without reserve the motives of their proceedings, with respect to the bills which they are specifically accused of having neglected or rejected; and having stated the application of those motives in other particular instances, comprehending the more prominent differences between them and the other House, they entertain the hope, that they have proved how unmerited is the censure upon them, implied in the Report of the Select Committee of the Honourable the House of Commons; a censure which, with whatever moderation expressed, cannot be disconnected from the mass of evidence on which it is founded, and therefore deeply concerns the honour and independence of this House, and the grounds of their public measures.

(signed) by Order,

Legislative Council Chamber, }
4 February 1829.

J. Sewell, Speaker.

Appendix, N° 1.

Legislative Council, Thursday, 20th March 1823.

Ordered,—That two hundred copies of the proceedings of this House respecting the four indemnity bills sent up from the Assembly, with the reasons which induced the Legislative Council to reject the same, as also of the protest of this House upon concurring in the bills from the Assembly, intituled, “An Act to defray certain Arrears of Expenses appertaining to the Civil Government of the Province,” and “An Act to appropriate certain sums of Money towards enabling His Majesty to defray certain Expenses therein mentioned, appertaining to His Majesty’s Civil Government of this Province, for the year 1823,” be printed in both languages.

Attest.

(signed) *Wm. Smith, C.L.C.*

EXTRACT from the Journals of the Legislative Council of the Province of Lower Canada.

Legislative Council, Tuesday, 11th March 1823.

The members convened were:—The Honourable Messrs. Duchesnay; Richardson; Caldwell; Ryland; Rev. J. O. Plessis, Bishop of the Roman Catholic Church of Quebec; Perrault; Burns; Coffin; De Léry; Felton.

Prayers.—The Honourable Mr. Perrault, sat Speaker by virtue of his commission.

It was then moved to resolve, That the casual and territorial revenue of the province of Quebec, established prior to the conquest; the rent arising from the King’s posts, from the forges of St. Maurice, and from the King’s wharf in the Lower Town of Quebec, are appropriated by His Majesty towards defraying the expenses of the civil government of this province.

The question of concurrence being put on this first resolution, it was unanimously resolved in the affirmative.

It was then moved to resolve, That His Majesty’s share of fines and forfeitures is in like manner appropriated in aid of the civil expenditure of this province, where a reservation thereof for the future disposition of the Provincial Legislature is not expressly made by the Act under which such fines and forfeitures are levied.

The question of concurrence being put on this second resolution, it was unanimously resolved in the affirmative.

It was then moved to resolve, That the duties collected under the Act of the Imperial Parliament of 14 Geo. 3, c. 88, are appropriated towards further defraying the charges of the administration of justice, and support of the civil government within this province, and are to be applied as directed by that Act, and by the Act of the Imperial Parliament, 3 Geo. 4, c. 119.

The question of concurrence being put on this third resolution, it was unanimously resolved in the affirmative.

It was then moved to resolve, That by the Act of the Provincial Parliament of the 35 Geo. 3, c. 9, the sum of five thousand pounds sterling per annum is placed at the disposal of His Majesty, to be applied as directed by the said Act, towards further defraying the expenses of the administration of justice, and the support of the civil government of this province.

The

The question of concurrence being put on this fourth resolution, it was unanimously resolved in the affirmative.

It was then moved to resolve, That no alteration with respect to any of the funds above mentioned has arisen or can arise in consequence of the offer made by the Assembly of Lower Canada to provide for the payment of the expenses of the Civil Government of this province.

The question of concurrence being put on this fifth resolution, it was unanimously resolved in the affirmative.

The Honourable Mr. *Irvine* enters.

The order of the day being read for the second reading of the bill, intituled, "An Act to reimburse and indemnify His Majesty for certain sums of Money expended to defray the Expenses of the Civil Government of the Province for the year 1819."

It was moved, That the said order of the day be discharged.

The question of concurrence being put at this motion, it was unanimously resolved in the affirmative.

Moved, That the sixty-ninth standing rule and order of this House be now read.

The same was read accordingly.

It was then moved to resolve, That this House will proceed no further in the consideration of the bill, intituled, "An Act to reimburse and indemnify His Majesty for certain sums of Money expended to defray the Expenses of the Civil Government of the Province for the year 1819."

The question of concurrence being put on this motion, it was unanimously resolved in the affirmative.

The order of the day being read for the second reading of the bill, intituled, "An Act to reimburse and indemnify His Majesty for certain sums of Money expended to defray the Expenses of the Civil Government of the Province for the year 1820."

It was moved, That the said order of the day be discharged.

The question of concurrence being put on this motion, it was unanimously resolved in the affirmative.

Moved, That the sixty-ninth standing rule and order of this House be now read.

The same was read accordingly.

It was then moved to resolve, That this House will proceed no further in the consideration of the bill, intituled, "An Act to reimburse and indemnify His Majesty for certain sums of Money expended to defray the Expenses of the Civil Government of the Province for the year 1820."

The question of concurrence being put on this motion, it was unanimously resolved in the affirmative.

The order of the day being read for the second reading of the bill, intituled, "An Act to reimburse and indemnify His Majesty for certain sums of Money expended to defray the Expenses of the Civil Government of the Province for the year 1821."

It was moved, That the said order of the day be discharged.

The question of concurrence being put on this motion, it was unanimously resolved in the affirmative.

Moved, That the 69th standing rule and order of this House be now read.

The same was read accordingly.

It was then moved to resolve, That this House will proceed no further in the consideration of the bill, intituled, "An Act to reimburse and indemnify His Majesty for certain sums of Money expended to defray the Expenses of the Civil Government of the Province for the year 1821."

The question of concurrence being put on this motion, it was unanimously resolved in the affirmative.

The order of the day being read for the second reading of the bill, intituled, "An Act to reimburse and indemnify His Majesty for certain sums of Money expended to defray the Expenses of the Civil Government of the Province for the year ending 1822."

It was moved, That the said order of the day be discharged.

The question of concurrence being put on this motion, it was unanimously resolved in the affirmative.

Moved, that the sixty-ninth standing rule and order of this House be now read.

The same was read accordingly.

It was then moved to resolve, That this House will proceed no further in the consideration of the bill, intituled, "An Act to reimburse and indemnify His Majesty for certain sums of Money expended to defray the Expenses of the Civil Government of the Province for the year 1822."

The question of concurrence being put on this motion, it was unanimously resolved in the affirmative.

Wednesday, 12th March.

The members convened were, The Honourable Messrs. Duchesnay ; Richardson ; Caldwell ; Ryland ; Reverend J. O. Plessis, Bishop of the Roman Catholic Church of Quebec ; Irvine ; Perrault ; De Salaberry ; Burns ; Coffin ; De Léry ; Felton.

Prayers.—The Honourable Mr. Perrault sat Speaker.

It was moved to resolve, That the four bills sent up from the Assembly, severally intituled, "An Act to reimburse and indemnify His Majesty for certain sums of Money expended to defray the Expenses of the Civil Government of the Province for the years 1819, 1820, 1821 and 1822," respectively do contain new matter contrary to law and provisions of the most serious import.

After debates, the question of concurrence being put on this motion, it was resolved in the affirmative.

It was then moved to resolve, That it is indispensable that the reasons which induced the Legislative Council to reject the said bills, by resolving to proceed no further thereon than the first reading of each, should be entered upon the journals of this House, to remain for a record to posterity.

The question of concurrence being put on this motion, it was resolved in the affirmative.

It was moved to resolve, That a committee of five members be appointed to frame and report to the House, with all convenient speed, the said reasons.

The question of concurrence being put on this motion, it was resolved in the affirmative.

Ordered, That the committee be the Honourable Messrs. Duchesnay, Richardson, Ryland, De Salaberry and Coffin, who are to meet and adjourn as they please.

Monday, 17th March.

The members convened were, the Honourable the Chief Justice, Speaker ; the Honourable Messrs. Duchesnay ; Richardson ; Caldwell ; Ryland ; Reverend J. O. Plessis, Bishop of the Roman Catholic church of Quebec ; Irvine ; Perrault ; Coffin ; De Léry ; Felton.

Prayers.—The Honourable Mr. *Richardson*, from the Special Committee to whom it was referred to frame and report to the House, with all convenient speed, the reasons which induced the Legislative Council to reject the four bills sent up from the Assembly, severally intituled, "An Act to reimburse and indemnify His Majesty for certain sums of Money expended to defray the Expenses of the Civil Government of the Province for the years 1819, 1820, 1821 and 1822," by resolving to proceed no further thereon than the first reading of each, made the following report, which he delivered in at the table.

The same being then read by the clerk, was in the words following :—

"The four bills of indemnity sent up from the Assembly contain new matter so illegal and unconstitutional in principle, and provisions of a description so serious, with titles to all of the said bills, and a preamble to one of them so alarming, that the Sovereign is thereby menaced, the supreme legislative authority questioned, and an attack made on the appropriations authorised by the Imperial Act of 14 Geo. 3, c. 88. as also upon the rights of the Crown, respecting the disposal made of the casual and territorial revenues thereof, with the fines and forfeitures thereto accruing, and upon the appropriation, permanently made by a provincial Act of Parliament of 35 Geo. 3, c. 9, of 5,000 *l.* sterling, as if all antecedent appropriations, by whatsoever authority disposed of, were considered as null, and now open to the management, disposal and discretion of the Assembly ; pretensions not warranted by the law and practice of Parliament are also assumed. The Legislative Council therefore felt it their constitutional and imperious duty, as a body interposed between the King and the people of this province, to resist all such menaces, attacks and pretensions, and

and accordingly determined not to proceed upon the aforesaid bills, so highly objectionable in every point of view.

“ In so doing, they disclaim any intentions of assuming the exercise of any right respecting purely money bills, beyond what the practice of the Imperial Parliament authorises, and have acted in the matter referred to solely from the motives above explained; at the same time the Legislative Council waive no rights or privileges to which they have a constitutional claim, nor do they admit any claimed by the Assembly beyond that criterion.

“ The objections to those bills embrace points which affect the constitutional authority of the King, the legal supremacy of the Imperial Legislature, and what respects the rules, orders and practice of the Lords and Commons of the United Kingdom in their legislative proceedings, which have been adopted by this House.

“ The Legislative Council have for their guidance the constitutional principles of the Monarchy the general principles thereof affecting Lower Canada, in common with the other colonies of the British empire, and the particular Acts of the Imperial Parliament which refer or apply generally, by the provisions thereof, to all the British colonies, or such of the said Acts as refer or apply to this province in particular. The titles of the bills of indemnity, and one of the preambles, are highly objectionable, it being one of the first principles of the British constitution, “ that the King can do no wrong.” Indemnity implies exemption from punishment, and to indemnify His Majesty, implies that he is liable to punishment. The expression as to him is therefore unwarrantable in the extreme, but which His Majesty’s Ministers may require, if they act illegally. Those Imperial Acts of Parliament generally affecting all the colonies which do not come within the control of the legislature of any of them, although levying and appropriating certain duties for purposes therein mentioned, are 25th Charles 2, c. 7; 6th Geo 2, c. 13; 4th Geo. 3, c. 15; 6th Geo. 3, c. 13; and 6th Geo 3, c. 52, by some of which Acts are imposed what are usually denominated the Crown duties, which duties have been invariably remitted from Canada, and the other colonies, to Great Britain.

“ In respect to those acts, it is sufficient to state that they passed before the Imperial Act of 18th Geo. 3, c. 12, and are not included in the repeal contained in that last-mentioned Act, nor are they repealed by any other, unless in so far as any of them may contain provisions of repeal or alteration respecting parts of such Acts; consequently they still remain in force: and, moreover, there is a striking circumstance respecting them, which is, that they formed no part of the alleged grievances of the former British colonies, now United States of North America, which the said Act of 18 Geo. 3, c. 12, was expressly framed to meet and remove.

“ The same remark applies to the Post-office Act, which pervades all the colonies, and the revenues whereof always were and are remitted to Great Britain, and it never was complained of by the above-said colonies, now the United States.

“ The said Act of 18 Geo. 3, c. 12, was wholly prospective, unless in so far as made retrospective by the special provision therein contained for the repeal of so much of the Act of 7 Geo. 3, c. 48, as imposed a duty on teas imported from Great Britain into any colonies in America, which positive provision for such repeal proves that no other colonial duties were intended to be repealed by that Act. That repeal had no reference whatever to the 14 Geo. 3, c. 88; and as the continuance of the latter Act in force has been unremitted, and the duties thereby imposed constantly levied, the appropriation of the proceeds of those duties according to the provisions of the said Act remains unchanged and unchangeable, unless altered by another Imperial Act; for nothing can be more absurd than for an inferior and dependant power to assume a claim to the disposal of what a superior power, by a legislative act, has before disposed of. A former Provincial Parliament passed an Act in 1799 to commute or replace those duties for an equivalent, to take place when the Imperial Parliament should repeal the 14 Geo. 3, c. 88, but that not having been repealed, it was not thereby affected, and accordingly the new contemplated commutation duties never could be levied; this is only mentioned as showing a clear provincial acknowledgment of its remaining in full force in all its provisions.

“ No general principles can be more clear, than that positive Acts of the Imperial Parliament affecting the colonies cannot be repealed by implication, or by any governor of a colony, or by the Act of any colonial legislature, even if not disavowed by the Sovereign; for to repeal an Act of Parliament requires the like authority as that which made it, unless the original or some other Act of the

Imperial Parliament contains an express delegation to an inferior legislature of the power to repeal a particular Act or Acts of the supreme legislature, or part thereof.

“Neither can the King’s prerogative, rights or revenues be given up or abrogated, or the applications thereof be altered from their original purposes, by the act of any governor or colonial legislature, without the express consent of the Sovereign. The like reasoning as above in respect to the Acts imposing the duties commonly called the Crown duties, applies to the Imperial Act of the 14 Geo. 3, c. 88, which was also passed before the 18th of the same reign, c. 12, and which Act of the 14th was expressly made to impose duties; and the monies thereby raised were appropriated and directed to be applied *for the defraying the expenses of the administration of justice, and the support of the civil government in the province of Quebec*; and the Lords Commissioners of His Majesty’s Treasury, or any three or more of them, for the time being, are thereby empowered to cause such monies to be applied towards defraying the said expenses. Nothing short of an Act of the British Parliament can alter that appropriation; and that it is so considered by the said Parliament, is manifest from the Act of 31 Geo. 3, c. 31, which in part repeals the Quebec Act of 14 Geo. 3, c. 83, leaving the other Act, or cap. 88 untouched: and further were there any possible doubts about the total absence of right in the Provincial Parliament to interfere in the disposal of the monies levied under the 14 Geo. 3, c. 88, they would be effectually removed by the Imperial Act passed 5th August 1822, c. 119, which contains a provision for the appointment of arbitrators to settle the conflicting claims of the provinces of Lower and Upper Canada, respecting the division of the duties levied on importations at Quebec, and makes the award final in what respects the division of such duties levied under provincial acts; whereas by the 27 sect. of said Act of 1822, the said arbitrators are directed to receive the claims on behalf of each province with respect to its proportion of duties under the 14 Geo. 3, c. 88, and to report the same with the evidence thereon, to the Lords Commissioners of His Majesty’s Treasury, “in order that they may make such order respecting the proportion in which the same shall be expended within each of the provinces respectively, *for the purposes mentioned in the said Act of the 14 Geo. 3, c. 88, as to them shall seem meet.*”

“Thus the purposes and the powers of appropriation towards those purposes are so far from being annulled or altered, that they are expressly recognized as existing in the same shape as contained in the original Act and the powers of the Lords Commissioners of His Majesty’s Treasury are most guardedly preserved without any delegation thereof to the said arbitrators. It is strangely inconsistent in the Assembly to claim the right or power of disposal of the revenue raised under 14 Geo. 3, c. 88; because if the appropriation contained in that Act be considered as annulled, so must the whole act be, and in that case there would be nothing to dispose of in any shape, as levying of the duties thereby imposed would become illegal.

“The said Act of 14 Geo. 3, c. 88, thus continuing to exist in its original form and tenor in all respects, a question has been raised by the Assembly, whether the laying of statements before the provincial Legislature, of the produce of the duties levied under that Act, and of His Majesty’s casual and territorial revenue, and fines and forfeitures, can make any change in respect to prior appropriations by law, by reason of the House of Assembly having offered in 1810, to charge themselves with all the civil expences of the Government, and the call made upon them in 1818, by the then Governor to redeem that pledge.

“Surely the Assembly will not argue, that they intended a mental reservation, and only meant to offer a shadow, and that the Governor, in accepting it, meant to give up a substance, and thereby transfer the whole powers of the provincial Government to the Assembly, and to place the officers thereof at the mercy of that body; yet such must be the conclusion, to support the pretensions of the Assembly to the rights of disposing of the proceeds of 14 Geo. 3, c. 88, the casual and territorial revenues, fines and forfeitures, the 5,000 *l.* sterling appropriated by the provincial Act 35 Geo. 3, c. 9, and other provincial appropriations for the public uses of the province, where the reservation thereof for the future disposition of the provincial legislature is not expressly made; but true it is, that over none of these, not so reserved, has the House of Assembly a shadow of legal right to the disposal.

“The appropriation of all those funds was made perpetual by competent authorities, and that cannot be now altered; but by the authorities which
respectively

respectively disposed of them, and not by any branch of any legislature without the concurrence of the other branches thereof, especially of a subordinate legislature.

“ The moment the call was made on the Assembly constitutionally to fill their office in good faith, it became necessary to lay before them statements of the whole revenue applicable to the civil list and other public expences, with statements of the whole expenditure; else how could it have been possible for them to ascertain what might be necessary to make up the deficiency of the revenues in respect to the expenditure.

“ The officers of Government upon the civil list, and in its employment at the time, had assuredly a right to expect that they were not to be placed upon a worse footing than before, but might fairly look to be in a better situation, in so far as the revenues then raised were found inadequate to their original purpose, and might require increase; especially as the original offer boasted of the well-grounded capacity of the province to sustain its own burthens, and professed an acute feeling for having so long leant upon the resources of the mother country.

“ That if the permanent revenues exceeded what might be necessary for those purposes, there was no need of levying more; and if less, the expectation of a provision for the deficiency cannot be fairly construed, or even tortured, into a transfer of the rights of appropriation or disposal as they stood originally.

“ The case of the Governor’s message, respecting a remission of certain dues of *Quint* to *Madame Cressé*, proves nothing that is not amply rebutted by the foregoing reasoning: for how the remission, upon the strongest equitable ground, of a sum of money due by an individual, can be construed into an abandonment of the right of disposal of the whole public revenue, collected and appropriated under other and higher authorities than those proceeding from the provincial legislature, is beyond comprehension.

“ The very doubting or questioning the right previously exercised by a superior or equally-competent authority, in respect to appropriation or disposal of monies, tends to infringe all ideas of security in laws, however solemnly made, and must produce the most injurious consequences; for where is such a principle to stop? the next Assembly may also question what the present does, and so on until every thing be set afloat.

“ Upon the whole, the Legislative Council deny that the Provincial Legislature has the right, as contended for by the Assembly, of disposing of all the revenue in this province, whether before appropriated, or whether raised under the authority of the Imperial or Provincial Parliament. To aim at the assumption of such a right, by a subordinate body, under all the circumstances of the case, is so direct an attack upon the supremacy of the parent state, as, if persisted in, must produce consequences to this country which cannot be contemplated without the most serious apprehensions.

“ As to the other objections to the indemnity bills, the Legislative Council are governed by the precedents of the Imperial Parliament, they admit of none other; the safer course being to refer to those of the authority which constituted the Provincial Legislature upon its own model, rather than to borrow from authorities dissimilarly and inferiorly constituted.

“ The civil list in Great Britain is, at the commencement of each reign, granted for the life of the Sovereign. It is in one sum, without specifications in the Act by chapters or items; although the Estimate sent to the House of Commons for their guidance in determining the amount to be granted may have contained chapters. This is indispensable to the preservation of the Monarchy, else the public officers, having annually to look to the Commons instead of the King, in the first instance the independence of the Crown, and the balance of the Constitution, would be destroyed, and the Commons become substantially the Government.

“ The principle is applicable here, and the like consequences would ensue from abandoning it. It is fallacious to suppose that the people would benefit by a contrary maxim. A popular body acquiring and exercising unconstitutional influence and power, would in time become more tyrannical than any single despot.

“ The said bills contain the striking impropriety of granting indemnity for the payment of about 140,000 *l.* in four years. This amount having been paid towards the administration of justice, and support of the civil government, and towards local expenses and applied in virtue of anterior appropriations by law, has, notwithstanding, been brought into the said bills, by an assumption of illegal power, as no indemnity can be requisite for acting in compliance with legal directions.

“As to the monies paid without previous appropriations by law, amounting to about 100,000*l.* in four years, towards the civil expenditure and local objects, which are intentionally intermixed in the said bills, it will excite surprise to find such difficulties made about covering them, when it is known that the whole were applied in conformity to long-established practice, in order to carry on the provincial government, and to prevent the serious injury which the officers thereof must otherwise have suffered during the impediments arising from the disputed pretensions of the Assembly. It is to be remarked that only somewhat beyond one half of the said 100,000*l.* was covered by the said bills of indemnity, and that the part included, and the part left out, were for civil list and local portions thereof, blended together.

