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LOWER CANADA.

C O P Y

OF THE

MINUTES OF THE EVIDENCE

TAKEN BEFORE THE

SELECT COMMITTEE

APPOINTED IN THE YEAR

1 8 3 4,

ON

THE AFFAIRS OF LOWER CANADA.

(Mr. Chancellor of the Exchequer.)

*Ordered, by The House of Commons, to be Printed,
11 March 1837 ;*

And to be Re-printed, 22 January 1838.

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MINUTES OF EVIDENCE

Taken, before the SELECT COMMITTEE appointed to inquire and report to The HOUSE how far the Grievances complained of in the Year 1828, on the part of certain Inhabitants of *Lower Canada*, have been redressed, and the recommendations of the Committee of this House which sat thereupon, have been complied with on the part of His Majesty's Government, and to inquire into the matter of certain other Grievances not then brought under the consideration of this House, but now set forth in Resolutions of the House of Assembly of *Lower Canada* in the present Session, and to report their Opinion thereupon to The HOUSE.

Veneris, 25^o die Aprilis, 1834.

THE RIGHT HONOURABLE ROBERT GRANT,

IN THE CHAIR.

Frederick Elliot, Esq., being called in, and having stated that he was Chief Clerk of the North American Division of the Colonial Office, produced and read the following printed Despatches :

- 1.—Sir George Murray to Sir James Kempt, 29 September 1828; [printed by Order of The House of Commons, 23 February 1830; paper No. 73 - - p. 10.]
- 2.—Sir James Kempt to Sir George Murray, 28 November 1828 [- ditto - 18.]
- 3.— Ditto - - - ditto - - ditto - [- ditto - 22.]
- 4.—Sir James Kempt to Sir George Murray, 13 December 1828 [- ditto - 25.]
- 5.—Sir James Kempt to Sir George Murray, 7 March 1829 - [- ditto - 64.]
- 6.—Sir James Kempt to Sir George Murray, 25 March 1829 [- ditto - 67.]

[*Mr. Elliot having now produced all the printed Correspondence relative to the Supply in 1829, produced and read the following further Despatches, not yet printed:*]

- 7.—Sir George Murray to Sir James Kempt, 8 October 1829.
Ditto - - confidential - - - - -
- 8.—Sir James Kempt to Sir George Murray, 15 December 1829.
Ditto - - confidential - - - - -
(Received) - - - - - 10 February 1830.
- 9.—Sir James Kempt to Sir George Murray, 30 January -
(Received) - - - - - 3 March -
- 10.—Sir James Kempt to Sir George Murray, 23 March -
(Received) - - - - - 18 May -
- 11.—Sir James Kempt to Sir George Murray, 31 March -
(Received) - - - - - 17 May -
Sir James Kempt - - - - - 13 April -
(Received) - - - - - 16 June -

[All, but the last, were ordered to be printed.]

[*A Bill which had been introduced into the House of Commons in April 1830, for amending an Act passed in the 14th year of Geo. the 3d, was here handed in:*]

Frederick Elliot,
Esq.

No. 7.—COPY of a DESPATCH from Sir *George Murray* to Sir *James Kempt*, dated
Downing-street, 8th October 1829.

Sir,

25 April 1834.

IN my Despatch, dated the 29th September 1828, No. 1, I had the honour to communicate to you such instructions as His Majesty's Government at that time deemed necessary for your guidance respecting the financial questions, which have been so long a subject of discussion with the House of Assembly of Lower Canada. I then authorized you to acquaint the House that a scheme for the permanent settlement of the financial concerns of the Province was in contemplation. Circumstances of general notoriety, to which it is needless to refer more particularly, interposed to defeat the purpose entertained by the Ministers of the Crown, of proposing this plan to Parliament during their last Session, and without the authority of Parliament it would not be in the power of His Majesty to adopt those measures from which alone a permanent adjustment of the questions in dispute can be anticipated.

In instructing you as to the course which it will be your duty to pursue in the approaching Session of the Provincial Assembly, I am therefore under the necessity of again resorting to a temporary expedient. But it is the fixed intention of His Majesty's Government to propose to Parliament at their next meeting, the enactment of a law which it is hoped will preclude further controversy, and remove every reasonable pretext for dissatisfaction upon this head.

The Bill to make further provision towards defraying the civil expenditure of the Provincial Government, with the various explanations and illustrative documents transmitted with your Despatch of the 25th of March last, have engaged the serious attention of the Ministers of the Crown. You have anticipated the remark, that in enacting this law, the Legislative Council and Assembly have assumed to themselves a power which the statute 14 Geo. 3, c. 88, has vested exclusively in the Lords Commissioners of His Majesty's Treasury. Under any ordinary circumstances it would have been the evident duty of the official adviser of the Crown humbly to recommend to His Majesty to disallow an Act directly at variance with a British Statute; but under the very peculiar circumstances of the present case, many considerations oppose the adoption of such a measure.

I am fully sensible of the difficulties of the situation in which you were placed, and I am aware that of the alternatives in your choice you could have adopted none which would not have been productive of some serious embarrassment. It is not therefore as an expression of censure that I remark that in assenting to this Bill, you did not act in conformity with my instructions of the 29th September 1828; but if I am not entirely satisfied of the propriety of the course you pursued, I am happy to express my conviction that it was wholly dictated by zeal for His Majesty's service.

Your acceptance of the Bill, however (even if justified by the peculiar circumstances under which you were placed), has created an insuperable obstacle to the exercise of His Majesty's prerogative of disallowing it. Before an Order in Council for that purpose could have arrived in Lower Canada, the Act would nearly have had its complete operation; and the money granted by the House of Assembly out of those funds over which their control is indisputable, would, to a great extent, have been received and expended. It would scarcely have been consistent therefore with good faith, and would certainly have afforded a plausible ground of complaint, if the Act had been disallowed after the Local Government had so largely partaken of the pecuniary advantages which it afforded.

For these reasons His Majesty does not think fit for the present to make any order in His Privy Council on the subject; but the consideration of this Act may perhaps be resumed in connexion with the general measure hereafter to be submitted to Parliament.

There is, I fear, no adequate reason to expect that in their approaching Session the House of Assembly of Lower Canada will recede from the pretensions which they advanced successfully in the Session of 1828; and in truth, in the prospect of an early application to Parliament on the subject, the question has lost much of its former importance. It is not, however, unimportant still to maintain, in principle at least, the right for which His Majesty's Government has so long contended; and even in the absence of those obvious considerations of dignity and consistency which prescribe this course, the intention of the Act of Parliament, as interpreted by the Law Officers of the Crown, leaves no discretion on the subject. For the appropriation of the Revenue arising from the 14th Geo. 3, c. 88, is not properly a right which may be maintained or waived at pleasure, but a duty, for the performance of which the Lords Commissioners of the Treasury must remain responsible until the Act of Parliament has been either amended or repealed.

You will therefore, at the commencement of the approaching Session, lay before the Assembly an estimate formed upon the same principle as that which you presented to them in the Session of 1828; including in that estimate a provision for the arrears due to the various public officers whose claims the House rejected in that Session. You will acquaint the House that circumstances which could not be controlled, rendered it impossible for the Ministers of the Crown to bring under the consideration of Parliament, in their last Session, the measures contemplated for the final adjustment of these financial questions; but that they confidently expect that in the ensuing Session the subject will undergo an early and final consideration. You will signify to the Legislature His Majesty's regret that in their late proceedings they should have persevered in the assertion of a 'right' which His Majesty had, on so many former occasions, been compelled by the express terms of the Act of 1774, to deny. You will further express His Majesty's concern that the House should have rejected his recommendations in favour of several persons whose claims are supported by

by evident principles of justice, and not, in the whole, very considerable in amount; and you will inform them of His Majesty's disappointment that His earnest endeavours to remove every ground of dissatisfaction had not been met with more cordial concurrence on the part of the Provincial Assembly. You will, in general terms, state that His Majesty has not made any order in His Privy Council respecting the Bill of Supply which you have transmitted; you will earnestly impress upon the House the inconvenience which might result from their again assuming the right of appropriation, which His Majesty's Government have it not in their power to acknowledge, and respecting which they are prepared to make such concessions as Parliament may approve and authorize. You will also assure both Houses of the Legislature, that His Majesty earnestly deprecates the prolongation of a controversy which has already continued too long for the real interests and welfare of the Province; and you will express His confident hope that they will apply their attention to the many important questions noticed in my Despatch of the 29th September 1828, and grant such supplies as you will demand in aid of the revenue of the Crown, in reliance on His gracious assurance that measures will be immediately taken to effect an amicable termination, under the authority of Parliament, of this protracted controversy.

It is unnecessary for me to enter upon other topics connected with the administration of the Government of Lower Canada. Such instructions as it was in my power to give on these subjects were fully communicated to you in my Despatch of the 29th September 1828; and more recent events have not suggested to me the necessity of any alterations in those instructions.

I have, &c.
(signed) G. Murray.

No. 8.—COPY of a DESPATCH from Sir James Kempt to Sir George Murray,
dated Castle of St. Louis, Quebec, 15th December 1829.

Sir,

I HAVE had the honour to receive your Despatch, dated the 8th of October last, No. 81, on the subject of the Supply Bill passed in the last Session of the Provincial Parliament of Lower Canada, and conveying instructions to me as to the course which it will be my duty to pursue in the approaching session, in respect to the financial concerns of the Colony.

On this communication I crave your permission to make some observations, less, however, with a view to my own justification, than for the purpose of making known to you certain circumstances connected with the subject with which it is my duty to make you acquainted.

You are pleased to say, with reference to the Supply Bill of last session, "that I had, in my Despatch of the 25th of March last, anticipated the remark, that, in enacting this law, the Legislative Council and Assembly have assumed to themselves a power which the statute of the 14 Geo. 3, c. 88, had exclusively vested in the Lords Commissioners of His Majesty's Treasury." But I beg, with all deference, to observe, that I am unconscious of having stated any thing in that Despatch which will bear such a construction; and I may add, with perfect sincerity, that it never was my intention, under any circumstances, to give my assent to a Provincial enactment at variance with the British statute, or to any law which should be contrary to what I conceive to be the spirit of the instructions conveyed to me in your Despatch of the 28th September 1828.

I certainly had the honour of observing to you, in my Despatch of the 25th of March last, "that the House of Assembly had, in their *Resolutions* of the 6th December 1828 (which I had the honour to transmit to you in a Despatch, dated the 13th of that month), denied the right of the Crown to appropriate the funds which the law has placed at His Majesty's disposal, as communicated in my message to the Provincial Legislature on the 28th November;" and I had the honour of stating to you, that "after the adoption of those resolutions, I could entertain no hope that the House of Assembly would be disposed to pass a Bill of Supply, in which the right of the Crown to appropriate the revenue raised by the statute of the 14th Geo. 3, c. 88, would be specifically acknowledged."

The proceeds, however, of that statute, together with the other funds which the law has placed at His Majesty's disposal, being inadequate to defray the expenses of the Civil Government and those of the administration of Justice, it became absolutely necessary to call upon the Provincial Legislature to make up the deficiency, in conformity with the very explicit instructions to that effect, conveyed to me in your Despatch of the 29th of September 1828; and you are pleased to inform me, in the same Despatch, that when the Legislative Assembly is called upon to provide for and regulate any portion of the public expenditure, it virtually acquired a control over the whole.

It was my special duty, however, to see that I did not sanction any unconstitutional act, or one which would compromise the rights of the Crown; and in the absence of the Attorney-General (who was then attending the Criminal Courts at Montreal), I caused the Bill which the Legislative Council and Assembly had passed, to be referred to the Solicitor-General, who reported to me, "that there did not appear to him to be any reasons for withholding His Majesty's assent to the same." In this opinion Mr. Chief Justice Sewell, the Speaker of the Council, entirely concurred; and the Attorney-General, on his return to Quebec, also stated to me in substance, that he saw no *legal* objections to the enactment, it being, in his opinion, "not inconsistent with the appropriation contained in the statute of the 14th Geo. 3, c. 88, nor any infringement of the rights of the Crown under that appropriation."

Under these circumstances, and in the peculiar situation in which I found myself placed,

Frederick Elliot,
Esq.

25 April 1834.

with inadequate means to carry on the Government from the funds at the disposal of the Crown, it would, I apprehend, have been an act of great indiscretion on my part to have withheld His Majesty's assent to the Bill, to which there existed, as I was advised, no legal objection, simply because the Assembly had exercised the control which it had acquired, in being called upon for a supply, and granted a less sum of money than was required for the public service.

The only thing indeed which caused embarrassment to me on the occasion, was the circumstance of my finding on record here a Despatch from Earl Bathurst, addressed to Sir Francis Burton, Lieutenant-Governor of Lower Canada, dated the 4th June 1825, in which his Lordship expresses his disapprobation of a Bill of a *similar description*, which was passed by the Provincial Legislature in that year; but the difficulty thereby occasioned was in great measure removed, on my observing the explanations given in respect to that Bill by Mr. Wilmot Horton (then Under Secretary of State for the Colonial Department) before the Select Committee of the House of Commons on the Civil Government of Canada; it appearing by the printed Minutes of the Evidence of the Right honourable Gentleman, that the disapprobation expressed by Lord Bathurst of the Lieutenant-Governor's conduct in assenting to the Bill, was occasioned by an impression entertained, in the first instance, that the words of the Act did not maintain the integrity of the Crown revenue; an impression which it would appear was subsequently removed, at least from Mr. Horton's mind, by his admission before the Committee, that the Supply Bill, passed in 1825, did *not* invalidate the right of the Crown to the appropriation under the Statute of 14 Geo. 3, c. 88, although by *diminishing* the supply given by the Provincial Legislature out of the unappropriated funds, the House of Assembly did in fact practically effect that appropriation.

But although there may be no *legal* objections to the Bill of Supply of the last Session, yet the law is certainly exceptionable, inasmuch as it leaves grounds for cavil as to what funds are appropriated by law, and what are not; and also because the form in which the money is granted particularly affects the appropriation under the statute of 14 Geo. 3, c. 88, as well as of the other funds which the law has placed at His Majesty's disposal.

I could not, however, for these reasons, refuse the Bill, under the very peculiar circumstances of the case, although the House of Assembly, by diminishing the supply, has deprived the Local Government of the means of paying certain public officers and other expenses which have been hitherto allowed by the Crown, and charged to the funds at His Majesty's disposal; a circumstance which I had the honour of reporting to you in my Despatch of the 25th of March last, and soliciting your instructions for my guidance in the matter. The Bill, it is true, does not point out the particular purposes to which the money is to be applied; yet as the gross sum voted has reference to the estimate submitted to the Legislature, and the deductions made from it are the amount of certain items to which the House of Assembly objected, I have felt myself bound in honour and good faith, not only to keep the public expenditure, if possible, within the limit of the sum specified in the Bill, but also to adhere to what I understand to be the expressed wishes of the Assembly in regard to the particular application of the money.

Seeing, however, no probability that the House of Assembly will recede from their pretensions, as set forth in the resolutions of the 6th of December last, and apprehending also that the financial difficulties now existing will rather increase than diminish on my carrying into effect the instructions which I have recently had the honour of receiving from you, it affords me the greatest satisfaction to learn that an early application is to be made to Parliament to settle a question which has given rise to so much controversy and party feeling in the Colony, and so much serious embarrassment to His Majesty's Government.

I have, &c.

(signed) *James Kempt.*

No. 9.—COPY of a DESPATCH from Sir *James Kempt* to Sir *George Murray*, dated Castle of St. Louis, Quebec, 30 January 1830.

Sir,

WITH reference to my Despatch, No. 12, of the 25th instant, in which I had the honour to announce to you the opening of the Session of the Provincial Parliament of Lower Canada on the 22d, I have now the honour of transmitting, for your information, the copy of a message which I sent yesterday to the Legislative Council, and the House of Assembly, upon the subject of the financial question which has given rise to so much controversy in this Province.

It was my duty on this occasion (as it was my earnest desire) to have followed the strict letter of the instructions conveyed to me in your Despatch of the 8th of October last; but the more I considered the subject with reference to the present stage of this controversy and the state of affairs in the Province, the more thoroughly satisfied I became, that no practical good could possibly arise by my *strictly* adhering to those instructions, while my not doing so would lead, I had reason to believe, to the most serious inconveniences.

The explanations which I deemed it my duty to enter into in my Despatch of the 15th of December last on the subject of the Supply Bill of the last Session, will have made you acquainted with the view that is taken of that measure by the highest legal authorities in this Province; and as the question in dispute has now lost much of its importance in the prospect of the subject being almost immediately submitted to Parliament, and amicably settled under its authority, it appeared to me that no practical advantage could arise by

renewing

renewing the discussions with the House of Assembly as to the right of the Crown to the appropriation under the statute of the 14 Geo. 3, c. 88.

In the peculiar situation in which I find myself placed, it is obviously my duty to endeavour, if possible, to carry on His Majesty's Government in the Province of Lower Canada, *without compromising the rights of the Crown*, until such settlement is effected of the points in controversy; and, after mature deliberation, and viewing the question in every possible way, I determined to adopt the course which I have taken, under a firm persuasion that, under existing circumstances, it is the most likely to lead to a favourable result, without abandoning the principle which has been so long asserted by His Majesty's Government.

I have the honour to be, Sir,

Your most obedient humble Servant,

James Kempt.

Message.

His Excellency the Administrator of the Government has received His Majesty's commands to acquaint the House of Assembly, that circumstances which could not be controlled rendered it impossible for His Majesty's Government to bring under the consideration of Parliament, in their last Session, the measures contemplated for the final adjustment of the financial question which has given rise to so much controversy in the Province.

His Excellency is further commanded to inform the House of Assembly that, without the authority of Parliament, it would not be in His Majesty's power to adopt those measures from which alone a permanent adjustment of those questions can be anticipated; the appropriation of the revenue arising from the statute of the 14 Geo. 3, c. 88, being not properly a right which may be maintained or waived at pleasure, but a duty, for the performance of which the Lords Commissioners of His Majesty's Treasury must remain responsible until the Act of Parliament has been either amended or repealed.

His Excellency is further instructed to lay before the House of Assembly an estimate of the expenses of the civil government for the year 1830, framed upon the same principle as that which was presented to the House last Session, and to include in it a provision for the arrears of salaries and other sums due to various public officers that remain unpaid.

And his Excellency has been finally commanded to express His Majesty's confident hope that the House of Assembly will grant such supplies in aid of the revenue of the Crown as are required for the support of His Majesty's Government, in reliance on His Majesty's gracious assurance that measures will be immediately taken to effect an amicable arrangement, under the authority of Parliament, of a controversy which has continued too long for the real interests and welfare of the Province.

No. 10.—COPY of a DESPATCH from Sir James Kempt to Sir George Murray,
dated Castle of St. Louis, Quebec, 23 March 1830.

Sir,

HAVING in my Despatch, marked "separate," of the 13th instant, transmitted for your information a copy of certain resolutions that were adopted by the House of Assembly previous to entering upon the consideration of the estimate of the expenses of the civil government for the current year, I have now the honour to inform you that an Address has been presented to me by the House of Assembly, requesting that I put you in possession of these resolutions; and although, for the reasons stated in my Despatch of the 13th instant, I had anticipated their wishes in this respect, I deem it right now to transmit them in a more formal manner; and a copy is herewith enclosed, as also a copy of the Address presented to me by the House.

I have, &c.

(signed) James Kempt.

House of Assembly, Friday, 19 March 1830.

Resolved.—THAT an humble Address be presented to his Excellency the Administrator of the Government, with a copy of the Resolutions adopted by this House, before entering upon the consideration of the estimate of the expenses of the civil government for the current year, praying that his Excellency would be pleased to transmit the same to His Majesty's Secretary of State for the Colonial Department.

Ordered.—THAT Mr. Neilson, Mr. Bourdages, Mr. Borgia and Mr. Dessauls do present the said Address to his Excellency the Administrator of the Government.

Attest.

(signed) Wm. B. Lindsey,

Clerk Assembly.

House of Assembly, Friday, 19 March 1830.

1st, *Resolved*.—THAT it is the opinion of this Committee, That before entering upon the consideration of the estimates submitted of the expenses of the civil government of the Province for the current year, it is expedient to declare, that this House proceeds thereon only in the confident hope that an adjustment of the financial question which has given rise to so much controversy in this Province will be speedily effected, in a manner satisfactory to this House, and that the inherent right of the people of this Province to control, by means of their representatives,

Frederick Elliot,
Esq.

25 April 1834.

representatives, the application and expenditure of all the monies levied in the Province for the public uses thereof, will be fully acknowledged and permanently established.

2d, *Resolved*.—THAT it is the opinion of this Committee, That it is further expedient to declare that this House enters upon the consideration of the said estimates, in the hope that the grievances complained of by the inhabitants of this Province, in their humble petitions to His Majesty and both Houses of the Parliament of the United Kingdom, and reported on by a Committee of the House of Commons on the 22d July 1828, will be fully redressed, and that His Majesty's Government will give their entire effect to the recommendations of the said Committee; but particularly that a more independent character and a closer connexion with the interests of the Colony be given to the Legislative Council of the Province, and that the Judges cease to be involved in the political business of the said Council, and to hold seats in the Executive Council, to the end that His Majesty's faithful subjects in this Colony be secured in the inestimable benefits of a constitutional legislative power, co-operating for its peace, welfare and good government, and an administration of justice enlightened and independent, and in no way exposed to the suspicion of political bias or interested considerations.

3d, *Resolved*.—THAT it is the opinion of this Committee, That it is further expedient to declare that the duties of this House cannot be fully and successfully performed, and the people whom they represent be sufficiently secured against the abuses of power in high public offices, without a competent and independent tribunal within the Province, before whom impeachments by this House may be heard, and determined according to Parliamentary usage, and a real and efficient responsibility and accountability be established in offices of high public trust.

4th, *Resolved*.—THAT it is the opinion of this Committee, That it is expedient to declare that this House proceeds on the consideration of the said estimates with an intimate conviction of the earnest efforts of his Excellency, the administrator of the Government, to establish an impartial, conciliatory, and constitutional system of government in this Province, and to remedy, as far as depends upon him, the grievances and abuses of which His Majesty's subjects in this Province and this House have had reason to complain.

No. 11.—COPY of a DESPATCH from Sir *James Kempt* to Sir *George Murray*, dated Castle of St. Louis, Quebec, 31 March 1834.

Sir,

HAVING closed the Session of the Legislature of the Province on the 26th instant, I have the honour to transmit herewith, for your information, a copy of the speech which I addressed to the Legislative Council and Assembly on the occasion.

The Acts passed during the Session to which I have given His Majesty's assent, as well as those which have been reserved for the signification of His Majesty's pleasure, will be transmitted to you without delay; and it will be my duty to make a special report to you on the subject of the Bill of Supply which passed the Legislative Council and House of Assembly, and of which, under existing circumstances, I have thought it right to accept: it is similar in principle to the Bill which passed in the Session of 1829; but I regret exceedingly to inform you that the salaries and other charges objected to last year by the House of Assembly have been again disallowed, although included in the estimate submitted to the Provincial Parliament by His Majesty's commands, conveyed to me in your Despatch of the 8th of October 1829, No. 81; and that no provision has been made for the salaries of the chairman of the Quarter Sessions at Quebec, Montreal, and Three Rivers.

I have, &c.

(signed) *James Kempt*.

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

IN closing the present Session of the Provincial Parliament, I feel it due to you to express my best acknowledgments for the great diligence manifested by you in the discharge of your legislative duties.

Gentlemen of the House of Assembly,

I thank you, in His Majesty's name, for the supplies which you have granted in aid of the monies already appropriated by law for defraying the expenses of the civil government and for the administration of justice; but it becomes my duty, at the same time, to express my regret that the grant is not to the full amount required for the public service, and for the payment of certain arrears of salaries and other charges included by His Majesty's express commands in the estimate which was submitted to you.

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

A new formation of the militia and of the magistracy, under the laws to which I have just given His Majesty's assent, are subjects which will engage my earnest and immediate attention.

The liberality of the appropriations for the advancement of education, for the security of navigation, for the improvement of the great internal communications of the Province, and for other objects tending to increase the productive industry of the people, has afforded me the highest satisfaction; and you may rely on my applying, to the best of my judgment, the monies which you have been pleased to place at my disposal, to the various purposes which they are intended to promote.

Lunæ, 28^a die Aprilis, 1834.

J. N. FAZAKERLEY, ESQUIRE,

IN THE CHAIR.

Frederick Elliot, Esq. called in ; and Examined.

7. DO you produce further Despatches from the Colonial Office?—I do. The first Despatch I produce is from the Earl of Ripon to Lord Aylmer.

*Frederick Elliot,
Esq.*

8. When did the Earl of Ripon come into office?—On the 22d of November 1830.

28 April 1834.

9. When did Lord Aylmer succeed Sir James Kempt?—In October 1830.

[*The following Despatches were then read.*]

No. 1.

COPY of a DESPATCH from Viscount *Goderich* to Lord *Aylmer*,
dated Downing-street, 1st December 1830.

My Lord,

It is not without great regret and reluctance that I suffer the present mail to depart without conveying to your Lordship final instructions for settling the question of the revenue levied in the Province of Lower Canada, under the Act of the 14th Geo. 3, c. 88.

It had been the full intention of my predecessor in this office to have brought the whole subject before Parliament during the last Session; but circumstances, arising out of the demise of his late Majesty, prevented Sir George Murray from executing his purpose. The duty of settling a point of so much importance having now devolved upon me, I feel called upon to state, that the delay, as far as I am concerned, has been occasioned solely by the shortness of the time which has elapsed since my appointment to this department, and which has prevented me from bringing the subject before His Majesty's Government, some of whom are absent in consequence of their re-election.

I can, however, assure you that I am deeply impressed with the necessity of an immediate and satisfactory adjustment of this perplexing question, and it is gratifying to me to feel convinced that I shall soon be able to forward to you such instructions as may enable you to accomplish the great object, not only of restoring a good understanding with the Legislature, but of preventing the chance of future collision upon this subject.

Under these circumstances of unavoidable, though, I trust, temporary delay, it will be proper for you, at the opening of the approaching Session, to invite the Legislature to make some provisional arrangement for meeting the necessary expenditure of the Government, assuring them at the same time of His Majesty's earnest desire to see the financial concerns of the Province placed, without loss of time, upon a footing which may be at once compatible with the exigencies of the public service, and with the wishes and feelings of His Majesty's faithful subjects in Lower Canada.

The Legislature may further be assured, that His Majesty has no desire to call upon them for any supplies beyond such as may, upon full consideration, be deemed essential, His Majesty having no object more at heart than the comfort, the prosperity and the happiness of a people who are endeared to him by many ties, and whose growing importance, in all the relations of the British empire, His Majesty fully appreciates.

In bringing these matters before the Legislature at the opening of the Session, I think you cannot pursue a better course in general than that adopted by your predecessor. But there is one point which is of considerable difficulty, and might, unless duly attended to, prevent the Legislature from meeting your proposition in that conciliatory spirit which is upon every account so necessary to the successful administration of your government. I allude to those votes which have, for the last two years, been rejected by the Assembly, and which, having been sanctioned by Treasury warrants, are now in arrear. Judging from the communications made to this department by your predecessor, it would seem to be highly improbable that the Legislative Assembly could be now induced to vote what they have hitherto persisted in refusing; and it is impossible to deny, that with respect to some of those items of expense, that body must be competent judges of the degree to which they are necessary. Unless, therefore, you should have reason to expect, that upon the final settlement of the disputed question of the revenue the Legislature might be prepared to reconsider their former decisions, I do not think that it would be consistent with the dignity of His Majesty's Government in Lower Canada to expose itself to the risk of a renewed rejection of those votes.

As, however, it is necessary that something definitive should be settled with respect to the rejected items, I shall, in a separate Despatch, convey to you my suggestions as to what may be the best mode of disposing of them.

I have, &c.

(signed) *Goderich.*

Frederick Elliot,
Esq.

No. 2.—COPY of a DESPATCH from Viscount *Goderich* to Lord *Aylmer*,
dated Downing-street, 1st December 1830.

My Lord,

28 April 1834.

Separate.

In reference to my Despatch, No. 1, I now proceed to convey to you my suggestions as to the best mode of proceeding with respect to the items of expense which the Legislature of Lower Canada have refused to grant during the last two years. They are enumerated in the enclosed list which was transmitted to Sir George Murray by your predecessor in his Despatch of the 13th April 1830.

With respect to No. 1 and No. 2 of the enclosed list, it is proposed to abolish these two situations, as being no longer necessary for the conduct of the public service; but I cannot forbear from indulging a hope that the Legislature will feel that the ready abolition of these two offices by His Majesty's Government will be deemed to establish a just claim upon the Legislature for the payment of the arrears for the last two years, and for some compensation for the loss to which the parties now holding these offices will be subjected by the abolition of them. The amount of the compensation to be asked must be left to depend upon what you think may be obtained, and if the Assembly refuses to grant the full arrears, it cannot be unreasonable to expect that the compensation should commence from the period at which the salary was first refused.

Nos. 3 and 4 of the list refer to the Auditor's department. This appears to me to be a matter which may with perfect propriety be left (both as regards the nature and duties of the office and the payment of all salaries to the officers belonging to it) to the discretion of the Legislature, which must necessarily feel deeply interested in the proper discharge of the duties of such a department, and the proper remuneration of those upon whom such important duties devolve. But it might be suggested to them that it has been found by experience in this country, in regard to a corresponding department, that great advantage has been derived by regulating the Audit Office by the provisions of a specific Act of Parliament, by one of the provisions of which the salaries of the principal officers are made permanent, and not liable to annual votes.

No. 5. No estimate need be proposed for the portion of the salaries referred to.

No. 6. The same observation applies to this as to No. 5.

No. 7. It seems to me to be very doubtful whether there is any necessity for maintaining the salaries assigned in 1823 to this office; but if, upon an examination of the nature and extent of the duties belonging to it, it should appear to be necessary to continue it upon its present footing, the question may be re-considered. I should wish to be furnished by you with some information upon the subject.

No. 8. This could not be proposed with any prospect of success.

Nos. 9, 10, 11 and 12. These chairmen have, I understand, been discontinued; and if the effect of that discontinuance should be prejudicial to the due administration of justice, it can scarcely be doubted that the Provincial Legislature would take the necessary steps for remedying any such evil, particularly as I believe that their objections to the vote have rested more upon personal grounds than upon any fixed opinion of the inutility of the situations themselves.

Nos. 13, 14 and 15. It would probably be quite useless to propose any vote for these pensions, and it is not very easy to say upon what fund at the disposal of Government they could be charged. The general question of pensions is one of considerable importance, and I must postpone any definite opinion until I have more time to look into the subject.

No. 16. These items should not be proposed again.

I have thought it material to furnish you, by the present mail, with the instructions contained in the present Despatch, with full confidence that the Legislature will see, in the course pointed out, the sincere desire by which His Majesty's Government is animated, to meet the wishes and feelings of the Province, wherever it appears to be practicable, without impairing the efficiency of the public service and the due administration of the government.

I have, &c.

(signed) *Goderich*.

LIST of ITEMS of EXPENDITURE objected to by the House of Assembly of *Lower Canada*,
in the Supply Bill for the Year 1830.

	£.	s.	d.
1.—Salary of the Lieutenant-Governor of Gaspé, for the year 1829	£. 300		
Ditto - - - for 1830 - - - - -	300		
2.—Salary of the Provincial Agent in London, for 1829 and 1830		400	
3.—Ditto of the Auditor-General of Accounts, for 1829 and 1830		800	
4.—Ditto for a Clerk for ditto - - - - -		200	
5.—Part of the Salaries of the Provincial Judges for the districts of Gaspé and St. Francis, for 1829 and 1830 - - - - -		400	
6.—Part of the Circuit Allowances to the Judges for 1829 and 1830		1,141	13 4
7.—Salary of the Advocate-General for 1829 and 1830		400	
8.—Ditto of the Clerk of the Courts in the District of St. Francis, for 1829 and 1830 - - - - -		100	
9.—Ditto of the Chairman of the Quarter Sessions at Quebec, for 1830		500	
10.—Salary			

	£.	s.	d.	
10.—Salary of the Chairman of the Quarter Sessions at Montreal -	500	-	-	<i>Frederick Elliot, Esq.</i> <hr/> 28 April 1834.
11.—Ditto of - - - - ditto - - - - - at Three Rivers -	250	-	-	
12.—Ditto of - - - - ditto - - at Gaspé, for 1829 and 1830	450	-	-	
13.—Pension to Mrs. Livingston - - ditto - ditto - - -	100	-	-	
14.—Ditto - to two Misses Salaberry - ditto - ditto - - -	200	-	-	
15.—Ditto - to Mrs. Deschambault - - ditto - ditto - - -	140	-	-	
16.—Sundry items of contingent Expenses - - - - -	1,351	13	2	
	£. 7,533			
		6	6	

No. 3.—COPY of a DESPATCH from Lord *Aylmer* to Lord Viscount *Goderich*, dated Castle, St. Louis, Quebec, 1st February 1831.

My Lord,

I HAVE the honour to inform your Lordship, that on the 27th ult. I opened the Session of the Provincial Parliament of Lower Canada, with a speech of which I now transmit a copy, and into which, as your Lordship will not fail to observe, I have introduced those passages of your Lordship's Despatch of the 1st of December (No. 1.) which I was instructed to communicate to the Legislature.

I have likewise the honour of transmitting a copy of the address voted by the House of Assembly, which is to be presented to me this day, and of the reply to it which it is my intention to make. The opening of the Session was attended by some novel proceedings, arising out of a severe indisposition under which I was labouring at the time, and in consequence of which my speech was delivered in my bed-chamber, and literally from my bed. I purpose doing myself the honour of communicating by the next Halifax post the particulars of what occurred on that occasion.

I have the honour to be, &c.

Aylmer.

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

The ceremony of a new Provincial Parliament, which has been rendered necessary by the death of his late Majesty, and my own recent appointment to this Government, are circumstances which would have made it desirable to call you together at an earlier period; but I have been induced to defer doing so until the corresponding season of last year's meeting, under the impression that I was thereby more effectually consulting your personal convenience.

The loss which His Majesty, and the royal family, and the whole of His Majesty's subjects have sustained by the demise of his late Majesty, will, I doubt not, have been the cause of grief to His Majesty's faithful Canadian subjects.

My inexperience in regard to the local concerns of this Province does not as yet permit of my directing your attention to any particular object connected with its internal improvement; but I can assure you that I am now, and have been ever since my arrival amongst you, diligently employed in acquiring such information on those points, as may, I trust, enable me hereafter to offer some useful suggestions for your consideration.

There is, however, one subject to which I wish briefly to advert,—I mean the currency; and I do so merely for the purpose of informing you, that I am in possession of some further information on that subject, which shall be placed at your disposal in the event of your taking up the consideration of it again.

I had entertained a hope that I should have been enabled to lay before you some communication from His Majesty's Government upon the question of finance, which has occupied much of the attention of the Legislature of this Province; but not having yet in my power to do so, I think it necessary to apprise you that I have reason to know that the unavoidable pressure of public business incidental to the death of his late Majesty, and the change of administration which has recently taken place in England, have interrupted the progress of measures contemplated by His Majesty's Government on that subject. These measures, I have every reason to believe, will soon be brought to maturity; in the meanwhile it may be satisfactory to you to learn, that His Majesty's Government is deeply impressed with the necessity of an immediate and satisfactory adjustment of the question to which I have alluded, and I am sanguine enough to hope, that the instructions which I am led to expect will be calculated to prevent the chance of future collision on this subject.

Under these circumstances you will, I trust, see the necessity of making some provisional arrangement for meeting the expenditure of the government, upon the assurance that His Majesty entertains an earnest desire to see the financial concerns of the Province placed without loss of time upon a footing which may be at once compatible with the exigencies of the public service, and with the wishes and feelings of His Majesty's faithful subjects in Lower Canada. His Majesty has no desire to call upon them for any supplies beyond such as may upon full consideration be found essential; His Majesty having no object more at heart than the comfort, the prosperity and the happiness of a people who are endeared to him by many ties, and whose growing importance in all the relations of the British Empire His Majesty fully appreciates.

Frederick Elliot,
Esq.

28 April 1834.

Gentlemen of the House of Assembly,

The accounts of the past year are in a forward state of preparation, and I have every reason to believe that they will be ready to be laid before you previous to the expiration of the period fixed by legislative regulation for the production of the public accounts.

An estimate of expenses for the ensuing year is also in preparation, and will shortly be ready to be submitted to you.

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

The accession of His Majesty King William the Fourth, and his consort Queen Adelaide, an event which has filled with joy the heart of every British subject, affords an opportunity of expressing those sentiments of loyalty and attachment to the reigning Royal family, by which His Majesty's faithful and loyal Canadian subjects have ever been distinguished.

Were I to consult my own inclination on the present occasion, I should avoid saying anything concerning myself personally; but, appearing before you as I now do for the first time, I think it necessary to detain you a few moments longer, while I express the deep sense I entertain of the importance of the arduous duties which The King has been graciously pleased to confide to me; and although personally a stranger to this part of His Majesty's dominions, I am nevertheless fully aware of the nature and extent of the difficulties by which those duties are surrounded. How to surmount the difficulties to which I now allude shall be the object of my constant study; and conscious of my own deficiencies, I will endeavour to supply my want of ability for the task by a strict and steady adherence to those principles of justice and impartiality which I am quite sure will never mislead me.

It may be that my efforts are not destined to be crowned with success; I will at least endeavour to deserve it.

In conclusion: It is worthy of observation that your present meeting is marked by peculiar circumstances. You are now for the first time called together under the authority of His present Majesty King William the Fourth, and the popular branch of the Legislature, which has been considerably extended by a late legislative enactment, assembles now, also for the first time, with its augmented numbers. These circumstances, gentlemen, constitute the commencement of a new era in your parliamentary history,—an era which I do most earnestly hope may be distinguished by that harmony and good understanding between the several branches of the Legislature, which is so essentially necessary to give full effect to the advantages of the constitution you have the happiness to possess, and for the preservation of which, as by law established, it is, I am well convinced, equally the interest of every Canadian subject of His Majesty to pray fervently to Almighty God.

TO his Excellency Matthew Lord Aylmer, Knight Commander of the most honourable Military Order of the Bath, Lieutenant-General and Commander of His Majesty's Forces in the Provinces of Lower Canada and Upper Canada, Nova Scotia, New Brunswick and their several Dependencies, 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 Lower Canada, in Provincial Parliament assembled, most humbly thank your Excellency for your speech delivered at the opening of the present Session.

We gratefully appreciate the kind consideration for our personal convenience which determined your Excellency to defer the calling together the Legislature until the corresponding period of last year's meeting.

Your Excellency does justice to the attachment of the inhabitants of this Province to His Majesty's person and Government, in the expression of your conviction that the loss which His Majesty and the Royal Family have sustained by the demise of our late gracious Sovereign has been a subject of severe grief to his subjects in Canada.

We thank your Excellency for the assurance that your attention since your arrival amongst us has been directed to the objects of internal improvement, and we shall respectfully take into consideration any suggestions relating to this important subject which your Excellency may be pleased to offer.

The state of the currency has already occupied the attention of the Legislature at the last Session, and we are grateful for the proffered information on a matter of such essential interest, in the event of the subject being again taken into consideration.

We receive with great respect the information which your Excellency has communicated relating to the events which have interrupted the progress of the measures contemplated by His Majesty's Government respecting the question of finance, and also the assurance that His Majesty's Government is deeply impressed with the necessity of an immediate and satisfactory adjustment of that question; and we learn with satisfaction that your Excellency is led to hope for instructions calculated to prevent the chance of future collisions on this subject.

Under the most trying circumstances, it has ever been the sincere wish of His Majesty's subjects whom we have the honour to represent, to provide for the exigencies of the Government, as seemed to them consistent with their constitutional rights.

We thankfully appreciate His Majesty's declaration, that he has no desire to call upon His faithful subjects in Lower Canada for any supplies beyond such as may, upon a full consideration,

consideration, be found essential; and we recognize in His Majesty's gracious expressions in favour of the comfort, the prosperity and the happiness of a people endeared to him by so many ties, that benevolence of the Royal feelings towards his Canadian subjects, which has distinguished the Sovereigns of his illustrious House.

We thank your Excellency for the information that the accounts of the past year are in a forward state of preparation to be laid before us, as also an estimate for the expenses of the ensuing year.

We fully participate in the feelings with which His Majesty's subjects in all parts of his dominions have greeted the accession of King William the Fourth and his consort, Queen Adelaide, to the throne of the great empire of which this Province forms a part; and we shall fulfil a pleasing duty in availing ourselves of the opportunity of our first meeting after that event to express the attachment to the reigning family, by which His Majesty's faithful and loyal Canadian subjects have ever been distinguished.

We sincerely lament the nature and extent of the difficulties with which your Excellency is surrounded in the discharge of the important and arduous duties confided to you by His Majesty, and we gratefully acknowledge the expression of your Excellency's earnest desire to surmount them. In your Excellency's declaration, that a steady adherence to the principles of justice and impartiality will be the rule of your conduct, we find the best grounds to hope that your Excellency's efforts will be crowned with success.

We most respectfully assure your Excellency, that in endeavouring faithfully to discharge the duties with which we have been intrusted by our constituents, it will be our earnest desire that harmony may prevail between the several branches of the Legislature, that full effect may be given to the constitution as established by law, and that it may be transmitted unimpaired to our posterity.

House of Assembly, Quebec,
29 January 1831.

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

Attest.

Wm. B. Lindsay, Clerk of the Assembly.

Gentlemen,

Accept my best thanks for this Address. It is entirely satisfactory to me, and creates in my mind the most agreeable anticipations of increasing harmony between the Executive Government and the House of Assembly.

No. 4.—COPY of a DESPATCH from Lord *Aylmer* to Lord Viscount *Goderich*, dated Castle, St. Louis, Quebec, 3 March 1831.

My Lord,

I HAVE the honour of transmitting to your Lordship a copy of the message which I sent to the Legislature of this Province on the 14th ultimo, concerning the estimate of expenses of the civil government for the present year, and of the estimates themselves, in a printed form.

Your Lordship will observe that the items objected to in the estimate of last year by the House of Assembly have been omitted in the estimate for this year, in conformity with the instructions conveyed in your Lordship's Despatch, dated 1st December 1830, marked "separate," and that I have remarked in my message upon those items severally, in terms corresponding with the same instructions.

The estimate is now before the House of Assembly, but I am unable to form any conjecture as to the manner in which it will be dealt with by that body, or even whether they will be disposed to grant a Supply Bill of any description.

But as this consideration belongs to other circumstances, regarding which I shall have the honour of addressing your Lordship by this opportunity, I forbear to dwell further upon the subject of it in this Despatch.

I have the honour to be, &c.

Aylmer.

(Signed) *AYLMER*, Governor in Chief.

The Governor in Chief transmits to the ^{Legislative Council} _{House of Assembly} an estimate of the expenses of the civil government for the ensuing year, and he takes this opportunity of drawing their early attention to the total amount, which will be found to be very considerably less than the estimate of last year.

To the estimate now-transmitted, will be found annexed a statement of certain items which were included in last year's estimate, and which are now omitted, in conformity with instructions received by the Governor in Chief from His Majesty's Government.

The items of charge above alluded to are numbered from Number 1 to Number 15, and his Excellency thinks it proper to remark upon each of the numbers as follows:

Numbers 1 & 2.—It is proposed to abolish these two situations (Lieutenant Governor of Gaspé and Provincial Agent in London) as being no longer necessary for the conduct of the public service; but it is hoped that the ready abolition of these two offices by His Majesty's Government will be deemed to establish a just claim on the Legislature for the payment of the arrears for the last two years, and for some compensation for the loss which the parties now holding those offices will be subjected to by the abolition of them.

Frederick Elliot,
Esq.

28 April 1834.

The Governor in Chief forbears to suggest the amount of remuneration to which the parties may be considered entitled, being desirous of leaving it entirely to the liberality of the Legislature.

Numbers 3 & 4 of the List refer to the Auditor's department, and it appears to His Majesty's Government that it may be left with perfect propriety, as well with regard to the nature and duties of the office as to the payment of all salaries of the officers belonging to it, to the discretion of the Legislature, which must necessarily feel deeply interested in the proper discharge of the duties of such a department, and the proper remuneration of those upon whom such important duties devolve. The Governor in Chief will therefore only remark, that it has been found by experience in Great Britain, in regard to a corresponding department, that great advantage has been derived by regulating the Audit Office by the provisions of a specific Act of Parliament, by one of the provisions of which the salaries of the principal officers are made permanent, and not liable to annual votes.

Numbers 5 & 6.—It has been deemed necessary to propose an estimate for the portions of the salaries and allowances referred to under these heads.

Number 7.—Salary of the Advocate General for the years 1829 and 1830. Although the Governor in Chief has excluded this charge from the estimate of the present year, in conformity with the instructions which he has received from His Majesty's Government, he is nevertheless desirous of guarding himself against the inference which may be drawn from that circumstance, that he considers the charge unreasonable, or the office unnecessary. He is not yet sufficiently well acquainted with the various duties of the law officers of the Crown in this Province to be enabled to form a decided opinion on this latter point, and he will only add, that he has already had occasion to call upon the Advocate General for his official services in a case affecting the rights of His Majesty's subjects.

Number 8.—It is deemed unnecessary to include this item in the estimate of the present year.

Numbers 9, 10 & 11.—The office of Chairman of the Quarter Sessions for the districts of Quebec, Montreal and Three Rivers having terminated when the new commissions of the peace were issued by the last Administrator of the Government, and the commissions for that office not having been renewed by the Governor in Chief, the salaries attached to these offices have been omitted in the present estimate. It will be for the consideration of the Legislature hereafter, whether the gentlemen who enjoyed those offices should not be allowed their salaries up to the periods when they ceased to act.

Numbers 13, 14 & 15.—The pensions to Mrs. Livingston, the two Misses de Salaberry and Mrs. Deschambault, have been omitted, in conformity with the instructions which the Governor in Chief has received from His Majesty's Government, and he therefore considers it to be his duty to abstain from making any remark of his own on the subject of these pensions.

The Governor in Chief having thus remarked upon the several items above referred to, which have been omitted in the estimate of the present year, has only to add, that the Legislature cannot fail to see, in the course pointed out to his Excellency regarding those items, the sincere desire by which His Majesty's Government is animated to meet the feelings and wishes of the Province wherever it appears to be practicable, without impairing the efficiency of the public services and the due administration of Government; and his Excellency relies on the liberality of the ^{Council}House to ^{concur in granting}grant the supply now required in aid of the revenue of the Crown for the public service.

Castle, St. Louis, Quebec, }
14 February 1831. }

ESTIMATE of the CIVIL EXPENDITURE of the GOVERNMENT of Lower Canada, for the Year 1831.

SALARIES of the OFFICERS of GOVERNMENT and CONTINGENT EXPENSES of the several Offices :	£. s. d.		£. s. d.	
	Sterling.		Sterling.	
Salary of the Governor in Chief - - - - -	4,500	-	-	-
- of the Lieutenant Governor - - - - -	1,500	-	-	-
- of the Secretary to the Governor in Chief - - - - -	500	-	-	-
- of the Assistant Secretary - - - - -	200	-	-	-
- of the Assistants in the Office of ditto - - - - -	365	-	-	-
- of the Keeper of the Offices of ditto - - - - -	45	-	-	-
- of the Messenger in ditto - - - - -	45	-	-	-
- of the Extra ditto in ditto - - - - -	41	1	3	
Postage of the Civil Secretary's Office - - - - -	1,200	-	-	-
For Stationery, Printing, Extra-writing, &c. for ditto - - - - -	300	-	-	-
Allowance for translating Public Documents into French - - - - -	50	-	-	-
Salary of the Auditor of Land Patents - - - - -	200	-	-	-
Rent of an Office for registering Grants of Crown Lands - - - - -	54	-	-	-
Contingencies of the Provincial Secretary's Office, including £. 100. for extra assistance - - - - -	300	-	-	-
Allowance for a Messenger for ditto - - - - -	30	-	-	-

SELECT COMMITTEE ON LOWER CANADA.

15

SALARIES of the Officers, &c.— <i>continued.</i>		£. s. d.	£. s. d.	Frederick Elliot Esq.
		Sterling.	Sterling.	
Allowance for Three Residents on the Island of Anticosti as Keepers of the Depot of Provisions		130 - -		
Rent of the Building used as Offices for the Civil Departments of Government	£. 500 - -			
So much short estimated for the last Two years	- 10 - -			
		510 - -*		
Allowance to the Keeper of ditto		40 - -		
Contingent Expenses attending the care of ditto		25 - -		
For the purchase of Fuel for ditto		75 - -†		
			10,110 1 3	
RECEIVER GENERAL'S OFFICE:				
Salary of the Receiver General		1,000 - -		
Allowance to ditto for a Clerk, &c.		100 - -		
For providing extra assistance		100 - -		
For Expenses attending the counting and depositing money in the vault with three keys		56 - -‡		
			1,256 - -	
OFFICE OF INSPECTION OF PUBLIC ACCOUNTS:				
Salary of the Inspector General of Public Provincial Accounts		300 - -		
Allowance to ditto for a Clerk		100 - -		
For extra assistance required		100 - -		
			500 - -	
EXECUTIVE COUNCIL:				
Salary to nine Members, at £.100 each		900 - -		
- of the Registrar and Clerk		500 - -		
- of the Assistant ditto		182 10 - -		
Allowance for Stationery, Printing, &c.		50 - -		
Salary of the Messenger and Keeper of the Apartments		50 - -		
- of the Doorkeeper and Office Servant		50 - -		
			1,732 10 - -	
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 Doorkeeper		25 - -		
- of the Keeper of the Apartments, &c.		49 10 - -		
Contingent Expenses		2,250 - -		
			4,777 18 - -	
Rent of the Bishop's Palace			500 - -	
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, &c.		49 10 - -		
- of the Clerk Crown in Chancery		100 - -		
Contingent Expenses		5,400 - -		
			7,889 10 - -	
SALARIES of the JUDGES, and other EXPENSES attending the Administration of Justice:				
Salary of the Chief Justice of the Province		1,500 - -		
- of the ditto of Montreal		1,100 - -		
- of Six Puisné Judges, at £.900. sterling each		5,400 - -		
- of the Provincial Resident Judge at Three Rivers		900 - -		
- of Two Provincial Judges, at £.500 each		1,000 - -		

Explanations:

* It appears that the yearly rent agreed to be paid on the part of Government on the renewed lease, dated 3th Sept. 1828, was £.500. sterling, being £. 5. more than the rent of the first year, an increase that was not known to the officer charged with the duty of preparing the estimate for the two last years.

† The sum formerly estimated for this service was found insufficient, caused principally by the increased time of attendance now required in many of the Public Offices.

‡ This sum includes that of £. 30, the probable cost of a set of scales and weights necessary in the examination of specie, those hitherto used having been borrowed from the purpose from the Commissariat Department.

Frederick Elliot,
Esq.

28 April 1834.

SALARIES of the Judges, &c.— <i>continued</i> .		£.	s.	d.	£.	s.	d.
		Sterling.			Sterling.		
Allowances for Circuits, Fifteen in the year, including Four for the District of St. Francis, under Act 10th and 11th Geo. 4, c. 7, at £.25. each	- - -	375	-	-			
Salary of the Judge of the Court of Vice Admiralty	- - -	200	-	-			
- of the Attorney General	- - -	300	-	-			
- of the Solicitor 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	-	-			
Allowance to the ditto of the ditto of Three Rivers, for additional Duties imposed by Act 9 Geo. 4, c. 6	- - -	4	10	-			
Salary of the Sheriff of the District of Gaspé	- - -	70	-	-			
- of the ditto of the ditto of St. Francis	- - -	50	-	-			
Allowance to the Sheriffs of the Districts of Quebec, Montreal and Three Rivers, for Executioners, at £.27. sterling each	- - -	81	-	-			
Allowance to the Sheriff of Gaspé, for travelling expenses	- - -	10	-	-			
Salary of the Coroner of Quebec	- - -	100	-	-			
- of the ditto of Montreal	- - -	100	-	-			
- of the ditto of Three Rivers	- - -	50	-	-			
- of the ditto of Gaspé	- - -	50	-	-			
- of the Clerk of the Court and Clerk of the Peace at Gaspé, and for travelling expenses	- - -	60	-	-			
- of the Clerk of the Crown at Quebec, £.40.; at Montreal, £.40.; and at Three Rivers, £.20.	- - -	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	-	-			
- of the Interpreter of the Courts at Quebec	- - -	40	-	-			
- of the ditto of the ditto at Montreal	- - -	40	-	-			
- of the ditto 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 to the ditto at ditto	- - -	18	-	-			
- of the Crier of the Courts and Tipstaff, Montreal	- - -	38	-	-			
- of the ditto and ditto at Three Rivers	- - -	25	-	-			
- of the Keeper of the Court House at Quebec	- - -	54	-	-			
- of the ditto ditto at Montreal	- - -	72	-	-			
- of the ditto ditto at Three Rivers	- - -	36	-	-			
- of the ditto of the Gaol and Court House at New Carlisle	- - -	36	-	-			
- of the ditto ditto and ditto at Percé	- - -	36	-	-			
- of the Keeper of the Court Hall, Sherbrooke	- - -	18	-	-			
- of the ditto of the Gaol at Quebec	- - -	125	-	-			
Allowance to ditto for two Turnkeys	- - -	72	-	-			
Salary of the Keeper of the Gaol at Montreal	- - -	125	-	-			
Allowance to ditto for two Turnkeys	- - -	72	-	-			
Salary of the Keeper of the Gaol at Three Rivers	- - -	55	-	-			
Allowance to ditto for one Turnkey	- - -	36	-	-			
Salary 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	-	-			
		13,625	10	-			

CONTINGENT EXPENSES of the ADMINISTRATION OF JUSTICE:

Contingent Bills of the Crown Law Officers	- - -	2,200	-	-			
- of the Sheriff of Quebec	- - -	1,100	-	-			
- of the ditto of Montreal	- - -	1,145	-	-			
- of the ditto of Three Rivers	- - -	465	-	-			
- of the ditto of Gaspé	- - -	100	-	-			
- of the ditto of St. Francis	- - -	105	-	-			
- of the Coroner at Quebec	- - -	245	-	-			
- of the ditto at Montreal	- - -	170	-	-			
- of the ditto at Three Rivers	- - -	35	-	-			
- of the ditto at Gaspé	- - -	10	-	-			
- of the Clerk of the Crown at Quebec	- - -	75	-	-			
- of the ditto ditto at Montreal	- - -	140	-	-			
- of the ditto ditto at Three Rivers	- - -	45	-	-			
- of the Prothonotaries at Quebec	- - -	270	-	-			
- of the ditto at Montreal	- - -	380	-	-			
- of the ditto at Three Rivers	- - -	105	-	-			
- of the ditto at St. Francis	- - -	55	-	-			
- of the Clerks of the Peace and for Police Services at Quebec	- - -	500	-	-			
- of the ditto and ditto at Montreal	- - -	345	-	-			
- of the ditto and ditto at Three Rivers	- - -	190	-	-			

SELECT COMMITTEE ON LOWER CANADA.

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Frederick Elliot,
Esq.

28 April 1834.

CONTINGENT EXPENSES—continued.		£. s. d.	£. s. d.
		Sterling.	Sterling.
Contingent Bills of the Clerks of the Peace and Clerk of the Courts, and Police Services at Gaspé - -		150 - -	
— of the ditto and ditto ditto at St. Francis - -		95 - -	
— for Services of Subpœnas at Montreal, and care of Crown Witnesses - - - -		300 - -	
— for ditto of ditto and ditto at Quebec - - - -		100 - -	
— for ditto of ditto and ditto at Three Rivers - -		87 - -	
— for payment of attendance of needy Crown Witnesses at Montreal - - - -		600 - -	
— for ditto ditto ditto at Quebec - - - -		200 - -	
— for ditto ditto ditto at Three Rivers - - - -		60 - -	
			22,897 10 -
PENSIONS :			
Thomas Amyott, as late Provincial Secretary - - - -		400 - -	
Mrs. Dunn - - - - -		250 - -	
Mrs. Baby - - - - -		150 - -	
H. W. Ryland - - - - -		300 - -	
Sir Geo. Pownall, Kt. - - - - -		300 - -	
Mrs. Elmsley - - - - -		200 - -	
Mrs. Taylor - - - - -		50 - -	
Mrs. Lemaistre - - - - -		50 - -	
Misses De Louvières - - - - -		21 12 - -	
Mrs. Rottot - - - - -		36 - -	
Henry Harwood - - - - -		30 - -	
Miss Finlay - - - - -		20 - -	
Miss M'Kay - - - - -		18 - -	
Miss Desbarats - - - - -		18 - -	
Widow Sauvageau - - - - -		12 - -	
Two Misses Montizamberts, at £. 10. each - - - -		20 - -	
Three Misses Launières - - at - - ditto - - - -		30 - -	
Mrs. Schindler - - - - -		5 - -	
			1,910 12 -
SURVEYOR GENERAL'S OFFICE :			
Salary of the Surveyor General - - - - -		450 - -	
— of the First Clerk - - - - -		182 10 - -	
— of the Second Clerk - - - - -		150 - -	
Allowance for Stationery, £. 20 ; Office Servant, £. 40. - -		60 - -	
— for Postages - - - - -		10 - -	
Contingent Expenses for Surveys - - - - -		300 - -	
			1,152 10 -
MILITIA STAFF and CONTINGENCIES :			
Salary of the Adjutant General - - - - -		450 - -	
— of the Deputy Adjutant General - - - - -		270 - -	
— of Two Provincial Aides-de-Camp - - - - -		360 - -	
— of a Clerk in the Office - - - - -		123 3 9 - -	
— of a Messenger in ditto - - - - -		60 4 6 - -	
Contingent Expenses of Stationery, Printing and Postages - -		250 - -	
			1,513 8 3
MISCELLANEOUS EXPENSES :			
Salary of the Grand Voyer, District of Quebec - - - -		150 - -	
— of the ditto ditto of Montreal - - - - -		150 - -	
— of the ditto ditto of Three Rivers - - - - -		90 - -	
— of the Surveyors of Highways at Gaspé - - - - -		50 - -	
— of the Inspector of Chimnies at Quebec - - - - -		60 - -	
— of the ditto ditto at Three Rivers - - - - -		25 - -	
Expenses of Printing the Laws - - - - -		1,100 - -	
Repairs to Public Buildings - - - - -		900 - -	
			2,525 - -
EXPENSES of COLLECTING the CASUAL and TERRITORIAL REVENUE :			
Salary of the Clerk of the Terrars of the King's Domain - -		90 - -	
Commission of the Inspector General of the King's Domain on the Collection - - - - -		300 - -	
			390 - -
Total Sterling - - - - £.			57,154 19 6
Probable Amount of the appropriated Revenues at the disposal of the Crown, estimated at - - - - -			44,000 - - -
Amount for which a Supply is required - - - - - Sterling £.			13,154 19 6

Quebec, }
14 February 1831. }

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

Frederick Elliot,
Esq.
28 April 1834.

THE following ITEMS, charged in the Estimate for 1830, are omitted in that for the present year, in conformity with the directions received by his Excellency the Governor in Chief from His Majesty's Government.

No.	Amount.
	£. s. d.
1. Salary of the Lieutenant Governor of Gaspé for the year 1829 - £. 300 - -	600 - -
{ Ditto - - - ditto - - - for 1830 - - 300 - -	400 - -
2. Ditto of the Provincial Agent in London for 1829 and 1830 - - -	800 - -
3. Ditto of the Auditor General of Accounts for 1829 and 1830 - - -	200 - -
4. Allowance to ditto for a Clerk for ditto - - -	400 - -
5. Part of the Salaries of the Provincial Judges for the Districts of Gaspé and St. Francis, for 1829 and 1830 - - -	1,141 13 4
6. Part of the Circuit Allowances to the Judges for 1829 and 1830 - - -	400 - -
7. Salary of the Advocate General for 1829 and 1830 - - -	100 - -
8. Ditto of the Clerk of the Courts in the District of St. Francis, for 1829 and 1830 - - -	500 - -
9. Ditto of the Chairman of the Quarter Sessions at Quebec - for 1830 - - -	500 - -
10. Ditto - - ditto - - - ditto - - - Montreal - ditto - - -	250 - -
11. Ditto - - ditto - - - ditto - - - Three Rivers ditto - - -	450 - -
12. Ditto - - ditto - - - ditto - - - Gaspé for 1829 and 1830 - - -	100 - -
13. Pension to Mrs. Livingston for ditto - - -	200 - -
14. Ditto to two Misses De Salaberry for ditto - - -	140 - -
15. Ditto to Mrs. Deschambault - - -	

Quebec, 14th February 1831.

Jos. Cary,
Insp't. Genl. Pub. Provl. Accounts.

10. Have you any means of knowing what the Assembly did upon that Despatch?—Before the House of Assembly adopted any decision upon it a further communication arrived from the Earl of Ripon, proposing a permanent adjustment of the financial difficulties; that Despatch I am about to read.

No. 5.

COPY of a DESPATCH from Viscount Goderich to Lord Aylmer, dated
Downing-street, 24th December 1830.

My Lord,

AMONG the first objects which have called for my attention since His Majesty was pleased to place the seals of the Colonial Office in my hands, is the painful state of disunion which has for so many years prevailed in Lower Canada, respecting that part of the revenue which is raised by duties levied under various Acts of the British Parliament, and appropriated by warrants from the Lords of the Treasury.

Your Excellency will doubtless have felt how seriously this state of things embarrasses all the operations of the Local Government; but whilst its present effect is to weaken the just influence and authority of the executive power, its future consequences upon the connexion between the Province and the mother country might become most disastrous, if not fatal. It appears to me, therefore, as it appeared to my predecessor, Sir George Murray, to be indispensably necessary that an immediate and amicable adjustment of the question should be brought about; and His Majesty's Government is decidedly of opinion that any attempt at such an adjustment would be ineffectual, which did not involve the entire assignment of the revenue raised under the Acts in question to the disposal of the Provincial Legislature, under a conviction that they will assent to such a reasonable grant of a Civil List as may be necessary for ensuring at all events the independence of the Governor and of the Judges.

I cannot think that such an assignment of these duties would be inconsistent with the honour and dignity of the Crown. The duties are neither levied nor appropriated by the mere Royal prerogative. They owe their existence to a specific Act of Parliament, passed at a time when there did not exist in the Province any legal means by which duties of that description could be imposed; and although it be true that the Act of Parliament which imposes them directs the Lords of the Treasury to appropriate them, it must nevertheless be admitted, that the same Parliamentary authority might, without any violation of the Royal Prerogative, have directed in the first instance, and might now direct by amendment the appropriation of them in any other manner.

The subject being thus disembarrassed of the difficulties arising out of the Royal prerogative and the dignity of the Crown, it resolves itself into a mere question of expediency; viz. whether the advantages supposed to be derived from retaining the existing mode of appropriation are or are not counterbalanced by the manifold evils occasioned by the increasing

increasing and apparently irreconcilable disunion between the Governor and the Legislature of the Province. In considering this question, it may at once be admitted that there are conveniences attending the present system which ought not to be undervalued in a country where the relations of the government and the people are not held together by the same sort of ancient ties which unite the various classes of society in the parent state. But these conveniences may be bought at too dear a rate; and the experience of the last few years has convinced His Majesty's Government that a different policy is not only expedient, but indispensable. In order, however, to render the change effectual to the great object of restoring harmony and concord, it must be complete. To give up part of the duties in question to the disposal of the Legislature, and at the same time to reserve the remainder at the disposal of the Crown, as a matter of right, would on the one hand, be a distinct admission of the principle that the present mode of appropriation is defective; whilst, on the other, it would effectually prevent the concession from being either gracious or conclusive. Its ungraciousness would be in proportion to its inefficiency; and the arrangement never could be final, so long as any part of the obnoxious practice were retained.

The principle, therefore, upon which His Majesty's Government is of opinion that you ought to proceed in endeavouring to settle this question, is derived from the practice of this country, as recently exemplified in that part of His Majesty's Speech from the Throne upon the opening of the present Session, which refers to the Civil List. His Majesty there gives up all his interest in his hereditary revenues, and in some other sources of His Royal income, to the free disposal of Parliament; and His Majesty asks in return such a Civil List as Parliament may deem adequate for that important object. It is not attempted to balance an exact amount of the revenue given up against the amount of the Civil List which the Legislature is invited to grant; but, on the contrary, whilst His Majesty freely gives up His interest in the revenues which are thus left to Parliamentary disposal, the amount of the Civil List is left to be arranged upon principles in which it is intended to combine a reasonable economy with a just consideration of what is due to the honour, the dignity, and the comfort of the Crown.

There is something in this mode of proceeding at once so simple in itself, so free from future difficulties and disagreements, so consistent with the King's honour and the dutiful attachment of the people, that the King's Government cannot doubt that a proposition, similar in principle, and emanating from the same feelings, will not fail to be received by His Majesty's faithful subjects, the Legislature of Lower Canada, as an undoubted proof of His Majesty's paternal anxiety for their welfare, his desire to consult their feelings, and his confidence in the loyalty of his North American subjects.

The instruction, therefore, which I am now commanded by His Majesty to convey to you is, that you should, at the earliest convenient period, make a communication to the Legislature to the following effect:—

That His Majesty, taking into consideration the best mode of contributing to the prosperity and contentment of his faithful subjects of the Province of Lower Canada, places at the disposal of the Legislature all His Majesty's interest in those taxes which are now levied in the Province by virtue of different Acts of the British Parliament, and which are appropriated by the Treasury, under His Majesty's commands, together with all fines and forfeitures levied under the authority of such Acts. That His Majesty, relying on the liberality and justice of the Legislature of Lower Canada, invites them to consider the propriety of making some settled provision for such portion of the expenses of the civil government of the Province as may, upon examination, appear to require an arrangement of a more permanent nature than those supplies which it belongs to the Legislature to determine by annual votes.