It is notorious that similar payments were made in 1818, which the Assembly voted in one sum exceeding 40,000*l.* (not in items) in that year, by their own authority, unconstitutionally passing by the Legislative Council, a body of co-ordinate power, and of rights equal to their own; and which sum was covered in the year following by the provincial statute of 59th Geo. 3, c. 25, the preamble whereof declares, that the above sum had been advanced towards defraying the expense of His Majesty's civil government of this province for the year 1818, *over and above the sums already appropriated by law for that purpose*; and the same Act contains in the body of it the following words: “shall be, and the same is hereby directed to be charged against *the unappropriated monies in the hands of the receiver-general of this province, which have been raised, levied, and collected under and by virtue of any Act or Acts of the Legislature of this province.*” Here is a provincial Act, originating with the Assembly, which establishes a precedent that they have ever since disregarded, by introducing items into the civil list bills, and this year attempting to dispose of monies before appropriated by the Imperial Parliament, as also by themselves, as if every thing was to be prostrated which stood in the way of their assumption of unconstitutional and illegal power.

“There being no prospective grant for the civil list in the indemnity bills, they do not come within the principle which respects the duration for the King's life, otherwise than as consisting of items, and intermixing and confounding what comprehends the expenses of the administration of justice and support of the civil government, with the local expenses. Those bills are also very objectionable in not being confined to the arrears or deficiencies only which are required to make up the difference between the amount of the civil and local expenditures respectively, and the amount of the sums paid on account out of the existing appropriation respectively, and should not have been framed to affect or include appropriations already made, as if such required any indemnity, or any additional authority.

“In respect to the local establishments, the Legislative Council admit that they may be temporarily provided for by specifications of items, offices and purposes, but without the names of persons, unless in cases of pensions, premiums, debts, articles supplied, remunerations for services, or matters purely personal and not official; because salaries are appropriated to the offices by whomsoever held, and not granted to the officer personally. But as to the civil list expenses, or in other words, what respect *the administration of justice and support of the civil government of the province*, they should, in conformity to the practice of the mother country, be in one sum, and for the life of the King, in order to prevent that pernicious annual dependence upon the favouritism or prejudice of a popular body, which would gradually undermine the correct discharge of duty by the public officer, and tend to discourage men of upright and independent mind and character from accepting offices, where the tenure and remuneration would be so precarious.

“The Estimates sent down by the Governor in Chief, early in this session, for 1823, wherein there is a classification distinguishing what affects *the civil list or administration of justice and support of the civil government* from what is considered *local establishments*, made it easy for the Assembly to have acted in conformity thereto, instead of studiously confounding both together.”

Ordered, That the said Report be taken into consideration on the next sitting day.

Tuesday, 18th March.

The members convened were, the Honourable the Chief Justice, Speaker; the Honourable Messrs. Duchesnay; Richardson, Caldwell, Ryland, Rev. J. O. Plessis, bishop of the Roman Catholic church, Quebec; Irvine, Perrault, De Salaberry, Burns, Coffin, De Lery, Felton.

Prayers.—

Prayers.—*Hodie zá vice lecta est billa*, intituled, “An Act to enable His Majesty to defray certain Arrears of Expenses appertaining to the Civil Government of the Province.”

The question was put, Whether this bill shall pass; it was unanimously resolved in the affirmative.

Ordered, That one of the Masters in Chancery do go down to the Assembly, and acquaint that House that the Legislative Council have passed this bill without any amendment.

Hodie zá vice lecta est billa, intituled, “An Act to appropriate certain sums of Money towards enabling His Majesty to defray certain Expenses therein mentioned, appertaining to his Majesty’s Civil Government in this Province, for the year 1823.”

The question was put, Whether this bill shall pass; it was resolved in the affirmative.

Ordered, That one of the Masters in Chancery do go down to the Assembly, and acquaint that House that the Legislative Council have passed this bill without any amendment.

It was then moved to resolve, That the Legislative Council see with great concern and surprise that the bills sent from the Assembly, intituled, “An Act to enable His Majesty to defray certain Arrears of Expenses appertaining to the Civil Government of the Province;” and “An Act to appropriate certain sums of Money towards enabling His Majesty to defray certain Expenses therein mentioned, appertaining to his Majesty’s Civil Government in this Province, for the year 1823,” do contain very objectionable matter, in granting monies from *the general funds of the province*, no funds so denominated having legal existence, and the titles, preambles, and clauses of grant and appropriation in the said Acts being worded so generally and ambiguously, as still to assume or mean to leave in doubt the right pretended to by the Assembly, of disposing of monies raised already and appropriated and disposed of, either by Act or Acts of the Imperial Legislature, or by His Majesty in respect to His Majesty’s prerogative, rights and revenues, and fines and forfeitures, or by Act or Acts of the Provincial Legislature, containing permanent appropriations, or where the fines thereby imposed are not reserved for the future disposition thereof. Against all which assumption and pretensions, whether directly, or in any shape expressed, made or implied, by open or covert language or meaning, the Legislative Council solemnly protest.

The question of concurrence being put on this motion, it was resolved in the affirmative.

It was then moved to resolve, That the Legislative Council have concurred in the said bills, as a measure of necessity resulting from the very advanced period of the session, and the consequent impracticability, if they were rejected, of their being replaced before the prorogation; and further, they have concurred therein to prevent the great general and individual distress which the present rejection of the said bills would have rendered unavoidable. But in so concurring, the Legislative Council declare, that they reserve all their rights and privileges unabated, and that they will not hereafter admit, upon any occasion whatsoever, of a proceeding so contrary to the rules and method of Parliament.

The question of concurrence being put on this motion, it was resolved in the affirmative.

Thursday, 20th March, Second Meeting.

The members convened were, the Honourable the Chief Justice, Speaker; the Honourable Messrs. Duchesnay, Richardson, Ryland, Irvine, Perrault, De Salaberry, Coffin, Taschereau, De Lery, Felton.

The House (according to order) proceeded to take into consideration the report of the special committee appointed to frame and report to the House, with all convenient speed, the reasons which induced the Legislative Council to reject the four bills sent up from the Assembly, severally intituled, An Act to reimburse and indemnify His Majesty for certain sums of Money expended to defray the Expenses of the Civil Government of the Province for the years 1819, 1820, 1821, and 1822,” by resolving to proceed no further thereon than the first reading of each.

The said Report being then read paragraph by paragraph, it was unanimously resolved, That this House doth concur in the reasons reported by the said Committee.

Attest.

(signed) Wm. Smith, C. L. C.

Appendix (N° 2.)

EXTRACT from the Journals of the Legislative Council.

Saturday, 6th March 1824.

To the King's Most Excellent Majesty.

May it please your Majesty,

WE, your Majesty's dutiful and loyal subjects, the Legislative Council of Lower Canada, in Provincial Parliament assembled, most humbly beseech your Majesty to be graciously pleased to permit your faithful subjects, the said Legislative Council, to lay at the foot of the throne the Resolutions which accompany this Address, with the reasons and Resolutions therein referred to, of March 1823, as evidences of the loyal attachment of the Legislative Council to your Majesty's sacred person and government, and as a solemn pledge of our unalterable determination to support your Majesty's just rights, and the constitutional prerogatives of the Crown at all times, and against encroachments thereon of every description; as also of our fixed resolution to support the principles and practice of the constitution granted to this province, and the just rights and privileges of the Legislative Council under the same.

We most humbly, but most earnestly entreat your Majesty to take into Your Royal consideration the growing embarrassments which surround the Executive Government of this province by the continued refusal of supplies, unless accepted upon terms that would lay the officers of your Majesty's Provincial Government, and the Legislative Council, prostrate at the feet of the Assembly, and also the dangers which must necessarily ensue, if a corrective thereto be not speedily applied.

We therefore implore your Majesty, out of tenderness to your loyal subjects in Lower Canada, to take into Your Royal consideration the evils which inevitably must ensue from the existing state of things, unless an adequate remedy be applied; and that your Majesty will be graciously pleased to recommend the state of this province to the consideration of the Imperial Parliament, to the end that legislative provision may be made to remedy the evils to which we have referred, and to prevent their recurrence in future, or that your Majesty will be pleased to adopt such other means as your Majesty, in your great wisdom, shall deem fit and effectual for the purpose.

(A true Copy.)

Attest.

Wm. Smith, C.L.C.

Appendix (N° 3.)

MESSAGE from the Earl of Dalhousie, to the House of Assembly of Lower Canada, respecting the Judges.

Castle of Saint Louis, Quebec,
1st February 1826.

The Governor in Chief informs the Assembly that having, while in England, submitted and strongly recommended to His Majesty's Government a memorial from the chief justice and judges of this province, praying that their commissions may be granted to them during good behaviour, and that a provision be made for their retirement after a certain number of years service, he received a despatch from the Earl Bathurst, His Majesty's Secretary of State for the Colonies, informing him that he would recommend to His Majesty, that the appointments of the judges in this province should be placed on the footing on which corresponding appointments are placed in England, provided that the Legislature of this province should make a provision for their retirement according to the scale which is adopted in England.

The Governor in Chief takes this opportunity of again bringing under the consideration of the House, the expediency of increasing the pension granted to Sir James Monk, late chief justice of Montreal; and also of submitting to them a recommendation, that some provision be made for the widow of the late Mr. Justice Ogden; and he communicates to the House copy of a despatch relating to these subjects, which he has received from His Majesty's Secretary of State for the Colonies.

(signed) DALHOUSIE.

MY LORD,

Downing-street, 28th July 1825.

I have received His Majesty's commands, to desire that your lordship will, in the next session of the Legislature of the province of Lower Canada, recommend in the strongest manner the claims of Sir James Monk to an increase of the pension, which has been granted to him as late chief justice of Montreal, and that you will express His Majesty's confident expectation that on a reconsideration of the case, he will be considered entitled to three fourths of his salary, as a reward for his long and faithful services, and which His Majesty is of opinion is not more than an adequate provision with reference to the zealous and upright manner in which Sir James Monk executed the important duties confided to him, and the advanced age at which he retired from the bench.

I enclose an Act of Parliament passed in the last session, for making provision for the judges of England on their retirement; and as the justice and policy of granting a liberal superannuation is equally applicable to judges in the Colonies, I have had less hesitation in submitting to His Majesty the propriety of again bringing Sir James Monk's claims under the consideration of the Legislature.

I am also to instruct your lordship to recommend to the Legislature to make some provision for the widow of the late Mr. Justice Ogden, and your lordship will state, that His Majesty considers that lady to have strong claims to favourable consideration, from the long and able services of her late husband, and the straitened circumstances in which, it is understood, she is left at her advanced period of life.

I have the honour to be, &c. &c. &c.,

(signed) BATHURST.

Lieut. Gen. the Earl of Dalhousie, G.C.B.

Appendix (N° 4.)

AN Act to secure the Independence of the Judges in this Province, and for other Purposes therein mentioned.

MOST GRACIOUS SOVEREIGN,

Whereas to secure in a more certain manner to your Majesty's subjects in this province an upright and impartial administration of justice, it is necessary to render the Judges of the court of King's Bench in this Province, and the Judges of the Provincial Courts more independent than they have hitherto been; and whereas this matter was specially submitted to the consideration of the Legislature of this Province by message from his Excellency the Governor in Chief, on the first day of February in the present year:

May it therefore please your Majesty, that it may be enacted, and be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled, "an Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, "An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and for making further provision for the Government of the said Province," and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall no longer be lawful for any of the judges of the several courts of King's Bench in this province, nor for any of the judges of the provincial courts therein, to have or to occupy a seat in the Executive Council, nor in the Legislative Council of this province, and that such of the said judges as may now have and occupy a seat in either of the said councils shall be, and they are hereby declared to be incapable, while they retain their commissions as judges, of sitting therein for the future.

And be it further enacted, by the authority aforesaid, That from and after the passing of this Act, the judges of the courts of King's Bench in this province, and the provincial judges, shall hold and possess their office during their good behaviour, and in the same manner in this respect in which those offices are held and possessed in England.

And be it further enacted, by the authority aforesaid, That from and after the passing of this Act, the salaries which are now annually allowed and paid to the said

judges, (the judge for the inferior district of Saint Francis excepted) shall be secured to them in a fixed and permanent manner. Provided always, that no judge of the court of King's Bench, or provincial judge, shall hold any other place of profit in the nomination of the Crown.

And whereas it would be expedient to make legislative provision to secure retiring pensions to such of the said judges as from age or infirmities may wish to resign; Be it therefore enacted, by the authority aforesaid, that from and after the passing of this Act, there shall be allowed to every judge of the court of King's Bench, or provincial judge for Three Rivers or Gaspé, who shall so resign his office, a retiring pension equal to the half of the salary to which he was entitled during the exercise of his functions as a judge, provided such judge be sixty years of age at least, and have exercised the functions of a judge during fifteen years at least; and there shall be allowed a retiring pension equal to three fourths of the salary to which such judge was entitled while in the exercise of his functions, provided such judge be sixty-five years of age at least, and have exercised the functions of a judge during twenty years at least; provided always that no Judge of the court of King's Bench, or provincial judge, who shall have obtained a retired pension, shall hold any place of profit in the nomination of the Crown.

And be it further enacted, by the authority aforesaid, that the salaries of the said judges of the court of King's Bench in this province, and of the provincial judges, and retiring pensions hereby fixed and established, shall be taken and paid out of the funds already by law appropriated generally to the administration of justice and the support of the civil government.

And whereas it would conduce to the good government of this province, and to the tranquillity and happiness of your Majesty's dutiful and loyal subjects therein, that impeachments brought by the House of Assembly of this province against high public officers, for high crimes and misdemeanor, should be tried adjudged and determined in the said province; and whereas it is just and right that the Assembly of this province bringing such impeachments, and the persons against whom they may be brought, should be tried before a competent tribunal in the province, and be respectively enabled to produce, with the least possible delay and expense their witnesses, and other means whether of charge or of defence, in order to obtain more prompt justice; and whereas it was the pleasure of your Majesty as Prince Regent of the United Kingdom, acting in the name and on the behalf of your august Father of glorious memory, graciously to signify by message to both Houses of the Legislature of this province, that having taken that matter into consideration, it was your Majesty's determination that in all cases of impeachment of that nature the decision should be left to the Legislative Council; and whereas it is expedient more fully to give effect to that wise and salutary determination of your Majesty; May it therefore please your Majesty that it may be enacted, and be it enacted by the authority aforesaid, that from and after the passing of this Act, the Legislative Council of this province shall be, and the same is hereby appointed and constituted a court of competent jurisdiction to take cognizance of, hear, try and determine all impeachments which hereafter may be made, preferred and brought before the same by the Assembly of this province, against any person or persons for any crime, misdemeanor, or malversation in office committed in this province, and for which an impeachment may or can be made, preferred or brought according to the law, usage and custom of the Parliament of the United Kingdom of Great Britain and Ireland.

And be it further enacted, by the authority aforesaid, that the Legislative Council aforesaid, when acting as a court under the authority of this Act, shall have full power, authority and jurisdiction to hear, try and determine both law and fact, and shall proceed upon all such impeachments hereafter to be made, preferred and brought before them, and hear, try and determine the same according to the law and usage of the Parliament of the United Kingdom of Great Britain and Ireland and not otherwise; and shall and may, upon conviction, pronounce such judgment, and inflict such pains, penalties, forfeitures, disabilities or punishments as the High Court of Parliament of the United Kingdom of Great Britain and Ireland could or might pronounce and inflict; in like cases; any law, usage or custom to the contrary hereof in anywise notwithstanding.

Provided always, and be it further enacted, by the authority aforesaid, that nothing in this Act contained shall extend or be construed to extend to give the said Legislative Council any power or jurisdiction over any impeachment which might hereafter be made or preferred for any reason whatsoever against the governor,
 lieutenant

lieutenant governor, or person administering the government of this province for the time being, or against the commander of any of his Majesty's forces therein, or against any officer of his Majesty's army or navy, in their respective qualities aforesaid.

I do hereby certify that the foregoing is a true copy of the engrossed bill sent up to the Legislative Council of the province of Lower Canada, on the 20th March 1826, and rejected by them after its second reading, on the 22nd March, in the same year.

(signed) *William Smith,*
Clerk of the Legislative Council.

N° 15.—COPY of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray.

Castle of Saint Louis, Quebec,
27th February 1829.

SIR,

As the Earl of Dalhousie has doubtless afforded you the explanation required in your despatch of the 8th July last, addressed to his Lordship, "relative to the prosecutions for libel in this province, at the instance of the attorney-general, and the spirit in which these prosecutions had been conducted." I entertained a hope that I should have had the honour of receiving from you before now some intimation of the views and intentions of his Majesty's Government relative to these suits, to guide my own proceedings respecting them.

I have not however been favoured with any such communication from you, and it being become absolutely necessary to come to some decision as to the course to be pursued, I called upon the attorney-general for a report of the several cases now pending in the courts of King's Bench of Quebec and Montreal for libels, and other matters connected with political offences; and after giving the subject my best consideration, I have thought it right to address a letter of instructions to the attorney-general for his guidance, of which I herewith transmit a copy for your information, and it will be very satisfactory for me to learn that the course which I have taken meets with your approbation.

I have the honour to be, Sir,
Your most obedient humble servant,

(signed) JAMES KEMPT.

Castle of Saint Louis, Quebec,
26th February 1829.

SIR,

Having laid before his Excellency, the administrator of the Government, your letter of the 23d instant, respecting the several cases now pending in the courts of King's Bench of Quebec and Montreal, for libels and other matters connected with political offences, I am commanded to inform you, that under the instructions which his Excellency has received, he deems it necessary to direct you not to proceed on any of the cases for libel until further instructions shall be given to you; and in every case of libel now pending in which the defendant shall consent to give bail in a reasonable sum, to appear and answer to the indictment, if thereunto required at any future time, it is his Excellency's pleasure, that you should consent, on the part of the Crown, to the discharge of such defendant; and if the defendant shall not be willing to give such bail as is above-mentioned, you are to continue the cause until the next term, and report the matter to his Excellency.

With respect to the cases of assault and riot, as these cases must necessarily include some act of violence, you will proceed to judgment in each of them with as much celerity as circumstances will permit; and, as perjury is an offence most injurious to the administration of justice, you will proceed to judgment in each case of this description in which, in your opinion, there are proper grounds to expect a conviction.

I have the honour to be, Sir,
Your most obedient humble servant,

(signed) C. York, Secretary.

The Honourable the Attorney General,
&c. &c. &c.

N^o 16.—COPY of the Report of the Attorney General of Lower Canada, relative to the Prosecutions for Libel.

To his Excellency Sir James Kempt, Knight Grand Cross of the most honourable Military Order of the Bath, Lieutenant General, and Commander in Chief of His Majesty's Forces in the Provinces of Lower Canada and Upper Canada, Nova Scotia, and New Brunswick, and their several Dependencies, and in the Island of Newfoundland, Administrator of the Government of the Province of Lower Canada, &c. &c. &c.

May it please your Excellency, Quebec, 20th Oct. 1828.

I have been honoured with your Excellency's commands, signified in Mr. Secretary Cochran's letter of the 21st September, requiring me to make a report of the prosecutions for libel, which have been instituted by me on the part of the Crown since November last, and of the present state of the proceedings, together with any information deemed necessary for your Excellency on this subject.

In obedience to your Excellency's commands, I have the honour to state that all the prosecutions referred to by your Excellency have originated in indictments found by the grand juries of the districts of Quebec and Montreal respectively, and that the first three of them were instituted in a court of oyer and terminer and general gaol delivery, held in the latter of these districts in November 1827.

The adoption of any legal proceedings to restrain the licentiousness in which some of the conductors of newspapers had indulged, had been long, and probably in the estimation of the sober and discreet part of the community, too long delayed. It was not, indeed, till after it was evident that the evil was greatly increased by this forbearance, and that a check to it was urgently required, that a resort was had to legal measures, and for these the sanction of a grand jury was taken.

Before this step was adopted, the editors of these newspapers, with their auxiliary contributors, not satisfied with the free temperate discussion of public measures, had erected themselves into censors of the Government, and of the administration of justice, and were in the habit of pronouncing judgment erroneously against both in terms of indecent disrespect. In these publications the conduct and measures of the Government, and the proceedings of the courts of justice, were grossly misrepresented and calumniated, and the acts of both, within the limits of their legal power, in most important particulars, were held up to the public as illegal and unconstitutional, and in such language as was calculated to incite opposition to their authority, while the person at the head of the Government was openly aspersed, vilified, and made the object of indecent personal attack. Of the urgent necessity of putting a stop to these publications no doubt could be entertained, as Government, however leniently and justly administered, could not continue to subsist if it could be thus perseveringly attacked with impunity. In this country also, the injurious consequences to be apprehended from these libels, it is fit to remark, were the greater, as the mass of the population are profoundly ignorant, and may easily, for this reason, be made to imbibe unfounded distrust and prejudices against the Government, under the influence of which they might be hurried into a criminal opposition to its authority, or long retain a sense of wrong which was never done. That an extreme degree of hardihood had been acquired by the authors of these libels will be considered as sufficiently evinced by the fact of their not having suspended publications of this description even while a criminal court was sitting, to which they could be made immediately amenable. It was during the sitting of the court of oyer and terminer, and at the place at which its session was held, that the most offensive of the libels now alluded to were published; and some of them were even directed against the court itself, containing the most criminal misrepresentation of its proceedings, and arraiging its justice without the slightest reason.

In order to make your Excellency acquainted with the libels selected for prosecution, I shall beg leave to mention the prosecutions in the order in which they occurred; and for the libellous matter which has been made the subject of prosecution, will refer your Excellency to the annexed Appendix, in which a copy of it will be found.

The first of these prosecutions is founded on an article contained in the Canadian Spectator, a newspaper published at Montreal, of 7th November 1827, for which an indictment was found against Mr. Waller, the editor, and Mr. Duvernay, the printer of that paper, in the court of oyer and terminer and general gaol delivery,

delivery, held there in that month, and the matter charged as libellous in the indictment will be found in the Extract, N^o 1. in the annexed Appendix. In explanation of this prosecution it may be proper to observe, that the editor of the paper now referred to came hither from Ireland some years since, and being afterwards in distressed circumstances, was hired to conduct this paper, which has been since its first establishment, the organ through which a party, acting in opposition to His Majesty's Government in the Provincial House of Assembly, has manifested its sentiments, and by which it has been supported. The editor himself is without stake or interest in the country: the language he holds would seem to be the language of his employers, by whom he is paid, and although published in English, the paper is intended to influence the mass of the French Canadian population, through whom its pernicious contents are made to circulate by infusion into French papers, and by oral communication. The article was published a short time before the expected meeting of the Provincial Legislature. The "conciliation" made mention of, and which is treated with so much contempt, was the conciliation of the three branches of the Legislature, and it is in relation to this anticipated conciliation that the writer gives vent to the *tirade* of virulent abuse which follows, and which terminates in giving the character of a "*nuisance*" to His Majesty's Colonial Government, a brief and concentrated form of libel, it must be admitted, quite intelligent to the most ignorant of the persons for whose information it was intended, and, as applied to a government still possessed of any efficiency, I believe to be almost without example. In using this disgraceful term, the writer would seem to have sought, in a single expression, to unite in the most offensive libel a direct incitement to insurrection, for if the Government were to be considered a *nuisance*, as represented by him, that nuisance, like every other nuisance, it is fair to infer, was to be abated; and, as if to render his meaning unambiguous, he immediately adds; that if the country would co-operate with firm and decisive measures, it would be speedily extinguished.

Among the vague and general charges conveyed in this article against His Majesty's Government, admitting of no answer, is one of a specific nature, which in a variety of insulting forms had been before made in the same paper, and could not fail to make a strong impression on an ignorant population. The Colonial Government is charged with reviving military ordinances against the plainest rules of legal construction. To render intelligible this gross libel on the Government, it is necessary to mention, that in the twenty-seventh and twenty-ninth years of His late Majesty's reign two ordinances were passed by the Legislature of the country at that period, one of which is intituled, "An Ordinance for better regulating the Militia of this Province, and rendering it of more general utility towards the preservation and security thereof;" and the other of which is intituled, "An Ordinance to explain and amend the first mentioned Ordinance." These ordinances were permanent laws for regulating the militia of the province, the operation of which some years afterwards was suspended by several successive statutes, containing a temporary repeal of them, and substituting, during the period of such temporary repeal, other provisions in the place of those contained in the Ordinances. The first of these statutes was passed in the year 1794, and the last in 1825, by which last statute the temporary repeal of these ordinances was continued to the 1st of May 1827, and no longer. At this period, by the expiration of the temporary repealing statutes, the Ordinances revived, and again became the law by which the militia was regulated. It was peculiarly fortunate for the peace and tranquillity of the country, that in the absence of any other provisions this revival took place, inasmuch as, besides the ordinary security conferred by a militia law, there is this peculiar benefit derived from it in this province, that it furnishes peace officers throughout the country parishes, that is throughout the whole province, with the exception of the towns of Quebec, Montreal and Three Rivers; there being a special provision of law by which captains of militia and officers of inferior grade are constituted peace officers, and there being no other peace officers except in these three towns. Without a militia law, therefore, the country at large would have been without the legal means of maintaining, effectually, its internal tranquillity. The Government having, as it was its duty to do, and as the public safety and interest required, enforced these ordinances as a part of the law of the land, a clamour against them was immediately raised by disaffected persons, who, aware of the salutary and necessary power with which they permanently armed the Government, were anxious to prevent the execution of them. Among these persons, the editor of the Canadian Spectator, as the organ of the party to which he belongs, rendered

himself conspicuous; and it is with reference to these ordinances that he presumes to charge the Government with reviving military ordinances against the plainest rules of legal construction. It is proper to add, that amidst the opposition which the execution of the ordinances experienced, some militia-men having been fined for not attending the reviews required by these laws, an action of trespass was brought against the officers by whom the fines were levied, for the express purpose, as the public were informed by the *Canadian Spectator* and his associate papers, of trying the validity of the ordinances; this action has been since brought to issue, and upon this question no gentleman could be found who was willing to compromise his professional character by maintaining the ordinances not to be in force. The consequence has been, that upon a hearing, at the instance of the defendants, these ordinances have been solemnly adjudged by His Majesty's Court of King's Bench, to have been in force from the 1st May 1827, the period at which the last of the temporary repealing statutes expired; and this decision it has not been attempted to impeach.

The second of these prosecutions is grounded on an article in the *Canadian Spectator* of the 3d November 1827, for which an indictment was found against the same individuals as in the case of the former prosecution in the court of oyer and terminer and general gaol delivery, held at Montreal in that month; and the matter charged as libellous will be found in the Extract, No. 2, in the annexed Appendix. The enforcing of the militia ordinances in this, as in the article already noticed, is made the ground of the imputations against the Government; and the writer of this article introduces a libellous letter from Mr. Thomas Lee to the Governor in chief, under the general head "Militia." He prefaces this letter by expressing his approbation of it, by stating that the doctrines propagated by His Majesty's Government should make all true British subjects boil with indignation, by charging the Governor with having, by his proclamation or general order, made law and military law, and with defaming British subjects, because they declined obedience to orders which were not law. These disgraceful charges have no other foundation than the execution of the laws of the land, which the editor and printer of the newspaper now referred to had the hardihood to assure the country were not laws. In the letter of Mr. Lee which follows these prefatory remarks, this individual insults the person at the head of the Government, and the Government itself, by charging the Governor in Chief with issuing an illegal militia order, by imputing to him tyranny and oppression, and also falsehood; and it is this letter which the *Canadian Spectator*, in the article in question, holds up to the public in terms of high commendation, as a very interesting document.

The third of these prosecutions was occasioned by an article proceeding from the same press, and contained in a newspaper called the *Spectateur Canadien* of the 14th of November 1827; for which an indictment was also found by the grand jury in the same court against James Lane, the printer of that paper. Of this article a copy will be found in the Extract, N° 3, in the annexed Appendix. To convey an adequate idea of the malignity of this libel, and of the total absence of all ground for the criminal charge it conveys against the administration of justice, it is necessary to state a few facts: A new street had been laid out at Montreal, under the authority of the magistrates there, and in execution of the provisions of the Road Act, prov. stat. 36 Geo. 3, c. 9. After this street had been laid out, a Mr. Stanley Bagg, deriving an alleged title from a convent of nuns called the Grey Sisters, thought proper to erect a wooden building on it. This being an obstruction of a highway and a nuisance, it became the duty of the surveyor of the highways, which office is filled by a Mr. Viger, to remove it in the manner prescribed by the 68th section of the same Road Act. Mr. Viger having neglected to perform this duty, one or more orders of the magistrates assembled in special session was made, enjoining on him the performance of it. After one certainly, and, I believe, two orders to the same effect, three magistrates, of their own mere authority individually, and without any special sessions having been called to re-consider the subject, presumed to issue a supersedeas, as they called it, discharging Mr. Viger from that duty which the law had imposed upon him, and which the magistrates acting collectively in one or more special sessions had required him to perform: for this non-feasance of a duty required by a statute, an indictment was found against Mr. Viger in the court of oyer and terminer and general gaol of delivery already mentioned; and at the same time an indictment was found against Mr. Bagg for a NUISANCE. In the libellous

libellous article now referred to, this proceeding, than which none more legal and unexceptionable could be adopted, is held up to the public, or rather to the French Canadian part of it, as most unwarrantable, as involving an illegal assumption of jurisdiction by the court of oyer and terminer over a subject belonging exclusively to civil judicature, and as being "*un insulte et une outrage aux lois.*" For having permitted this proceeding, the court is charged with forgetting and disregarding the best established principles of law and justice, the country is represented to be in an alarming state, and it is said that the citizens ought to tremble for the consequences!! In order also to convey a charge of positive corruption as one of the causes of this monstrous proceeding, the writer of the article adds, "*Les magistrats qui se trouvent blessés par ce supersedeas sont du nombre des grand jurés, et le président de la police siège à cette cour!*" In a more enlightened community the writer of such an extravagant article would incur by it universal ridicule and contempt, and the very excess of its folly would preclude any public ill-consequence from it; but it is not so in this country, where, such is the ignorance which prevails among the people for whose edification this article was intended, that the charge thus conveyed against the administration of justice would be gravely received, and a strong impression be produced by it. This article, independently of its libellous character, it is proper also to observe, was deserving of the most serious consideration under another aspect, as being a manifestation of a principle on which the press from which it proceeded habitually acts, that of misrepresenting and calumniating the administration of justice, whenever persons belonging to the party by which it is supported are made obnoxious to punishment for an infringement of the laws. Mr. Viger, the road surveyor, is intimately connected by relationship, and otherwise, with the party by which the *Spectateur Canadien* is supported: hence, no doubt, the motive for misrepresenting the proceedings in question: with an expectation also, it is not uncharitable to suppose, that the petit jury (composed of illiterate persons) by whom the case was to be tried, would not be uninfluenced by this libellous misrepresentation.

The fourth of these prosecutions is derived from an article contained in the Canadian Spectator of the 24th of November last, for which an indictment was found against Mr. Waller, the editor, and Mr. Duvernay, the printer of that paper, in his Majesty's Court of King's Bench, held at Montreal in March last, and of which a copy will be found in the Extract No. 4, in the annexed Appendix. For the understanding of this libel, it is necessary to mention, that in the Court of King's Bench, held at Montreal in September 1827, indictments had been preferred against several persons for perjury, committed by them at an election held at William Henry in the preceding month of July, by falsely swearing that they possessed the necessary qualifications to entitle them to vote at that election. These indictments had been *ignored* by the grand jury of that court, and new bills for the same offences were preferred before the grand jury of the court of oyer and terminer and general gaol delivery, held at Montreal in November 1827, by which latter grand jury these bills were found. In the article now referred to, the not finding the bills in September is called "An acquittal by the country;" and on this ground the court of oyer and terminer is impeached before the public for having, it is said, thus overturned the well-known principle of the English law, according to which an acquittal by a jury is a protection against any further prosecution for the same crime; and for having thereby determined that an individual is exposed to be prosecuted to infinity for an offence of which he has already been acquitted by the country. In addition to this libellous charge against the court itself, the grand jury of the same court, for having exercised a legal and constitutional power on finding these bills, is charged with having allowed themselves to be used as an instrument. The foreman is represented as a person unworthy of confidence, and all the members of the jury, with the exception of five or six, are held up to obloquy, while the five or six are made the objects of special commendation and eulogy, it being stated that their characters, private and public, and the independent manner with which they opposed, though without success, all these proceedings made an honourable exception in their favour, and obliged the writer of the article to distinguish them from the rest.

This scandalous libel on the court and grand jury, by which the court is made criminal for permitting that which is the practice of every day, and by which the proceedings of the latter, rendered secret under the obligation of an oath, are disclosed or professed to be disclosed, and are made the subject of disgraceful

remarks, must be referred to the same motive which dictated that already noticed with respect to the prosecution of Mr. Viger. The persons prosecuted for perjury had voted for a candidate supported by the party by which the Canadian Spectator itself is supported. On this ground, they were to be screened from public justice; and for this purpose, courts and juries through whose power it was attempted to bring them to justice, were to be calumniated for having entertained prosecutions against them, and were to be overawed before trial and judgment. I will only beg leave to add, with respect to this prosecution, that only one of the indictments for perjury which was ignored by a grand jury in September 1827, and found by a grand jury in November following, has been tried since the publication of this libellous article, and on that indictment the party accused, one Joseph Clapwood, was found guilty by a common jury on the clearest evidence.

The fifth and sixth of these prosecutions has been occasioned by an article contained in the Quebec Gazette of the 28th February 1828, being a newspaper published by Samuel Neilson at Quebec. For this article, an indictment was found against Mr. Neilson, the editor and printer of the paper, and another indictment against Mr. Charles Mondelet by the grand jury in the Court of King's Bench, held at Quebec in March last, and a copy of it will be found in the Extract, N° 5, of the annexed Appendix.

This prosecution differs from those of which an account has been given in a very important particular, that is, in what respects the means employed for the composition of the libel, and for giving weight and effect to it. In the prosecutions already noticed, the libellous articles proceeded from insulated individuals, expressing their sentiments individually; in this prosecution, the libel proceeded from a number of individuals invested with public authority as magistrates and officers of militia, and associated under the imposing name of a *Constitutional Committee*; these persons, being officers of militia, erect themselves into a tribunal for trying the validity of the public acts and orders of the commander in chief of the militia, and pass sentence on them as in their wisdom seemeth fit. They assume to themselves all the form of a legally-constituted body, and arraign the conduct of the commander in chief in such terms as to imply in them a right of determining on it. It is for the publication of a libel proceeding from such a self-constituted body, and conveyed in the form of resolutions of a letter and of a speech, that this prosecution was instituted; of the grounds on which the exercise of the power complained of took place, I am ignorant, nor would it seem at all necessary to be informed of them, inasmuch as whether right or wrong it could never be canvassed and determined on by such a self-constituted body as a "Constitutional Committee," without a surrender of the powers incident to the established Government. In the resolutions and letter, the conduct of the commander in chief is arraigned as being arbitrary, and unjust; and it is said by this body of militia officers, that in their opinion, "*cet allégué de la part de son Excellence (meaning the fact alleged by the commander in chief as the foundation of his general orders,) est entièrement mal fondé.*" In the speech, the commander in chief is spoken of in the most disrespectful and indecent terms; he is charged in offensive language with being guilty of departure from truth, with being under the influence of absurd and tyrannical notions, and with making defamatory accusations not deserving of refutation, and the administration of the government by him is represented as being influenced and directed by persons "*qui s'évertuent à la tromper, et qui sacrifient honteusement leur honneurs et leurs droits pour encourager une oppression dont il n'y a jamais eu d'exemple dans des colonies Angloises!*" Not satisfied with these terms of abuse, the orator immediately after characterizes the persons last spoken of, that is, the principal officers of His Majesty's Government, with whose advice the Governor is presumed to be assisted, as being a "*horde d'envahisseurs et de destructeurs (de volonté au moins) de nos droits,* and representing two individuals then recently dismissed from their rank in the militia as entitled to the glory "*de voir leurs noms inscrits sur le catalogue de victimes de leur dévouement à la cause sacrée de la patrie.* In conclusion, he charges the commander in chief with a criminal and disgraceful abuse of the patronage of the Crown, by stating that the persons on whom he conferred honours were those "*qui ne se les font prodiguer, qu'en abjurant leur foi politique, qu'en se déclarant traîtres à la patrie, et en flétrissant pour toujours un nom qui ne leur a été donné que pour y ajouter celui de vrai Canadien.*"

The seventh of these prosecutions is grounded on an article contained in the same newspaper, the Quebec Gazette, of the 11th of March 1828, for which an indictment was found against Mr. Neilson, the printer and editor of that paper,

in

in the same term of the Court of King's Bench, held at Quebec in March 1828, and of which a copy will be found in the Extract, No. 6, in the annexed Appendix.

In this prosecution the libel is of the same character as that last mentioned. The example set by the Constitutional Committee of Three Rivers in composing and publishing the libel, of which an account has been given, was too agreeable to the feelings of the turbulent and ill-disposed elsewhere, and too well calculated to answer their views not to be followed; other meetings of similarly self-constituted bodies called *Constitutional Committees* were therefore held for a like purpose, and among these a meeting of the *United Constitutional Committees* of the parishes of St. Gregory, Becancour, Gentilly and St. Pierre les Becquets, the proceedings of which gave occasion to the seventh prosecution. At this meeting, the same assumption of the forms of a legally-constituted public body obtained, as in the case of its prototype of Three Rivers. In the 1st Resolution it was declared, that the meeting, being composed of the *majority of the officers of the 3rd battalion of the county of Buckinghamshire*, would immediately take into consideration the general order of militia which was complained of; and in the ten following resolutions, this meeting of militia officers, assembled in that character, express, in various forms of language, their disapprobation of the conduct of the commander in chief, which they pronounce to be arbitrary and unjust. But the 6th and 7th of these Resolutions were particularly deserving of attention. By the 6th they declared *Que les personnes qui acceptent des commissions en remplacement de ceux qui ont été destitués sans cause légitime, méritent d'improbation publique, et ne doivent être considérées que comme ennemis des droits du peuple.* By the 7th they declared, *Que les membres de cette assemblée formant la majorité des officiers du dit 3me battalion du comté de Buckinghamshire, ne pourront obéir, qu'avec mortification, à la personne qui aura ordre de prendre le commandement du dit battalion.*

The Constitutional Committee of Three Rivers had passed sentence on the commander in chief, in what related to the general order, of which they had taken cognizance. These united Constitutional Committees go a step further; they not only pronounce judgment on the commander in chief in relation to the general order taken under their special consideration, but, by their 6th Resolution, they denounce public odium against persons accepting commissions in the place of persons removed; and, by their 7th Resolution, they sufficiently intimate a disposition not to yield obedience to such persons. Of the dangerous nature of the associations from which these libels proceeded no person could doubt. They were evidently calculated to bring the authority of the Government into discredit and contempt, *and gradually to supplant it.* But however criminal may have been the views of a few individuals by whom this seditious machinery was put into motion, it is certainly due to the country at large to remark, that it was the work of a few persons only, and that the mass of the inhabitants was in no degree infected with the disloyalty that might be inferred from such proceedings in other countries. The necessity, nevertheless, of putting a stop to such associations, so pregnant with mischief, was urgent, and this was effectually accomplished in this instance by restraining the publication of their proceedings in the newspapers. After the two last prosecutions, of which an account has been given, the agency of Constitutional Committees in opposing the Government, and in producing disorder, ceased.

The eighth of these prosecutions is grounded on the publication of a letter to the Governor in Chief, signed "Charles Mondelet," inserted in the Quebec Gazette of 12th November 1827, for which an indictment was found against "Mr. Charles Mondelet," in the term of the court of King's Bench, held at Quebec in March 1828, and of which a copy will be found in the Extract, No. 7, in the annexed Appendix.

The example which had been set by Mr. Lee in obtaining notoriety, by addressing an insulting letter to the person at the head of the Government, of which mention has been made, and already been followed by one or two instances, and as yet with impunity, when Mr. Mondelet, it would appear, became ambitious of the same distinction. It has been evident that unless this disposition received some check, no act of the Government disagreeable to an individual could be adopted, without exposing the person at the head of it to be traduced and vilified in the form of a libellous letter, and without, as a necessary consequence, subjecting the Government itself to disparagement and contempt. It seemed unnecessary,

therefore, that this check should be applied in the case of Mr. Mondelet, who, it was obvious, had taken Mr. Lee's letter for his model, and had improved on it by rendering his own more offensively libellous. In it Mr. Mondelet, as Mr. Lee had previously done, charges the commander in chief of the militia, in the most disrespectful terms, with enforcing ordinances as law which were not law, and with issuing illegal orders of militia. In relation to Mr. Mondelet's removal from a particular division of the militia, on the ground of non-residence, as compared with the cases of some other officers, he accuses his Excellency of gross partiality, and observes, *Votre conseil n'a crainit ni pour lui-même ni pour votre Excellence, la reprobation publique, et le ridicule qu'une semblable contradiction mériterait à son auteur.* In another part of his letter he observes, *Si vous n'eussiez taxé qu'il plaise à votre Excellence de m'être refusé à l'exécution de vos ordres généraux, qui me semblent aussi illégaux que sont illégales, et non lois, les ordonnances que l'on assigne comme leur base, vous n'auriez pas pu, à la vérité, en justice me démettre sans me donner l'occasion d'être entendu, mais au moins les formes de votre ordre général n'auraient pas en apparence choquer la raison, et cet ordre n'aurait pas été aussi fortement l'objet du ridicule.* And towards the conclusion of his letter he imputes unheard-of tyranny to the commander in chief, in the following terms: "*Au derrier analyse, qu'il plaise à votre Excellence, je me permettrai de vous dire, en usant du droit d'un sujet Anglois, que votre conseil égare grandement votre Excellence en la portant à commettre des actes qui devoient être inouis sous l'empire Britannique, et dont notre colonie seule offre des exemples.*"

The ninth of these prosecutions is grounded on the publication of Mr. Lee's letter above-mentioned, in the Quebec Gazette of 29th October 1827, for which an indictment was found against Mr. Neilson, the editor and printer of that paper, by the grand jury, in the term of the Court of King's Bench, held at Quebec in March 1828. In explanation of this prosecution, it is sufficient to refer to what is above-stated in relation to the second of these prosecutions.