That His Majesty has directed an estimate to be prepared and laid before them of the sum which may be required for that purpose; and that, in directing the preparation of that estimate, His Majesty has been guided by a wish never absent from his heart, to call upon His faithful subjects for no other supply than such as may appear to be required for the due execution of those services which it is proposed to charge upon the Civil List.

His Majesty concedes the disposal of these revenues with cordial good will, and cannot doubt that it will be met with a reciprocal feeling by the representatives of an attached and loyal people.

Such being the nature of the communication which it will be your duty to make in the King's name to the Legislature, I have now to submit to you an estimate of that which it is proposed to concede, and that which the Assembly may be invited to grant as a Civil List.

The revenues to be given up are as follows; viz.

Customs' duties levied under the 14 Geo. 3, c. 88, after deducting a portion for Upper Canada, upon an average of two years	-	-	-	£. 28,386
Licenses under ditto and 41 Geo. 3	-	-	-	2,764
Fines and forfeitures, average of two years	-	-	-	599
Total	-	-	-	£. 31,699

The Civil List to be proposed to the adoption of the Legislature should be divided like the Civil List in this country, into separate classes, with a definite expenditure assigned to each class.

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It may consist of three :

- 1st. The Civil Government, as far as regards the Governor and the immediate executive officers.
- 2d. Judges, and administration of justice.
- 3d. Pensions and Miscellaneous items, to meet unforeseen contingencies.

No. 1 may be composed of the following items :

	£.	£.
Governor's Salary - - - - -	4,500	
Provincial Secretary - - - - -	400	
Contingencies - - - - -	300	
	5,200	
No 2, as follows :		
Chief Justice - - - - -	1,500	
Ditto Montreal - - - - -	1,200	
Six Puisné Judges, 900 L each - - - - -	5,400	
Three Provincial Judges - - - - -	1,600	
Judge Vice Admiralty Court - - - - -	200	
Attorney General - - - - -	300	
Solicitor General - - - - -	200	
Allowance to Judges for Circuits - - - - -	275	
Contingences - - - - -	475	
	11,150	
3d Class :		
Pensions - - - - -	1,000	
Miscellaneous - - - - -	1,750	
	2,750	
Total, three Classes - - - - £.		19,100

It will not, however, be necessary to call upon the Legislature to grant the whole of the sum of 19,100 L., inasmuch as by the Provincial Act of 35 Geo. 3, c. , the sum of 5,000 L. is permanently granted towards the maintenance of the civil government; the moderate sum of 14,100 L. is therefore all that it is deemed necessary to ask for the completion of the proposed arrangement.

Having now stated to your Lordship the nature and details of the proposition to be submitted to the Legislature, I proceed to explain the mode in which the arrangement can be best carried into effect.

As the duties with which it is proposed to deal in the manner above described are appropriated by Acts of the British Parliament, the change in their disposition cannot take place without the sanction of the same authority. A Bill will therefore be submitted to Parliament in the course of the present Session, for the purpose of releasing the Lords of the Treasury from their present obligation of appropriating the duties, and for authorizing His Majesty to leave their appropriation to the Colonial Legislature. The date at which it is proposed that the Bill should come into operation is on July 1st, 1832. This distant period is taken, in order on the one hand to give full time for the Legislature of Lower Canada to make the necessary provision on their part, and on the other to enable His Majesty's Government to meet the possible (though, I trust, highly improbable) contingency of such a satisfactory result not taking place. In order, however, to enable the Government at home to give the earliest possible effect to the measures which may be taken by the Colonial Legislature for the satisfactory settlement of this question, it is proposed to give His Majesty in Council a power to bring the British law into operation at an earlier period than July 1st, 1832. If, therefore, the Canadian Act should provide for the commencement of the proposed Civil List on January 1st, 1832 (which I should be inclined to recommend) or at an earlier period, then His Majesty's Government would lose no time in advising the issue of an Order in Council to accelerate the commencement of the British Act, so that the whole plan would come simultaneously into effect.

It only now remains for me to state, that the duration of the Civil List may be either for the life of His Majesty, or for some definite term of years, not under seven, as may be more agreeable to the Provincial Legislature.

I trust that the arrangements detailed in this Despatch will be received in the spirit in which they are dictated, a spirit of conciliation and confidence. His Majesty is prepared to surrender a large and increasing revenue; he asks, in return, for a fixed and moderate Civil List, much less in amount than the revenue given up; and the settlement of this long-agitated and perplexing question will be deemed by His Majesty one of the happiest events of his reign, the glory of which (the people of Canada may be assured) will be the promotion of the happiness and content of all classes of his subjects, in all quarters of the globe.

I have, &c.
(signed) *Goderich.*

11. At the same time that this Despatch was sent to Lower Canada was a corresponding Despatch also sent to Upper Canada, with the necessary alterations in the several items?—Yes.

12. Containing

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12. Containing the same items, and applying for a corresponding Civil List?—The Despatch was similar in all respects except such differences as local circumstances made.

13. After the concessions made on the part of the Crown to the Legislature of Lower Canada, did there remain any revenue to the Crown of Lower Canada, and from what source?—There remained a revenue which will be found enumerated in the Despatch that I am about to read.

14. Was the concession made to Upper Canada of a similar description as to the revenue conceded, and of a similar description as to the revenue retained by the Crown?—In so far as the Crown had in Upper Canada revenues of a similar nature as those which it retained in Lower Canada the Government did retain them, but there are revenues in Lower Canada under the control of the Government which do not exist at all in Upper Canada.

15. In both provinces were there revenues arising from Crown lands?—Yes.

16. In the third class of items which the Government invite the Legislature of Lower Canada to provide for, there is an item of 1,000*l.* for pensions; can you give any information on the subject of pensions?—The whole amount of pensions now paid in Lower Canada is 2,125*l.*; of the whole number, pensions to the amount of 600*l.* were granted by the Government in the year 1828; all the others were either granted by the Government so long ago as 1806 or 1809; or else by Acts of the Provincial Legislature subsequently to 1828.

17. In what consists the item of 1,750*l.* for miscellaneous services, of what nature?—It is stated in the Earl of Ripon's Despatch of the 24th of December 1830, that this class was to meet unforeseen contingencies.

18. Are any of the pensions received by persons not resident in the Province, or now residing in England?—No pension is received by any person who is not resident in the Province, with the exception of one gentleman who receives an allowance, not a pension properly speaking, but a compensation for a patent office which he resigned at the wish of the Government. He resides now in England.

[The following Despatch was then read.]

No. 6.—COPY of a DESPATCH from Viscount Goderich to Lord Aylmer, dated Downing-street, 24 December 1830.

Separate.

My Lord,

HAVING in my Despatch, No. 11, of this date, conveyed to you His Majesty's commands upon the subject of the Civil List of Lower Canada, I now proceed to state to you the views of His Majesty's Government respecting those branches of revenue which it is deemed expedient to exempt from the operation of that arrangement; I mean the casual and territorial revenue. If the funds derived from these sources operated in any degree as a tax upon the people, or tended, either in their nature or in the mode of their collection, to impede or impair the prosperity of the Province, I should have hesitated in proposing to retain them at the disposal of the Crown. They stand, however, upon a perfectly different ground from taxes properly so called; they are enjoyed by the Crown by virtue of the Royal prerogative; and are neither more nor less than the proceeds of landed property, which, legally and constitutionally, belong to the Sovereign upon the throne; and as long as they are applied, not to undue purposes of mere Patronage, but to objects which are closely connected with the public interests of the Province, it is not easy to conceive upon what grounds of abstract propriety, or of constitutional jealousy, the application of them, according to His Majesty's commands, under responsible advice, can be impugned.

According to the accounts transmitted to this country from Lower Canada, it appears that the casual and territorial revenue was composed of the following items in the year 1829:—

Gross Revenue of Jesuits' Estates - - - - -	£.
Rent of the King's Post - - - - -	2,000
Forges of St. Maurice - - - - -	1,200
Rent of King's Wharf - - - - -	500
Droit de Quint - - - - -	351
Lods et Ventas - - - - -	965
Land Fund - - - - -	3,265
Timber Fund - - - - -	1,800
	1,150
TOTAL - - - - -	£.11,231

From this sum should be deducted the revenue of the Jesuits' estates, which being regularly applied to the purposes of education, cannot properly be diverted from that object. I must, however, remark, that the expense of collecting it (between 500*l.* and 600*l.*) bears

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a large proportion to the total amount of the revenue received; and that it ought to be reduced within the smallest possible compass at as early a period as is practicable.

The remainder, then, of the casual and territorial revenue may be estimated at rather more than 9,000*l.*; and if from this item there be deducted the expense of collection and management, amounting probably to 1,500*l.* or thereabouts, there will be at the disposal of the Government the sum of about 7,500*l.* more or less, liable to some increase, I would hope, from the double operation of diminished expense in the collection, and increased receipts from some of the items.

The first item to which it will obviously be proper to apply this fund will be that portion of the provision for the clergy of the Established Church which has hitherto been paid either out of the Army Extraordinaries, or the funds of the Commissary General. Nothing can be more unseemly or objectionable than such a mode of meeting that charge, nothing more correct than placing it on the casual and territorial revenue. You will therefore pay the stipends contained in the enclosed list (now charged, as far as I can make out, on the Army Extraordinaries,) out of that fund, and adding thereto the sum of 1,000*l.* to the Roman Catholic Bishop of Quebec, and 500*l.* divided between the different Presbyterian ministers in the Province; the whole charge under the head of Religious Services will amount to 6,850*l.* There will then remain a sum of about 950*l.*; but I do not think that it would be prudent to place at present any fixed charge upon that surplus, in order that there may always be some reserve in hand to meet unforeseen contingencies.

Whether it would be possible to induce the Legislature (or prudent to attempt it) to take upon the provincial funds the charge of the Roman Catholic Bishop, I cannot undertake to say; and I must leave it to your discretion to decide upon that question on the spot. If, however, it should be practicable to relieve the casual revenue from that charge, or if any other circumstances should increase its disposable amount, then it would be desirable that such disposable increase should be applied to the payment of an equivalent portion of the charge for the Church of England, now defrayed by the Society for the Propagation of the Gospel, out of the annual vote of the British Parliament.

I have, &c.
(signed) Goderich.

SALARIES and ALLOWANCES to the CLERGY of Lower Canada, exclusive of the Allowances from the Society for the Propagation of the Gospel.

	£.	s.	d.
Lord Bishop of Quebec - - - - -	3,000	-	-
Archdeacon of Quebec - - - - -	650	-	-
Minister of Trinity Chapel, Quebec - - - - -	200	-	-
Ditto - ditto - Montreal - - - - -	300	-	-
Ditto - ditto - Three Rivers - - - - -	200	-	-
Ditto - ditto - William Henry - - - - -	150	-	-
Ditto - ditto - Durham - - - - -	100	-	-
Ditto - ditto - Chatham - - - - -	100	-	-
Ditto - ditto - Caldwellmanor - - - - -	100	-	-
Ditto - ditto - St. Armand - - - - -	100	-	-
Evening Lecturer - Quebec - - - - -	150	-	-
Ditto - - - - Montreal - - - - -	150	-	-
Verger at Quebec - - - - -	30	-	-
Rent of Protestant Burial Ground - - - - -	20	18	6
TOTAL, Church of England - - - - -	3,250	18	6
Presbyterian Minister, Quebec - - - - -	£ 50		
Ditto - - - - Montreal - - - - -	50		
Additional allowance to Presbyterian Ministers - - - - -	500		
TOTAL, Church of Scotland - - - - -	600	-	-
Roman Catholic Bishop of Quebec - - - - -	1,000	-	-
TOTAL - - - - -	£.6,850	18	6

19. What is meant by the Land Fund?—The revenue acquired under that name has been derived from various sources at various periods of time. Formerly it consisted in a great measure of fees upon grants of land, rents of land and quit rents. Lately the plan of disposing of the Crown lands only by sale has been introduced and enforced throughout the colony.

20. Then the whole revenue comes from land sold by the Government in the Colony?—Yes.

21. The revenue which you first described is as it existed in 1829?—Yes.

22. Has it materially altered in amount since that period?—I should think the gross amount of the casual and territorial revenue is rather less than it used to be.

23. What

23. What is meant by the Timber Fund?—That arises from license to cut timber upon land belonging to the Crown.

*Frederick Elliott,
Esq.*

[*A private Despatch from the Earl of Ripon to Lord Aylmer, accompanying the two preceding Despatches was then read, after which the following :*]

28 April 1834.

No. 7.—COPY of a DESPATCH from Lord Aylmer to the Right Honourable Lord Viscount Goderich (with Enclosures).

My Lord,

Castle, St. Louis, Quebec, 4th March 1831.

In my Despatch dated the 22d ultimo, and forwarded via Halifax, I had the honour of acknowledging the receipt of your Lordship's Despatches, therein severally enumerated, and I now avail myself of the return to New York of the messenger despatched by His Majesty's consul with the originals of the following Despatches; viz. No. 11, dated December 24th, 1830; separate, same date, private and confidential; same date, to communicate to your Lordship the proceedings which have taken place on carrying into effect the commands of His Majesty conveyed in those Despatches.

In order to make your Lordship acquainted with these proceedings step by step, as they have occurred, up to this period, I transmit copies of the several communications which have taken place between me and the House of Assembly, conceiving that a perusal of these documents will present a more perfect view of what has taken place than it is in my power to convey in the form of a narrative.

Copies of the several statements connected with the proposed Civil List and revenue to be given up by His Majesty in the event of an amicable adjustment of the financial affairs of this Province, are also transmitted: they are taken from your Lordship's Despatches, and are accompanied by notes and observations, respecting which I beg to be honoured with your Lordship's further instructions.

I wish it were in my power to report to your Lordship that the liberal intentions of His Majesty had been met with a corresponding disposition on the part of the House of Assembly. So far is this from being the case, that a very strong feeling of discontent has been excited by the communication of those intentions, and my message of the 25th ultimo in particular, (that, I mean, in which the right of the Crown to the disposal of certain branches of the revenue is asserted,) has called forth that feeling with peculiar force. Being well aware that the subject of the message above alluded to will hereafter give rise to much angry discussion, and perhaps lead to measures of a very decided character, it becomes necessary that I should enter somewhat at large into the motives which induced me to make the communication conveyed in that message.

The language held by the persons possessing the greatest influence in the Colony, left no doubt in my mind that, in bringing the financial question under the notice of the House of Assembly, with a view to its final adjustment, the assertion of the right of the Crown to the disposal of certain branches of the revenue would be received with a very ill grace; and above all, that in putting forth the broad and unqualified claim of the Crown to the Jesuits' estates, I should strike upon a chord which has never yet been touched by the Executive Government of this Colony without producing discord. Nevertheless, as the assertion of this right formed a part of your Lordship's instructions, and as the postponement of it to some future stage of the negotiation (if I may be allowed so to express myself), might possibly give rise to a charge against the Government of a design to deceive, I conceived it best to come forward at once and make the communication. Had it been delayed it might be taken for granted either that this communication would have been called for (possibly with the view of making it appear that it had been withheld for some unworthy purpose), or on the other hand, had it not been called for, I should have been still more fully satisfied that, after the settlement of the question of the Civil List had taken place, it would have been said that the Government had acted disingenuously towards the Province, and had concealed its pretensions to the revenues in question, in order to inveigle the House of Assembly into a disadvantageous arrangement; in which case, the whole question of the revenues of the Crown would have been brought forward again as a grievance, and the work of accommodation, as connected with the subject of finance, would have been to begin again, under aggravated circumstances. Whereas the prompt communication of my second message (that of the 25th ultimo), and the explicit language in which the subject of it is conveyed, will completely shut the door against all discussion, from the moment when the question of the Civil List shall have been disposed of; and now the whole case being before the House of Assembly, they can never at any future period complain of a want of plain dealing on the part of the Executive Government upon this occasion.

Upon the receipt of my message of the 25th ultimo above referred to, a call of the House of Assembly was moved for the 8th instant, for the purpose of taking the state of the Province into consideration, when it is said certain resolutions are to be brought forward by Mr. Neilson. I have not been able to learn the scope and bearing of these resolutions, but it seems to be generally believed that some very strong measures will be adopted. Concerning these, many reports are abroad; but as they are merely reports, I forbear to mention them more particularly.

I have the honour to be, &c.

Aylmer.

P. S. I think it necessary to apprise your Lordship that in the statement of the revenues proposed to be given up by the Crown, which accompanied my Message of the 23d ultimo, I have taken the average of the years 1829 and 1830, instead of that of the years 1828 and 1829, as giving a more favourable view of those revenues.

Frederick Elliot,
Esq.

No. 1.

28 April 1834.

AYLMER, Governor-in-Chief.

The Governor-in-Chief has received from the Secretary of State for the Colonial Department His Majesty's commands to make the following communication to the ^{Legislative Council,} _{House of Assembly,} with a view to the final adjustment of the question of finance which has so long engaged the attention of the Legislature of this Province.

His Majesty, taking into consideration the best mode of contributing to the prosperity and contentment of His faithful subjects of the Province of Lower Canada, places at the disposal of the Legislature all His Majesty's interest in those taxes which are now levied in the Province by virtue of different Acts of the British Parliament, and which are appropriated by the Treasury, under His Majesty's commands, together with all fines and forfeitures levied under the authority of such Acts. His Majesty, relying on the liberality and justice of the Legislature of Lower Canada, invites them to consider the propriety of making some settled provision for such portion of the expenses of the civil government of the Province as may, upon examination, appear to require an arrangement of a more permanent nature than those supplies which it belongs to the Legislature to determine by annual votes. His Majesty has directed to be prepared and laid before the ^{Council} _{House} an estimate of the sums required for that purpose; and in directing the preparation of that estimate His Majesty has been guided by a wish, never absent from his heart, to call upon His faithful subjects for no other supply than such as may appear to be required for the due execution of those services which it is proposed to charge upon the Civil List.

His Majesty concedes the disposal of these Revenues with cordial good will, and cannot doubt that it will be met with a reciprocal feeling by the ^{Legislative Council,} _{representatives of an attached and loyal people.} The revenues to be given up, taken upon the average of the two last years, amount to 38,125 *l.* currency; and the amount of the Civil List, according to the estimate herewith transmitted, amounts to 19,500 *l.*

It is not, however, necessary to call upon the Legislature to grant the whole sum of 19,500 *l.*, inasmuch as by the Provincial Act of the 35 Geo. 3, the sum of 5,000 *l.* is permanently granted towards the maintenance of the civil government; the moderate sum of 14,500 *l.* is therefore all that is deemed necessary to ask for the completion of the proposed arrangement.

It is proposed that the duration of the Civil List should be for the life of His Majesty. It is hoped that the arrangements thus detailed will be received in the spirit in which they are dictated—a spirit of conciliation and confidence.

His Majesty is prepared to surrender a large and increasing revenue; he asks in return for a fixed and moderate Civil List, much less in amount than the revenue given up; and the settlement of this long-agitated question will be deemed by His Majesty one of the happiest events of his reign, the glory of which (the people of Canada may be assured) will be the promotion of the happiness and content of all classes of his subjects in every quarter of the globe.

The Governor-in-Chief having thus obeyed the commands he has received in making the foregoing communication to the ^{Legislative Council,} _{House of Assembly,} desires to add, that if in the course of their proceedings in this important question, they should deem it expedient to require explanations from him on the subject of it, he will at all times be ready to afford such explanations; and he will moreover most willingly supply any further information they may desire to have, to the utmost extent compatible with his duty to his Sovereign.

Castle of St. Louis, Quebec, 23d Feb. 1831.

LOWER CANADA:—PROPOSED CIVIL LIST.		£.	£.
Class No. 1.	Governor's Salary - - - - -	4,500	5,300
	Civil Secretary - - - - -	500	
	Contingencies - - - - -	300	
Class No. 2.	Chief Justice - - - - -	1,500	11,450
	- Ditto - Montreal - - - - -	1,200	
	Six Puisne Judges, at 900 <i>l.</i> each	5,400	
	Resident Judge at Three Rivers	900	
	Two Provincial Judges - - - - -	1,000	
	Judge of Vice Admiralty - - - - -	200	
	Attorney General - - - - -	300	
	Solicitor General - - - - -	200	
Class No. 3.	Allowance for Judges for Circuits	275	2,750
	Contingencies - - - - -	475	
	Pensions - - - - -	1,000	
	Miscellaneous - - - - -	1,750	
Total, Three Classes, Sterling - - - - -		£.	19,500

STATEMENT of the Average Net Produce of the REVENUES under the following Heads, founded on the Receipts for the last Two Years, after deducting the Proportion for Upper Canada.

Frederick Elliot,
Esq.

28 April 1834.

	£.
Customs, under Imperial Act 14 Geo. 3, c. 88 - - - - -	31,742
Licenses under Ditto - - - - -	2,200
Ditto under Provincial Act 41 Geo. 3 - - - - -	62
Customs, under Ditto - - - - -	3,735
Fines and Forfeitures - - - - -	386
Total Currency - - - - - £.	38,125

Quebec, 23d Feb. 1831.

(signed) Joseph Cary,
Inspect' Gen^l of Public Provincial Accounts.

No. 2.

AYLMER, Governor-in-Chief.

The Governor-in-Chief having, in his Message of the 23d instant, communicated to the House of Assembly the commands of His Majesty, received through the Secretary of State for the Colonial Department, regarding the question of finance which has for so long a period engaged their attention, thinks it necessary to enumerate in detail the several branches of revenue which it is deemed expedient to exempt from the operation of the proposed arrangement.

This further communication appears to his Excellency to be the more desirable, as it will remove all grounds for future discussion when the adjustment of the main question shall have taken place, and as it will enable the House of Assembly to enter upon the consideration of this important topic with a full and precise understanding of the views of His Majesty's Government; these views are now exhibited by the Governor-in-Chief to the House of Assembly in that spirit of frankness and good faith which characterizes the instructions he has received, and which cannot fail to improve the confidence of the House of Assembly in the good intentions of his Majesty's Government.

The revenues to which the Governor-in-Chief alludes are the casual and territorial Revenues of the Crown, and are classed under the following heads; viz.

- | | |
|------------------------------|--------------------|
| 1. Rents, Jesuits' Estates. | 5. Droit de Quint. |
| 2. Rent of the King's Posts. | 6. Lods et Ventes. |
| 3. Forges of St. Maurice. | 7. Land Fund. |
| 4. Rent of King's Wharf. | 8. Timber Fund. |

If the funds derived from these sources operated in any degree as a tax upon the people, or tended, either in their nature or in the mode of their collection, to impede or impair the prosperity of the Province, His Majesty's Government would have hesitated in proposing to retain them at the disposal of the Crown. They stand, however, upon a perfectly different ground from taxes, properly so called. They are enjoyed by the Crown, by virtue of the Royal prerogative, and are neither more nor less than the proceeds of landed property, which legally and constitutionally belongs to the Sovereign on the Throne; and as long as they are applied, not to undue purposes of mere patronage, but to objects which are closely connected with the public interests of the Province, it is not easy to conceive upon what grounds of abstract propriety or of constitutional jealousy the application of them, according to His Majesty's commands, under responsible advice, can be impugned.

Castle of St. Louis, Quebec, }
25 February 1831. }

A.

House of Assembly, Friday, 25th Feb. 1831.

Resolved,—That an humble Address be presented to his Excellency the Governor-in-Chief, praying his Excellency will be pleased to direct the proper officers to lay before this House a statement of the gross annual amount of the casual and territorial revenue, from the year 1818 inclusive, distinguishing the amount annually received under the following heads; viz.

- | | |
|--------------------------------|-----------------|
| Rents of the Jesuits' Estates. | Droit de Quint. |
| Rent of the King's Posts. | Lods et Ventes. |
| Forges of St. Maurice. | Land Fund. |
| Rent of the King's Wharf. | Timber Fund. |

(Answer.)

Gentlemen,

I have much satisfaction in receiving this Address, because it enables me to gratify the desire with which I shall at all times be actuated, to comply with any request of the House of Assembly; and because I am fully sensible that at the present moment it is more than usually desirable that the financial concerns of the Province should undergo a thorough examination. The proper officers shall therefore be instructed to prepare, and to lay before

Frederick Elliot,
Esq.

28 April 1834.

the House of Assembly a statement of the gross annual amount of the casual and territorial revenue, from the year 1818 inclusive, distinguishing the amount annually received under the following heads; viz.

Rent of Jesuits' Estates.
Rent of the King's Post.
Forges of St. Maurice.
Rent of King's Wharf.

Droit de Quint.
Lods et Ventés.
Land Fund.
Timber Fund.

Castle of St. Louis, Quebec, }
26th February 1831.

Aylmer,
Governor-in-Chief.

House of Assembly, Friday, 25th Feb. 1831.

Resolved,—That an humble Address be presented to his Excellency the Governor-in-Chief, praying his Excellency will be pleased to cause to be laid before this House Copies of any Despatch or Despatches, or of such instruction or instructions as his Excellency may have received from His Majesty's Government in England, concerning the financial affairs of this Province, to which his Excellency refers in his Messages to this House on that subject, of the 23d inst. and this day.

Gentlemen,

(Answer.)

I cannot hesitate a moment regarding the answer which it becomes me to make to this Address.

The Despatches and instructions which I have received, and which are alluded to in my Messages of the 23d and 25th inst. to the House of Assembly, are intended for my own information and guidance as Governor of this Colony, and are addressed to me in the confident expectation on the part of His Majesty's Government, that the commands of the King, which those Despatches and instructions convey, will be executed by me with that fidelity which should belong to the character of a public officer, intrusted with the performance of high and important duties, and honoured with the confidence of his Sovereign.

I have therefore to desire, gentlemen, that you will be so good as to convey to the House of Assembly the expression of my very sincere regret at not having it in my power, consistently with the sense of duty and propriety entertained by me on this occasion, to cause to be laid before them "Copies of any Despatch or Despatches, or of such instruction or instructions, as I may have received from His Majesty's Government in England, concerning the financial affairs of this Province, which are referred to in my messages to the House of Assembly on that subject, of the 23d and 25th instant."

Castle of St. Louis, Quebec, }
26th February 1831.

Aylmer,
Governor-in-Chief.

House of Assembly, Monday, 28th Feb. 1831.

Resolved,—That an humble Address be presented to his Excellency the Governor-in-Chief, praying his Excellency will be pleased to cause to be laid before this House a detailed statement of the intended application of the items contained in the estimate of the proposed Civil List for Lower Canada, transmitted with his Excellency's Message of the 23d instant, under the heads of Contingencies, in Classes No. 1 & 2, and under the heads of Pensions and Miscellaneous, in Class No. 3.

Gentlemen,

(Answer.)

I have not in my power to furnish a detailed statement of the application of the items contained in the estimate of the proposed Civil List for Lower Canada (transmitted with my Message of the 23d ult.), under the heads of Contingencies, in Classes Nos. 1 & 2, not being in possession of the necessary information to enable me to do so.

The same observation will apply to the item of Miscellaneous, in Class No. 3.

Regarding the item of Pensions, in Class No. 3, I have to inform the House that a communication must be made to His Majesty's Government before a final appropriation of that head of charge can take place.

Castle of St. Louis, Quebec, }
1st March 1831.

Aylmer,
Governor-in-Chief.

House of Assembly, Monday, 28th February 1831.

Resolved,—That an humble Address be presented to his Excellency the Governor-in-Chief, praying that his Excellency will be pleased to direct the proper officers to lay before this House a statement of the gross annual amount of the rents of the Jesuits' estates, classed under the several heads of receipt; a detail of the salaries annually paid, and the gross annual amount of other expenses of management and collection, together with a statement of the annual amount of all other payments made out of the same fund.

Gentlemen,

(Answer.)

Upon reference to the proper officer, I have ascertained that the information sought for in this Address has hitherto been withheld, in conformity, as I must presume, with instructions from His Majesty's Government.

With this impression of my mind, and in the absence of any precise instructions on this subject, addressed to myself, I cannot feel justified in furnishing the desired information.

Castle of St. Louis, Quebec, }
1st March 1831.

Aylmer,
Governor-in-Chief.

House

House of Assembly, Monday 28th February 1831.

Resolved,—That an humble Address be presented to his Excellency the Governor-in-Chief, praying his Excellency to direct the proper officer to lay before this House statements of the gross annual income of the Land Fund and of the Timber Fund, classed under the several heads of receipt, a detail of the salaries annually paid, and the gross annual amount of all other expenses of management and collection, together with a statement of the annual amount of all other payments made out of the same funds, from the year 1818 inclusive.

(Answer.)

Frederick Elliot,
Esq.

28 April 1834.

Gentlemen,

To this message I can only return a similar answer to that which I have just made to the preceding one, and to that answer I must accordingly refer.

Castle of St. Louis, Quebec, }
1st March 1831. }

Aylmer,
Governor-in-Chief.

House of Assembly, Monday, 28th February 1831.

Resolved,—That an humble Address be presented to his Excellency the Governor-in-Chief, praying that his Excellency will be pleased to cause to be laid before this House a detailed statement of the intended future application of the income arising from the rents of the Jesuits' estates, the Land Fund, the Timber Fund, and the other heads of revenue classed in his Excellency's message of the 25th instant, as belonging to the casual and territorial revenue.

(Answer.)

Gentlemen,

I cannot take upon myself to say what may be the future intentions of His Majesty's Government with regard to the appropriation of those branches of the revenue which are considered as the property of the Crown, and consequently liable to such changes in the distribution of them as His Majesty may be pleased to direct.

I can only state generally that it is the intention of His Majesty's Government to apply them to objects which are closely connected with the public interests of the Province, and I have reason to believe that the following items will be made chargeable upon those revenues:

- 1st. The advancement of education.
- 2d. The payment of the clergy of the Established Church.
- 3d. The payment of 1,000 *l.* per annum to the Roman Catholic Bishop of Quebec.
- 4th. An allowance annually of 600 *l.* to Presbyterian ministers.

Castle of St. Louis, Quebec, }
1st March 1831. }

Aylmer,
Governor-in-Chief.

No. 6.

House of Assembly, Monday, 28th February 1831.

Resolved,—That an humble Address be presented to his Excellency the Governor-in-Chief, praying that his Excellency will be pleased to acquaint this House whether the Judge of the Court of Vice-Admiralty at Quebec has made choice of his salary, at the rate of 200 *l.* sterling per annum, as voted by this House, or of the fees which, under the present tariff, he is in the habit of receiving.

(Answer.)

Gentlemen,

I really cannot inform the House of Assembly whether the Judge of the Court of Vice-Admiralty has or has not made choice of his salary, at the rate of 200 *l.* sterling per annum, as voted by the House, or of his fees. I only know that the Judge of the Court of Vice-Admiralty having some time since made application to me for a warrant for the amount of his salary for the year 1830, I caused inquiry to be made whether he had received fees during that period, and upon learning that he either had done so, or at least still asserted his claim to those fees, I withheld my warrant for the amount of the salary, which will be found carried to the credit of the public, in the accounts of the expenditure of the past year now before the House of Assembly.

Castle of St. Louis, Quebec, }
1st March 1831. }

Aylmer,
Governor-in-Chief.

House of Assembly, Tuesday, 1st March 1831.

Resolved,—That an humble Address be presented to his Excellency the Governor-in-Chief, praying his Excellency will be pleased to lay before this House any information which may be in his possession, and which he may think proper to communicate, respecting any Bill introduced during the last or present Session of the Parliament of the United Kingdom, by any officer of His Majesty's Government, concerning the financial affairs of this Province, or any information relating to any such Bill proposed to be introduced, together with copies of all such Bills, and every other information relating thereto.

Frederick Elliot,
Esq.

28 April 1834.

Gentlemen,

(Answer.)

I request you will inform the House of Assembly that I am not in possession of any official information respecting any Bill introduced during the last or present Session of the Parliament of the United Kingdom, by any officer of His Majesty's Government, concerning the financial affairs of this Province; but a Despatch, addressed to me by the Secretary of State for the Colonial Department, dated the 24th of December last, announces the intention of His Majesty's Government to submit to the Imperial Parliament, in the course of the present Session, a Bill for the purpose of relieving the Lords of the Treasury from their present obligation of appropriating the duties referred to in my message of the 23d ultimo, and for authorizing His Majesty to leave their appropriation to the Colonial Legislature. The date at which it is proposed that this Bill should come into operation is on the 1st of July 1832. In order, however, to enable the Government at home to give the earliest possible effect to the measures which may be taken by the Colonial Legislature for the satisfactory settlement of the question involved in the subject of my message of the 23d ultimo, it is proposed to give His Majesty in Council a power to bring the British law into operation at an earlier period than the 1st of July 1832. If, therefore, the Colonial Act should provide for the commencement of the proposed Civil List in January 1832, or at any earlier period, then His Majesty's Government would lose no time in advising the issue of an Order in Council to accelerate the commencement of the British Act, so that the whole plan would come simultaneously into effect.

Castle of St. Louis, Quebec, }
2d March 1831.

Aylmer,
Governor-in-Chief.

LOWER CANADA.

CIVIL LIST, as stated in Lord *Goderich's*
Despatch of the 24th December 1830.

No. 1.	£.	£.
Governor's salary - - -	4,500	
Provincial Secretary - - -	400	
Contingencies - - -	300	
		5,200
No. 2.		
Chief Justice - - -	1,500	
Ditto - Montreal - - -	1,200	
6 Puisne Judges, £. 900 each	5,400	
3 Provincial Judges - - -	1,600	
Judge of Vice-Admiralty Court	200	
Attorney General - - -	300	
Solicitor General - - -	200	
Allowance to Judges for Circuits	275	
Contingencies - - -	475	
		11,150
3d Class.		
Pensions - - -	1,000	
Miscellaneous - - -	1,750	
		2,750
Total, 3 Classes - - £.		19,100

CIVIL LIST, as stated in the Message of
the Governor-in-Chief to the Colonial
Legislature, on the 23d February 1831.

Class, No. 1.	£.	£.
Governor's salary - - -	4,500	
Civil Secretary* - - -	500	
Contingencies - - -	300	
		5,300
Class, No. 2.		
Chief Justice - - -	1,500	
Ditto - Montreal - - -	1,200	
6 Puisne Judges, £. 900 each	5,400	
Resident Judge at Three Rivers†	900	
Two Provincial Judges - - -	1,000	
Judge of Vice-Admiralty - - -	200	
Attorney General - - -	300	
Solicitor General - - -	200	
Allowance for Judges for Circuits	275	
Contingencies - - -	475	
		11,450
Class, No. 3.		
Pensions - - -	1,000	
Miscellaneous - - -	1,750	
		2,750
Total, 3 Classes - Sterling £.		19,500

No. 8.—EXTRACT of a DESPATCH from Lord *Aylmer* to Viscount *Goderich*,
dated Quebec, 15 March 1831.

"I have the honour of transmitting to your Lordship the First Report of the Finance Committee of the House of Assembly of Lower Canada, by which your Lordship will see that the propositions which have been submitted to the House of Assembly, with a view to the adjustment of the question of finance, have been rejected, the House having resolved, 'that it is inexpedient that any further permanent provision for the expenses of Government be made.' The finance question stands, therefore, upon the same ground as before the communication of the propositions, and His Majesty's Government are accordingly at liberty to take such further steps (if any) as may be deemed expedient.

"Notwithstanding the rejection of the propositions, I have reason to think that a Bill of Supply for the present year will pass the House of Assembly upon the estimates which accompanied my message of the 14th ultimo.

"This

* The *Civil Secretary* has been here substituted for the *Provincial Secretary*, under the impression that the former is the officer intended to be placed in this class of the Civil List. In fact, the *Civil Secretary* is an officer specially chosen by the Governor, from whom he receives his appointment, and is in daily and confidential communication with him. The amount of salary also has been altered, that of *Civil Secretary* having been hitherto estimated for at £. 500. per annum, and no intention of reducing his salary having been intimated to the Colonial Government. In this view of the situation and duties of the *Civil Secretary*, it is presumed that it is not intended he should be excluded from this class of the Civil List, in order that his salary be made subject to the annual vote of the Colonial Legislature.

† A reference to the estimate of last year will show that the Resident Judge of Three Rivers has been placed in regard of salary on a footing with the other Puisne Judges, and no intimation has been received by the Colonial Government of an intention to make any alteration in this respect.

" This circumstance, however, is not to be taken as any indication of a desire to meet the views of His Majesty's Government by an ulterior arrangement of the question of finance, but is rather to be ascribed to an apprehension of the impediments which would be interposed to the prosecution of the various public enterprises now on foot throughout the country, such as roads, schools, bridges and other public buildings, by the withholding a Bill of Supply.

" The resolutions of Mr. Neilson, which I had the honour of transmitting to your Lordship on the 5th instant, have been unanimously adopted by the House of Assembly, and to them have been added two others, which I am sure your Lordship will see with concern, since they go the length, if acted upon, of a change in the constitution of this Province by the annihilation of the Legislative Council.

" I am yet ignorant of the intentions of the House of Assembly in regard to the resolutions which have been adopted; but it is probable that they will be embodied in an address to me.

" The present state of affairs in this Colony does not, on the first view of it, present a very encouraging appearance, and yet I cannot persuade myself that the result will be unfavourable to the views of His Majesty's Government.

" The House of Assembly having rejected the propositions lately submitted to them on the subject of finance, it will now be for His Majesty's Government to decide whether the intended repeal of the several Acts of the Imperial Parliament referred to in your Lordship's Despatch of the 24th of December, (as far at least as regards this Province) shall be recommended to Parliament.

" Upon this subject I can only repeat, that I cannot hold out to your Lordship any immediate prospect of an amicable adjustment of the finance question."

RESOLUTIONS.

1. *Resolved*, As the opinion of this Committee, That the chief cause of these abuses, and of the difficulty of remedying them, is to be found in that provision of the Act of the 31st Geo. 3, c. 31, which sanctioned the appointment by the Executive power of a Legislative Council composed of members appointed for life, with the view of their forming a constituent branch of the Colonial Legislature; and that the said provision is repugnant to the principles of the British Constitution, and was an unfortunate attempt, introduced for the first time by the said Act into the British system of Colonial Administration with reference to the two Canadas exclusively, fatal to the tranquillity and prosperity of the Province, and incompatible with the good government, peace and happiness of the colony.

2. *Resolved*, As the opinion of this Committee, That the said provision has produced those fatal results which it was so natural to expect from it, by securing impunity to the provincial Executive, under the name of a Legislative Council, for its greatest abuses of power; and could only have been introduced under the erroneous supposition, that it was possible to find in America fit materials for the formation of an aristocracy sufficiently numerous, independent and respected.

House of Assembly, Saturday, 12th March 1831.

Resolved, That this House doth concur in the report of the special committee, to whom were referred his Excellency the Governor-in-Chief's message of the fourteenth of February last, with the accompanying estimate of the civil expenditure of the Government of Lower Canada, for the year one thousand eight hundred and thirty-one; his Excellency's messages of the twenty-third and twenty-fifth February last, relating to a proposed Civil List, and other documents.

(signed) *W. B. Lindsay*, Clerk of Assembly.

FIRST REPORT.

THE SPECIAL COMMITTEE, to whom were referred his Excellency the Governor-in-Chief's message of the 14th ultimo, with the accompanying estimate of the civil expenditure of the Government of Lower Canada for the year 1831; his Excellency's messages of the 23d and 25th ultimo, to report from time to time, have the honour to

REPORT IN PART.

That they have thought it their duty first to proceed upon the consideration of the messages of the 23d and 25th ultimo, relating to a proposed Civil List, as expressing the latest determination of His Majesty's Government respecting the provision to be made for the support of the civil government of this Province.

The proposed measure is a settled provision for such portion of the expenses of the civil government as may appear, upon examination, to require an arrangement of a more permanent nature than an annual vote; and the duration of this provision is desired for the life of His Majesty.

It appears by his Excellency's answer to an address of this House, referred to your committee, that it is in the contemplation of His Majesty's Government to submit to the Parliament of the United Kingdom, in the course of the present Session, the expediency of passing an Act to relieve the Lords of the Treasury from their alleged obligation of appropriating the taxes which are now levied in the Province by virtue of different Acts of the

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British Parliament, the said Act to come simultaneously with an Act to be passed here; and leaving the future appropriation of these taxes to the Colonial Legislature.

It also appears, by the statement which accompanies the message of the 23d ultimo, that the revenues contemplated, amounting to 38,125*l.* currency net, on an average of the last two years, include only those arising from the British Act 14th Geo. 3, c. 88; the average net annual produce of which, for the last two years, is stated at 33,942*l.* currency; the remainder of the said amount of 38,125*l.* being chiefly made up of items under the Colonial Act 41 Geo. 3.

The message of the 25th ultimo expressly reserves for the exclusive disposal of the Crown, "by virtue of the Royal prerogative," for objects "closely connected with the public interests of the Province," the following sources of revenue:—

- | | |
|------------------------------|---------------------|
| 1. Rents Jesuits' Estates. | 5. Droits de Quint. |
| 2. Rent of the King's Posts. | 6. Lods et Ventés. |
| 3. Forges of St. Maurice. | 7. Land Fund. |
| 4. Rent of King's Wharf. | 8. Timber Fund. |

The gross annual amount of this revenue, on an average of the last two years, according to a Return commencing in 1818, laid before the House upon address of the 25th ultimo, is 11,203*l.* 12*s.* currency.

Your Committee have to observe that, according to a message of his Excellency Lord Dorchester, then Governor in Chief, dated 29th April 1794, when the first accounts and estimates of the provincial revenues and expenditure were submitted to this House, the whole of the casual and territorial revenue then arising within the Province was expressly stated to have "been most graciously ordered by His Majesty to be applied towards defraying the civil expenses of the Province," (see Appendix), and that the whole of that revenue, excepting the "Land Fund" and "Timber Fund," not then in existence, and the Jesuits' Estates, has since been contained in the accounts of the public revenue of the Province laid before the House, and the amount has gone to the payment of the expenses of Government, as sanctioned by the annual votes of the House, and formed part of the amount of the appropriation for these expenses, passed by His Majesty in Provincial Parliament, at the two last Sessions, and also in the Session of 1825.

The Land Fund mentioned in the foregoing list and message of the 25th ultimo, your Committee understand, consists of the proceeds of the sales of the waste lands in this Province, or rents of the Crown reserves of one-seventh of these lands, interspersed among the grants made for actual settlement. The Timber Fund is the proceeds of the sale of licenses to cut and carry off the timber, on determined portions of the waste lands mentioned in the licenses. This revenue appears only to date from 1828, and the average for the last two years is as follows:

Land Fund	-	-	-	-	-	-	£. 2,269	4	10
Timber Fund	-	-	-	-	-	-	1,576	13	5
							£. 3,845 18 3		

Your Committee refer to the afore-mentioned Return of the casual and territorial revenue since 1818, amounting to 96,055*l.* 7*s.* 8*d.*, and think proper to observe, that a sum of 8,534*l.* 19*s.* 6*d.* mentioned in a note to the Return as having been recovered from the late Henry Caldwell, esquire, formerly treasurer to the Jesuits' estates, is not included in the statement; nor can it, in the opinion of your Committee, be credited with propriety to that fund, till the question which has been long pending with respect to the responsibility of the estate of the late Henry Caldwell, for a balance amounting to 39,874*l.* 10*s.* 10*d.* sterling, due by him at the time of his death to the other funds of the Province, is determined.

It appears to your Committee, that the whole of the revenue referred to in the message and statements before mentioned, which has not already in point of fact been at the disposal of the Legislature, and included in the two last Acts of Supply, and in that of 1825, consists in the said Timber and Land Funds and Jesuits' estates, the three amounting, on an average of the last two years, to 5,515*l.* 0*s.* 9*d.* currency, per annum; and they are now for the first time expressly reserved from the control of the Legislature, while monies arising from the British Acts 6 Geo. 2, c. 14, 4 Geo. 3, c. 15, and 6 Geo. 3, c. 52, amounting, according to a statement laid before the House on the 31st January 1829, to 1,818*l.* 14*s.* 3*d.* currency, per annum, on an average of the last two years in the Return, being monies included in the express terms of the message as "levied by virtue of the different Acts of the British Parliament" are not at all mentioned in the statement accompanying his Excellency's message of the 23d February last.

The estimate for the proposed Civil List accompanying the said message amounts to 19,500*l.* sterling, equal to 21,666*l.* 13*s.* 4*d.* currency. It embraces—

- 1st. A provision for the Governor's salary, Civil Secretary, Contingencies;
- 2dly. Chief Justice, ditto of Montreal, six Puisne Judges, resident Judge at Three Rivers, two provincial Judges, Judge of the Vice-Admiralty Court, Attorney General, Solicitor General, Allowance for Judges' Circuits;
- 3dly. Pensions and Miscellaneous.

Your Committee regret that they have not been able to obtain any detail of the intended application of the proposed amount for contingencies, pensions and miscellaneous services; and it appears from an answer of his Excellency, that an address of the House to the same effect has been equally unsuccessful.

Your

Your Committee regret that it appears by an answer to another address to his Excellency, also referred to your Committee, that no detailed account can be had, at least for the present, of the intended application of the revenues of the Jesuits' estates, and of the Land and Timber Funds, the only funds clasred under the head of Casual and Territorial Revenue, which, as before mentioned, have not already been applied and accounted for under Acts of Legislature; and they observe with sincere grief, and not without some degree of alarm, that the pledge of His most gracious Majesty, our late revered Sovereign George the Third, that this revenue should be applied "towards defraying the civil expenses of the Province," is threatened to be wrested from its true meaning and established practice, to be applied hereafter towards the support of exclusive religious establishments in this part of His Majesty's dominions, where your Committee humbly conceive none of his subjects ought in any way to be called upon to contribute to the support of religious teachers, other than those of his own belief, or be exposed to any relative disadvantage whatsoever on account of his religion.

While your Committee have been unable to procure sufficient information to enable the House to pronounce with certainty on the necessity of several of the items of the estimated Civil List; while so large a portion of a growing public revenue is attempted to be withdrawn from the actual control of the representative body; your Committee cannot contemplate without serious feelings of apprehension, the consequences of the renewed preterision on the part of His Majesty's Government, that the money arising in this province under the Quebec Revenue Act of 1774, will be subject to the appropriation of the Lords of His Majesty's Treasury, in the event of the proposed arrangement not proving satisfactory to the House.

That pretension has already long and deeply agitated the whole Province, and fatally affected its peace and prosperity. It has been uniformly resisted by the Assembly of the Province, supported by nearly the whole population. Under the administration of the late Commander-in-Chief, the Earl of Dalhousie, it furnished the pretext for extensive mis-applications of the public money, and served to maintain in power an administration which had rendered itself obnoxious by arbitrary and illegal acts. Its revival now, as then, is the more inexcusable, as had there originally been any grounds for putting it forth in violation of natural right, and the positive and declaratory enactment of the British Parliament in 1778, it was settled by the consent of the British Government and all the legislative authorities in the Colony, in the Act passed by His Majesty in the Provincial Parliament in 1799 (30 Geo. 3, c. 9), and previously sanctioned by the King in Council in Great Britain. (*See* Extract from the speech of his Excellency Robert Prescott, esquire, Governor-in-Chief, of 28th March 1799, Appendix, p. 56.)

The revenues raised at that time under the Act of 1774, amounted to only 4,644*l.* 8*s.* currency annually, and this amount was by the same Provincial Act granted to His Majesty in lieu of the duties under the British Act, without limit as to duration, while the 5,555*l.* 11*s.* 1*l.* currency, granted in 1795, and no doubt intended as a compensation for the casual and territorial revenue, in consequence of the gracious declaration of His Majesty in 1794, was also again granted without limitation towards the administration of justice and the expenses of the civil government. It has been entirely the fault of the British Government if it has not redeemed its pledge of submitting to Parliament the repeal of the Revenue Act of 1774.

It would be doubly painful for your Committee, under these circumstances, to find both the casual and territorial revenue and the revenue of the Act of 1774, augmented as the latter has been by the effect of two Acts of Parliament passed in 1822, from 13,879*l.* 15*s.* 7*d.* to 33,864*l.* 9*s.* 10*d.*, now claimed as at the exclusive disposal of the Executive Government.

To set this pretension in a more favourable light, your Committee annex the following extract from the communication made to the House by command of His late Majesty, through the Administrator of the Government, dated the 28th November 1828:

"The proceeds of the revenue arising from the Act of the Imperial Parliament, 14th George the Third, together with the sum appropriated by the provincial statute 35th George the Third, and the duties levied under the provincial statutes 41st George the Third, chap. 13 and 14, may be estimated, for the current year, at the sum of 34,700*l.*

"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*l.*

"These several sums, making together the sum of 38,100*l.*, 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*l.* the salary of the officer administering the government of the Province, and the salaries of the judges should 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 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 efficiency of His Majesty's Government to adopt."

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On the consideration of the afore-mentioned communication, the House adopted, on the 6th December following, among other Resolutions, the following:

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

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, and the judges and executive councillors, independent of the annual vote of the House, to the extent of their present salaries."

Your Committee cannot for a moment presume that the last recited resolution was intended to be acted upon before the recommendations of the Committee of the House of Commons on the Civil Government of Canada, to whom the petitions of the inhabitants of this Province for a redress of grievances were also referred, should have their entire execution. It is obvious that the said resolution, being conformable to one of these recommendations, as well as the other resolutions adopted on that occasion, were intended as a declaration that the House was disposed to give effect to the recommendations of that Committee, as far as it was concerned, so soon as the grievances complained of were redressed. Indeed a reference to the resolutions adopted 19th March 1830, before entering into the consideration of the supply for the year, will leave no room for doubt on this subject.

Your Committee being persuaded that the most material of the recommendations of the Canada Committee have not been carried into effect by His Majesty's Government, although more than two years have now elapsed since the date of the Report, and that the demands now made do not correspond with the recommendations of that Committee on the subject of the financial differences, nor even with the schedule annexed to a Bill introduced in the last Session of Parliament by the then Colonial Minister, and proposed to be appropriated by the Colonial Legislature, are of opinion,—

That it is inexpedient that any further permanent provision for the expenses of Government be made.

The whole, nevertheless, humbly submitted.

(signed) T. A. Young, Chairman.

APPENDIX.

Message.

DORCHESTER, Governor.

THE Governor has given directions for laying before the House of Assembly an Account of the Provincial Revenue of the Crown, from the commencement of the new constitution to the 10th January 1794.—First, the Casual and Territorial Revenue, as established prior to the conquest, which His Majesty has been most graciously pleased to order to be applied towards defraying the civil expenses of the Province. This arises from various rights appertaining to the Crown, some of which are not now productive. The Governor doubts not, but the House will bring forward measures to relieve the subject by other duties not objectionable, if raising the *lods et ventes*, *droits du quint*, &c., up to the legal standard, would prove oppressive to the people.

Secondly, The duties payable to His Majesty, under the Act of the 14th year of his reign, chap. 88, on articles imported into the province of Quebec, and on licenses granted to persons for retailing spirituous liquors. As soon as the Provinces of Upper Canada and Lower Canada shall have passed laws, laying the same or other duties to an equal amount to those which are payable under this Act, and such laws shall have obtained the Royal Assent, the King's Ministers will be ready to propose to Parliament a repeal of the Act above mentioned.

Thirdly, The duties imposed by the Provincial Legislature, with the appropriation and balance.

Fourthly, Amount of cash received from fines and forfeitures imposed by the courts of justice.

Fifthly, The naval officers' returns inwards, since the division of the Province, which were originally intended as a check on the customs, but seem not to answer the end proposed. The Governor relies on the wisdom and loyalty of the House, that while they select proper objects of luxury for raising those aids the public exigencies may require, they at the same time bring forward arrangements to prevent all irregularities from creeping into the receipt of the public revenue. The true measure of the burthen laid upon the people by any tax or duty being the gross sum taken out of the pocket of the subject on that account, this gross sum should fully appear; the aid given thereby to the state is the balance which remains in the public coffers, after all expenses occasioned in the collection are paid. More effectually to prevent any abuse from connecting itself with the receipt, the Governor recommends that no part of the burthen be suffered to lie concealed under the name of fees, perquisites, gratuities, &c.; but that the whole of the monies drawn from the subject be lodged in the public coffers, and proper compensation for the collection be openly issued therefrom, by warrant under the signature of the Governor, or person administering

administering the government. That the House may better judge of the burthen laid on the people and the aid granted to the state, the Governor has given directions that the annual accounts of the provincial revenue of the Crown be accompanied by—

Sixthly, A statement of the monies taken out of the pocket of the subject on this account, its progress and diminution before it is lodged in the public coffers, with the after diminution on account of the collection, that every circumstance of this important business may be constantly before their eyes; that in the outset of the constitution and its progress, they may guard this important branch from those corruptions and abuses which have brought so many miseries on other nations.

At the Castle of St. Louis, in Quebec, }
19 April 1794.

D. G.

Frederick Elliot,
Esq.

28 April 1834.

EXTRACT from the Speech of his Excellency *Robert Prescott*, Esquire,
Governor-in-Chief, of 28th March 1799.

“Gentlemen of the House of Assembly,

“Shortly after the prorogation of the Provincial Parliament in May last, I received His Majesty’s Royal Assent to the Bill passed in 1796, intituled, ‘An Act for repealing certain Acts, granting Rates and Duties to His Majesty, and for granting new and additional Duties in lieu thereof; and for appropriating the same towards defraying the Expenses of the Administration of Justice, and support of the Civil Government within this Province, and for other purposes therein mentioned;’ but the time limited by law for declaring the Royal Assent was unfortunately expired before His Majesty’s pleasure thereon came to my hands: I will therefore recommend to your consideration the expediency of re-enacting it.”

No. 9.—EXTRACT of a DESPATCH from Lord *Aylmer* to Viscount *Goderich*,
dated Quebec, 5th April 1831.

“I have the honour to inform your Lordship, that on the 31st ultimo, I prorogued the Provincial Parliament of Lower Canada, on which occasion I delivered an address to the two other branches of the Provincial Legislature, of which, I transmit a copy herewith.

“A Bill of Supply has been voted upon the estimates laid before the Legislature: it was carried in the Legislative Council by eight votes against four; and, after much debate in the House of Assembly, by a large majority, forty-two votes being in favour of, and eleven only against the Bill.

“Indeed I have remarked, towards the close of the session, a very decided improvement in the tone and temper of the House of Assembly, which, if met by judicious measures on the part of the Executive Government, may go far towards bringing about a greater degree of political tranquillity in this Colony than it has enjoyed for years past.

“It may be necessary your Lordship should be informed, that, in the course of the session just terminated, a Bill passed in the House of Assembly to entitle the members to a certain daily allowance during their attendance, together with travelling expenses, in coming to and returning from Quebec on parliamentary duty, which Bill was rejected by the Legislative Council. The provisions of it, however, were again brought forward, and introduced into the Supply Bill; a circumstance which gave rise to much animated discussion in the Legislative Council, and produced a set of resolutions, of which I have now the honour of transmitting a copy.”

SPEECH of Lord *Aylmer* at the Prorogation of the Provincial Parliament.

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

I cannot close the present session of the Provincial Parliament without expressing my admiration of the unremitting attention you have bestowed on the public business of the country, and your unwearied exertions in performing all your other Parliamentary duties.

Gentlemen of the House of Assembly,

In His Majesty’s name, I thank you for the supplies granted by you in aid of the monies already appropriated by law, for defraying the expenses of the civil government, and for the administration of justice.

The measure of my thanks would have been complete, had circumstances enabled me to assure His Majesty’s Government that the propositions on the subject of finance lately submitted to you by the King’s command, had been favourably entertained.

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

The liberal appropriations made during the present session are calculated to promote the general prosperity of the country by calling forth its powers of production; and you may rest assured that my exertions shall not be spared in applying the monies which you have been pleased to place at my disposal, to the best of my judgment, and with all due regard to economy.

Castle, Saint Louis, Quebec,
31st March 1831.

RESOLUTIONS of the Legislative Council.

Frederick Elliot,
Esq.

Legislative Council, Tuesday, 29th March 1831.

28 April 1834.

Resolved, That the grant of any aid can only by law be applied to the discharge of the salaries and the contingent expenses of His Majesty's Government for which such aid has been asked by His Majesty.

Resolved, That the grant of any aid to His Majesty by Bill or otherwise, exceeding in amount the sum demanded as such aid by His Majesty, is unparliamentary, unconstitutional, and unlawful, and consequently that such grant for the difference between the aid demanded and the sum granted as such aid, is null and void.

Resolved, That the application by any person or persons of any sum of public money whatever, to any purpose whatever, other than the payment of the ordinary contingent expenses of one or other of the Houses of the Provincial Parliament, without the consent of the Legislative Council, distinctly expressed in writing, by Bill or otherwise, would be a contempt of the privileges of this House, subversive of the constitution of this Province, and a manifest violation of the Imperial Statute of the 31st Geo. 3, c. 31.

Resolved, That the application, by any person or persons whomsoever, of any sum of public money whatever to any purpose whatever, other than the payment of the ordinary contingent expenses of one or other of the Houses of the Provincial Parliament, in consequence of, or under the pretence of any vote, resolution, resolve or address of the Assembly, or of any pretended authority derived from any such vote, resolution, resolve or address to which the consent of the Legislative Council has not been distinctly expressed in writing, by Bill or otherwise, would be a contempt of the privileges of this House, subversive of the constitution of this Province, and an open violation of the imperial statutes of the 31st Geo. 3, c. 31, and the 6th Geo. 3, c. 12.

Resolved, That a copy of these resolutions be laid before his Excellency the Governor-in-Chief, and that he be humbly and most respectfully solicited to take such steps as in his wisdom he may deem sufficient, to prevent the officers of His Majesty's Government from acting in any way contrary to these resolutions, or any or either of them, or to the spirit thereof.

Ordered, That the honourable Sir John Caldwell, Bart. and the honourable Mr. Ryland, do wait on his Excellency the Governor-in-Chief with the said resolutions and address.

Attest. (signed) W. Smith, C. L. C.

No. 10.—COPY of a DESPATCH from Viscount *Goderich* to Lord *Aylmer*, dated
Downing-street, 15th May 1831.

My Lord,

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 20, of the 15th March, announcing the rejection by the House of Assembly of Lower Canada, of the plan which you had been instructed to propose to them for the settlement of the financial question.

His Majesty has learned with great regret the failure of His gracious endeavours to bring that question to a satisfactory issue; but it is gratifying to me to be able to assure your Lordship that His Majesty approves of your conduct throughout that perplexing business, and that the want of success which has attended your exertions can in no degree be attributed to a lack of zeal or judgment on your part.

As I am not in possession of any detailed or official information as to what took place in the Assembly upon the discussion of your propositions, any conjecture which I might form as to the causes which occasioned the rejection of them, must necessarily be vague and uncertain. But I cannot help entertaining a strong suspicion that the real motive for refusing the Civil List arrangement is to be found, not so much in any invincible objections to the plan itself, as in a belief that whilst that question remains unsettled, there is a greater probability of the other views of the Assembly (as explained in Mr. Neilson's resolutions, and the others which it was purposed to add to them) being carried into effect. If this be so, it is not impossible that if at the time the House of Assembly were considering the financial question, they had been aware that you had been instructed to concede the point of the judges not being removable at pleasure, that a Bill had been passed to enable His Majesty to assent to the Provincial Act of 1829, respecting the tenure of land, and that, substantially, most of the important points recommended by the Canada Committee of the British House of Commons had been adopted, the House might have taken a different view of the expediency of acquiescing at least in the principle of the Civil List management.

It is however to be hoped that the adoption by His Majesty's Government of the measures to which I have alluded, will, when known throughout the Province, satisfy the people of Lower Canada of the anxiety which is felt on this side of the Atlantic, to meet all their just and reasonable wishes. Nor shall we be deterred by any feeling of disappointment at the rejection of our recent propositions, from steadily pursuing a course which may appear best calculated to promote the interests of the Province, and to remove every tangible ground of complaint. Any other system of policy would be as little consistent with the King's dignity as with the successful administration of public affairs, either in the Colony or in Great Britain.

In the mean time I am not aware that any further instructions are necessary at this moment for your guidance upon the subject of finance. From information which has reached this office, it appears that the Assembly and Council have passed a Supply Bill, to which it is presumed that you will have assented on the part of His Majesty; and thus the immediate
wants

wants of the present year will have been provided for. Whenever I receive from you an account of the passing of such a Bill, and a detail of the items of expenditure which the Assembly have granted, I shall be able to judge whether it will be requisite to instruct you as to the disposal of the casual and territorial revenue for the year 1831, and I shall be desirous of receiving from you, at an early period, an account of its probable amount for this year, and of the mode in which you propose to appropriate it. I wish also to be furnished with the necessary accounts upon this subject for the past year.

I am waiting with some anxiety for further information from your Lordship respecting the proceedings of the Assembly, particularly in regard to the resolutions of Mr. Neilson and those proposed by Mr. Bourdage, together with an answer which it appears by a Quebec newspaper you gave to an address from the Assembly upon the general condition of the Province, in which you call upon them to state whether that address comprises the whole of the complaints which they have to bring forward; these questions involve matters of grave consideration; but before I can venture to instruct you upon the subject, it is indispensable that I should be in possession of your own views and statements of the case; I trust therefore that I shall soon receive such further information from your Lordship as may enable me to form some judgment of the degree to which the language of individual members of the Assembly, or indeed I may say, of the Assembly itself, may be taken as the sense of the people of the Province in general.

I have, &c.
(signed) *Goderich.*

Frederick Elliot,
Esq.

28 April 1834.

24. Does that conclude any distinct portion of correspondence?—It closes the series of Despatches relating to the supplies for 1831.

Mercurii, 50^o die Aprilis, 1834.

THE RIGHT HONOURABLE ROBERT GRANT,

IN THE CHAIR.

Frederick Elliot, Esq., called in; and Examined.

25. DO you produce further Despatches?—Yes. The Despatches read on Monday closed the correspondence respecting supplies for the year 1831. Before the subject of finance was resumed, a correspondence upon grievances intervened, which it is proposed to read, in order that the Committee may be aware of the relations existing between the Assembly and the Government when next the financial question came into discussion.

Frederick Elliot,
Esq.

30 April 1834.

[*The following Despatches were then produced and read.*]

COPY of a DESPATCH from Lord *Aylmer* to the Right Hon. Lord Viscount *Goderich*, dated the 5th of March, 1831.

My Lord,

Castle, St. Louis, Quebec, 5th March 1831.

I transmit to your Lordship enclosed, the resolutions to be moved by Mr. Neilson on the 8th instant, which have just been placed in my hands, and I confess to your Lordship that they are much more moderate than I had reason to expect; I am not without hopes that the excitement now existing will gradually subside, and at all events, I think I may venture to assure you that that excitement is only to be found on the *surface* of society, it has not penetrated into the mass of the population of the country, and in fact it may be said that perfect tranquillity prevails at this moment amongst the people in Lower Canada. It depends altogether on the Executive Government to preserve that tranquillity.

I reserve until a future opportunity the remarks which I have to offer upon the various topics embraced in the resolutions of Mr. Neilson. It cannot be denied that there are good grounds for many of the complaints set forth in these resolutions, the removal of which would place the Government in a most favourable position with the people of the Province.

I have the honour to be,

My Lord,

Your Lordship's most obedient humble servant,

Aylmer.

HOUSE OF ASSEMBLY OF LOWER CANADA.

RESOLUTIONS to be moved by Mr. *Neilson*, on the 8th March 1831, in Committee of the whole House, on the state of the Province.

1. THAT notwithstanding the progress that has been made in the education of the people, under the encouragement afforded by the recent Acts of the Legislature, the effects of the impediments opposed to its general dissemination by the diversion of the revenues of the

Education.