The tenth of these prosecutions is grounded on an article contained in the Quebec Gazette of 29th Nov. 1827, for which an indictment was found against Mr. Neilson, the editor and printer of that paper, in the term of the Court of King's Bench, held at Quebec in March 1828, and of which a copy will be found in the Extracts, N° 8, in the annexed Appendix. This libel is an amplification of the two libels, which are the subjects of the third and fourth prosecutions above-mentioned, these being two blended and amplified in this. Upon this prosecution it is sufficient, therefore, to refer to the explanations above given, in relation to the third and fourth prosecutions.

On the part of the Crown, all due diligence in bringing these several prosecutions to trial, has, I beg leave to state, been exerted. The indictments found at Montreal in November last, were brought by *certiorari* into the Court of King's Bench in the succeeding term of March, and the trial of them was then moved for, but the defendants represented that they were not ready to proceed to trial, and succeeded in obtaining postponement of it till the next term, held in September last. On this last occasion the trials did not take place on the days fixed for them, in consequence of a difference of opinion in the members of the Court respecting the manner of preparing the lists from which the special juries for these trials had been struck; they now stand over, therefore, to be had in the next term, which will be held at Montreal in the month of March. With respect to the indictments found in the Court of King's Bench at Quebec in March last, they were found too late in the term to admit of the trials being had in it. In the last term, held at Quebec in September, the multitude of cases of felony before the Court precluded the trial of these misdemeanors, which were therefore permitted on the part of the Crown to stand over, and no application was made for the trial of them on the part of the defendants; so that these cases also remain for trial in the next term of the Court of King's Bench, which will be held at Quebec in March next.

In addition to what has been stated respecting these prosecutions, it would seem not to be foreign to the order of reference with which your Excellency has honoured me, to notice briefly some steps which have been taken by the persons indicted, or some of them, in conjunction with their friends, to render abortive and defeat them.

By the Minutes of the Evidence taken before the Committee of the House of Commons on the Civil Government of Canada in the last session of the Imperial Parliament which have reached this country, it appears that a set of Resolutions were

were produced before the Committee by Mr. John Neilson, the father of one of the persons indicted, purporting to be Resolutions of a "Meeting of landholders and other proprietors composing the committees appointed at the general meetings of proprietors, held for the purpose of petitioning His Majesty, and both Houses of Parliament, against the present administration of the Provincial Government, and for furthering the said petitions, assembled at the house of Louis Roy Portelanée, Esq. in the City of Montreal, 17th April 1828," in which resolutions these prosecutions are made the subject of grievance and complaint. Among the names of the persons by whom these resolutions are alleged to have been adopted, is that of Mr. Waller, the person against whom the first, second and fourth of the indictments above-mentioned were found. Whether these Resolutions were or were not adopted at a meeting composed of the persons whose names precede them is a matter of some uncertainty. The names render it probable, however, that they were so adopted, being the names generally of the known supporters of the papers which are the subjects of indictment, and probably of part of the proprietors of them, whose acquiescence Mr. Waller would be likely to obtain, in any statements he would submit to them, on the subjects to which the resolutions relate, and in particular to those declaring these papers to be void of offence. The resolutions themselves contain convincing intrinsic evidence of their being the production of Mr. Waller himself, who has found it convenient to embody his sentiments and defence in these resolutions. He has evidently not neglected his own defence in them, for in the 11th Resolution this unauthorized meeting of individuals is made to contradict the indictments found by the grand inquest of the district, and to declare the publications which the latter, on their oaths, pronounced to be seditious libels, "to be innocent and praiseworthy," and "entirely free from any thing prejudicial to the laws, or to public order." This mode of superseding the authority of the legal tribunals of the country, I cannot but take the liberty of remarking, is without precedent, and if successful in this instance, must be destructive of all legitimate authority. It does not belong to me to notice the charges contained in these resolutions against the Governor in chief, courts, chief justice, sheriffs, jurors, and other public functionaries, all of whom it has entered into the views of the writer of these resolutions to traduce and vilify. But as I am made personally conspicuous in these charges, and am represented to have acted from improper motives, and to have discharged my official duty with undue severity, even oppressively, it seems fit, that in submitting to your Excellency this account of the prosecutions complained of, I should exonerate myself from this foul imputation by stating a few particulars. It is insinuated, if not asserted, in these resolutions, that in the institution of the prosecutions in question, I have acted under the influence of personal feelings, from having concurred in advising the militia arrangements complained of. My feelings, as prosecuting-officer of the Crown, must be a matter of indifference in relation to the truth or falsehood of criminal charges; but the insinuation or assertion, such as it is, is entirely untrue, and has been hazarded at random, as the other disgraceful imputations contained in these resolutions have been, merely to bring discredit on individuals and public authorities, and thereby render the Government itself odious. Except in having advised the enforcing of the militia ordinances, as a part of the law of the land, it has not fallen within the scope of my duty to have any thing to do with the militia arrangements of the country. To appointments and dismissals I have been equally a stranger. I am also represented as a violent opponent of the representative body, but am at a loss to conceive on what ground; and equally so to perceive the bearing of this demerit on the prosecutions complained of. I am likewise charged with having proceeded in a "*veracious and oppressive manner*" against Mr. Charles Mondelet, of the prosecution against whom an account has been given: this charge, depending on matter of fact, is easily refuted. It is said, that Mr. Mondelet ought to have been prosecuted in the district in which he resides, and where his offence was committed. Had the offences for which he has been indicted been committed in the district of Three Rivers, this observation would have been true, and he could not have been prosecuted elsewhere; but he was indicted, *not* for writing or publishing libels in the district of Three Rivers, in relation to which offences I was in possession of no evidence to enable me to prosecute him there, *but* for having published, and caused and procured to be published, certain libels in the district of Quebec, in the courts of which latter district only could these offences be cognizable; this charge, therefore, is utterly groundless. But it is also said, that Mr. Mondelet was put to

inconvenience in travelling from Three Rivers to Quebec to answer these indictments against him there; this certainly is an unusual complaint on the part of a person accused, particularly before his innocence has been ascertained by an acquittal. The inconvenience complained of is necessarily experienced by all persons who subject themselves to criminal accusations; and in making Mr. Mondelet amenable to the court of King's Bench at Quebec, the trouble of travelling hither on his part was unavoidable. It is also said that Mr. Mondelet, and the witnesses subpoenaed from Three Rivers incurred personal danger in performing the journey. The route between Quebec and Three Rivers, the great highway of the province, is known here (though it may not be known by persons in London, for whose perusal Mr. Waller's Resolutions was intended,) to be free from danger to travellers at all seasons of the year, as much so as a promenade in the streets of Quebec and Montreal. If by any strange misadventure or accident these persons should have incurred any risk, it must be considered as one of the casualties to which men in every situation, even in those the most secure, are liable, and for which it does not seem reasonable to make his Majesty's attorney-general responsible. It is also represented that I have acted partially in selecting for prosecution the editors of one class of newspapers only. It has been my duty to prosecute those persons by whom libellous attacks have been made on the Government, its courts of justice, and its public functionaries, for the purpose of bringing them into contempt and disgrace in the minds of the people. If such attacks have been found in one class of papers only, as has been the case, it sufficiently accounts for having prosecuted the editors and printers of these only. With the personal abuse of contending editors, which it might have been prudent and proper on the part of their respective employers to have restrained, but not affecting any department of the Government, I have had nothing to do. The King's courts of justice have been open to all persons aggrieved by such libels, and it is their own fault if they have not sought redress there, my ministry not being necessary in procuring for them that redress; but it is trifling with the understanding of the persons to whom such a palliation is offered, to attempt to excuse gross libels on the Government and its courts of justice on the ground that other editors have published libels on some other persons and on some other things. I will only beg leave to add, as a general answer to the unfounded misrepresentations contained in Mr. Waller's Resolutions respecting the conduct of these prosecutions, that in laying the indictments in question before the grand juries, by which they have been found, I was and could only be influenced by a sense of duty, and in the several stages of these prosecutions I have, in no respect, deviated from the established course of practice which is observed in criminal prosecutions. The grand juries by which the indictments have been found have been composed of persons of the first respectability in the districts of Quebec and Montreal, and have been returned in the same manner as other grand juries have been from the period of the conquest downwards. Till the publication of the libels of Mr. Waller and his associates, juries so returned had discharged these duties without reproach, and no person had ever called in question the purity of the administration of criminal justice. In the desperate position in which Mr. Waller has placed himself, it is not surprising that the criminal judicature of the country, however free from reproach, till reached by his malignity, should not be acceptable to him; it is indeed not likely that he should be satisfied otherwise than with a judicature of his own choice, or with no judicature at all; and of these alternatives the last would probably be most agreeable.

I cannot conclude this report to your Excellency without respectfully deprecating the dangerous consequences to be apprehended to his Majesty's Government, and the peace and tranquillity of the province, from the course which has been pursued by Mr. Waller and his associates, if it should be permitted to be successful. This course may be characterized in a few words: the Governor of the province, the courts of justice, juries, and other principal functionaries of His Majesty's Government, have been grossly calumniated, traduced and vilified. Of these grave offences the authors of them have been accused in legal form by the grand inquests of the country. Instead of meeting the charges against them in the course prescribed by law, the principal delinquent, for the purpose of counteracting the legal proceedings had against him and his associates, and in contempt for the authority of the court in which the accusations are pending, calls a meeting of his friends and partizans, who pronounce him and his co-delinquents

quents innocent of the charges against them. Under colour of this meeting he frames resolutions, containing a specious misrepresentation of the facts on which the indictments have been found, and proclaims the falsehood of the charges contained in them. In these same resolutions the principal party accused renews the calumnies he had previously published against the Government and the administration of justice; and, on the ground that these calumnies are true, presumes to decline the jurisdiction of the courts before which he and his associates stand indicted, as being corrupt and unfit to try them. Whether the execution of the laws can be thus eluded or frustrated is an important question, to which the attention of his Majesty's Government is necessarily called by the foregoing statement. I shall not be thought, I hope, to take an improper liberty, if I presume to express my humble conviction, that if impunity can be obtained by so unprecedented a course of proceeding, the consequences thence resulting must be a general contempt of the legal tribunal of the country; and an utter inability on the part of His Majesty's Colonial Government to assert its authority, and maintain peace and good order.

All which is, nevertheless, most respectfully submitted to your Excellency's wisdom, by your Excellency's

Most obedient humble servant;

Quebec, }
20th Oct. 1828. }

(signed) J. Stuart,
Attorney General.

APPENDIX to the Report of the Attorney General of Lower Canada, dated the 20th October 1828.

N^o 1.—Extracts from the Canadian Spectator of the 7th November 1827, containing the Libellous Matter for which an Indictment was found by the Grand Jury against the Editor and Printer of that Paper, in a court of Oyer and Terminer and General Gaol Delivery, held at Montreal in November 1827.

“THE Official Gazette talks of the Speaker being the organ of ‘conciliation.’ With whom? Not between two parties in the Commons, over which he presided. There unanimity prevailed; for two or three voices from the officers of Government did not disturb the unanimity that prevailed in the Commons. Is it conciliation with his Excellency? What conciliation could be hoped for with an administration which, for seven years, had been violating the laws; violating the constitutional rights of the country, which had transacted with the ministers in England to declare against us; which had vowed interminable war with our rights, which dishonoured and defamed the lieutenant-governor who had won the affections of the country, and treated it kindly and established harmony, which had refused communications of necessary documents on important subjects; which had defamed, insulted and injured the representative body, which had sanctioned in its official papers the filthiest abuse against all individuals prized by their countrymen for their abilities; activity and patriotism. What hope of a conciliation remains with such an administration, which avows that it will not change, revives military ordinances against the plainest rules of legal construction, and employs the power with which it vests itself to punish British subjects for the exercise of civil rights, coercing the free expression of political opinion, which travels about thanking any half-dozen of remote, ignorant, fawning or designing individuals, for addresses which load it with flattery, and utter abusive calumnies against the representative body, chosen by the landholders and freeholders of the province. Conciliation is impracticable with such an administration. Conciliation to the clerkarchy would be submission, on the part of the House, to the loss of essential rights, to insult and to dishonour.”

“The country is threatened by the Official Gazette, that if Mr. Papineau is chosen Speaker, the Governor, placing himself in opposition to the voice of the whole country, will refuse his consent, and dissolve the House. We hope the House will choose Mr. Papineau, and show reasons for choosing him, and persist in the choice. That the Governor and his council will refuse their ratification we think probable enough; how far that will be valued we cannot say; and we think it is probable they will dissolve the House, to the great injury of the country.

Another subject of discord and discontent will thus be raised by the present administration, and the passions of the executive and of the place-holders will commence another war against the whole country. There can be little doubt that such an administration will be considered as a nuisance by the British Government, and that its own follies and misconduct will, if the country cooperate with firm and decisive measures, speedily extinguish it."

N° 2.—Extracts from the Canadian Spectator of 3d November 1827, containing the Libellous Matter, for which an Indictment was found by the Grand Jury against the Editor and Printer of that Paper, in a court of Oyer and Terminer and General Gaol Delivery, held at Montreal in November 1827.

Militia.—"Our readers will consider the following documents very interesting. Mr. Lee expresses himself like a British subject. The doctrines propagated by and on behalf of the provincial executive should make all true British subjects boil with indignation. The Governor not accountable! The Governor by his proclamation or general order to make law, and military law; and British subjects to be defamed because they decline obedience to orders which are not law! But the province will yet and soon have justice."

(Translation.)

"To His Excellency the Earl of Dalhousie, Governor in Chief of the Province of Lower Canada, &c. &c.

"My Lord,

Quebec, 29 October 1827.

"As you have made use of the public papers, and of your prerogative, to ruin me in the opinion of my fellow citizens, without having given me the legal and usual opportunity of being heard, I take the liberty very respectfully to use the same mode of conveying my answer.

"I protest then against the general order of militia of the 25th October, present month, which annuls my commission of captain in the 1st battalion of the militia of Quebec, of which Mr. Joseph François Perrault is lieutenant-colonel commandant, because I have honestly and lawfully refused to obey the illegal orders of lieutenant-colonel Perrault; because your general order of militia, my lord, as Governor in Chief, is illegal; because the idea adroitly circulated and propagated in society, that a governor, in virtue of his commission, is accountable for his actions to God and his own conscience only; or that he can with impunity, in any case whatever, act arbitrarily, despotically or tyrannically, in violation of the liberty or property of His Majesty's brave and loyal Canadian subjects, is a monstrous doctrine, which cannot be admitted without the greatest danger; because a governor cannot, under cloak of law, or even under the strictest forms of law, exercise cruelty, malice or oppression towards any of his Majesty's subjects, without being personally responsible for it; because you have lent yourself unjustly, my lord, to wicked, false and defamatory insinuations against me; finally, because the letter which you have published, my lord, at the head of the general order of militia, which annuls my commission of captain, contains absurdities, falsehoods, and is incorrect.

(signed)

Thomas Lee,

Ex-Captain of the first battalion of Militia of the county of Quebec, and Notary."

N° 3.—Extracts from the "Spectateur Canadien" of the 14th November 1827, containing the Libellous Matter for which an Indictment was found by the Grand Jury against the Printer of that Paper, in the court of Oyer and Terminer and General Gaol Delivery, held at Montreal in November 1827.

(Translation.)

"Court of Oyer and Terminer.—On Monday last the grand jury found a true bill against Mr. Stanley Bagg for a nuisance, and against Mr. Jacques Viger for neglecting

neglecting to fulfil the duties of his office of surveyor of highways, &c. We now publish, respecting this interesting case, the facts which have come to our knowledge. Some months since Mr. Stanley Bagg caused to be erected on a piece of ground, within an inclosure, a small wooden building, which has since been inhabited. In consequence of a complaint made to the magistrates, the majority of them present, after a long contestation, ordered the demolition of the building, and that it should be taken down by Mr. Viger at the expense of Mr. Bagg, if he should not comply with their judgment within a certain day. Mr. Bagg, considering himself injured by this decision, made an application to some magistrates, who, being of opinion that he had cause of complaint, granted to him the writ of *supersedeas*, of which an account has already been given in the journals. Notwithstanding, Mr. Viger, in order to yield obedience to his orders, was about proceeding to execute the judgment, when the *supersedeas* caused him to suspend his labours, and he presented a report in form to the magistrates. The body of magistrates assembled, the object being to declare this order null; finally, they became sensible that the superior civil tribunal is alone competent to the decision of this dispute; and the meeting broke up. At this stage of the proceedings, the magistrates, who consider themselves aggrieved by this *supersedeas*, transmit to the Governor a complaint against their brethren of the magistracy:—we are ignorant of the answer which his Excellency may have given. But now the affair becomes serious, and the court of oyer and terminer holds cognizance of it. What may be the result we cannot say. It appears very extraordinary that in this manner civil affairs, and those of a different description, should indiscriminately be carried before a criminal court. By this proceeding, the ideas which we had formed of law and justice are forgotten and despised. The country presents an alarming aspect; the citizens have reason to tremble; the magistrates, who are offended at this *supersedeas*, are members of the grand jury, and the president of the police, who has directed all these proceedings, sits as a member of this court. One circumstance diminishes a little our alarm, and that is, that the grand jury will not have to decide finally on this prosecution. We do not mean to undertake Mr. Baggs' defence; if he has infringed the law, or if he has encroached on land not belonging to him, his pretensions ought to be over-ruled. But we consider the prosecution in the criminal term to be an insult and an outrage upon the laws, inasmuch as there was another tribunal more competent to decide on it, and which ought to have cognizance of it."

(Translation.)

"We cannot conclude without expressing our wish that the Legislature may speedily take into its consideration the changes which the organization of our criminal courts imperiously requires. The public funds of the province ought to be employed on objects of necessity, and not in prosecutions which are ruinous to the country, oppressive to the citizens, and in direct opposition to the purposes of the law. The object which those by whom these two prosecutions have been got up have in view is too evident to make it necessary that we should enlarge further on the subject; we should be apprehensive of offering an insult to the good sense of our readers if we were to go into details."

N^o 4.—Extract of the Canadian Spectator of the 24th November, containing the Libellous Matter for which an Indictment was found by the Grand Jury against the Editor and Printer of that Paper, in the court of King's Bench, held at Montreal in March 1828.

"In England a practice, almost without exception, has established, that an individual acquitted by a jury of an accusation brought against him for a crime or misdemeanor is protected against any further prosecution and inquietude on account of that accusation. Our late court of oyer and terminer has just given us an example which overturns from the foundation that principle, and which teaches us that an individual is exposed to be prosecuted to infinity, for an offence of which he has already been acquitted by the country; and we do not here allude to Mr. Jobin, against whom the attorney-general has presented, at different times, three bills for the same offence. However, we console ourselves with the hope

that what has just passed in that court will not be taken as a precedent, and a jury composed of independent men will never allow themselves to be used as an instrument, like that of the late court of oyer and terminer. The foreman, Mr. Henry M^cKenzie, had taken a very active part in favour of the administration in the late election. He had carried his imprudence (to give it no other name) so far as to require the intervention of the military at the election of the West Quarter; he was in the middle of a fray, where he played a part not suitable for a justice of peace; he had ventured to allege publicly that the Governor of this country was not amenable to the law. This Mr. M^cKenzie is a clerk in the employment of Mr. Molson, and has no other property than his salary. Would it be possible to expect much of independence and impartiality from a man in that situation, who had, as foreman of the jury, to judge of men who had taken a warm part in the elections on the side opposed to his opinion? To hope for justice in such case would be to show little knowledge of human nature, particularly when we know that this same Mr. M^cKenzie, instead of withdrawing when the jury was engaged with the business of the election for the West Ward, did conduct the measure himself, by relating facts, searching for witnesses, and giving his opinion.

“In saying that the public has great cause of complaint with respect to the composition and the proceedings of the grand jury in question, we owe it to justice to say, that five or six of the jury should be excepted; their character, private and public, and the independent manner with which they opposed, though without success, all these proceedings, make an honourable exception in their favour, and oblige me to distinguish them from the rest, many of whom should have been excluded from want of property and other circumstances.”

N^o 5.—Extracts from the “Quebec Gazette” of 28th February 1828, containing the Libellous Matter for which Indictments were found by the Grand Jury against the Editor and Printer of that Paper, and also against Mr. Charles Mondelet, in the Court of King’s Bench, held at Quebec in March 1828.

(Translation.)

“At a meeting of the Constitutional Committee of the District of Three Rivers (extraordinary sitting in the house of René Kimber, esq.), Monday, 25th February 1828:—Present, M. M. René Kimber, in the chair; Pierre Défossés, Jean Doucet, Etienne Tapin, Joseph Dubord Lafontaine, Jean Défossés, Louis R. Talbot, W. Vondenvelden, Joseph Courval, Etienne Leblanc, Pierre Blondin, L. Oliver Coulombe, Laurent Craig, Charles Mondelet, Ant. Z. Leblanc, and Antoine Cazeau.

“Read the general order of the 21st instant.

“Resolved, 1. That the loyalty, integrity, firmness and independence which have at all times characterized the actions, public and private, of François Legendre and Antoine Poulin Courval, esqrs., vice-presidents of this committee, and especially the conduct which they have displayed in the crisis which has made it necessary for the inhabitants of this country to prefer accusations against the Earl of Dalhousie, entitle them to the confidence and respect of their fellow-citizens.

“Resolved, 2. That this committee has learnt that, by the general order of militia of the 21st instant, his Excellency George Earl of Dalhousie has broken and removed these two gentlemen from the rank of lieutenant-colonels in the militia, on an allegation ‘that they have shown themselves the active agents of a party hostile to His Majesty’s Government.’

“Resolved, 3. That in the opinion of this committee the allegation on the part of his Excellency is entirely unfounded.

“Resolved, 4. That in consequence this committee considers itself authorized to declare that these dismissals can never affect the respectability of the persons who have been the objects of them.

“Resolved, 5. That the following address to Messrs. François Le Gendre and Antoine Poulin de Courval be adopted by this committee, and that a special committee,

mittee, composed of four members, to wit, Messrs. Jean Ducet, Joseph Dubord Lafontaine, Etienne Leblanc, and Jean Défossés, do take the necessary steps for conveying it to Messrs. Le Gendre and Courval.

“(True extract.)

“ Charles Mondelet, } Secretaries.
“ Ant. Z. Leblanc, }

“ Tuesday, the 26th.—The four gentlemen chosen by the committee to convey the address of the committee to Messrs. Le Gendre and De Courval, having learned that Mr. Le Gendre was in town, waited on him at the hotel in which he lodged, and presented to him the following address adopted by the committee :

“ To François Le Gendre and Antoine Poulin De Courval, esquires.

“ We, members of the constitutional committee of the district of Three Rivers, have thought it our duty to express to you how sensibly we feel the injustice which has been done to you by his Excellency George Earl of Dalhousie, in depriving you of your commissions of lieutenant-colonels. We hope that this arbitrary measure will be put aside by his Majesty's paternal Government, and at the same time we take the liberty to inform you that our esteem for you has been increased in proportion to the rank of which you have been both deprived. This committee sees in you two courageous patriots, who have acquired the more claims to public respect since the administration has endeavoured to render you contemptible.”

“ Three Rivers, 25th February 1828.”

(Translation.)

“ Before the adoption of the Resolutions, Mr. Charles Mondelet addressed a few words to the meeting, nearly as follows :

“ Gentlemen—At a time when the public mind was about resuming that tranquillity which distinguishes Canadians, a fresh act of colonial administration has occurred to prevent it. The Official Gazette of the 21st inst. informs us that among others, François Legendre and Antoine Poulin De Courval, esquires, our two vice-presidents, have been deprived, by the Earl of Dalhousie, of their commissions as lieutenant-colonels; and the reason assigned by his Excellency for this measure is certainly most singular. These gentlemen, would you believe it, these men who have always been eminently distinguished for tried loyalty, the most elevated courage, and the most inviolable attachment to their country, are accused by his Excellency, the Governor in Chief of having shown themselves the active agents of a party hostile to His Majesty's Government. What accusations, gentlemen, against such men! In themselves, these accusations would not merit a refutation; for who is there among you that is not aware that they are absolutely without foundation? But they are made by an elevated authority, which conceives it sufficient to be exalted in rank to attack with impunity citizens who are respectable and without reproach. These absurd and tyrannical notions unfortunately, are entertained by other persons besides the Earl of Dalhousie; they are entertained by other men interested in propagating and inculcating them in the society as being just and sensible. It is then important, gentlemen, that his Excellency should know that if his rank be elevated, he derives from it no right to level against our citizens accusations so defamatory, and which would be sensibly felt if they did not proceed from a quarter which abounds with materials of this description. You all recollect the public meeting of this district, on the 22nd December last. You recollect that Mr. Kimber presided at it, and that Messrs. Legendre and Courval were vice-presidents. You all know that these gentlemen evinced for the country the same zeal for which so many other patriots have been distinguished. They supported with firmness the resolutions and petition which in a few weeks will be submitted to the King and to the Imperial Parliament, and which contain charges against the Earl of Dalhousie of which the whole country has loudly proclaimed the truth. They have, in a word, shown themselves publicly the defenders of their country, the friends of their fellow-citizens, true Canadians! What titles, then, have they not acquired to the hatred and

malevolence of an administration surrounded by persons who labour to deceive it, and who shamefully sacrifice their honour and their rights to encourage an oppression of which no example has ever been afforded in English colonies. If Messrs. Legendre and Courval had enlisted themselves under the banners of this horde of invaders and destroyers (at least in inclination) of our rights, they would now have been held forth as faithful subjects. It is, then, an honour, a glory for these brave citizens to see their names inscribed on the interminable catalogue of victims to their devotion to the sacred cause of their country! But if we share in these sentiments, let us hasten to make them known to these gentlemen. Let them be indemnified.—What do I say? Let them despise this vain attempt to degrade them; they can never be degraded, inasmuch as the country sets a proper value on them; and what more can be desired by Canadians who are friends of their country?

“ Our proceedings when made public will teach his Excellency that rank alone is not a sufficient title to respect, that merit only has weight among honest people, and that public opinion is not only a counterpoise to accusations so ill-timed as those made by him, but that it is infinitely preferable to all the honours in which he steeps those who only obtain them by abjuring their political faith, by declaring themselves traitors to the country, and by disgracing for ever a name, which was only given them that they might add to it that of ‘true Canadians.’ ”

(Translation.)

“ Narcisse Duchesnay, Esq., Lieutenant-colonel, &c.

“ My Colonel,

Beauport, 1st February 1828.

Under the administration of a man for ever memorable, and worthy of the love of all good and loyal subjects, I felt myself honoured in meriting sufficiently the confidence of so illustrious a personage, to be charged by him with the commission of ensign.

“ But at this moment, when every thing is venal, when it is impossible to be at the same time a citizen and a militia officer, when so many persons a thousand times more respectable than me have been displaced, and when other persons, strangers and unknown, have been substituted in their place, I should consider myself polluted if I retained a commission which has no longer anything in it but what is degrading to my eyes.

“ How much soever I was honoured when I received this commission, I did not accept it till I was assured that it would be my duty to act in conformity to law. As this conformity can no longer obtain, my commission ceases to exist; it is yours, dispose of it.

(signed) “ M. Parant.”

N° 6.—Extract from the Quebec Gazette of the 11th of March 1828, containing the Libellous Matter for which an indictment was found by the Grand Jury against the Editor and Printer of that Paper, in the term of the Court of King's Bench held at Quebec in March 1828.

(Translation.)

“ At a general meeting of the Constitutional Committee of the parishes of St. Gregorie, Becancour, Gentilly and St. Pierre les Becquets, held in the house of Mr. Joseph Malhiot, in the parish of Becancour, the 5th March instant:—Present, Messieurs Jean Bte. Hebert, in the chair; Joseph Turcot, Antoine Leblanc, vice-presidents; J. B. Legendre, Michael Malhiot, Ls. Landry, B. B. Beauchène, Jean Turcot, M. Gingrass, Pierre Dubois, Julien Reau, Isidore Désilait, Jos. Malhiot, Laurent Genest, Alexis Reau, J. B. Panneton, D. Prince, Is. Chartier, Ls. Leblanc, P. Désilait, J. Beauchène, Jos. Bellepeule, Frs. Heon, Thos. Fortier, Jos. Pepin.

“ Read the general order of militia, 21st February last.

“ Resolved, 1. That this meeting, composed of the majority of the officers of the 3d battalion of the county of Buckinghamshire, ought immediately to take into consideration the removal of François Legendre, esq., as lieutenant-colonel commanding

commanding the said battalion, effected by the general order of militia of the 21st February last.

“ Resolved, 2. That during the time that the said François Legendre, esq. was commandant of the said battalion, and of the late division of Becancour, his conduct was always loyal and irreproachable, which procured him the respect, confidence and esteem of all the persons who have been under his command.

“ Resolved, 3. That this meeting regrets infinitely that his Excellency should have exerted his authority for the purpose of depriving that gentleman of a commission, the duties of which he fulfilled with honour, by reason of his justice, his moderation and his punctuality.

“ Resolved, 4. That this meeting can perceive no reason which could have induced his Excellency to act in so arbitrary a manner, unless it be the zeal with which François Legendre, esq. conducted himself as a member of the Constitutional Committee of the district of Three Rivers.

“ Resolved, 5. That this removal, as well as several others, is an unequivocal proof that his Excellency listens to the false reports of persons who are enemies of every thing that is liberal and constitutional, and who are only anxious to gratify the hatred they bear to the Canadian people.

“ Resolved, 6. That persons who accept commissions in the place of persons who have been removed without legal cause are deserving of the public disapprobation, and are to be considered in no other light than in that of enemies of the rights of the people.

“ Resolved, 7. That the members of this meeting, forming the majority of the officers of the said 3d battalion of the county of Buckinghamshire, will not submit to obey, without mortification, the person who will receive orders to take the command of the said battalion.

“ Resolved, 8. That a letter be addressed to François Legendre, esquire, and presented to him by two persons chosen by the said meeting, assuring him this meeting will always consider him a sincere friend of the rights of the people; that it will consider his removal as a civic crown acquired by his devotion, and it will always entertain for him the same respect, the same confidence, the same esteem, which it has heretofore entertained, and which he has justly merited, in the several capacities of representative of the county, lieutenant-colonel, magistrate, and simple citizen.

“ Resolved, 9. That the following letter to Mr. Legendre be adopted, and that J. Bte. Hebert and Louis Landry, esquires, be requested to present it to him.

“ Resolved, 10. That this meeting thanks the president for the zeal shown by him on this occasion.

“ Resolved, 11. That the proceedings of this meeting be published.

(A true copy.) (signed) “ Laurent Genest,
“ Secretary.”

“ The 7th inst. M. M. Hebert and Landry complied with the desire of the meeting, by presenting to Mr. Legendre the following address :

“ Sir,—We, the undersigned officers of your late battalion, have learnt by a general order of the 21st February last, that it has pleased his Excellency to deprive you of your commission as lieutenant-colonel. This dismissal would have surprised us at any other time and under different circumstances; but accustomed to see the dismissal of persons of the highest consideration, we had already foreseen that your personal merit and your devotion to the public cause would expose you to the invidious remarks of subaltern agents, who, in order to obtain your commission, would represent you in a false light to a military chief. We assure you that we preserve for you the esteem, consideration and respect which your civil and military conduct have entitled you to, and that we look upon your dismissal as being equivalent to a civic crown.

(signed) “ Jean Bte. Hebert, President.
“ Louis Landry.”

(Answer of Mr. Legendre.)

" Gentlemen,

Gentilly, 7th March 1828.

" I am sensibly affected by the esteem you show for me on this occasion. Your devotion assures me of the sentiments you have entertained for me in past times, and I thank you for it. I was not at all surprised to observe in the Official Gazette a general order of the Earl of Dalhousie, which announced my dismissal from the command of the 3d battalion of the county of Buckinghamshire, after the plots long since hatched against me by mean and crouching individuals, who at last have found a favourable opportunity in the credulity of a chief who permits himself to be drawn into error by impostors, who decide at random without hearing the parties accused.

" I have the honour to be, Gentlemen, your servant,

(signed) " Francis Legendre."

N^o 7.—Extract from the Quebec Gazette, of the 12th November 1827, containing the libellous matter for which an indictment was found by the Grand Jury against Mr. Charles Mondelet, in the term of the Court of King's Bench held at Quebec in March 1828.

(Translation.)

" To his Excellency George Earl of Dalhousie, Governor in Chief, &c. &c. &c.

" Quebec, 10th November 1828.

" May it please your Excellency,

" If I were only influenced by the voice which is strongly emitted from the bottom of the hearts of your partisans, and of the greater part of your courtizans, I should, perhaps, be inclined to see in you a privileged being, not to be reached by law; but may it please your Excellency, proud of being born and of living a British subject, I must admit as a sovereign principle, that the law is superior to the authorities. I may then be permitted to avail myself of the right which every British subject enjoys, that of exposing to your Excellency, with all the respect due to your high rank, a recent act of your administration which it appears to me is not much calculated to signalize its character. The greatest clearness, if I am not mistaken, as well as the most scrupulous good faith, ought to characterize the acts of every administration; good faith in the performance of them, clearness in the mode and manner of submitting them to the public. Whatever, then, may it please your Excellency, may be the merit of the motives which have led your Council to advise you to dismiss me from my commission of captain-aide-major in the division of Boucherville, I will take the liberty of telling your Excellency that your Council has deviated a little from sound logic in advising you on this subject, to say nothing of the illegality of your general order of the 5th November instant, in the issuing of which your Council has made your Excellency an instrument. The reason assigned as the determining cause in your Excellency's mind appears to be my absence from the division to which I belonged. It must be admitted, that if this discovery on the part of your Council be recent, it is not very creditable to it; if it was not known that I did not reside at Boucherville, how happens it that the zeal of your Council has up to the present time been so sluggish? If, then, the motive of your Excellency for dismissing me has been my non-residence in the division of Boucherville, it is rather singular that M. M. Charles Panet, Pierre Elzeard Taschereu, and Charles Turgeon, equally absent with myself from the divisions to which they belong, should have become such peculiar objects of the favor of your Council as to induce it to give your Excellency such extraordinary advice. These gentlemen have been promoted; and, singular to say, your Council has not been fearful, either for itself or for your Excellency, of public reprobation or ridicule, which such contradictory conduct must bring on the person guilty of it! A few lines suffice to exhibit it to the public in all its deformity.

" It appears to me, may it please your Excellency, that law, justice and sound policy (which, under an administration, ought to have for its object not to excite
discontent

discontent) ought to have had sufficient influence to prevent your Council, and as a necessary consequence, your Excellency, from thus going astray. To dismiss a British subject from his public functions without first affording him an opportunity of being heard, without assigning to him any reasons for the measure, or assigning such as cover both the measure itself as well as those by whom it has been adopted with ridicule, is certainly not manifesting much respect for public opinion, and for the ideas and principles which the present age and the admirable system of British administration have concentrated at the seat of the empire, which, thanks to your Council, is often prevented from making us sensible of its mild influence.

“ If you had charged me, may it please your Excellency, with a refusal to execute your general orders, which appear to me to be as illegal and as destitute of all legal character as the ordinances which are alleged to be the foundation of them, you could not, it is true, in justice dismiss me without giving me an opportunity of being heard; but at least, in its form, your general order would not have been revolting to reason, and that order would not have been so striking an object of ridicule with men who do not make a voluntary or constrained profession of bowing their heads with servility on hearing the voice of him who, in the estimation of many, is considered to be above the laws. Finally, may it please your Excellency, I will take the liberty of telling you with the freedom of a British subject, that your council leads your Excellency sadly astray by inducing you to commit acts which ought to be unheard of under British dominion, and of which our colony alone exhibits examples. As to my dismissal (which in fact is no dismissal at all, inasmuch as there are no militia laws), far from its mortifying me or producing on me the effect which your council and your Excellency may have anticipated, it can only redound to my honour, whether it has been occasioned by my refusal to acknowledge to be law, ordinances which are not so, or by the political conduct which justice, my respect for the laws and constitution, and by my inviolable attachments to the interests of my country have compelled me to pursue. Such has been my conduct, may it please your Excellency, such it will continue to be as long as I shall have the happiness of being a British subject.

(signed) “ Charles Mondelet,

“ Ex Captain Aide Major in the division of Boucherville,
and Advocate, residing at Three Rivers.”

N^o 8.—Extracts of the Quebec Gazette, 29th November 1827, containing the libellous matter for which an indictment was found by the grand jury against Mr. Neilson, the editor and printer of that paper, in the term of the Court of King's Bench held at Quebec in March 1828.

(Translation.)

“ WE have seen that the attorney-general laid before the grand jury bills of indictment for libel; to wit, two against M. M. Waller and Duvernay, the former being editor, and the latter printer of the Canadian Spectator, and one against Mr. Lane, printer of the Spectateur Canadien, and that the majority of the jury found these bills true. As the sole remark to be made, I refer to the composition of the jury and declare, that it is the first time to my knowledge, that a court of justice, instead of inspiring in all the citizens confidence and security, has appeared, on the contrary, to inspire alarm for the liberty and property of the inhabitants in general, for whose protection it must be supposed to have been constituted. The bill found against the editors of the papers which are not the supporters of arbitrary power, is certainly worthy of the other proceedings of a court which, instead of occupying itself according to constant usage, and as pointed out in the charge of his honor Judge Reid, in delivering the gaol crowded with brigands, incendiaries, and murderers, selected almost exclusively as the objects of its labours, during a session of fifteen days, offences of a much inferior description, such as riots, assaults and batteries, and mere misdemeanors, before which, in fine, were dragged, for political offences, persons who had already been acquitted by a jury of their country, or other persons who were not even in custody when this court was constituted. The bills for

perjury found at the instance of the attorney-general against persons who had been acquitted at the last term of the Court of King's Bench; the bills for riot and assault and battery against a number of the electors of the west ward of Montreal, whereas the last grand jury had found a bill against two only for rescue, that is, for rescuing a person out of the hands of the constables; the accusation against Mr. Jacques Viger for not having executed an order of the magistrates, which he was prevented from executing in consequence of a supersedeas granted by several other of the magistrates; finally, the bill against the presses which do not servilely crouch at the feet of certain public officers. This is the kind of protection for which the society, from which the grand jury it is pretended was drawn, is indebted. In speaking of the composition of the grand jury, we do not mean to say that all the members of it were of the same cast; such partiality would have been too evident. I only persuade myself that the mere inspection of their names is sufficient to excite strong suspicions on this head."

(Translation.)

"The members of the jury were far from being unanimous on the accusations of a political nature; several of them would have blushed at being made the instrument of persecution; it is even said that some whose political opinions might have led them astray, were struck with the nature of the offences brought before that court; it is also said that in the affair of the journals, fourteen only out of twenty-nine jurors concurred in opinion on one of these bills; that one of the members of the minority explained to his colleagues, in a firm and luminous manner, the danger they would incur by acting under the influence of resentment and passion."

N° 17.—COPY of a Despatch from Secretary Sir George Murray to Lieutenant General Sir James Kempt, dated Downing-street, 13th April 1829.

SIR,

Downing-street, 13th April 1829.

I have the honour to acknowledge the receipt of your Excellency's despatch, N° 19, of the 27th February last, relative to the measures which you had considered it necessary to pursue in regard to the prosecutions for libel, which had been instituted by the attorney-general of Lower Canada, and I have to convey to you my entire approbation of the course which you have adopted.

I have the honour to be, Sir,

Your most obedient humble servant,

(signed) G. MURRAY.

N° 18.—COPY of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray, dated 7th March 1829.

SIR,

Castle of St. Louis, Quebec. 7th March 1829.

In my despatch of the 13th December last (N° 24) I had the honour to transmit to you the copy of an address which had been presented to me by the House of Assembly, together with some resolutions adopted by the House with reference to the message which I sent to both Houses of the Provincial Parliament, on the 28th November, upon the subject of the Provincial Revenue, and other matters of great importance, agreeably to the instructions conveyed to me in your despatch of the 29th of September.

I have now the honour to transmit to you the copy of an address which I have received from the Legislative Council on the same subject; and you will not fail to observe that a very different opinion is entertained by that branch of the legislature from that expressed by the Assembly with regard to the right of His Majesty to appropriate the revenue raised under the Act 14 Geo. 3, c. 88. The Council state that they deferred the consideration of the message until the present advanced period of the session, with a view to the more mature consideration of the important matters

matters which had been referred to them ; and after having deliberately considered the several points to which their attention had been called, they have concurred in this address, expressing their sentiments thereon.

I have the honour to be, Sir,

Your most obedient humble servant,

(signed) JAMES KEMPT.

To His Excellency Sir James Kempt, Knight Grand Cross of the most honourable military order of the Bath, Lieutenant-general and Commander of all His Majesty's Forces in the Provinces of Lower Canada and Upper Canada, Nova Scotia, New Brunswick, and their several Dependencies, and in the Island of Newfoundland, and Administrator of the Government of the said Province of Lower Canada.

Quebec, 4th March 1829.