- Frederick Elliot,*
Esq.
30 April 1834.
- Industry.** Jesuits' estates, originally destined for this purpose, the withholding of promised grants of lands for schools in 1801, and the rejection in the Legislative Council of various Bills in favour of education, are still severely felt throughout the Province, and materially retard the general prosperity.
- Trade.** 2. That the management of the waste lands of the Crown has been vicious and improvident, and still impedes the settlement of these lands, by delays, expenses and difficulties, opposed to their easy and secure occupation by all persons, without distinction, who may be disposed to become actual settlers thereon, and apply themselves to this branch of industry so pre-eminently beneficial for the general prosperity of new countries.
- Local management.** 3. That the power of regulating the trade of the Province reserved to the Parliament of the United Kingdom, however beneficially it may have been exercised on several occasions for the prosperity of the Colony and the general good of the Empire, has, from the variations and uncertainty of the duration of its enactments, occasioned injurious uncertainty in mercantile speculations and prejudicial fluctuations in the value of real estate in the country, and in the different branches of industry particularly connected with trade.
- Justice.** 4. That the inhabitants of the different towns, parishes, townships, extra-parochial places and counties, suffer from the want of sufficient legal powers for regulating and managing their several local concerns indispensable to improvement and their common welfare.
5. That uncertainty and confusion has been introduced into the laws for the security and regulation of property, by the intermixture of different codes of laws and rules of proceeding in the Courts of Justice; and that the administration of justice is become insufficient and unnecessarily expensive.
6. That this uncertainty and confusion has been greatly increased by enactments affecting real property within the Colony, made in the Parliament of the United Kingdom since the establishment of the Provincial Parliament, without those interested having even had an opportunity of being heard, and particularly by a recent decision on one of the said enactments in the Provincial Court of Appeals.
7. That several of the judges of the courts in this Province have long been engaged in, or taken a public part in the political affairs and differences of the Province, at the same time holding offices during pleasure, and situations incompatible with the diligent and right discharge of their judicial functions, tending to destroy that confidence in their impartiality, in cases where the Executive Government is concerned, which is so necessary for the peace and well-being of the community.
- Government Officers.** 8. That during a long series of years executive and judiciary offices have been bestowed almost exclusively upon one class of subjects in this Province, and especially upon those the least connected by property or otherwise with its permanent inhabitants, or who have shown themselves the most averse to the rights, liberties and interests of the people.
9. That holding executive offices essential to the proper and regular administration of the Government, and having lost the confidence of the country, several of these persons avail themselves of means afforded by their situations, to prevent the constitutional and harmonious co-operation of the Government and the House of Assembly, and to excite ill feeling and discord between them, while they are remiss in their different situations to forward the public business.
- Responsibility and Accountability.** 10. That there exists no sufficient responsibility on the part of the persons holding these situations, nor any adequate accountability among those of them entrusted with public money, the consequence of which has been, the misapplication of large sums of public money, the loss of large sums of public money and of the money of individuals, by public defaulters, with whom deposits were made, under legal authority, hitherto without reimbursement or redress having been obtained, notwithstanding the humble representations of this House to that effect.
11. That the evils of this state of things have been greatly aggravated by enactments made in the Parliament of the United Kingdom, without even the knowledge of the people of this Colony, which enactments have virtually rendered temporary duties imposed by the Provincial Parliament permanent; leaving in the hands of public officers, over whom this House has no effectual control, large sums of money, arising within this Province, which is applied by persons subject to no sufficient accountability:
- Composition of Legislative Council.** 12. That the selection of Legislative Councillors has also been chiefly confined to the description of the inhabitants of the Province before mentioned, or to public officers holding situations during pleasure, with large salaries paid out of the public revenue, and who, uniting in the same persons legislative, executive and judiciary powers, countenance, encourage and uphold abuses, and render all legislative remedies in Provincial Parliament nearly impracticable.
- Grievances 1828.** 13. That while the people of this Province suffer under the present state of things, and endeavour to obtain redress, they are not the less sensible of the advantages which they enjoy under His Majesty's Government, and particularly of the more liberal policy adopted towards this colony within the last two years. They nevertheless feel with sentiments of the deepest regret, that the hopes with which they were cheered, after a long period of unmerited suffering and insult, have been greatly diminished by the delays which have occurred in redressing many of the grievances complained of in their humble petition to the King and Parliament in 1828, most of which were recommended to be removed by the Select Committee of the House of Commons on the state of Canada, which reported in the same year; particularly :
- The interspersion of Crown and clergy reserves among the lands granted by the Crown.
The evils resulting from legislation in England for the internal concerns of the colony.

The composition of the Legislative Council.

The dependence of the judges, and their interference with the political business of the province.

The want of responsibility and accountability of public officers, and of a tribunal in the colony for the trial of impeachments.

The withholding of the revenues of the estates of the late order of Jesuits, for the purposes of education.

The management of the waste lands of the Crown ; in consequence of which, applicants for actual occupation are prevented from freely possessing the same under secure titles, in sufficient quantities for cultivation, without unnecessary delay, and without any expense or burthen, other than the fair and necessary costs of survey and title.

Frederick Elliot,
Esq.

30 April 1834.

EXTRACT of a DESPATCH from Lord *Aylmer* to the Right hon. Lord Viscount *Goderich*, dated Castle St. Louis, Quebec, 6th April 1831.

My Lord,

In my Despatch of the 15th ultimo (No. 20) I had the honour of apprising your Lordship, that in addition to the resolutions of Mr. Neilson, two others had been adopted by the House of Assembly, which, if acted upon, would go the length of altering the constitution of this province, by the extinction of the Legislative Council. These two last-mentioned resolutions were carried by a very small majority, the number of votes being 32 in favour of, and 30 against them ; and but for the absence from the House, on that occasion, of four members who, it is well known, were adverse to the principle of the resolutions, they would have been lost altogether ; at all events, the temper of the House soon changed on the subject ; for the resolutions (which, on being adopted, had been appended to Mr. Neilson's thirteen resolutions) were got rid of by a subsequent motion for a petition to His Majesty and the two Houses of the Imperial Parliament, carried by a large majority, embodying Mr. Neilson's resolutions, and leaving out the two others.

This petition to His Majesty I have now the honour of transmitting to your Lordship, together with a copy of an address from the House of Assembly to me, requesting me to forward their petition, and of my answer to that address, in which your Lordship will not fail to observe a very pointed allusion to the above-mentioned two resolutions, which were held back in the manner above described.

Your Lordship will, I hope, permit me to say, that I cannot but think many of the complaints preferred in the petition of the House of Assembly are well founded, and fortunately the remedies for them are within reach of His Majesty's Government.

They embrace, in some way or other, the whole of the public concerns of the province ; and although I am conscious that on this occasion it becomes my duty to offer some remarks upon them, I enter upon the task with very great diffidence, arising from my want of local knowledge, and my insufficiency in other respects to treat the subject in the way its great importance demands.

I take the subjects of complaint in the order in which they stand in the petition : in the first place, your Lordship is well aware of the very great dissatisfaction which has for years existed in this colony, arising out of the assumption, on the part of the Crown, of a right to the possession of the estates belonging to the late order of Jesuits ; and really, when the true value of the matter in dispute is considered, it may well become a question whether it be worth contending for, except in as far as regards the rights of the Crown, as a matter of principle.

I will in a separate Despatch make this apparent to your Lordship by a statement of the receipts of and charges upon those estates, which will show how very trifling is the balance remaining good, after all those charges are provided for.

Under all the circumstances of the case, I would with great deference submit to your Lordship, that the Jesuits' estates should be expressly and avowedly set apart for the purposes of education, under the management of commissioners, subject to such regulations as His Majesty might be pleased to direct ; and that the whole of the accounts of the receipts and expenditure should annually be made public, not through the medium of the House of Assembly, but by insertion in the official gazette of Quebec.

By this arrangement the rights of the Crown would be preserved intact, and the property itself would be applied in the way desired by the House of Assembly.

Should His Majesty, however, think fit to waive his exclusive right to these estates, such a proceeding would certainly be received as a very gracious act ; more especially if made the subject of a separate and distinct communication to the Legislature, unconnected with any further financial arrangement which it might be considered expedient to propose.

In this supposition (upon which, however, I do not presume to express an opinion), it would perhaps be advisable to retain possession of a building situated in the city of Quebec. It was formerly a college of the order of Jesuits, and is now used as a barrack ; it is capable of containing two battalions of the present strength, and the relinquishment of it would entail considerable expense and inconvenience to the public service.

The second point noticed in the petition regards the management of the Crown lands ; but as this ground of complaint is within the power of the local government (in a great measure at least) to remove, it will be unnecessary for me to trouble you further upon it at present, except to assure your Lordship that my best endeavours shall not be wanting to remove the evils which notoriously exist, connected with the management of the Crown lands, including the Crown and clergy reserves.

Frederick Elliot,
Esq.

30 April 1834.

This, with the very able assistance of Mr. Felton, the commissioner of Crown lands, I hope to be able to effect.

I do not presume to enter upon that part of the petition which relates to the regulation of the trade of the colony, because it is connected with questions of general interest, beyond the sphere of my official duty to offer an opinion upon. But I hope your Lordship will pardon me for taking this opportunity of remarking, that, as a general principle, it may be advisable that the people of Canada should be allowed to legislate for themselves on subjects purely local.

The uncertainty and confusion which unquestionably prevail, owing to the intermixture of French and English laws in this province, call for a remedy which might perhaps be effected by means of a commission, composed of competent persons acting under instructions from the local legislature.

The complaints of the House of Assembly regarding the imputed conduct of several of the Judges, as being engaged in and taking part in the political differences of the province, might perhaps be left to the discretion of the person at the head of the government, who, should he witness any instance of such conduct, would of course take such steps as the circumstances of the case might appear to him to require.

The charge of the House of Assembly as to the distribution of judiciary and executive offices almost exclusively amongst a certain class of subjects in this province, is one which, even admitting it to be just and true, cannot now be remedied, and can therefore only be taken as a beacon to direct the executive government in a more equitable course for the time to come.

The want of responsibility complained of in the case of public officers would be remedied, I presume, by the establishment of a tribunal for the trial of impeachments, in cases not cognizable by the ordinary courts of law.

I am not aware that there now exists any just ground of complaint as to the want of adequate accountability in persons intrusted with public money; most certainly such an evil did exist until a late period in this colony, to one instance of which (I mean that of Mr. Caldwell, late receiver-general) your Lordship, I apprehend, is not a stranger.

The deficiencies in that gentleman's public accounts have long constituted, and do still constitute, one of the most prominent heads of complaint of the House of Assembly, upon the ground that no security having been required from him on receiving his appointment from the Lords of the Treasury, they conceive it a hardship that the province should be made to suffer from any want of due precaution on that occasion; they have accordingly all along maintained, and do still maintain, that the deficiencies in Mr. Caldwell's public accounts as receiver-general ought, in justice and equity, to be made good out of the Imperial treasury, and not out of the revenues levied in the province.

Upon a general view of the public affairs of the province of Lower Canada, I would take the liberty of suggesting, as the course most advisable in the actual state of the public mind, that every possible attention should be given to the several subjects of complaint comprised in the petition of the House of Assembly, with the view to their removal or modification, according to circumstances.

I cannot close this Despatch without performing what I conceive to be an act of justice; and that is, to express to your Lordship my firm conviction, that throughout the whole of the King's vast dominions His Majesty nowhere possesses subjects more loyal and true than the people of Lower Canada.

I have the honour to be,

My Lord,

Your Lordship's most obedient humble servant,
Aylmer.

P. S.—I have inadvertently omitted in the body of this Despatch an observation which nevertheless is of importance, and that is, that the House of Assembly having taken no notice of my answer to their address desiring me to transmit their petition to England for the purpose of being laid at the foot of the Throne, I feel justified in assuring your Lordship that the whole of their complaints and grievances are comprised in that petition.

A.

SCHEDULE of ENCLOSURES in No. 25 Despatch.

No. 1.—16th March. ADDRESS from the House of Assembly to The King.

No. 2.—21st March. COPY of an Address from the House of Assembly to his Lordship.

No. 3.—23d March. COPY of his Lordship's Answer.

No. 1.—16th March. ADDRESS from the House of Assembly to The King.

N. B.—The Petition to The King, as it merely embodies the Resolutions which appear with Lord Aylmer's Despatch of the 5th of March, is not printed.

No. 2.—21st March. Copy of an Address from the House of Assembly to his Lordship.

Frederick Elliot,
Esq.

30 April 1834.

To his Excellency the Right honourable Matthew Lord Aylmer, Knight Commander 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, Nova Scotia, New Brunswick, and their several Dependencies, Vice-Admiral of and in the same, and Commander of all His Majesty's Forces in the said Provinces and their Dependencies, and in the Islands of Newfoundland, Prince Edward, Cape Breton and Bermuda, &c. &c. &c.

May it please your Excellency,

We, His Majesty's faithful and loyal subjects, the Assembly of the Province of Lower Canada in Provincial Parliament assembled, most respectfully inform your Excellency, that having taken into our most serious consideration the present state of this Province, we have voted an humble Petition to our Sovereign Lord the King, submitting the whole matter to the favourable consideration of His Majesty, and trusting to the justice and liberality of His Majesty in the exercise of His Royal prerogative for remedy of the evils complained of.

Wherefore we respectfully pray your Excellency will be pleased to forward the said Petition to His Majesty's Ministers, that the same may be laid at the foot of the Throne.

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

House of Assembly, Quebec,
21st March 1831.

No. 3.—23d March. Copy of his Lordship's Answer.

Mr. Speaker, and Gentlemen of the House of Assembly,

I shall not fail to transmit without delay to the Secretary of State for the Colonial Department your petition to The King; and as it will no doubt be expected by His Majesty's Government that my communication shall be accompanied by some observations of my own, referring to the various subjects embraced in the said petition, I think it necessary on the present occasion to make a few remarks, to which I solicit your serious attention, more especially as it may be that I have yet something to learn regarding the ulterior views of the House of Assembly.

I can assure you, Gentlemen, that I have derived satisfaction from listening to the petition which has just been read by Mr. Speaker, because the subject-matter of it is distinct and tangible, and because I feel assured that of the causes of complaint therein set forth many will be eventually removed, and others modified; in the mean while it is very agreeable to me to have it in my power to state that some of those causes of complaint have been already put by me in a train of amelioration at least, if not of removal altogether; and I beg the House of Assembly to believe that my efforts shall be unremitting in pursuing the same course to the utmost extent of my authority as the King's representative. Thus far I can, with a safe conscience, declare that the present communication is satisfactory to me; but I cannot conceal from the House, that it would have been infinitely more so, could I feel assured that the whole matter of their complaints is comprised in this petition. Gentlemen, I must go a step further than this, and confess to you that I cannot divest my mind of anxiety on this subject. It is with the view of being relieved from this state of anxiety that I now come forward to entreat you will admit me to your confidence, and acquaint me whether I am to expect any, and what, further communications on the subject of complaints and grievances.

I think I have even a claim upon you for the confidence I now solicit. The propositions which upon a recent occasion I was commanded by the King to make to you on the subject of Finance, were laid before you in the plainest and most straightforward manner—nothing was concealed—nothing was glossed over; and I even believe that I should have been justified, had I made those propositions more palatable to you than I have done; but I considered that any thing which could bear, even for a moment, the appearance of trick or manœuvre on so grave an occasion, was unworthy of His Majesty's Government, and an injustice to the frank and loyal character of the Canadian people. What I now ask in return for this fair dealing is a corresponding proceeding on the part of the House of Assembly. Am I to understand that the petition which I have just heard read conveys all that the House of Assembly have to complain of up to this day? Or am I to understand that there remains something behind—some unripe grievance or complaint which it may be intended to bring forward hereafter, when those now produced shall have been disposed of? This is the information I ask of you. This, Gentlemen, is the information which I will even implore you to afford me, in the name of the King, our Sovereign, who is sincerity itself, and in the name of the brave and honest people of Canada, who are so well entitled to expect fair dealing in every quarter: and now, if there be any stray complaint, any grievance, however inconsiderable in itself, which may have been overlooked when this petition was adopted by the House, I beseech you, Gentlemen, to take it back again, in order that the deficiency may be supplied, and that thus both King and people may be enabled at one view to see the whole extent of what you complain of, and what you require.

Frederick Elliot,
Esq.

30 April 1834.

Whether this appeal to your candour shall draw from you any further declaration, stating that your petition contains the whole matter of your complaints and grievances, or that you shall maintain silence, I shall equally consider that I have acquired a full and distinct knowledge of the whole of your complaints and grievances up to the present period; and your petition will be accompanied by an assurance from me to that effect, and my most fervent wishes that it may be productive of such measures as shall restore perfect harmony to this favoured land, where I firmly believe a larger share of happiness and prosperity is to be found than amongst any people in the universe.

Castle of St. Louis, Quebec,
23d March 1831.

COPY of a DESPATCH from Lord *Aylmer* to the Right hon. Lord Viscount *Goderich*, dated Castle of St. Louis, Quebec, 30th Nov. 1831.

My Lord,

I lose no time in transmitting to your Lordship copy of the resolutions adopted by the House of Assembly of Lower Canada on your Lordship's Despatch of the 7th of July 1831, No. 51, and which were communicated to me this day in an address from the House, and of my reply thereto.

I have the honour to be, my Lord,
Your most obedient humble servant,
Aylmer.

Two Enclosures.

No. 1.

COPY of RESOLUTIONS passed by the House of Assembly of *Lower Canada*, on the subject of Lord *Goderich's* Despatch, dated 7th July 1831.

Resolved, That this House views with sentiments of gratitude the gracious expression of His Majesty's paternal regard for the welfare and happiness of his subjects in this province, and the proofs of a just and liberal policy towards them, contained in the Despatch of His Majesty's Principal Secretary of State for the Colonial Department, dated the 7th July last; but particularly the acknowledgment, that the regulation of the internal affairs of the colony ought to be left exclusively to the local legislature.

Resolved, That this House sincerely participates in the feelings of kindness and good-will manifested in the said Despatch, and in the earnest desire to strengthen the bonds already subsisting between this colony and the parent state.

Resolved, That this House will proceed with all due diligence and deliberation to provide, as far as depends upon it, remedies for the various matters of complaint contained in its humble petitions on the state of the province, forwarded at the close of last session, and referred to in the said Despatch.

Resolved, That this House gratefully acknowledges the promptitude with which the petition to His Majesty was transmitted by his Excellency the Governor in Chief, and the early and perspicuous manner in which the same was considered and answered by the Right honourable Lord *Goderich*, His Majesty's Principal Secretary of State for the Colonial Department.

Resolved, That the first, second and third heads of the said Despatch, relating to education, be referred to the standing Committee on Education and Schools.

Resolved, That the fifth head of the said Despatch, relating to regulation of trade, be referred to the Committee of Trade.

Resolved, That the sixth, seventh, eighth and ninth heads of the said Despatch, relating to the courts of justice and the state of the laws, be referred to the Committee on Courts of Justice.

Resolved, That the eleventh head of the said Despatch, relating to executive and judiciary officers, be referred to the Committee of Grievances.

Resolved, That the twelfth head of the said Despatch, relating to the responsibility and accountability of public officers, be referred to the Committee of Accounts.

Resolved, That the said Committees severally have power to report on the heads referred to them, by Bill or otherwise.

Resolved, That this House will not fail to give its early and most deliberate attention to the promised Despatches on the most important subjects of the Crown lands, and the selection and constitution of the Legislative Council, whenever the said Despatches shall be laid before this House.

Resolved, That an humble address be presented to his Excellency the Governor in Chief, with copies of the foregoing resolutions.

No. 2.

ANSWER to the Address of the House of Assembly to Lord *Aylmer*, dated Castle of St. Louis, Quebec, 30th Nov. 1831.

Gentlemen,

I receive with the most lively satisfaction this Address of the House of Assembly.

I shall transmit a copy of this document without delay to His Majesty's Government, by whom, I confidently anticipate, it will be considered as a happy presage of the final adjustment

adjustment of every point on which a difference has heretofore been found to exist between the Executive Government and the House of Assembly.

(signed) *Aylmer*,
Governor in Chief.

Frederick Elliot,
Esq.

30 April 1834.

26. Were the resolutions contained in that Despatch carried unanimously by the Assembly, or was there a division upon them?—They were carried by a large majority.

27. Were they upon the motion of Mr. Neilson?—Yes. Two additional resolutions, containing a strong declaration of opinion against the constitution of the Legislative Council, had been carried, but finally were rejected.

COPY of a DESPATCH from Viscount *Goderich* to Lord *Aylmer*,
dated Downing Street, 7th July 1831.

My Lord,

I have received and laid before the King your Lordship's Despatches of the 5th, 6th and 7th April last, Nos. 24, 25, 26.*

Your Lordship's assurance of the favourable change in the general disposition of the House of Assembly of Lower Canada towards the close of their last session, and your report of the warm attachment borne by the people at large to His Majesty's person and government, and to the constitution under which they live, have been received by His Majesty with lively satisfaction.

The King has been graciously pleased to express his approbation of the efforts made by your Lordship to ascertain, with precision, the full extent of the grievances of which the Assembly consider themselves entitled to complain; and assuming, in concurrence with your Lordship, that the address of the Assembly contains a full development of those grievances, the exposition which is to be found there of the views of that body justifies the satisfactory inference that there remains scarcely any question upon which the wishes of that branch of the Legislature are at variance with the policy which His Majesty has been advised to pursue; and I therefore gladly anticipate the speedy and effectual termination of those differences, which have heretofore so much embarrassed the operations of the local Government.

No office can be more grateful to the King than that of yielding to the reasonable desires of the representative body of Lower Canada; and whilst His Majesty's servants have the satisfaction of feeling, that upon some of the most important topics referred to in the address of the Assembly its wishes have been anticipated, they trust that the instructions which I am now about to convey to you will still further evince their earnest desire to combine with the due and lawful exercise of the constitutional authority of the Crown an anxious solicitude for the well-being of all classes of his faithful subjects in the province.

I proceed to notice the various topics embraced in the address of the Assembly to the King. I shall observe the order which they have followed; and, with a view to perspicuity, I shall preface each successive instruction, which I have His Majesty's commands to convey to your Lordship, by the quotation of the statements made upon the same topic by the Assembly themselves.

First, it is represented that the progress which has been made in the education of the people of the province, under the encouragement afforded by the recent Acts of the Legislature, has been greatly impeded by the diversion of the revenues of the Jesuits' estates, originally destined for this purpose.

His Majesty's Government do not deny that the Jesuits' estates were, on the dissolution of that Order, appropriated to the education of the people; and I readily admit, that the revenue which may result from that property should be regarded as inviolably and exclusively applicable to that object.

It is to be regretted, undoubtedly, that any part of those funds was ever applied to any other purpose; but although, in former times, your Lordship's predecessors may have had to contend with difficulties which caused and excused that mode of appropriation, I do not feel myself now called upon to enter into any consideration of that part of the subject.

If, however, I may rely on the returns which have been made to this Department, the rents of the Jesuits' estates have, during the few last years, been devoted exclusively to the purpose of education; and my Despatch, dated 24 December last, marked "separate," sufficiently indicates that His Majesty's Ministers had resolved upon a strict adherence to that principle several months before the present address was adopted.

The only practical question which remains for consideration is, whether the application of these funds for the purpose of education should be directed by His Majesty or by the provincial legislature. The King cheerfully and without reserve confides that duty to the legislature, in the full persuasion that they will make such a selection amongst the different plans which may be presented to their notice, as may most effectually advance the interests of religion and sound learning amongst his subjects; and I cannot doubt that the Assembly will see the justice of continuing to maintain, under the new distribution of these funds, those scholastic establishments to which they are now applied.

I understand that certain buildings on the Jesuits' estates, which were formerly used for collegiate purposes, have since been uniformly employed as a barracks for the King's troops.

It

* The Despatch No. 26, as it related to the Council exclusively, and will appear in a series of Despatches on that subject, is not printed in the present collection.

Frederick Elliot,
Esq.

30 April 1834.

It would obviously be highly inconvenient to attempt any immediate change in this respect, and I am convinced that the Assembly would regret any measure which might diminish the comforts or endanger the health of the King's forces. If, however, the Assembly should be disposed to provide adequate barracks so as permanently to secure those important objects, His Majesty will be prepared (upon the completion of such an arrangement in a manner satisfactory to your Lordship) to acquiesce in the appropriation of the buildings in question to the same purposes as those to which the general funds of the Jesuits' estates are now about to be restored.

I should fear that ill-founded expectations may have been indulged respecting the value and productiveness of these estates. In this, as in most other cases, concealment appears to have been followed by exaggeration as its natural consequence. Had the application of the Assembly for an account of the proceeds of these estates been granted, much misapprehension would probably have been dispelled. My regret for the effect of your decision to withhold these accounts does not, however, render me insensible to the propriety and apparent weight of the motives by which your judgment was guided. Disavowing, however, every wish for concealment, I am to instruct your Lordship to lay these accounts before the Assembly in the most complete detail at the commencement of their next session, and to supply the House with any further explanatory statements which they may require respecting them.

It appearing that the sum of 7,154*l.* 15*s.* 4½*d.* has been recovered from the property of the late Mr. Caldwell in respect to the claims of the Crown against him on account of the Jesuits' estates, your Lordship will cause that sum to be placed at the disposal of the Legislature for general purposes. The sum of 1,200*l.* 3*s.* 4*d.*, which was also recovered on account of the same property, must also be placed at the disposal of the Legislature, but should, with reference to the principles already noticed, be considered as applicable to the purposes of education exclusively.

28. State the ground of distinction taken between the two sums recovered from Mr. Caldwell on account of the Jesuits' estates?—Mr. Caldwell's father, who was both receiver-general of the provinces and treasurer of the Jesuits' estates, bequeathed his property in two portions: he left the bulk of his property to his son, Mr. John Caldwell, who succeeded him as receiver-general and treasurer of the Jesuits' estates, and became a defaulter; he left a separate estate to his grand-daughter. The Government having claimed on behalf of the public the property which came into the hands of Mr. John Caldwell, found itself likely to be defeated by certain individuals who had held mortgages on the same property during his father's lifetime, and therefore it became liable for Mr. J. Caldwell's responsibilities as receiver-general. Under these circumstances the Government waived its claim against Mr. J. Caldwell as receiver-general, and proceeded against him, as heir-at-law to his father, for a debt due by the latter to the Jesuits' estates. All the estates of which the elder Mr. Caldwell had been possessed at the time of his death were pledged for this debt, and had been pledged previously to the mortgages under which the Crown was opposed in its claim on account of the public at large. Thus the Government recovered the sum of 7,154*l.* by means of its dominion over the Jesuits' estates; but as the public had had a *concurrent* claim to the property from whence the money was derived, it was deemed more gracious to pay the amount into the provincial funds for general purposes than to retain it as belonging to the Jesuits' estates, which were not then under the control of the Legislature. The sum of 1,200*l.* was of a different description. It arose from the estate which had been left by the first Mr. Caldwell to his grand-daughter. This estate had never been in the hands of Mr. John Caldwell. It could never have been liable for his default as receiver-general. Consequently, the Jesuits' estates having an *exclusive* claim to this last property, no reason could have been assigned for not devoting it to the legitimate and special uses of the funds arising from those estates.

Secondly.—The House of Assembly represent that the progress of education has been impeded by the withholding grants of land promised for schools in the year 1801.

On reference to the speech delivered in that year by the then Governor to the two Houses of Provincial Legislature, I find that such an engagement as the address refers to was actually made; it of course therefore is binding on the Crown, and must now be carried into effect, unless there be any circumstances, of which I am not apprised, which may have cancelled the obligation contracted in 1801, or which may have rendered the fulfilment of it at the present time impracticable. If any such circumstances really exist, your Lordship will report them to me immediately, in order that the fit course to be taken may be further considered.

Thirdly.—The rejection by the Legislative Council of various Bills in favour of education is noticed as the last of the impediments to the progress of education.

Upon this subject it is obvious that His Majesty's Government have no power of exercising any control, and that they could not interfere with the free exercise of the discretion

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of the Legislative Council, without the violation of the most undoubted maxims of the constitution. How far that body may have actually counteracted the wishes of the Assembly on this subject I am not very exactly informed, nor would it become me to express an opinion on the wisdom or propriety of any decision which they may have formed of that nature. The Assembly may, however, be assured, that whatever legitimate influence His Majesty's Government can exercise will always be employed to promote in every direction all measures which have for their object the religious, moral or literary instruction of the people of Lower Canada.

Fourthly.—The address proceeds to state, that the management of the waste lands of the Crown has been vicious and improvident, and still impedes the settlement of those lands.

This subject has engaged, and still occupies, my most anxious attention, and I propose to address your Lordship upon it at length in a separate Despatch. The considerations connected with the settlement of waste lands are too numerous and extensive to be conveniently embodied in a Despatch embracing so many other subjects of discussion.

Fifthly.—The exercise by Parliament of its power of regulating the trade of the province is said to have occasioned injurious uncertainty in mercantile speculations, and prejudicial fluctuations in the value of real estate, and of the different branches of industry connected with trade.

It is gratifying to find that this complaint is connected with a frank acknowledgment that the power in question has been beneficially exercised on several occasions for the prosperity of Lower Canada. It is, I fear, an unavoidable consequence of the connexion which happily subsists between the two countries, that Parliament should occasionally require of the commercial body of Lower Canada some mutual sacrifices for the general good of the empire at large. I therefore shall not attempt to deny that the changes in the commercial policy in this kingdom during the few last years may have been productive of occasional inconvenience and loss to that body, since scarcely any particular interest can be mentioned in Great Britain, of which some sacrifice has not been required during the same period. The most which can be effected by legislation on such a subject as this, is a steady though gradual advance towards those great objects which an enlightened regulation contemplates. The relaxation of restrictions on the trade of the British Colonies, and the development of their resources, have been kept steadfastly in view amidst all the alterations to which the address refers; and I confidently rely on the candour of the House of Assembly to admit that, upon the whole, no inconsiderable advance towards those great ends has been made. They may rest assured that the same principles will be steadily borne in mind by His Majesty's Government, in every modification of the existing law which they may at any future period have occasion to recommend to Parliament.

Sixthly.—The Assembly in their address proceed to state that the inhabitants of the different towns, parishes, townships, extra-parochial places and counties of the province, suffer from the want of sufficient legal powers for regulating and managing their local concerns.

I am happy in the opportunity which at present presents itself, of demonstrating the desire of His Majesty's Government to co-operate with the local legislature in the redress of every grievance of this nature. The three Bills which your Lordship reserved for the signature of His Majesty's pleasure in the last session of the Assembly, establishing the parochial divisions of the province, and for the incorporation of the cities of Quebec and Montreal, will be confirmed and finally enacted by His Majesty in Council with the least possible delay, and I expect to be able very shortly to transmit to your Lordship the necessary Orders in Council for that purpose.

I very sincerely regret that the Bill passed for the legal establishment of parishes in the month of March 1829 should have been defeated by the delay which occurred in transmitting the official confirmation of it to the province. The case appears to have been, that owing to the necessity, whether real or supposed, of laying the Act before both Houses of Parliament for six weeks before its confirmation by the King in Council, many months elapsed after its arrival in this kingdom before that form could be observed, and his late Majesty's protracted illness delayed still longer the bringing it under the consideration of the King in Council.

If it should be the opinion of the Colonial Legislature that additional provisions are wanting to enable the local authorities in counties, cities or parishes to regulate their own more immediate affairs, your Lordship will understand that you are at liberty, in His Majesty's name, to assent to any well-considered laws which may be presented to you for that purpose.

Seventhly.—I proceed to the next subject of complaint, which is, that uncertainty and confusion have been introduced into the laws for the security and regulation of property, by the intermixture of different codes of laws and rules of proceeding in the courts of justice.

The intermixture to which the address refers, so far as I am aware, arises from the English criminal code having been maintained by the British Statute of 1774, and from the various Acts of Parliament which have introduced into the province the socage tenure, and subjected all lands so holden to the English rules of alienation and descent.

As a mere matter of fact, there can be no doubt that the infusion of these parts of the law of England into the provincial code was dictated by the most sincere wish to promote the general welfare of the people of Lower Canada. This was especially the case with regard to the criminal law, as is sufficiently apparent from the language of the 11th section

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of the 14 Geo. 3, c. 83. With regard to the advantage to be anticipated from the substitution of tenure in soccage for feudal services I may remark, that Parliament could scarcely be otherwise than sincerely convinced of the benefits of that measure, since the maxims upon which they proceeded are in accordance with the conclusion of almost all theoretical writers and practical statesmen. I am not indeed anxious to show that these views were just, but I think it not immaterial thus to have pointed out that the errors, if any, which they involve, can be attributed only to a sincere zeal for the good of those whom the enactments in question more immediately affect.

I fully admit, however, that this is a subject of local and internal policy, upon which far greater weight is due to the deliberate judgment of enlightened men in the province than to any external authority whatever. Your Lordship will announce to the Council and Assembly His Majesty's entire disposition to concur with them in any measures which they may think best adapted for ensuring a calm and comprehensive survey of these subjects in all their bearings. It will then remain with the two Houses to frame such laws as may be necessary to render the provincial code more uniform, and better adapted to the actual condition of society in Canada. To any laws prepared for that most important purpose, and calculated to advance it, His Majesty's assent will be given with the utmost satisfaction. It is possible that a work of this nature would be best executed by commissioners to be specially designated for the purpose. Should such be your Lordship's opinion, you will suggest that mode of proceeding to both Houses of the Provincial Legislature, who, I am convinced, would willingly incur whatever expense may be inseparable from such an undertaking, unless they should themselves be able to originate any plan of inquiry and proceeding at once equally effective and economical.

Eighthly.—The administration of justice is said to have become inefficient and unnecessarily expensive.

As the provincial tribunals derive their present constitution from local statutes, and not from any exercise of His Majesty's prerogative, it is not within the power of the King to improve the mode of administering the law, or to diminish the costs of litigation. Your Lordship will, however, assure the House of Assembly that His Majesty is not only ready, but most desirous, to co-operate with them in any improvements of the judicial system which the wisdom and experience of the two Houses may suggest. Your Lordship will immediately assent to any Bills which may be passed for that purpose, excepting in the highly improbable event of their being found open to some apparently conclusive objection; even in that case, however, you will reserve any Bills for improving the administration of the law, for the signification of His Majesty's pleasure.

Ninthly.—The Address then states, that the confusion and uncertainty of which the House complain, have been greatly increased by enactments affecting real property in the colony, made in the Parliament of the United Kingdom since the establishment of the Provincial Legislature, without those interested having even had an opportunity of being heard; and particularly by a recent decision on one of the said enactments in the Provincial Court of Appeals.

His Majesty's Government can have no controversy with the House of Assembly upon this subject. The House cannot state, in stronger terms than they are disposed to acknowledge, the fitness of leaving to the Legislature of Lower Canada exclusively the enactment of every law which may be required respecting real property within that province. It cannot be denied that at a former period a different opinion was entertained by the British Government, and that the statute-book of this kingdom contains various regulations on the subject of lands in Lower Canada, which might perhaps have been more conveniently enacted in the province itself. I apprehend, however, that this interference of Parliament was never invoked except on the pressure of some supposed necessity, and that there never was a period in which such Acts were introduced by the Ministers of the Crown without reluctance.

To a certain extent, the statute 1 Will. 4, c. 20, which was passed at the instance of His Majesty's Government in the last Session of Parliament, has anticipated the complaint to which I am now referring, and has prevented its recurrence, by authorizing the Local Legislature to regulate whatever relates to the incidents of soccage tenure in the province, without reference to any real or supposed repugnancy of any such regulations to the law of England. If there is any other part of the British statute law bearing upon this topic, to which the Council and Assembly shall object, His Majesty's Government will be prepared to recommend to Parliament that it should be repealed.

29. Explain the circumstances under which the Act of the 1st Will. 4 passed?—Instead of repealing the Canada Tenures Act, which had been the subject of much complaint, it was thought better to bring in a Bill, simply giving the Legislatures of both the Canadas power, with the Royal Assent, to make any regulations they might think proper with respect to the descent and alienation of lands holden in free and common soccage in Lower Canada, notwithstanding any repugnance to a British Act of Parliament. Unless such a Bill had passed, the objection that a British Act was not capable of being repealed or altered by a Provincial Act, would have prevented the Assembly from dealing with the question. The effect of the Act 1 Will. 4, c. 20, was to leave the whole

whole regulation of the descent and alienation of lands held in free and common soccage to the Colonial Legislature.

30. Has any alteration in the effect of the Imperial Canada Tenure Act taken place by any Provincial Act?—Before the passing of the Act of 1 Will. IV., a Provincial Act had already passed two branches of the Legislature for altering the effect of the Canada Tenure Act. The King was enabled by the 1st Will. IV., c. 20, which had a retrospective as well as a prospective effect, to sanction that Colonial Law, which was confirmed accordingly, and is now in force.

Tenthly.—It is stated that several of the judges of the courts in the province have long been engaged in and have even taken a public part in the political affairs and differences of the province, at the same time holding offices during pleasure, and situations incompatible with the due discharge of the judicial functions.

Under this head, again, it is very gratifying to the Ministers of the Crown to find that they had, in a great measure, obviated by anticipation the complaint of the House of Assembly. In the Despatch which I addressed to your Lordship on the 8th February, No. 22, every arrangement was made, which could be either suggested or carried into effect by His Majesty's authority, for removing the judges of the province from all connexion with its political affairs, and for rendering them independent at once of the authority of the Crown, and the control of the other branches of the Legislature; thus placing them exactly in the same position as that of the judges of the supreme courts at Westminster.

The judges themselves have, it appears, with laudable promptitude concurred in giving effect to these recommendations by discontinuing their attendance at the Executive Council. Nothing therefore, in fact, remains for terminating all discussions upon this subject, but that the House of Assembly should make such a permanent provision for the judges as, without exceeding a just remuneration, may be adequate to their independent maintenance in that rank of life which belongs to the dignity of their station.

I am not aware that any judge in Lower Canada holds any office, excepting that of executive councillor, during the pleasure of the Crown, or which is in any respect incompatible with the due discharge of his official functions. If any such case exists, your Lordship will have the goodness immediately to report to me all the circumstances by which it may be attended, in order that the necessary instructions on the subject may be given. In the mean time I may state, without reserve, that no judge can be permitted to retain any office corresponding with the description thus given by the House of Assembly, in combination with that independent position on the bench to which I have referred.

Eleventhly.—The address proceeds to state that, during a long series of years, executive and judiciary offices have been bestowed almost exclusively upon one class of subjects in the province, and especially upon those least connected by property or otherwise with its permanent inhabitants, or who have shown themselves the most averse to the rights, liberties and interests of the people. It is added, that several of these persons avail themselves of the means afforded by their situations to prevent the constitutional and harmonious co-operation of the Government and the House of Assembly, and to excite ill-feeling and discord between them, while they are remiss in their different situations to forward the public business.

I quote thus largely the language of the address, because I am desirous to meet every part of it in the most direct manner, as well as in the most conciliatory spirit. It is not from any want of that spirit that I recommend you to suggest, for the consideration of the House of Assembly, how far it is possible that His Majesty should clearly understand or effectually redress a grievance which is brought under his notice in terms thus indefinite. If any public officers can be named who are guilty of such an abuse of their powers and of such remissness in their duties as are implied in the preceding quotation, His Majesty would not be slow to vindicate the public interest by removing any such persons from his service. If it can be shown that the patronage of the Crown has been exercised upon any narrow and exclusive maxims, they cannot be too entirely disavowed and abandoned; especially, if it be true that the permanent inhabitants of the colony do not enjoy a full participation in all public employments, the House of Assembly may be assured that His Majesty can have no desire that any such invidious distinctions should be systematically maintained. Beyond this general statement it is not in my power to advance. I am entirely ignorant of the specific cases to which the general expressions of the Assembly point. I can only state, that since His Majesty was pleased to intrust to myself the seals of this department, no opportunity has occurred for exercising the patronage of the Crown in Lower Canada, to which it is possible that the Assembly can refer, nor have my inquiries brought to light any particular case of a more remote date to which their language would appear to be applicable.

Twelfthly.—The next subject of complaint is developed in the following words:—"That there exists no sufficient responsibility on the part of the persons holding these situations, nor any adequate accountability amongst those of them intrusted with public money; the consequence of which has been the misapplication of large sums of public money, and of the money of individuals by defaulters, with whom deposits were made under legal authority, hitherto without reimbursement or redress having been obtained, notwithstanding the humble representations of your petitioners."

It would be impossible, without a violation of truth, to deny that, at a period not very remote, heavy losses were sustained both by the public and by individuals, from the want of

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a proper system of passing and auditing their accounts. I find, however, that in his Despatch of the 29th of September 1828, Sir George Murray adverted to this subject in terms to which I find it difficult to make any useful addition. His words are as follows:—"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 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 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 Sheriff 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 an account of their receipts at short intervals, and to pay over the balances in their hands to the Commissary-General, upon condition that that officer should be bound on demand to deliver a bill 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."

If the preceding instructions have proved inadequate to the redress of the inconvenience to which they refer, I can assure your Lordship of the cordial concurrence of His Majesty's Government in any more effective measures which may be recommended for that purpose, either by yourself, or by either of the Houses of the Provincial Legislature.

The losses which the province sustained by the default of the late Mr. Caldwell is a subject which His Majesty's Government contemplate with the deepest regret; a feeling enhanced by the painful conviction of their inability to afford to the provincial revenues any adequate compensation for so serious an injury. What is in their power they have gladly done, by the instruction conveyed to your Lordship in the early part of this Despatch to place at the disposal of the legislature, for general purposes, the sum of 7,154*l.* 15*s.* 4½*d.* recovered from Mr. Caldwell's property. The Assembly will, I trust, accept this as a proof of the earnest desire of His Majesty's Government to consult to the utmost of their ability the pecuniary interests of the province.

Thirteenthly.—The address proceeds to state, that "the evils of this state of things have been greatly aggravated by enactments made in the Parliament of the United Kingdom without even the knowledge of the people of this colony, which enactments have rendered temporary duties imposed by the Provincial Legislature permanent, leaving in the hands of public officers, over whom the Assembly has no effectual control, large sums of money arising within this province, which are applied by persons subject to no sufficient accountability."

I understand this complaint to refer to the 28th clause of the Stat. 3 Geo. 4, c. 119. The duties mentioned in that enactment are continued until some Act for repealing or altering them shall be passed by the Legislative Council and Assembly of Lower Canada, and until a copy of any such new Act shall have been transmitted to the Governor of Upper Canada, and shall have been laid before both Houses of Parliament, and assented to by His Majesty. The motive for this enactment is explained in the preamble to have been the necessity of obviating the evils experienced in the Upper Province from the exercise of an exclusive control by the Legislature of Lower Canada over imports and exports at the port of Quebec. I acknowledge without reserve, that nothing but the necessity of mediating between the two provinces would have justified such an interference by Parliament; and if any adequate security can be devised against the recurrence of similar difficulties, the enactment ought to be repealed. The peculiar geographical position of Upper Canada, enjoying no access to the sea, except through a province wholly independent in itself, on the one hand, or through a foreign state on the other, was supposed in the year 1822 to have created the necessity for enacting so peculiar a law for its protection. I should be much gratified to learn that no such necessity exists at present, or can be reasonably anticipated hereafter; for, upon sufficient evidence of that fact, His Majesty's Government would at once recommend to Parliament the repeal of that part of the Statute to which the address of the House of Assembly refers. The ministers of the Crown would even be satisfied to propose to Parliament the repeal of the enactment in question, upon proof that the Legislature of the Upper Province deem such protection superfluous. Perhaps it may be found practicable to arrange this matter by communications between the Legislatures of the two provinces. The Ministers of the Crown are prepared to co-operate to the fullest extent in any measure which the two Legislatures shall concur in recommending for the amendment or repeal of the Statute 3 Geo. 4, c. 119, s. 28.

Fourteenthly.—The selection of the legislative councillors, and the constitution of that body, which forms the last subject of complaint in the address, I shall not notice in this place, any further than to say, that it will form the matter of a separate communication,
since

since the topic is too extensive and important to be conveniently embraced in my present Despatch.

The preceding review of the questions brought by the House of Assembly appears to me entirely to justify the expectations, which I have expressed at the commencement of this Despatch, of a speedy, effectual and amicable termination of the protracted discussions of several years. It would be injurious to the House of Assembly to attribute to them any such captious spirit as would keep alive a contest upon a few minor and insignificant details, after the statement I have made of the general accordance between the views of His Majesty's Government and their own upon so many important questions of Canadian policy. Little indeed remains for debate, and that little will, I am convinced, be discussed with feelings of mutual kindness and good-will, and with an earnest desire to strengthen the bonds of union already subsisting between the two countries. His Majesty will esteem it as amongst the most enviable distinctions of His reign to have contributed to so great and desirable a result.

Your Lordship will take the earliest opportunity of transmitting to the House of Assembly a copy of this Despatch.

I have, &c.
(signed) *Goderich.*

Frederick Elliot,
Esq.

30 April 1834.

COPY of a DESPATCH from Lord *Aylmer* to Lord Viscount *Goderich*, dated the 30th of November 1831; received the 31st of January 1832.

31. Does that Despatch close the correspondence upon grievances?—Yes.

32. What do you next produce?—Despatches upon finance, and upon the independence of the judges, which latter subject now becomes so intimately blended with the other as to render the two inseparable.

[*The following Despatches were then read.*]

COPY of a DESPATCH from Lord Viscount *Goderich* to Lord *Aylmer*, dated the 5th of February 1831; received in the Colony on the 28th of April 1831.

COPY of a DESPATCH, private and confidential, from Lord Viscount *Goderich* to Lord *Aylmer*; the same date.

COPY of a DESPATCH from Lord Viscount *Goderich* to Lord *Aylmer*, dated Downing-street, 29th September 1831.

My Lord,

In my Despatch of the 24th December 1830 (No. 11) I announced to your Lordship the intention of the Ministers of the Crown to submit to Parliament a Bill for the purpose of releasing the Lords of the Treasury from the obligation imposed upon them of appropriating the produce of the duties raised in Lower and Upper Canada under the Statute of 14 Geo. 3, c. 88, and to enable His Majesty to leave the appropriation of those duties to the provincial legislatures. Occurrences of too public a nature to require any explanation have unexpectedly retarded the fulfilment of that intention; but on the 22d instant His Majesty's assent was given to an Act amending the Statute of Geo. 3d, with a view to carry into effect the intention which I so announced. Of that Act I have the honour herewith to transmit a copy for your Lordship's information.

The negotiations which your Lordship will henceforth have to conduct with the Legislative Council and Assembly of Lower Canada, will proceed on grounds in some respects new.

The question respecting the provision to be made for the judges has materially changed its character, in consequence of the decision announced in my Despatch of the 8th February last. I there authorized your Lordship to signify to the Legislative Council and Assembly

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His Majesty's willingness to assent to any Bill which they might pass, rendering the judicial offices dependent on the good behaviour of the judge, and not at the pleasure of the Crown. I at the same time stated it to be an essential condition of that arrangement, that an adequate and permanent provision should be made for the judges; and I observed that the repeated assurances of the House of Assembly, of their desire to concur in such a measure, precluded the danger of any objection being made to it by that body.

Your Lordship will therefore convey to the Legislative Council and Assembly His Majesty's recommendation that a permanent provision may be made for the support of the judges, sufficient for their maintenance in that station of life in which it is desirable that they should be enabled to live, and charged upon a secure and adequate fund. You will, in His Majesty's name, propose to the Assembly the enactment of a law enabling the judges, after some prescribed term of faithful service, or in the event of bodily or mental incapacity, to retire from the bench on a pension, bearing a definite proportion to the amount of their full salaries. It would be superfluous to show how every consideration of sound policy and enlightened economy might be urged in favour of such a grant. Those arguments are too familiar to escape attention, and have prevailed in almost every state in which the question has been agitated.

The salaries of the judges should, I think, be fixed at such a rate as to indemnify them against the unavoidable expenses of travelling, and other duties performed in the public service. In this country, the allowances formerly made to the judges for their circuit expenses were recently commuted for an additional allowance intended to cover that charge. I trust that this example will have its weight with the Assembly. Should this not be the case, a fixed allowance ought to be irrevocably made to meet those expenses. Having consented to the entire independence of the judges on the Royal pleasure, His Majesty could not, without evident inconsistency, concur in any settlement which should leave them dependent for any part of their income on the pleasure of the popular branch of the Legislature.

I subjoin to this Despatch an estimate of the sums which your Lordship will, in His Majesty's name, recommend the Assembly to grant for the maintenance of the judges of Lower Canada. That grant would be the proper subject of a distinct law, and should not be mixed up with the other financial questions which remain to be discussed. It is to this part of the general arrangement that His Majesty's Government attach the greatest importance; they indeed regard it as strictly indispensable. An administration of justice, not merely impartial, but exempt from every plausible suspicion of impartiality, is the great object and most urgent want of civil society; and however high the value which I am disposed to attach to the independence of some of the higher officers of the Executive Government, I freely avow that even this is, in my judgment, a matter of secondary concern, when compared with the great design of securing the free exercise and enjoyment of all public and private rights, by placing the judges beyond the temptation of betraying their sacred trust from deference to any authority whatever.

It would be injurious to the House of Assembly to doubt their cordial concurrence in these views, or to suppose that they would hesitate in redeeming the pledges which they have so frequently given of their readiness to concur in such an arrangement. I have therefore the satisfaction to think that the questions which remain for discussion respecting the Civil List are reduced within limits comparatively narrow. I subjoin an estimate of the sum which will be required for this service. They consist merely of the salaries of the Governor, the Provincial Secretary, the Attorney and Solicitor General, with a small annual sum for contingencies. I know not how it would be possible to prefer a more moderate demand, or to give a more conclusive proof that the Ministers of the Crown require nothing with a view to their own patronage, but are influenced exclusively by the wish to protect the province at large from the evils inseparable from the dependence of the chief officers of Government on the fluctuating disposition of a large popular body.

The House of Assembly of Upper Canada, notwithstanding the laudable zeal for the interests of their constituents by which that body has been ever distinguished, were so impressed with the justice and policy of these views, that they at once acceded in principle to the suggestions which I had the honour to convey to them, and made for the governor and other chief officers of the province a permanent provision, settled upon the most secure and ample branch of the revenue at their disposal.

It is not without reluctance that I proceed to the consideration of the question respecting the measures to be adopted by your Lordship, in the event of the House of Assembly refusing their concurrence in these demands. I am most unwilling to anticipate any such occurrence. I cannot permit myself to suppose that the unwearied efforts of His Majesty's Government to obviate every reasonable cause of jealousy, and to meet the wishes of the House of Assembly by every practicable concession, will not be rewarded by their confidence. As, however, it is necessary to be prepared for every possible contingency, it remains that I should revert to that of the provision for the judges, or the Civil List demanded by the Crown, being refused.

In the discussions in which your Lordship has hitherto been engaged with the House of Assembly, you have been compelled to deny their pretensions to appropriate the produce of the duties under the British Statute 14 Geo. 3, c. 88. Henceforward the same objection cannot of course be insisted on. The Acts of appropriation which may be sent up for your acceptance cannot be rejected as an illegal assumption of authority, although, like any other Bills, they may be refused as unreasonable or impolitic. Should any Bill be tendered to you, proceeding on the principle that the Judges, the Governor, the Provincial Secretary, or the Law Officers

Officers of the Crown, are to be dependent on the pleasure of the House of Assembly for their maintenance, you will withhold your assent, reserving any such Bill for the signification of His Majesty's pleasure. Of the great public and private inconvenience of the temporary suspension of all payments which must follow upon such a proceeding, I am deeply sensible; it is a result which can scarcely be deprecated too anxiously. Yet it is necessary at last to bring these questions to some definite issue; and if unhappily my hopes of an amicable adjustment should be frustrated, the inconvenience, whatever it may be, must be attributed to those to whom every concession has been made in vain.

I cannot, however, but indulge very different expectations. Much valuable time has been consumed, and many measures of public importance retarded by the prolonged financial controversies, which I trust are now rapidly approaching to their close. Hereafter I hope that the two Houses of General Assembly will be enabled to devote their undivided attention to the development of the resources of the province, the advancement of general education, and the improvement of the judicial and other institutions of that great and important country. To co-operate with them in these designs, and to witness the progressive prosperity of Lower Canada, are the single objects to which the policy of His Majesty's Government is directed; and it will be to them a source of no ordinary gratification, should the advice which they have humbly tendered to the King on this subject, and the measures which he has been pleased to adopt, meet with such a reward.

Frederick Elliot,
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	I have, &c. (signed)	<i>Goderich.</i>
	£.	s. d.
Governor's Salary - - - - -	4,500	- -
Provincial Secretary - - - - -	400	- -
Contingencies - - - - -	300	- -
Chief Justice - - - - -	1,500	- -
Ditto - Montreal - - - - -	1,200	- -
Six Puisne Judges, 900 l. each - - - - -	5,400	- -
Three Provincial Judges - - - - -	1,600	- -
Judge Vice-Admiralty Court - - - - -	200	- -
Attorney-General - - - - -	300	- -
Solicitor-General - - - - -	200	- -
Allowance to Judges for Circuits - - - - -	275	- -
Contingencies - - - - -	475	- -
	£. 16,350	- -
29 September 1831.	(signed)	<i>Goderich.</i>

Copy of a DESPATCH from Viscount *Goderich* to Lord *Aylmer*, dated Downing-street, 8th February 1831.

My Lord,

In the Despatch dated the 24th December last (No. 11), which I had the honour to address to your Lordship on the subject of the financial arrangements to be proposed to the Legislative Council and Assembly of the Province of Lower Canada, I signified to you His Majesty's pleasure that you should propose to the Provincial Assembly to grant such a Civil List as might be necessary for securing at all events the independence of the Governor and of the judges. The various terms proposed in that Despatch for the maintenance of the judges amount together to the annual sum of 10,175 l., the other expenses of the proposed judicial establishment being required for the Attorney and Solicitor General, and contingencies, amounting together to 975 l.

In making this demand upon the liberality of his faithful Commons in Lower Canada, His Majesty was desirous to secure to his subjects in that part of his dominions the full enjoyment of those advantages which have been so largely derived in this kingdom from the independence of the judicial office. A question of very grave importance connected with that subject was not noticed in the Despatch to which I refer, because the Ministers of the Crown were unwilling to submit to the King any opinion upon so important a topic, until they should have found an opportunity for more mature deliberation than had been practicable at the date of that Despatch. I now convey to your Lordship the commands which it is His Majesty's pleasure to issue, upon a full review of the great question of judicial independence in his Canadian provinces.

The connexion which happily subsists between the Canadas and this kingdom suggests the propriety of transferring to those provinces every institution which the more ample experience of Great Britain recommends as calculated to promote at once the stability of Government and the welfare of society at large. There is no branch of our civil polity which has been more fully proved to be conducive to these great ends than the establishment of judges independent at once on the Royal authority, and on the pleasure of the popular branch of the Legislature. There was not, I apprehend, any legal or constitutional reason which would have prevented the King from granting the offices of the judges of England during their good behaviour; but, to render that principle immutable, it was necessary that Parliament should prescribe the form of commission to be used on such occasions.

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Accordingly the statutes passed in the 13th year of the reign of William the Third, and in the 1st year of George the Third, have deprived the Crown of all discretion upon the subject.

In conformity with these precedents, and in pursuance of the great general principle on which they were founded, the King is graciously pleased to command that you do avail yourself of the earliest opportunity for proposing to the Legislative Council and Assembly of Lower Canada the enactment of a Bill declaring that the commissions of all the judges of the Supreme Courts shall be granted to endure during their good behaviour, and not during the Royal pleasure; and you will, in the name and on the behalf of His Majesty, assent to a Bill for carrying that object into effect.

It is of course an essential condition of this arrangement that an adequate and permanent provision should be made for the judges; and I am happy to find that the repeated assurances of the House of Assembly preclude the possibility of any objection being made by that body to this part of the proposal.

In further pursuance of the general design of imparting to the Canadas the benefit of this important principle of the British Constitution, I am to signify to you His Majesty's commands to communicate to the Legislative Council and Assembly His Majesty's settled purpose to nominate on no future occasion any judge as a member either of the Executive or of the Legislative Council of the province. Whatever reliance might be placed on the personal integrity of the judges, it is desirable that they should be exempted from all temptation to interfere in political controversies, and even from a suspicion of any such interference.

The single exception to this general rule will be, that the Chief Justice of Quebec will be a member of the Legislative Council, in order that they may have the benefit of his assistance in framing laws of a general or permanent character. But His Majesty will not fail to recommend even to that high officer a cautious abstinence from all proceedings by which he might be involved in any political contentions of a party nature.

Your Lordship will perceive that these rules are framed with reference to the corresponding practice in this kingdom, where, although it has not been unusual to elevate the Chief Justice of the King's Bench and other Chief Judges to the peerage, the puisne Judges cannot vote in either House of Parliament.

I am persuaded that the Council and Assembly of Lower Canada will perceive, in the measures which I have thus had the honour of explaining, an additional proof of the desire by which the King is at all times actuated, to promote the best interests of that important part of the British empire over the government of which your Lordship presides.

I have, &c.

(signed) *Goderich.*

COPY of a DESPATCH from Lord *Aylmer* to the Right honourable
Lord Viscount *Goderich.*

My Lord,

Castle of St. Louis, Quebec, 19th November 1831.

I have the honour of informing your Lordship that the Provincial Parliament of Lower Canada assembled on the 15th instant, when I opened the Session by a speech, of which a copy is herewith transmitted, together with copies of the addresses in answer to it from the Legislative Council and the House of Assembly, and my replies to both.

On the day of meeting, Mr. Christie, who had been re-elected for the county of Gaspé, after his expulsion last year (reported in my Despatch of the 7th of February 1831, No. 7), was again expelled the House without further inquiry, and upon the grounds of his former expulsion.

Yesterday, immediately after receiving the address of the House of Assembly in answer to the speech delivered by me at the opening of the Session, I sent down a copy of your Lordship's Despatch, No. 51, of the 7th of July last, in obedience to the instructions therein contained, with a message, of which a copy is herewith transmitted, whereupon the House voted an address of thanks for this communication.

It is my intention to communicate in like manner your Lordship's Despatch above mentioned to the Legislative Council.

I have the honour to be, &c.

Aylmer.

Seven Enclosures.

Enclosure, No. 1.

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

It affords me much satisfaction to meet you again in Provincial Parliament, and I trust that the season of the year which has been chosen for your meeting will prove to be the most suitable to the convenience of the majority of the two Houses.

The liberal appropriations of the legislature during the last Session for internal communications, and other objects of public utility in the province, appear, generally speaking, to have been expended with judgment, and a due regard to economy, by the commissioners appointed to carry those objects into effect; and the beneficial results which have already attended these undertakings hold out every encouragement to the legislature to proceed in the same course, by the grant of further aid towards the accomplishment of such of them

as

as are still in progress, and for the commencement of others. Amongst the various objects of this nature which will claim your notice in the course of this Session, I wish particularly to point out—

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- 1st. The Kempt road between Metis and Ristigouche.
- 2d. The communication between St. John's and Laprairie.
- 3d. The further improvement of the harbour of Montreal.
- 4th. The road from the townships to St. Hyacinthe, by the outlet of Lake Memphramagog.
- 5th. The improvement of the communications between the townships and the city of Quebec.
- 6th. The erection of gaols and court-houses in the several counties of the province.

I cannot too early or too earnestly endeavour to impress on your minds the importance of facilitating the means of communication between the townships and the cities of Quebec and Montreal, for it is a subject intimately connected with the interests and welfare of the province at large.

The construction and improvement of roads and bridges will serve to give vent to the surplus produce of that interesting portion of the country; and whilst the industry of its inhabitants is thereby stimulated by the prospect of advantage, a free and ready personal intercourse will be promoted with their fellow subjects on the banks of the St. Lawrence, to whom they are now almost strangers, but with whom they are united by political and social ties, governed by the same laws, and having one common interest.

Of the laws about to expire, there are some which will require alterations and amendments in the event of their renewal by the legislature.

The alarming accounts which reached this country, in the course of the last summer and autumn, of the ravages of the cholera morbus in some parts of Europe, rendered it expedient, as a measure of precaution, to put in force the provisions of the Act 35 Geo. 3, c. 5, for guarding against the introduction of disease into the province; but there appears to be no ground to apprehend that we shall be visited by this dreadful scourge; and I notice the subject chiefly with the view to allay any uneasiness which might have been created by the precautionary measures to which I have just alluded.

Gentlemen of the House of Assembly,

It will be my duty to communicate to you, without loss of time, copy of a Despatch addressed to me by Viscount Goderich, His Majesty's Principal Secretary of State for the Colonial Department, having reference to your Petition, addressed to His Majesty, touching certain matters of complaint, which Petition was forwarded by me in the course of the last Session, at your request, for the purpose of being laid at the foot of the Throne.

All practicable diligence shall be used in completing the Public Accounts for the nine months just expired, so as to be laid before you, if possible, previous to the expiration of the period prescribed by law.

An estimate of the expenses for the ensuing year will at the same time be laid before you.

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

Although the flourishing state of the province is a matter of public notoriety, because, happily it is felt by all its inhabitants, I cannot resist noticing this subject on the present occasion, that I may enjoy the pleasure of offering you my congratulation upon it. The practical effect of this state of prosperity, as connected with the objects of your present meeting, will be, I doubt not, to give fresh energy to your efforts for the further improvement of the country. For myself, Gentlemen, be assured that no diligence shall be wanting on my part to give effect to those measures which your wisdom and experience shall devise.

Gentlemen,

When I addressed you at the opening of the last Session, being then a stranger to you all, I was actuated, as I ever have been, and ever shall continue to be, by a sense of duty and devotion to my Royal Master, which is of itself sufficient to command the exertion of every power of my mind in his service. Since that time a new and powerful stimulus to exertion has found a place in my breast; I mean the attachment, the daily increasing attachment, I feel to the people of this happy land. This sentiment is present with me wherever I go; it sweetens every official occupation, and as I set about my daily task of duty, it teaches me to ask myself this question—

“What can I do this day to promote the happiness and prosperity of Canada?”

Enclosure, No. 2.

To his Excellency the Right honourable Matthew Lord Aylmer, Knight Commander of the most honourable Military Order of the Bath, Captain General and Governor in Chief in and over the Provinces of Lower Canada and 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 Lordship our thanks for your speech from the Throne on opening the present Session of the Legislature.

Frederick Elliot,
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We have heard with much satisfaction from your Excellency, that the various appropriations made in the last Session of the Legislature have been, in general, judiciously applied towards the different branches of public improvement for which they had been respectively granted. Such results must naturally dispose us to concur in any measures of a similar tendency which may be proposed during the present Session. It will also be our wish to concur in facilitating the communications between the townships and the cities of Quebec and Montreal, as a measure immediately connected with the interests and welfare of the province at large.

We view with great satisfaction the means which have already been adopted for giving vent to the surplus produce of that interesting portion of the country, and for stimulating, by the prospect of advantage, a free and ready intercourse between the inhabitants of the townships and their fellow-subjects on the banks of the St. Lawrence, to whom they are united by political and social ties, being governed by the same laws, and having one common interest.

To the laws about to expire, and the alterations and amendments required in the event of their renewal by the Legislature, we shall give our serious attention.

Our warmest acknowledgments are due to your Excellency for the precautionary measures adopted by you to prevent the introduction into this province of that alarming disorder by which several countries in Europe have been afflicted.

When we contemplate the flourishing state of the province, which, we doubt not, is felt by all its inhabitants, we see every reason to hope that, under your Excellency's paternal administration of the government, this prosperous state of things will not be disturbed; and in return for the sentiment so feelingly expressed by your Excellency of your daily increasing attachment to the people of this happy land, the Legislative Council beg leave to assure you, that so far as their exertions and influence can possibly extend, they will most cordially unite with your Excellency in promoting the happiness and prosperity of Canada.

(signed) *John Caldwell, Speaker.*

Enclosure, No. 3.

To his Excellency the Right honourable Matthew Lord Aylmer, Knight Commander 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, Nova Scotia, New Brunswick, and their several Dependencies, Vice Admiral of and in the same, and Commander of all His Majesty's Forces in the said Provinces and their Dependencies, and in the Islands of Newfoundland, Prince Edward, Cape Breton, Bermuda, &c. &c. &c.

May it please your Excellency,

We, His Majesty's dutiful and loyal subjects, the Commons of the Province of Lower Canada in Provincial Parliament assembled, humbly thank your Excellency for the speech delivered from the Throne at the opening of the Session.

We fully appreciate your Excellency's kind attention to the convenience of the members of the Legislature in assembling it at a time deemed the most suitable.

It has been the constant desire of this House that the monies which it has been enabled to vote for the improvement of the internal communications, and other objects of public utility, should be applied with judgment and economy; and we shall be happy to find that the commissioners appointed by your Excellency to carry these objects into effect have generally discharged their important trust in a way to encourage the Legislature in granting further aids.

The objects to which your Excellency particularly directs our attention will not fail to be the subject of our most mature consideration.

This House is fully aware of the importance of connecting every part of the province by good roads of communication, both as it concerns the mutual interchange of commodities and the personal intercourse of its inhabitants; and there is nothing that this House has more at heart than that all His Majesty's subjects in this province be united by the same political ties, governed by the same laws, and have one common interest.

The laws which are about to expire, and to which your Excellency is pleased to refer, will not fail to have our early and deliberate attention.

The alarming account which reached this country of the progress of a destructive malady in various countries of Europe, fully justified the enforcement of any legal provisions for guarding against its introduction into this province; and we appreciate your Excellency's disposition to allay any degree of uneasiness which may have been occasioned by the precautionary measures to which your Excellency refers.

Any communication from your Excellency on the part of His Majesty's Principal Secretary of State for the Colonial Department, having reference to the petitions of this House to His Majesty on the subject of certain matters of complaint, will receive our serious attention, and we shall be happy to find our complaints as satisfactorily adjusted.

The public accounts for the nine months just expired, and the estimate of the expenses of the ensuing year, will not fail to become subjects of our consideration when your Excellency shall have caused them to be laid before us.

We thank your Excellency for the notice which you have taken of the flourishing state of the province, and your kind congratulations on that subject, and particularly for the assurance that no diligence shall be wanting on the part of your Excellency to give effect to those

those measures which the wisdom and experience of the Legislature may devise for the further improvement of the country.

Your Excellency's devotion and sense of duty to your Royal Master our beloved Sovereign, and your attachment to the people of this province, founded on the knowledge which your Excellency has acquired by a personal visit to almost every part of the province, will, we trust, promote the successful result of your Excellency's anxious wishes and earnest endeavours to secure the happiness and prosperity of Canada.

House of Assembly, Quebec, } (signed) *L. J. Papineau*,
 Wednesday, 16th November 1831. } Speaker of the House of Assembly.

Frederick Elliot,
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Enclosure, No. 4.

Mr. Speaker, and Gentlemen of the Legislative Council,

I accept this address as an additional proof of the attachment to the Government of His Majesty which has always distinguished the Legislative Council of Lower Canada.

The obliging expressions it conveys regarding myself are most gratifying to my feelings, and have increased the desire by which I have never failed to be actuated since the commencement of my administration, to cultivate the esteem and regard of the Legislative Council.

Castle of St. Louis, Quebec, } (signed) *Aylmer*,
 18th November 1831. } Governor in Chief.

Enclosure, No. 5.

Mr. Speaker, and Gentlemen of the House of Assembly,

I beg of you to accept my warm and grateful thanks for this address.