May it please your Excellency,

We, His Majesty's dutiful and loyal subjects, the Legislative Council of Lower Canada, in Provincial Parliament assembled, having, in obedience to His Majesty's commands, transmitted to this house by message from your Excellency on the 28th November last, taken into consideration the very important matter contained in that communication, most gratefully acknowledge this instance of His Majesty's paternal regard for the interests and welfare of his Canadian subjects, and are deeply sensible of the solicitude of His Majesty's government to reconcile past differences and to promote the return of harmony, in order that the undivided attention of the legislature may be bestowed on the best method for advancing the prosperity and developing the resources of the extensive and valuable territories comprised within his Majesty's Canadian provinces.

The consideration of your Excellency's message has been deferred until this advanced period of the session, in the view to the more mature consideration of the subjects upon which your Excellency has called for the expression of our sentiments.

The Legislative Council entertain no doubt that His Majesty has been well advised in declaring that His Majesty is not authorized to place the revenue arising from the statute of the 14th of Geo. 3. c. 88, under the control of the legislature of this province.

His Majesty having been pleased to direct that from the revenue which the law has placed at the disposal of the Crown, the salaries of the officers administering the government of the province, and the salaries of the judges shall be defrayed ; the Legislative Council perceive in this determination His Majesty's attention graciously directed to the preservation of the dignity of the executive government and the independent administration of justice. When your Excellency announces to us that no further appropriation of any part of that revenue will be made until the sentiments of the legislature shall be known, we feel it incumbent on us humbly to recommend that the pensions, for the payment of which His Majesty's royal word is pledged, should be paid out of such part of the revenue of the crown as His Majesty may consider not to be by law specially appropriated, and that the residue should continue to be applied by His Majesty to defray the charges of the administration of justice and the support of the civil government, as is by law provided.

The Legislative Council will most cheerfully concur in making such further provision, as the exigencies of the public service may require, and to which the amount of the crown revenue may prove inadequate.

The Legislative Council consider it to be the right of the provincial legislature to appropriate the balance of money in the hands of the receiver-general, which is not by law placed at the disposal of the Crown.

The Legislative Council has every disposition to concur in the enactment of a law for the indemnity of any persons who have heretofore, without authority, signed or acted in obedience to warrants for the appropriation to the public service of any unappropriated monies of the province, and the Legislative Council feel that their acquiescence in His Majesty's recommendation will be justified by the consideration of the very difficult situation in which such persons were placed

under the refusal of supplies required for public services, similar to those previously sanctioned by the Legislature in the year 1818, and which has continued to be paid from that period.

The Legislative Council receive with extreme satisfaction the communication made by command of His Majesty, that a scheme for the permanent settlement of the financial concerns of Lower Canada is in contemplation, and they will be most happy if the result shall be such as to prove conducive to the general welfare of the province, and satisfactory to His Majesty's faithful Canadian subjects.

The Legislative Council perceive some inconvenience in the plan recommended by His Majesty's Government for paying over the balances in the hands of the receivers-general and sheriffs to the commissary-general, particularly in the mode of repayment by bills on the Treasury for the amount of the sums paid to that officer; but the Legislative Council will concur in any proper measure for preventing the accumulation of balances in the hands of public accountants, and for obtaining security against abuses in those departments.

In respect to the distribution between the provinces of Upper and Lower Canada, of the duties of customs collected at Quebec, this House will readily concur in the appointment of Commissioners on the part of this province to meet Commissioners on the part of the Upper province, in the view to the establishment of a just and equitable system, calculated to avoid future difficulties upon this interesting subject, and the Legislative Council will be extremely happy if the arrangements to be made by the Commissioners should render unnecessary any further interference of the Imperial Parliament.

In respect to the appointment of an agent in England, this House is duly sensible of His Majesty's readiness to accede to the expressed wishes of the Assembly, and the Legislative Council anxiously hope that notwithstanding the marked and important dissimilarity that exists between the Constitutions of the Canadas and those of all other British Colonies, the selection of the agent may be such as to unite the views and to preserve the constitutional privileges of both branches of this legislature, as well as to ensure the approbation of His Majesty's Government. In the event of the abolition of the office of agent as it is at present constituted, this House recognizes the justness of the principle announced by His Majesty's Government, that some adequate indemnity should be provided for the present holder of the office; and they respectfully recommend that the same principle should be applied to the incumbents of other offices of long standing, which His Majesty may deem it expedient to abolish or reduce, in all cases when the conduct of such officer has been unexceptionable.

With respect to the expediency of imposing taxes on wild lands, this House will give the subject, when it may be brought before them, the most deliberate consideration.

The attention of the Legislative Council has been frequently directed to the mischiefs resulting from the system of tacit mortgages, and they are always ready to entertain any measures that may be brought before them for the prevention of those evils in the province at large.

The Legislative Council has evinced their disposition to accomplish this object as far as appears practicable, by passing in the present session, a bill for the establishment of offices for the inregistration of deeds in the townships; and this House has now under consideration the subject of the erection of courts for the decision of causes arising in the townships.

The Legislative Council assures your Excellency that they will cordially concur in all constitutional measures that shall be calculated to promote the common good, in whatever quarter such measures may happen to originate.

Signed by order.

(signed) *J. Sewell,*
Speaker of the Legislative Council.

N^o 19.—COPY of a Despatch from Lieutenant General Sir James Kempt to Secretary Sir George Murray.

Castle of St. Louis,
Quebec, 25th March 1829.

SIR,

I had the honour to inform you in my letter of the 16th instant of my having prorogued the Parliament of this province after a long and laborious session ; and I hasten to communicate to you the measures that have been adopted with the view of meeting the financial difficulties of the present year.

The House of Assembly having declined to express any opinion as to the most advantageous mode of applying the Crown Revenues to the public service, as proposed in the communication which I was instructed to make to the Provincial Legislature ; and having also by their resolutions, which I had the honour to transmit to you in my despatch of the 13th of December, denied the right of the Crown to appropriate the funds which the law has placed at His Majesty's disposal, as declared in the message of the 28th of November 1828. It appeared to me, that the only course which I could take under such circumstances, was to submit to the Legislature an estimate of the whole expenses of the Civil Government for the current year, to deduct from the same the estimated amount of the Crown Revenue, and to call upon the House of Assembly to make provision for the balance, it being the sum required to defray the whole expenses of the Civil Government.

I accordingly submitted an estimate of this description to the Legislative Council and Assembly, a copy of which (No. 1.) is herewith enclosed. It amounts, as you will see, to 62,128*l.* 10*s.* 9*d.*, and the estimated revenue at the disposal of the Crown being 38,100*l.*, a supply of 24,028*l.* 10*s.* 9*d.* was consequently required to meet the expenses of the public service for the present year.

No. 1.

This sum, however, the House of Assembly refused to grant, objecting to several items in the estimate, amounting in all to 2,871*l.*, as shown in No. 2, p. 75 ; and it being intended to provide by special Acts for the charge of 3,184*l.* 10*s.* for salaries and incidental expenses attending the collection of the revenue ; and also for 1,530*l.* 18*s.* 3*d.*, being the expense of the militia staff and contingencies ; these sums, amounting in all to 7,586*l.* 8*s.* 3*d.*, were deducted from the estimate by the House of Assembly, which reduced its amount to 54,542*l.* 2*s.* 6*d.* ; and a Bill of Supply, founded on this estimate, having passed both branches of the Legislature, I have the honour to inform you that I have assented to the same in His Majesty's name. A copy of this Act (No. 3.) is herewith enclosed ; it is entitled, a Bill "to make further provision for defraying the Civil Expenditure of the Provincial Government," and the sum of 38,100*l.* being already appropriated for that purpose, as declared by the King's commands in the message of the 28th of November 1828, the public service simply required provision being made for the difference between 38,100*l.* and the amount of the estimate ; the House of Assembly, however, would not grant a supply in any other form than that which has been adopted, and the Bill having passed both branches of the Legislature, I did not feel myself justified in withholding my assent to it under existing circumstances.

£.	s.	d.
2,871	-	-
3,184	10	-
1,530	18	3
<hr/>		
£. 7,586	8	3

Vide No. 2, p. 75.

No. 3.

I could entertain no hope, after the resolutions adopted by the House of Assembly, that it would be disposed to pass any Act in which the King's right to appropriate the revenue raised by the 14 Geo. 3, c. 88, would be *specifically* acknowledged ; and although the present Bill is substantially the same as the Supply Bill passed in 1825, to which objections were stated by Earl Bathurst in a despatch addressed to Sir Francis Burton, dated the 4th of June 1825, yet, as you admit in the despatch of the 29th of September 1828, which I have had the honour of receiving from you, that "so long as the House of Assembly is called upon to provide for, and to regulate any portion of the public expenditure, it virtually acquires a control over the whole," and "as a scheme for the permanent settlement of the financial concerns of the province is in contemplation ;" I assented to the present arrangement, viewing it as a temporary measure to meet the difficulties of the present year, until

such scheme is matured, and a permanent settlement effected of the question in controversy, by His Majesty's Government at home.

I was further induced to give my assent to the present measure, by the consideration, that without a supply of some kind from the Provincial Legislature, the public service could not be carried on under the instructions which I have had the honour of receiving from you; the funds which the law has placed at His Majesty's disposal, being insufficient to defray the expenses of the Civil Government; under all circumstances, therefore, I entertain a hope that the arrangement which I have sanctioned will be approved of by His Majesty's Government.

It will be necessary, however, that I should receive instructions from you as to the funds from which the items objected to by the House of Assembly are to be defrayed. They may be classed under three heads; viz. salaries and allowances to the officers of the Civil Government; pensions recently granted; and contingent charges attending the administration of justice. Of the two first, I herewith transmit a separate statement (No. 4.), with such explanations as I am able to afford you upon the subject of their rejection by the House of Assembly; it being my duty, however, at the same time to observe, that they are charges which have been admitted by the Lords of the Treasury, and included in the warrants sent out last year by their Lordships for the appropriation of the duties raised under the 14 Geo. 3, c. 88; It will be necessary, therefore, that I should be furnished with a new authority from their Lordships, if it is the intention of His Majesty's Government, that the charges should continue to be paid out of the same fund.

I have the honour to be, Sir,

Your most obedient humble servant,

(signed) JAMES KEMPT.

(1.)—ABSTRACT of the within Estimate.

	£.	s.	d.
For salaries to officers of government, and contingent expenses of the several offices	10,175	1	3
Receiver-general's office	1,100	-	-
Offices of audit and inspection of public accounts	900	-	-
Executive council	1,732	10	-
Legislative council	4,827	18	-
Rent of the bishop's palace for both houses of legislature	500	-	-
House of assembly	7,889	10	-
Salaries of judges, and other expenses attending the administration of justice:—			
Fixed	£.15,602	-	-
Contingent	9,060	-	-
	24,662	-	-
Pensions	2,083	2	-
Surveyor-general's office	1,152	10	-
Militia staff and contingencies	1,530	18	3
Miscellaneous expenses	2,168	11	3
Expenses of collecting revenue, in part deducted in course of collection	3,406	10	-
TOTAL Sterling	£.	62,128	10 9

ESTIMATE of the Civil Expenditure of the Government of Lower Canada,
for the Year 1829.

	Sterling.			Sterling.		
	£.	s.	d.	£.	s.	d.
Salaries to Officers of Government, and Contingent Expenses of the several Offices:						
Salary of the governor in chief - - - - -	4,500	-	-			
— of the lieutenant-governor - - - - -	1,500	-	-			
— of the lieutenant-governor of Gaspé - - - - -	300	-	-			
— of the secretary to the governor in chief - - - - -	500	-	-			
— of the assistant ditto - - - - -	200	-	-			
— of two assistants in the office - - - - -	365	-	-			
— of the keeper of ditto - - - - -	45	-	-			
Allowance to ditto, in lieu of apartments formerly allowed him as keeper of ditto - - - - -	25	-	-			
Salary of the messenger in ditto - - - - -	45	-	-			
— of the extra ditto in ditto - - - - -	41	1	3			
Postages of secretary's office - - - - -	1,000	-	-			
Stationery, printing and extra writing for ditto - - - - -	300	-	-			
Allowance for translating public documents into French - - - - -	50	-	-			
Salary of the auditor of land patents - - - - -	200	-	-			
— of the secretary of the province (charged as a pension)						
Rent of office for registering grants of crown lands - - - - -	54	-	-			
Contingencies of provincial secretary's office - - - - -	80	-	-			
For a messenger to ditto - - - - -	30	-	-			
Salary of the provincial agent residing in London - - - - -	200	-	-			
For residents on the island of Anticosti - - - - -	130	-	-			
Rent of building used for offices of the civil departments of government - - - - -	495	-	-			
Allowance to the keeper of ditto - - - - -	40	-	-			
Contingent expenses attending the care of ditto - - - - -	25	-	-			
For purchase of fuel for ditto - - - - -	50	-	-			
				10,175	1	3
Receiver-General's Office:						
Salary of the receiver-general - - - - -	1,000	-	-			
Allowance for a clerk. - - - - -	100	-	-			
				1,100	-	-
Offices of Audit and Inspection of Public Accounts:						
Salary of the auditor-general - - - - -	400	-	-			
Allowance for a clerk - - - - -	100	-	-			
Salary of the inspector-general of public provincial accounts - - - - -	300	-	-			
Allowance to ditto for a clerk, &c. - - - - -	100	-	-			
				900	-	-
Executive Council:						
Salary to nine members, at 100 <i>l.</i> each - - - - -	900	-	-			
— of the registrar and clerk - - - - -	500	-	-			
— of the assistant ditto - - - - -	182	10	-			
— for stationery, printing, &c. - - - - -	50	-	-			
— messenger and keeper of the apartments - - - - -	50	-	-			
— door-keeper and office servant - - - - -	50	-	-			
				1,732	10	-

(continued)

	Sterling.			Sterling.		
	£.	s.	d.	£.	s.	d.
Legislative Council:						
Salary of the speaker - - - - -	900	-	-			
— of the clerk - - - - -	450	-	-			
— of the assistant clerk - - - - -	360	-	-			
— of the writing clerk, assistant, and French translator - - - - -	225	-	-			
— of the law clerk - - - - -	180	-	-			
— of the master in chancery - - - - -	81	-	-			
— of the gentleman usher of the black rod - - - - -	135	-	-			
— of the serjeant at arms - - - - -	90	-	-			
— of the messenger - - - - -	32	8	-			
— of the door-keeper - - - - -	25	-	-			
— of the keeper of the apartments and allowance for house rent - - - - -	49	10	-			
Contingent expenses - - - - -	2,300	-	-			
						4,827 18 -
Rent of bishop's palace - - - - -	-	-	-			500 - -
The House of Assembly :						
Salary of the speaker - - - - -	900	-	-			
— of the clerk - - - - -	450	-	-			
— of the assistant clerk - - - - -	360	-	-			
— of the English translator - - - - -	180	-	-			
— of the French ditto - - - - -	180	-	-			
— of the law clerk - - - - -	180	-	-			
— of the serjeant at arms - - - - -	90	-	-			
— of the keeper of the apartments and for house rent - - - - -	49	10	-			
— of the clerk of the crown in chancery - - - - -	100	-	-			
Contingent expenses - - - - -	5,400	-	-			
						7,889 10 -
Salaries of the Judges and other Expenses attending the Administration of Justice :						
Fixed :						
Salary of the chief justice of the province - - - - -	1,500	-	-			
— of the chief justice of Montreal - - - - -	1,100	-	-			
— of six puisne judges, at 900 <i>l.</i> sterling each - - - - -	5,400	-	-			
— of three provincial judges, at 600 <i>l.</i> - - - - -	1,800	-	-			
— of the judge of the court of vice-admiralty - - - - -	200	-	-			
Allowance for circuits, 11 in the year - - - - -	825	-	-			
Salary of the attorney-general - - - - -	300	-	-			
— of the solicitor-general - - - - -	200	-	-			
— of the advocate-general - - - - -	200	-	-			
— of the sheriff of the district of Quebec - - - - -	100	-	-			
— of the ditto of the ditto of Montreal - - - - -	100	-	-			
— of the ditto of the ditto of Three Rivers - - - - -	75	-	-			
— of the ditto of the ditto of Gaspé - - - - -	70	-	-			
— of the ditto of the ditto of St. Francis - - - - -	50	-	-			
Allowance to sheriff of Quebec, Montreal and Three Rivers, for three executioners, at 27 <i>l.</i> sterling each - - - - -	81	-	-			
Ditto - to ditto of Gaspé for travelling expenses - - - - -	10	-	-			
Salaries of the coroner for the district of Quebec - - - - -	100	-	-			
— of the ditto for - - - - - Montreal - - - - -	100	-	-			
— of the ditto for - - - - - Three Rivers - - - - -	50	-	-			
— of the clerk of the court and peace, district of Gaspé, and allowance for travelling expenses - - - - -	50	-	-			
— of the ditto and ditto district of St. Francis - - - - -	50	-	-			
— of three clerks of the Crown; at Quebec 40 <i>l.</i> , at Montreal 40 <i>l.</i> , at Three Rivers 20 <i>l.</i> - - - - -	100	-	-			
— of the clerk of the court of appeals - - - - -	120	-	-			
Allowance to ditto for stationery for the court - - - - -	6	-	-			
Salary of the usher of the court of appeals - - - - -	27	-	-			

		Sterling.			Sterling.		
		£.	s.	d.	£.	s.	d.
Salaries of judges, &c.— <i>continued.</i>							
Salary of the chairman of the quarter sessions at Quebec		500	-	-			
— of the - - - ditto - - - at Montreal		500	-	-			
— of the - - - ditto - - - at Three Rivers		250	-	-			
— of the - - - ditto - - - at Gaspé		225	-	-			
— of the interpreter of the courts - at Quebec		40	-	-			
— of the - - - ditto - - - at Montreal		40	-	-			
— of the - - - ditto - - - at Three Rivers		25	-	-			
— of the high constable - - - at Quebec		36	-	-			
— of the - ditto - - - at Montreal		36	-	-			
— of the - ditto - - - at Three Rivers		27	-	-			
— of the crier of the courts - - at Quebec		20	-	-			
— of the tipstaff - - - at ditto		18	-	-			
— of the crier of ditto and ditto - at Montreal		38	-	-			
— of the - ditto - and ditto - at Three Rivers		25	-	-			
— of the keeper of the court-house at Quebec		54	-	-			
— of the ditto and housekeeper - at Montreal		72	-	-			
— of the ditto - - - at Three Rivers		36	-	-			
— of the ditto and gaol, New Carlisle, Gaspé		54	-	-			
— of the ditto and ditto Percé - ditto		54	-	-			
— of the ditto - - - at Sherbrooke		18	-	-			
— of the keeper of the gaol - - at Quebec		90	-	-			
— - - ditto for two turnkeys - - -		72	-	-			
— of the keeper of the gaol - - at Montreal		90	-	-			
— - - ditto for two turnkeys - - -		72	-	-			
— of the keeper of the gaol - - at Three Rivers		45	-	-			
— - - ditto for one turnkey - - -		36	-	-			
— of the keeper of the gaol - - at Sherbrooke		25	-	-			
— of the physician attending the gaol at Quebec		200	-	-			
— of the - - ditto - - - at Montreal		200	-	-			
— of the - - ditto - - - at Three Rivers		80	-	-			
		15,602	-	-			
Contingencies :							
Contingent bills of the crown law officers	2,300	-	-				
— of the sheriff of Quebec	1,100	-	-				
— of the ditto of Montreal	1,000	-	-				
— of the ditto of Three Rivers	260	-	-				
— of the ditto of Gaspé	100	-	-				
— of the ditto of St. Francis	100	-	-				
— of the coroner of Quebec	320	-	-				
— of the ditto of Montreal	110	-	-				
— of the ditto of Three Rivers	30	-	-				
— of the ditto of Gaspé	10	-	-				
— of the clerk of the Crown, Quebec	75	-	-				
— of the ditto, Montreal	135	-	-				
— of the ditto, Three Rivers	25	-	-				
— of the prothonotaries at Quebec	300	-	-				
— of the ditto at Montreal	350	-	-				
— of the ditto at Three Rivers	120	-	-				
— of the ditto at St. Francis	50	-	-				
— of the clerks of the peace, Quebec	220	-	-				
— of the ditto of Montreal	100	-	-				
— of the ditto of Three Rivers	75	-	-				
— of the ditto of Gaspé	75	-	-				
— of the ditto of St. Francis	80	-	-				
— of the police-office at Quebec	150	-	-				
— of the ditto at Montreal, including apprehension and commitment of prisoners, and other police purposes	400	-	-				