As representatives of the people of this province it is your duty, and I am confident you will perform it diligently, to keep a watchful eye on the proceedings of the Executive Government. I am well pleased to know and to feel that it is so; for I do not entertain any apprehensions of being able to prove, by my actions, the sincerity of the words spoken by me at the opening of the session.

Castle of St. Louis, Quebec, } (signed) *Aylmer*,
 18th November 1831. } Governor in Chief.

Enclosure, No. 6.

(signed) *AYLMER*, Governor in Chief.

The Governor in Chief transmits to the Legislative Council copy of a Despatch, dated the 7th of July last, from the Secretary of State of the Colonial Department, which he has been directed to communicate to the House of Assembly, for whose information it is more directly intended; but as certain measures are therein contemplated on which the Legislative Council will probably have to deliberate hereafter, the Governor in Chief has judged it expedient to give official knowledge of the whole Despatch in question to the Legislative Council likewise.

Castle of St. Louis, Quebec, }
 18th November 1831. }

Enclosure, No. 7.

(signed) *AYLMER*, Governor in Chief.

The Governor in Chief, in pursuance of orders from His Majesty's Government which have been communicated to him, transmits to the House of Assembly copy of a Despatch, dated the 7th of July last, addressed to his Excellency by Viscount Goderich, His Majesty's Principal Secretary of State for the Colonial Department, having reference to the Petition of the House of Assembly touching certain matters of complaints, addressed to The King, and transmitted during the last Session of the Provincial Parliament at their desire, by the Governor in Chief to Viscount Goderich, for the purpose of being laid at the foot of the Throne.

In this communication, which is copied word for word from the original Despatch, the House of Assembly will not fail to trace the paternal feelings of His Majesty towards his faithful Canadian subjects, and his anxiety to comply with all their reasonable desires.

Castle of St. Louis, Quebec, 18th Nov. 1831.

Copy of a DESPATCH from Lord *Aylmer* to Lord Viscount *Goderich*.

My Lord,

Castle of St. Louis, Quebec, 15th Dec. 1831.

In my Despatch No. 83, dated 19th of November 1831, I had the honour of acquainting your Lordship with the opening of the session of the Provincial Parliament of Lower Canada on the 15th ultimo, and with my communications to the Legislative Council and House of

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Assembly immediately afterwards. I likewise transmitted on the 30th instant of the same month, the resolutions proposed by Mr. Neilson, and adopted by the House of Assembly on your Lordship's Despatch No. 51, dated 7th July 1831. I have now the honour of transmitting a copy of a message I sent down to both Houses on the 5th instant, recommending (in pursuance of your Lordship's instructions) the enactment of a Bill to provide for the salaries, retired allowances and incidental expenses of the Judges, and for rendering them independent of the Crown and of the popular branch of the Legislature.

The message above mentioned was referred in the House of Assembly to a Committee, and a Bill will of course be framed upon the subject of it.

I do not apprehend that any serious difficulty will arise in regard to the salaries, retired allowances and incidental expenses of the Judges, on the part of the House of Assembly, who appear to be disposed to act liberally towards the office of Judge; but I think it not improbable that the Bill will contain a clause for the erection of the Legislative Council into a tribunal for the trial of impeachments, which clause cannot, I imagine, be consistently objected to in the last-mentioned branch of the Legislature, since it is in accordance with their own recorded sentiments.

A Bill has been introduced into the House of Assembly, grounded upon resolutions, of which a copy is herewith transmitted, with the view of establishing a Court of Appeals, and of making other alterations in the judiciary system of the province.

This subject is discussed with much warmth in the House of Assembly, and a great desire is manifested by some of the leading members to exclude the Chief Justice of the province from the proposed Court of Appeals, or rather to avoid naming him as its president.

Should this point be carried, it will probably be followed up by an attempt to introduce a clause into the Bill for establishing the independence of the Judges, to exclude *all* the Judges from seats in the Legislative Council, without excepting the Chief Justice of the province.

Being in possession of the views of His Majesty's Government on this point (the seat of the Chief Justice of the province in the Legislative Council), I shall know how to act in the event of a Bill, containing any clause to exclude the Chief Justice from a seat in the Legislative Council, being brought up to me for sanction; but I do not apprehend that I shall be so called upon, for it is more than probable that a Bill containing such a clause would be rejected by the Legislative Council.

I have the honour to be, &c.

(signed) *Aylmer.*

Enclosure, No. 1.

(signed) *AYLMER*, Governor in Chief.

The Governor in Chief having, in the several communications made to the Legislature since the opening of the present Session, put the ^{Legislative Council} _{House of Assembly} in possession of the liberal and paternal views of His Majesty's Government regarding the affairs of the province, it becomes now his duty, in obedience to the commands of The King, for giving effect to those views, to recommend to the ^{Council to concur in} _{House} the adoption of some specific measure which shall have the effect of rendering the Judges equally independent of the Crown and of the popular branch of the Legislature; and he is fully confident, that in taking this important subject into consideration, the ^{Council} _{House} in its liberality will be disposed to ^{concur in making} _{make} suitable and permanent provision, chargeable upon a secure and adequate fund, as well for the salaries of the Judges, as for the establishment of a scale of retired allowances in the event of their retirement from the bench after some prescribed term of faithful services, or in the event of bodily or mental incapacity; and he trusts, moreover, that an adequate provision will in like manner be made for the unavoidable expenses of travelling and other duties performed in the public service, to which the Judges are liable in the discharge of their public duties.

The Governor in Chief takes this opportunity to apprise the ^{Council} _{House} that it will become his duty, in conformity with the instructions he has received from His Majesty's Government, to recommend to the ^{Council} _{House} in the course of the present session to ^{concur in making} _{make} provision, not subject to an annual vote, for certain other expenses of the civil government; but he is most anxious to see the question of the independence of the Judges, and of permanent provision for their salaries, retired allowances and incidental expenses finally disposed of by a distinct and substantive enactment, before bringing the other and comparatively less important measure specifically under their consideration.

Castle of St. Louis, Quebec, 5th Dec. 1831.

Enclosure, No. 2.

RESOLUTIONS reported by the Standing Committee of Courts of Justice,
Monday, 5th December 1831.

1st. *Resolved*, That it is the opinion of this committee, that the Court of Appeal for this province should henceforth consist of four Judges duly qualified, the Chief Justice to be
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the President, and in case of the unavoidable absence or sickness of any of the members, the quorum to consist of three.

2d. *Resolved*, That this Court should as heretofore be a Court of Revision, and have criminal as well as civil jurisdiction.

3d. *Resolved*, That in all cases wherein the rules of practice in any inferior Court shall be contrary to the law of the country, the Court of Appeal should have power to decide according to that law, without regard to such rules of practice, provided the reasons of appeal are the illegality thereof.

4th. *Resolved*, That the said Court of Appeal should be a Circuit Court, and sit in the cities of Quebec and Montreal and Town of Three Rivers, alternately.

5th. *Resolved*, That in each of the districts of Quebec, Montreal and Three Rivers, there should be held in each and every year three terms of the Court of Appeals, and three terms of the Criminal Court.

6th. *Resolved*, That the number of days for every such term should be 10 for the district of Quebec, and five for that of Three Rivers and for the district of Montreal, 10 for the Court of Appeal, and 15 for the Criminal Court.

7th. *Resolved*, That the number of Judges of the Courts of Original Jurisdiction in this Province (the inferior districts of Gaspé and St. Francis excepted) should be eight; that is to say, three for the district of Quebec, one for that of Three Rivers, and four for that of Montreal.

8th. *Resolved*, That the inferior districts of Gaspé and St. Francis should remain on the footing established by the existing laws, with respect to the administration of justice.

9th. *Resolved*, That independently of the Courts of Original Jurisdiction, which are sedentary in the said cities of Quebec and Montreal and Town of Three Rivers, Circuit Courts should be established in the more populous parts of each district, having as president in each a Judge of the said Court of Original Jurisdiction.

10th. *Resolved*, That the jurisdiction of such Judge presiding in the said Circuit Courts should extend to all civil suits and actions instituted in the said Courts for any amount not exceeding twenty pounds sterling, any party deeming himself aggrieved being entitled to appeal to the superior Court of Original Jurisdiction for the district in which the judgment appealed from was rendered.

COPY of a DESPATCH from Lord *Aylmer*, Governor in Chief, to the Right honourable Lord Viscount *Goderich*.

My Lord,

Castle of St. Louis, Quebec, 26th January 1832.

In my Despatch, dated 15th December 1831, I had the honour of communicating to your Lordship a message sent down by me to the House of Assembly, calling upon them (in obedience to your Lordship's instructions) to make permanent provision for the salaries and retired allowances of the Judges of the Province of Lower Canada. My message was referred to a committee, who brought up their Report upon the subject of it on the 28th of December. This Report was then taken into consideration by a committee of the whole House, when, after an animated and protracted discussion, it was resolved (by a majority of five, the numbers being 34 against 29), That the whole of the Judges should be disqualified from having seats in the Executive and Legislative Councils, no exception being made in favour of the Chief Justice of the province.

The exclusion of the Chief Justice of the province of the Legislative Council would, under your Lordship's instructions, have rendered it impossible to sanction a Bill containing such a provision. Fortunately, however, when the Bill was again discussed by the whole House upon the introduction of the Bill which had been framed upon the Resolutions, the objectionable clause was lost, 34 voting for and 24 against, and which was considered a great point gained, under all the circumstances of the case.

I had entertained the hope that the House of Assembly, when making provision for the salaries and retired allowances of the Judges, would have avoided entering upon debateable grounds, by making those salaries and retired allowances chargeable upon the general funds at the disposal of the Provincial Legislature; but Mr. Neilson moved that these charges should, in the first instance, be taken and paid out of the proceeds of the casual and territorial revenue and the revenue now appropriated by Acts of the Provincial Parliament for defraying the charges of the administration of justice and the support of the Civil Government, and out of any other public revenue of the province.

This amendment of Mr. Neilson, after debate, was adopted by a majority of 28 in committee (the numbers being 43 for and 15 against it), and of nine in the whole House (33 voting for and 24 against it.)

Your Lordship is already aware of the pretensions of the House of Assembly to the disposal of the casual and territorial revenue for general purposes, grounded upon a pledge (as they assert) given to the House of Assembly during the administration of Lord Dorchester; but it may be necessary to add, that the proceeds of the Crown lands and the timber fund have never been considered as forming part of the casual and territorial revenue. These sources of revenue (the land and timber fund) were not in existence during Lord Dorchester's administration, and the casual and territorial revenue is therefore confined to the following

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heads:—Jesuits' estates, Lods et Vents, Droit de Quint, Rent of the King's Wharf, Forges of St. Maurice, and Rent of the King's Ports. The Jesuits' estates having been given up to the province, there remain the five heads of revenue just mentioned, which, under your Lordship's instructions, the Crown still asserts its right and intention to dispose of. Here, then, the Crown and the House of Assembly are still at issue, and I cannot conceal from your Lordship my apprehensions that the latter will never be induced to forego its pretensions, which certainly derive considerable weight from the circumstance of these revenues having hitherto been placed at the disposal of the Colonial Legislature for general purposes.

Your Lordship will perceive that this Bill (of which I have the honour of transmitting a copy herewith, with remarks, to which I take leave to draw your Lordship's attention) provides for the erection of a Legislative Council into a tribunal for the trial of impeachments, but without providing for an appeal to the King in Council. A clause for making such provision was introduced, but was negatived by a large majority, 13 voting for and 42 against it. It is to be observed, however, that no attempt is made to interfere with the Royal prerogative of mercy; and the understanding in the House generally is, that in all cases it is open to the Governor to pause in giving effect to the award of the Legislative Council in cases of impeachment until His Majesty's pleasure shall be known.

I do not apprehend that, in framing this clause, any intention was manifested of interfering with the rights and prerogative of the Crown, but that it originated in the apprehension of a lengthened and expensive process in England in the event of an appeal to the King in Council from the award of the Legislative Council.

The Bill has subsequently passed the Legislative Council without a dissentient voice.

This Bill, such as it is, is considered by all those who are best acquainted with the affairs of this colony as an indication of the good disposition of the House of Assembly.

With regard to the Chief Justice's seat in the Legislative Council, the House of Assembly, in admitting it, have not only set aside their own decision upon the Resolutions of their committee a few nights previous to the passing of the Bill, but they have moreover decided, in a sense directly at variance with their own Resolutions adopted by them in the two preceding sessions, and in opposition to feelings of long standing and deep rooted in their minds, arising out of local circumstances, the full force of which can only be appreciated after an attentive consideration of the political events of Lower Canada during the last twenty years.

But however favourably this Bill may be viewed in the colony, it contains, nevertheless, some points so completely at variance not only with the tenor but the terms of your Lordship's instructions, that I have not ventured to give it the Royal Assent, but have reserved it for the signification of His Majesty's pleasure; at the same time I take leave, with the utmost submission, to recommend it to the favourable consideration of His Majesty. Once rejected, it is highly probable that no other from the House of Assembly, at a future period, can be looked for upon more favourable terms, or even upon terms equally favourable.

I think it necessary to mention to your Lordship, that, in framing my message to the House of Assembly upon the independence of the Judges, I conceived it unnecessary to make any specific statement regarding their salaries and retired allowances; for it was well understood beforehand, that the Assembly were fully prepared to continue the salaries of the Judges upon their present footing, and to make a liberal provision for their retired allowances. The event has justified this expectation.

In like manner I abstained from making any demand on the score of travelling and other contingent expenses, as that part of the subject was already (and still continues to be) under consideration, with the view of augmenting the scale of allowance for this head of expenditure.

I apprehend that no inconvenience is likely to arise from the reservation of this Bill for the signification of His Majesty's pleasure, more especially with regard to the erection of the Legislative Council into a tribunal for the trial of impeachments, the session being now near its termination, and before the next meeting of the Provincial Parliament His Majesty's pleasure upon the Bill will probably have been communicated to the local Government of this province.

I have the honour to be, &c.

Aylmer.

B I L L.

AN ACT to incapacitate the Judges in this Province from Sitting or Voting in the Executive and Legislative Councils, 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 essentially 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; May it therefore please Your Majesty, That it may be enacted, and be it 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 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

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 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, nor for any one of the Judges who may hereafter be members of any court of law created in the place and stead of those now by law existing, to have or occupy a seat in the Executive Council, nor in the Legislative Council of this province; and that such of the said Judges as now have and occupy a seat in either of the said Councils, with the exception of the Chief Justice of the province who may have a seat in the Legislative Council, shall be and they are hereby declared to be incapable, while they retain their commission 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 commissions of the Judges of the several Courts of Justice in this province shall be, continue and remain in full force during their good behaviour, notwithstanding the demise of His Majesty, or any of His heirs and successors; any law, usage or practice to the contrary notwithstanding.

Provided always, and be it further Enacted, by the authority aforesaid, That it may be lawful for His Majesty, His heirs and successors, to remove any Judge or Judges upon the Address of both Houses of the Legislature of this province.

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 shall be secured to them in a fixed and permanent manner: Provided always, That no such Judge shall hold any other place of honour or profit in the nomination of the Crown.

And be it further Enacted, by the authority aforesaid, That the salaries of the said Judges, and the retiring pensions hereby fixed and established, shall be taken and paid out of the proceeds of the casual and Territorial Revenue, and the Revenue now appropriated by Acts of the Provincial Parliament for defraying the charges of the administration of justice, and the support of the civil government, and out of any other public revenue of the province, which may be or come into the hands of the Receiver General.

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 further 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 who shall so resign his office, a retiring pension equal to two-thirds of the salary to which he was entitled during the exercise of his functions as a Judge, provided such Judge have exercised the functions of a Judge during 15 years at least.

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 for high crimes and misdemeanors 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 heard before a competent tribunal in this province, and be respectively enabled to produce, with the least possible delay and expense, their witnesses, and other means, whether of charge or defence, in order to obtain more prompt justice; Be it therefore further 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 finally 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 or custom of the Parliament of the United Kingdom of Great Britain and Ireland; and that the proceedings upon such impeachments shall be conformable to, and regulated by, the rules and practice followed upon impeachments brought by the House of Commons of the United Kingdom of Great Britain and Ireland in the like cases.

And be it further Enacted, by the authority aforesaid, That the salaries and retiring pensions hereinbefore directed to be paid or allowed, shall be paid by two semi-annual payments by a warrant or warrants under the hand of the Governor, Lieutenant-Governor, or person administering the government of this province for the time being.

And be it further Enacted, by the authority aforesaid, That the due application of the monies appropriated by this Act, shall be accounted for to His Majesty, His heirs and successors, through the Lords Commissioners of His Majesty’s Treasury for the time being, in such manner and form as His Majesty, His heirs and successors, shall direct; and that a detailed account of the expenditure of all such monies shall be laid before the several branches of the Provincial Legislature, within the first 15 days of each Session thereof.

I do hereby certify, That the foregoing is a true copy of a Bill passed by the Legislative Council and Assembly of the province of Lower Canada, in the second Session of the fourteenth Provincial Parliament of the said province, and reserved by the Governor in Chief for the signification of His Majesty’s pleasure thereon, on the twenty-fifth day of February one thousand eight hundred and thirty-two.

W^m Smith,
Clerk of the Legislative Council.

Frederick Elliot,
Esq.

30 April 1834.

Frederick Elliot,
Esq.

EXTRACT of a DESPATCH from Lord *Aylmer* to Lord Viscount *Goderich*,
dated Quebec, 26 January 1832;—Received 7 March 1832.

30 April 1834.

My Lord,

THE HOUSE of Assembly of Lower Canada, having passed a Bill for securing the independence of the Judges of this province (as reported in my Despatch of this date, No. 6.) I sent down a message (of which I have the honour of transmitting a copy herewith to your Lordship) calling upon them to make provision for certain officers of the Civil Government during the life of His present Majesty. My message was accompanied by a statement (of which I have also the honour of transmitting a copy) of the different officers to be thus provided for.

From the manner in which your Lordship's Despatch of the 7th July last, No. 51, was received by the House of Assembly, and from the general tenor of their subsequent proceedings, I was led to expect, in common with the generality of those persons here who are best acquainted with the temper of that body, that the Civil List, limited as it is, would have met their ready concurrence; but I am concerned to be now under the necessity of informing your Lordship that these expectations are not likely to be realized; and that it is highly probable that the discussion on this subject, which is fixed for to-morrow, will terminate either in the total rejection of the Civil List, or in such an alteration of it, as will render it impossible for me, consistently with your Lordship's instructions, to give the Royal Assent to the Bill of Supply for the current year when presented to me, supposing it to have passed through the Legislative Council, of which however I entertain considerable doubts.

I shall take care to give your Lordship the earliest intimation of the fate of the proposed Civil List, and in the meanwhile I take the liberty of submitting to your Lordship the necessity of making such provisions as may become necessary (in the event of its rejection) for the indispensable expenses of the Government.

I am fully sensible of the evils resulting from such an event, which cannot be sufficiently deprecated, but I cannot avoid thinking that it may be productive of some good effects, and certainly if there ever was a time when His Majesty's Government could be warranted in making a firm stand upon reasonable grounds, it is the present time. The minority on the question of the Civil List will probably be respectable in point of numbers, as well as individual talent and respectability. No opportunity will be afforded for raising a cry against Government on this occasion, for the public mind is perfectly tranquil, and a very large proportion (indeed I may say the majority) of the enlightened part of the community are fully impressed with a sense of the liberal and paternal views of His Majesty's Government, as well as of the reasonableness of their propositions on the subject of the Civil List. If, therefore, His Majesty's Government, after having met, to their fullest extent, the desires of the House of Assembly, will stand firm, and assert their claims to the Civil List proposed, as the fulfilment of the promises and engagements of the House of Assembly; and if the local Government, on the other hand, shall be conducted with moderation, and without exhibiting any symptoms of warmth and passion under the circumstances of embarrassment inseparable from the contemplated state of affairs, I think I may venture to assure your Lordship that no serious or lasting evil is likely to arise from the reservation for the signification of His Majesty's pleasure of the Bill of Supply for the current year.

I now take leave earnestly to solicit the communication as soon as possible of your Lordship's instructions on the subject of this Despatch, and that they may be transmitted *via* New York.

(signed) *Aylmer*.

(signed) *AYLMER*, Governor in Chief.

With reference to the concluding part of the message of the Governor in Chief to the Legislative Council of the 5th of December last, he now communicates to the Council a statement of certain offices of the Civil Government, with the salaries attached to each, which His Majesty's Government deem it expedient to be provided for by a legislative enactment, placing those heads of expense beyond the reach of an annual vote; and it is recommended that the term of such provision shall be for the life of His Majesty, in conformity with the practice of the mother country.

The Governor in Chief trusts that the Legislative Council will concur in making the necessary provisions accordingly, thereby evincing their desire to consolidate the tranquillity of the colony.

Castle of St. Louis, Quebec, }
21 January 1832. }

(signed) *AYLMER*, Governor in Chief.

With reference to the concluding part of the message of the Governor in Chief to the House of Assembly of the 5th of December last, he now communicates to the House a statement of certain offices of the Civil Government, with the salaries attached to each, which His Majesty's Government deem it expedient to be provided for by a legislative enactment, placing those heads of expense beyond the reach of an annual vote; and it is recommended

Frederick Elliot,
Esq.

30 April 1834.

recommended that the term of such provision shall be for the life of His Majesty, in conformity with the practice of the mother country.

In reviewing the different heads of expense comprised in this limited scale, the House of Assembly will not fail to observe, that it has been framed with no view to extend the patronage of the Crown; and that those officers alone have been included whose services are indispensable in carrying on the ordinary business of Government.

Neither (it may be presumed) can any reasonable objection be urged against the principle of placing the salaries of these officers beyond the reach of an annual vote, more especially at the present time, when the popular branch of the legislature, advancing each day in its knowledge of political science, and engaged in promoting the true object of all legislation, the public welfare, is naturally subject to those fluctuations of views and opinions inseparable from such a state of things.

Finally, in submitting the accompanying statement to the consideration of the House of Assembly, the Governor in Chief thinks it necessary to inform the House that the Government of His Majesty, having met their wishes in a spirit of the most perfect cordiality and good-will, apparent in every line of the Despatch of Viscount Goderich of the 7th of July last, entertains a confident hope that the House of Assembly will not be backward in exhibiting a corresponding spirit on the present occasion, thus evincing their desire to consolidate the tranquillity of the province.

Castle of St. Louis, Quebec, }
21 January 1832.

CIVIL LIST, as contained in Viscount Goderich's Despatch of the 29th September 1831.—No. 64.

	£.
Governor's Salary	- 4,500
Provincial Secretary	- 400
* Contingencies	- 300
Chief Justice	- 1,500
Ditto - - Montreal	1,200
Six Puisne Judges, at } 900 l. each	5,400
Three Provincial Judges	1,600
Judge Vice Admiralty } Court	200
Attorney General	- 300
Solicitor General	- 200
Allowance to Judges } for Circuits	275
Contingencies	- 475
	<u>£. 16,350</u>

* I have taken the liberty of omitting this item, as being calculated to excite the jealousy of the House of Assembly. In point of fact, the heads of Expenditure contemplated in this item, are invariably provided for by the House of Assembly, in their annual Vote of Supply, and to a much greater extent. -- The charge for the Salaries of the Judges has been omitted in the Civil List submitted to the legislature, in consequence of the passing of the Act of the legislature, forwarded by this opportunity, which makes a distinct provision for the Salaries, and also the Retired Allowances of the Judges.

CIVIL LIST, as submitted to the House of Assembly.

	£.
The Governor	- 4,500
* The Secretary to the } Governor	500
The Provincial Secretary	400
The Attorney General	300
The Solicitor General	200
TOTAL	<u>- £. 5,900</u>

* This item has been introduced under the impression, that were the Salary of the Civil Secretary to be made subject to an annual Vote, whilst that of the Governor is rendered permanent for the life of the King, it would afford an opportunity to the House of Assembly to interfere with the Governor in regard to the appointment of an Officer who is not a responsible Officer, although, from the very nature of the appointment, possessing his confidence.

Copy of a DESPATCH from Lord Aylmer to the Right hon. Lord Viscount Goderich.

My Lord,

Castle of St. Louis, Quebec, 25th Feb. 1832.

I HAVE the honour of informing your Lordship that I this day prorogued the Provincial Parliament of Lower Canada, on which occasion I delivered a speech, of which I have the honour of transmitting a copy herewith.

I have the honour to be, &c.

(signed) Aylmer.

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

The labours of this protracted session having been brought to a close, you are now about to return to your homes with the consciousness of having very materially advanced the public business of the Province.

Gentlemen of the House of Assembly,

In His Majesty's name I thank you for your liberal appropriation of the sum of 10,000*l.* towards giving effect to the provisions of the Bill passed this session for establishing Boards of Health within this Province, and to enforce an effectual system of Quarantine; and if circumstances should unfortunately render it necessary to create and to support extensive establishments for this purpose, it shall be my earnest endeavour to expend with economy the pecuniary means which your liberality has placed at the disposal of the Executive Government.

Frederick Elliot,
Esq.

30 April 1834.

The present Session commenced under such favourable auspices as to inspire me with confident hopes of its termination in a manner calculated to justify in their fullest extent the favourable anticipations of His Majesty's Government.

The Despatch of Viscount Goderich of the 7th of July last had been communicated to the House of Assembly, and its contents not only were found to meet the various subjects of complaint embraced in the Petition of the House to which it is an answer, in the fullest and most explicit manner, but the concessions on the part of the Crown were such as to surpass the most sanguine expectations of the people of Lower Canada.

It was natural to expect, therefore, that the Civil List proposed for adoption, as the only advantage sought for in return for these liberal concessions, would have been met by the House of Assembly in a corresponding spirit.

The Votes and Resolutions of the House of Assembly on former occasions still further justified this expectation on the part of the Executive Government; and even had any doubt arisen on this subject, it must have been removed by recent occurrences, which plainly show that in certain cases the House may be induced to lend a willing ear to proposals for placing salaries beyond the hazard of an annual vote.

These expectations have nevertheless been disappointed, and that too under circumstances peculiarly discouraging; for the Executive Government, on approaching the House of Assembly with the proposal for a Civil List upon a scale so moderate as to excite universal surprise, has been met at the very threshold of the door by a flat and unqualified denial.

In England, at the commencement of each reign, a Civil List is invariably voted by the Legislature, securing fixed and stated salaries and allowances, connected with the dignity and services of the state, during the life of the Sovereign; and yet such a proceeding has never been opposed in principle by the most jealous supporters of the rights of the people, nor is it considered as an indication on the part of the Crown of any distrust of the popular branch of the Legislature.

It was reasonable and consistent, therefore, to suppose that the same principle might be adopted and acted upon with advantage in this Colony, the analogy of whose constitution to that of the mother country is so remarkably conspicuous. The advances of His Majesty's Government having been met by the House of Assembly in the manner I have just described, I now find myself under the necessity (in obedience to the instructions I have received) of reserving the Bill of Supply voted for the services of the current year for the signification of His Majesty's pleasure.

The embarrassments resulting from this course of proceeding must of necessity be considerable; but it shall be my anxious study to cause them to be as little felt by the province as the circumstances of the case will permit.

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

Amongst the many important measures adopted during this session, all of which are more or less calculated to promote the interests of the province, I have great satisfaction in noticing the Bill for establishing the independence of the Judges. I think it necessary at the same time to inform you, that although the principle of this Bill coincides altogether with the views of His Majesty's Government, it contains one or two provisions which impose upon me the necessity of reserving it for the signification of His Majesty's pleasure.

The passing of the Bill for securing the independence of the Judges may be considered as the first practical effect of the Despatch of Viscount Goderich of the 7th of July; but the concessions contained in that memorable Despatch are pregnant with still further advantages, which it will require more than one session to bring to maturity. These concessions have placed beyond the reach of all cavil or dispute the beneficent dispositions of His Majesty's Government towards this Colony, and the people of Canada may now confidently look forward to years of increasing prosperity under a Monarch whose mild and gentle sway is felt only through the benefits it confers, whilst the connexion with the mother country is known only to the province by the security it enjoys under the shelter of her protecting shield.

COPY of a DESPATCH from Lord *Aylmer* to the Right hon. Lord Viscount *Goderich*.

My Lord,

Castle of St. Louis, Quebec, 27th February 1832.

The House of Assembly of Lower Canada having declined entering upon the consideration of the Civil List proposed for their adoption, I have found myself under the necessity (in compliance with the instructions contained in your Lordship's Despatch of the 29th of September last, No. 64), of reserving, for the signification of His Majesty's pleasure, the Supply Bill for the service of the current year, passed by the House of Assembly and Legislative Council in the Session just terminated; and of which Supply Bill I have the honour of transmitting a copy herewith.

This proceeding will of course have the effect of suspending all issues on account of salaries until I shall receive your Lordship's instructions; but there are some items of expense in carrying on the affairs of Government, which imperatively require to be provided for, such as fuel and light for the service of the gaols and court-houses, and food for the prisoners. For these I shall be under the necessity of issuing warrants on my own responsibility; but

I beg

I beg your Lordship will be assured that the issues on account of the services above mentioned shall be confined to the most limited scale possible, and that no issue whatever from the public chest shall be made that can by possibility be avoided.

Frederick Elliot,
Esq.

I have the honour to be, &c.

Aylmer.

30 April 1834.

B I L L.

AN ACT to make Provision for defraying the Civil Expenditure of the Provincial Government for the Current Year.

Most Gracious Sovereign,

WHEREAS by message from his Excellency Matthew Lord Aylmer, Knight, Commander of the most honourable Military Order of the Bath, Governor in Chief, laid before both Houses of the Legislature, it appears that the funds already by law appropriated are not adequate to defray the whole expenses of Your Majesty's Civil Government of 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 present year, One thousand eight hundred and thirty-two; We, Your Majesty's most dutiful 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 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 shall hereafter come into the hands of the Receiver-general of the province for the time being, there shall be paid and applied towards defraying the expenses of the administration of justice, and of the support of the Civil Government of this province for the present year One thousand eight hundred and thirty-two, such sum or sums as together with the sums already by law appropriated for the said purposes, shall amount to a sum not exceeding fifty-eight thousand and ninety-five pounds nine shillings and tenpence sterling.

And be it further Enacted, by the authority aforesaid, That every person to whom shall be entrusted the expenditure of any portion of the monies hereby appropriated, shall make up detailed accounts of such expenditure, showing the sum advanced to the accountant, the sum actually expended, the balance (if any) remaining in his hands, and the amount of the monies hereby appropriated to the purpose for which such advance shall have been made, remaining unexpended in the hands of the Receiver-general; and that every such account shall be supported by vouchers therein distinctly referred to by numbers corresponding to the numbering of the items in such account, and shall be made up to and closed on the tenth day of April and tenth day of October in each year during which such expenditure shall be made, and shall be attested before a Justice of the Court of King's Bench or a Justice of the Peace, and shall be transmitted to the officer whose duty it shall be to receive such account within fifteen days next after the expiration of the said periods respectively.

And be it further Enacted, by the authority aforesaid, That the due application of the monies appropriated by this Act shall be accounted for to His Majesty, His heirs and successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His heirs and successors, shall direct, and that a detailed account of the expenditure of all such monies shall be laid before the several branches of the Provincial Legislature, within the first fifteen days of the next session thereof.

I do hereby certify, That the foregoing is a true copy of a Bill passed by the Legislative Council and Assembly of the Province of Lower Canada, in the second session of the fourteenth Provincial Parliament of the said province, and reserved by the Governor in Chief for the signification of His Majesty's pleasure thereon, on the twenty-fifth day of February One thousand eight hundred and thirty-two.

W^m Smith,

Clerk of the Legislative Council.

Lunæ, 5^o die Maii, 1834.

THE RIGHT HONOURABLE ROBERT GRANT,
IN THE CHAIR.

Frederick Elliot,
Esq.

5 May 1834.

[Mr. F. Elliot produced further Papers.]

COPY of a DESPATCH from Viscount Goderich to Lord Aylmer, No. 92, dated
Downing-street, 9 April 1832. Received 2 June 1832.

My Lord,

I HAVE received your Lordship's despatches, dated the 26th January last, No. 7, and the 27th of February last, No. 15, with the last of which despatches your Lordship has transmitted a Bill, passed by the Legislative Council and Assembly of Lower Canada, but reserved for the signification of His Majesty's pleasure, intituled, "An Act to make provision for defraying the Civil Expenditure of the Provincial Government of the current year."

Before I proceed to announce the decision which His Majesty has seen fit to adopt respecting this Bill, and to explain the grounds of that decision, it will be convenient to dispose of the preliminary questions suggested by your Lordship's despatch.

I have, therefore, to signify to your Lordship my approbation of the change which you made in the terms of the proposed Civil List, by substituting a salary to the Governor's Secretary, for the annual sum of 300*l.*, which I had intended to ask for contingencies.

I also approve your Lordship's determination to reserve the Bill of Supply for the signification of His Majesty's pleasure. That decision was in entire conformity with the instructions conveyed in my despatch of the 29th September, No. 64.

It is not without very sincere regret that I find myself compelled to withhold my approbation of the measure which your Lordship reports yourself to have adopted, of issuing warrants on the Receiver-general to defray the expense of purchasing lights and fuel for the gaols and court-houses, and food for the prisoners. Under circumstances of such peculiar delicacy, there was no mode of raising the money required for those indispensable services, which should not have been preferred to that of issuing funds, to the disposal of which the assent of the Legislative Council and Assembly was requisite. If any part of His Majesty's casual and territorial revenue was in the hands of the Receiver-general, this expenditure should have been defrayed exclusively from that money. If, for any reason, that resource was not available, it would have been more judicious to have drawn bills upon the Lords Commissioners of the Treasury for the requisite amount. Their Lordships would doubtless have admitted so extreme an exigency as an adequate excuse for departing from those regulations which have been laid down for your Lordship's guidance in the ordinary administration of the government of the province. It is in the discharge of a necessary but painful duty that I disclaim, on the part of His Majesty's Government, all responsibility for this infringement of the law.

On referring to the Bill which your Lordship has transmitted, I perceive that it grants "towards the defraying the expense of the administration of justice, and of the support of the civil government of the province for the present year, 1832, such sum or sums as, together with the sums already by law appropriated for the said purposes, shall amount to a sum not exceeding 58,095*l.* 9*s.* 10*d.* sterling." The sum computed with such precise fractional accuracy corresponds, I presume, with the total amount of the different votes for granting a supply to His Majesty, to which the Assembly had come during their last session; and I understand it to have been the avowed intention of the House, that the 58,095*l.* 9*s.* 10*d.* should be applied to the specific purposes mentioned in those votes. But the Bill does not ascertain the purposes to which the money is to be applied; nor can I find amongst the list of the Acts of the session any Bill for the appropriation of this grant. It is therefore impossible to discover, except from the journals of the House of Assembly, what are the services to which this money is to be applied, nor what particular sums are disposable for each of them. His Majesty's assent is therefore asked to a law, the most essential provisions of which do not appear on the Parliamentary roll, and of which His Majesty's official advisers remain at this moment in absolute ignorance.

I anxiously reject the supposition, that the Bill has been passed in this form under the influence of any motive inconsistent with the respect due to His Majesty's authority and person. The explanation of the informality probably is, that the Bill under consideration was framed on the model of the Supply Bills which had been passed during the last few years by the legislature of Lower Canada. While the adjustment of the question respecting the appropriation of the duties levied under the statute of the 14 Geo. 3, still awaited the decision of the British Parliament, there may have been a sufficient excuse for the irregularities which occurred in framing the annual money Bills. But during the last session of the

General

Frederick Elliot,
Esq.

5 May 1834.

General Assembly, there was no room for that apology; for in fulfilment of his engagements, His Majesty had recommended a final settlement of the claims so long in debate, in reference to that subject, which, long before the commencement of that Session, had received the sanction of Parliament. The time had therefore fully arrived for returning to the regular course of proceeding, by bringing the appropriation of the annual grant in detail before His Majesty, for his approbation.

I have received His Majesty's commands to convey to your Lordship the most explicit instructions to refuse your assent to any future Bill of Supply, by which money may be granted for specific services, unless it shall contain, or be succeeded by some distinct Bill, containing a statement of the particular object to which each part of the grant is to be appropriated, and of the precise sum to be applied to each of those objects.

Passing from the form to the substance of this Bill, I find that it proceeds avowedly on the principle, that the Governor and every other public officer in the province is to be dependent for his official income on the annual votes of the House of Assembly. In your Lordship's despatch of the 26th of January, is contained a copy of the message which, on the behalf of His Majesty, you transmitted to the House, proposing a Civil List of 5,900 *l.* per annum, and urging upon that body the motives which so strongly recommended that proposal to their consideration. The House of Assembly, however, not only rejected His Majesty's application, and passed a Bill founded upon principles directly opposed to it; but they did not even judge it right to return any answer to the message, or to explain the grounds of their peremptory refusal of the propositions made to them.

Every effort which His Majesty has, with the most studious anxiety, made to engage the confidence of the House of Assembly of Lower Canada, would thus appear to have been unhappily fruitless; and every demand, however cautious and moderate, has been repelled without even the observance of those forms of courtesy which are invariably maintained by the British Parliament, and by the General Assemblies of all His Majesty's Colonies. Yet it remains to His Majesty a source of permanent satisfaction, that the concessions which have been met by so unexpected a reception were not withholden. To have rendered justice to his Canadian subjects, with the most scrupulous respect for their rights, and with the most liberal regard for their interests, can never be to His Majesty a subject of regret, however much that proceeding may have failed to fulfil the hopes which His Majesty, upon the best apparent ground, had permitted himself to indulge.

His Majesty, however, having now been compelled to admit the conviction, that any application to the House of Assembly to concur in the grant of a Civil List will be met by an unqualified denial, will not be advised to provoke the repetition of proceedings which His Majesty cannot believe to be in harmony with the deliberate purposes and habitual feelings of any class of his Canadian subjects. Your Lordship will, therefore, in your future communications to the House of Assembly make no further reference to the question of the Civil List. The salaries of the Governor, of the provincial secretary, of the Governor's secretary, and of the law officers of the Crown, must henceforth be excluded from the annual estimates. His Majesty will provide for those charges from the funds which the law has placed at his own disposal.

The course which has been taken has reduced His Majesty to a dilemma, from which it does not seem possible to escape. On the one hand, the rejection of the Bill would inflict great distress on a large body of persons, impede for nearly 12 months various public services of the highest importance, and probably excite very general discontent. By accepting it, His Majesty would, on the other hand, appear to acquiesce in the assertion of a principle subversive of the independence of the Crown, and in a proceeding marked by a studied departure from those decorous observances which it is of such vital importance to maintain. In the choice between these difficulties, His Majesty deems it better to incur the risk of a misconstruction of his motives, than to expose to so formidable an inconvenience a large body of his people, whose welfare it is his most anxious desire to promote. I am, therefore, commanded by the King to signify to your Lordship His Majesty's assent to the Bill which you have transmitted. I shall, by the earliest possible period within which the official forms can be completed, convey to your Lordship an order, which will be made in the usual manner by His Majesty in Council on this subject.

I have the honour to enclose the copy of a message, which your Lordship will address to the Legislative Council and House of Assembly, explanatory of the grounds of the decision which has been adopted respecting the Bill of Supply.

I have, &c.

(signed) *Goderich.*

COPY of a MESSAGE to the Legislature of *Lower Canada*, referred to in the foregoing Despatch.

The Governor in Chief has received His Majesty's commands to signify to the Legislative Council (the House of Assembly), that His Majesty has been pleased to assent to the Bill passed in the last Session, and subsequently reserved for the signification of His Majesty's pleasure, intitled, "An Act to make provision for defraying the Civil Expenditure of the Provincial Government for the current year."

The Governor is further commanded to observe, that the money granted by this Bill having been voted by the House of Assembly for various specific purposes, and the terms of that appropriation not having been stated, either in the Bill of Supply, or in any other

Frederick Elliot,
Esq.

5 May 1834.

Legislative Act, His Majesty has been left without the means of ascertaining the real objects and effect of the law to which his assent has been required. The Governor has, therefore, received His Majesty's instructions to decline the acceptance of any future Bill of Supply, granting money for specific purposes, unless it shall either contain, or be succeeded by a distinct Bill, containing a statement of the particular object to which each part of the grant is to be appropriated, and of the precise sum to be applied to each of those objects. In conveying to the House of Assembly His Majesty's thanks for the grant they have made for the services of the current year, the Governor, in obedience to His Majesty's commands, remarks, that it is only from the Bill of Supply of the last session, that the decision of the House upon the propositions made to them by the Governor in his messages of the 5th December and the 21st January last, can be collected; and that as the House did not deem it right to return any answer to those communications, explanatory of their reasons for declining to comply with His Majesty's demands on their liberality, His Majesty can only infer that those demands have not been thought worthy of any other notice than that which is implied in the peremptory and unqualified rejection of them. Under such circumstances His Majesty will not revive the discussion of the question of the Civil List, but will provide for those charges out of those funds which the law has placed at his own disposal, being persuaded that he will thus best consult his own dignity, and most effectually promote the good understanding which he is ever anxious to maintain with the House of General Assembly of this province.

COPY of a DESPATCH from Viscount Goderich to Lord Alymer, dated Downing-street, No. 93, 10th April 1831. Received 2 June 1832.

My Lord,

I have received your Lordship's Despatch of the 26th January last, enclosing the copy of a Bill passed by the Legislative Council and House of General Assembly of the province of Lower Canada, on the 20th of that month, intitled, "A Bill to incapacitate the Judges in this Province from sitting or voting in the Executive and Legislative Councils; to secure the independence of the Judges in this Province; and for other purposes therein mentioned."

In my despatch of the 8th of February 1831, No. 22, I directed your Lordship's attention to the advantages to be anticipated from transferring to Lower Canada that part of the laws of England by which the tenure of the judicial office is made to depend, not upon His Majesty's pleasure, but upon the good conduct of the Judge; and I authorized you, in the name and on the behalf of His Majesty, to assent to the Bill which I anticipated would be passed for that purpose; observing that it was an essential condition of this arrangement, that an adequate and permanent provision should be made for the maintenance of the judges; and I expressed my satisfaction that the repeated assurances of the House of Assembly precluded the possibility of any objection being made to this part of the proposal. I had the honour to convey to your Lordship His Majesty's further commands, that you should communicate to the Legislative Council and Assembly His Majesty's settled purpose to nominate on no future occasion any judge as a member either of the Executive or Legislative Council of the province; the single exception to that general rule being, that the Chief Justice for the time being would be a member of the Legislative Council.

The Bill which your Lordship has transmitted renders the tenure of the judicial office dependent on the good behaviour of the judge, and if passed into a law, would therefore to that extent accomplish His Majesty's wish. But it does not make a fixed and permanent provision for the maintenance of the judges. It enacts that their salaries and retiring pensions "shall be taken and paid out of the proceeds of the casual and territorial revenue, and the revenue now appropriated by Acts of the Provincial Parliament for defraying the charges of the administration of justice and the support of the Civil Government, and out of any other public revenue of the province which may be or come into the hands of the Receiver-general."

Passing over for the moment the question of the right of the House of Assembly to dispose of the funds of which a specific mention is made in this passage, I observe, that the enactment itself amounts to nothing more than a declaration that the judges shall be paid out of those collective funds of which the House of Assembly have, or claim to themselves, the right of appropriation. Such a provision will not supersede the necessity of an annual vote of the House to sanction the payment of the judges' salaries, nor authorize the Governor to issue his warrant to the Receiver-general for those sums, in the event of such a vote being withheld. The popular branch of the Legislature would therefore retain the power of diminishing the official incomes of the judges, or of stopping the payment of them altogether; and would thus exercise an influence over the bench, subversive of that sense of independence on all parties in the state, so requisite in the members of a body whose high office it is to ascertain and protect the rights of all with strict impartiality. The British Parliament have studiously divested themselves of all such means of controlling the freedom of the judges. During the last two reigns, and in the reign of His present Majesty, six Acts of Parliament have been passed, augmenting the salaries of the judges of England. I refer to the 49 Geo. 3, c. 147; the 53 Geo. 3, c. 153; the 6 Geo. 4, c. 82, 83 and 86; and the 1 Will. 4, c. 70. By each of these Acts the grants made for the maintenance of the judges, are declared to be "charged and chargeable upon the Consolidated Fund, next in order of payments" to certain specified charges, "but with preference to all other payments whatsoever." It is only over the surplus of the Consolidated Fund which remains after the judges' salaries have been paid in full, that the House of Commons exercises its privileges of making

an annual appropriation; and that surplus is of such moment, that no contingency upon which it is of any practical importance to calculate, could endanger the security of the pledge thus given for the independence of the judges on the popular branch of the Legislature.

If this entire exemption from all dependence on the House of Commons be a necessary security for the impartial discharge of their duty by the Judges of England, a corresponding security is certainly not less necessary in Lower Canada. The population there being divided into two classes differing from each other in national origin, in language, religion and legal customs, and one of those classes enjoying in the House of Assembly a preponderating influence, which is regarded by the other (with whatever reason) with habitual jealousy, it is indispensable that the judges should feel themselves absolved from any risk in uprightly interpreting and resolutely enforcing the law, even in those critical cases in which the two great parties in the province may be opposed to each other. His Majesty cannot be advised to decline the duty, painful as the discharge of it may be, of withholding his assent from a law which a large minority of his subjects in Lower Canada might with reason regard as placing the very sources of justice itself under the virtual control of a single and distinct party, however numerous and however much entitled to respect that party may be.

The passage which I have already quoted from the Bill under consideration, assumes that it belongs to the two Houses of Provincial Legislature to appropriate, according to their own discretion, the whole of His Majesty's casual and territorial revenue, and all those funds which have formerly been granted to His Majesty by Provincial Acts. Whatever may be the grounds on which this assumption rests, it must at least be admitted to be now distinctly advanced for the first time in the form of a solemn Legislative Act; and it can scarcely be denied that the consequences it involves are of the utmost importance. His Majesty was at least entitled to expect that such an innovation would not have been attempted in any other form than that of a distinct and substantive measure. It is equally at variance with the usages of Parliament, and with the respect due to His Majesty, thus to embody demands of a financial nature in an Act of which the whole scope and object are entirely foreign to any question of finance. In the Imperial Parliament it has long been a settled maxim, that the Commons are not entitled (to adopt the familiar but expressive phrase) to "tack" to any Bill containing a grant of money, any enactment foreign to its professed scope and object. The Journals of the House of Lords abound with examples of the strict enforcement of this principle; and from the first settlement of Colonial Assemblies, it appears to have been a standing instruction to the Governors to enforce the observance of it, by refusing their assent to any Bill in which it might be infringed. Such was the object of the General Instruction, No. 11, accompanying Lord Dalhousie's commission, and adopted in the commission subsequently addressed to your Lordship. In the importance which I attach to the maintenance of this rule of legislative proceeding, I am therefore supported by the highest possible authority, and am acting upon an instruction laid down for the guidance of your Lordship and your predecessors, long before the agitation of the present question. On a fitting occasion, should it arise, I shall be prepared to discuss the claim thus incidentally advanced in the present Bill: but His Majesty cannot entertain the consideration of that question in the form in which it has been now presented to his notice. As one of the three branches of the Legislature, His Majesty is not merely entitled, but bound, to exercise an independent judgment upon every Act to the validity of which his assent is necessary; but if the course which has been pursued in this Bill be not steadfastly resisted, this right must either become altogether nugatory, or the exercise of it must be in the highest degree invidious. It is not fitting that His Majesty should thus be reduced to the dilemma of rejecting a law, embracing an object recommended by himself, and to which the public at large justly attach the highest importance, or of accepting it on conditions wholly unconnected with its general design, and to which the most reasonable objections might perhaps be made. By consulting what is justly due to the dignity of the Crown, the other branches of the Legislature would be in no danger of impairing their own authority, and their undoubted claims to the attachment and respect of the people at large.

Your Lordship has stated that the proceeds of the Crown lands and the timber fund have never been considered as forming part of the casual and territorial revenue; I am bound, however, to understand the language of the Bill, not in any arbitrary or conventional sense, but according to the legal and proper meaning of the words employed by the Legislature. It cannot admit a question that the proceeds of the sales of land and timber are included in an expression so comprehensive as is that of "the territorial revenue." Had the Assembly really contemplated a more narrow construction, I am bound to suppose that they would have adopted terms of a more limited meaning.

The subject of judicial independence was very properly, perhaps unavoidably, connected with that of the method of proceeding for the trial of offences with which any judge may be charged in the execution of his office. The objections to investing the Legislative Council with such a jurisdiction are neither few nor inconsiderable. His Majesty, however, is not disposed to insist upon them. Considering how deeply all persons, and especially the two Houses of General Assembly, are interested in the reputation of the judges; and how urgent are the motives for proceeding against them with the utmost reserve and circumspection, His Majesty is content that they should abide the judgment of that tribunal to which this Bill would render them amenable.

His Majesty's decision on this part of the subject has not been framed without reference to the despatch addressed by Lord Bathurst to Sir John Sherbrooke, by command of his Royal Highness the Prince Regent, on the 7th July 1817. His Lordship in that communication

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munication admitted the propriety of delegating to the Legislative Council the right of trying impeachments which might be preferred by the House of Assembly; and that admission was certainly made in terms which, if detached from their context, might seem to justify the claim to bring civil officers of every class to trial in this mode. Considering, however, the despatch in connexion with the correspondence of which it forms a part, and adverting to the whole of that document, it becomes evident that Lord Bathurst is to be understood as referring only to the impeachment of judges; and I presume his Lordship to have been guided, in the advice submitted by him to the Prince Regent on that occasion, by motives similar to those which I have already explained.

In pursuance of the policy which I have had occasion to lament, the two Houses have connected with the subject of the impeachment of judges a question still more comprehensive, and of still greater importance. The Bill provides that the Legislative Council shall be a tribunal for all impeachments which may be preferred, not only against the judges, but "against any person or persons, for any crime, misdemeanor or malversation in office, committed in this province." I carefully abstain from expressing any opinion on the propriety of this measure. If the question of delegating to the Legislative Council a jurisdiction for the trial of impeachments against all public officers should ever be brought under His Majesty's consideration in an Act confined to that single subject, it will then become the duty of His Majesty's servants to devote their most serious attention to the advice which they will in that event be bound to submit to His Majesty: but until the question shall be presented in that form, it cannot receive a decision.

It is with no ordinary feelings of regret that I announce to your Lordship that His Majesty will not be advised to assent to the present Bill. I had indulged, and not without great apparent reason, the hope, that the communications which I have had the honour to convey through your Lordship to the Provincial Legislature, would have been received by them as a satisfactory proof of His Majesty's earnest desire to gratify to the utmost possible extent the wishes of his Canadian subjects; and that proposals, made in the unreserved spirit of conciliation, would have been received in the same temper: it is with a proportionate disappointment that I find them met by novel pretensions, urged in a form which I am unable to reconcile, either with Parliamentary usages, or with the respect due to His Majesty by the other branches of the Provincial Legislature. If my former despatches have failed to induce the conviction that His Majesty is anxious to co-operate in every measure calculated to promote the welfare of Lower Canada, and to assert his prerogative only with a view to the benefit of his subjects in that province, I despair of finding any language which would convey that impression. But while the King studiously maintains and freely acknowledges the rights of the two Houses of General Assembly, His Majesty is not less bound by his regard for the general good of his people to assert his own; and especially when encroachments are attempted, in form and manner derogatory to the dignity of his exalted station.

Your Lordship will transmit to each of the two Houses of the Provincial Legislature a copy of this despatch, acquainting them that His Majesty is not only prepared, but is most desirous to co-operate with them in the enactment of a law which should render the tenure of the judicial office dependent on the good behaviour of the Judges, and their salaries independent on the future votes of the House of Assembly; and that His Majesty does not object to the erection of the Legislative Council into a tribunal for the trial of any offences which the Judges may be charged with committing in the execution of their offices; but that His Majesty cannot authorize you to assent to any Act for establishing judicial independence, containing any enactments, or declaratory of any principle of law, foreign to that subject.

I have, &c.

(signed) *Goderich.*

COPY of a DESPATCH from Viscount *Goderich* to Lord *Aylmer*, dated Downing-street, 11 April 1832. Received 2 June 1832.

My Lord,

I HAVE received your Lordship's despatch, dated the 25th February last, No. 10, enclosing a printed copy of the address with which you closed the last session of the Legislature of Lower Canada. I have no remarks to make upon that address which have not in a great measure been anticipated in my accompanying despatches, Nos. 92 and 93. I cannot, however, withhold the expression of my regret that your Lordship should have stated that the principle of the Bill for establishing the independence of the Judges "coincides altogether with the views of His Majesty's Government." So far is this from being a correct view of the subject, that the Bill, as I have shown in my accompanying despatch, No. 93, places the Judges in a state of entire dependence on the House of Assembly, while it absolves them from their comparatively unimportant dependence upon His Majesty's pleasure. As far as respects the tenure of office, it has always been the virtual understanding that the Canadian Judges held their patents during good behaviour; but as far as respects the payment of their salaries, there is no such usage which could be opposed to any pretensions which the House of Assembly might hereafter be induced to prefer. It is precisely in that direction in which there was no real risk, that a security has been taken by this Bill; and on that side on which there was a serious ground for anxiety, no security at all has been afforded.

I have, &c.

(signed) *Goderich.*

CIVIL GOVERNMENT.

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DESPATCH from Lord *Aylmer* to Lord Viscount *Goderich*, dated 11 August 1832.
Received 1 October 1832.

My Lord,

Castle of St. Louis, Quebec.

I TAKE leave to refer to a passage in your Lordship's despatch of the 9th of April 1832, No. 92, the subject of which appears to me, as it will probably appear to your Lordship, to require explanation on my part. The passage alluded to is as follows :

"It is not without very sincere regret, that I find myself compelled to withhold my approbation of the measure which your Lordship reports yourself to have adopted, of issuing warrants on the Receiver-general, to defray the expense of purchasing lights and fuel for the gaols and court-houses, and food for the prisoners. Under circumstances of such peculiar delicacy, there was no mode of raising the money required for those indispensable services, which should not have been preferred to that of issuing funds, to the disposal of which the assent of the Legislative Council and Assembly was requisite. If any part of His Majesty's casual and territorial revenue was in the hands of the Receiver-general, the expenditure should have been defrayed exclusively from that money; if, for any reason, that resource was not available, it would have been more judicious to have drawn upon the Lords Commissioners of the Treasury for the requisite amount. Their Lordships would doubtless have admitted so extreme an exigency as an adequate excuse for departing from the regulations which have been laid down for your Lordship's guidance in the ordinary administration of the government of the province. It is in the discharge of a painful but necessary duty, that I disclaim, on the part of His Majesty's Government, all responsibility for this infringement of the law."

In observing upon the passage above transcribed, I will take leave to state, that upon the occasion to which it refers, I was fully impressed with a sense of the peculiar delicacy of the circumstances in which I found myself placed, and that situated as I then was, and indeed have been ever since the administration of this government has been in my hands, I felt the necessity of proceeding with the greatest possible circumspection. Accordingly I called upon the Inspector-general of Public Accounts for a statement of the funds at the absolute disposal of the Crown, to which recourse might be had for the unavoidable exigencies of the public service, pending my reference for instructions to His Majesty's Government, which had been rendered necessary by the reservation of the Supply Bill for the current year, for the signification of His Majesty's pleasure.

By this officer I was informed that the annual aid by 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 of this province," amounting to 5,000*l.* annually, together with the produce of certain duties on tobacco, under the Provincial Act 41 Geo. 3, c. 14, granted towards the same objects, the amount of which is estimated at 3,500*l.* annually, making together 8,500*l.* annually, might be considered as disposable by the Executive Government of the province towards the objects contemplated in those recited Acts, without reference to the Legislature of the Province, independently of the land and timber fund, which is unquestionably the property of the Crown. I had no reason to doubt the accuracy of the opinion of the Inspector-general of Public Accounts on the point referred to him; but being anxious to proceed upon the surest possible grounds, I consulted the Advocate-general as to the right of the Executive Government of the province to dispose of the above-mentioned funds without reference to the Colonial Legislature. Relying upon the authorities above-mentioned, I proceeded to issue warrants upon those funds, for the payments on account of such demands only as appeared to be indispensable in carrying on the public service; but even these were subjected to a very severe scrutiny, and cut down as much as possible. This will fully appear to have been effectually done, on reference to the statement which I have now the honour of transmitting; since the warrants issued by me on account of those demands amount only to 1,060*l.*, whilst the funds which the Inspector-general of Accounts and the Advocate-general consider as disposable by the Executive Government (independently of the land and timber fund) amount to 8,500*l.*

I think it necessary to add, that the amount of the land and timber fund being very inconsiderable, and liable at all times to unforeseen charges, I deem it advisable to abstain from having recourse to it for the ordinary demands of the public service, so long as I could draw upon other funds at the disposal of the Executive Government.

If the view which I have endeavoured to present to your Lordship on this subject be correct, it follows that no responsibility would attach to me, or in any other quarter, even supposing that the Supply Bill had not received the Royal sanction. The subsequent sanction of that Bill by His Majesty, removes, I apprehend, all doubt on that subject, more especially as all those expenses on account of which warrants have been issued are provided for in the Bill.

In either case, therefore, I trust I may be considered absolved from that responsibility, which I am to infer from the tenor of your Lordship's despatch, as above quoted, it is intended should attach to me individually.

Your Lordship will pardon me, I hope, for remarking further, that I entertain very strong objections to the rendering myself individually responsible to the Lords of His Majesty's Treasury, by drawing upon them without authority previously obtained; and it is only under the most pressing and urgent circumstances of the public service that I can reconcile it to

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myself to do so. The responsibility incurred by departing from their Lordships' regulations is very serious to persons in authority at distant stations, and adds very materially to the unavoidable difficulties and embarrassments incident to the administration of a colonial Government.

I have the honour to be, my Lord,
Your Lordship's most obedient humble servant,
Aylmer.

STATEMENT of WARRANTS issued by his Excellency Lord *Aylmer*, Captain-General and Governor-in-Chief, previous to the announcement of the Royal Sanction to the Supply Bill for the year 1832, in payment of certain indispensable Contingent Expenses connected with the Administration of Justice in Lower Canada for that year.

To C. R. Ogden, Solicitor-general, to enable him to defray the expense of summoning witnesses to attend the criminal term at Montreal, in March 1832	£.	s.	d.
	90	-	-
To L. Gagy, Sheriff of Montreal, to pay the allowances to be made to needy Crown witnesses attending the criminal term	135	-	-
To the same, on account of the contingent expenses of his office, for the support of prisoners in gaol	360	-	-
To Monk and Morrogh, prothonotaries at Montreal, for the purchase of fuel for the court-house	36	-	-
To T. Aylwin, high-constable at Quebec, to defray the expenses of summoning witnesses for the criminal term	27	-	-
To W. S. Sewell, sheriff of Quebec, on account of the contingent expenses of his office, for the support of prisoners, &c.	360	-	-
To B. J. Shiller, for having care of Crown witnesses during the session of the criminal term at Montreal	13	10	-
To Perrault and Burroughs, prothonotaries at Quebec, for the purchase of fuel for the court-house	45	-	-
Total Sterling	£.	1,066	10 -

Quebec, 31 July 1832.

(signed) *Jos. Cary,*
I. G. P. P. Accts.

(A true copy.)

H. Craig, Civil Secretary.

Note.—Had the Royal sanction been withheld from the Supply Bill voted for the year 1832, the foregoing issues would nevertheless have been covered by the under-mentioned funds, which have been permanently granted to His Majesty by Provincial Acts; viz.

1st. The annual aid by 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 this Province"	£.	s.	d.
	5,000	-	-
2d. The produce of certain duties on tobacco under the Provincial Act 41 Geo. 3, c. 14, granted "towards further defraying the Charges of the Civil Government of this Province;" the amount estimated at	3,500	-	-
Total Sterling	£.	8,500	- -

EXTRACT of a DESPATCH from Viscount *Goderich* to Lord *Aylmer*, dated Downing-street, 21 Nov. 1832. Received in the Colony 11 January 1833.

"I HAVE received your Lordship's despatch, dated 11th August, No. 68, explaining a statement contained in your despatch of 27th February, No. 15, on which I had commented in my despatch of 9th April, No. 92, respecting the directions given to the Receiver-general to defray certain expenses connected with the gaols, court-houses and prisoners, in the province of Lower Canada.

"I am gratified and relieved to find that I misapprehended your Lordship's meaning in your despatch of the 27th February, and that the statement there made, that in order to provide for the expenses in question you would be 'under the necessity of issuing warrants on your own responsibility,' and that 'no issue whatever from the public chest should be made that could by possibility be avoided,' did not really bear that meaning which I supposed them to convey. I had certainly inferred (and I must continue to think that the inference was unavoidable) that the 'public chest' on which you proposed to draw on 'your own responsibility,' was none other than the very fund which, as I learned from the same despatch, your reservation of the Supply Bill had placed beyond your Lordship's disposal. If I had been in possession of the more copious explanation contained in your Lordship's despatch of the 11th August, I should have spared myself the pain of writing those expressions of disapprobation

disapprobation against which you have, in your despatch of the 11th August, defended yourself.

"I now find that the drafts in question were made upon the proceeds of the two Provincial Acts 35 Geo. 3, c. 9, and 41 Geo. 3, c. 14; that those funds were considered by the Inspector-general of Public Accounts, and by the Advocate-general of the Province, as subject to the disposal of the Crown, without the consent of the House of Assembly; and that the responsibility which your Lordship had ventured to incur was merely that of having issued a portion of those funds without the previous sanction of the Lords Commissioners of the Treasury. Upon this explanation there is of course an end to every difference of opinion between us, and therefore to the disapprobation of your Lordship's conduct in this instance, which I found it my painful duty to express, when labouring under the want of adequate information as to the fund whence the money was really taken."

Frederick Elliot,
Esq.

5 May 1834.

COPY of a DESPATCH from Lord *Aylmer* to Viscount *Goderich*, dated Castle of St. Louis, Quebec, 21st November 1832. Received 21st December 1832.

My Lord,

I have the honour of informing your Lordship, that on the 15th instant I opened the session of the Provincial Parliament with a speech, of which a copy is herewith transmitted.

I have likewise the honour of transmitting copies of the addresses of the Legislative Council and House of Assembly in answer to it, and of my replies to each respectively.

The House of Assembly, following up their proceedings of the two last sessions, had no sooner withdrawn to their own House after the delivery of my opening speech, than they forthwith resolved to expel, for the third time during the present Parliament, Robert Christie, esq., the member for Gaspé. From this circumstance it will be apparent to your Lordship that no opportunity was afforded me of anticipating the discussion of Mr. Christie's case by the communication of your Lordship's Despatch, No. 74, of the 26th January last, and the documents connected with it; and in fact the opportunity of making any communication at all to the House cannot be said to have been afforded (consistently with Parliamentary usages in this colony) until after the reception of the address in answer to my opening speech, which was only presented to me yesterday.

I purpose sending down this day my message to the House of Assembly on the subject of Mr. Christie, together with copies of your Lordship's despatch, No. 74, of the 26th of January last, and the documents connected with it; and to the two Houses, the message concerning the Supply Bill of last year, a draft of which message accompanied your Lordship's despatch of the 9th of April last, No. 92.

Up to the present time, little or nothing in the way of business has been done in either House.

In the House of Assembly two resolutions (copies of which are enclosed) were adopted last night, with reference to my speech delivered on closing the last session of the Provincial Parliament. The first of these resolutions was carried unanimously, but there was a division upon the second of them, or 42 to 10.

I have, &c.

(signed) *Aylmer.*

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

I have called you together at the period precisely corresponding with that of your last year's meeting, being still under the impression that it is the best suited to the convenience of the majority of the members of the two Houses of the Provincial Parliament.

It is besides peculiarly desirable that the present session should commence at an early period, in order to afford sufficient time for bringing to maturity such measures as were in progress at the close of the last session, and for taking up the consideration of such other measures as the growing wealth and prosperity of the province may suggest.

The period having arrived for effecting a new adjustment of the proportion to be paid to Upper Canada of certain duties levied in this province, the commissioners nominated on the part of the two provinces respectively under the provisions of the Act of 3 Geo. 4, c. 119, have recently met, and entered largely into the consideration of that subject; and although the discussion which ensued thereupon was conducted with no less cordiality and good feeling than with ability and diligence on both sides, I am concerned at having to announce to you that the commissioners have separated without coming to any decision upon the important question intrusted to their management; and having moreover differed in regard to the appointment conjointly of a third commissioner or arbitrator, it becomes necessary, according to the provisions of the above-mentioned Act (s. 17), to refer the matter to His Majesty's Government, for the purpose of obtaining the appointment of an arbitrator under the Royal sign manual.

The subject of the currency has been brought under your notice upon more than one occasion during the last few years; but no practical measure having resulted from the consideration of it, I think it necessary to advert to it again, not so much with a view to the adoption of any general and comprehensive system, as to suggest the expediency of providing for the wants of the public by the creation of a metallic currency of inferior value, to

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replace the small silver coin and copper now in circulation, the intrinsic value of which (especially the latter) is notoriously much below its current value.

Of the temporary Acts of the Legislature which are about to expire, I desire to call your particular attention to the following; viz.

1st, An Act relating to the fisheries in the county of Gaspé, repealed in part by the 1st of Will. 4, c. 22, which expires on the 1st of May 1833.

2dly, An Act to establish Registry Offices in the counties of Drummond, Sherbrooke, Stanstead, Shefford and Missiskour, amended and extended by the 1st Will. 4, c. 3, s. 2; further extended by 2 Will. 4, c. 7; duration until 1st May 1833.

And, 3dly, An Act to establish Boards of Health within this Province, and to enforce an effectual system of Quarantine; which expires on the 1st February 1833.

I think it necessary here to refer to that part of my speech to you, at the opening of the last session, which relates to the townships. The increasing importance of that interesting portion of the province, the habits of its population, and their wishes connected with the advancement of their own peculiar interests, are subjects which well deserve the attention of the Legislature.

By the enactment of laws calculated to meet the diversified wants of a mixed population like that of Lower Canada, the general prosperity of the country will be advanced, and the peace and contentment of all classes of His Majesty's subjects in the province established upon a solid and lasting basis.

The foregoing remark embraces a truth so obvious, that it may perhaps be superfluous to introduce it on the present occasion; but my mind is so deeply impressed with a sense of the importance (I might perhaps add the necessity) of effecting a strict and cordial union of interests and public feeling throughout the province, that I cannot abstain from seizing every opportunity which presents itself for promoting the success of an object of such paramount interest; an object which (as it appears to me) it is no less the duty than it is manifestly the true interest of every inhabitant of Lower Canada to assist in promoting to the utmost of his ability, and in preference to every other consideration.

Gentlemen of the House of Assembly,

The Supply Bill voted during the last session, which, in consequence of particular circumstances with which you are already acquainted, and in conformity with the instructions received by me from His Majesty's Government, was reserved for the signification of His Majesty's pleasure, has subsequently received the Royal sanction. Upon this subject it will be my duty to make an early communication to you by a special Message.

The appropriation of last Session for giving effect to the provisions of the Act to establish boards of health within this province, and to enforce an effectual system of quarantine, although liberal in its amount, has nevertheless proved inadequate to the demands made upon it; but the excess has not been so considerable as there was reason to apprehend from the prevalence of Asiatic cholera morbus in most parts of the province, which rendered necessary the creation of not less than 10 boards of health, with their corresponding establishments, in addition to the expensive establishment at Grosse Isle.

I trust that the excess above alluded to will be provided for with the same liberality which prompted the original grant.

I avail myself of this opportunity to suggest the expediency of making provision for the possible necessity for incurring further expense on the same account during the current year.

The accounts of the general expenditure of the province during the past year are in a forward state of preparation, and will, I trust, be in readiness to be laid before you at the period prescribed by legislative regulation. Should any delay take place in rendering these accounts, it is to be ascribed to the great labour necessary in preparing the voluminous and detailed statements required from the Executive Branch of the Legislature of all its disbursements of public money.

An estimate of the expenses of the Civil Government for the ensuing year, framed according to the instructions of His Majesty's Government, will in like manner be laid before you.

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

The apprehensions evinced by the Legislature during the last session, by the passing of the Act to establish boards of health within this province, and to enforce an effectual system of quarantine, have been but too fatally realized; and the frightful disease, the introduction of which it was the principal object of that Act to prevent, has visited the colony with a degree of violence of which there are few examples on record in other parts of the world.

Happily that disease is now considered to have ceased to prevail epidemically in the province; but, in the event of its reappearance, it may be presumed that the experience acquired during the late visitation will (if those establishments are to be maintained) enable the several boards of health to improve upon the regulations already adopted by them.

I should be guilty of injustice towards the individuals composing and connected with those establishments, especially the gentlemen of the medical profession, were I to pass over in silence the meritorious services performed by them in the discharge of an arduous, important, and (in many instances) an invidious duty. The nature of that duty being altogether new in this

this country, the performance of it was attended with many difficulties in the commencement: these have been gradually overcome through the united effects of zeal and experience; and I trust that the services to which I now allude will be duly appreciated by the public, for whose benefit they were undertaken.

Before I take leave of this subject, and close the present address, I must not omit to offer the tribute of praise due in a quarter which I approach with sentiments of the most profound respect. You will, I am sure, have anticipated me when I add, that I here allude to the meritorious exertions of the clergy in general during that awful visitation with which it has pleased Divine Providence to afflict this land. In that season of terror and dismay, when even to approach the dwellings of those who were suffering under the influence of the prevailing disease required with many persons an effort of the mind, the ministers of religion went courageously forth, and, entering the abodes of disease and death, were there to be found day after day, and night after night, bending over some devoted victim of the fatal malady, and, whilst inhaling the tainted breath that issued from his distempered frame, pouring words of comfort and consolation in his ear, and preparing his soul for its passage into another state of existence.

Such exalted instances of self-devotion are far, very far, beyond the reach of any praise that I have the power to bestow; and I will therefore only add, that by their conduct during the late prevalence of disease in the province, the clergy in general have acquired new claims upon the love, the gratitude, the veneration, and the confidence of the people committed to their spiritual care.

Castle of St. Louis, Quebec, }
15 November 1833. }

To his Excellency the Right honourable Matthew Lord Aylmer, Knight Commander 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, Nova Scotia, New Brunswick, and their several dependencies, Vice-Admiral of and in the same, and Commander of all His Majesty's Forces in the said Provinces and their dependencies, and in the Islands of Newfoundland, Prince Edward, Cape Breton, Bermuda, &c. &c. &c.

May it please your Excellency,

We, His Majesty's dutiful and loyal subjects, the Commons of Lower Canada in Provincial Parliament assembled, humbly thank your Excellency for your speech delivered at the opening of the present session.

We continue to appreciate your Excellency's kind attention to the convenience of the members of the Legislature, in again assembling it at a time deemed the most suitable.

We shall endeavour to avail ourselves of this early calling to consider such measures as were in progress at the close of the last session, and to take up the consideration of such other measures as the wants of the province may suggest.

Upon the information given by your Excellency, that the commissioners nominated under the provisions of the Act of 3 Geo. 4, c. 119, for effecting a new adjustment of the proportion to be paid to Upper Canada of certain duties levied in this province, have recently met and entered largely into the consideration of that subject; and that although the discussion which had ensued thereupon was conducted with cordiality, diligence and good feeling on both sides, the commissioners have separated without coming to any decision upon the important question intrusted to their management, and have moreover differed in regard to the appointment, conjointly, of a third commissioner or arbitrator. We fully appreciate the concern of your Excellency in announcing to the Legislature that it becomes necessary, according to the provisions of the above-mentioned Act, to refer the matter to His Majesty's Government, for the purpose of obtaining the appointment of an arbitrator under the Royal sign manual. We are convinced, at the same time, that no diligence will be spared on the part of your Excellency in order that the interests of either province may not materially suffer from that circumstance.

The subject of the currency having been several times considered of late years by the Legislature, but no measure of sufficient extent having yet resulted from that consideration, we thank your Excellency for adverting to it again, particularly with a view to suggest the expediency of providing for the wants of the public by the creation of a metallic currency to replace the small silver coin and copper now in circulation, the intrinsic value of which (especially of the latter) is notoriously much below its current value.

The temporary Acts of the Legislature which are about to expire, shall receive our particular attention.

Being sensible of the diversified wants of the people at large, we can assure your Excellency that the increasing importance of every section of the province, whether in townships or seigniories, the habits of its population, and their wishes connected with the advancement of their own peculiar interests, will be met on our part with a like feeling. Your Excellency will rest assured, that the part of your speech to us at the opening of the last session, which regards the local wants of the eastern townships, has not been neglected, and that practically it has always been the desire of this House to connect the remotest parts of the province with the rest, both as it concerns the mutual interchange of commodities and the personal intercourse of their inhabitants.

Frederick Elliot,
Esq.

5 May 1834.

This House has nothing more at heart than the advancement of the general prosperity of the country, and of the peace and contentment of all classes of His Majesty's subjects in the province, established upon the solid and lasting basis of the same political ties, the same laws, a common interest, and an equal hope in the protection of the mother country. These objects embrace considerations so obvious, that it would be superfluous to comment upon the importance of effecting a strict and cordial union of interests and public feeling throughout the province. This House has already evinced how deeply it was impressed with a sense of that importance in its loyal addresses to His Majesty's Government, praying for the repeal of certain late enactments, and for the removal of practical evils which have impeded that desirable aim; and should the Legislature be called upon to provide further security against their recurrence, we shall consider it not less our duty than it is manifestly in accordance with the true interest of every inhabitant of Lower Canada, to assist in promoting the same to the utmost of our ability, and in preference to every other consideration.

The sanction given by His most gracious Majesty to the Supply Bill voted during the last session, which had been reserved for the signification of His Royal pleasure under instructions which had not been communicated to this House, has been greatly beneficial to the regularity of every department of His Government of this province. We shall receive with respect any communication that your Excellency may make to us upon that or any other subject.

We deplore that the prevalence of the cholera morbus in most parts of the province has been so extensive, that the appropriation of last session for giving effect to the provisions of the Act to establish boards of health, however liberal in its amount, has proved inadequate to the demands made upon that appropriation.

We shall inquire diligently into every subject connected with that expenditure, and the expediency of more adequate enactments to prevent and overcome the disease, should there be a possibility of its ulterior reappearance.

We thank your Excellency for the information that the accounts of the general expenditure of the province during the past year are in a forward state of preparation. We are sincerely persuaded that your Excellency will cause them to be submitted to us in due time, and as early as possible as the circumstances mentioned by your Excellency will permit.

We shall also pay due consideration to the estimate of the expenses of the Civil Government for the ensuing year, which your Excellency is pleased to say you will lay before us.

We participate in the deep sorrow which your Excellency and every individual in the province must have felt, that the apprehensions evinced by the Legislature during the last session by the passing of the Act to establish boards of health, and to enforce an effectual system of quarantine, have been but too fatally realized; and that the disease which it was the principal object of the Act to prevent, has visited the colony with a degree of violence of which there are few examples on record in other parts of the world.

We are happy to learn that the disease is now considered to have ceased to prevail epidemically in the province. We hope that in the event of its reappearance, the experience acquired during its late visitation will enable such bodies or persons as their duty or humane zeal will prompt in trying to avert the calamity, to improve upon the means already resorted to.

The commendation made by your Excellency of the meritorious services of the individuals composing and connected with these establishments, especially the gentlemen of the medical profession, in the discharge of an arduous, important, and (in many instances) an invidious duty, the nature of it being altogether new in this country, and its performance being attended with many difficulties in the commencement, is an honourable reward for the persons concerned, and we shall be happy to find that the same praise is due in such particular details as may not yet have reached your Excellency. The public, for whose benefit those services were undertaken, cannot fail to appreciate them.

The assistance which may have been rendered to the poorer classes of society by the medical faculty generally throughout the province, is also a subject of commendation.

Your Excellency's acknowledgment, in alluding to the meritorious exertions of the clergy in general during that desolating visitation with which it has pleased Divine Providence to afflict this land, is a just and well-deserved tribute. The devotion and promptitude of the ministers of religion, in their unceasing visits to the diseased and dying, day after day and night after night, to offer charitable help and pious consolation, at a time when the ties of kindred and friendship appeared in several instances to have been weakened, are undoubtedly entitled to a lasting remembrance and gratitude from the people committed to their spiritual care.

To his Excellency the Right honourable Matthew Lord Aylmer, Knight Commander of the most honourable Military Order of the Bath, Captain-general and Governor-in-Chief, &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 thanks for your speech from the throne on opening the present session of the Legislature.

We beg leave to thank your Excellency for having been pleased to call us together at that period of the year which is considered as best suited to the convenience of the majority of the members of the Legislature, and as affording sufficient time for bringing to maturity such measures

measures as were in progress at the close of the last session, and for taking into consideration such other enactments as the growing wealth and prosperity of the province may suggest.

We regret to learn that the commissioners appointed to adjust the proportion of duties to be paid to Upper Canada have separated without coming to any decision on that very important subject.

Should any measure relative to the currency be brought under our consideration, it will not fail to receive from us every attention which so delicate and difficult a subject demands.

The laws about to expire will receive our attentive consideration.

The growing importance of this province, the habits of those who compose its population, and their wishes relative to the advancement of their individual and general interests, the enactment of wise laws calculated to ameliorate the condition of the country at large, and the just and impartial administration of those laws, tending necessarily to effect a union of public feeling, and to promote the interests of all His Majesty's subjects in this province, are matters well deserving the serious attention of the Legislature, the aim of whose labours should be to meet the diversified wants of a mixed population, and thereby establish upon a solid and lasting basis the general prosperity of the country, and the peace and contentment of all His Majesty's subjects therein. We beg to assure your Excellency of our cordial co-operation in any measures having for their object a result so desirable for the public good.

We deeply lament that the apprehensions evinced by the Legislature during the last session, by the passing of the Act to establish boards of health, and to enforce quarantine regulations within this province, have been so fatally realized; and that the frightful disease, the introduction of which it was the aim of that enactment to prevent, has visited the colony with a degree of violence scarcely exceeded in any other part of the world. Happily that disease has now nearly disappeared from this province; but while it is known to exist in any part of this continent or of Europe, we conceive it would be unwise in the Legislature, and in the people at large, to relax in such precautionary measures as, under Divine Providence, are considered most effectual in preventing the spread of its destructive influence.

The individuals engaged in carrying into effect the enactments of the Legislature for the preservation of the public health, especially the gentlemen of the medical profession, have had an arduous, important, and in many instances an invidious duty to perform; and it is not surprising that its performance should have been attended with difficulties in the commencement, which yielded gradually to the united effects of zeal and experience. We trust, with your Excellency, that the services alluded to will be justly appreciated by the public, for whose benefit they were undertaken; and the gratuitous assistance rendered to the poorer classes of society by the medical faculty is well deserving of warm commendation.

We beg to assure your Excellency that the Legislative Council warmly responds to the well-deserved eulogium offered to the meritorious exertions of the clergy, during the awful and calamitous visitation with which it pleased Divine Providence to afflict this land. With a charity and zeal not to be surpassed, these exemplary men were seen every where pouring consolation and revived hopes into the hearts of their brethren suffering under a malady in which despondency is the certain harbinger of death; and their generous devotion in a season of such terror and dismay cannot fail to have acquired for them the increased gratitude, confidence, and veneration of the respective congregations over which they so worthily preside.

Mr. Speaker, and Gentlemen of the Legislative Council,

I receive this address with much satisfaction; and I feel assured that the wisdom of the Legislative Council will manifest itself during the present session by an undivided attention to the substantial interests of the country.

Castle of St. Louis, Quebec, }
21 November 1832.

Mr. Speaker, and Gentlemen of the House of Assembly,

I thank you for this address. It encourages the hope which I ardently cherish, that the labours of the present session may be productive of measures calculated to advance the substantial interests of the colony.

Castle of St. Louis, Quebec, }
20 November 1832.

COPY of certain RESOLUTIONS adopted in the House of Assembly of *Lower Canada* on the 20th November 1832.

Mr. Bourdages, seconded by Mr. Morin, moved to resolve, "That any censure of the proceedings of this House, on the part of another branch of the Legislature of the Executive Government, is a violation of the statute in virtue of which this House was constituted; an infringement of its privileges, which they cannot dispense with protesting against; and a dangerous attack against the rights and liberties of His Majesty's subjects in this province."

Carried unanimously.

Frederick Elliot,
Esq.
5 May 1834.

33. To what circumstance does that Resolution allude?—It alludes to the passage in Lord Aylmer's closing speech of the last session, where he expressed his regret that the Assembly had not agreed to the Earl of Ripon's proposal on the subject of a Civil List.

34. Does it not relate to any Resolution passed in Legislative Council?—No, I apprehend not.

[Mr. Elliot proceeded to read the second Resolution.]

Mr. Bourdages, seconded by Mr. De Bleury, moved to resolve, that "That part of the speech of his Excellency the Governor in Chief addressed to this House on the 25th of February last, at the close of the last session, and which has relation to the proceedings of this House upon the proposition of a Civil List, and to the motives for reserving for the signification of the pleasure of His most gracious Majesty the Bill of Supply passed by the two Houses, is a censure on the part of the head of the Executive of the proceedings of this House, which had acted as an equal and independent branch of the Legislature, for divers good causes and considerations to itself known, for the benefit of His Majesty's subjects in this province, and of His Government therein."

EXTRACT of a DESPATCH from Lieut.-General Lord Aylmer to Viscount Goderich, dated 29th March 1833. Received 1st May.

My anticipations respecting the fate of the Supply Bill recently passed by the House of Assembly have been verified, the Legislative Council, in their sitting of yesterday, having thrown out the bill without a dissentient voice.

This circumstance renders it necessary that I should be instructed in what manner to provide for the means of carrying on the government of the province during the current year.

Being unacquainted with the view taken by His Majesty's Government of the construction to be given to the Act 1 & 2 Will. 4, c. 23, to amend the Act of 14 Geo. 3, c. 88, I have only to rely upon that which appears, almost unanimously, to have been given to it by the legal authorities here in Lower Canada; namely, that in the event of the three branches of the Legislature of the province not concurring in regard to the disposal of the revenues raised under the Act of the 14 Geo. 3, the provisions of that Act come again into full operation in like manner as if the Act of 1 & 2 Will. 4, c. 23, above referred to, had never existed, enjoining the Lords of the Treasury to appropriate those revenues to the expenses of the civil government of the province, and to account to the Imperial Parliament for the overplus, if any should remain after providing for those expenses.

I have called upon the law officers of the Crown and the King's Counsel for their opinion upon the point above mentioned, which opinions shall be communicated to your Lordship as soon as received.

35. In the supply bill which was passed that year, were the salaries of the judges included?—Yes.

36. In the course of the same session was any bill brought in with regard to the independence of the judges and the impeachments?—Yes, a bill was brought in with regard to the independence of the judges.

37. What was the fate of that bill in the House of Assembly?—The bill did not pass through the House of Assembly.

38. Do you know on what ground the bill failed in the House of Assembly?—The first account which I had an opportunity of seeing of that bill was contained in a newspaper. The bill seemed to be then already before the House of Assembly, and I found the first speaker in that debate was Mr. Papineau, who opposed the bill. The decision was not taken in the course of the debate then reported; and my information, being derived only from that source, is very incomplete.

39. Have you ever seen the bill that was rejected by the House of Assembly?—I have a copy of the bill.

40. Of the bill of 1833?—Yes.

41. State in what respect it differed from the bill of 1832?—It did not contain a provision that the Legislative Council should be a tribunal for the trial of impeachments generally; it merely provided that the Legislative Council should try impeachments against the judges. It did not contain a provision that the judges should be paid first out of the casual and territorial revenue, and then out of the general funds of the province; and in that respect also it differed from the former bill. Those are the two main differences.

42. Then the bill that was brought in, but rejected in the House of Assembly, was in conformity with the recommendation that had been made by Lord Goderich

Frederick Elliot,
Esq.

5 May 1834.

in the previous year, and avoided those objections to which he conceived the former bill to be liable?—No; one material objection still remained unremoved.

43. What was that?—The bill did not contain any authority to the governor to issue warrants for the amount of the judges' salaries; it merely stated that the judges' salaries should be taken out of the general revenue, but authorized no one to make the actual payment. From the manner in which the bill is worded, I should have concluded that the intention was to remove all the Earl of Ripon's objections. I am unable to account for the difference in the respect I have mentioned; but, from the general conformity of the new bill with the Earl of Ripon's suggestions, it might be supposed that the single deviation from them must have been the effect of an oversight.

[*Here the Bill for securing the Independence of the Judges was handed in.*]

44. The bill having failed, the salaries of the judges were included, as they had been before, in the annual estimates?—The judges' salaries were borne on the estimates.

45. Did the Legislative Council state any reasons for their rejection of that Supply Bill?—Their reasons are known; it was on account of the conditions annexed to the vote of various salaries.

46. Have you a list of those conditions?—I have a list of the salaries voted on condition, with explanatory remarks. With the permission of the Committee, I will read them.

LIST of OFFICERS' SALARIES voted by the Assembly of Lower Canada in the Session of 1833, subject to certain Conditions.

NAME OF OFFICE AND OFFICER.	PROVISO.	REMARKS.
1. Auditor of Land Patents; A. W. Cochrane, esq.	Provided he keeps a public office, to be open during the usual times of business, and that he holds no other office or place connected with granting land patents.	1. By looking at No. 7 in this List, it will be seen that the present auditor of land patents does hold another office connected with land-granting. This proviso therefore affects the actual holder of the situation.
2. Clerk and Registrar of Executive Council; H. W. Ryland, esq.	Provided that he be not a member of the Legislative Council, and not otherwise.	2. Mr. Ryland has held both offices, here made incompatible, for more than 20 years. This clause would render it necessary to unseat him from one of the two.
3. Speaker of the Legislative Council; Chief Justice Sewell.	Provided such Speaker do not at the same time receive an equal or higher sum as a salary attached to any other public situation.	3. This condition is apparently inserted in order to prevent the Chief Justice from being Speaker. The two offices have always been combined. The Chief Justice has ceased to be a member of the Executive Council; but his presence in the Legislative Council was considered indispensable to legal accuracy in the transaction of business, and was recommended by the Canada Committee.
4. Clerk of the Legislative Council; William Smith, esq.	Provided that he be not a member of the Executive Council.	4. 5. & 6. Mr. Smith and Mr. Delery have been members of the Executive Council for several years. Their appointments as officers of the Legislative Council have been held since 1793. This proviso would make it necessary that they should relinquish one situation or the other.
5. Assistant Clerk of Legislative Council; C. E. Delery, esq.	Same proviso.	7. Mr. Cochrane is a member of the Executive Council. He is also Commissioner of the Court of Escheats, an office which may be termed judicial. In both capacities he falls within the scope of this proviso, which is obviously aimed at the individual whom it so directly affects.
6. Master in Chancery; William Smith, esq.	Same proviso.	9. Clerk
7. Law Clerk; A. W. Cochrane, esq.	Same proviso, and also that he do not hold any judicial situation.	
8. Speaker of the Assembly; L. J. Papineau, esq.	Provided that he do not at the same time receive an equal or higher sum as a salary attached to any other public situation.	

Frederick Elliot,
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5 May 1834.

NAME OF OFFICE AND OFFICER.	PROVISO.	REMARKS.
9. Clerk of the Crown in Chancery; R. W. Ryland, esq.	Provided he be neither a member of the Legislative Council or of the Executive Council.	9. Mr. Ryland has been a member of the Legislative Council since 1811.
10. Six Puisné Judges, 900 <i>l.</i> each; (Mr. W. Kerr is one of them.)	Voted 900 <i>l.</i> each, provided such judge shall neither hold nor enjoy any other office of profit whatever under the Crown.	10. 11. 12. These provisos will not affect any of the actual judges, except Mr. Kerr, who holds two judicial situations.
11. Provincial Resident Judge, Three Rivers; J. R. Vallières de St. Real.	Provided such judge hold no other place of profit under the Crown.	
12. Two Provincial Judges; Messrs. Fletcher and Thompson.	Same proviso.	
13. Judge of Vice Admiralty Court; James Kerr, esq.	Provided that he do not take, exact or receive any fees, and do not hold or enjoy any other place of profit whatever under the Crown.	13. Mr. Kerr is also Judge in the Court of King's Bench. The present proviso would render it requisite to divest him of one of his offices.
14. Sheriffs of Montreal, Quebec, Three Rivers; L. Gogy, J. Ogdén, F. Winter.	Provided they be neither Legislative nor Executive Councillors.	14. Mr. Gogy has been a member of the Legislative Council since 1818.
15. Master of Grammar School, Québec; Rev. J. Burrage.	Half the salary voted, provided he teach gratuitously at least 20 children belonging to destitute persons.	15. Mr. Burrage has complained much of this reduction of his salary, and of the condition as to free scholars. He was induced to quit England in the year 1816 by the expectation of the salary of 200 <i>l.</i> , of half of which he is now deprived.
16. Master of Grammar School, Montreal; A. Shakel.	Same proviso. Half salary voted.	16. Mr. Shakel was appointed to this office in 1818, and has made a complaint similar to that of Mr. Burrage.
Commissioner for managing Jesuits' Estates; John Stewart, esq.	Provided that he be not a member of the Legislative or Executive Councils.	Mr. Stewart is both a member of the Executive and of the Legislative Council.

47. Do any of the judges hold other offices?—Yes; one of the puisné judges of the Court of King's Bench is also a judge of the Vice Admiralty Court. By this clause he must give up one situation or the other.

48. Did he receive a salary in both capacities?—He received a distinct salary in each capacity.

49. What is the amount of salary received by the judge of the Vice Admiralty Court?—£.200 a year.

50. Is it not the practice, in almost all of the colonies, that one of the other judges should act as the judge of the Vice Admiralty Court?—Yes; and I understand the practice has been introduced, because in time of peace the business of the Court is so small, that it would be a needless expense to keep a judge separately for this office.

51. If a judge were kept separately for the office of the Vice Admiralty Court, 200*l.* a year could hardly be a fair compensation for such office?—I should conclude no man of ability would be induced to quit this country to fill a judicial office in a distant colony for 200*l.* a year.

52. They cut down Mr. Burrage's salary to one half, and that half was made contingent on what?—On his teaching 20 free scholars.

53. How many had he taught before?—I am not aware. Mr. Burrage has complained earnestly of the reduction of his salary after many years' service. He is believed to be personally obnoxious to the Assembly. By fixing the number of free scholars, he will be compelled to maintain an assistant, whether or not the number of pay scholars will cover the expenses.

54. When

54. When that is called a grammar-school, are there any privileges attached to the scholars who learn in it, or do they learn gratuitously in any way there?—I do not remember as to the privileges. The amount of salary used to be 200*l.*; it has been reduced to 100*l.* a year. And it should be remarked, Mr. Burrage was induced to leave England upon that yearly sum of 200*l.* being held out to him as the salary to be paid.

[*Parts of a Despatch from Mr. Stanley to Lord Aylmer, of 6th June 1833, were read:.*]

Frederick Elliot,
Esq.

5 May 1834.

EXTRACTS of a DESPATCH from Mr. Secretary *Stanley* to Lord *Aylmer*, dated Downing-street, 6th June 1833. Received in the Colony 6th August 1833.

“ I have the honour to acknowledge the receipt of your Lordship’s despatches, of the numbers and dates noted in the margin, relative to the expulsion of Mr. Mondelet from the House of Assembly, and to the grounds on which you had declined to issue a new writ.

No. 100,
Nov. 29, 1832.

“ I have likewise to acknowledge your despatches, No. 30, of the 29th March last, reporting the rejection by the Legislative Council of the Supply Bill sent up by the House of Assembly; Nos. 29 of the 27th March, and 33 of the 5th April, transmitting addresses to the King from both Houses of the Legislature; and your despatch marked ‘separate,’ of the 31st March 1833, enclosing an address to His Majesty from certain inhabitants of Montreal, respecting the alteration of the constitution of Lower Canada as established by 31 Geo. 3, c. 31.

No. 105.
Dec. 27, 1832.
No. 27,
March 20, 1833.

“ I propose to refer to all these topics in a single despatch, because, though in themselves apparently unconnected with each other, they bear a relation unhappily too perceptible to those who have studied the political discussions which have so long distracted the councils of Lower Canada.”

* * * * *

“ It is with great regret that I perceive, in the terms of the Supply Bill recently sent up by the House of Assembly, and rejected by the Legislative Council, a similar manifestation on the part of the former body of a desire to monopolize to themselves the whole power and authority of the government. The conditions annexed to the grant of many of the items in the late Supply Bill, are altogether unprecedented in point of form, and without any precedent in substance. Conditional grants are not unfrequent in Acts of Assembly, but the terms in which money is voted have been invariably embodied in distinct and substantive enactments, instead of being attached in the shape of notes to successive items, as in the present case. This distinction is not without real importance, because by adhering to the more usual form, the Legislature would have admitted or rather invited under each head a distinct consideration; first, in Committee of Supply, and then in successive stages of the bill, of the grant itself and of the condition to which it was subjected.

“ In so far as the Supply Bill imposed upon the different grants it contained, conditions of a pecuniary nature, or conditions for the performance of specific services in return for the sums voted, they are not unconstitutional in substance. It is a matter of constant occurrence in the colonies, and as I conceive in Parliament, that in voting money for the public service, stipulations of this nature should be made for the public benefit. On the other hand, the various conditions which required that certain officers should not be members of the Executive or Legislative Councils, must be considered (in Parliamentary language), ‘tacks,’ the effect of which is to introduce changes in the law by the decision of a single branch of the Legislature. To tack to a bill of supply demanded by the exigencies of the State, a clause or enactment not properly connected with it, in order to compel the Crown or the Upper House to make their choice between the loss of the supply with all the consequent mischiefs, on the one hand, or the adoption of a measure which they disapprove, on the other, is a practice which, though formerly attempted in this kingdom, has been long since discontinued, as directly tending to wrest from the King and the Peers their share in the general legislation of Parliament.

“ I cannot therefore but think, that even had the consideration of the very serious inconvenience which will be sustained from the loss of a Supply Bill, induced the Legislative Council to sanction the Bill of this year in the form in which it left the House of Assembly, His Majesty could not have been advised to sanction the enactment. It remains therefore to consider in which way and to what extent the inconvenience can be mitigated, by the application to the more pressing exigencies of the service, of the revenues within the province at His Majesty’s disposal. Having referred to the law officers of the Crown your Lordship’s despatch, 29th March last, No. 30, with reference to the absolute or conditional surrender by the 1 & 2 Will. 4, c. 23, of the revenues raised under the 14 Geo. 3, c. 88, I have to acquaint you that those officers are of opinion that the effect of the Act 1 & 2 Will. 4, c. 23, is at once, from the time of passing the Act, and without qualification, to place at the disposal of the Legislature of the province the appropriation of those revenues which the previous Act, 14 Geo. 3, had raised and placed at the disposal of the Government through the medium of the Treasury. Any application therefore by the Treasury of those revenues which have accrued due since the passing of the 1 & 2 Will. 4, appears to be no longer in the power of the Lords of the Treasury, or any other of the officers of the

Crown;

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Crown; and if it should be thought desirable to resort again to the provisions of the Act of 14 Geo. 3, it cannot be legally done without a repeal of the Act 1 & 2 Will. 4, c. 23.

“The fund, therefore, which remains at the disposal of the Crown is limited to that levied under

	£.	s.	d.
Prov. Act, 35 Geo. 3	-	-	-
Ditto 41 Geo. 3	5,000	-	-
Net produce of casual and territorial revenue, including land and timber fund	5,600	-	-
	4,500	-	-

which may probably be considered to amount to 15,100*l.* These sums your Lordship will apply, so far as they will meet the charge, to the payment of the officers enumerated below:

No. 1.		£.	s.	d.
Governor	- - - - -	£. 4,500	-	-
Provincial Secretary	- - - - -	400	-	-
Governor's ditto	- - - - -	500	-	-
Attorney-General	- - - - -	300	-	-
Solicitor-General	- - - - -	200	-	-
			5,900	- -
No. 2.				
Chief Justice	- - - - -	1,500	-	-
Ditto - Montreal	- - - - -	1,200	-	-
6 Puisné Judges, 900 <i>l.</i> each	- - - - -	5,400	-	-
3 Provincial Judges	- - - - -	1,600	-	-
Judge, Vice Admiralty Court	- - - - -	200	-	-
			9,900	- -
		£.	15,800	- -

Or if your Lordship should deem it more expedient to appropriate for this object only such an amount as shall provide for the salaries of those officers, until the period when the Provincial Legislature shall again re-assemble, and have opportunity of re-considering the case, your Lordship is authorized to appropriate the balance remaining, after the payment *in part* of those officers whose names have been enumerated in the list already given, to such branches of the public service as might appear to be most inconvenienced by any delay of payment. I am by no means insensible to the extreme inconvenience which will be felt in consequence of no provision being made for other objects of great importance to the internal affairs of the colony; but I feel it to be my duty, notwithstanding the strong inducements which would suggest a compliance with your Lordship's recommendation, to withhold my sanction from any issue out of the military chest for services left unprovided for by the local Legislature. The responsibility of the absence of such provision must be left upon those who have incurred it by their unreasonable pretensions. I cannot but feel the greatest surprise and concern at the course adopted by the Assembly, when I consider the liberal and conciliatory spirit in which in pecuniary matters, as well as in other matters of alleged grievances, His Majesty's Government have of late years invariably met their complaints. His Majesty has manifested every disposition to throw himself upon the loyalty and attachment of his Canadian subjects. He has directed the fullest explanations to be laid before them with respect to the expenditure of the revenues at his own disposal; and he has displayed a confidence, which now unhappily appears to have been misplaced, in the just intentions of the House of Assembly, by placing unconditionally at their own disposal a large portion of the Crown revenues, on the distinct understanding, and in the entire conviction, that when by this liberal concession all grounds of jealousy should be removed, they would enable His Majesty to place the Judges, and the higher officers of the state, in that condition of pecuniary independence upon an annual vote, which is essential to the due administration of justice, and to the true interest of the province. I shall offer no comment upon the spirit in which His Majesty's gracious offer and liberal concessions have been met by the Assembly.”

55. Has any bill been introduced, either into the House of Assembly or into the Legislative Council, for carrying into effect the independence of the judges and the formation of a tribunal for impeachment within the province?—I understand from private sources there has been such a bill, and that it has been rejected.

56. In which House?—Lost in the House of Assembly.

57. Brought in by whom?—Brought into that House by Mr. Quesnel, a French member of Assembly.

58. Did it originate in the other House?—I am not aware.

59. Upon what ground was that bill opposed and rejected in the House of Assembly?—I am speaking without official report. From the report of the debates the

the opponents of the measure seem to have said in substance, that whatever might have been the case formerly, it was no longer desirable the judges should be independent of the House of Assembly.

60. Was the declaration made by those who rejected the bill, that it was now desirable that the judges should continue to be dependent on the House of Assembly for their annual salaries?—Precisely so. That is the way in which I understood the debates.

61. Is that the state in which the province now stands with regard to finance, and with regard to the question of the judges?—So it appears by the documents read here, and by that report of a debate to which I have adverted.

62. Did you, in reading that paper, see among the reasons given for not passing the bill, that the composition of the Legislative Council was worse now than it was formerly?—I saw adduced as reasons various complaints of the measures taken by the Government, and of their alleged neglect to remedy grievances.

63. Did you see nothing of complaint as regarded the Legislative Council?—I think that was included in the several matters, in which the Government was said to have behaved so unsatisfactorily as to render it undesirable that the judges should be made independent of the Assembly.

64. From your hasty reading of the debate, you are not able to say whether that was specifically complained of?—No, I am not able

65. You say, no measure with regard to finance has been introduced during the last session of the Assembly?—No general measure of finance has been introduced.

66. Have you seen any reason assigned during the course of the debates for the non-introduction of any measure of that description?—No.

67. As to the different constitutions of the Legislative Council, state whether any alteration has been made in the Legislative Council since 1833, when the former bill was passed?—There has been the addition of one member to the Legislative Council.

68. Is that gentleman of French origin, or English?—He is a French gentleman; his name is Quironet.

Frederick Elliot,
Esq.

5 May 1834.

Veneris, 9^o die Maii, 1834.]

THE RIGHT HONOURABLE ROBERT GRANT,

IN THE CHAIR.

Frederick Elliot, Esq., from the Colonial Office, produced further Papers.

69. WHAT was the last paper you read?—The last paper I read consisted of parts of a despatch from Mr. Stanley to the Governor of Lower Canada, upon learning that the Supply Bill for 1833 had been lost. The next despatch will be the Governor's despatch, addressed to Lord Goderich, announcing the closing of the session of 1833.

Frederick Elliot,
Esq.

9 May 1834.

COPY of a DESPATCH from Lord *Aylmer* to Lord Viscount *Goderich*, with an Enclosure, dated the 3d April 1833.

My Lord,

I HAVE the honour of informing your Lordship that I this day prorogued the Provincial Parliament of Lower Canada, on which occasion I delivered a speech, of which I have the honour of transmitting a copy herewith.

Castle of St. Louis, Quebec.

I have the honour to be,

My Lord,

Your Lordship's most obedient humble servant,

Aylmer.

Frederick Elliot,
Esq.

9 May 1834.

Enclosure.

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

You are now about to return to your respective homes, there to enjoy the repose which the labours of this protracted session have rendered necessary.

Gentlemen of the House of Assembly,

In His Majesty's name I thank you for the pecuniary aids towards carrying on internal improvements and other objects of utility which your liberality has placed at the disposal of the Executive Government. Amongst these I much regret that I am not enabled to enumerate the necessary provision for giving full effect to a system of quarantine, calculated to meet a visitation of disease similar to that with which it pleased Divine Providence to afflict this province in the course of the last summer. Had this subject been permitted to engage your attention at the commencement of the session, sufficient time would probably have been afforded for the consideration of any difference of opinion which might have arisen upon it between the two Houses of the Provincial Parliament, and some well-digested and efficient measure might have been framed, and concurred in by both Houses, before the close of the session.

The consideration of this important subject not having, however, been taken up until an advanced period of the session, I must take it for granted that other matters, possessing, in your judgment, greater interest, and of more urgent importance, have been allowed to take precedence of it.

Fortunately the Quarantine Act of the year 1795 remains in force, the provisions of which, aided by the voluntary exertions of the inhabitants of the province in general, will, I trust, enable the Executive Government to establish such regulations as circumstances may render necessary.

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

The session, which is about to terminate, has been remarkable for its unusual duration, being, with the exception of three of the earliest sessions which followed upon the establishment of the constitution of Lower Canada, the longest to be found recorded in your Parliamentary history. Whether the result of its labours will prove beneficial to the country in a corresponding proportion to its duration, time must alone determine.

70. Were there a number of bills which dropped at the close of that session?—Yes; the Quarantine Act, for instance, which is specially alluded to in the Governor's speech, was dropped.

71. Will you state to the Committee what were the circumstances under which those bills were dropped?—The House of Assembly was occupied, during the greater part of the session, in inquiring into a riot, attended with loss of life by the fire of the troops which had taken place at Montreal in 1832. The inquiry was adjourned without result; and the members then dispersed, and left no quorum at Quebec. About the same time nearly 20 bills were thrown up into the Legislative Council; and had any one of those bills been amended, it must necessarily have been lost, however trifling the alteration, for there was no quorum in the Assembly. There were some important bills among the number thus sent to the Council.

72. In point of fact, were many of those bills lost in consequence of immaterial alterations having been made in the Legislative Council, and there being no quorum of the House of Assembly to receive them when they were sent down?—My knowledge is drawn from seeing a general statement of the facts. I should be unwilling to assert any thing as to the exact number of bills lost, or the precise nature of the alterations.

73. At what part of the year were they lost?—They were lost at an unusually late period for the House to be assembled; it was at the end of one of the longest sessions that ever was held. The date was April 1833.

Copy of a DESPATCH from Lord *Aylmer* to Lord Viscount *Goderich*, dated 14th May 1833; received 2d June 1833.

My Lord,

Castle of St. Louis, Quebec.

I HAVE the honour of transmitting herewith a copy of a communication which has been addressed to me by the chief justices and puisné judges of Lower Canada, complaining of the injury sustained by them regarding their salaries and allowances, arising out of their dependence upon the annual votes of the House of Assembly. The importance of the principle

inciple involved in the representation of these high public officers is so obvious, that it would be superfluous to dwell upon it on the present occasion, more especially as the settlement of the finance question in this province can no longer be delayed, and that the salaries and allowances of the judges must necessarily be provided for in any arrangement which may be adopted on that subject.

I have the honour to be,
My Lord,
Your Lordship's most obedient humble servant,

Aylmer.

This despatch was accompanied by a letter, signed by the chief justices and puisné judges of Lower Canada, praying that measures might be adopted for rendering them no longer dependent for their salaries and allowances upon an annual vote of the House of Assembly.

Frederick Elliot,
Esq.

9 May 1834.

COPY of a DESPATCH from Lord *Aylmer* to the Right hon. *E. G. Stanley*; dated 18th Jan. 1834, with five Enclosures; received 14th Feb. 1834.

Sir,
I HAVE the honour of informing you, that on the 7th instant I opened the Session of the Provincial Parliament, with a speech, of which a copy is herewith transmitted; I have likewise the honour of transmitting copies of the addresses of the Legislative Council and House of Assembly in answer to it, and of my replies to each respectively.

Castle of St. Louis, Quebec.

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

Aylmer.

Enclosure, No. 1.

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

THE utmost diligence will be required during the session which is about to commence, in disposing of the business which remained unfinished at the close of the last session, and of other matters of local and general interest, which may be expected to claim your attention. A considerable portion of the session, moreover, will probably be occupied in the consideration of the communications on highly important subjects, which it will be my duty to make to you, in pursuance of the instructions I have received from His Majesty's Government.

At the commencement of the last session, I informed you that the period having arrived for effecting a new adjustment of the proportion of certain duties levied in this province to be paid to Upper Canada, under the provisions of the Act 3 Geo. 4, c. 119, the arbitrators, who had been appointed on the part of Lower and Upper Canada respectively, had entered largely into the consideration of that subject, but that having separated without coming to any decision, and having moreover differed in regard to the appointment conjointly of a third arbitrator, it became necessary, according to the provisions of the same Act (section 17), to refer the matter to His Majesty's Government, for the purpose of obtaining the appointment of a third arbitrator under the Royal Sign Manual.

I have now further to inform you, that a third arbitrator having been appointed accordingly, the three arbitrators proceeded to the consideration of the important subject confided to their management, when, after much discussion, in the course of which the arbitrator of Lower Canada displayed the same ability and zeal for the interests of the province as upon the occasion of the previous discussion with the arbitrator of Upper Canada, the majority of the arbitrators have assigned the proportion of one-third of the duties to the Upper Province. It is to be regretted, that the result of this decision will have the effect of materially diminishing the revenue of Lower Canada.

Copies of the correspondence which took place between the arbitrators upon the occasion of their last meeting will be laid before you at an early period of the session.

The last session having terminated without the completion of an Act for more effectually providing for the establishment of a quarantine station, and other matters connected with the preservation of the public health, it was deemed advisable to revert to the Quarantine Act passed in the year 1795, and in order to give effect to the provisions of that Act, certain measures were adopted by the Executive Government, the details of which will be communicated to you by message in the course of the session.

In like manner will be brought under your notice, at an early period, the information which has been received by the Executive Government regarding the distress stated to prevail in certain parts of the province, arising from the partial failure of the late harvest.

Amongst the Acts which are about to expire, I think it necessary to draw your particular attention to the two following:

1st. The Act 10 & 11 Geo. 4, c. 3, intituled, "An Act to provide for the better Defence of the Province, and to regulate the Militia thereof;" continued by 2 Will. 4, c. 55. Should it be judged expedient further to continue that Act, I would recommend to you to consider

Frederick Elliot,
Esq.

9 May 1834

the expediency of embodying in it the provisions of the Act 2 Will. 4, c. 42, intituled, "An Act to authorize the appointing of Courts of Inquiry, for investigating the Qualifications of Militia Officers in certain cases," which Act is also about to expire.

The second of these Acts to which I am desirous of drawing your attention, is the Act of the 2d Will. 4, c. 26, amended by the 3d Will. 4, c. 4, intituled, "An Act to repeal certain Acts therein mentioned, and for the further Encouragement of Elementary Schools in the country parts of this Province."

The desire to afford to all classes of the community the means of acquiring the benefits of education is so generally felt throughout the province as to make it unnecessary for me to say more at present on that interesting and important subject, than merely to recommend to you to take into consideration the expediency of further continuing the Act in question, with such alterations and modifications as the experience derived from the operation of it hitherto may suggest.

Gentlemen of the House of Assembly,

The failure of the Supply Bill for the service of the financial year, which terminated in the month of October last, has been necessarily productive of very serious inconvenience in carrying on the public service, and although that inconvenience has been mitigated by the application of certain funds at the disposal of the Crown to the payment in part of the salaries of public officers, and in providing for such other branches of the public service as appeared to be most inconvenienced by any delay of payment, the balance remaining unprovided for upon the estimate of that year is still so considerable as to render necessary an appeal to your liberality for making good the amount of the deficit.

It will be my duty to make a special communication to you in relation to this important subject, as soon as the customary forms of Parliament will permit; and in the meanwhile I think it necessary to apprise you, that my instructions require of me to report to the Secretary of State without delay the result, whatever it may be, of such communication, in order to enable His Majesty's Government to decide upon the course which it may be necessary to adopt in regard to the financial difficulties of the province. An estimate of the expenses of the Civil Government for the current year is in preparation, and will be submitted to you at an early period of the Session.

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

The people of the province are anxiously looking to this, which will probably be the last session of the present Parliament, for the accomplishment of various measures calculated to promote their general welfare. I entertain a confident hope, that their just expectations will not be disappointed, and that the Legislature, by directing its undivided attention to objects of real utility, will prepare the way to the attainment of that exalted state of prosperity which this country appears to have been destined by Providence to enjoy.

Castle of St. Louis, Quebec, }
7 January 1834.

Enclosure, No. 2.

To his Excellency *Matthew Lord Aylmer*, K. C. B., Governor-in-Chief, &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.

We fully agree with your Excellency that the utmost diligence will be required during this session in disposing of the business which remained unfinished at the close of the last, as well as that connected with other matters of general and local interest; and we shall cheerfully devote whatever portion of the session may be required to the communications which your Excellency may be pleased to make us in pursuance of the instructions received from His Majesty's Government.

We shall feel obliged by the copies of the correspondence which took place between the arbitrators appointed to consider the proportion of duties to be assigned to Upper Canada, which your Excellency is pleased to signify your intention of communicating.

Aware as we are that the last session terminated without the completion of the Act for the more effectually providing for the establishment of a quarantine station, we shall receive with much interest the details of the measures which your Excellency felt yourself obliged to adopt, to enable you to carry into effect the Quarantine Act in force in this province, and which, under the provident arrangements of your Excellency, have been attended with such beneficial results in warding off the apprehended contagion.

We await with much anxiety the information which it may please your Excellency to lay before us regarding the distress stated to prevail in certain parts of the province, arising from the partial failure of the late harvest.

We thank your Excellency for having drawn our particular attention to the Acts about to expire relating to the militia of this province, as well as that for promoting elementary schools

Frederick Elliot,
Esq.

9 May 1834.

schools throughout the province, and beg to assure your Excellency that the expediency of their renewal will engage our most serious consideration.

Your Excellency may rest assured that the Legislative Council have no object more devotedly at heart than that of contributing their aid in diffusing the benefits of education throughout all classes of His Majesty's subjects in this province.

Aware of the anxiety with which the people of the province look to what may take place in the present session, probably the last of this Parliament, for the accomplishment of various measures calculated to promote the general welfare, and of your Excellency's hopes that such expectations will not be disappointed, we beg to assure your Excellency that no exertion on our part shall be wanting to promote so desirable a result; and we trust that the Legislature, directing its undivided attention to objects of real utility, will prepare the way to the attainment of that exalted state of prosperity which this country appears to have been destined by Providence to enjoy.

Enclosure, No. 3.

To his Excellency the Right honourable *Matthew Lord Aylmer*, K. C. B., Captain-general and Governor-in-Chief in and over the Provinces of Lower Canada, Upper Canada, Nova Scotia, New Brunswick, and their several Dependencies, &c. &c. &c.

May it please your Excellency,

We, His Majesty's dutiful and loyal subjects, the Commons of Lower Canada in Provincial Parliament assembled, humbly thank your Excellency for your speech delivered at the opening of the present session.

We beg leave to assure your Excellency that this House is ever disposed to apply itself with the utmost diligence to all matters of a local and general interest which may claim our attention; and we shall not fail to give due consideration to the communications which your Excellency may lay before us in pursuance of instructions received from His Majesty's Government.

We thank your Excellency for the information respecting the proceedings had for effecting a new adjustment of the proportion of duties levied within this province to be paid to Upper Canada. However much we may regret that the arbitration should have resulted in materially diminishing the revenue of Lower Canada, we shall be happy to find, on considering the correspondence between the arbitrators, which your Excellency is pleased to say will be laid before us, that justice has been done to both provinces.

We respectfully receive the information that, the last session having terminated without the completion of an Act for the more effectually providing for the establishment of a quarantine station, and other matters connected with the preservation of the public health, it was deemed advisable to revert to the Quarantine Act passed in the year 1795; and the measures which were adopted by the Executive Government, the details of which your Excellency is pleased to say will be communicated by message, will be duly considered by the House.

We shall also not fail to bestow our mature consideration on any information which may be brought under our notice by your Excellency regarding the distress stated to prevail in certain parts of the province, arising from the partial failure of the late harvest.

We respectfully assure your Excellency that our particular attention will be bestowed on the Acts about to expire, the continuation of which your Excellency is pleased to recommend.

We regret the failure of the Supply Bill for the service of the financial year terminated in the month of October last, has been productive of very serious inconvenience in carrying on the public service. Any information which your Excellency may be pleased to lay before us connected with this very important subject, will be entitled to the most serious consideration of this House; and we shall not fail, in our determinations on matters so essentially connected with the interests of our constituents, and the peculiar privileges of this House, to be guided by what we may conceive to be the constitutional rights of this branch of the Legislature, and the welfare of the province. We shall also enter, with the same views, upon the consideration of the estimate of the expenses of the Civil Government for the current year, which your Excellency is pleased to say will be laid before us at an early period of the session.

We most respectfully assure your Excellency that, elected by the people of the province from amongst themselves, and to return among them to partake in their lot, it must ever be our anxious desire to promote the general welfare, and that the Legislature may effectually contribute to the advancement of the public prosperity of the province.

Enclosure, No. 4.

Mr. Speaker, and Gentlemen of the Legislative Council,

I DESIRE you to accept my thanks for this Address, and to be assured that I anticipate the most favourable results from your proceedings during the session, upon which the Legislature of the province has now entered.

Castle of St. Louis, Quebec, }
13 Jan. 1834. }

Frederick Elliot,
Esq.

9 May 1834.

Enclosure, No. 5.

Mr. Speaker, and Gentlemen of the House of Assembly,

I thank you for this Address, and I request of you to be assured in commencing your legislative labours, that, as the King's representative, I am animated by a very sincere desire to co-operate with you to the extent of my ability in advancing the interests of the province.

Castle of St. Louis, Quebec, }
13 Jan. 1834. }

EXTRACT of a DESPATCH from Lord *Aylmer*, addressed to the Right Hon. *E. G. Stanley*, dated 23d January 1834.

Castle of St. Louis, Quebec.

WITH my despatch of the 13th instant, No. 2, I had the honour of transmitting a copy of the speech with which I opened the Session of the Provincial Parliament of Lower Canada on the 7th instant, and of the answers to that speech of the Legislative Council and House of Assembly, and of my replies to those answers.

I have the honour now to report further, that, on withdrawing to their own chamber, immediately after the delivery of my opening speech, a motion was made in the House of Assembly, by Mr. Bourdages, with the avowed object of preventing a session from taking place, by the revival of the resolutions passed during the last session, to break off all communication with me, in consequence of my having declined to issue a writ for the election of a Member for the county of Montreal in the place of Mr. Mondelet, whose seat had been declared vacant in consequence of his acceptance of office as an Executive Councillor. Mr. Bourdages' motion was opposed by a counter-motion of Mr. Neilson's, for going on with the session, which last was finally carried by a majority of 19—36 voting for, and 17 against the motion of Mr. Neilson; whereupon a committee was appointed to prepare an address, which having been prepared accordingly, and adopted by the House, was presented to me on the 13th instant. I received on the same day the answer of the Legislative Council.

In the evening of that day I sent down to the House of Assembly two messages, one relating to the financial embarrassments of the Local Government, and the other, relating to the case of Mr. Mondelet, founded on the contents of your despatches relating to those subjects; and I have since communicated to the Legislative Council and the House of Assembly the answers of His Majesty's Government to their respective addresses to the King, which were transmitted to the Colonial Office with my despatches of the 27th of March and the 5th of April.

It will be necessary here to remark, with reference to the financial difficulties of the Local Government, that in the estimate of the expenses of the Civil Government for the financial year ending in the month of October 1833, the salaries of the Governor, Civil Secretary of the Governor, the Provincial Secretary and of the Attorney and Solicitor-general, were omitted under the instructions contained in the despatch of Viscount Goderich of the 9th of April 1832 (No. 92.); and that authority would, I apprehend, have justified the Executive Government of the province in paying the full amount of those salaries out of the funds at the disposal of the Crown, notwithstanding the failure of the Supply Bill for the service of that year. Being, however, desirous of placing the whole of the public officers, as nearly as circumstances would permit, upon the same footing in regard to their salaries, a proportion only was paid to those above named. The consequence of this arrangement was, that the whole of the available funds having been exhausted in satisfying the more pressing wants of the Local Government, no provision would have remained for those officers had the directions of Viscount Goderich been adhered to on the recent occasion. Accordingly, in the statement which accompanied my message to the House of Assembly on the financial difficulties, a charge was introduced for the balance remaining unpaid of the salaries of the Governor, Civil Secretary, Provincial Secretary, Attorney and Solicitor-general.

The salaries of those public officers are now omitted in the estimate to be laid before the Legislature for the current year, agreeably to the instructions of Viscount Goderich above referred to.

The reception of the messages alluded to in the foregoing part of this despatch was productive of nothing further than a desultory debate, but no specific measure was proposed upon the subject of them. A call of the House has, however, been resolved upon for the 15th of next month, when the messages are to be taken into consideration.

I have the honour of transmitting herewith a copy of my message to the House of Assembly, alluded to in this despatch, upon the financial difficulties of the Local Government.

Enclosure.

The Governor-in-Chief, in the speech with which he opened the present session, apprised the House of Assembly that it would be his duty to make a special communication to them in relation to the inconvenience which has been experienced in carrying on the public service, in consequence of the failure of the Supply Bill for the financial year ending in the month of October last. He now has to inform the House, that although the inconvenience alluded

to has been mitigated, to a certain extent, by the application of funds at the disposal of the Crown, the distress of the public officers, arising from the non-payment of the salaries to which they are justly entitled in remuneration of their services, and the deficiency of available means towards carrying on the public service in other important branches of the administration, have at length brought the Local Government into such straits and difficulties, that unless speedily relieved through the intervention of the Legislature, the King's service and the interests of the province must inevitably be exposed to great and serious injury. In order to make the House of Assembly acquainted with the extent to which provisions will be required on account of the service of the financial year ending in October last, the accompanying statement has been drawn up, exhibiting the several items of the estimate sent down to the House during the last session, the amount since paid on account of each item, and the balance now remaining to be provided for.

The funds appropriated by Acts of the Provincial Legislature, and others at the disposal of the Crown, for the support of the Civil Government and the administration of justice, which have been resorted to for the payments already made, are the following; namely,

Annual aid to His Majesty by the Provincial Act 35 Geo. 3.	
Proceeds of ditto - - - ditto - - - - 41 Geo. 3.	
Casual and Territorial Revenue.	

Having thus far fulfilled his duty in laying before the House of Assembly the wants and difficulties of the Executive Government, the Governor-in-chief now informs the House that, having transmitted to the Secretary of State a copy of the Supply Bill as it passed the Assembly, and was afterwards rejected by the Legislative Council, he has been instructed to point out the constitutional objections to which that Bill is liable.

The various conditions which require that certain officers should not be members of the Executive or Legislative Councils must be considered (in Parliamentary language) "tacks," the effect of which is to introduce changes in the law by the decision of a single branch of the Legislature; to tack to a Bill of Supply, demanded by the exigencies of the State, a clause or enactment not properly connected with it, in order to compel the Crown or the Upper House to make their choice between the loss of the supply, with all the consequent mischiefs on the one hand, or the adoption of a measure which they disapprove on the other, is a practice which, though formerly attempted in the mother country, has long since been discontinued, as directly tending to wrest from the King and the Peers their share in the general legislation of Parliament.

Therefore, had the consideration of the very serious inconvenience sustained from the loss of the Supply Bill induced the Legislative Council to sanction the Bill of last year, in the form in which it left the House of Assembly, the Governor-in-chief has been given to understand that His Majesty could not have been advised to give his sanction to the enactment.

Nevertheless, the Governor-in-chief has been directed to express to the House of Assembly the readiness of His Majesty's Government to co-operate in rendering all public functionaries as independent as possible, but at the same time to mark the necessity for such provisions taking place by enactment, and not by resolution of one branch of the Legislature.

Castle of St. Louis, Quebec, }
13 Jan. 1834.

74. In consequence of that communication, have any steps been taken by the House of Assembly during the present session?—None have been reported. The House of Assembly remained in debate upon the 92 Resolutions of Grievances; and, as soon as they were finally adopted, the members dispersed. No quorum remained, and the session was closed.

75. Were the 92 Resolutions communicated to the Governor by message, or how?—They were embodied in an address to the King.

76. Has any supply at all been voted during the present session?—Yes, the Assembly have voted a reimbursement to the Governor for certain sums he advanced on account of hospitals and quarantine, and of the distressed in certain districts of the colony.

77. Have they also passed votes for measures of internal improvement?—I cannot state.

Frederick Elliot,
Esq.

9 May 1834.

Sir James Kempt, called in ; and Examined.

Sir James Kempt.

9 May 1834.

78. IN what year did you enter upon the administration of the government of Canada?—In September 1828, and continued in office a little more than two years, from September 1828 to October 1830.

79. That was immediately after the recommendation of the Colonial Committee in this House?—Yes.

80. Will you describe to the Committee the state in which you found the provinces with regard to the general feeling and disposition of the inhabitants, and the tone and temper of parties there?—Previous to my arrival there had been considerable excitement, in consequence of the difference which existed in the province, and the steps which had been taken to get up and forward petitions of grievances to the Government in England. But this had in a great degree subsided ; the country was perfectly tranquil, and awaited the decision which was expected on their petition, reposing entire confidence on the justice of His Majesty's Government.

81. What were the general instructions which you received from the Government with regard to the conduct which you were to pursue respecting certain grievances which had been considered by this House?—In answer to this question I beg to refer to a paper on the subject, which is, I believe, in possession of the Committee, in which the desired information will be found. It was my endeavour, while I administered the government, to give full effect to those instructions which were conformable to the recommendation of the Committee of the House of Commons, by redressing every real grievance as far as it was in my power to do so. The Government at home declared their intention of submitting a measure to Parliament for the settlement of the financial difficulties that had occurred, and that question was therefore taken, very properly, in my opinion, out of the hands of the Colonial Government.

82. Do you conceive it to be essential to the carrying on a government, from your experience in this and other colonies, that the government should have at its disposal a certain fund for the payment of judges and certain high officers of State, independent of the annual votes of the House of Assembly?—It appears to me essential for the efficient and proper conducting of a colonial government, that the judges and the principal officers should not be dependent on an annual vote of the Legislature, but be paid out of a fund permanently appropriated to that purpose. It is not to be expected that an impartial discharge of their duties can otherwise be obtained.

83. From your experience of the House of Assembly in the different colonies, and especially in Lower Canada, are they peculiarly subject to be influenced by personal considerations and personal feelings in the discharge of their public duties?—In colonial as well as in other assemblies, personal considerations and feelings, it is known, do not unfrequently interfere with the proper discharge of public duties.

84. Do you conceive that there is a peculiar necessity for the independence of the judges and of some of the high officers of State in Lower Canada, in consequence of the peculiar situation of that country with reference to the two distinct populations, and the various national prejudices and feelings which arise in that community?—In all colonies, but particularly in Lower Canada, I am of opinion that the judges and the principal officers of the government should be put on a footing of reasonable independence, in order to insure to His Majesty's subjects of all classes the full benefit of their services.

85. Have you considered whether or not there are any checks on their conduct ; to whom do you consider them responsible?—The checks on their conduct are such only as may have been provided by law ; they are of course responsible for their conduct to His Majesty's Government, by which they have been appointed. The House of Assembly may entertain complaints against judges, or against other public officers, for malversation, and enforce their responsibility through His Majesty's Government, through whose authority only they can be displaced.

86. At the time you undertook the government of Canada, you had at your disposal a considerable revenue, raised under the Act of the 14th Geo. 3?—Yes. According to my instructions, there was a considerable revenue, raised under the 14th Geo. 3, at the disposal of His Majesty's Government, and also the revenue raised under two other Acts, the 35th & 41st Geo. 3, I think.

87. You are aware of the British Act of Parliament by which it was finally decided that the appropriation of that money should be left at the disposal of the

Provincial

Provincial Legislature?—I am aware of the British statute passed three years ago, by which the Provincial Legislature, with the consent of His Majesty, were permitted to appropriate this revenue.

88. Will you state to the Committee what you considered to have been the proper policy to have pursued on that occasion; whether you consider the unconditional surrender of that revenue to have been advisable or not?—I consider the unconditional surrender of that revenue, without reserving a small civil list, or otherwise securing a sufficient fund for the permanent support of the Governor and the principal officers of the government, was most impolitic.

89. Do you think there was a reasonable expectation at that time that, upon the surrender of that revenue, a permanent provision might be made for the Governor and judges?—It was certainly reasonable to expect that, upon the surrender of the revenue at His Majesty's disposal, such a permanent provision should have been made, at least to the extent stated in the resolutions of the House of Assembly of the 6th December 1828. But I always took it for granted that there would have been such an express condition of the surrender. The estimates of the civil expenditure of the colony, while I administered the government, underwent the severest scrutiny in the House of Assembly. The items were voted separately, some admitted and others rejected.

90. They made reductions?—They made reductions to the amount of 7,000*l*. But, with reference to the estimates, it is proper to remark, that in the civil expenditure of Lower Canada are included expenses which in other colonies are provided for by local assessment. As, for instance, the costs of criminal prosecutions, the allowances to witnesses, the building and maintaining of gaols, &c., and the prisoners therein, all of which are defrayed out of the public revenue of the province at large; as well as the salary of every officer connected with the administration of justice, from the chief justice to the turnkeys of the prison.

91. The Act having been passed by which the appropriation of these revenues was surrendered to the provinces, do you conceive it would be productive of great or dangerous excitement of the provinces, if that British Act was so far suspended as to enable the Government to make provision for the Governor and judges until some permanent provision should be made for them by the Legislature of the province?—I should not apprehend any such consequences.

92. If you were at present to resume the administration of the government of Canada, and with the responsibility upon you of maintaining the peace and tranquillity and good order of the country, what would be the course you would recommend to be taken with regard to the revenue raised under the 14th Geo. 3?—I am not aware that any other course could be taken than that of applying the revenue raised under the 14th Geo. 3 to the purpose for which it is levied, while the Assembly refuses to make a permanent provision for a moderate civil list.

93. You had an opportunity of seeing a good deal of the French Canadian character; what degree of impression is produced on the minds of the people at large by the proceedings in the House of Assembly?—With the very best disposition, they are liable to great misapprehension of the nature and tendency of the proceedings of the House of Assembly; unable, for the most part, to read, they become acquainted with those proceedings through persons frequently interested in deceiving them. But they are a loyal and an excellent people, and appeared to me to repose every proper confidence in the justice of His Majesty's Government.

94. Do you conceive it would be possible for any persons in the House of Assembly who might be so disposed, upon the ground of alleged grievance with regard to the appropriation of the public revenues, to excite any disposition dangerous to the public peace and dangerous to the inhabitants?—I do not think that on this ground the inhabitants of Lower Canada would be led into acts inconsistent with their duties as good subjects. But were any new taxes to be imposed upon them under the authority of the British Parliament, or any rights to be exercised by His Majesty's Government inconsistent with the Act of 1791, or were they made to feel the weight of the Government in any way to which they had not hitherto been accustomed, it might lead to serious results in the present excited state of the country.

95. Are the people of Lower Canada lightly taxed?—Exceedingly so. They are subject to no direct taxation that I am aware of.

96. Do you know any population in any part of the world which enjoys so much the comforts of life diffused throughout the whole of the population, and so little oppressed with public burdens, as the population of Lower Canada?—None, with the exception of the other North American colonies, who enjoy similar advantages.

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97. Supposing you were called upon to undertake the government of Canada in its present state, the salaries of the judges and Governor depending altogether upon the annual votes of the House of Assembly, should you think you had any security for carrying on the government satisfactorily?—I could not, under the circumstances mentioned in the question, undertake to administer the government of Lower Canada to any beneficial purpose.

98. You conceive, without a permanent appropriation for some of the principal officers, it would be impossible to carry on the government of Lower Canada?—Without such an appropriation the Government must be liable to insuperable difficulties, and would not be carried on for any length of time; but, in my opinion, a satisfactory settlement of the financial difficulties now existing is indispensably necessary for the good government of the country; for, as I before stated to the Committee, the whole of the expenses attending the administration of the government of Lower Canada are paid out of the general revenue of the province, so that, as the case at present stands, unless a sum is appropriated for these objects by the Legislature, the Governor may be compelled to act contrary to law, or to allow the administration of justice to be altogether suspended.

99. If a Bill, such as that passed by the British Parliament in 1831, had been passed during your administration of the government, do you think that the conditions of that Bill would have been accepted by the House of Assembly?—After the resolutions passed by the House of Assembly on the 6th December 1828, their acquiescence in any measure of the kind I should have thought very doubtful; although His Majesty's Government evinced, in the communication which I made to the Legislature, an anxious desire to settle all difficulties that then existed, in accordance with the recommendation of the Canada Committee.

100. I understood you to say the proposition was so reasonable for the government of the colonies, that it could not well be disputed?—Undoubtedly; such at least was my opinion.

101. When you left the provinces, when you ceased to administer the provinces, did you receive from the popular party in Canada very strong expressions of their sense of the service you had rendered there, and of the readiness with which the British Government had met the grievances of which they had complained?—Upon my leaving Canada, I did receive such addresses, expressive of those sentiments, from the inhabitants of the different parts of the provinces; from Quebec, Montreal, Three Rivers and the eastern townships.

102. At this time no definitive arrangement had taken place?—None whatever in regard to the financial controversy.

103. But some expectations were entertained by the people that they would?—My message to the House of Assembly of the 28th November 1828 informed them that a scheme for the permanent settlement of the financial concerns of Lower Canada was in contemplation; and that communication showed them that His Majesty's Government were disposed to carry into effect the recommendation of the Canada Committee.