		Sterling.			Sterling.		
		£.	s.	d.	£.	s.	d.
<i>Contingencies—continued.</i>							
Contingent bills of the police office at the Three Rivers, including apprehension and commitment of prisoners and other police purposes - - - - - 100 - -							
—	of the ditto, Gaspé - - - - -	100	-	-			
—	of the ditto, St. Francis - - - - -	50	-	-			
—	for serving subpoenas at Montreal, and charge of Crown witnesses - - - - -	300	-	-			
—	of the high constable, for serving ditto at Quebec - - - - -	100	-	-			
—	of the ditto, for ditto at Three Rivers - - - - -	75	-	-			
—	for attendance of needy Crown witnesses at Montreal - - - - -	550	-	-			
—	for ditto at Quebec - - - - -	200	-	-			
—	for ditto at Three Rivers - - - - -	75	-	-			
—	for ditto of interpreter to courts of oyer and terminer - - - - -	25	-	-			
		9,060 - -			24,662 - -		
Pensions:							
Thomas Amyot, as late provincial secretary - - - - -		400	-	-			
Mrs. Dunn - - - - -		250	-	-			
Mrs. Baby - - - - -		150	-	-			
H. W. Ryland - - - - -		300	-	-			
Sir Geo. Pownal - - - - -		300	-	-			
Mrs. Elmsley - - - - -		200	-	-			
Mrs. Taylor - - - - -		50	-	-			
Mrs. Lemaistre - - - - -		50	-	-			
Mrs. Livingston - - - - -		50	-	-			
The two Miss De Salaberrys, at 50 l. each - - - - -		100	-	-			
Miss De Louvieres - - - - -		21	12	-			
Mrs. Rottott - - - - -		36	-	-			
Henry Harwood - - - - -		30	-	-			
Miss Finlay - - - - -		20	-	-			
Miss Desbarats - - - - -		18	-	-			
Miss Mackay - - - - -		18	-	-			
Widow Sauvageau - - - - -		12	-	-			
Three Miss Montezamberts, at 10 l. each - - - - -		30	-	-			
Three Miss De Launieres, at ditto - - - - -		30	-	-			
Madame Renville - - - - -		7	10	-			
Mrs. Schindler - - - - -		5	-	-			
Mrs: De Mousseau - - - - -		5	-	-			
		2,083 2 -					
Surveyor-Generals Office:							
Salary of the surveyor-general - - - - -		450	-	-			
—	of the first clerk - - - - -	182	10	-			
—	of the second clerk - - - - -	150	-	-			
—	for stationery, 20 l.; office-servant, 40 l. - - - - -	60	-	-			
—	for postages - - - - -	10	-	-			
—	expenses of surveys - - - - -	300	-	-			
		1,152 10 -					
Militia Staff and Contingencies:							
Salary of the adjutant-general - - - - -		450	-	-			
—	of the deputy adjutant-general - - - - -	270	-	-			
—	of the two provincial aides-de-camp - - - - -	360	-	-			
—	of the clerk in the office - - - - -	123	3	9			
—	of the messenger in ditto - - - - -	60	4	6			
—	for office rent and fuel - - - - -	67	10	-			
—	for stationery, printing and postage - - - - -	200	-	-			
		1,530 18 3					

	Sterling.			Sterling.		
	£.	s.	d.	£.	s.	d.
Miscellaneous Expenses :						
Salaries of the Grand Voyer, district of Quebec - -	150	-	-			
— of the - - ditto - - - of Montreal - -	150	-	-			
— of the - - ditto - - - of Three Rivers - -	90	-	-			
— of the surveyor of highways, Gaspé - - -	50	-	-			
— of the inspector of chimnies at Quebec - -	60	-	-			
— of the - - ditto - - - at Montreal - -	60	-	-			
— of the - - ditto - - - at Three Rivers - -	25	-	-			
— of the ditto of merchandise, Coteau du Sac, and allowance for house rent - - -	168	-	-			
For printing the laws - - - - -	500	-	-			
Contingent repairs of public buildings belonging to Government, and expenses of keeping winter roads in repair, sweeping chimnies, &c. - - -	500	-	-			
For particular repairs and articles required for the gaol at Quebec, as per accompanying estimate - -	415	11	3			
				2,168	11	3
Expenses of collecting Revenue in part deducted in course of collection :						
Salary of the clerk of the Terrars of the King's domain -	90	-	-			
Commission of the inspector general of the King's domain on sums collected - - - - -	300	-	-			
				390	-	-
Salary of the collector - at St. John - - - - -	189	-	-			
— of the comptroller at ditto - - - - -	126	-	-			
— of the guager - at ditto - - - - -	40	-	-			
Incidental expenses - at ditto - - - - -	400	-	-			
				755	-	-
Salary to collector at Coteau du Sac for collection of duties under British Acts - - - - -	75	-	-			
Allowance to ditto for collections under provincial acts -	90	-	-			
Incidental expenses to ditto - - - - -	144	-	-			
				309	-	-
- Ditto - - at Quebec under provincial acts -	-	-	-	1,700	-	-
Salary to the collector at Stanstead for collection of duties under British Acts - - - - -	75	-	-			
Allowance to ditto for ditto under provincial acts -	45	-	-			
Incidental allowances to ditto - - - - -	82	10	-			
				202	10	-
Allowances to collector at St. Marie Nouvelle Beance -	-	-	-	50	-	-
Total sterling - - - - -			£.	62,128	10	9
The probable amount of appropriated revenues at the disposal of the Crown, estimated at - - - - -				38,100	-	-
Amount for which a supply is required, sterling - - - - -			£.	24,028	10	9

Quebec, }
26th January 1829. }

Jos. Cary,
Insp^r Gen^l Pub. Prov^l Accounts.

THE under-mentioned Items of Expenditure are not included in the foregoing Estimate, being provided for by special Acts of the Provincial Parliament.

	Sterling.		
	£.	s.	d.
Expenses of the Trinity board, by 45 Geo. 3, c. 12, and two other acts -	2,000	-	-
Pensions to wounded militiamen, by 55 Geo. 3, c. 10 - - - -	310	-	-
Pension to dame widow Parret, by 3 Geo. 4, c. 39 - - - -	270	-	-
Assessment on public buildings, &c. by 36 Geo. 3, c. 9 - - - -	330	-	-
Total sterling - - - £.	2,910	-	-

EXPLANATIONS on the new Items in the foregoing Estimate.

1. Allowance to keeper of the civil secretary's offices, in lieu of apartments formerly allotted to him, 25*l.*

This allowance is included in the treasury warrant, and it was considered just and necessary, in consequence of the individual being removed from the quarters occupied by him in the house formerly rented for the civil secretary's offices.

2. Allowance for translating public documents into French, 50*l.*

This charge was rendered necessary in consequence of the office of French translator to government being abolished.

3. Messenger in the provincial secretary's office, 30*l.*

This is represented as absolutely necessary by the provincial secretary, as well for the proper care of the office, lighting fires, &c. as from the constant intercourse between that and the other public offices.

4. Rent of the building used for the civil offices of government, 495*l.*

This charge is included in the treasury warrant of last year, but is attended with very little additional expence to the public.

It became necessary to give up the apartments in the bishop's palace formerly occupied by the executive council and the auditor and inspector-general of accounts, for the greater accommodation of the legislature, and the hire of a house for these departments would have been attended with considerable expence. This is rendered unnecessary by the new arrangement; and the rent formerly paid for the civil secretary's office and for the surveyor-general is also saved, besides the very great convenience which both the public and the different departments of government derive, in having all the public offices collected under the same roof.

5. Allowance for the keeper of that building, 40*l.*

This is no addition to the expence, being the same allowance formerly made to the messenger of the executive council office for care of additional apartments, &c.

6. & 7. Contingent expenses attending the care of the building, 25*l.*
For purchase of fuel for the respective offices in the same, 50*l.*

Necessary charges.

8. Salary of the coroner at Three Rivers, 50*l.*

The present coroner's memorial to his Excellency, the administrator of the government, praying for a salary is herewith annexed; and as the coroners of the other districts receive salaries of 100*l.* each, Mr. Lafrenaye is considered as having a fair and equitable claim to a salary corresponding with the duties of his office. He is accordingly inserted in the estimate, and recommended for a salary of 50*l.* per annum.

9. Salary

9. Salary of the chairman of the quarter sessions at Gaspé, 225*l.*

A necessary charge, as there is no court for the administration of criminal justice there except the quarter sessions of the peace, and the justices of the peace could not meet in quarter sessions in consequence of the want of a competent person to take the lead as chairman, and guide them in their proceedings. The appointment has been submitted to the consideration of His Majesty's Government.

10. Salary of the keeper of the gaol and court hall at Percé Gaspé, 54*l.*

This is a necessary expense, arising from the establishment of a gaol and court-hall, under the provisions of the provincial Act 7 Geo. 4, c. 15, and authorized by 48 Geo. 3, c. 35.

11. Pension to Thomas Amyot as provincial secretary, 400*l.*

This is the same amount as was allowed for a salary, and now estimated for as a pension, in conformity with His Majesty's warrant under the royal sign manual, dated 28th January 1828.

(2.)—ABSTRACT of the within Estimate.

	£.	s.	d.
For salaries to officers of government, and contingent expences of the several offices	10,175	1	3
Receiver-general's office	1,100	—	—
Offices of audit and inspection of public accounts	900	—	—
Executive council	1,732	10	—
Legislative council	4,827	18	—
Rent of the bishop's palace for both houses of legislature	500	—	—
House of assembly	7,889	10	—
Salaries of judges, and other expenses attending the administration of justice:			
Fixed	£. 15,602	—	—
Contingent	9,060	—	—
		24,662	—
Pensions		2,083	2
Surveyor-general's office		1,152	10
Miscellaneous expenses		2,390	11
Custom-house salaries and incidental expenses		3,184	10
Militia staff and contingencies		1,530	18
			3
Total sterling	£.	62,128	10
			9
Amount of the several items objected to by the house of assembly	£. 2,871	—	—
Custom-house salaries and incidental expenses intended to be provided for by special acts	3,184	10	—
Militia staff and contingencies, to be provided for by a special act*	1,530	18	3
		7,586	8
			3
Together with the monies already appropriated by law; the assembly, by the supply bill, provide for the sums necessary to make that of sterling	£.	54,542	2
			6

* No provision was made for the militia staff and contingencies, the same having been made contingent on the passing of the militia bill, which did not pass.

76 COMMUNICATIONS BETWEEN THE COLONIAL OFFICE

COPY of the Estimate of the Civil Expenditure of the Government of Lower Canada for the Year 1829, submitted to the Provincial Legislature, and showing the Amount voted by the House of Assembly.

	AMOUNT of the Estimate for 1829.			AMOUNT VOTED.			DIFFERENCE.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.
Salaries to Officers of Government, and Contingent Expences of the several Offices :									
Salary of the Governor-in-Chief - - -	4,500	-	-	4,500	-	-			
— of the lieutenant-governor - - -	1,500	-	-	1,500	-	-			
— of the lieutenant-governor of Gaspé - -	300	-	-	-	-	-	*300	-	-
— of the secretary to the Governor-in- Chief - - - - -	500	-	-	500	-	-			
— of the assistant ditto to the ditto - -	200	-	-	200	-	-			
— of two assistants in the office - - -	365	-	-	365	-	-			
— of the keeper of the ditto - - - - -	45	-	-	45	-	-			
Allowance to ditto, in lieu of apartments for- merly allowed him as keeper of ditto - -	25	-	-	-	-	-	*25	-	-
Salary of the messenger in ditto - - - -	45	-	-	45	-	-			
— of the extra ditto in ditto - - - - -	41	1	3	41	1	3			
Postages of the secretary's office - - - -	1,000	-	-	1,000	-	-			
Stationery, printing, and extra writing for ditto	300	-	-	300	-	-			
Allowance for translating public documents -	50	-	-	50	-	-			
Salary of the auditor of land patents - -	200	-	-	200	-	-			
Rent of office for registering grants of crown lands - - - - -	54	-	-	54	-	-			
Contingencies of the provincial secretary's office - - - - -	80	-	-	80	-	-			
For a messenger to ditto - - - - -	30	-	-	30	-	-			
Salary of the provincial agent - - - - -	200	-	-	-	-	-	*200	-	-
For residents on the island of Anticoste - -	130	-	-	130	-	-			
Rent of building used for offices - - - -	495	-	-	495	-	-			
Allowance to the keeper of ditto - - - -	40	-	-	40	-	-			
Contingent expenses attending the care of the building used as public offices - - - - -	25	-	-	25	-	-			
For purchase of fuel for ditto - - - - -	50	-	-	50	-	-			
Receiver-General's Office :									
Salary of the receiver-general - - - - -	1,000	-	-	1,000	-	-			
Allowance for a clerk - - - - -	100	-	-	100	-	-			
Offices of Audit and Inspection of Public Accounts :									
Salary of the auditor-general - - - - -	400	-	-	-	-	-	*400	-	-
Allowance for a clerk - - - - -	100	-	-	-	-	-	*100	-	-
Salary of the inspector-general - - - - -	300	-	-	300	-	-			
Allowance for a clerk - - - - -	100	-	-	100	-	-			
Executive Council :									
Salary to nine members at 100 l. each - -	900	-	-	900	-	-			
— of the registrar and clerk - - - - -	500	-	-	500	-	-			
— of the assistant ditto - - - - -	182	10	-	182	10	-			
Allowance for stationery, printing, &c. - -	50	-	-	50	-	-			
Salary of messenger and keeper of apartments	50	-	-	50	-	-			
— of door-keeper and office servant - -	50	-	-	50	-	-			
Legislative Council :									
Salary of the speaker - - - - -	900	-	-	900	-	-			
— of the clerk - - - - -	450	-	-	450	-	-			
— of the assistant clerk - - - - -	360	-	-	360	-	-			
— of the writing clerk, assistant, &c. - -	225	-	-	225	-	-			
— of the law clerk - - - - -	180	-	-	180	-	-			
— of the master in chancery - - - - -	81	-	-	81	-	-			

Note.—The items marked thus * were included in the King's warrant for the year 1828.

	AMOUNT of the Estimate for 1829.			AMOUNT VOTED.			DIFFERENCE.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.
Legislative Council—continued.									
Salary of the gentleman usher of the black rod	135	-	-	135	-	-			
— of the serjeant at arms	90	-	-	90	-	-			
— of the messenger	32	8	-	32	8	-			
— of the door-keeper	25	-	-	25	-	-			
— of the keeper of the apartments	49	10	-	49	10	-			
Contingent expenses of the legislative council	2,300	-	-	2,300	-	-			
Rent of the bishop's palace	500	-	-	500	-	-			
The House of Assembly:									
Salary of the speaker	900	-	-	900	-	-			
— of the clerk	450	-	-	450	-	-			
— of the assistant ditto	360	-	-	360	-	-			
— of the English translator	180	-	-	180	-	-			
— of the French ditto	180	-	-	180	-	-			
— of the law clerk	180	-	-	180	-	-			
— of the serjeant at arms	90	-	-	90	-	-			
— of the keeper of the apartments	49	10	-	49	10	-			
— of the clerk of the crown in Chancery	100	-	-	100	-	-			
contingent expenses	5,400	-	-	5,400	-	-			
Salaries of the Judges, and other Expenses attending the Administration of Justice:									
Salary of the chief justice of the province	1,500	-	-	1,500	-	-			
— of the ditto of Montreal	1,100	-	-	1,100	-	-			
— of three provincial judges	1,800	-	-	1,600	-	-	*200	-	-
— of six puisne ditto	5,400	-	-	5,400	-	-			
— of judge of the court of vice admiralty	200	-	-	200	-	-			
Allowance for circuits	845	-	-	275	-	-	*550	-	-
Salary of the attorney-general	300	-	-	300	-	-			
— of the solicitor-general	200	-	-	200	-	-			
— of the advocate-general	200	-	-	-	-	-	*200	-	-
— of the sheriff, Quebec	100	-	-	100	-	-			
— " " " Montreal	100	-	-	100	-	-			
— " " " Three Rivers	75	-	-	75	-	-			
— " " " Gaspé	70	-	-	70	-	-			
— " " " St. Francis	50	-	-	50	-	-			
Allowance to sheriffs for executioners	81	-	-	81	-	-			
Ditto to sheriff of Gaspé traveling expenses	10	-	-	10	-	-			
Salary of the coroner, Quebec	100	-	-	100	-	-			
— " " " Montreal	100	-	-	100	-	-			
— " " " Three Rivers	50	-	-	50	-	-			
— clerk of the court and peace, Gaspé	60	-	-	60	-	-			
— " " " St. Francis	50	-	-	-	-	-	*50	-	-
— clerks of the crown	100	-	-	100	-	-			
— clerk of the court of appeals	120	-	-	120	-	-			
Allowance to ditto for stationery	6	-	-	6	-	-			
Salary of the usher of the court of appeals	27	-	-	27	-	-			
— chairman quarter sessions, Quebec	500	-	-	500	-	-			
— " " " Montreal	500	-	-	500	-	-			
— " " " Three Rivers	250	-	-	250	-	-			
— " " " Gaspé	225	-	-	-	-	-	225	-	-
— interpreter of the courts, Quebec	40	-	-	40	-	-			
— " " " Montreal	40	-	-	40	-	-			
— " " " Three Rivers	25	-	-	25	-	-			
— high-constable, Quebec	36	-	-	36	-	-			
— " " " Montreal	36	-	-	36	-	-			
— " " " Three Rivers	27	-	-	27	-	-			
— crier of the courts, Quebec	20	-	-	20	-	-			
— tipstaff ditto	18	-	-	18	-	-			
— crier and ditto, Montreal	38	-	-	38	-	-			
— crier and ditto, Three Rivers	25	-	-	25	-	-			
— keeper of the court-house, Quebec	54	-	-	54	-	-			
— " " " Montreal	72	-	-	72	-	-			
— " " " Three Rivers	36	-	-	36	-	-			
— " " " New Carlisle, 36 l.*	54	-	-	36	-	-	18	-	-
— " " " Percé	54	-	-	36	-	-	18	-	-
— " " " Sherbrooke	18	-	-	18	-	-			
— keeper of the gaol, Quebec	90	-	-	90	-	-			

(continued)

	AMOUNT of the Estimate for 1829.			AMOUNT VOTED.			DIFFERENCE.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.
Pensions—continued.									
Three Misses Montezamberts	30	-	-	30	-	-			
Three Misses Launieres	30	-	-	30	-	-			
Madame Rinville	7	10	-	7	10	-			
Mrs. Schindler	5	-	-	5	-	-			
Mrs. De Mousseau	5	-	-	5	-	-			
Surveyor-General's Office :									
Salary of the surveyor-general	450	-	-	450	-	-			
— of the first clerk	182	10	-	182	10	-			
— of the second d ^r	150	-	-	150	-	-			
Allowance for stationery and office servant to the surveyor-general	60	-	-	60	-	-			
— for postages to ditto	10	-	-				10	-	-
— for expenses of surveys	300	-	-	300	-	-			
Miscellaneous Expenses :									
Salary of the grand voyer - - Quebec	150	-	-	150	-	-			
— - - - - Montreal	150	-	-	150	-	-			
— - - - - Three Rivers	90	-	-	90	-	-			
— - - - - Gaspé	50	-	-	50	-	-			
— inspector of chimnies, Quebec	60	-	-	60	-	-			
— - - - - Montreal	60	-	-	60	-	-			
— - - - - Three Rivers	25	-	-	25	-	-			
Allowance for printing the laws	500	-	-	500	-	-			
— for repairs of public buildings, &c.	500	-	-	500	-	-			
— for repairs, &c. to gaol at Quebec	415	11	3	415	11	3			
Salary of the clerk of terrars of the King's domain	90	-	-	90	-	-			
Commission to ditto	300	-	-	300	-	-			
Custom-house officers salaries and incidental expenses	3,184	10	-						
Militia staff and contingencies	1,530	18	3						
	£.	62,128	10 9	54,542	2 6		2,871	-	-

RECAPITULATION of the Items in the foregoing Estimate, which have been objected to by the House of Assembly.

	£.	s.	d.
Salary of the lieutenant governor of Gaspé	300	-	-
Allowance to keeper of civil secretary's office, in lieu of apartments formerly allotted to his use	25	-	-
Salary of the provincial agent	200	-	-
— of the auditor-general of public accounts	400	-	-
— of the clerk to - - ditto	100	-	-
— of three provincial judges	£. 1,800	-	-
Allowance to judges for circuits	825	-	-
Salary of the advocate-general	200	-	-
— of the clerk of the peace at St. Francis	50	-	-
— of the chairman of quarter sessions at Gaspé	225	-	-
— of the keeper of the court-house, New Carlisle	£. 54	-	-
— of the ditto of - ditto - Percé	54	-	-
Contingencies of the coroner, Quebec	320	-	-
— of the clerk of the peace at Quebec	220	-	-
— of the police-office at - - ditto	150	-	-
— of the clerk of the peace at Three Rivers	75	-	-
— of the police-office at - - ditto	100	-	-
— of the clerk of the peace at Gaspé	75	-	-
— of the police-office at - - ditto	100	-	-
— of the clerk of the peace at St. Francis	80	-	-
— of the police-office at - - ditto	50	-	-
Allowance for interpreter at courts of oyer and terminer	25	-	-
Pension to Mrs. Livingston	50	-	-
— to the Miss De Salaberry's	100	-	-
For postages for the surveyor-general's office	10	-	-
	Sterling	£.	2,871 - -

(3.)—BILL to make further Provision towards defraying the Civil Expenditure of the Provincial Government.