104. Do you think the disinclination to make provision for the judges is connected with the power the Legislature of Canada have with respect to the tenure of office by those judges, and with respect to the power which the Legislature claimed to have in impeaching or accusing them in any way, whether the refusal of the salary is wholly connected with their not being satisfied as to the tenure of office?—I believe that such reasons have been assigned in the Assembly for not making a suitable provision for the judge.

105. You stated the great body of the people were perfectly quiet, but there was a great state of political excitement in the provinces when you were there?—There had been considerable political excitement before my arrival in Canada, from the causes which I have already stated.

106. You stated, I think, that there was no other mode of attaining this aid which you all desire, than the one now proposed by Mr. Stanley; do you happen to know any thing of the way it is done in the United States of America?—I do not.

107. Do you happen to know whether the judges there are dependent upon popular feeling?—I do not.

108. Do you happen to know, in this country, where there are expenses paid by the counties, who locally assesses them?—County assessments in this country are, I believe, made by local authorities under Acts of Parliament. In some of the colonies in North America the magistrates in quarter sessions make small assessments for local purposes under provincial statutes.

109. The magistrates are chosen by the government?—They are appointed by the government. *Sir James Kempt.*

110. So that the government tax them through the magistrates?—The magistrates can only impose local taxes according to law. The government can exercise no influence in such matters. Any governor who would attempt to do so could not long administer the government of a British colony. A governor of a North American colony cannot hope to rule by patronage. The officers at his disposal are so few, that he could not establish any influence by such means, and his only chance of conducting the government with success is to do the business of the country, as far as depends upon himself, in the very best manner in his power: in his appointments to office, to select only those persons that were fit; to be perfectly just and impartial in all his proceedings; and, I may add, to have no partisans in either House of the Legislature.

111. How many does the House of Assembly consist of?—Of 84 members, I believe. The Assembly was greatly augmented during my government. The townships were previously without representation.

112. Preserving the old franchise?—Yes.

113. How many make a quorum in the House of Assembly?—I do not immediately recollect what number forms a quorum.

114. Since the admission of members from the English townships, has it been found they form a separate body from the French, or do they vote without any regard to party?—The number of representatives from the townships, being not more than 10 or 11, is too small to constitute a party in the House of Assembly.

115. I understand you to say, upon great constitutional questions it is not the case that the English members act in one body, and the French in another?—The English members do very frequently take a different view of constitutional questions to that which is entertained by the Canadian members; but the number of the former is too small to admit of their acting separately, or as a body, with any effect.

116. I should like to ask you, with reference to the finance question; there were some resolutions passed in the House of Assembly in Lower Canada, on the 6th of December 1828; among others there is the 7th resolution, which I will read to you: “6th December 1828, Resolved, &c. &c. salaries;” do you remember such a resolution?—Yes, perfectly.

117. What was your understanding at the time, of the permanent settlement which could have been effected with the consent of the House of Assembly?—I considered that the resolution of the House of Assembly was calculated to prevent a permanent settlement of the financial difficulties; and the Report of the Committee of 1828, the scheme contemplated by His Majesty's Government for the settlement of that question, was not communicated to me; but from the nature of the message which I was instructed to make to the Provincial Parliament, I imagined that it would be in accordance with the recommendation of that Committee.

118-19. To what extent would you have surrendered the appropriation; merely the money levied under the Act of 1774, or any other period?—I believe the Committee recommended giving up the appropriation of the money levied under the Act of 1774, and all the other revenue raised in the provinces except the casual and territorial revenue of the Crown, reserving a small civil list for the payment of the salaries of the chief officers of the government.

120. Your intention then would have been to have retained the appropriation of the casual and territorial revenue?—Unless the Governor has some fund at his disposal for a variety of casual services that occur, it will be impossible for him to carry on the government.

121. Was it your impression, at the time this resolution passed, that a permanent settlement could have been effected, with the consent of the House of Assembly, upon surrendering to them the appropriation of money levied under the Act of 1774?—I have already stated that those resolutions rendered the accomplishment of any permanent settlement, with the consent of the Assembly, very doubtful; but I had not been consulted by His Majesty's Government upon the subject. The scheme which they had in view to effect that desired object was not communicated to me.

122. From your knowledge and experience of the government of Canada, should you be of opinion it would be possible now to accomplish an arrangement, making permanent arrangement, as to the salary of the Governor and judges, and other

officers,

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officers, as should be thought right, to be placed beyond the control of the annual votes of the House of Assembly, upon the consideration of surrendering the money levied under the Act of 1774?—It is impossible for me to give any opinion as to the disposition of the House of Assembly on this subject.

123. Do you think inconvenience would result, not only from having the money under the Act of 1774, but the casual and territorial revenue, given to the Crown by the provincial statutes?—I see none, provided there is some permanent fund set apart for the payment of the salaries of the Governor, the judges and principal officers of the government, and for defraying the expense of the administration of justice; for, as I before observed, every thing is defrayed out of the general revenue of the provinces.

124. Was the claim to the appropriation of the casual and territorial revenue much insisted on during the time you administered the government?—I do not immediately recollect; but my impression is, that they wanted to have the appropriation of the whole.

125. When you say that the success or failure of any experiment now will depend a good deal on the state of feeling of the parties, have you sufficiently followed up the state of public matters in Canada?—I have not.

126. The Committee are to understand you are of opinion that, for the efficient maintenance of the Government of that country, it would not only be necessary to retain funds sufficient for the Governor, judges and other officers, but it would also be necessary to retain, independently of the Legislature, something for what you call contingent expenses?—I do.

127. And that amount is at the present moment covered by the small sum arising from the casual revenue?—The casual revenue was applied to pay services of that description, not provided for by the Legislature, or included in the estimate submitted to it.

128. Is it the case in the colonies of Nova Scotia that there are revenues raised by the Act of the Imperial Parliament over which the House of Assembly has never claimed any power?—There are, I believe, certain small revenues in Nova Scotia, under the control of the country, raised under British Act of Parliament, passed prior to 1778.

129. If a judge is guilty of malversation, what is the course pursued; impeachment by the House of Assembly?—I am not aware, no instance of this kind having occurred when I held the government. The Colonial Assemblies do entertain and investigate complaints against judges and other public officers; and these complaints are brought under the notice of His Majesty's Government, to be disposed of by it.

130. Are the Executive Council at all in the light of ministry to the Governor?—The Executive Council in a colony perform duties in many respects similar to those performed by His Majesty's Privy Council in England. In addition to its other duties, the Executive Council in Lower Canada constitute a court of appeal in the last resort within the provinces.

131. Is not the Governor told to take the advice of the Executive Council?—For the validity of certain acts of the Colonial Government, the advice, and even the consent, of the Executive Council, by His Majesty's instructions, is required.

132. You acted, you say, not on the suggestions of either party; were not the addresses you received from the inhabitants rather singular; I mean other governors did not receive them?—No; there is nothing singular in the presentation of addresses to governors.

133. You have represented that the Executive Council are generally persons in collision with what is called the prevailing party in the country?—The members of the Executive Council have been generally opposed in political views to the dominant party in the House of Assembly.

134. If there was no Executive Council there, and the Governor were left to govern without any such council, would it in your opinion remove very much that state of irritable feeling existing between this part of the Legislature and the King's Government in the colony?—I have not given my attention sufficiently to this question to be able to answer it; but my impression is, that an Executive Council is necessary for the good government of a colony. In Lower Canada the Executive Council has no participation in the legislative authority of the country, but it has judicial powers, as I before stated (as a court of appeal), and cannot therefore be dispensed with under the present system of judicature in that colony.

135. Have you any observations to make with regard to the Legislative Council?—I will merely observe that, during my administration of the government, three

vacancies

vacancies occurred in the Legislative Council by deaths, and that it was my anxious endeavour to select persons of property and character, totally unconnected with the government, to recommend to His Majesty for the vacant seats, in accordance with the instructions which I received.

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136. Did you increase the number of the Legislative Council to any extent?—No. I found it very difficult to select hastily individuals that would give general satisfaction; but I sought for information from men of all parties in the colony, in respect to the persons that were considered the best qualified in all respects to be appointed to the Legislative Council; and I should have been prepared, if I had remained in the government, to have recommended a considerable increase to the number of that body.

137. Do you apprehend the appointment of those three individuals gave general satisfaction?—Yes, their appointment did at the time appear to give great satisfaction.

138. Did they give satisfaction to the Assembly?—The Assembly expressed no opinion upon the subject.

139. I think, Sir James Kempt, you said you conceive yourself to have removed every grievance which was brought before the Canadian Committee, except the financial question, which was taken out of your hands; was it your impression at the time that the people in the provinces did consider such to be the case; that they considered every grievance had been removed, except the settlement of the financial question?—Every grievance which was brought before the Canadian Committee was redressed by me, so far as my power enabled me to do so. His Majesty's Government had undertaken to settle the financial question, and I had done all that I could to remove any other cause for complaint that then existed. The people of the provinces expressed satisfaction at the measures I pursued. If the Committee will allow me to give them copies of the addresses which were presented to me on my leaving the colony, they will show the state of the public feeling at that time.

140. Was it also your impression, at the time, that the Canadian people considered their grievances fully met by the Report of the Canadian Committee?—The Report of the Committee appeared to give general satisfaction to the Canadian people.

141. Was there in the House of Assembly any recognition of the Report of the Canadian Committee, and an expression of satisfaction at it?—The Report of the Committee was printed by order of the House of Assembly, in which much satisfaction with it was expressed. I think 400 copies of the Report were distributed by the Assembly.

[The Address from the Inhabitants of Montreal, 25th September 1830, containing 2,647 signatures, was then read.]

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, Upper Canada, Nova Scotia, New Brunswick, and their several Dependencies, and in the Island of Newfoundland, and Administrator of the said Government of Lower Canada.

WE, His Majesty's loyal subjects, the inhabitants of the city and vicinity of Montreal, most respectfully beg leave to wait upon your Excellency to express our most sincere regret at your approaching departure from this province.

This feeling, in which we are persuaded all participate, is the more powerful, from the conviction that, if your stay had been prolonged amongst us, the energy of your Excellency's character, and the wisdom and moderation of your policy, would have been productive of the most beneficial effects to the general interests of this colony.

We beg to assure your Excellency that the talents, industry and urbanity so eminently displayed in your Excellency's too short administration of the government of this province, assumed at a period of great excitement and difficulty, have deservedly gained the respect, the confidence and the gratitude of all classes of His Majesty's subjects.

We pray that your Excellency, on your arrival in your native country, may meet with that reception from our gracious Sovereign which your public services so well merit; and that during your future life you may enjoy that unalloyed satisfaction which belongs to the well-founded consciousness of having effectually contributed to the happiness of a loyal and faithful people.

(Here follow the signatures, 2,647 in number.)

Montreal, 25 September 1830.

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142. Was Mr. Papineau the first person who signed that?—The Montreal address was signed by the Speaker of the House of Assembly, and by both English and Canadians; in fact by all the principal inhabitants of the place.

[*The Address from the Inhabitants of Quebec, 1st October 1830, containing 2,029 signatures, was then read.*]

COPY of the ADDRESS of the Inhabitants of Quebec to Sir James Kempt, on his Departure from Lower Canada in 1830.

WE, His Majesty's dutiful and loyal subjects, citizens of Quebec and its environs, most respectfully beg leave to address your Excellency on the occasion of your approaching departure from this province

It is with sincere gratitude that we acknowledge the many and important benefits which the province has derived from your administration of its government.

Internal peace is one of the greatest blessings which can be enjoyed by a free people. It has been restored to us under your Excellency's administration; and its influence has been felt in the amelioration and extension of agriculture, in the progress of trade and public improvements, and in the undivided attention of the people to pursuits of industry.

In the laws sanctioned by your Excellency, and in your recommendation to the Legislature, we have evidence of a liberal and enlightened policy suited to a free and loyal people. In your Excellency's unremitting and laborious attention to your public duties, in the manner in which they have been discharged, we have an additional instance of the practicability and advantage of that impartial, conciliatory and constitutional government which we are assured it is His Majesty's desire that his subjects in the colonies should invariably enjoy.

Your Excellency's departure, under these circumstances, could not be otherwise than a subject of deep regret; it is peculiarly so at this moment when we had reason to hope that your Excellency's experience in the colony, and your continued exertions, would shortly have contributed to the entire removal of the remaining causes which produced the unfortunate dissensions which so long prevailed, and further secured the peace and prosperity of the province.

It is our earnest prayer that your Excellency's labours in favour of His Majesty's subjects in this colony, and for the security of his government in this distant part of his dominions, may be every where fully understood and appreciated; and that a life, spent in the service of your King and country, may be long preserved in health, happiness and merited honours.

(Here follow the signatures, 2,029 in number.)

Quebec, 1 October 1830.

143. Whom was that signed by?—By individual members of both branches of the Legislature residing in Quebec, and the principal inhabitants, both French and English.

144. Of all parties?—Of all parties.

[*The annexed Address also, from the Inhabitants of Stanstead and Sherbrooke, containing 443 signatures, was handed in.*]

COPY of the ADDRESS of the Inhabitants of the Counties of Stanstead and Sherbrooke, to Sir James Kempt, on his Departure from Lower Canada in 1830.

May it please your Excellency,

WERE we to neglect the present opportunity of expressing our unfeigned and deep regret at the departure of your Excellency from among us, or should we fail to manifest the profound respect and exalted esteem which we entertain for your Excellency, we should not only appear ungrateful, but should manifest also that we are incapable of duly appreciating the numerous and important benefits which have resulted to us through the wise, prudent and happy administration of the government of this province by your Excellency.

During your Excellency's administration, though commenced under the most inauspicious circumstances, conflicting opinions have been for the most part reconciled; political differences have been in a great measure tranquillized; strict accountability and attention to public duties have been exacted; public monies have not only been judiciously but prudently expended; and the whole province has been brought to an hitherto unparalleled degree of prosperity and happiness.

While we believe this to be the state of feeling throughout the province, permit us to express our peculiar gratitude for the attention which this portion of it has received from your Excellency, not only by reason of the regard evinced for it by your visiting it in person, but from those political advantages obtained for it during your Excellency's brief administration, which greatly exceed all the united benefits bestowed upon it by your predecessors.

We had ardently hoped that, inasmuch as your Excellency had received the cordial approbation and unreserved confidence of the subjects under your charge, and as public affairs are in a state of tranquillity and improvement, your Excellency would continue for a longer period to govern His Majesty's faithful subjects of this province, that we might remain in the enjoyment of those benefits which are the result of your energetic, just, enlarged and liberal measures for our welfare.

The urbanity of deportment and the conciliatory tone of your Excellency towards all His Majesty's faithful subjects of this province, has excited a feeling in us which will generate into an enduring remembrance of your Excellency, and of your paternal care over us, and will cause us continually to seek and supplicate for your Excellency's safety, health and prosperity.

(Here follow the signatures, 443 in number.)

145. Then it is your conviction, if the financial question could have been settled, there would have been no material grievance left that was at that time working in the minds of the people?—The financial question was the great grievance that then remained unsettled. But, from the disposition evinced by His Majesty's Government, the people of Lower Canada had reason to expect the immediate removal of any just cause of complaint.

146. In the difference of opinion that takes place in the colony, is that at all affected by the different religions of the parties?—I think not; the inhabitants of different religions appeared to live in harmony together.

Lunæ, 12^o die Maii, 1834.

THE RIGHT HONOURABLE CHARLES GRANT,
IN THE CHAIR.

Monsieur *Augustin Norbert Morin*, a Member of the House of Assembly for the Province of Lower Canada, called in; and Examined.

147. ARE you the bearer of the resolutions of the House of Assembly, dated the 21st of February 1834?—I am the bearer of the petitions founded on the resolutions.

148. The petitions are to the House of Commons and the House of Lords, are they not?—To both Houses.

149. Are you a Member of the House of Assembly?—Yes; and I have been so for four years.

150. Are you charged with any other communications to make to the authorities of this country than are contained in the petitions?—None; but I have papers and statements which relate to the objects mentioned in the petitions.

151. Of course you are perfectly well acquainted with the views and feelings of the petitioners?—I believe I am.

152. You are commissioned as the agent of the House of Assembly, are you?—I have a commission from the House of Assembly to support those petitions, conjointly with Mr. Viger, the agent of the House of Assembly, now in England.

153. And that commission which you have is in paper, is it?—I have it in paper; the words are "to support them conjointly with Mr. Viger."

154. Did your appointment take place by a resolution or a vote of the House of Assembly?—By a resolution of the House of Assembly.

155. Will you state the immediate circumstances which led to the passing of that resolution?—The circumstances which led to the passing of that resolution were the misunderstandings which have existed between the Colonial Administration and the House of Assembly for several years, grounded upon the several arbitrary and violent measures upon the part of the administration, as we conceive it, and also grounded upon the support which those measures have received from other constituted authorities in the colony, and also in part from His Majesty's Executive Government here in England.

156. Will you state to the Committee some of the more prominent of the differences which existed?—I believe the recent addresses of the House of Assembly relate to two principal points; the one is the defects in the laws and constitution of the country, and the other the manner in which those laws and that

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*Monsieur
A. Norbert Morin.*

12 May 1834.

Monsieur
A. Norbert Marin.

12 May 1834.

constitution have been administered. With regard to the laws and constitution, the petitioners advert, in the first instance, to one of the provisions of the Act of the 31st of Geo. 3, c. 31, which has established the present form of government in the colony. The petitioners have come to the conclusion that one part of that Act principally is not conducive to the good government of the colony, to wit, that part which creates a second branch of legislature under the name of Legislative Council, entirely at the will and pleasure of the Executive. There are also other objects connected with the difficulties in the laws, for instance, the Crown and clergy reserves. There is also a complaint that several laws have been passed in this Legislature for the interior affairs of the province (I mean the Imperial Legislature), and which, besides of the principle, have been found not to answer to the wants of the colony, and the state of things and laws therein. As to the manner in which the laws and constitution have been administered, the subject embraces a great variety of matters which it is not possible to explain at once, otherwise than by pointing in detail to each of them.

157. Perhaps you would explain first, then, the difficulties relating to finance?—The difficulties relating to finance are comprised under both heads; that is to say, they relate both to laws enacted here and to communications between the Provincial Administrations and the House of Assembly. There have been from time to time different proposals made by the governors to the House of Assembly on financial matters, but I believe that from year to year both those statements and the accounts have varied in a great measure so as to prevent any final adjustment with the *connoissance du sujet*. Also the House of Assembly have been refused several times explanations and documents on that subject. The House of Assembly, by its resolutions from time to time, and also by Bills passed by it, have explained the manner in which they conceive the subject might be adjusted. The House of Assembly perseveres in its resolutions adopted on that subject since the year 1828. I have here a copy of those resolutions.

158. Will you explain the proposals which the House of Assembly conceive to have been made to them?—The House of Assembly, not to speak of what was asked anterior to the year 1828, conceive that a civil list was asked of them, that is to say, a certain amount was to be voted permanently; but it did not appear clearly to the House, from the communications received of the Executive, what were the funds which the Executive Government considered to be at their disposal without the consent of the Provincial Legislature. It is principally on that account that the explanations given have been variable and irregular; besides, in the session of the years 1831 and 1832, the proposal was made in a manner, and accompanied by circumstances, which prevented a clear understanding at that time.

159. Will you state those circumstances?—The circumstances are, besides the want of explanation as to each fund contested, that at the time the House were to take the subject into consideration, the thing was referred to a Committee of the whole House by a member of the Executive Council who was at the head of the measure; this was contrary to the established practice, as it was usual to refer such communications to special committees, to have a report thereon. At that time it happened that the then Governor-in-chief wrote a private communication, apparently to be communicated to the members of the House, stating, that, if the proposed civil list were not adopted, there would be no appropriation sanctioned for other objects, and in particular, as I believe, for the payment of members of the Assembly, a question then agitated before the Assembly; that communication was not considered as proper in those circumstances, and that was the reason, as far as I can believe, that the Committee rose without reporting. I believe that a report would have been made if the matter had been referred to a special committee. But every other year the House has explained its views on that subject, by its resolutions, and also by Bills carried up to the Legislative Council. By the resolution, above mentioned, of the year 1828, the House has declared its readiness to concur in an adjustment of the financial difficulties under certain conditions.

160. Now, will you state those conditions?—Those conditions, I believe, were, that the House of Assembly should superintend and control the receipt and expenditure of the whole public revenue of the province; the resolutions spoke also in particular of the independence of the judges, as there did not exist a proper tribunal to judge upon their impeachment, without which the House would not vote them permanent salaries; with regard to the other conditions, I will refer to the resolutions.

161. Do you mean, first of all, that the condition was, that those judges should be rendered independent of the Crown and people?—Yes, and then the House of Assembly would vote them salaries in a permanent way.

162. Provided there was a tribunal?—Yes, to try impeachments against the judges and against the other public officers.

163. Now, will you state the tribunal that was desired?—At that time it had been thought that the Legislative Council of the province, provided it should be renewed by an addition of independent members, could be that tribunal. The House of Assembly has passed several Bills grounded upon that resolution; however, since a couple of years, the House has not passed those Bills.

164. For what reason?—For two reasons; first, because the Legislative Council had mentioned only the judges, and left out all the other public officers.

165. When you say the Legislative Council had mentioned only the judges, do you mean that the Legislative Council passed a Bill enabling the judges to be tried, but confining the trial to them alone, and that that Bill was upon that ground rejected by the House of Assembly?—I believe it was rejected on that ground, but principally on the ground that the present Legislative Council was not considered as the proper tribunal.

166. That is to say, the House of Assembly have changed their minds?—Yes.

167. Do you mean the Legislative Council as constituted at present?—Yes, as constituted at present.

168. Without the addition?—With the addition.

169. That is to say, the House of Assembly have changed their minds upon the subject of the proper tribunal of impeachment, since they have seen the manner in which there has been a change made?—Entirely; this is the reason which has induced them to change their opinion.

170. What were the provisions of the Bills passed by the Assembly relative to the proceeding by impeachment against the judges, and in what session were the Bills passed?—They have been passed in several sessions. I believe that the last one was passed two years ago.

171. Can you state the year?—It must have been in the year 1832.

172. Were the provisions all the same?—The provisions were the same. They were very simple, only enacting that the Legislative Council should be a tribunal to decide upon impeachments brought by the House of Assembly.

173. Against whom?—Against the judges and other high public officers of the Crown in the provinces.

174. Did it define what those high public officers were?—Not that I know of. I believe it was not mentioned; it was a constitutional point, which would have been left to the proper authorities to decide.

175. You cannot state whether the Governor was in the contemplation of the Assembly, can you?—I believe not the Governor.

176. But every officer under the Governor was?—Every officer under the Governor.

177. It was the Bill of the year 1832, was it?—Either 1832 or 1831; it was the last Bill passed by the House. Since then the House have not passed like Bills, but this year a Bill has been brought by the Legislative Council, mentioning only the judges, and it has been rejected by the House of Assembly on the grounds I have stated, particularly on the ground of the unfitness of the Legislative Council, in its present condition, to decide properly on those impeachments.

178. In what respect does the House of Assembly consider the Legislative Council unfit for this purpose?—Because there are in it a number of persons who hold public offices and are otherwise dependent upon the Executive, being connected with it by speculations on public property or otherwise; because also the addition which has been made to that Council has been far from being sufficient to give it an independent character, inasmuch as if the new members were not in general connected by official stations with the Executive, they have long been known for their political bias on one side, that it to say, on the side of the colonial administrations, and for their antipathies against the people of the country and their laws and institutions, and for the violent manner in which they had publicly expressed a desire to introduce changes in those laws and institutions, in a way contrary to the rights and wishes of the people, and in order to establish a subserviency to other laws and institutions which these individuals might consider better, but which the people of the provinces knew not, and were entirely unacquainted with.

179. Do you attribute this character to the persons introduced since the year

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1828?—To most of those introduced since the year 1828; and, by their conduct since, they have led the people to believe that these opinions were well founded.

180. Were the opinions of these persons expressed in their characters of legislative councillors?—Of a great number of them.

181. How?—By rejecting Bills of an useful tendency brought from the House of Assembly, and which were in accordance both with the views and wishes of the people, and of the Government here; and also by other proceedings of theirs in the form of debates, votes and resolutions, which were highly insulting to the people and to the House of Assembly, which represented the views of both in an unfair and uncreditable manner, and exhibited the violent sentiments alluded to above. This has been particularly exemplified in an address to His Majesty on the state of the province, voted during the session before last. It is a fact worthy of remark, that one-half of those who unanimously voted that address had been added to the Council since the year 1828.

182. And on these grounds, then, it was that the House of Assembly changed their opinion as to the fitness of the Legislative Council to constitute a tribunal for impeachment?—It was on those grounds that they changed their opinion, not only on that subject, but also on the fitness of the present Legislative Council to legislate as an independent branch of the Legislature in the province.

183. Has that led to any other opinions on their part respecting the constitution of the Legislative Council?—It has induced them to consider in what way the Legislative Council could be bettered. The most ample hopes had been entertained, since the inquiry made in the year 1828 by a Committee of this Honourable House, that efficient changes should take place. Their hopes had been increased by a despatch from the Right honourable Viscount Goderich, of the 7th July 1831, which promised another despatch on the subject, which has never come officially into the province nor been published or known there. When the additions were made, the people of the province could not consider but that it was the fulfilment of those promises.

184. That is to say, they supposed the Government was then fulfilling those promises?—Yes, it was thought that, by those additions, which were numerous, they considered having fulfilled their promise.

185. Did the people consider they had fulfilled their promise?—The people considered that the Government here had honestly desired to fulfil those promises; but the thing did not give to the Council more independence than it had before; quite the contrary, because a greater character of animosity against the people was given to that body than it had had before. They came then to the belief that any addition by the exercise of the Royal prerogative, and any renovation in the same way, would never insure a proper composition of the body, because at all times it might be in the power of the local administrations and their advisers to make a choice of persons to serve their own particular objects. I believe this is a firm conviction, both in the Assembly and in a majority of the people. They have afterwards considered whether there was any other way than by the exercise of the prerogative of the Crown to constitute a second branch of the Legislature; a House of Peers composed of hereditary members, was not at all in agreement with the consequences of the laws, nor with the physical state of things in America, there being there no materials to form a permanent aristocracy. They in consequence came to the belief that the wishes of Parliament and the views of His Majesty's Government might be fulfilled with advantage to the good government of the provinces, by having an elective Legislative Council. The House of Assembly have also expressed, with some length, in their humble petition to His Majesty, of the year 1833, in what manner the object might, in their opinion, be accomplished. The House have this year renewed their application for the same object in the petitions addressed to His Majesty, and to both Houses of Parliament.

186. Do you suppose that the question of a permanent civil list can be settled, (that is to say, respecting the judges and other officers that would be subject to impeachment), do you suppose that this permanent civil list could be settled before the question of the renovation or alteration of the Legislative Council is settled?—The House of Assembly in their resolutions have always said, that the reparation of abuses and grievances ought to precede the grant of any supplies; however, I believe that if the Assembly and the people of the provinces were convinced of the disposition of His Majesty's Executive Government to alleviate these abuses, it might be possible to come to an agreement on the financial question without the Legislative Council being immediately made elective; but there should be at least some

some explanation as to the final views of the Government on this latter question. I am not however authorized to compromise any part of the petitions; what I state here is my own private opinion.

187. When you say that there should be some understanding on the final views of Government on the matter of the Legislative Council being elective, do you suppose that if the Government were to determine and plainly state, that they would not make an elective Council, that there could be any thing like an adjustment of the finance question?—Certainly in that case there might be no other adjustment possible than the entire disposal, by the Provincial Legislature, of the whole of what they considered to be the public revenue of the provinces.

188. What do you understand by the public revenue?—They consider all the revenue levied in the provinces, under any authority whatever, to be the public revenue of the province, over which they ought of right to have the control, whether it be raised under laws or regulations enacted in Great Britain or in the provinces.

189. Does this description which you have given of the revenues levied in the country include what are generally termed the casual and territorial revenues, the Land fund, and the Timber fund?—It does; and all the property of the Crown.

190. Whether derived from the King of France, or merely by the Royal prerogative?—Yes, except what is considered military ground; it does consequently embrace the Land and Timber fund.

191. You mean that it includes all the lands in the province belonging to the Crown?—It does.

192. Whether distributed in clergy or Crown reserves, or any other mode whatever, so that it belongs to the Crown?—As to the Clergy reserves, as they are grounded on the Constitutional Act, I consider that perhaps we could not have the same claims upon them; but we consider it as a great defect in the Constitutional Act to have taken so large a portion of the land from settlement in favour of one particular clergy, and we still more deprecate the manner in which that provision has been carried into execution. I believe that if the clergy reserves were to be sold, as we most anxiously desire, there would be no objection that the fund arising from that sale should be applied to the objects for which they had originally been set apart. I mean clergy reserves actually held under patent; those which exist only in the diagrams should be considered as of the general domain. As to the Crown lands, we consider them as being in the very same situations as the lands which have not been granted at all.

193. When you say that the money which might arise from the sale of the clergy reserves should be applied to the purposes for which it was originally intended, do you mean to say that the House of Assembly would claim any authority or control whatever over that fund?—If it were applied to religious purposes only, I believe the House of Assembly would claim no authority over it; but if the produce of those sales were to be applied by the Provincial Executive for objects not immediately connected with religion, in that case the House would claim a control over it. However, we have always considered that disposition of the Constitutional Act as more in favour of one class of subjects in the province than another; but the incumbrance caused by those reserves, intermixed as they have been with other lands, has been so severely felt, that, to get rid of them, I believe there would be no objection to the application I have stated of the monies arising therefrom. But they should not be in that case applied only for the maintenance of the clergy of the Established Church; it would be much more liberal and fair if they were applied for the maintenance of the clergy in general.

194. Catholic as well as Protestant?—Catholic as well as Protestant; although, as I have said, the Constitutional Act mentions only the Protestant clergy.

195. What would be the civil list that would be permanently determined on by the House of Assembly, provided that other grievances were satisfactorily adjusted and remedied?—They would be ready, I believe, to grant the Governor's salary, also his secretary's salary, the salary of the executive councillors, and that of the judges.

196. When you say permanently, do you mean for the life of the King?—It has sometimes been asked permanently, sometimes for the life of the King; but I cannot exactly speak to the details without recurring to the documents which I have here. The grant of the House would be for the life of the King.

197. Will you now state briefly those individual circumstances that have stood directly in the way of that permanent arrangement?—The uncertainty of the

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propositions made to the House, and the tardiness of Government to alleviate the abuses complained of.

198. What do you mean by the uncertainty of the propositions?—Because, as I have said, we could not know exactly which were the precise demands, nor the funds which the Crown still considered to be at its own disposal. In the session before last we asked for explanations from the Governor-in-chief on that subject; and he answered, that, having no special instructions, the funds out of which His Majesty's Government intended to pay the items of the proposed civil list which were not mentioned in the estimate, were such funds as, at that time, that is to say, at the date of the instructions, the Government of His Majesty in England considered to be at their own disposal; so that it was no explanation at all.

199. When was that answer given?—In the session before last; that is to say, the session of 1832 and 1833.

200. Are the Committee to understand, then, that an uncertainty existed, not only as to the manner in which certain revenues were disposed of, but also as to which were the revenues of which the Crown continued to claim the disposal?—Yes, there was doubt upon both subjects.

201. Will you explain what you mean by the tardiness of the Government in alleviating the abuses complained of?—The petitions in 1828 complained of a number of abuses and grievances, of which but a very small part has been since alleviated; and the manner in which the Government has since been administered has created numerous other abuses, which have been an impediment to any concession, on the part of the House of Assembly, of what they considered their inherent rights.

202. Do you believe that if the House of Assembly were now to be convinced that the Government of His Majesty really did sincerely intend to remedy those abuses, there would be any difficulty in settling the financial question?—There would be no difficulty in settling the financial question, if the Government of His Majesty would express openly its readiness to take the means to alleviate those abuses.

203. What do you consider the means?—The means are very numerous, with regard to the proper exercise of the Royal prerogative: the appointment of officers in the colonies, and proper instructions to those officers to obey the laws, and to conciliate the good-will of the people, by treating them as free British subjects; and, finally, the taking care that those officers do conform themselves to those instructions. In the exercise of the Royal prerogative would be comprised an equal and fair distribution, without distinction, among all the classes of the inhabitants, of the places of profit or honour in the province, and also, of the unsettled waste lands in the country.

204. If you were asked, at this time, to point out the means of settling the differences that now exist between the various parts of the Government, what mode would you propose to follow?—I would desire that an understanding should be come to with reference to the manner in which the constitution of the Legislative Council is to be changed; I would desire, secondly, that His Majesty's Executive Government would plainly state the funds to which they lay claim, or the manner in which they would desist from that claim; and, finally, that they would also explain themselves on the several other subjects mentioned in the petitions of this year: but I must add, that I am here only to support the petitions of the House of Assembly, and that any such understanding could not be considered as to be made with me, but that every proposal should be made to the House itself.

205. Will you enumerate the various other grievances to which you have just referred?—There is the subject of lands, both as it relates to the laws passed in this Parliament, and to the manner in which the department for the granting and sale of lands has been administered in the province; the interference of the executive power and military force in the elections in the province; the want of responsibility of public officers intrusted with the monies of the province; the monies due by the late receiver-general, and which His Majesty's Government here have not shown a disposition to refund, although they have entered into an agreement with the said late receiver-general on the subject of those monies; the opposition manifested to education in the province, by retaining a large part of the Jesuits' estates after having acknowledged the right of the people thereto, and also by not giving the Royal assent to Bills passed in the Colonial Legislature, to give permanence to institutions giving a liberal education to the people, without distinction.

206. Do you mean without distinction of religion or of nation?—Without distinction

inction of religion or of nation. There are, in fact, several other abuses, but I believe I have mentioned some of the principal ones.

207. Supposing those you have mentioned were remedied, would the others you have not mentioned stand in the way of an agreement?—I believe that the various grievances of which the country complains are so connected with one another, that there should be an understanding upon most even of those that I have not just mentioned, and which are mentioned in the petitions. But if the province were once persuaded of the readiness of the Government to remedy them, I believe it might be easy to come to an understanding. I will mention also the subject of the refusing of a writ of election for the county of Montreal.

208. One of the chief grievances of which you have spoken is the constitution of the Legislative Council; has there been any proposition made by the Assembly of the form of constitution they desire?—They made their propositions in their petition to His Majesty last year.

209. Can you state briefly what they were?—They wish the Council to be elected by electors of a higher qualification than those who elect the members of the Assembly. I believe that the electors should have 10*l.* net revenue; and they also fixed the qualification for the elected at 200*l.* revenue; not that they consider that it is absolutely requisite that fortune should be a necessary condition to legislate in the American colonies, under a system of free elections; but in that they have wished to conform, as much as they could, with what is established on this side of the Atlantic. The duration of the Council, as petitioned for by the Assembly, and its mode of renovation, are not the same as of the House of Assembly. The Council, I believe, would be elected for six years, and renovated in parts, and not all at the same time.

210. You mean that a certain number would go out annually, and none would remain more than six years?—Yes.

211. What is the mode in which it is proposed that so important an alteration in the constitution should be effected?—The way which was indicated was, that the people of the province should be authorized by an Act of the Imperial Parliament to meet by delegates elected for that purpose, who would express their opinion as to the changes to be made in the Constitutional Act, and that their opinion would be reported to the Imperial Parliament finally to legislate upon.

212. Is not that a common mode of proceeding in the United States of America, when they make any great change?—In the United States they have meetings of that kind to express their opinion upon changes to be made; but there is a great difference in our proposition, because it is to come twice before the Imperial Parliament; so that we consider that there is no want on our part of the feelings which ought to exist between members of the same empire. But we have come to the conclusion, that the present Legislative Council could not do any good in the country; that the only way of producing harmony and good government is to have an elective Council, and we have suggested what, in our opinion, would be the mode of effecting it, in saving the rights of all parties.

213. You have pointed out the course which you think it would be wise to follow in this matter; what do you suppose would be the result of a course like the following: immediately suspending the Act of the 1st & 2d of Will. 4, which conferred upon the colonies certain portions of revenue that they had not before, and by an Imperial Act of Parliament, providing for the independence of the judges and the Governor; what state of feelings do you think would be created in the province?—It would certainly create a very unpleasant state of feeling. The House of Assembly have always considered that that part of the revenue mentioned in the question was at their own entire disposal, without any Act whatever of this Legislature; and if the Act of the 1st & 2d Will. 4. was repealed or suspended, they would still consider that portion of the revenue as being at their own entire disposal; and any law affecting that right of theirs would be considered as an infringement of the constitution of the province.

214. Do you believe that suspending that Act would really stand in the way of any adjustment of the differences now existing?—Certainly, I think so; because it would create quite another belief about the dispositions of His Majesty's Government than that which is requisite to come to an understanding.

215. By that you mean that the people would not believe that His Majesty's Government desired to remedy their grievances?—I believe they would not.

216. Can you point out what you suppose would be the immediate consequences of such a proceeding on the part of the Government?—The consequences would

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be a still greater dissatisfaction than the one which prevails now, and consequently a wider chasm would be produced between the mother country and the colony.

217. To speak plainly, do you think it would endanger the connexion between the mother country and the colony?—Perhaps it might; at least it might lead to consequences of serious moment which might endanger the safety and welfare of the inhabitants of the province, and affect the connexion which ought to exist between all parts of the empire. As to the manner in which that danger would exist, it is not in my power to explain, because it relates to future events; but I am sure that there would be a great danger for the peace of the province if the inhabitants were not soon persuaded of the just and benevolent intentions of the parent Government towards them.

218. Do you know intimately the general feelings of your countrymen?—I believe I do.

219. Is there not a strong feeling now existing in their minds of affection towards the Government of England?—They have always had a great affection to the Government of England, and they would still like to maintain the same affection; but I must say, that, although they continue to have great confidence in the Parliament of this country, their affection has been greatly impaired by the manner in which the constitution has been administered for some years.

220. For how many years?—Four or five or six years.

221. Do you think that the affection which the people still hold towards the Parliament of Great Britain would be materially shaken by any such proceedings?—I believe it would.

222. You have stated that the general opinion of the House of Assembly has been for some time that the revenues levied under the 14th of Geo. 3 were constitutionally subject to the appropriation of the House of Assembly, and not of the Executive Government; is that opinion entertained by all parties in the House of Assembly, or has it been a matter of difference?—That opinion is, I believe, one on which there has been the least difference of opinion in the House of Assembly. I remember that, on the votes on that subject which were come to some years ago, there was a small minority, three in one case, who maintained that that part of the revenue was at the disposal of the Crown.

223. Was that opinion entertained by Mr. Neilson and the gentlemen who have lately been acting with him in opposition to the majority of the House of Assembly?—Entirely.

224. The Committee understand that Mr. Neilson's opinion in that respect coincided with that which has been held by the majority of the House of Assembly?—Yes.

225. And upon that point there is no difference of opinion between the English and the French Canadians?—I believe not, except on the part of some officers of the Government.

226. With respect to the resolutions that were come to, and of which you are the bearer, did the members from the English townships generally agree with the members from the other parts of the country in those resolutions?—There are more in proportion of English members who have voted for the address, than there are Canadian members who have voted against it. I will give the numbers; there are five English members who have voted for the address; I believe there are about 20 members of English origin in the province; and there are eight Canadian members who have voted against the address.

227. How many English members voted against the address?—I suppose about 16; the general vote was 56 to 24.

228. In what manner were the proportions of the majority of the 56 composed of English and of French Canadians?—There were five English members, and all the rest were Canadians. By English members, I mean members having English names.

229. You do not mean representing English townships?—No; but there were two representing English townships who voted for the resolutions; and as to the three others, I remember that two represented counties mostly Canadian; the other gentlemen represented the city of Montreal.

230. With regard to the minority of 24, in what proportion did they consist of English and French Canadians?—There were eight French Canadians in the 24, and 16 English, or persons having an English name. When I speak of English members, I can only judge by the names, because I believe that any other distinction would be invidious. I have here the names of the members.

231. You

231. You have stated that, in the session of 1831 and 1832, a proposition with regard to the civil list was made to the House of Assembly in an unusual manner, and that that unusual manner was one of the causes why it was rejected; in what did the irregularity consist?—The irregularity consisted in the want of sufficient explanations, and in the means which were, either purposely or inadvertently, resorted to, to insure the passing of that list; and I have spoken of the letter which at that time created a strong feeling in the House.

232. Do you mean that a private letter was written by any person in the Executive Council, intimating that no appropriation would be agreed to unless it contained an acquiescence in the civil list, which was then proposed?—It was a note from the Governor-in-chief himself to the member who led the measure, and which was shown by him to many members, and even within the walls of the House.

233. You mean that the Governor, having to carry into effect the instructions of the Secretary of State, with regard to the proposition which was to be made to the House of Assembly, informed the person who upon the part of the Government was to make the proposition to the Assembly, that the Government could not sanction any appropriation which did not contain a permanent provision for the Governor and the judges?—It was not expressed in those general terms, it pointed out, in some way or other, to the allowance to the members, stating that it would not be sanctioned, or could not be sanctioned, if the civil list was not granted; and it was considered that the communication of such a letter was improper and injurious to the independence of the members of the Assembly.

234. You state this to have been the ground why the proposal for the civil list was not agreed to in 1831?—It is one of the grounds, but I believe that the want of explanation as to the particular funds, as I have already said, was a still greater objection. These are as to forms. The want of redress of the grievances was undoubtedly the principal cause.

235. Was it not generally understood in the province, that it was the intention of His Majesty's Government, in dealing with the affairs of the province, to follow up the recommendations of the Committee of 1828?—It was.

236. Are you aware that, with regard to the financial affairs of the country, the Canada Committee of 1828 recommended that, upon condition of the judges being made independent of the people, and the Governor and the executive councillors having a permanent appropriation made for them, the revenues of the Crown, with the exception of the casual and territorial revenues, should be ceded to the House of Assembly?—It is with a view of coming to an arrangement of that nature that the House of Assembly have passed Resolutions promising a permanent settlement for some of the officers of Government; but they have still always believed in their right of applying also the casual and territorial revenue.

237. Do you mean, therefore, to state that the House of Assembly would not have been satisfied, and would not have considered themselves bound to make that permanent provision in pursuance of the recommendations of the Canada Committee, unless the casual and territorial revenue which that Committee recommended to be maintained upon the part of the Crown had been given up to the disposition of the Assembly?—I was not in the House at that time, and I have not heard any particular opinion expressed upon that subject, but I believe that the House has always maintained its right to the casual and territorial revenue.

238. You have stated that you think, if certain grievances could be remedied, the financial difficulties of the province might be adjusted; and, with regard to the independence of the judges, you stated that provision would be made, provided they could be independent alike of the Crown and the people?—That is my view.

239. In 1831, was not an Act passed by the House of Assembly, and by the Legislative Council, constituting a tribunal for the trial of the judges upon impeachment by the House of Assembly?—I believe the Bill contained both the judges and other officers; the Bill was passed at that time by the House of Assembly under the hope of an effectual reform in the Legislative Council.

240. You stated that, in 1832, a Bill being brought in obviating some of the objections which had been taken to the former Bill by the Secretary of State, the House of Assembly refused to receive that Bill, upon the ground that they no longer had the same confidence in the Legislative Council which they had in 1832?—Not in 1832; it was in this year, 1834. In the last session a Bill was brought from the Legislative Council to provide for the independence of the judges, by creating the Legislative Council a tribunal for their impeachment. The previous

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Bills, which contained both the judges and other officers, had originated in the House of Assembly. The House have this year refused the Bill from the Council, I believe on the two grounds I have stated, that is to say, on the insufficiency of the provisions of the Bill, and on the present character of the Legislative Council.

241. Then the Committee are to understand from you that no permanent provision will be made by the Legislature for the salaries of the judges until they are made liable to impeachment before that which the House of Assembly may consider to be a competent tribunal?—Yes.

242. Are the Committee further to understand that the House of Assembly would not consider the Legislative Council to be a competent tribunal unless it were rendered elective?—Certainly.

243. Are you aware what were the complaints made in the year 1828 with regard to the constitution of the Legislative Council, and what were the recommendations of the Committee in the year 1828 for the purpose of removing those complaints?—The people complained at that time of the composition of the Legislative Council, because it was believed that it would be amended and bettered by the exercise of the prerogative of the Crown. I believe the Canada Committee recommended that persons of a more independent character, and more connected with the interests of the country, should be added to it.

244. In pursuance of the recommendation of that Committee, have the judges ceased to sit in the Legislative Council?—Two of the judges have ceased to attend the meetings of the Legislative Council. I believe, however, that one of them sat in it much later than the time at which the Report of the Canada Committee was known in the province. Another of them has since died, and the chief justice continues to be in the Council.

245. Is the continuance of the chief justice in the Legislative Council in conformity with the recommendations of the Canada Committee in 1828?—I believe it is, to a certain point. We have not considered the manner in which the Report speaks upon that subject as quite clear; some think that it was the intention of the Committee that the chief justice should be in the Legislative Council, as an ordinary member thereof; others think that the Committee only meant to say, that it was advisable that the chief justice should be there to give explanations on legal points; and we are led the more to that belief, because a subsequent Despatch of the 7th July 1831, recommended the chief justice cautiously to abstain from any thing which would appear to partake of political feeling. However, I must remark that, since that time, the chief justice of the province has been one of the members who, last year and this year, have voted addresses of a political nature, and taken part in debates also of a political nature. The character of those addresses I have already explained.

246. For how many years has the chief justice been a member of the Legislative Council?—It is beyond my remembrance. I believe it must be more than 20 years.

247. Have the House of Assembly themselves, within the last two or three years, acquiesced in the principle that the chief justice should be a member of the Legislative Council?—I believe they acquiesced once in it, in a Bill which provided for the independence of the judges, or brought some change in the constitution of the courts of law.

248. Will you state what were the objections taken in 1828 to the composition of the Legislative Council, and to which the attention of the Committee was particularly directed?—There being in it too great a number of public functionaries, and also too small a proportion of that part of the inhabitants of the country who are more attached to the population, laws and interests thereof.

249. Can you state what number of additions have been made to the Legislative Council since the year 1828?—I believe 19 or 20 members have been added.

250. Will you state how many of those 19 or 20 members have been public functionaries?—If I had a list of them, I could point them out.

251. Can you, at the present moment, name any public functionary who has been appointed since 1828?—The name of none at present occurs to my mind.

252. Will you state whether the members who now sit in the Legislative Council are most of them persons of independent property and living upon their own means?—They do not all possess independent property; as to living upon their own means, I believe that most of them do, but there are many other gentlemen equally respectable who might have been chosen, instead of making choice only or mostly of persons of one political character.

253. Can

253. Can you state what the proportion has been of French Canadians, as contradistinguished from English, who have been appointed out of the 19 or 20 since 1828?—I believe there is about one-half of French Canadians.

254. The first name that appears after 1828 is the name of Samuel Hatt; is he a gentleman of property?—He is; but he has shown against the people and the House of Assembly the opinions and feelings which I have mentioned.

255. Is he in any way dependent upon the Crown?—He is not, I believe.

256. What is Mr. Viger?—He is a gentleman of property, and he is now agent for the House of Assembly in England.

257. Is he in any way dependent upon the Crown?—He is not.

258. Who is Mr. Louis Guy?—He is a gentleman of very retired habits. I believe he is in some way dependent upon the Crown, by having the commission of His Majesty as notary for the district of Montreal. However, as to him, I speak upon principle only.

259. Is that a situation from which he is removable, or a situation of any emolument?—It is a situation of emolument, and from which he is removable; he has but little attended the sessions of the Legislative Council on account of sickness.

260. What do his emoluments arise from as a notary?—From all contracts passed between the functionaries of Government and individuals, either for the sale of land or for the purchase of provisions and things of that kind, which happen to be passed at Montreal, where he resides, or in the district around.

261. Who is Mr. Moffatt?—Mr. Moffatt is a merchant.

262. Is he a man of property?—I believe he has some property; I do not know the exact amount of it.

263. Is he dependent upon the Crown?—I do not consider him immediately dependent upon the Crown.

264. Is he dependent upon the Crown in any way, directly or indirectly?—I consider him as indirectly dependent upon the Crown by his being at the head, in Canada, of the Land Company, the connexion of which with the Crown we have not been able to know in a definite manner; but Mr. Moffatt has also shown that violent opposition to the people and the House of Assembly which I have mentioned.

265. How long has Mr. Moffatt been resident in the province?—I could not say; I think he has resided for many years.

266. Are all his pecuniary interests, whether as a merchant, or whether as the head of a company which has been recently formed for the purpose of purchasing land of the Crown, invested in the province?—I know not as to his private interests; as to the interests of the Land Company, I consider them rather vested in England.

267. What is Mr. Roch de St. Ours?—He is a large proprietor, having no connexion with the Crown.

268. What is Mr. M'Gill?—What I have said of Mr. Moffatt applies entirely to Mr. M'Gill, with the exception that I know not of his having any landed property in the province.

269. Is Mr. M'Gill one of the principal merchants of Montreal?—He is certainly among the number of the most respectable merchants.

270. Therefore, although not having any landed property, he is a man of very considerable property in the province, and wholly independent of the Crown?—He has certainly carried on his affairs in a creditable way, but the amount of his property I know not.

271. What is Mr. John Molson?—He is a large proprietor.

272. Is he independent?—He is independent from the Crown; he has voted for the addresses of the Legislative Council to His Majesty I have mentioned.

273. What is Mr. de Laterrière?—He is an independent proprietor.

274. Of French origin?—Of French origin.

275. What is Mr. François X Malhiot?—Mr. Malhiot is, I believe, of the same description as Mr. Laterrière.

276. What is Mr. Jean Dessaulles?—The same.

277. What is Mr. Bart Joliette?—The same.

278. What is Mr. Pierre de Rocheblanc?—He was born out of the province, but I believe he came into it when he was young.

279. Has he resided in the province ever since?—He has, except a long time that he has passed in the upper countries in the Indian trade.

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280. Of what country was he a native?—Of France, I believe, or some one of the French islands.

281. Is Mr. de Rocheblanc also independent of the Crown?—He is not dependent upon the Crown, otherwise than being a magistrate and justice of the peace.

282. What is Mr. Robert Harwood?—Mr. Robert Harwood was a merchant, but has married a Canadian lady, and on that account he holds rather large property in the province.

283. Did Mr. Robert Harwood marry the heiress of one of the French seigneuries, and in right of his wife is he possessed of a large landed property in Canada?—He is; I must add, that he had, in several instances, before he was named to the Council, shown his opposition to the House of Assembly.

284. Is he in any way dependent upon the Crown?—I believe not.

285. Who is Mr. Anthony Couillard?—He is a physician residing at Quebec; he is not considered as having large property; and he is considered also as dependent upon the Administration, from the circumstance that, after his appointment to the Legislative Council, he petitioned the Governor for a very subordinate employment.

286. Did he obtain it?—He did not.

287. You consider him, therefore, to be dependent upon the government, because he asked for an employment and was refused it?—Because that employment was not of such a character as would become the dignity of an independent legislator for life.

288. Who is Mr. Horatio Gates?—He is a foreigner, who took his seat in the Legislative Council while he was a foreigner.

289. What do you mean by a foreigner?—Born out of the British empire. Mr. Gates was born in the United States.

290. How long has he resided in Canada?—Since before the last war; but at the time of the last war he showed a great aversion and opposition to the British allegiance, and expressed, in public documents, that he remained in the province only for objects of lucre, asking the government to let him remain in the province for those objects from time to time by petitions; and the government at that time granted him, from week to week, that permission.

291. That was in 1812?—In 1812 or 1813.

292. Since that time he has resided in the province?—He has; but when he took his seat in the Legislative Council he had not conformed himself to the Act for obtaining naturalization, and he voted for the addresses above mentioned, against the people and the House of Assembly, before conforming to that Act; and, from a register kept for that purpose, I see that it is only in this very year that he has taken the oath requisite. He was named to the Legislative Council after an election, in which he took a very active part for the candidate who was supposed to be in the interest of the Legislative Council, and against another candidate who had been persecuted by that Council. I speak of the late election for the westward of Montreal.

293. Is Mr. Gates in any way dependent upon the government?—I do not know.

294. Who is Mr. Robert Jones?—I know but little about him; he resides in the townships. He has voted also for the address.

295. Are you aware whether he is a gentleman of very considerable property, who has laid out a large capital in the improvement of the townships?—I do not know, but I know that he passes for the proprietor of a considerable bridge.

296. Is he dependent upon the Crown?—I believe not.

297. Who is Mr. James Baxter?—He is also a foreigner, born out of the extent of the British empire, and he had not been naturalized by the Act of Parliament when he took his seat in the Legislative Council. He voted for the address.

298. Before he took his seat in the Legislative Council, had not he represented the county of Hanstead in the House of Assembly?—He had represented it for three years, but he had little attended the sessions of the House, and had not been engaged in any way in the business.

299. Is he in any way dependent upon the Crown?—I believe not, unless he be connected with the land department in the townships.

300. Are you acquainted with Mr. François Quirouet?—He is an independent proprietor.

301. In the list which has been read over to you, you have pointed out no one person

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person who is not a person of independent property, or who is in any way, directly or indirectly, dependent upon the Crown, unless it be Mr. Louis Guy, who is a notary of the Crown; will you state whether you can name any other additions which have been made to the Legislative Council since the year 1828, besides those which have been read?—I must remark that I have not acknowledged that all those gentlemen have independent property; there are also several of them of whose property I know nothing. As to any other additions, I know not any except Mr. John Baptiste du Chesnay, who has died since, and who was dependent upon the Crown.

302. By dependence upon the Crown, do you mean that he, being the representative of one of the oldest families, and one of the richest proprietors in the seigneuries, held the honorary appointment of aid-de-camp to the commander-in-chief?—He was not one of the richest proprietors in the country, although he belonged to one of the oldest families; but it was not an honorary appointment; it was an appointment with a salary.

303. What was the amount of the salary?—It was 400*l.* I believe he divided it with another, which the House of Assembly did not acknowledge.

304. When was he appointed?—At the same time with 11 other gentlemen.

305. Then this is the only exception, out of the number who have been nominated since 1828, and this gentleman is dead?—He is dead. As to independence, I must remark, that the circumstance of most of the new members holding no public situations is not enough to give an independent character to the Legislative Council, because, when the majority of these new members have been chosen, on account of their known opinions against the people and the House of Assembly, or when they may reasonably be supposed to have been chosen on that account, and when those members are added to the public functionaries, the speculators in the funds, and the other dependents upon the Crown already in the Legislative Council, it constitutes, as the majority of the body, a number of persons entirely unfit to legislate for the province in a way consistent with good government, with the peace and welfare of the country, and a proper respect for its inhabitants, its laws and its institutions.

306. Will you state who are the persons whom you consider as dependents upon the government, and speculators in public funds, and what is the number of those at present in the Legislative Council, beginning with the first name upon the list?—The Honourable Jonathan Sewell is the chief justice of the province, and the speaker of the Legislative Council; and he is thought to have at his disposal many places of profit, which are held by members of his family.

307. Do you say that of your own knowledge?—Yes. The Right Reverend the Bishop of Quebec; I believe he has a pension out of funds which ought to be under the control of the Assembly; I consider him as dependent upon the Crown. Sir George Pownall; he has been absent for many years. The Honourable John Hall is the receiver-general, and is dependent upon the Crown. Sir John Caldwell, baronet, was receiver-general, and is dependent upon the Crown for the amount due by him. The Honourable Herman W. Ryland, who is clerk of the Executive Council, has a pension besides, and has been put for several years, by the Administration, upon the Jesuits' establishment, for a retired allowance; he had been secretary. The Honourable Thomas Coffin, who has held for many years the situation of president of the quarter sessions at Three Rivers; I do not know exactly whether he has now any other situation; but he is considered dependent upon the Crown.

308. Is that removable by the Crown?—It was removable at the will of the Crown; but no person has been appointed for some years to that situation.

309. Is there any salary attached to that situation?—The House of Assembly have refused it, but it was paid during one of the Administrations, as I believe. There is the Honourable Louis Guy, the sheriff of the district of Montreal, also a dependent of the Crown, and receiving large fees and emoluments on account of his place.

310. Is he permanently sheriff?—He is appointed at the will of the Crown.

311. How many years has he been sheriff?—For eight or nine years. There is the Honourable William B. Felton, who is commissioner for Crown lands. There is the Honourable Matthew Bell, who is the lessee of the forges of St. Maurice, of which a lease has been continued, in opposition to the known wishes of the people and of the Assembly, and who has been favoured with grants out of the Jesuits' estates after their surrender to the province.

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312. What number of persons does Mr. Bell employ at the forges of St. Maurice?—He employs a great number of workmen at the forges, but I do not know the number.

313. You are aware that he has laid out a large capital at the forges?—He must have.

314. Are you also aware that he expressed his willingness to surrender the lease, provided any person would take the whole establishment as it stood, taking the fixed amount of capital which he has laid out in works?—I did not know it.

315. Are you aware that the forges of St. Maurice are part of the casual revenue of the Crown?—The spot where the forges are, I believe, belongs to the Crown, but additions have been made to the extent of ground annexed to the forges out of the Jesuits' land. The next is, the Honourable John Stewart, who is an executive councillor; he is also a commissioner of the Jesuits's estates, and consequently dependent upon the Crown, and receiving large salaries. I must add, also, that although the two puisne judges of Quebec do not sit at present in the Council, they appear to be considered by that body as still being members thereof, so much so, that a member gave notice in the last session of an inquiry into the reasons why the Council was deprived of the services of the judges; this may give an idea of the feelings of the Legislative Council with regard to an understanding on the difficulties of the province.

316. Have you now gone through the whole list of persons dependent upon the Crown in the Legislative Council?—I believe I have.

317. Did the whole of those appointments take place previous to 1828?—I believe they did.

318. With regard to the judges, has not their non-attendance at the Council become now so notorious, that it has formed the subject of a notice in the Council to inquire why they do not attend?—Yes.

319. Will you state why you conceive they have not attended?—Because I conceive, being dependent upon the Crown, they must have received some intimation not to attend.

320. Do you conceive that that intimation, so given by the Crown, has been in pursuance of the recommendations of the Committee, and in deference to the wishes of the province?—I believe so.

321. Was it possible to remove them from their seats for life, under the Constitutional Act of the province?—It was possible for His Majesty's Ministers to recommend to Parliament to pass an Act upon that subject.

322. Do you think it would have been as desirable to pass an Act for that purpose, thereby violating the Constitutional Act of the province, as to effect the same object by recommending the judges to abstain from future attendance?—Every enactment that changes some part of the Constitutional Act might be called or not a violation of that Act, but I consider that it would certainly have been desirable to have passed such an Act.

323. You stated that, in 1831, the House of Assembly had no objection to the Legislative Council as a tribunal of impeachment, and therefore it has been the late appointments between 1831 and 1832, which have created that jealousy which makes the House of Assembly now consider that the Legislative Council is so dependent as to be unfit for the exercise of the duties of a judicial tribunal?—It is certainly the late additions, including the additions of 1831, which have created that opinion.

324. You stated the objection that you made to the Legislative Council is, that the majority of the members hold different political opinions from the majority of the House of Assembly?—They not only hold different opinions from the majority of the House of Assembly, but they have shown themselves the enemies of the people, of the country, and its laws and institutions, and they have wished to maintain for themselves or for others a paramount power in the colony, in opposition to the law and the constitution.

325. Are the members of the Legislative Council removable by the Crown?—They are not.

326. As a court for the trial of impeachments, do you not consider that the court should be altogether free alike from dependence upon the Crown and from dependence upon any popular favour?—I consider that that tribunal should be independent both of the Crown and of the people.

327. Do you consider that independence of popular favour would be materially augmented by rendering the Legislative Council elective, and that the tendency of such

such a change would be to make the Legislative Council a more fair tribunal for the trial of political offences?—I do.

328. Will you state the grounds upon which you form the opinion that an elective Council is more likely fairly to try political offences upon an impeachment brought by an elective body of the same country, than a tribunal nominated for life and wholly independent both of the Crown and of the people?—Experience has shown that it is impossible to have an independent body at the nomination of the Crown. I consider that such a body, though elected by the people, would be independent, and I do not believe that any one of the reasons mentioned in the question would have any influence upon that body when called to discharge the high function of adjudging upon the accusations brought against public functionaries.

329. You consider the House of Assembly accurately to represent the feelings and the opinions of the mass of the people of Canada?—I do.

330. In the discharge of his public duties, may it not be necessary for a judge or a public functionary occasionally to take steps which may render him very unpopular and obnoxious to the mass of the population?—I could not say whether it might be the case, but I believe that any upright judge will always be respected by all parties. However, the question relates to matters of opinion.

331. Suppose a great excitement to be raised against a judge, in consequence of the discharge of an unpopular duty, and an impeachment to be brought against him by a popular assembly, accurately representing the feelings of the people, do you think it would be desirable that that judge should be tried by another body, elected by the people, and vacating their seats at the end of a short time, and that in that manner, subject to such a tribunal, the judges would maintain a real independence in the province?—I believe that they would still be independent.

332. You think that till the judges are made independent in the manner in which you propose, it is idle to hope that any permanent provision will be made by the province for their salaries?—That is my view of the question.

333. Do you know any case which has arisen in the state of Massachusetts, within a few years past, where a judge was impeached by a popular assembly before an elective Council, and reinstated in spite of the Assembly?—I have heard of such a case, but I do not know the names of the parties.

334. Do you propose that the sentence of the Legislative Council, as a court of impeachment, should be final?—The House of Assembly has not expressed any opinion upon that subject; I think that the sentence should be final.

335. Without appeal to any other tribunal?—Without appeal to any other tribunal.

336. Supposing an acquiescence on the part of the Crown and of the Parliament to carry into effect the alterations you propose in the Legislative Council, with a view of rendering it more independent as a tribunal for the trial of impeachments, do you still consider that the financial difficulties could be got over, and a permanent appropriation made, without the removal of the various other grievances to which you have referred?—Not unless Government would show a readiness and a disposition to remove them.

337. Could the financial difficulties be overcome, supposing Government to redress all the other grievances, unless they also acquiesced in that proposition with regard to the constitution of the Legislative Council?—I believe not. I believe the Legislative Council is considered the fundamental point of difficulty.

338. Then, unless some interference should take place by the British Parliament, it is your opinion that, till such change as you have recommended shall take place, the Governor, the Executive Council and the Judges must all remain dependent upon the annual votes of the House of Assembly?—I think so. I consider the case as being within the rights of the House of Assembly.

339. You have stated your fear that the result of an interference upon the part of Parliament would be to create great dissatisfaction in the province, and probably to lead to considerable confusion; have you contemplated what may be the result, supposing no steps are taken, and all the public officers throughout the province remain much longer, as they are at present, wholly without the payment of their salaries?—That object is certainly not of so much importance, at all events, as the respect due to the principles of the constitution, and to the laws and feelings and wishes of the people.

340. What are the laws you refer to?—The whole body of the civil law of the country, as applying both to persons and to landed property, and to which the constituted authorities of the colony have shown so great an aversion.

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341. When you say the respect due to the principles of the constitution, are you not aware that one of the remedies you point out as essential is a direct violation of the constitution, namely, that of an alteration of the constitution of the Council?—But we do not wish it to be effected, of course, without the assent of the Parliament of the United Kingdom.

342. When you refer to infringements of the law, and of the principles of the constitution, will you state what are the sort of infringements that have taken place?—I have in mind both the infringements which have taken place and those which have been maintained and upheld by the Legislative Council and by the Administration.

343. Will you specify some of those infringements?—The Acts of legislation for the interior affairs of the colony within this Parliament I consider an infringement of the constitution.

344. Will you specify some of those?—The Canada Trade Act, so much of it as refers to lands, the whole of the Tenures Act, and an Act passed since, to authorize His Majesty to give his assent to any Bill passed on that subject in the Legislature of Lower Canada, because I consider that the Legislature of Lower Canada had already a right to legislate on that subject; I consider also as an infringement of the laws many of the abuses of the Colonial Administration, which I have mentioned.

Mercurii, 14^o die Maii, 1834.

THE RIGHT HONOURABLE ROBERT GRANT,

IN THE CHAIR.

Monsieur *Augustus Norbert Morin*, again called in; and Examined.

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345. HAVE you, and will you produce to the Committee, a copy of the written authority by which you appear on behalf of the House of Assembly of Lower Canada?—I now produce it to the Committee; it is a Resolution passed by the House of Assembly.

[The Witness delivered in the same, which was read, as follows:]

House of Assembly, Saturday, 1st March 1834.

Resolved, That it is expedient to appoint some person, in whom this House reposes confidence, to carry to England, and deliver to the Honourable Denis Benjamin Viger, the agent of this province there, the petitions of this House to the two Houses of the Parliament of the United Kingdom on the state of the province, and to support the same jointly with the said Honourable Denis Benjamin Viger.

Resolved, That Augustus Norbert Morin, esq., a member of this House, be charged with the said mission.

Attest,
Wm. B. Lindsay, Clerk of Assembly.

346. In that character, do you produce the Resolutions passed by the House of Assembly?—I do as I am desired.

347. When were they passed?—In the latter end of February last. The petition founded upon those Resolutions was agreed to a few days afterwards; and it is referred to in the authority given to me.

348. Were those Resolutions adopted unanimously by the House of Assembly?—They were not adopted unanimously; the votes on the petitions and on the Resolutions have varied from 56 to 24, and 53 to 20.

349. Was there any amendment moved on those Resolutions?—There was an amendment moved by Mr. Neilson to the Resolutions.

350. Have you that amendment with you?—I have not the amendment moved
to

to the Resolutions, but I have an amendment moved to the Address by the same gentleman.