Most Gracious Sovereign,

WHEREAS by message of his Excellency Sir James Kempt, Knight Grand Cross of the Most honourable Military Order of the Bath, and administrator of the Government of Lower Canada, bearing date the 28th day of January 1829, laid before both Houses of the Legislature, it appears that the funds already appropriated by law are not adequate to defray the whole expenses of His Majesty's Civil Government in this province, and of the administration of justice, and other expenses mentioned in the said message : And whereas, it is expedient to make further provision towards defraying the same for the year commencing on the 1st day of January 1829, and ending on the 31st day of December in the same year : We, Your Majesty's most faithful and loyal subjects, the Commons of Lower Canada in provincial Parliament assembled, most humbly beseech Your Majesty that it may be Enacted, and be it therefore Enacted, by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, " An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, intituled, ' An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province : ' " And it is hereby Enacted, by the authority of the same, That from and out of the unappropriated monies which now are or hereafter shall come into the hands of the Receiver-General of the Province for the time being, there shall be supplied and paid towards the administration of justice, and of the support of the Civil Government of this Province for the year commencing on the 1st day of January 1829, and ending on the 31st day of December in the same year, such sum or sums of money as together with the monies already appropriated by law for the said purpose, shall amount to a sum not exceeding 54,542*l.* 2*s.* 6*d.* sterling.

II. And be it further Enacted by the authority aforesaid, That the due application of the monies by this Act appropriated, shall be accounted for to His Majesty, his heirs and successors, through the Lords Commissioners of His Majesty's Treasury, in such manner and form as His Majesty, his heirs and successors shall be pleased to direct.

III. And be it further Enacted, by the authority aforesaid, That a detailed account of the monies expended under the authority of this Act, shall be laid before the Assembly of this province, during the first fifteen days of the next session of the provincial Parliament.

(4.)—STATEMENT of Salaries, &c. of Officers of the Civil Government of Lower Canada, hitherto included in the Treasury Warrants charged in the Estimate submitted to the Legislature for the Year 1829, but objected to by the House of Assembly, and deducted from the amount of the same in the Supplies voted for that Year; viz.

	£.	s.	d.	
Salary of the lieutenant-governor of Gaspé - - - - -	300	-	-	1.
— of the provincial agent - - - - -	200	-	-	2.
— of the auditor general - - - - -	400	-	-	} 3.
— of the clerk to ditto - - - - -	100	-	-	
— of three provincial judges - - - - - £. 1,800 - - -				
Sum allowed - - - - -	1,600	-	-	
<hr/>				
Allowance to the judges for circuits - - - - -	825	-	-	4.
Sum allowed - - - - -	275	-	-	
<hr/>				
Salary of the advocate general - - - - -	550	-	-	5.
— of the clerk of the courts and clerk of the peace in the district of St. Francis - - - - -	200	-	-	6.
Pension to Mrs. Livingston - - - - -	50	-	-	7.
— to the two Miss De Salaberrys - - - - -	50	-	-	8.
Allowance to the keeper of the governor's secretary's offices, in lieu of apartments formerly allotted to him - - - - -	100	-	-	9.
Salary of the keeper of the gaol and court hall at New Carlisle - - - - - £. 54 - - -	25	-	-	10.
Sum allowed - - - - -	36	-	-	
<hr/>				
	18	-	-	11.
<hr/>				
Sterling - - - - - £.	2,193	-	-	

Explanations given below.

EXPLANATIONS.

1. Objected to in 1825, on account of non-residence.
2. Objected to in 1825.
3. Ditto - - This charge was then estimated for as the expenses of the committee of audit; on a change of system, the duties of that committee being transferred to the office of auditor general, the expense of that office is now objected to.
4. In 1825, the charge for three provincial judges was 1,600*l.*, as now admitted by the assembly, but an addition of 100*l.* was made to the salaries of the provincial judges of the district of Gaspé and St. Francis, on a recommendation from Lord Dalhousie, dated 19th June 1826, that they should be put on the same footing as the one at Three Rivers, viz. 600*l.* a year.
5. One circuit is made in the summer in the districts of Quebec, Montreal and Three Rivers, by one or more judges of the court of King's Bench: for the performance of this duty 75*l.* is allowed for each district, and if more than one judge is employed on the district, the allowance is divided among them.
In March and September, a term of the court of King's Bench, for civil and criminal causes, is held at Three Rivers, attended by the chief justice of the province of Montreal, and one judge of the court of King's Bench of Quebec and Montreal, and these three judges receive each an allowance of 75*l.*
In January a term is held for civil causes at Three Rivers, attended by a judge of the court of King's Bench from Quebec and Montreal, and these two judges are allowed 75*l.* each.
The circuit allowances on this scale amount to 825*l.* per annum. The sum admitted by the assembly, 275*l.*, is calculated at 25*l.* per circuit, instead of 75*l.*
6. W. R. Vanfleson, the present advocate general, was appointed to the office on the 25th January 1819, by his Grace the late Duke of Richmond.
The office had long existed in the colony, but no salary was attached to it, till a representation was made on the subject by the Earl of Dalhousie on the 30th August 1823, when Lord Bathurst approved of a salary of 200*l.* a year being assigned to it, and charged on the funds applicable to the administration of justice. (Despatch, 20th December 1823.)
7. Appointment made on the establishment of the court in 1824, but the salary to the clerk of the court and peace objected to by the assembly in 1825.
8. A new pension under a separate warrant, dated 29th February 1825.
9. A new pension authorized by the lords of the treasury.
10. Had apartments in the building formerly allotted to the civil secretary's office, and on that office being removed from that building, the 25*l.* was given in lieu of them.
11. £. 36 included in the warrant for the gaoler; the addition recommended by a report of the executive council, on account of his being the keeper of the court hall, and in virtue of the provincial Act 48 Geo. 3, c. 35, which authorizes the governor to fix the salary.

82 COMMUNICATIONS BETWEEN THE COLONIAL OFFICE

STATEMENT of Salaries of the Militia Staff, and Contingent Expenses, as estimated for the Year 1829.

	£.	s.	d.
Salary of the adjutant general - - - - -	450	-	-
— of the deputy adjutant general - - - - -	270	-	-
— of two provincial aides-de-camp - - - - -	360	-	-
— of the clerk in the office - - - - -	123	3	9
— of the messenger in ditto - - - - -	60	4	6
Allowance for office rent and fuel - - - - -	67	10	-
Contingencies of stationery, printing and postage - - - - -	200	-	-
Sterling - - £.	1,530	18	3

No provision was made by the legislature for any of these salaries or allowances.

No. 20.—COPY of a Despatch from Lieutenant-General Sir James Kempt to Secretary Sir George Murray.

SIR, Castle of St. Louis, Quebec, 26th March 1829.
 BEING anxious to convey to you, without delay, the information which I think you would wish to possess respecting the proceedings of the Provincial Legislature, on those subjects which I received your commands, (as notified to me in your despatch of the 29th of September 1828,) to bring under the consideration of the Provincial Parliament, at its meeting in November last, I have the honour herewith to transmit to you the accompanying paper (No. 1,) in which this information is briefly given in as clear and perspicuous a form as my present time will admit of.

I have also the honour of transmitting to you (No. 2,) an abstract of the grants made in the last session of the Provincial Parliament, in order that you may see the extent of the appropriations, and the services to which the monies are to be applied.

Some time will yet elapse before copies of the several Acts of the Provincial Legislature, passed in the late session, can be prepared to send you, and before it will be in my power to bring under your consideration a variety of subjects to which my attention has been called by the House of Assembly, in addresses presented to me just before the session closed, as intimated to you in my despatch No. 24, of the 16th instant.

I have the honour to be, Sir,
 Your most obedient humble Servant,
 (signed) JAMES KEMPT.

(1.)—A brief STATEMENT of the Proceedings of the Provincial Parliament of Lower Canada, on the several points recommended by His Majesty to the consideration of both Houses of the Legislature, in the Message of the 28th of November 1828.

Subjects recommended in the Message.

Proceedings that have taken place upon them.

The proposal respecting the appropriation of the Provincial Revenue, and recommending the enactment of a law for the indemnity of persons who may have advanced public money without legal authority.

The House of Assembly would not accede to the proposed arrangement, or pass a law of indemnity, for the reasons stated in their Resolutions of the 6th December 1828, already transmitted to the Secretary of State; but a bill of Supply for the present year has passed

the Provincial Legislature as reported in Despatch No. 27.

The Address of the Legislative Council in answer to the Message was transmitted to the Secretary of State in my Despatch No. 23.

Suggesting the adoption of measures for the security of monies in the hands of the Receiver-General and the Sheriffs.

No proceedings whatever in either House on this recommendation, the plan being considered objectionable. It was therefore deemed proper to communicate

to the Legislative Council and Assembly, the instructions given by the

the Lords of the Treasury for the security of monies in the hands of the Receiver-General, as communicated in Mr. Hill's letter to Mr. W. Horton, of 30th October 1826, and to inform them that these Regulations would be carried into effect if no provincial enactment was made upon the subject. An Act for the better regulation of the office of Sheriff has passed the Legislature.

Respecting the distribution of the duties of Customs, collected at Quebec between the provinces of Upper and Lower Canada.

A Bill has passed the Legislature, appointing Commissioners to confer with Commissioners similarly appointed by Upper Canada, on all matters of common interest to both provinces. The honourable Mr. Debertych, of the Legislative Council, and Messrs. Papineau and Neilson, of the House of Assembly, are the Commissioners from Lower Canada, and they are to meet in the month of June next. The proportion of duties to be paid to Upper Canada, for four years from the 1st of July 1828, has been settled by arbitration under the Act of the Imperial Parliament, 3 Geo. IV. c. 119, as reported already to the Secretary of State.

The appointment of an agent in England, and recommending an indemnity to the present holder of that office.

The House of Assembly passed a Bill late in the Session, appointing Sir James Mackintosh and Mr. Labouchere, members of the House of Commons, and Mr. Neilson, member of the House of Assembly, agents for the province, but it was not agreed to in the Legislative Council. A copy of the bill, as passed in the Lower House, accompanies this statement. The Council objected to the appointment of so many agents. They would have agreed to the appointment of two, but in that case they conceived that they ought to have the nomination of one of them, or at least to have been consulted by the Assembly. The Legislative Council also conceived that provision ought to have been made in the bill for an indemnity to the present agent, as recommended by His Majesty. The session was advanced when the bill went up to the Legislative Council, and there was not sufficient time to come to an understanding with the Assembly on several provisions in the bill which required explanation.

Recommending the passing of a law imposing a tax upon wild lands, as in Upper Canada.

The House of Assembly did not proceed in this matter in any way whatever.

The evils of the system of tacit mortgages.

The subject not taken into consideration by the House of Assembly.

The objectionable and expensive forms of conveyancing, said to exist in the townships.

An Act has passed the Legislative Council and Assembly, for rendering valid conveyances of land and other immoveable property, held in free and common socage within this province, but the same is reserved for the signification of His Majesty's pleasure.

The necessity of a registration of deeds, and the want of proper courts for the decision of causes arising in the townships.

No legislative provision has been made for the registration of deeds in any part of the province.

A bill was brought into the Legislative Council to establish courts for the trial of causes arising in the townships, but it did not pass into a law.

Although the message from the Crown (in obedience to the instructions) contained no recommendation or allusion whatever to the inequality of the present system of representation, yet the subject was taken up in the House of Assembly,

and an Act has passed both Houses of the Legislature for a new division of the province into 40 counties, and increasing the number of representatives from 50 to 84. The townships, by this bill, will send nine members to the House of Assembly. It has, however, been reserved for the signification of His Majesty's pleasure, and a particular report will be made upon the Act when it is transmitted to the Secretary of State.

(signed) JAMES KEMPT.

Castle of St. Louis, Quebec, 26th March 1829.

STATEMENT of Monies granted by the Provincial Parliament of Lower Canada in the last Session, for various Public Services.

	Currency.			Sterling.		
	£.	s.	d.	£.	s.	d.
For the erection of lighthouses in the river and gulf of the St. Lawrence - - - - -	12,000	-	-			
For the internal communications of the province - - - - -	33,690	-	-			
For the encouragement of agriculture - - - - -	1,600	-	-			
For exploring certain parts of the province - - - - -	1,000	-	-			
For the encouragement of education - - - - -	5,833	10	-			
For houses of correction - - - - -	600	-	-			
For the support of hospitals and other charities - - - - -	8,260	16	10			
For the expenses of the customs at the inland ports - - - - -	1,251	-	-			
For the encouragement of arts, and various other purposes - - - - -	4,290	17	7			
For certain expenses of the civil government for the year 1828, and arrears - £.9,031. 3. 6. sterling -	10,034	12	9			
	<hr/>					
	78,660	17	2	70,794	15	6
For the civil expenditure of the government for the year 1829, such sum as in addition to the monies already appropriated by law for that purpose, will make - - - - -	-	-	-	54,542	2	6
For allowing a pension to Mr. Justice Bedard, in case of his resignation from ill health - - - - -	-	-	-	400		

No. 21.—COPY of a Despatch from Secretary Sir George Murray to Lieutenant General Sir James Kempt.

Downing-street, London,
30th September 1828.

SIR,

12 Sept. 1828.

I have the honour to transmit to you herewith a copy of a letter which has been received from the secretary to the Board of Treasury, relative to the office of receiver-general of Lower Canada. Your Excellency will perceive that, provided Mr. Hale's securities shall be approved, and it shall appear that he has strictly adhered to the regulations which were laid down by the minute of the Board of Treasury, of the 26th October 1826, for the future control and management of the office of receiver-general, their lordships will give directions for confirming Mr. Hale in that appointment, with the increased salary of 1,000 *l.* per annum. The period from which Mr. Hale will be entitled to receive this increased rate of salary must depend upon the date from which (after his succession to the office upon the removal of Mr. Caldwell,) he ceased to derive advantage from balances of public money remaining in his hands; and as it is desirable that no further delay should take place in concluding the necessary forms for Mr. Hale's appointment, I have to request that you will lose no time in enabling me to furnish the Lords Commissioners of the Treasury with the necessary information upon the several points connected with this subject, which you will find enumerated in the enclosed letter.

I have, &c.

(signed) G. MURRAY.

Treasury Chambers,
12th September 1828.

SIR,

The Lords Commissioners of His Majesty's Treasury have had under consideration a memorial from Mr. John Hale, stating, that in the year 1823 he was appointed by Lord Dalhousie to execute the duties of the office of receiver-general of Lower Canada, upon the dismissal of Mr. Caldwell, and praying that, in consideration of his long services, his appointment may be confirmed; and also a representation from the commissioners of audit, dated 25th ult. upon the present state of Mr. Hale's accounts, and the amount of salary which he is to be allowed to charge; and I am to acquaint you, for the information of Secretary Sir George Murray, that provided Mr. Hale's securities shall be approved, and the regulations contained in the letter of this Board to Mr. Wilmot Horton, of the 30th October 1826, for the future control and management of the office of receiver-general in Lower Canada, have been established and strictly adhered to, my lords will give directions for confirming Mr. Hale in the appointment, with the increased salary of 1,000 *l.* per annum. With regard to the period from which Mr. Hale is to be allowed to charge the increased rate of salary, my lords request that you will call Sir George Murray's attention to the minute of the Board of the 26th October 1826, which was communicated to His Majesty's Secretary of State for the Colonies, by their lordships' direction, in the letter to Mr. Horton above alluded to, of the 30th of that month.

My lords have not been apprised that any revision of the office of receiver-general took place prior to the regulations established by that minute; but it appears to them that, between the period at which Mr. Hale was appointed to act as receiver-general, upon the removal of Mr. Caldwell, and that at which the restrictions imposed by their said minute were carried into effect, Mr. Hale ought not to be allowed to charge the increased rate of salary, unless the balances of public money, which his predecessor had been allowed to retain, had been previously withdrawn, the proposed increase of salary being only to be justified on the ground of the withdrawal from Mr. Hale of that source of emolument which the retention of the balances afforded to Mr. Caldwell. My lords request, therefore, that Sir George Murray will direct them to be informed at what period the regulations established by their said minute of the 26th of October 1826 were carried into effective operation in Lower Canada, and whether, in the interval that had previously elapsed subsequent to the appointment of Mr. Hale by Lord Dalhousie in 1823, he had continued to retain in his hands balances of public money, and to what amount.

My lords also request to be informed, whether the restrictions imposed by the minute of this Board above referred to are at the present time strictly enforced.

I am, Sir, your obedient servant,
(signed) *J. Stewart.*

No. 22.—COPY of a Despatch from Secretary Sir George Murray to
Lieutenant General Sir James Kempt.

Downing-street, London,
16th Feb. 1829.

SIR,

I beg leave to refer your Excellency to that part of my despatch, No. 1, of the 29th September last, explanatory of the arrangements which I had considered it expedient to make with the Lords Commissioners of His Majesty's Treasury, for the payment into the custody of commissary-general in Lower Canada, of any balances of public monies, which might from time to time remain in the hands of the receiver-general and sheriffs of the province. Since the date of that despatch it has been thought advisable to modify in some degree the arrangement which had been therein contemplated, their lordships having been apprehensive that some inconvenience might arise from the negotiation of Treasury bills which might be issued from the military chest on account of monies so deposited therein. The plan which their lordships have suggested, and which you will find more particularly described in the enclosed letter from Mr. Stewart, appears to me to be well calculated to meet the object intended; and as you will, in conformity with the

12 January 1829

instructions contained in my despatch above referred to, be prepared to propose to the legislature of Lower Canada, the enactment of a law to bind the receiver-general and sheriffs, to render accounts of their receipts at short intervals, it is only necessary for me to put you in possession of the contents of the Treasury letter, in order that you may be enabled to carry the projected enactment into effect with as little delay as possible.

I have, &c.

(signed) G. MURRAY.

SIR,

Treasury Chambers, 12th January 1829.

I have laid before Lords Commissioners of His Majesty's Treasury your letter of the 24th of October last, relative to the necessity of establishing some effectual security for the due application of the public money in the hands of the civil accountants in the province of Lower Canada, and I am commanded to acquaint you, for the information of Secretary Sir George Murray, that there will be, no objection to allowing the officer in charge of the commissariat in Canada to receive from any of the public officers there, such sums of public money as may from time to time be specified in any warrant of the Governor for the time being, and to re-issue those sums, under similar authority, in such amounts, and to such persons as may be therein directed; and that if bills should be required by the revenue officers for remittance of public money to England, they may be purchased from the commissariat department at the current rate of exchange, and under the usual regulations; and I am directed further to acquaint you, that on receiving a communication on the subject, my lords will give such directions to the commissary-general as may be necessary for carrying this arrangement into effect.

I am, &c.

R. W. Hay, Esq.
&c. &c. &c.

(signed) J. Stewart.

No. 23.—COPY of a Despatch from Secretary Sir George Murray to Lieutenant General Sir Peregrine Maitland.

SIR,

Downing-street, 31st July 1829.

I have the honour to transmit, for your information, a copy of the Report of the Select Committee of the House of Commons on the civil government of Canada.

The measures which it may be prudent to adopt for the future government of the Canadas, have not yet been decided upon; and your approaching departure from the upper province will no doubt leave it to other hands to carry them into execution; but the only part of the Report to which I feel it necessary to call your attention is the concluding paragraph, with the view of learning from you how far the statement made by the Committee is correct, that the disputes between the local government and the House of Assembly have led to the abrupt termination of the session.

I have, &c.

(signed) G. MURRAY.

No. 24.—COPY of a Despatch from Lieutenant General Sir Peregrine Maitland to Secretary Sir George Murray.

SIR,

Halifax, 2d December 1828.

I have the honour to acknowledge your letter of the 31st July just received, in which you call my attention to the concluding paragraph of the Report of the Select Committee of the House of Commons on the civil government of Canada, with the view of learning from me how far the Committee have been accurate in stating that the disputes between the local government and the House of Assembly of Upper Canada

Canada have led to an abrupt termination of the session of legislature in that province.

I have the honour to acquaint you, that no ground whatever could have existed for the information, from whatever quarter derived, which led the Committee to make this statement.

There was nothing peculiar in the termination of the session. On the contrary, the legislature, after sitting the usual period, were prorogued by me in the ordinary manner, a previous communication having been had (as has been customary during my administration of the government), with the two Speakers, and no application having been made to me from either house for a later period than had been named.

Had time permitted before the departure of the mail, it would have been very satisfactory to me to have learnt by the perusal of the papers you have transmitted to me, by what evidence, avowedly not ample or satisfactory, the Committee have been induced to report respecting the conduct of the government of Upper Canada, in terms very different from those which have been very generally used by the people of the colony in numerous addresses presented to me on my departure from them.

Having observed an article in one of the principal London papers, written undoubtedly with a view to serve the purposes of party, that the House of Assembly had been dissolved by me to facilitate the success of measures at variance with the interests of the people, and foreseeing the probability that the same assertion will be made elsewhere, I beg leave to apprise you that the Provincial Parliament was not so dissolved; it necessarily expired, having served the time prescribed by law.

I have the honour to be, Sir,

Your most obedient humble servant,

(signed) P. MAITLAND.