351. Can you put it in?—I now produce it to the Committee.

[The same was read, as follows:]

Amendment moved by Mr. Neilson on the 21st Feb. 1834.

Mr. Neilson moved, in amendment, seconded by Mr. Languedoc, That all the words in the said motion after "That" be struck out, and the following substituted: "the said report be recommitted, with an instruction to consider the following propositions:

"1st. That the state of the province was fully considered by this House, and represented to His Majesty, and both Houses of Parliament, in its humble address of the 16th March 1831; and that the answer thereto of His Majesty's then Principal Secretary of State for the Colonial Department, dated the 7th July following, laid before this House on the 18th November of the same year, contains a solemn pledge on the part of His Majesty's Government of its ready assent and co-operation in removing and remedying the principal grievances and abuses complained of in the said address; and that it is the bounden duty of this House to proceed, in the spirit of the said Despatch, to co-operate in promoting the peace, welfare and good government of the province, conformably to the Act of the British Parliament under which it is constituted.

"2d. That the extract of the despatch of His Majesty's Principal Secretary of State for the Colonial Department, communicated to this House in the message of his Excellency the Governor-in-chief, of the 14th January last, contains an acknowledgment of the continued disposition of His Majesty's Government to give effect to the recommendations of the Report of the Committee of the House of Commons, of the 22d July 1828, made after a full investigation of the petitions of all classes of His Majesty's subjects in this province; and thereby furnishes an additional inducement to this House to proceed earnestly, diligently and perseveringly, in so far as depends upon it, to secure for its constituents the advantages afforded by the said recommendations, cultivating harmony and good-will throughout the province, and promoting the general welfare.

"3d. That it is urgent at the present time to make legislative provision for the advancement of the improvement of the province, and the amelioration of the condition of its inhabitants; more particularly,—1st, For facilitating the occupation and secure titles of all lands in the vicinity of settlements remaining in a state of wilderness, without the actual settler being burthened with any arbitrary or unnecessary dues or conditions, and either upon the ancient tenures of the country, or in free and common soccage, as may be the most agreeable to the occupant;—2d, For the greater certainty of the laws affecting real property throughout the province; for the independence of the judges, and for facilitating the administration of justice, and recourse against the provincial government in the courts of law;—3d, For the greater responsibility of high public officers, and the trial, within the province, of impeachments by the Assembly;—4th, For the settlement of all public accounts, and for a full and fair investigation into all salaries, emoluments of office, fees and expenses exacted under public authority, and a reduction of all unnecessary charges and burthens on the subject."

352. Is Mr. Neilson the gentleman who in 1828 appeared as one of the three delegates to represent the grievances of Lower Canada?—He is.

353. Who were the other two gentlemen?—Mr. Viger and Mr. Cuvillier.

354. Has Mr. Viger since that time been made a member of the Legislative Council?—He has.

355. Did he take any part upon the subject of those Resolutions?—He was not in Canada at that time; he was then in England, in the capacity of agent of the House of Assembly.

356. Receiving a salary in that capacity?—A salary has been voted to him, but I believe he has not received it of late.

357. Was Mr. Cuvillier in the province at the time?—He was.

358. Did he support the Resolutions, or the amendment moved by Mr. Neilson?—He voted against the Resolutions.

359. Was there more than one division upon the Resolutions?—There was only one division upon the Resolutions, and some divisions of form afterwards; and there were also divisions upon the address.

360. You were a member of the Assembly at the time, and supported the Resolutions?—I was; I supported them.

361. Was one vote taken upon all the Resolutions, or were they voted *seriatim*, one by one?—They were read *seriatim*, one by one, but the House did not divide upon each of them; there was an agreement between the two sides of the House, that as the Resolutions were rather to be considered in the series than otherwise,

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the divisions should be taken upon the whole together. This was done before any division took place. That mode of recording the vote was proposed by Mr. Neilson, for the convenience of the minority, of which some members wished to go out of the house during the reading.

362. It was not then conceived, probably, that a gentleman might agree in the substance of the allegations contained in one Resolution, and differ from the substance of the allegations contained in another?—I do not believe that there was much difference of opinion. I heard one member, who said that if the votes had been taken upon one Resolution he might vote against that one; but, however, he was satisfied that that arrangement was agreed to. Several members who approved of part of the Resolutions voted in the minority; one member of that minority declared in the House that he approved of more than one half of the Resolutions. I have not the least doubt as to the Resolutions, and believe them to be the true expression of the sentiments of the majority who voted them.

363. Was there no vote upon the amendment?—There was a vote upon the amendment, and a division of the House; and there was also a division upon the main motion, which was in fact the same division, except changing sides in the House.

364. Does Mr. Cuvillier hold any office of profit?—I know not of any.

365. Or Mr. Neilson?—Nor Mr. Neilson.

366. Are you acquainted with the feelings of the people of Lower Canada?—I am.

367. For a long time past have they been a loyal people?—They have always been attached to this Government.

368. Have you of late seen any distinct change in their feelings in that matter?—I must acknowledge that there has been certainly some change.

369. Will you describe the nature of that change?—The people seeing that the grievances complained of by them were not redressed, and that all power in the country was taken from the representative branch of the Legislature, they have examined more seriously the advantages and disadvantages which may result from their present form of government, and I believe that a great majority of the people are dissatisfied.

370. Do you mean to say that the feeling of attachment to the British Government is less, or that the people begin to entertain different notions with respect to the form of government?—Their attachment to the British Government must of course be less, if they are convinced that they cannot enjoy the rights which are assured to them, and that freedom which belongs to English subjects. As to the form of government, they are also convinced that the Legislative Council, as it is at present, is an impediment to the enjoyment of their rights and liberties.

371. When you say that their attachment to the British Government is diminished, do you mean to imply British connexion?—I believe it implies British connexion.

372. When you say "they," do you mean the members of the House of Assembly, or the great body of the people?—I mean the great body of the people.

373. What are the outward signs by which the great body of the people have manifested such sentiments?—The ideas expressed in newspapers, the conversations I have had occasion to have in various parts of the country with persons of influence and respectability, and the opinions expressed at public meetings on subjects connected with Government.

374. To what public meetings do you refer?—Public meetings of the inhabitants of the country generally.

375. Have you been present at those meetings?—I may have been at a few, but I have not generally been present.

376. Have those meetings been numerous?—I believe they have.

377. And attended largely?—I believe they have, at least most of them.

378. Has there been any printed account of such meetings?—Printed accounts were almost always published.

379. And therefore in the newspapers will be found an account of such meetings, and what took place there?—Yes.

380. In what parts of the province have those meetings been held?—Almost in every part; I mean that they have been held in the various districts.

381. By what description of Canadians have they been attended?—By the most respectable of the places where such meetings were held, and I believe by all classes of the inhabitants.

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382. Do you mean by those equally of French and of English origin?—There have been such opinions expressed also in places where the inhabitants were mostly of English origin.

383. Do the inhabitants of Canada, of English origin, hold the opinions you have alluded to, in the same degree and to the same extent as those of French origin?—I cannot say.

384. Will you state as nearly as you can what is your opinion upon that subject?—I believe that the English inhabitants have not expressed themselves so strongly as the French inhabitants have; the reason I consider to be, that some of them expect more protection or more power for the future, from the past conduct of the administrations, than perhaps would be justly due to them.

385. In a previous answer you stated that you were not fully aware of what the opinions were which the English inhabitants entertain; was that so?—Not so well as with regard to the French inhabitants.

386. You say that you have learned the opinions of the inhabitants generally by the expressions of opinion at public meetings, and also what you have heard in conversation; are the Committee to infer that the English inhabitants do not attend those public meetings, and that they do not express those opinions in conversation?—I have heard those opinions expressed in conversation also by some of the inhabitants speaking the English language, and I know also of meetings in which the same opinions were entertained.

387. Can you specify any meetings in English townships?—I will specify a meeting at Stanstead, in the townships, in the course of last fall, and which was a very numerous meeting.

388. Have any petitions been presented, originating with the English inhabitants, expressing adverse opinions to those entertained by the French Canadians' petitions?—Some have been prepared for the British Parliament; but those which were numerously signed were long ago, more than 10 years ago; and I believe the circumstance arose from the prejudices which had been inspired in the minds of the English inhabitants, and their want of intercourse with the French inhabitants. The English inhabitants were virtually then not represented in the House of Assembly, although the House had passed Bills for that purpose. Since they have had representatives, a much greater agreement between both populations has taken place, I know also that a petition to the British Parliament in favour of the Land Company, expressing opinions at variance with those of the Assembly, has been prepared in some of the townships, but I do not know whether it was numerously signed or not.

389. Have you any doubt that the inhabitants of Canada who are of English origin do not hold the opinions upon these subjects as they are expressed in those Resolutions?—I believe that there are a very great many of them who are of the same opinion, although another large number have expressed themselves differently. When I speak of the English population, I also speak of those having English names, because it comprises many Americans and Irishmen.

390. Within the last week there has appeared in the English papers a very strong declaration, purporting to come from the merchants of Montreal, favourable to the British connexion; are you aware of that declaration?—I have seen it in the newspapers.

391. Is not that the sort of declaration to which your attention was called in a late question?—I did not then think of that last meeting now mentioned.

392. But it is perfectly true, is it not?—Just as all other reports of public meetings are true.

393. Are you not of opinion that the great mass of inhabitants in Lower Canada, conducting the trade of the province at Montreal and Quebec, have opinions directly at variance with those expressed in the Resolutions of the House of Assembly?—Many of them certainly have expressed different opinions; but, in my opinion, they must be attributed in a great measure to the unjust wish for a dominancy and political influence over the rest of the inhabitants of the country.

394. But to whatever cause you ascribe that opinion, still you believe it to be the opinion of the majority of the influential persons concerned in the trade in those great towns?—Not of all concerned in trade, because there are many Canadians concerned in trade; but the majority of English merchants at Quebec and Montreal have occasionally expressed themselves averse to the opinions maintained in the House of Assembly.

395. When you said that you thought a large party in the country was dissatisfied

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with the British connexion, to what system of government do you think that that large part of the community would wish to intrust the affairs of the country?— I do not think they have yet come to determine any scheme of government; but they consider the freedom of the government of their neighbours; they discuss those subjects.

396. You have mentioned only one meeting in the English townships upon the subject of the grievances, namely, Stanstead; had that meeting in view the redress of general grievances resembling these, or was it met for a specific purpose?—It related to general grievances.

397. Were there resolutions adopted at that meeting at Stanstead?—There were.

398. Do you suppose that there is a difference between the opinions of the English trading population and the English population in the townships?—A very great difference of opinion. I consider the English population in the townships as being far more than one half favourable to the opinions entertained by the House of Assembly. I will, for instance, state that there was last year in the townships a meeting called at Sherbrooke to disapprove of the House of Assembly; the meeting was not numerous, but it was published as the expression of the ideas of the inhabitants of the district of St. Francis. Another meeting was then called at or near Stanstead, which was the one I have spoken of, and which was admitted by all to have been very numerous.

399. If that be the case, how do you account for the fact that out of 22 dissentients upon those Resolutions of the Assembly, 16 should be English names?—There are three English representatives of Quebec who voted against the Resolutions; Mr. Young, Mr. Stuart and Mr. Neilson. There were also in the minority members from the townships who, in my opinion, have not expressed the views of their constituents.

400. How many members from the townships voted in favour of the Resolutions?—Two who represent townships only, and two others who represent part of townships and part of seigneuries.

401. How many members are there altogether returned from the townships?—Ten.

402. Of those ten, how many voted in favour of those Resolutions?—Two.

403. Was not the district of Gaspé unrepresented at that time?—It was represented.

404. How did the members for the district of Gaspé vote?—All the members present from the district of Gaspé voted against the Resolutions. A Canadian gentleman from there was absent.

405. Is Gaspé principally inhabited by British settlers?—The county of Gaspé, but not the county of Bon Aventure, which is in the district of Gaspé.

406. Are a large portion of the inhabitants of the townships American settlers?—A very large portion.

407. Have not the same members who voted those Resolutions, or at least a large number of them, been often returned by their constituents?—A great number of them have been very often returned by their constituents.

408. With respect to the Resolution No. 2, the last line of it states, that the confidence which the people of the province have at all times manifested in His Majesty's Government remains unchanged; how do you reconcile that Resolution, which you are here called upon to support, with the declaration you have just made, that the great majority of the people are becoming alienated from the British connexion, and desirous of adopting some other system?—I have not said that they were desirous of adopting some other system. I have said only that they were greatly dissatisfied; that they discussed these subjects. I believe that their hope in the justice of the British Parliament still remains unabated, and that it is this sentiment which is expressed in the Resolution of the House of Assembly. In fact, if we had no hope, we would not have petitioned.

409. Did you not state just now, that the people of the province of Lower Canada looked at the institutions of their neighbours?—They do.

410. Do you mean by that to intimate that the majority of the persons whom you represent are desirous of adopting American institutions, and exchanging British for American connexion?—No; but they are desirous of assimilating those institutions under British connexion as near as possible to the state of things which exists in America.

411. Their laws and their feudal system, do they wish to abolish that, and to substitute

substitute for it the American system?—With regard to transfer of property and to successions, the laws of Canada and the laws of the United States are pretty much the same. With regard to what is called the feudal system, the inhabitants of the province have shown a great wish to see those burthens diminished, provided it be done without a change in the whole system of the laws with regard to property. It is an error to believe that the laws of Canada could not subsist without the feudal system. The feudal system, as it exists in Canada, is regulated by the laws of Canada, but the laws of property do not necessarily require that system. The House of Assembly has been occupied several years about the means of ameliorating that system, but they have been greatly prevented by the embarrassments which have been occasioned by Acts of the Imperial Parliament with regard to the laws of property and of tenures.

412. Are not the clergy supported by tithe in Canada?—Yes.

413. Do you consider that to be one of the institutions which the people would like to see assimilated to the state of America?—No, I believe not; they are satisfied with that as it is at present.

414. Will you have the goodness to explain what is meant by the last part of the third resolution, in which it is stated that the people of the province have always shown themselves disposed, on behalf of new settlers, “to remove for them the difficulties arising from the vicious system adopted by those who have administered the government of the province, with regard to those portions of the country in which the new comers have generally chosen to settle?”—The first lands apportioned to be given in free and common soccage have been given on the American frontier, far remote from the ancient settlements in the province. The House of Assembly have, by Bills passed during several years, endeavoured to give representatives of their own to those remote portions, and they have also granted very large sums of money to open roads from those settlements to the markets of the cities, and to the other settlements.

415. Are the Committee to understand that the House of Assembly mean, by the readiness which the people of Canada have shown to remove the difficulties arising from the vicious system adopted by those who have administered the government of the province, merely that they have shown themselves ready to assist in opening the roads to the distant townships?—And also in ameliorating the laws, into which a great confusion had been introduced.

416. What are the parts of the country in which the new comers generally prefer to settle?—In the eastern townships, when they do not settle in the seigneuries, or in some townships on the north side of the river.

417. Do the new comers generally prefer to settle in the townships in preference to the seigneuries?—There are less available lands in the seigneuries, and consequently most of them settle in the townships.

418. Can you state what proportion of the seigneuries is at present under cultivation?—I believe that three-fourths of the seigneuries are under cultivation; I do not in that comprehend the island of Anticosti, nor the territory of Mignan; and what remains of seigneurial lands is not of the same value as the parts which are settled.

419. Are not the unsettled lands of the seigneuries, generally speaking, more easy of access than the unsettled lands in the townships?—They are, because the townships have begun to be opened in the most remote parts. The lands in the seigneuries are not, however, easily settled upon, on account of the high charges which the seigneurs have demanded for a number of years.

420. You wish the Committee, then, to understand, that although the lands in the seigneuries are more easily accessible to new comers than the lands in the townships, yet they generally prefer settling in the townships, on account of the heavy demands raised by the seigneurs under the seigneurial tenures?—That is another reason also. As they sometimes have friends in the townships, and as they can find there persons speaking the English language, they give the preference to the townships.

421. Though they are more remote and less easily accessible than the seigneuries?—I believe so.

422. Is not the land of the townships generally superior to the land of the old seigneuries?—I believe it varies a great deal.

423. The vicious system you allude to as having been pursued by the Government with regard to the settlement of land, has been, that they have allowed settlers to settle at a remote distance from the old settled country?—That is

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one part of the vicious system ; very bad consequences have resulted from that system upon the mutual feelings of all classes of the inhabitants, and which are now disappearing. The vicious system also comprehends the laws introduced by acts of the British Parliament, in opposition to the laws of the country, with regard to the holding, transferring and transmitting property.

424. Is what you have now stated the whole of what you understand the Assembly to mean by the expression in this resolution of the vicious system with respect to the settlement of lands ?—The granting those lands has also been always conducted upon a vicious system : first, because they were granted for no consideration, or for considerations worse than if there had been none, to persons connected with the Executive, and that in large tracts ; and, secondly, on account of the intermixture of the reserves with other lands. The present system is also vicious, because the Legislature of the country can have no control over it, because its operations are secret, and because lands are not disposed of in such a manner that the mass of the inhabitants may freely have access to them.

425. Do the owners of land in the seigneuries wish to see emigrants from Britain settle within the seigneuries ?—I believe they have no objection to grant lands to any part of the population whatever. I do not believe they wish to have English settlers in preference to Canadian settlers.

426. Do not they prefer settlers of Canadian origin to the British ?—Seigneurs who are Canadian might reasonably wish to have their own countrymen settled in their seigneuries, and especially since it is so very difficult for the Canadians to have land elsewhere. There is in the province a good number of English seigneurs, and I know some who prefer to concede their lands to English settlers.

427. Do you know anything of agriculture in that country ?—I do.

428. Do not you consider that a Canadian born in the country, and accustomed to the culture of land in the country, is a better agriculturist than an Englishman who knows nothing of the country ?—He is a better agriculturist certainly in Canada, because he knows the soil and the climate better.

429. Upon the subject of the fifth Resolution you have stated that there is a growing inclination to adopt the institutions of the United States ; do you consider that that statement is consistent with the declaration of the fifth Resolution, which appears to imply a strong desire to adhere as closely as possible not only to the constitutional and parliamentary law of England, but also all such parts of the public law of the United Kingdom as have appeared to the House of Assembly adapted to promote the welfare and safety of the people, and to be conformable to their wishes and their wants ?—I consider that there is no contradiction. It is a statement of what the House and the people have done for the past, and invoked as a motive of justice towards them. Those parts of the public law of the United Kingdom exist also for the most part in America. As to the facts which substantiate this fifth Resolution, the journals of the House of Assembly, from its commencement, will be sufficient proof of them.

430. The sixth Resolution says, "That, in the year 1827, petitions were presented complaining of serious and numerous abuses which then prevailed, many of which had existed for a great number of years, and of which the greater part still exist, without correction or mitigation ;" will you enumerate the grievances then complained of, and which still remain unremedied ?—I have already in my former examination stated some of them. The irresponsibility of public officers ; the enormous fees taken without the consent of the Legislature ; the withholding the due control of the revenue of the country from the Legislature ; the payment of large sums of money by the governors without the authority of the Legislature ; the interference of the British Parliament in the interior affairs of the colony, against which His Majesty's Government has strongly expressed itself ; the unjust manner in which all the places of profit or honour in the province have continued to be bestowed on persons the least connected with permanent inhabitants of the country, or who have shown themselves averse to them. The management of the waste lands I consider to be as bad as it was then. As to the Jesuits' estates, they have been surrendered only in part. I believe these were all the principal grievances enumerated in the Quebec petition. The Montreal petition complained, besides, of withholding divers papers and information from the knowledge of the House of Assembly—the debt due by the late receiver-general. There was also a complaint of the too frequent reservation of bills for the Royal sanction ; the violation of the elective franchise of the inhabitants of the province ; the obstacles opposed to education ; the accumulation of places upon the same individuals ; the composition
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of the Executive Council; the rejection of bills by the Legislative Council; the refusal by the same Council to have an accredited agent of the province near His Majesty's Government.

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431. Those are the different grievances which you consider still unredressed?
—Yes.

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432. The seventh Resolution states, that "the Committee in 1828 came to the following very just conclusions: first, that the embarrassments and discontents that had long prevailed in the Canadas had arisen from serious defects in the present system of laws and the constitutions established in those colonies; secondly, that these embarrassments were in a great measure to be attributed to the manner in which the existing system had been administered." Upon turning to the Report of the Canada Committee, the passage there referred to is as follows: "At an early period of their investigation, your Committee perceived that their attention must be directed to two distinct branches of inquiry: first, to what degree the embarrassments and discontents which have long prevailed in the Canadas had arisen from defects in the system of laws and the constitutions established in those colonies; second, how far those evils were to be attributed to the manner in which the existing system has been administered. Your Committee have clearly expressed their opinion that serious defects were to be found in that system, and have ventured to suggest several alterations that appeared to them to be necessary or convenient. They also fully admit, that from these, as well as from other circumstances, the task of government in these colonies (and especially in the Lower Province) has not been an easy one; but they feel it their duty to express their opinion, that it is to the second of the causes alluded to that these embarrassments and discontents are in a great measure to be traced." Do you consider the representation made of this Report in those Resolutions conveys accurately the substance of the Report of the Committee?—Yes.

433. You will observe that the Resolution states, as agreeing with the Report of the Committee, that the embarrassments and discontents had arisen from serious defects in the system of laws and the constitutions established in those colonies; do you find that that is borne out by the Report of the Canada Committee in 1828?—Yes, because the Report of the Committee says that serious defects were to be found in that system.

434. Did the Committee of 1828 suggest any alteration in the constitutions established in the Canadas?—It suggested that the judges should cease to attend the Legislative Council.

435. Do you conceive that to be an alteration in the constitution of the Canadas?—I believe so.

436. When it is stated that the recommendations of the Canada Committee have not been carried into effect, do you understand that it was intended to say that that alteration had not been carried into effect?—It has been carried into effect, except with regard to the Chief Justice, whom the Canada Committee retained in the Legislative Council, as I have before explained.

437. The Report of the Canada Committee says, that they feel it their duty to express their opinion that it is to the second of those causes, that is, to the manner in which the existing system has been administered, that the embarrassments are in a great measure to be traced; do not you conceive that the intention of the Canada Committee was to recommend that the constitution should be adhered to, but that the system of acting upon it should be altered?—I conceive that they acknowledge that there were defects in the constitution, but they did not point out any particular remedy on that point.

438. If the words "that system" applied to the constitution, would the Committee have immediately afterwards stated that they had ventured to suggest several alterations, if they had intended that those alterations should refer to the constitution, and not to the system of laws?—I cannot say to which suggested alterations the Committee alluded, but certainly the defects mentioned are clearly given as defects in the system of laws and constitution.

439. Is it your opinion that the Committee of 1828 recommended any alteration in the Constitutional Act?—It did not speak of any such alteration by Act of Parliament.

440. Will you refer to page 8 of the Report of the Select Committee of 1828, and you will find these words: "Your Committee strongly recommend that a more independent character should be given to these bodies; that the majority of their members should not consist of persons holding offices at the pleasure of the

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Crown, and that any other measures that may tend to connect more intimately this branch of the constitution with the interest of the colonies would be attended with the greatest advantage." What do you suppose was the feeling of the Assembly as to the intention of the Committee by those words?—That they expected measures should be taken to exclude all salaried functionaries from the Council, and that the new members should be chosen from among the permanent population of the country, without any view to party prejudices.

441. Was it your interpretation of the intention of the Report, that all persons holding offices should be excluded from the Council?—It was certainly the hope of a great portion of the people.

442. The question is, was that your interpretation of the Report?—The Report says that the majority should not consist of persons holding offices at the pleasure of the Crown; but there was so great a number of those persons in proportion to the whole number of members, that any amelioration would have been difficult, without taking some measures to exclude the salaried officers from the Council.

443. In point of fact, what is now the state of the case; does the majority of the Legislative Council consist of persons holding offices at pleasure under the Crown?—Not a majority. I have already explained what members I consider to be holding offices, or dependent upon Government.

444. Then in that particular has not the recommendation of the Committee of the year 1828 been strictly complied with?—To no effectual purpose, at least.

445. The Committee having recommended that the majority of the Legislative Council should not consist of persons holding office under the Crown, and it being the fact now that, in consequence of measures since taken, the majority of the Council does not consist of persons holding office under the Crown, do not you consider that literally the recommendation of the Committee in the year 1828 has in that particular been strictly complied with?—No, because the character of independence mentioned at the same time has not been given to the Council.

446. In what respect has that particular recommendation not been complied with?—That particular recommendation has been complied with in the letter, and not at all according to the explanations of the Committee.

447. In what respect has not that particular recommendation been complied with in spirit?—Because some of the new members are dependent upon the Crown, although they may not be said to hold any office.

448. In point of fact, does the majority of the Legislative Council consist of persons holding office at the pleasure of the Crown?—No.

449. Or dependent upon the Crown?—Perhaps the majority does not depend upon the Crown, but the majority is certainly connected with the views and ideas of those members of the Administration who have always expressed themselves averse to the inhabitants and institutions of the country.

450. Is it your opinion, then, that the character of independence which you would desire to have given to the Legislative Council, is a more complete accordance on points and questions of local interest with the majority of the House of Assembly? Is that the species of independence which you desire of the Legislative Council, and which you conceive the Committee of 1828 recommended?—The fact itself of two distinct Houses must necessarily occasion some differences on local matters, but there should be no absolute contrariety of opinions on the general principles of Government, and on the rights of all the classes of subjects, and the maintenance of institutions of a high public nature.

451. When the petitioners in 1828 spoke of the dependence of the legislative councillors upon the Crown, did not they mean the dependence arising from personal interest, and not any dependence arising from particular opinions which they might entertain?—I believe that was the meaning of the representation made at that time. What I have said of dependence, besides holding office, relates to the two heads of the Land Company in Canada, whom I consider connected with the Crown.

452. How many members have been added to the Legislative Council since this Report in 1828?—About 18 or 19.

453. Of those 18 or 19, has any one been a salaried officer immediately depending upon the Crown?—I have already said that Mr. Guy holds office, although with regard to him I speak chiefly upon principle, because I know not the exact amount of his fees; and two others I consider indirectly dependent; there was also one, who is since dead, who was dependent upon the Crown.

454. Then all the remainder are wholly independent of the Crown, in as far as concerns

concerns any personal interest?—I believe so: I have already explained, however, my view of the manner in which the choice has been made.

455. If you look at the recommendation of the Committee, you will see that it is composed of three distinct heads: the first is, "that there should be a more independent character given to these bodies;" the next is, "that the majority of their members should not consist of persons holding offices at the pleasure of the Crown;" and the third is, "that any other measures that may tend to connect more intimately this branch of the constitution with the interest of the colonies would be attended with the greatest advantage." Did this last recommendation raise any expectation in the people's minds respecting any alteration in the constitution of the Council?—Those parts of the recommendation would certainly apply very well to a change in the Legislative Council, by introducing into its formation the principle of election. I had not myself made that precise comparison in particular, but I believe that the asking for an elective Council was not considered contrary to the recommendations of the Canada Committee.

456. Do you know any opinion having been raised at that time in consequence of this recommendation of the Committee?—Soon after the Report of the Committee, the idea of having an elective Council, as answering more to the petitions of the people and to the recommendation of the Committee, was entertained by a number both of members of the Assembly and of the people; it was, however, only since the pretended reformation of the Council that they became unanimous in their idea upon that point.

457. In fact, was not there at that time an expectation raised in the minds of the people that the majority of the Council would consist of persons of the same nation and religion with the majority of the inhabitants?—Certainly.

458. And seeing that that result has not followed, is that the reason that they have now determined to ask for an elective Council?—That is one of the reasons certainly, and a very great reason, because we conceive that the Legislature of the colony, with the exception of the representative of the King, should belong to the colony, and not comprise one branch composed mostly of persons having their interests out of the colony; and we consider that the present Legislative Council does not belong to any permanent or important portion of the interests of the colony.

459. Will you state the case of any one member of the Legislative Council, whose interests at the present moment are not principally and immediately connected with the colony of Lower Canada?—I consider that most of the English merchants regard the United Kingdom here much more as their home, and as their own country, than they do the colony.

460. Would you therefore think it desirable to exclude from the Legislative Council the respectable merchants of Quebec and of Montreal, however long they may have resided in that province, and however much they may have considered it as their home?—I would not wish to exclude any part of the population from being represented in the Council, but I would not give them a preponderance in that body.

461. Since the recommendation of the Committee in 1828, have not a large mass of those who have been appointed been Canadian gentlemen with landed property?—One half of them were of one description, and about one-half of the other; but this does not create in the Legislative Council any majority favourable to the country, on account of the remaining old members.

462. Do you conceive that, according to the present constitution of the Council, it is not essentially independent, both of the Crown and of the people of the province?—I consider that it is entirely independent of the people of the province, and that that should not be. I consider that it is virtually dependent upon the Crown, or rather upon the Colonial Administration, and that should not be either.

463. Will you explain in what manner you conceive the present Legislative Council to be as a body dependent either upon the Crown or upon the Colonial Department?—On account of the persons immediately dependent upon the Crown and those who indirectly depend upon it, and also on account of the coincidence of views between a number of other members with the Colonial Administrations, of which the people of the country have had reason to complain.

464. In one of the Resolutions with regard to the Legislative Council, it is described as "an entire branch of the Legislature, supposed from the nature of its attributions to be independent, but inevitably the servile tool of the authority which creates, composes and decomposes it." When it is stated that the authority of the Crown can decompose the Council, will you state whether the seats in the

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Council are not held for life?—A certain number of the members of the Council, although holding their seats for life, depend so much upon the Crown, even as to the decomposition of that body, that it was only in consequence of the recommendations from the Crown that the judges abstained from sitting in the Council.

465. You conceive, therefore, that the abstinence of the judges from sitting in the Council, in pursuance of the wishes of the province and the recommendation of the Committee of this House, is a proof of the dependence of the Legislative Council upon the Crown?—It is a proof of the dependence of the salaried members upon the Crown.

466. In the petition from the province in 1828, there is the following passage: “The enlightened and patriotic statesmen who devised our Constitutional Act, and the British Parliament by which it was granted, intended to bestow on us a mixed government, modelled on the constitution of the parent State; the opinions publicly expressed at the time in Parliament, and the Act itself, record the beneficent views of the Imperial Legislature: a Governor, a Legislative Council, and an Assembly, were to form three distinct and independent branches, representing the King, the Lords, and the Commons; but the true spirit of that fundamental law has not been observed in the composition of the Legislative Council; for the majority of its members, consisting of persons whose principal resources for the support of themselves and their families are the salaries, emoluments and fees derived from offices which they hold during pleasure, they are interested in maintaining and increasing the salaries, emoluments and fees of public officers paid by the people, and also in supporting divers abuses favourable to persons holding offices. The Legislative Council, by these means, is in effect the executive power, under a different name; and the Provincial Legislature is, in truth, reduced to two branches, a Governor and an Assembly, leaving the province without the benefit of the intermediate branch, as intended by the aforesaid Act; and from this first and capital abuse have resulted, and still continue to result, a multitude of abuses, and the impossibility of procuring a remedy. We acknowledge that the Legislative Council ought to be independent, and if it were, we should not be entitled to complain to your Majesty of the repeated refusals of that branch to proceed upon various Bills sent up by the Assembly, however useful and even indispensable they might be.” Do not you conceive that the objections raised in this petition to the constitution of the Legislative Council were, that the majority of its members were immediately dependent on the Crown, and does not it contain an acknowledgment that the Legislative Council ought to be independent of the people as well as of the Crown?—I do not consider that there is any acknowledgment that the Legislative Council should be independent of the interests of the people, because it would be a thing having no sense. Certainly the petitions desired that the Legislative Council should be independent of the Crown; but as to being independent of the people, it would be giving a Council whose interests would not belong to the colony.

467. In those Resolutions there is a statement of the opinions as expressed by Mr. Neilson, with regard to the formation of the Legislative Council, in the year 1828; are you aware that the following passage occurs in Mr. Neilson’s evidence: “There are two modes in which the composition of the Legislative Council might be bettered; the one which, I believe, the majority of the people in Lower Canada have in view is, by the exercise of the prerogative, appointing men who are independent of the Executive, and, in fact, who are able to live by their own means. That has appeared to us to be the most consistent with the constitution under which we live.” Should you not infer from this answer that Mr. Neilson recommends the continuance of the existing constitution of the Legislative Council, modified by the manner in which the Crown should exercise its prerogative?—I have read Mr. Neilson’s evidence, and from the whole I infer that he expressed a very strong opinion in favour of an elective Council.

468. Is that very strong opinion expressed in the passage just read?—It is better expressed in other parts of his evidence.

469. Is an opinion in favour of an elective Council very strongly expressed in this passage of Mr. Neilson’s evidence: “The general feeling of the people has not been in favour of alteration, but rather a feeling of satisfaction with the usual rights exercised by the Crown in those matters. It never was imagined, by us at least, that the Legislative Council was to be otherwise than a body originating in some measure from the Crown?”—It is not expressed in that passage either. I would beg leave to explain what I heard at that time in Canada from creditable gentlemen. It was said by them that Mr. Neilson had expressed himself with

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some uncertainty as to the Legislative Council, although he was at that time in favour of an elective Council, from fear that, by asking any change in the constitution, the British Parliament, who had lately passed Acts upon our affairs without the knowledge or consent of the people of the colony, might change the constitution also in other points, which would have been very much contrary to the rights of the people. I have reason to believe that statement is true. I have heard, also, Mr. Neilson express those fears, although he never in my presence spoke of the Legislative Council.

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470. Are you aware of the nature of the evidence given by Mr. Cuvillier as to the expediency of such an alteration as would make the Legislative Council elective?—As to Mr. Cuvillier, I believe he was opposed to an elective Council.

471. Are you aware that Mr. Cuvillier, who was one of the delegates appointed to express the feelings of the people, stated his strong opinion that the feeling of the people of the province was opposed to any alteration of the constitution under which they lived?—That might have resulted, perhaps, also from the same fear of interference.

472. Are you aware that Mr. Cuvillier made the following answer with respect to making the Legislative Council elective: “With regard to that, I would not wish to make the Legislative Council elective:”—I see that that answer forms part of his evidence.

473. Have you also read the following passage of Mr. Cuvillier’s evidence: “Have not the inhabitants of Lower Canada petitioned the Houses of Parliament to make certain alterations in their constitution?—I believe not; on the contrary, they pray that no change whatever shall take place.”—“Generally speaking, do you not consider that the inhabitants of Lower Canada attribute the disorders and discontents that have taken place, not to the constitution itself, but to the manner in which that constitution has been administered?—Certainly; there is no doubt but that the form of government under which they now live is admirably well calculated to ensure their happiness, if it is properly administered.” Do those opinions, so stated as the opinions of the people of the province, intimate any desire for an elective Council, instead of one appointed by the Crown?—I have seen that part of Mr. Cuvillier’s testimony; it is not in favour of an elective Council. I have already explained the reasons which have induced the people to be convinced otherwise.

474. Your attention is requested to the first two paragraphs of the petition of the inhabitants of Quebec: “Amongst the numerous benefits for which the inhabitants of Lower Canada are indebted to your Majesty’s Government, there is none that they more highly prize than the invaluable constitution granted to this province by the Act of the Parliament of Great Britain passed in the 31st year of the reign of our beloved Sovereign, your august father, of ever-revered memory. Called by that Act to the full enjoyment of British constitutional liberty, and become the depositaries of our own rights under the protection of the mother country, we contracted the solemn obligation of preserving inviolate this sacred deposit, and of transmitting it to our descendants such as it was confided to us by the great men who then presided over the destinies of your powerful and glorious empire.” And in the petition from Montreal there is the following passage: “Reconnaissons de l’inestimable présent que nous a fait la mère patrie en nous accordant notre constitution, convaincus qu’elle peut faire le bonheur de vos fidèles sujets en Canada, le premier de nos vœux est de la conserver intacte, et de jouir librement des droits précieux qu’elle nous assure.” Are those passages consistent with a desire on the part of the inhabitants of Lower Canada to render the Legislative Council elective, instead of being appointed by the prerogative of the Crown?—I do not consider that there would be any contradiction between having the Legislative Council elective, and wishing to preserve the British constitution; because it would be an assimilation of our colonial government to that of the mother country, by having in the second branch of the Legislature the most independent and best men in the colony. I know not the circumstances which accompanied the framing of the Quebec petition. With regard to the Montreal petition, I know, from having belonged to the committee of the inhabitants, that the fears I have mentioned were entertained by a good number of the members of that committee. The Canada Trade Act, and the Act of Tenures, then lately passed in the Imperial Parliament, were in a great measure the cause of it.

Mercurii, 21^o die Maii, 1834.

THE RIGHT HONOURABLE ROBERT GRANT,

IN THE CHAIR.

Monsieur
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Monsieur *Augustin Norbert Morin*, called in ; and further Examined.

475. WILL you have the goodness to turn to page 8 of the Report of the Canada Committee in 1828, where you find the following sentence: "Your Committee strongly recommend that a more independent character should be given to these bodies ; that the majority of their members should not consist of persons holding offices at the pleasure of the Crown ; and that any other measures that may tend to connect more intimately this branch of the constitution with the interest of the colonies would be attended with the greatest advantage." You stated in your last examination that the majority of members do not now consist of persons holding offices under the Crown?—I did.

476. Do you think that by so constituting the Legislative Council, that is, of persons not salaried, the objects of the Report have been attained?—I conceive not ; one part has been literally done, but the two other parts have not been done at all. The change that has been effected is not considered at all as the change recommended by the Canada Committee. We had no other idea but that the Report of the Committee should be attended to in a spirit of truth, and not in any way for appearance sake only. We consider the Legislative Council as not having a more independent character than before, but quite the contrary. We consider, also, it has not been connected at all with the interests of the colony, as recommended by the Canada Committee. On the contrary, never had they shown such pretensions to represent interests not belonging to the colony as they have done since their pretended reformation.

477. Will you explain what you mean by interests not connected with the colony?—The Legislative Council had before, in their debates, pretended to be an exclusively British body, and to act as British men in opposition to the House of Assembly, who were by them unjustly considered not to be British ; and resolutions were even proposed in the Council to that effect some years back. Now, since their reformation, the Legislative Council have expressly avowed that purpose ; for instance, they have pretended that the House of Assembly wished to preserve the lands of the Crown only for the native Canadians, which is not the fact ; and upon that ground they have pretended that they were a body necessary to protect emigration against the House of Assembly. They have also pretended that they represent the interests of the Established Church of England, which they considered not to be represented in the House of Assembly, and to which, apparently, they wished to give a protection of a particular kind. They have also pretended to represent British commerce for the same reasons. All those pretensions we consider as relating to interests vested out of the province, contrary to the rights and welfare of its inhabitants, and injurious to the representation of the people in the House of Assembly.

478. It appears by the 19th Resolution, that it is asserted that the Legislative Council has renewed its pretensions of being specially appointed to protect one class of His Majesty's subjects in this province ; can you state in what way the Legislative Council expressed that opinion?—Principally in their address of last year to His Majesty, and which they have approved again in their proceedings this year.

479. Will you point out the part of the Address in which that pretension is asserted by the Legislative Council?—They say, in the second paragraph, that the country is approaching to a state of anarchy and confusion ; that unceasing attempts have been made to destroy the confidence which had hitherto subsisted between the subjects of His Majesty of a different origin and language ; that the interests of agriculture and commerce, and the wants of the people, are neglected for the advancement

advancement of the cabals of party. This I consider to imply the accusations I have mentioned against the House of Assembly, as the House of Assembly is mentioned in the first paragraph as the cause of the pretended grievances which the Legislative Council mentions. It is also asserted, "that the Assembly has advanced a claim to preserve that part of His Majesty's dominion as a colony to be settled only by Canadians of French origin and descent." They also say that they conceive themselves to be necessary "to give security to a numerous class of His Majesty's subjects of British origin, now numbering about 150,000 souls, scattered over the province, whose interests cannot be adequately represented in the Assembly, seven-eighths of the members whereof are of French origin, and speak the French language."

480. Did any address of the House of Assembly precede that to which that may be supposed to have been an answer?—There was an address to His Majesty against the present constitution of the Legislative Council, voted by the House of Assembly ten days before. The Council says also, that the immediate consequence resulting from the change asked by the Assembly would be, to unsettle the minds of His Majesty's subjects of British origin respecting the security of life and property which they now enjoy, to prevent their further increase through emigration, and to sever the ties which bind the colony to the parent state. They also express a conviction of theirs, that the inhabitants of Upper Canada will never quietly permit the interposition of a French republic between that province and the ocean.

481. Did not that address give great offence to the House of Assembly?—When the address was passed, the House of Assembly was almost at the end of the business; but it created a very strong feeling in the minds of such members as were present, and also in the minds of the people.

482. Did it greatly tend to confirm the opinion that prevails, that the Legislative Council was not a body representing the interests of a large portion of the community?—Certainly.

483. It is often stated that the constitution of Canada is analogous to that of England, and that the Legislative Council is analogous to the House of Lords; do you suppose that it is the opinion of the Assembly generally that the objects for which the House of Lords is instituted in England are at all analogous to those stated by the Legislative Council?—Not at all; and it is also the opinion of the people. Here, in England, the House of Lords is possessed of very large territorial property, and, besides, is connected with the history and national remembrances of the people, whose confidence I believe its members generally enjoy. In Canada the members of the Legislative Council, if their fortunes were united, would not offer a capital equal in amount to the landed property of the people in the least county in the province. As to enjoying any particular confidence, or having any particular claim to respectability and individual rights, they are considered no better than a great number of other inhabitants of the province. On the contrary, even some of them do not enjoy in any measure the public confidence; therefore the people find no analogy between them and the House of Lords, when they see in Canada mere individuals vested with the power of legislating for the people during their whole life.

484. Supposing that there is no analogy existing between the House of Lords and the Legislative Council of Lower Canada, do you suppose that the Council is necessary for the purpose for which it states that it is necessary, namely, to protect the lives and property of any class of subjects in that province?—I consider that the Council is not necessary for that purpose; such particular pretended protection would be an injustice towards the people and the House of Assembly of Lower Canada; there are not in the country any particular interests that want to be protected by a body possessing the character of the Legislative Council.

485. Excluding the English merchants from the body, and persons of English names in the colony, are not almost all of them small proprietors or farmers?—They are generally farmers, as all the people of the country are mostly.

486. Then, in fact, the next neighbour to a French Canadian may be an Englishman carrying on the same business, and possessing the same habits of life?—It happens very often.

487. Have not those Englishmen, or persons with English names, who are thus carrying on the business of agriculture, precisely the same interests, individually and as a body, as the French Canadians?—The very same interests.

488. Is it not for their interest that there should be a good and cheap government, and cheap laws, which is precisely the interest of the French Canadians?—It is.

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489. Can you suggest any opposition of interest between a body of Englishmen acting as farmers in the county of Stanstead, and a body of French Canadians in the seigneurie of Longueuil?—There is no difference of interests at all.

490. With respect to the body of English merchants, do you consider that the interests of the English merchants are opposed to the interests of the Canadian population?—Many of the English merchants, after they have made a fortune, return to England, and consequently during their residence in Canada do not consider it as their home; also, from the partiality which has existed in the colony both as to the nominations of the Legislative Council and to other places of honour and profit, they always entertain a hope of domination and ascendancy over the rest of the people.

491. Respecting good government, and the protection of their rights and their land and property, do you consider that either the one or the other would be in danger from a French government or the government of the people?—I do not consider that there would be any danger for the merchants by the majority of the people having its due influence upon the Government.

492. But you do not suppose they would have that exclusive possession of places of profit and honour which they now possess?—Then they would not, but only their due share.

493. Will you state to the Committee whether or not there are large properties concentrated in a small number of hands in Canada, or is there not, in fact, a very equal distribution of property throughout the whole province?—There is a very equal distribution of property generally throughout the country, and the laws tend very much to increase that equality by dividing the property of a deceased person among all the children, and in point of fact there are very few large landed proprietors.

494. It is complained in the 24th Resolution that there is in the Legislative Council a majority of persons who have irremediably lost the confidence of the people, and who have encouraged all the acts of violence committed under the administration of Lord Dalhousie; can you point out any persons who have so encouraged acts of violence committed under the administration of Lord Dalhousie, and state what those acts were?—The great majority of the old members of the Legislative Council were of that description; in their House they always supported the measures of Lord Dalhousie's administration; and there are some of the members lately called to the Legislative Council who did the same.

495. Can you point out their names?—Mr. M'Gill was in favour of Lord Dalhousie's administration; he presented himself at an election at Montreal as an approver of that administration, and was not elected. Mr. Harwood expressed himself at public meetings favourable to Lord Dalhousie's administration. The late Mr. Gates (for I have, since I last appeared before this Committee, learnt that he was dead) was also in favour of Lord Dalhousie's administration. Mr. Robert Jones also. Mr. Molson also presented himself at an election in 1827 as an approver of Lord Dalhousie's administration, and was not elected. Mr. Couillard also approved of Lord Dalhousie's administration, and tried to get petitions signed in its favour at St. Thomas, where he resided. The sentiments stated in the Resolutions were manifested at meetings in which the partisans of Lord Dalhousie's administration took an active part.

496. Did any of the persons who then supported Lord Dalhousie's administration ever make any exception of any of his acts that they did not approve of?—Never; they approved of every one of his acts.

497. And many of them were on that account rejected when they presented themselves as candidates for election to the House of Assembly?—I have mentioned Mr. M'Gill and Mr. Molson, and there may have been others. I speak only of the councillors.

498. Among the old councillors, do you apply the same remark to Chief Justice Sewell?—Yes.

499. And Mr. Hale?—Yes.

500. Mr. Cuthbert?—Yes.

501. Mr. Grant?—Yes.

502. Mr. M'Kenzie?—Yes.

503. Mr. John Caldwell?—He approved of that administration also; perhaps not with so much violence as some others.

504. Mr. Ryland?—Yes.

505. Mr. Coffin?—Yes.

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506. Mr. Gregy?—Mr. Gregy did.
507. Mr. Felton?—Mr. Felton was not long in the Council at that time, and I believe he did not show any great violence under Lord Dalhousie's administration, but I think he approved of it.
508. Mr. Bell?—Mr. Bell did.
509. Mr. Stewart?—Mr. Stewart was not a legislative councillor, except in the late years of Lord Dalhousie; but he was a member of the Executive Council under Lord Dalhousie's administration.
510. Has the Bishop of Quebec been considered a partisan?—He has not attended the sessions of the Council, except upon particular occasions.
511. Are the sessions of the Council generally well attended?—In some years they are, but there is not very often a full house.
512. Are they held publicly?—Since a few years they have been held much more publicly than they were before.
513. You have enumerated six out of the recently appointed councillors whom you consider to have been partisans of Lord Dalhousie; what is the total number appointed since the year 1828?—Eighteen or nineteen.
514. Then there are 13 out of the 19 appointed since 1828, whom you do not consider to have been partisans of Lord Dalhousie's administration?—Mr. Hatt also approved of Lord Dalhousie's administration. There are some of them of whom I know nothing on the subject, such as Mr. Baxter; there are some also who refused to take part with the rest of the people against Lord Dalhousie's administration. I will mention Mr. De Rocheblane as one.
515. Is the statement which you have now made that upon which you found the justification of the 23d and 24th Resolutions?—I consider it so.
516. Was the administration of Lord Dalhousie so improper, so illegal, and so unconstitutional, that you think any individual who supported it can be called, without any restriction or limitation, a blind and passionate partisan of all abuses of power?—I consider it so.
517. You have stated that the Government have complied with only one out of three of the recommendations in regard to the improvement of the Legislative Council. You have given evidence as to parts in which you consider that measures have not been pursued which might tend to connect more intimately the Legislative Council with the interests of the colonies, but you have not stated any facts to substantiate your charge, that the Legislative Council have not assumed a more independent character since that time?—The hope of preference and unjust domination manifested by most of the members of the Legislative Council, and by the greatest part of the class to which they belong, I consider as an obstacle to their acting in an independent way in the Legislative Council. The Legislative Council at present is only the continuation of another Legislative Council which existed before the constitution, and was, with the Governor, the sole legislative body of the colony. The members of that Council were put into the Council under the constitution, and consequently such as were called to that Council, or might have a hope of being called into it, always maintained that dependent course which was the most likely to ensure them the power which they had once, and which they aimed at.
518. Then you consider that by the independent character which the Committee recommended to be given to the Council was intended a character more in accordance with the feelings of the majority of the people?—Certainly. The character of the Legislative Council has always been dependent, for the reasons I have just stated.
519. A question was put to you, as to whether all classes or residents in Canada are equally interested in having cheap laws and good government. Are the questions in dispute questions of the cheapness of law?—The laws are certainly very dear in the country, on account of the high fees and salaries; and that is mentioned also in the Resolutions.
520. Is there any difference of opinion as to the best laws for the regulation of the province between the English and the Canadian portions of the population?—I do not know any difference of opinion, except on the part of those who partake of the public monies, or belong to the party who has generally partaken of them.
521. Do you consider the English population who, in the year 1828, signed a petition for the English system of law, to have been persons who expected to partake in the public monies?—In 1828 those petitions were certainly signed by a great number of those persons or their adherents.

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522. Is there not a difference of opinion as to the best system of law with reference to property between the different branches of the population of Lower Canada?—Not of the country population; there may be some differences with regard to the merchants in towns.

523. You think that the English population that is now settled in the country would be perfectly contented with being governed by the *coutume de Paris*?—Yes, certainly. The first year they were fully represented in the House of Assembly, their representatives voted unanimously for the Address for the absolute repeal of the Tenures Act, and it was a member from the townships, Mr. Peck, who led the measure.

524. Suppose the question were put to the vote among the English settlers, and that the French Canadian settlers were not to meddle with the question at all, but that it was a simple question put to the English settlers in the townships, do you think they would give a preference to the French law of property over the free and common soccage?—I think they would; not over free and common soccage, but over the English laws of property; these are two very different things.

525. You are aware that a company has been recently established, which has purchased a considerable amount of land in Lower Canada; is not the object of that company that of being able to offer the greatest inducements to settlers, and to dispose of their lands to the greatest advantage?—I do not know what are the views of the company.

526. Do not you consider that those are the general views of a company taking a large amount of land in the province?—I consider that their object would probably be to dispose of those lands for their own profit and advantage.

527. Do you therefore conceive that they would take care to frame the enactments with regard to the manner of holding their lands in such a manner as to make them of the most value to settlers who would be desirous of purchasing them?—Even if it were so, their want of knowledge of the laws of the country might very likely lead them to wish to have their lands under laws different from the laws generally liked as the best in the country.

528. You stated on a former day, that the two heads of the land company were Mr. M'Gill and Mr. Moffatt; as they have been long resident in the province, are they not probably well calculated to judge what will be for their own interest as proprietors of this land?—Certainly they should wish to have the land in the way that would be the most profitable; but I consider, that even with those lands being under laws different from the laws of the country, they can be sold to advantage to persons coming from Great Britain.

529. Are Mr. M'Gill and Mr. Moffatt persons likely to know what would be for their own advantage in disposing of land in Canada?—Certainly.

530. Are you aware that there is a provision in the Bill under which that company hold their lands to enable them to hold under free and common soccage, and to exchange from the seigneurial tenure to the tenure of free and common soccage?—I believe so; and the free and common soccage tenure would also be very much liked by all the people of the country, if it was not connected at the same time with a different system of laws.

531. That is to say, one of the great objections which the people now have to free and common soccage is, that it is connected with the law of primogeniture?—Certainly; and with other similar provisions with regard to property, as mentioned in the Tenures Act, as to transfer, succession, and other incidents.

532. That is to say, that the Tenures Act introducing into the laws of Canada all the intricacies, difficulties, expenses and doubts of the English law, is not liked by the people of that country?—It is not liked by the people in that country on that account; and yet the Tenures Act has a tendency to introduce that in the seigneuries.

533. But, with a view to their own interests, have not the directors of the company bargained that their lands shall be held under the provisions of the Canada Tenures Act, as modified by the Legislature of Canada?—I suppose they have, if they have had any share in the framing of the Bill.

534. Are not the persons to whom they would sell that land, persons coming from England?—I believe that is so, as most of the proprietors of the company are from England, and as the two heads in Canada are very partial for British emigrants, and dislike very much the people of Canada.

535. Therefore persons who would be supposed likely to have a predilection in favour of English customs?—It may be supposed.

536. Is not the result of the remarks you have been making this: that the settlers of English origin prefer the freehold tenure, and that the settlers of French origin prefer their own forms of tenure?—Not at all; those who are here, not knowing any other system of laws, may easily be supposed to prefer the English laws; but after they have been some time settled in the province they become convinced that the law of Canada is better; and this has been the case with regard to the greater part of the inhabitants of the townships.

537. You say that most of the proprietors of the Land Company are from England; are you aware that one-third of the whole shares are held by Canadians?—I do not know the amount held in Canada, but I know that what is held is mostly held by English merchants. The books were open only five days at the utmost, and the English merchants had taken all the shares in that time, with the exception of two Canadians, as I believe. There were some Canadians who would have liked to take shares, not with any regard to the advantages or profits of the scheme, but with patriotic views, in order to know the proceedings that had taken place between the administration and the company, and with a view to have the rights and laws of the country more respected, and to bring, if possible, the system of the Land Company under the legitimate control of the legislature of the country; and I know that when one or two of those individuals expressed a wish to take shares, they had all been taken by English merchants; I believe it was said at the time that there would be an extension of the stock, but I have never heard of that since. This, however, the country is very far from desiring.

538. It appears by the 40th Resolution, that the remedy proposed by the House of Assembly for the present supposed mischievous composition of the Legislative Council is to make it elective?—Yes.

539. Do you believe that a Legislative Council that should be elective would be in accordance with the general habits and feelings and wishes of the people?—Yes, I do; and it would be the nearest assimilation possible to the British constitution, because in that Council there would be men of large property, and chosen by electors of larger property, with a regard at the same time for the general interests of the people, and for public defence.

540. Did not the Quebec Act seem to contemplate an hereditary Legislative Council?—No; but the Act of the 31st empowers the King to grant hereditary titles and seats in the Council; but that has never been done, and it is not wished for in the country, as being contrary to the state of property and the opinions of the country, and the condition of its inhabitants.

541. If the House of Assembly think the Legislative Council a body so mischievous as they declare in those Resolutions, do you know any reason why they should not desire at once to get rid of it entirely?—That subject has been discussed in the province, both in the House of Assembly and by the people; it has been considered that it would be better to have a Legislative Council; first, to assimilate our constitution as much as possible to the British constitution; secondly, to provide for the trial of impeachments; and thirdly, for a better revision of the laws, as it is well known that the longer bills are debated and considered, the more perfect they are. For my part, I was also of opinion that there might be some possible occurrences in which the public interests might not be represented by the House of Assembly with a correct view of the sentiments of the people, although I do not believe that such an error could last long. In that case an elective Legislative Council, springing also from the people, might better conceive and better represent its interests, so as to prevent any mischief, until the people might have an opportunity to elect better representatives, or to make their opinions known better to the representatives they had. Those might be reasons why an elective Legislative Council was considered better than having no Council at all.

542. That is, you suppose two chambers, in fact, both of them springing from the people, might have advantages over one chamber?—Certainly.

543. Has the idea ever been entertained or discussed of a Council elected for life?—It was considered that there would be more security, if the councillors were responsible to the people; and if they were elected for life, there would be no such responsibility.

544. Is it, then the fact, that they have discussed the proposition of a Council for life, and have come to the conclusion that it is not so good as an elective Council for a certain term of years?—The subject has been discussed in the House of Assembly, and I may reasonably suppose it to have been discussed also in meetings

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of the people, although I could not point to anything said at those meetings which related to an elective Council for life.

545. Has this matter of a Council for life or an elective Council ever been debated formally in the House?—Very many times.

546. Has it ever been the matter of a distinct motion?—The matter was debated at a very great length and in all its bearings upon the Resolutions of last year, and before.

547. Do you happen to know what was the constitution of those English colonies that now form the United States of America in this respect?—I have no particular information as to every one of them. I know that the constitution of their Councils varied, and I know also that there were elective Councils in some of them.

548. Were any of the difficulties that were likely to arise from having two chambers connected intimately with the people discussed and debated by the Assembly?—They were debated, and the Assembly did not see any difficulty in that system.

549. Would not the having two chambers springing directly from the people make the Executive in fact dependent upon the people?—It would make the Executive responsible to the country, and we consider most distinctly that this must be the case.

550. Was it the opinion of the Assembly that they could not obtain good government unless they made the Executive dependent upon the people?—Certainly.

551. Under such a system of having the Executive dependent upon the people, and the two chambers elected by the people, what use could there possibly be in any connexion with the British Crown; what part could the King of Great Britain or the Ministry of Great Britain act, or how could they interfere with advantage in such a system?—The same part that they act here in Great Britain. The governor would then represent the King, and have all the powers of the King, both legislative, moderate and executive.

552. If every time he was of a different opinion from those popular bodies he was immediately subject to impeachment, or the different actions of popular bodies against a single man coming from the distance of so many thousand miles, do you think it possible that the government of a colony could be maintained for many years under such a system?—I have no doubt that it could; it is the true system established here, and no doubt the governors should be responsible.

553. Do you think that the action of the mother country upon a government of that description could be exercised with any advantage to it?—It could be exercised certainly within the proper limits, but it could not be exercised so easily in favour of a few and against the general interests of the people.

554. Do you think a Royal veto exercised upon this side of the Atlantic would be submitted to in the Canadas, if the two elected chambers were opposed to that veto?—Upon those matters I will refer to the practice which obtains here under the British constitution.

555. Supposing that veto was exercised frequently in spite of the feelings of the two Houses, do you think it ought to be submitted to?—If it was exercised too frequently there might be representations made on that subject, just as I believe they would be made here if the Executive were to oppose the wishes of the people, expressed during a great number of years in both Houses of Parliament. Here there is a responsible ministry; it would be right that there should be also in the colonies responsible governors and members of the Executive.

556. Do you believe that the general interests of the people would be strictly attended to and followed out, if the wishes of such two Houses were always obeyed?—Certainly.

557. Are there not such two chambers in most of the United States of America?—There are such chambers both in the general government and in each particular State of the United States of America.

558. Are not the cases to which the last questions refer, cases of republican self-government?—They are republican governments.

559. Will you explain in what manner the system of government which you set up for Canada is consistent with the maintenance of any connexion with the mother country at home, and with its having any sovereignty at all in the colony?—In the United States, the people elect even the president, that is to say, the head

head of the government; while we do not wish to elect the governor, but always leave him to represent the King as the first branch of the Legislature.

560. If you elected the second chamber, and found that having elected the second chamber the obstacle to the popular will was the sovereign power not elected, is it not in the course of reason natural that you would wish to proceed to elect also the sovereign power?—I have not heard many opinions expressed upon that subject, but I will take the matter even with a larger view. If in the course of time it was found that the interests of the colony were so widely extended, and so diversified, that a dependence on a government at a great distance could not provide adequately for the good government of the country, then it might be reasonable to suppose that, in a friendly manner on one part and on the other, the necessary change would take place. This has been the result recorded by history in all times, and in this manner all nations have been formed. The powerful empire of this United Kingdom was a colony of Rome. But this question relates to a time that has not yet come, and the country have not expressed a wish for an immediate separation from Great Britain. As to what would be done under the circumstances alluded to, I cannot positively say. But we are sincere in our wish to preserve the connexion between both countries, and it is for that we seek here the redress of abuses.

561. Is it not the case that in several of our former North American colonies, constitutions, even more popular than this which you have mentioned as the object of your desire in Lower Canada, existed without endangering or interrupting the harmony that ought to exist between the colonies and the mother country?—It was the case with regard to several of the colonies of New England, and I believe the events which led to a separation were altogether unconnected with the particular features of the respective constitutions.

562. Do you happen to know whether those colonies that had both councils thus constituted took a more prominent part than other colonies which had councils differently constituted in the events that led to an ultimate rupture between the colonies and the mother country?—I believe that some of them were even later in taking a part in that rupture than other colonies which had councils differently constituted.

563. Were not the provinces that had the more democratic constitutions the last to separate?—They were the last. I consider, however, that there was no connexion between the events which led to the separation and the particular features of the local governments.

564. You state that one of your reasons for desiring an elective Council is for the purpose of assimilating the constitution of Canada to the constitution of Great Britain, and of assimilating the Legislative Council to the House of Lords. Do not you conceive that one of the most essential features of the House of Lords is its being permanent and independent of popular election?—I consider that the principal feature of the House of Lords is the fact of their having property, influence and power.

565. Do you conceive that the House of Lords would discharge the same functions in this country if one third of its members were to go out by rotation every six years, and that the whole of them were to be elected by 10*l*. householders, which is the proposition made by the House of Assembly?—If the state of society was the same, certainly I would conceive it; but the state of society is not the same.

566. What was the number of persons of which the House of Assembly proposed that the elective Legislative Council should be composed?—It was thought that one half of the number of the members of the Assembly would constitute a body numerous enough.

567. Was it proposed that there should be any qualification for the persons to be elected?—It was proposed that they should have 200*l*. net revenue from landed property for the members from towns, and 100*l*. for the members from the counties.

568. Was it not admitted in one Address of the House of Assembly that no qualification by itself that could be adopted would in any degree affect the existing character of the Legislative Council?—It was the opinion of the House, and that point was formally debated and decided, one of the members having proposed that there should be a pecuniary qualification imposed to the choices of the Executive; the result was, that the House expressed its opinion that such a qualification would be of no use, because it would always be left to the Executive to make a choice among the persons qualified of such as best suited their views.

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569. It was admitted then by the House of Assembly, that in point of qualification of property, which you admit to be a material part of the qualification, the existing Legislative Council is as effectually qualified as an Elective Legislative Council would be?—There are some who are above that qualification, and some who are under. That qualification is no sufficient check for the Executive.

570. Was one of the requisitions of the House of Assembly, with regard to the future constitution of the Council, that persons only should be eligible who had resided in the province for 15 years?—Yes.

571. Do not you conceive that in a new colony this would impose a very serious restriction upon the improvement of the country?—I conceive not.

572. Would it not have the effect of excluding, particularly from one branch of the Council, a great body of settlers coming from this and from other countries?—They would be admissible to that Council after that length of residence. It is to be supposed that on their arrival they would not be enough informed of the laws of the country and the wants of the inhabitants to legislate for them, with a diminished responsibility, in an efficient and equitable way.

573. Is such a restriction imposed with regard to the Legislature in any of the States of America to your knowledge?—There is a difference in the United States of America. They have to be naturalized when they come from abroad; and when they come from another state they have always been accustomed to the same laws, usages and feelings as the mass of their fellow citizens. But that would not be the case with regard to Canada, with persons coming from any where else.

574. Are not English settlers going to America admitted within a short period to all the privileges of citizenship?—I believe it varies from two to five years; but they cannot be president of the Federation.

575. Another condition of the eligible was the possession of freehold property to a certain amount; was not the object of that to exclude from the Legislative Council the great commercial interests of the province?—It was not.

576. Would not it have that effect?—It would not. It is very easy to acquire property in Canada when one has capital and some attachment for the country; and if the merchants wish to be connected with the country, and to make the country their home, they could easily find the means of acquiring that property.

577. You have stated that one of the most important objects that would have to be performed by the Legislative Council would be that by the possession of property they would exercise influence in the affairs of the province; your attention is requested to the 13th Resolution of the House of Assembly: "That even in defining bounds of this nature, and requiring the possession of real property as a condition of eligibility to a Legislative Council, chosen by the people, which most wisely and happily has not been made a condition of eligibility to the House of Assembly, this House seems rather to have sought to avoid shocking received opinions in Europe, where custom and the law have given so many artificial privileges and advantages to birth and rank and fortune, than to consult the opinions generally received in America, where the influence of birth is nothing, and where, notwithstanding the importance which fortune must always naturally confer, the artificial introduction of great political privileges in favour of the possessors of large property could not long resist the preference given at free elections to virtue, talents and information, which fortune does not exclude, but can never purchase, and which may be the portion of honest, contented and devoted men, whom the people ought to have the power of calling and consecrating to the public service, in preference to richer men of whom they may think less highly."—I do not consider that under the system of free elections any qualification as to property would be necessary. I do not speak of the members of the elective Legislative Council being obliged to have property on account of the influence they would exercise from that property, but only because it would connect them more intimately with the interests of their neighbours and other proprietors. The views expressed in the 13th Resolution are, that property might not be an absolute requisite under a system of free elections.

578. You therefore wish the Committee to understand, that although in the first instance the elective Council might be dependent upon a qualification, yet it would be desirable as soon as you had obtained that elective Council, or shortly after, to do away with the qualification?—No, I did not say so. We have wished to conform ourselves as much as possible to the British constitution, and I have never heard expressed the least want of sincerity from any party in Canada on that subject.

579. Will you explain what is the meaning of the statement that "the artificial introduction of great political privileges in favour of the possessors of large property could not long resist the preference given at free elections," and so forth?—That is to say, if there was a pretension to their being elected or admitted on that account.

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580. Do you conceive that it would be consistent with the maintenance of a government in which any portion of monarchical principle should be admitted, that there should be two Legislative Assemblies, both of them chosen by the people, and both of them independent of any qualification in point of property?—That state of society would certainly be very convenient to the condition of the people of America, but we have not asked for it; and, as I have said, there was no insincerity on the part of those who asked for the Council, as prayed for in the Address of the Assembly last year.

581. Do you conceive that a body consisting of persons with 100*l.* a year, and chosen by 10*l.* householders through the province, would be such a body as would act an independent part in judging upon impeachments preferred by a popular assembly?—I believe they would.

582. You conceive also that they would act a more independent part if they had to be re-elected again at the expiration of six years than if they were elected and held their places for life?—Certainly.

583. Was the necessity of qualification introduced by the House of Assembly as a concession to English prejudices, or in conformity to the wishes of the Canada people?—Not as a concession to English prejudices, but they thought that they yielded to the received opinions in England.

584. It was with a view to English feeling, not to Canadian feeling, that that qualification was admitted?—I should infer so from the Resolutions.

585. If they had only to please themselves, would they prefer having no qualification at all?—I have no particular data upon this subject; the thing may be better inferred from the Resolutions themselves.

586. You do not, by having the Upper Chamber elective, expect to have uniform harmony between the two bodies?—Not upon subjects of local interest, but there would be a harmony upon the broad principles of government and legislation.

587. Do you think it would be possible to compose a Legislative Council upon a mixed principle; that is, to have a part elected, and a part holding seats in virtue of office?—As to holding their place in virtue of office, it would be, according to my opinion, a very bad system. As to any other mixed principle, the thing was spoken of also, but it did not find any friends. Upon a mixed principle, members who would derive their power from the Crown would always be in favour of the administration, while it would not be sure that those who would proceed from the people would not also yield to the hope of places and power under the administration; in fact, it would be a half measure which would not be likely to produce any good result. Such an important result should not be left to chance, but decided upon principle.

588. Is there not great practical inconvenience found from the circumstance of there being no person connected with the Government to explain the measures of the Government in either of the Houses?—Formerly there were persons representing the Government in the House of Assembly; but since the administrations have been so much at variance with the House, there have not been generally. There may have been some inconvenience to the executive from it, and it was its fault, but we did what we could to obviate those difficulties; and I myself in one year acted the part of a minister in proposing the items of expenditure to the House during the absence of another member, who was not either connected with the administration. As to us, we have found great difficulty sometimes in having explanations to ask of the administration, and there being nobody to answer them.

589. Does not the difficulty alluded to in the last question apply as much to the House of Assembly as to the Legislative Council?—There are in the Legislative Council a great many members who depend upon the Crown.

590. You have said that the House of Assembly would not object to a difference of opinion with the Legislative Council upon local questions; is the Committee to infer that you do not think the House of Assembly would brook a difference of opinion on the part of the Legislative Council upon any great question of colonial government?—I do not say that they would not submit if the Council was made elective in the manner prayed for, since they ask in good faith for such a Council, whatever may be the results.

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591. Was not your intention to say, that though they might differ upon matters of internal policy and matters of local importance, yet that their agreement would be entire upon matters of general legislation?—Yes, and that they would not prefer the advantage of a few individuals, and of persons connected with the administration, to the general interests of the people.

592. Would not a government constituted upon your plan give in both Houses an entire preponderance to the French and Canadian population?—I consider that this would be only right; if at any time there should be a greater number of persons of the other origin, then they would have a majority in those bodies. As to any fear being entertained, either with regard to the connexion with Great Britain or with regard to a good legislation for the colony, from there being a larger number of Canadians in the legislature, it would be unjust to suppose it. The country have done their best when they had power to act with as much liberality as they could with regard to every part of the population, without distinction, and the unjust accusations of the Legislative Council upon that subject have certainly created a very strong feeling in the body of the people.

593. Although it may be perfectly fair in all popular governments that the majority should prevail, if in any country there should happen this anomaly, that certain entire districts of the country, forming a minority of the whole body, should have, or should be supposed to have, interests and opinions or prejudices in opposition to the majority, would not their existence and their fortunes be rendered so uneasy and so unsatisfactory that they would have great reason to complain of the conduct of the majority?—This has never been the case in Canada. It would be necessary, for that circumstance, to suppose in the minority feelings which would be quite different from those entertained by the majority of the Canadian people.

594. Is it not the fact, according to your own answer, that in the divisions upon those great questions in your House of Assembly the majority of what may be called English townships have been in the minority?—I think that both French and English settlers would be indifferently in the majority and in the minority in both Houses, if they were composed as I have proposed, and if the administrations were impartial and equitable. With respect to that part of the question which relates to the late divisions in the House of Assembly, I have already said that I think the majority of the members from the townships do not represent the wish of their constituents. In the first year after there were members from the townships there was no such division perceptible. My opinion is confirmed on that subject by having seen since my former examination the report of a meeting of the people in a part of the country wholly inhabited by English settlers, and in which, after a long debate on both sides, a very large majority of the people pronounced themselves in favour of the late proceedings of the House of Assembly. It was in the village of Huntingdon; it was a meeting of the townships of Hitchingbrook, Godmanchester and Dundee.

595. Though you state to the Committee that the opinions of the townships are not fairly represented by the representatives, you must be sensible that, dealing with the subject here, it is difficult for the Committee to take any other measure of their opinion than the votes of their representatives?—I am aware of that, but the Honourable Committee will also consider the coincidence of views which existed in former years between the representatives of the townships and the other members of the Assembly; and in the event of this Honourable Committee not coming to a decision upon that point before the next general election, I believe they would be naturally led to consider also whether the same members are generally returned for the townships. The consequences of the unjust system pursued by the colonial administrations must also be weighed in the matter.

596. Supposing Canada to be made part of the United States, you would then form a very small minority of the people of the United States; should you not consider it a great hardship if your French laws and your Catholic religion, and all the institutions connected with it, were swept away by the majority, in consequence of their having opposite opinions; and would not the same hardship fall upon the English settler, who is in the same manner in the minority in Canada, if anything were done to put him entirely at the mercy of those whose opinions, though honest opinions, are adverse to his opinions and what he conceives to be his interests?—The settlers coming into Canada come into a country having already laws and institutions secured to it by the most solemn acts. Those settlers cannot complain of the existence of such laws and institutions; but it would be a far greater injustice to give to the majority the laws and institutions of the minority than

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than the reverse. The fact is, that such fears are entertained principally from the acts of internal legislation passed in this legislature, and from the manner in which the Executive Government has been conducted. The House of Assembly have always shown a desire to provide for those different opinions which might be entertained at first by new settlers, in accommodating the laws as much as possible to their wants and wishes, and we have never wished for intolerance or exclusion with regard to any. However, there should never be a plan in any system of sound policy to have two systems entirely different of laws and institutions; it would tend only to create and uphold feelings of opposition, which the House of Assembly had always striven to prevent.

597. Although it may be undoubtedly reasonable that the English settler coming into a colony already formed should conform himself to the laws of the colony, would not you stand in the same condition, supposing by any circumstance you became united to the States of America?—I do not see the precise relation of the two cases; because if there was a connexion with the United States of America, we should still legislate for our internal affairs. I have not alluded myself besides to any such event.

598. Have not all those states which have joined themselves to the United States of America joined themselves as sovereign independent states; and supposing such a circumstance as a junction between Canada and the United States, under those circumstances, would not Canada also enter into the confederacy as a sovereign and independent state?—At all events, I think that Canada would never consent to be any thing else.

599. You said that the British settlers come into Canada voluntarily under the faith of a compact, secured by solemn laws and enactments: is there any part of those laws and enactments more solemn than that the second chamber shall not be elected but nominated by the Crown?—The capitulations and treaties, and the Act of 1774, I consider as solemn as the Act of 31st Geo. 3, and those Acts were anterior to it; and the favourable provisions thereof were maintained even by the Act of the 31st.

600. How is the senate in the United States elected?—The senators of the United States are elected in different ways; there are some states in which they are elected by the people, and some states in which they are elected by the legislature. I believe in most states they are elected by the people.

601. It appears that the House of Assembly stated, as one of the points of the great difference of opinion existing between them and the Legislative Council, that 28 Bills were either amended or rejected out of 64 in the course of the session of 1832 and 1833; can you state how many of those 28 Bills were sent up to the Legislative Council after there had ceased to be a quorum of the House of Assembly to receive them upon their return?—I believe there was not more than one or two in that case, if there were any at all; the Bills were sent in due time to the Council, but some of them were kept there very long without being considered; the others were rejected.

602. Out of those 28 Bills, were not 14 sent up in the last week?—I have not the details at hand, though I have seen of late a statement establishing the contrary fact. It is generally the case that at the end of the session there is more work done than at the beginning. Several of the same Bills have been rejected this very last session again.

603. Would not the consequence of the Bills being sent up under those circumstances be, that the smallest verbal amendment made in the Legislative Council would insure the loss of the Bill, from there being no quorum of the Lower House to receive it?—There was a quorum in the Lower House at a very late period of that session.

604. You have been examined as to the effect of an elective Council upon the connexion between Canada and the mother-country; do you consider that the Legislative Council, as at present constituted, is any effectual tie between the two countries?—If it is kept as a preventive body, it is certainly an injustice to the Canadians; and as to its having any effect as a friendly tie, it is certainly not the case, on account of the hostile dispositions of the Legislative Council.

605. Were you a member of the Assembly who drew up the Resolutions?—I did not draw up the Resolutions alone, but I had a share in drawing them; and I was also a member of the Committee which drew up the Address upon the Resolutions. I had rather a greater part in drawing the Address than in drawing the Resolutions.

Veneris, 23^o die Maii, 1834.

THE RIGHT HONOURABLE ROBERT GRANT,

IN THE CHAIR.

Monsieur *Augustin Norbert Morin*, called in; and further Examined.

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606. IN the 46th Resolution, it is stated, that an alteration was made in the representative law by the House of Assembly; will you state the general principles of that Bill, and the manner in which it was received by the Legislative Council?—A Bill was passed during several years for giving a more equal representation in the House of Assembly. The Legislative Council rejected those Bills. In the session of 1828 and 1829 the Bill was passed again; the provisions went to apportion the representation to the population of the province at that time, giving more or less representatives to the counties according to the population. This was considered by the House of Assembly to be a fair apportionment, property being equally divided in the colony; but the Legislative Council amended the Bill. They gave rather a larger number of representatives to the counties thinly settled, by enacting, that counties containing above 4,000 souls would be entitled to two representatives, while there were very large counties with 15,000 or 18,000 souls who could not have more than the same number of representatives. Some of those small counties were not very extensive either, and those which were extensive were composed for the most part of unsettled lands, or lands yet of the domain of the Crown; so there was no reason to give to the settlers there, who owned no more property than the other inhabitants in proportion, a greater number of representatives. However, the House of Assembly feeling the wants of the parts of the country which the measure principally concerned, acceded to the amendments. It was said at the time in the province, that the Legislative Council were very much surprised that the House of Assembly had acceded to their amendments. The House of Assembly always acted on the principle of apportioning the representation to the present state of the country, subject, for the future, to such alterations as might become necessary, while the Legislative Council seemed to have had in view a future state of things, so that their measures, not agreeing with the present state of the province, would probably not have agreed either with the real state of things hereafter.

607. Was not that part of the province, which you say was chiefly interested in this measure, a part that was chiefly inhabited by persons of British name?—Yes; the portion commonly known under the name of the Eastern Townships.

608. So that this measure was intended to give them representation in the House of Assembly?—It was; and they have since expressed themselves very much satisfied with the Bill.

609. Was not that Bill so framed, that if the majority of the population should at any time become entirely English, they would be represented in the House by any persons whom they pleased to choose?—Certainly.

610. Are you aware that the state of the representation was a subject of inquiry before the Canada Committee in 1828?—I know there were inquiries upon the subject, but I do not remember the details at present.

611. The 46th Resolution states, "That with a view to the introduction of whatever the institutions of the neighbouring States offered, that was good and applicable to the state of the province, this House had, among other measures, passed, during many years, a Bill, founded on the principle of proportioning arithmetically the number of representatives to the population of each place;" and it goes on to say, that the deviation from that direct principle of proportion of representation to the population, was an act of injustice for which this House ought to seek a remedy. Are you aware that the House of Commons, in 1828, expressed a strong opinion that a distinct proportion of population to the representation was inapplicable to the state of a new country?—The manner in which I understood that part of the Report of the Committee was, that the committee were impressed with the propriety

priety of giving a larger share in the representation wherever there was a more considerable share of property held by the same number of individuals, and not at all to waste lands, or lands of the Crown, or unsettled lands.

612. Will you have the goodness to read to the Committee a passage from the Report of the Canada Committee in 1828?—"In providing a representative system for the inhabitants of a country which is gradually comprehending within its limits newly peopled and extensive districts, great imperfections must necessarily arise, from proceeding, in the first instance, on the basis of population only. In Upper Canada, a representative system has been founded on the compound basis of territory and population. This principle, we think, might be advantageously adopted in Lower Canada."

613. It is stated in the Resolution, that the arithmetical proportion of representation to the population was adopted with a view to the introduction of whatever might be found advantageous in the neighbouring States. Are you aware that it is in evidence before the Committee in 1828, that the State of Vermont has introduced, not the basis of population to the representation, but a compound basis founded on population and territory?—I know it, but it is rather an exception to the representative system of the United States; the representation in Vermont is considered by all as being far too numerous.

614. Will you state whether, from your knowledge, the representation in the general Congress of the different States is not checked by that provision which gives an equal number of senators to the small States as to the large ones?—It is not the case in the House of Representatives, but only in the Senate.

615. Are you aware that the object of introducing a compound basis was for the purpose of giving encouragement to those newly-settled districts, who had more difficulty in making known their wants from the great extent of territory over which a small population was spread?—That might have been the view of the Committee, but I did consider it in the light I have expressed. I believe that the townships had also expressed themselves equally satisfied with the share in the representation which had been given to them in the former Bills. The townships would have had very nearly the same number of representatives, but other parts of the country would have had additional representatives, whom they have not.

616. Are you not aware that it was one of the subjects of complaint by the petitioners from the townships, that the Bill which had been introduced in the Legislature of Lower Canada was, in point of fact, a delusion and mockery?—I was not aware of that, and I do not believe it to be the case.

617. You stated that the inhabitants of the townships were satisfied with the Bill which had been subsequently passed; do you apprehend they were satisfied with the Bill as it passed, having received that amendment, or that they were satisfied with the Bill as it was originally introduced, without those amendments, the effect of which was to increase the number of representatives from the townships?—The Bill as passed was the Bill with the amendments. I do not believe the effect of the amendments was to give a much greater number of representatives to the townships, but much more to diminish the number of representatives of the other parts of the country. I believe that they expressed themselves at all times satisfied with the representation as the House of Assembly wished to give it.

618. What is the principle adopted in Upper Canada with regard to representation?—In Upper Canada there are very large counties and very small counties which send an equal number of representatives; there are also a great many boroughs and towns which send representatives, with a very small population. I do not consider that apportionment to be just.

619. Do you consider it to be desirable in a new country to afford the greatest facilities and encouragement for the extension of its population throughout the distant and newly settled districts?—Certainly.

620. Is not the facility of having their wants represented in the House of Assembly one of the greatest encouragements to spread the population through new districts?—Certainly, and it is for that reason that the House of Assembly have always wished to give representatives to the townships.

621. Does not a great part of the internal legislation of Canada consist in giving encouragement and assistance to the extension of roads and new works in different districts of the country, all of which are paid for out of the general revenues?—The spare funds of the province have been generally applied to that object for many years, and for the townships in particular.

622. For those objects, do not the distant and newly inhabited districts stand in

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greater want of assistance from the Legislature than the old and thickly-peopled counties in the immediate neighbourhood of the St. Lawrence?—Even before the townships had representatives of their own, the House of Assembly acted upon that principle, and a very great share of the appropriations have at all times been for the eastern townships.

623. Do not you conceive, that the townships and the distant districts would be better satisfied that they had a fair share of such assistance, if they had representatives from among their own body capable of representing and supporting their interests in the House of Assembly?—I have never heard any complaints of their not having a sufficient share of representatives, and they have also always acknowledged that they have had a very large share of the appropriations.

624. In the Bill as it is passed is there any provision by which a periodical augmentation should take place of the number of representatives as the counties increase?—In part only. There are very large counties which have only two representatives, and those counties are mostly in the anciently-settled parts; the Bill does not provide any increase for them. The new counties with one representative for 1,000 souls, and two for 4,000, might receive a very great increase before they would reach the same population.

625. What is the comparative extent of the counties of Orleans and Buckingham?—There is no county of Buckingham at present; it was divided into a great many counties; that was done by the new Bill. The amendments of the Legislative Council did not change the number nor the divisions of counties in the Bill.

626. Were you rightly understood to state that there was no general provision made in the Bill for an increase in the representation as the population of counties might increase?—There was no general provision. Counties under 4,000 souls and above 1,000 were given one representative till they have attained the 4,000 souls, and two after; some of those counties have since become entitled to the two representatives.

627. Was not the effect of the Bill to increase the number of representatives which had formerly been possessed by very large counties, by the operation of dividing those counties, like that of Buckingham, into six or seven different counties?—The county of Buckingham was principally divided into many counties on account of its great extent, and also because it was principally in that part that the eastern townships were; other counties were equally divided. The number of representatives was consequently increased.

628. Then the act of injustice of which you complain is an act committed by the Legislature of the province, and that in conformity to the recommendations of the Committee of this House?—The act of injustice, as represented in the Resolution, was on the part of the Legislative Council, and I do not consider it to be in conformity with the recommendations of the Canada Committee.

629. Do you conceive that if the strict principle of numerical proportion had been adhered to, which the House of Assembly seemed desirous of establishing, that would have been in conformity or in opposition to the recommendations of the Committee of this House?—I have never considered it as being in opposition to the recommendations of the Canada Committee, because the Canada Committee could refer only, in my view, to a greater share of property possessed by the same number of individuals.

630. Is the representative system, as settled by the Bill in question, founded upon a compound principle of territory and population, or not?—In some cases only; but there are some of the new counties which have not a great extent, such as the county of Shefford, and some ancient counties, in which, besides a large population, there is a great extent of waste lands, but to which that compound principle was not extended.

631. What is the size of the county of Shefford, as compared with the county of Orleans?—I suppose it might be double in extent, but it is yet a small county.

632. It has been stated, that the object of apportioning the representation upon a compound basis of population and territory was to increase the population: in your opinion, had that Bill any tendency to increase the population of each county beyond 4,000?—There was no inducement on that account after they had reached the 4,000.

633. But in the Bill as formerly passed by the House of Assembly the motive to increase the population, if it existed at all, existed after it reached the amount of 4,000 as well as before?—According to the Bill as passed by the House of Assembly, giving a larger number of representatives to the largely-peopled counties, there

there would have been certainly a hope, that as soon as the new counties had reached a larger population they would have had a greater number of representatives; this was the principle upon which the House of Assembly have acted.

634. Has the House of Assembly ever brought in a Bill subsequently to alter that Act?—No; there have been different Bills to amend that Act, but they related only to the limits of counties and places for holding the poll, and things of that kind, according to the petitions of the people.

635. Have you considered the relative advantages of concentrating and of scattering a population in a new colony?—It is certainly, in my opinion, much better to concentrate it. Much inconvenience has resulted, both to the general welfare of the country and to the settlers themselves, from the system that has been followed of dispersing the population in different parts of the country. When lands began to be granted in free and common socage, almost all the parts of the country were divided into townships, or marked on the map as being townships; but the settlements were begun only in very remote parts. If the settlements had been continued from place to place in the neighbourhood of the ancient settled parts, it would have been certainly much more advantageous to all, and more just towards the inhabitants of the country.

636. Do you consider that the legislation of the House of Assembly has been directed to the encouragement of the centralization system; and to the discouragement of the scattering system of population?—I believe it has.

637. And do you believe that the effect of the former Bill, as passed by the House of Assembly, would have been to concentrate rather than to scatter the population?—At least it would not have had the effect of scattering it. I do not know that it would have had any particular effect in concentrating it.

638. You have been asked whether a compound ratio of population and territory being applied to the formation of the Senate, did not in some measure form a check, in the government of the United States, to the principle of population: do not you believe that if there be any effect of that sort in the United States' government, it is perfectly analogous to the check which is formed by the Legislative Council in yours?—I had the subject in my mind before the question was proposed to me. The elective Legislative Council, as petitioned for, would be an exact representation of that system of checking democracy in the United States; although I do not here express any opinion in point of principle.

639. Were not the amendments made by the Legislative Council to this Bill assented to by the Assembly?—They were.

640. Therefore the Assembly approved of the Bill with the amendments?—They saw that the Bill was so much wanted that they did not discuss the amendments.

641. If you are to have two different branches of Legislature in the country, acting in any way as a check the one upon the other, and giving rise to those differences of opinion upon Bills that pass, which differences in the shape of amendments are assented to by the House of Assembly; is that a fair ground of complaint against the government of the country? In other words, with such a constitution existing, is it not necessary for both branches of the Legislature to bear and forbear with respect to the differences of opinion that exist upon questions of that description?—If there were only such differences, no complaint could be made of it.

642. Then is the Committee to understand that this complaint which is embodied in this Resolution, if it existed singly you would not consider it a grievance open to much complaint?—Not to much, certainly.

643. Were not the amendments made by the Legislative Council, and afterwards assented to in the House of Assembly, considered as favourable to the townships?—I do not know if they are to be considered favourable to the townships, when they are not considered as apportioning the representation in a fair way; however, they gave to the townships a greater share in the representation, in proportion to their population.

644. Were not the townships to which that advantage was given, townships in which the population is least dense and most scattered?—I believe so.

645. Supposing the Legislature, as a whole, to act upon the principle of encouraging the more dense population, and discouraging the scattered population of the country, is not it natural that the inhabitants of those scattered parts should seek some protection in the nature of the representation?—There was never a system of discouraging the scattered population already settled; quite the contrary; they were helped as much as could be; but the system was to prevent for the future such a scattering of the population.

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646. Would it not be a manifest injury to the townships to check the continuation of that system of scattered population?—No, because the House of Assembly of Lower Canada has at all times been ready to establish a fair system of settling the townships, which would be more to the advantage of the settlers themselves. Nothing has been done at any time to prevent the settlement of the townships; on the contrary, they have been favoured in every instance.

647. In answer to a question that was put to you about the bearing and forbearing that ought to exist between two portions of the Legislature, you said that if there were no other grievances than those, no complaint would be made of it. Did you mean by that, that if the Legislative Council were formed in such a way as to obtain the confidence of the country, those differences would not have been made a subject of complaint?—If the Legislative Council had the confidence of the country, and if there were not any permanent opposition to the people of the country, the amendments which might be made to the Bills sent up, provided those amendments were constitutional, would not be considered as a subject of grievance against the constitution of the body.

648. Are the Committee to understand that the amendments that were acquiesced in by the House of Assembly were not acquiesced in because the House of Assembly thought them wise or good, but because the House of Assembly thought that more evil would arise from rejecting the Bill than from taking the amendments?—That was the reason; it was generally supposed that the Legislative Council had no intention to pass the Bill, although that cannot be positively said. The amendments were immediately agreed to in the House of Assembly without any discussion, and the Bill was carried up immediately to the Council, and I have heard that there was a great expression of surprise manifested in the Council.

649. Have you any thing to state with respect to the 48th Resolution?—As to that Resolution, I have already said that we always had the hope mentioned in it; and the fear of contrary dispositions on the part of His Majesty's Government certainly created a painful sensation.

650. Will you state what despatch induced the House to believe that any member of His Majesty's Government entertained towards them feelings of prejudice and animosity, or had a tendency to favour plans of oppression and revenge?—The extract of the despatch communicated to the House of Assembly upon the 14th of January 1834, in answer to an address of the House of Assembly on the subject of the Legislative Council, but without date and signature.

651. Will you read that part which you conceive supports that view?—I will put before the Committee a part of the despatch, which has been communicated to the House of Assembly: "The House of Assembly state correctly, that it has often been avowed that the people of Canada should see nothing in the institutions of neighbouring countries to which they should look with envy. I have yet to learn that His Majesty's subjects in Canada entertain such sentiments at present, or that they desire to copy in a monarchical government all the institutions of a republic, or to have the mockery of an Executive absolutely dependent for its existence upon a popular body usurping the whole authority of the State. I am not prepared to advise His Majesty to recommend to Parliament so serious a step as the repeal of the Act of 1791, whereby the institutions of this country were conferred separately upon the provinces of Upper and Lower Canada. Serious as are the difficulties by which your Lordship's administration is beset, they are yet not such as to induce me to despair of the practical working of the British constitution; but should events unhappily force upon Parliament the exercise of its supreme authority to compose the internal dissensions of the colonies, it would be my object and my duty, as a servant of the Crown, to submit to Parliament such modifications of the charter of the Canadas as should tend, not to the introduction of institutions inconsistent with monarchical government, but to maintaining and strengthening the connexion with the mother country, by a close adherence to the spirit of the British constitution, and by preserving in their proper place, and within their due limits, the mutual rights and privileges of all classes of His Majesty's subjects."

652. Do you consider those expressions strong enough to justify the expressions in the 48th Resolution?—I must say, most respectfully, that I do, on account of the manner in which the proceedings of the House of Assembly are commented upon.

653. Is this the passage you allude to: "Should events unhappily force upon Parliament the exercise of its supreme authority to compose the internal dissensions of the colonies, it would be my object and my duty, as a servant of the Crown, to submit to Parliament such modifications of the charter of the Canadas as should tend,

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tend, not to the introduction of institutions inconsistent with monarchical government, but to maintaining and strengthening the connexion with the mother country, by a close adherence to the spirit of the British constitution, and by preserving in their proper place, and within their due limits, the mutual rights and privileges of all classes of His Majesty's subjects." Is that the passage upon which you found the charge of entertaining sentiments of oppression and revenge towards Canada?—Yes, principally, and also the preceding passage, which I have just cited.

654. Was not it generally supposed by the House of Assembly, that this despatch contained threats?—We have considered it so.

655. Were not those threats supposed to be, of taking away the popular power, and of diminishing the power of the House of Assembly?—Of either taking it away or checking it, or taking some measure to bring in combinations which would have been contrary to the rights of the country.

656. Was it not supposed that those threats were held out because the House of Assembly had resisted the proposals made by the Colonial Secretary?—It was supposed that it was on account of the difficulties which existed, and in which the House considered itself to be right.

657. Were the feelings you have described entertained by the great majority of the House of Assembly?—By the whole majority who voted the Resolutions; and the sensation was the same among the people, as far as I have been able to ascertain it.

658. Have you any thing further to say upon this Resolution?—I do not know whether it is of great importance, but we considered also the words "national convention" as not quite properly applied under the circumstances; the word had never been used in the province.

659. In what sense did you complain of it?—Because it was considered as an allusion to events which had passed elsewhere, in a nation of the same origin and language as the Canadians; but with whom, in reference to their dispositions with regard to a revolution, there was not the least comparison to be made.

660. What was the convention which the House of Assembly meant in their address to the Crown?—They desired a convention of the people, authorized by an Act of the British Parliament; but it was never called a national convention.

661. They desired a convention of the people, not by the representatives, but for the purpose of expressing what form of government they would hereafter assume?—Yes, and principally on the subject of the Legislative Council.

662. A convention of the people, that is to say, by the people electing certain representatives under the Act of Parliament which you proposed to have passed, the sole business of which representatives should be to determine upon the form of the Legislative Council?—And also upon such changes as might have been found proper in the Constitutional Act; it was done to give more freedom to that body, even to change the House of Assembly if they thought proper, although there is no complaint from any part of the people against the constitution of the House of Assembly.

663. You mean to recommend changes?—Yes.

664. Were not the changes eventually to have been made by the Act of the Supreme Parliament?—Yes.

665. So that there was no assumption of sovereignty on the part of the convention?—On the contrary, it would have been necessary for them to have two Acts of this Parliament, and elections founded upon the first one.

666. Have conventions of that sort been uncommon in America?—They are held there from time to time.

667. Did you ever know such a convention in Canada, or in any of the British provinces?—I am not aware of any; but at all events, it was fair and right to appeal to the British Parliament, and to indicate the means of knowing the wishes of the people, if Parliament was not disposed to render immediately the Legislative Council elective.

668. The offensive expression you complain of in the despatch was adding to the word "convention" the word "national"?—That was one.

669. By many of the constitutions in the United States, are there not periodical conventions, which meet of necessity to consider the form of their constitution?—I believe there are such conventions held every 20 years to alter the constitution.

670. Do you consider that those periodical conventions are adapted to a monarchical

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narchical form of government?—The monarchical part of our Government was certainly respected by us, inasmuch as the Head of the empire would have had a voice in the matter. Those conventions are certainly very convenient to the state of things in America, where the newness of the country produces changes much more rapidly than here in Europe.

671. But there was no such periodical convention recommended by the House of Assembly, but merely the idea being suggested by certain plans which are pursued in the States, they proposed one single convention?—They proposed one single convention, and they petitioned His Majesty to recommend it to Parliament, if he was not disposed to accede immediately to the prayer of the House for the elective Council.

672. With respect to the 51st Resolution, which refers to the approbation expressed by the Colonial Secretary, of the present constitution of the Legislative Council, and which is stated to be a subject of great alarm to His Majesty's Canadian subjects, will you point out the particular part of the despatch which you consider to have been then referred to as expressing that approbation?—I consider it to be contained in the part in which it is said, that "an examination of the constitution of the body at that period, and the present, will sufficiently show in what spirit His Majesty's Government have laboured to accomplish the wishes of Parliament."

673. In the 52d Resolution it is stated, that the French origin, and the use of the French language by the people of Canada, "has been made by the colonial authorities a pretext for abuse, for exclusion, for political inferiority, for a separation of rights and interests." Is there not a strong feeling amongst the people of Canada generally, that the colonial subjects of French extraction are excluded from all places of honour and profit, and that they are in fact made, by the conduct of the authorities there, to feel themselves so far an inferior set of people?—That is their belief, and, I believe, founded upon facts.

674. Have there lately, within your knowledge, or by common report, taken place any peculiar appointments by the Colonial Government, which the people generally conceive to be a very strong insult at the present moment?—I have seen that an appointment has been made of a coroner for the district of Three Rivers. The person named held already three offices, which were incompatible with the duty of a coroner; that person was known during the administration of Lord Dalhousie as one of its warmest supporters, and is the author of publications of a very scurrilous nature, called "*A Letter from Delta to Sencaz*," and "*The Lower Canada Watchman*," abusing the House of Assembly and the Canadian people, and also the House of Commons and Government here. I believe that appointment has created a great sensation in the province.

675. Who is this gentleman, by whom was he appointed, and when?—He has been appointed by his Excellency Lord Aylmer, the present Governor in Chief; he was before, and he continues to be, clerk of the peace for the district of Three Rivers. The two situations are incompatible.

676. What is his name?—Chisholm: he is also a commissioner for granting certain licenses under the prerogative. I see his name in print as being also postmaster at Three Rivers. It has been also remarked that he speaks only one language, the English, although almost all the population of that district speak the French language.

677. Had he been previously resident at Three Rivers?—He has resided in Three Rivers only since he was appointed the first time to a situation there; he was resident in Montreal before.

678. When was the first appointment?—The first appointment took place about 1828, I believe in the latter end of Lord Dalhousie's administration.

679. What is the date of his last appointment as coroner?—Within the last two months.

680. Then the appointment to which you now allude could not have been in the contemplation of the Assembly in passing this Resolution?—No. Coming now to continue the answer to a former question, there has been a Bill passed in the last session, as a preparatory measure, to provide for the establishment of a penitentiary. The law empowered the governor to appoint commissioners, to visit the penitentiaries in the United States, and make a report to the Legislature. The measure was proposed by a member of the majority of the House. It was considered, that if as a compliment the governor was to appoint some one of the commissioners from the House of Assembly, the member who had conducted the measure

measure would have been named, and he was as well able as any other to fulfil that object.

681. Who was the gentleman?—Mr. Rodier. Although I do not believe that gentleman had any particular desire of being appointed, he told me he would not have refused it. I have seen in the newspapers the appointment of one member from the minority, Mr. Neilson, and what is more remarkable, he is appointed conjointly with the Hon. Dominique Mondelet, whose seat has been declared vacant by the House of Assembly; and in the commission, as published officially, mention is made of John Neilson, esq., member of the House of Assembly for the county of Quebec, and the Hon. Dominique Mondelet, esq., member of the House of Assembly for the county of Montreal. I do not remember it to have been usual to give the title of members of the Assembly to gentlemen of that body appointed to such trusts.

682. You say you saw this in a newspaper?—In many newspapers.

683. Then those appointments also are subsequent to the passing of the Resolution now under consideration?—Yes.

684. Do you conceive that those appointments are exactly in the same spirit as those which are complained of in the 52d Resolution?—They are; and also in the same spirit as the appointments and dismissals made during Lord Dalhousie's administration.

685. Can you point out any appointment of a similar description that took place before the passing of this Resolution?—There were many; it was not perceived in the country that any greater portion of the Canadians were appointed at any time. There was in the customs at Coteau du Lac, a Canadian gentleman, appointed during the time of Sir James Kempt. It was said at that time that Sir James Kempt congratulated the Canadians upon that act of justice, saying that it was time that the Canadians should be admitted in the custom-house offices, or some such expressions, but which I only know by report. That gentleman is since dead, and it is not a Canadian gentleman who has been appointed in his place. I could not point singly at present to all the nominations made during the present administration, but they are generally considered to be in the same spirit.

686. And, generally speaking, are the majority of those offices at present held by persons not belonging to the majority of the House of Assembly?—They are; they are persons having opinions different from the majority of the House of Assembly, and of the people.

687. When commissions are appointed by the governor in consequence of a motion of some member of the House of Assembly, it is usual to appoint the member that makes the motion?—It has been the case several times. I remember now Mr. Quesnel having been appointed as commissioner upon different bills which he had proposed.

688. Were those the only two gentlemen appointed to that commission?—Only those two gentlemen.

689. You were understood to say, that you conceive that the appointment of Mr. Mondelet was offensive to the House of Assembly, because his seat had been declared by them vacant; is not he a gentleman of French Canadian extraction?—I spoke of the appointment being offensive, first on account of his being supposed to be chosen on purpose, and then also from having his title of member of the House of Assembly mentioned in the appointment, with a view to give offence.

690. Would that, however, support the words of the Resolution, that French origin and the use of the French language has been made a reason for their exclusion?—Not that particular appointment. A motion was made in the early times, in the House of Assembly, to abolish the use of the French language. The provisions of the bill proposed in this Parliament of 1822, if it had become a law, and which were supposed on just grounds to come from persons in office in the colony, had also a tendency to the same effect. The judges have endeavoured to abolish the use of the French language in the courts of law.

691. Will you state in what way they have endeavoured to do it?—They have dismissed actions in which part of the process, the summons in particular, were in the French language, on account of their being in the French language.

692. Was it stated judicially, that the reason of that dismissal was their being in the French language?—Yes.

693. On what occasion was that done?—It was done by Mr. Justice Bowen. I believe that was in 1825.

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694. Is there any law which renders it necessary that all the pleadings should be in English?—There is no such law.

695. Is there not a law which renders it legal to plead in both languages?—I conceive that both languages are legal in the country, and that the Canadians have an indisputable right to the legal use of the French language.

696. Has any thing of the kind been done since 1825?—The other judges have approved of it in answer to an application of the clerk of the court. There is also another circumstance, but about which I can speak only from report. It was said that one of the judges had recommended to Mr. Perrault, the prothonotary of the court at Quebec, to make all his entries in his registers in the English language, but that he said he would not conform to it unless he had a written order for it; that order was never given.

697. You state this upon mere report?—Upon mere report as to this last fact.

698. Can you state to the Committee any act of the court, or of the judges, since 1825, in which any attempt has been made to force the disuse of the French language upon the people?—Yes. The Court of King's Bench at Quebec, and the Court of Appeals, which is the supreme court of the country, have always maintained that writs of summons should all be English, and have decided it judicially. I will refer on that subject to a report made in the House of Assembly, and agreed to on the 23d March 1826. I have heard since of another decision of the kind in the Court of Appeals, but I cannot state any positive detail.

699. Is the French language generally used now in the same courts?—The French and the English, just whichever the lawyer happens to know best.

700. In the House of Assembly, in the courts, and in all the public meetings, are not the French and English languages indiscriminately used?—They are as spoken languages; the facts above prove that it is not the case as to written process in the courts of law.

701. Among the instances which you stated to the Committee, in justification of this Resolution, of preferences given adverse to people of French origin, you stated the appointment of Mr. Neilson. Was not Mr. Neilson one of the gentlemen deputed by the Assembly of Canada to represent their grievances upon a former occasion?—He was. I did not cite Mr. Neilson so much on that principle, as on account of his being taken from the minority of the House upon the late proceedings, in contradistinction to a gentleman from the majority who led the measure.

702. Would you consider the appointment of Mr. Neilson, under those circumstances, to have been any thing but a slight to the people of French origin in Canada?—It is considered as having been done only because Mr. Neilson belongs to the minority; in that case it would be of that character.

703. Does not Mr. Neilson represent a part of the country in which the French population is most numerous?—He represents the county of Quebec. The country population is much more French than English; the town population is mixed.

704. Are you aware of a despatch from Lord Goderich of the 7th of July 1831?—I am.

705. Are you aware that that despatch most carefully guards the Governor against the manifestation of any preference given to British over French Canadians?—It does, but it has not been acted upon.

706. Can you state what number of appointments within the province have taken place since the date of that despatch?—I think I remember there have been inquiries on that subject this year in the House of Assembly, but I had not time to bring the details with me.

707. In the 75th Resolution it is stated, that "the yearly returns contained the names of 157 officers and others receiving salaries, who are apparently of British or foreign origin, and the names of 47 who are apparently natives of the country, of French origin." Excluding those who are of British birth sent from this country, can you state what proportion the number of appointments held by Canadians of French origin bears to the number of the appointments held by Canadians of British origin?—It is not easy to make such a distinction without seeing the names of the persons sent from England, and those of British origin in the province. But we consider that neither the one nor the other have a right to compose the majority of the public officers in the colony.

708. Should you conceive that any injustice had been done if it were proved to you that, of those who were natives of the colony, the majority of appointments have been given to French Canadians?—I would conceive it still to be an injustice, if

if there were a majority composed of two descriptions of persons opposed to the majority of the people. As to the proportion mentioned in the Resolution, I counted it myself with another gentleman, from the names taken from the blue book.

709. At the end of the 53d Resolution there are these words: "That every attempt on the part of public functionaries, or of other persons (who on coming to settle in the province made their condition their own voluntary act), against the existence of any portion of the laws and institutions peculiar to the country, and any preponderance given to such persons in the Legislative and Executive Councils, in the courts of law, or in other departments, are contrary to the engagements of the British Parliament, and to the rights guaranteed to His Majesty's Canadian subjects, on the faith of the national honour of England, and on that of capitulations and treaties." Will you explain what the House of Assembly means by that sentence?—That the system of ascendancy and domination in favour of the minority, and opposed to the Canadian majority, is contrary to the rights and pledges mentioned in the Resolution. It is from that ascendancy and domination party that most of the attempts made to abolish the laws and institutions of the country, and to deprive its inhabitants of their rights, have come.

710. Can you point out any of those attempts?—Besides what I have stated as to the language, the courts of justice have passed what they call rules of practice, in opposition to the laws, and against which the House of Assembly remonstrated long ago, but they could not obtain any justice.

711. What were the dates of those?—From 1801 to 1817; and those rules of practice are still in force now, and carried on by several of the same judges who enacted them.

712. Have any representations on the part of the House of Assembly been lately made against those rules?—Not in particular, for they could not obtain justice at that time, and the subjects of complaints have since been too numerous to detail them all. I conceive that to be comprised within the Resolutions of this year.

713. Will you state in what particular those rules of practice are contrary to law?—Because they changed, without the authority of the Legislature, the forms of proceedings already established by law.

714. Were those rules of practice made matter of complaint before the Committee in 1828?—I do not remember that there was any particular question about them: but those were not the only attempts of the nature mentioned. The provisions of the Union Bill proposed in 1822 were in direct violation of the laws and rights of the inhabitants of the country. The Canada Trade Act, inasmuch as it relates to lands, and principally the Tenures Act, are also a violation of the same rights and laws.

715. The Act of Union was endeavoured to be carried into effect by the British Parliament?—It was.

716. Was it carried into effect?—It was not. The province had no knowledge of it at the time.

717. Can any of those laws which were either sought to be carried into effect, or which were carried into effect by the authority of the Supreme Legislature of the British Parliament, justify the assertion of an attempt on the part of public functionaries coming to settle in the province, against the existence of any part of the laws and institutions peculiar to the country?—It was generally believed in the country that every information on those subjects came from the Administration party in the colony, and that it was at their suggestion that such laws were passed or proposed. The proceedings, of whatever nature they be, which have taken place with regard to the cession of the property of the seminary of Montreal, I also consider to be of that description.

718. Have any proceedings taken place with regard to the seminary of Montreal, except judicial proceedings in the courts of law in the colony?—Yes; the gentlemen of the seminary, before the Committee of the House of Assembly this year, have acknowledged that there have been such proceedings between them and the Executive Government, but they declined describing them, and they were not forced to do it. The Governor was applied to by the House, and also refused. Besides, the abuse bestowed on the Canadian laws and the Canadian people, by persons in office and connected with the Administration, have also tended to establish a firm belief of the projects and views of the Administration party. The nominations made in the province are viewed in the same manner; and, in fact, every act almost of the Provincial Government. I must also remark, that there are fears of some

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members of His Majesty's Government here entertaining the same ideas about the condition of the people, and its rights and its laws. The majority of the people have rather been considered, in a despatch from one of His Majesty's Colonial Ministers, relating to Judge Ker, or to the independence of the judges, as being hostile in the country; and it inferred consequently from that, the necessity of having public functionaries, and especially the judges, taken from the minority, to protect that minority against the majority. It was also reported in the province, that a right honourable gentleman, then at the head of His Majesty's Colonial department, expressed himself in a like manner on a public occasion: I mean the Right hon. Sir George Murray.

719. On what occasion was that?—If I may be allowed to say this, it was in the debates of the House of Commons: it was only from a report of the debates.

720. With reference to the 53d Resolution, in the statements that you have made, you have alluded to attempts made or supposed to have been made by the functionaries in Canada, to alter certain portions of the law without giving sufficient notice to the people of Canada; as, for example, the case of uniting the two Canadas together: was there not an attempt made to join them without the slightest notice being given to the people of Canada; and when the notice was given was not the proposition rejected?—No notice was given, and when the thing became known in the colony, there was an universal opposition to it. The Bill had not passed here, but might have been passed without its being known at all in the colony, because it was rejected before the colony knew any thing of it. I have mentioned other measures of the same kind actually passed into law, which also were not known in the province.

721. And therefore the attempts alluded to in this Resolution are that class of attempts which are supposed to have been made by the public functionaries?—They are supposed to have been made by the public functionaries, in consequence of conversations rendered public from time to time in the colony, also from expressions made use of by that party in the Legislative Council and elsewhere; a great number of the new members of the Legislative Council have also in that body expressed themselves in favour of a dismemberment of the province of Lower Canada, by adding the island of Montreal, the county of Montreal, and the county of Vaudeuil, to Upper Canada. They have also expressed themselves favourable to a land company with numerous privileges opposed to the laws of the country, and confirming those very provisions of former laws of which the country has complained.

722. What is meant by the word combination, in the 54th Resolution?—By that (*combinaison* in the original) is meant any aggregation of the province, in the whole or in part, with other political bodies, or any dismemberment of the province, or any provisions which would make a distinction between different parts of the province as political bodies; the Tenures Act and the land company I conceive to be such combinations.

723. Then any attempts to do this in opposition to the wishes of the people, would, in the opinion of yourself and the House of Assembly, create a very strong feeling of discontent, and lead to a desire for separation from the mother country?—I believe it would. They would submit to it only because they would be the weakest.

724. And you, as a person wishing to maintain peace and to maintain the connexion between the colony and the mother country, would deprecate any attempt to act in such direct opposition to the people?—I wish very much to maintain peace and to maintain a connexion with this country, and yet in such case I must say that I would partake entirely in the feelings of the people.

725. Did not the despatch from the Colonial Secretary of which you have complained, distinctly state that he was not prepared to advise His Majesty to repeal the Act of 1791, whereby separate Legislatures were bestowed upon the Upper and Lower Provinces?—Yes; but there was at the same time a corrective passage, which had reference to the circumstances in which he might consider himself under the necessity of changing it.

726. Would not any act of the British Parliament, interfering with the constitution of Canada to the extent of altering the whole character of the Legislative Council, also be the sort of combination alluded to in this Resolution?—It would be a combination in accordance with the wishes and wants of the people, as expressed constitutionally by the House of Assembly, and by the people themselves.

727. Supposing

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727. Supposing the fact to be that that wish is expressed only by one of the legislative bodies, and is strongly petitioned against by a great number of the people, would it not be an interference of the British Parliament with the existing constitution of Canada?—It would be an interference of a beneficial character, if it is demanded both by the representative body and by the people. If there was any part of the people who petitioned against it, it could be only a very small minority, and they might have been induced to it either by the hope of domination and preference fostered by the members of the Administration, or by prejudices resulting from those endeavours made to maintain two distinct populations in the colony, with opposite feelings, and with different systems of laws and institutions.

728. Are you aware of a meeting which took place at Montreal upon the 5th of April, bearing upon the point now before the Committee?—I am aware of a meeting at Montreal: I do not know the date.

729. Are you aware that it was one of the largest meetings ever held in Lower Canada?—It was a large meeting; and there was also another large meeting at Montreal, expressing contrary opinions; and I have been led to believe that this latter meeting was more numerous.

730. Are you aware of the Resolutions come to at the meeting held at Tattersal's?—I have read them.

731. Are you aware that about nine-tenths of the movers of those Resolutions consisted of native Canadians?—I did not pay any attention to the character of the speakers and movers, but there were very few French Canadians.

732. Can you state whether the word Canadians always means French Canadians?—Not always, but as a distinction of parties it does in common conversation. In written documents, all are called Canadians who are on the Canadian side, and all are called not Canadians who are against the Canadian people.

733. Will you have the goodness to state, with respect to each of the persons who appear to have moved and seconded the Resolutions at the meeting upon the 5th of April, of what country they were; the first name is Samuel Gerrard, esq.?—He was born in England, I believe.

734. Dr. Arnoldi, senior?—I believe he was born in Canada.

735. Janvier de Lacroix, esq.?—He is a Canadian born.

736. Charles Mondelet, esq.?—He is a Canadian born.

737. Charles Dewey Day, esq., advocate?—He is of English origin. I do not know where he was born.

738. Thomas Phillips, esq.?—He is a Scotchman or an American.

739. James Fraser, esq.?—He is an Englishman or a Scotchman; I am not sure where he was born.

740. James Charles Grant, esq.?—He was born in Canada.

741. Henry Corse, esq.?—He is an American.

742. John Molson, jun., esq.?—I suppose he was born in Canada, but I am not quite sure. Mr. Molson, the father, has been long resident in Canada.

743. Thomas A. Begley, esq.?—He is an Irishman.

744. George Auldjo, esq.?—He is an Englishman. His father has resided in Canada; I do not know whether the son was born there or not.

745. John Fisher, esq.?—He was born out of the province, in England or Scotland.

746. Captain Henrichon?—I do not know him; the name is a Canadian name.

747. Jules Quesnel, esq.?—He is a Canadian.

748. Henry Griffin, esq.?—His father has long resided in Canada; I do not know whether the son was born there or not.

749. John Jones, esq.?—He has not been a long resident in the province, but I do not know from what part he comes.

750. Aaron Philip Hart, esq.?—He was born in the province.

751. Michael Bibaud, esq.?—He was born in the province; he is a Canadian.

752. Charles Penner, esq.?—He is an Englishman or a Scotchman.

753. Robert Armour, jun., esq.?—I do not know whether he was born in the province or not; I believe not.

754. John Jones, sen., esq.?—He is an American, as I believe.

755. Do you know whether those persons have been long established in the colony, generally?—Some of them, and some of them not; there are also several young men; there is a great variety of persons.

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756. With regard to the matter of fact stated in the 53d Resolution, that the British Parliament enacted, "That in all matters of controversy relative to property and civil rights, resort should be had to the laws of Canada;" was not an exception made of the lands that should be held in free and common socage?—There was such an exception in the phraseology, but it was not understood to apply to the whole clause in which it is inserted.

757. Was not that Act applicable to the province of Quebec before the separation of the colonies of Upper and Lower Canada?—It was. In practice it was not acted upon, as having the consequence of changing the laws of the country with regard to lands newly settled. I must remark, that in Upper Canada, after the constitution, although almost all lands there were held in free and common socage, they thought it necessary to pass a law, as one of their first enactments, to state that the laws of Canada should not apply to Upper Canada.

Luna, 26^e die Maii, 1834.

JOHN NICHOLAS FAZAKERLEY, ESQUIRE,
IN THE CHAIR.

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Monsieur *Augustin Norbert Morin*, again called in; and Examined.

758. THE 56th resolution complains of an Act commonly called the Tenures Act; will you be good enough to explain the causes of the complaint?—The different provisions of that Bill have been found injurious, and none good. First, it was an Act of internal legislation for the province, which the constitutional Act gave to the Provincial Legislature the right to enact upon; it may also be reasonably supposed that, even with the best intentions, at such a distance Acts of that description cannot be very beneficial; indeed the facts have proved it. There had been some doubts since the year 1774 as to which laws applied to property held in free and common socage. In practice the laws of the country have been acted upon in the matters of transfer and succession, and also acted upon by the courts of justice, and in particular with regard to the sale of property by the sheriffs. The Tenures Act professes to be a declaratory Act, but in fact it has established a law different from what had been the practice. Besides, there was no reservation for actual rights, as mortgages and others, and those resulting from marriage settlements, according to the laws of the country; and it may be doubted whether at present the subsequent Acts have decided the matter on all points. The Act, besides professing to be a declaratory Act, declares only upon certain points; there remains consequently still more doubt as to the other points. For instance, the Tenures Act does not speak of the laws of neighbourhood and easement, which are of very great importance in a new country. As to personal rights, nothing is said about them; and it is my opinion, and the general opinion also, that the personal rights in all parts of Canada have always been subject to the laws of the country, and still continue to be. It must be seen by what precedes, that the Tenures Act was very imperfect for the objects for which it was intended, even if it was intended to establish the English law of property in the townships. The manner also in which it provides for a change of tenure was not beneficial, but rather injurious, inasmuch as even in the seigniories the incomplete and doubtful laws of property introduced by the Tenures Act were to apply after such change of tenure. No doubt was entertained in Canada that the Act was intended to relieve the censitaires from feudal or seigniorial burdens, but the result must be different on account of that change of laws, and also because it appears to be lawful for the seigniors to obtain a mutation of tenure only of such parts of their seigniories as are unconceded, and this has been the case with the seigniorie of Saint Anne, held by the Honourable Mr. Hale. So that the change of tenure has been obtained in that case only for such parts as are yet in his possession, while no change has been obtained about the parts which are concedé; there is consequently no advantage for the *censitaire*, supposing that he wished to be relieved from seigniorial dues according to the provisions of the Act, but a great advantage for the seignior, who can dispose in any way he pleases of his unconceded lands after their re-grant in free and common socage, while according to the laws of the country, he was under the obligation of conceding land to applicants

applicants upon certain conditions. Another effect of the Tenures Act has also been the establishment of a Court of Escheats without any sufficient provision as to its proceedings, and without the control of the Provincial Legislature. While the Canada Committee recommended that lands should be granted to the Canadians under the tenure they best liked, the effect of the Tenures Act has been to the contrary, both as relates to lands held in free and common socage, and to the tendency of that law in the seigniories. There are also parts of the ecclesiastical law about the application of which that Act may raise doubts upon free and socage lands, or commuted lands. The House of Assembly have been greatly embarrassed by that Act, while they have endeavoured to relieve the *censitaires* from seigniorial burdens. This year there has been a report upon that subject, which I will take the liberty to hand in to the Committee.

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[The same was read, as follows:]

REPORT of the SPECIAL COMMITTEE, to whom was referred the Resolution of the House of Assembly of the 27th January 1834.

THAT it is expedient that further and more effectual provision be made for the extinction of seigniorial rights and burdens on lands held *à titre de cens* in this Province.

Your Committee are of opinion that the existing restrictions upon the seigniors of this Province, and upon the proprietors holding lands in their fiefs and seigniories, as to the extinguishment, by convention, of the usual seigniorial dues and services, should be removed by law to be passed for that purpose, providing therein a proper and just indemnity to the Lord paramount, our Lord the King. The discharge from these dues and services will not have the effect of altering in any manner the law by which these lands were governed previous to such discharge. Your Committee, however, would not consider the measure complete, if the right of free commutation were not equally extended to all those who hold lands under any mains mortes or religious communities, who are proprietors of fiefs or seigniories in this Province. If any preference were given to the *censitaires* of other seigniories, it could not fail to become a subject of just complaint, and to excite jealousy on the part of those who should be excluded from the advantages aforesaid, merely because chance had placed them within the censives of communities and mains mortes, and would probably in the end excite feelings tending to prejudice the true interests, and which might finally threaten the existence of the religious communities, of which the inhabitants of this Province have to this day recognized the utility, and to which they are strongly attached, in consequence of the numerous advantages which the public have derived from them, either through their exertions in favour of education, or through the charitable labours of every description to which these institutions have been devoted, and for which they were originally founded. If, in addition to this, we consider the great value and the vast extent of the seigniories thus held in mortmain, the superficial contents of which exceed 200 square leagues (independent of the property of the Jesuits), and upon which there is now scattered a population of not less than 70,000 souls; if we bear in mind that a great part of the county of Montreal, as well as a great part of each of our most commercial cities, lie within the censives of religious communities, it cannot fail to be observed that exclusion from the right of commutation would fall chiefly upon those who, with reference to capital, to the arts, to manufactures and to trade, would have the greatest claims to enjoy it, and who would in all probability be the first who would wish to avail themselves of it. Yet, while they represent to your Honourable House the necessity of giving religious communities, and others holding property in mortmain, the right of commuting their tenure; and to their *censitaires* that of redeeming the feudal and seigniorial burthens imposed upon their property, your Committee are strongly impressed with the necessity of not departing (in any measure to be adopted for the purpose of effecting the object aforesaid) from those wise principles, forming the basis of our laws, which impose restraints with regard to the purchase or sale of immovable property by those who hold it in mortmain. These laws have been made for the public good; for, on the one hand, they protect corporations against the error or mal-administration of those who have the management of their affairs; and, on the other hand, they prevent them from increasing the number or extent of their possessions, which they could not do without detriment to the public interest and to the liberty of trade. If, therefore, your Honourable House concur in opinion with your Committee, that the religious communities and corporations possessing fiefs and seigniories within this Province, should, with regard to the commutation of tenure, be placed on the same footing as other seigniors in the Province, your Committee would think it their duty to recommend that the exercise of this right should be perfectly unrestricted, and governed solely by agreement made between the parties interested; that they should be allowed to exercise it with regard to the whole or to any portion of the seigniorial dues and burthens from which the *censitaires* might wish to be relieved; that the sums of money arising from the redemption should be laid out in the purchase of other real property or ground rents, the revenues of which should be exclusively applied to the object for which the institutions commuting were originally founded; and that no such commutations should be made without the concurrence of the ecclesiastical authorities of the country, whenever they should affect any religious communities, which by the law of the land cannot alienate their property without the concurrent assent of the civil and ecclesiastical authorities. Your Committee are of opinion, that a law which should embrace those provisions, and such

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others as might be deemed necessary, would be generally beneficial, and would have the effect of removing gradually, quietly, and without coercion, all the seigniorial dues and burdens which might be considered as tending to shackle trade, or to check the spirit of enterprise among capitalists in this Province, and would preserve those seigniorial rights only of which the agricultural population should not deem it advisable to relieve themselves by redeeming them, because in reality the greater portion of those rights form part of a system which experience has proved to have been of eminent advantage in the settlement of this Province, and against which its inhabitants have never remonstrated. The whole, nevertheless, humbly submitted.

Quebec, 1 March 1834.

A. Stuart, Chairman.

I have no doubt that if the Tenures Act was repealed, the House of Assembly would provide in an adequate and just manner for the object intended by that Act.

759. What object do you conceive to have been intended to be attained by that Act?—The disburdening from the seigniorial rights in any case they have been considered as too heavy; that is what we consider to have been the intention of the Act.

760. Relieving the censitaires from seigniorial burdens?—Yes.

761. Will you be good enough to explain what those burdens are which you suppose the Tenures Act intended to relieve the censitaires from?—It was the annual rents and other dues, and the lods et ventes, and also the rights of bannality and others. But the Act has had more tendency in effecting a change in the laws of the country, and against the censitaires, than in relieving any part of them from those burdens.

762. Supposing the Act to have relieved the censitaire from those burdens, you believe that it went further, and effected a great change of the law which the framers of that Act never contemplated?—We have been always of opinion that Parliament did not contemplate it, that their views were benevolent.

763. The Canada Tenures Act would interfere with the law of succession?—Certainly; both with what had been the practice in the townships, and also with the law of the country in the seignories, whenever a commutation is obtained.

764. And it is generally believed in Canada, is it not, that by bringing lands under free and common socage under the laws of England, there is hereby brought in the whole body of the law of England in collision with the body of the law of France, which was formerly established there?—To a great extent; and still worse, on account of the uncertainty of the law, as established by the Tenures Act.

765. One of the disadvantages arising from the Tenures Act you stated to have been, that it favoured the seignior; will you definitely describe how it favoured the seignior in the matter of resisting the demands of the censitaire to his lands?—The seigniors were by the ancient laws under the obligation of conceding their lands to applicants for them; and when they did not wish to concede them, the Governor was authorized to concede them: there was also a fixed settlement of the dues. The censitaires, who have tried to obtain a reduction of the heavy dues asked since a number of years, have never been able to obtain it in the courts of law, and the Governors, when applied to for concessions, have positively refused in writing. The Tenures Act has destroyed every hope for the settlers of obtaining such concessions, whenever a commutation shall have been obtained, because then the unsettled lands become, or may be supposed to become, the free and unconditional property of the seigniors.

766. By the old law, was not the seignior also obliged to make roads?—He is obliged to make his share of the roads that lead to his mill; and also obliged, as every other person, to make roads on the domain, and other parts of his property.

767. For example; supposing he conceded any portion of land to a censitaire at a distance in the woods, was there any law which compelled him to make a road to that portion?—There were ancient provisions to that effect, but they have not been acted upon, and may be supposed to have been superseded by the present state of the laws about road-making. The seigniors have made roads.

768. What advantages are generally attributed to the tenure of free and common socage over those of seigniorial tenure, abstracting the evil of lods et ventes, and the other dues which you have mentioned?—The free and common socage lands are not subject to such burdens which prevent industry and trade, and a free transfer and enjoyment of property. There is in the laws of Canada a recognised tenure which does not admit of seigniorial burdens; it is called the *franc-aleu*. The free and

and common socage and the *franc-aleu*, abstracting the matter of the laws, would be equally good, if the settlements were devised and executed, as has been the case in the seigniories.

769. Do you believe that the people of Canada would have any objection to the tenure of free and common socage, provided it was not so established as to alter the whole body of the law, or create great confusion in the whole body of the law?—They would certainly have no objection to free and common socage with the full extent of the laws of the country, or to the *franc-aleu*, because it would be, in fact, the same tenure.

770. Would they have any objection to introduce with the free and common socage the law of primogeniture?—They would have great objection to introduce the law of primogeniture.

771. Is that the case of Upper Canada?—They have tried to change it in the Assembly several times, on account of the opposition of the Legislative Council, but they have not succeeded.

772. Supposing that a person had undisputed right of his property, that is, that he did not derive it from will, or in any way binding him, has an individual a power of disposing of his property by will in Canada?—Every individual has a power of disposing of his property by will; but it happens very often that a person dies suddenly, and does not think of it; and making of wills is not general throughout the Province; property is rather disposed of by agreements *entre-vifs*, during the lives of the parties.

773. So that, in fact, the way in which the property will descend is generally known beforehand, in consequence of contracts made between parties living?—Generally.

774. That being the case, does the Tenures Act, being introduced as it was introduced, create confusion in those contracts *entre-vifs*?—It does; because it relates not only to succession, but to transfer during the life of the parties. The words of the Tenures Act are, "the grant, bargain, sale, alienation, conveyance, disposal, descent of lands, or to the dower or other rights of married women in such lands."

775. Has not the Assembly now the power by a certain Act to alter any provisions in the Tenures Act which to them may seem mischievous?—An Act has been passed in this Parliament for that purpose, although I conceive it was not necessary; and an Act passed in the Legislature of Lower Canada to effect that to a certain point, and which had been reserved for the Royal sanction, has been since assented to. It relates only to the matter of the laws.

776. So that in fact any of the evils arising out of the Tenures Act may be remedied by the Colonial Legislature, if they think fit?—It might be the case as to the laws; first, if the Legislative Council had not shown its opposition to such measures, and also if there was no fear from the Administration here in England otherwise enforcing the Tenures Act, or from other enactments being passed in support of it.

777. But have there not been Acts passed in the Assembly of Lower Canada, or attempts made to pass Acts to remedy that law?—Yes. There have been Resolutions adopted to that effect on the 28th January 1832, and a Bill founded upon them was introduced and passed in the House of Assembly, and carried up to the Legislative Council nearly a month before the end of the session. The Bill failed in the Council. I do not know that it has been renewed in the session of 1832 and 1833, nor in the last. It went to repeal the possibility of obtaining a mutation of tenures under the provisions of the Tenures Act. It was not consequently exactly founded on the provisions of the Act 1 Will. 4, c. 20, which related only to the matter of the laws. I conceive, however, that the Legislature of Canada was of itself fully authorized. But if the Bill had passed the Council it might have been pretended elsewhere that the Provincial Legislature could not pass it. As to the subject of the laws applying to lands held in free and common socage, I do not see that any Bill was introduced since the one which is now law; but the subject is very complicated, principally as to actual rights, and rendered still more so by the declaratory import of the Tenures Act. Besides the rejection of that Bill, we have had proof that there would be certainly a difficulty encountered in the colony in effecting those objects. In the session of 1831 and 1832, application was made by address to the Governor, stating that inasmuch as the censitaires were deprived by the Tenures Act of their right to obtain lands, although that right was recognised by the ancient laws, his Excellency was urged to use his endeavours,

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in consequence of some clauses of the Act to prevent any mutation of tenure until a revocation should take place. The Governor did not answer positively then, and wished for time to consider the matter. Being applied to on the subject the session after, whether he understood the matter or not, he answered the contrary of what was asked of him; he said that the House of Assembly might be assured that in every instance wherein he might be called upon to give effect to the Tenures Act, he would not fail to require the complete fulfilment of every provision of the law.

778. Was that supposed to be in spite of the objections of the House of Assembly?—We could not know at the time whether he understood it, but if he understood it, it certainly was in spite.

779. Have any obstructions been thrown in the way of the Legislature of Canada effecting all the alterations which they desired to effect?—The obstructions have been the rejection of the above Bill, the doubts which existed here and are evinced by the Act 1 Will. 4, as to the powers of the Legislature of Canada, and the changes of tenures which have been obtained in the interim. I do not remember at present of any other direct obstructions, but the matter has become so complicated and so intricate, that the House of Assembly have always considered that the Tenures Act should be repealed entirely, and they have constantly prayed for it.

780. But can they not in fact, as the law now stands, bring in a Bill which in effect would repeal it?—They have the remedy only to a certain extent, if the Act of the 1 Will. 4 is considered.

781. What is the limit of that power?—The commutations already obtained are in the way certainly, besides the limited provisions of the second Act, which I do not however consider necessary. I have no doubt that the House of Assembly will continue its proceedings to bring the matter to a close.

782. So that in fact, then, the only complaint which the House of Assembly can make in this matter is, that there has been an interference with their internal legislation?—Yes, as to the subject of the laws, but not only that with regard to the other difficulties resulting from the Tenures Act, and not mentioned in the Act 1 Will. 4.

783. With regard to the Canada Tenures Act, your only objection is, that whereas the Legislature have the full power of remedy, until the remedy is applied the existing law is carried into effect?—It is, although not imperative for the Executive.

784. And is that the grievance of which you have to complain, that until the law is altered the existing law is acted upon?—We have prayed the Governor, as I have said, that, considering the collision of the two systems of the law and the depriving of the rights of the settlers by the Tenures Act, he might suspend the operation of the Act, inasmuch as it was in his power, by the authority of the Executive. He answered, as we understood, that he would not fail to put the Tenures Act into execution.

785. Has the Governor any power to suspend the operation of an Act of Parliament?—He might immediately write to His Majesty's Government here to have the law changed.

786. Do you conceive that, the Assembly having full power to repeal the Act complained of, if it was thought proper, it was desirable that Parliament should be called upon to do it in preference to the Assembly?—It would be more desirable that Parliament should repeal it entirely, because the other injurious provisions, besides the change in the system of laws, would also be repealed. That is the reason why we are desirous that the Parliament should repeal it themselves. Also, the Legislative Council would not have the power to prevent it.

787. What difference would there be in the effect of a repeal by the authority of the British Parliament, and a repeal by the authority of the Canadian Parliament?—The fact is, that the Legislature of Canada can only amend it on some points, but cannot repeal it entirely, if the Act 1 Will. 4 was necessary at all.

788. What do you understand to be the limit upon the power of the Canadian Legislature?—They can amend it as far as relates to the application of the laws, and not to the other part; for instance, the consequences of a mutation of tenures upon the rights of people wishing to settle upon lands, and the establishment of the Court of Escheats; that is to say, according to the second Act.

789. Do you conceive that the difficulty remains in this form, that the British Parliament have interfered with your internal concerns, and thereby created confusion?—They have.

790. And

790. And you desire that the British Parliament should retrace its steps, in order to show that that mischief has been done by the British Parliament, and as a sort of acknowledgment that they would not interfere again?—It would be certainly very fair if we had such an acknowledgment. Our object is to have the whole of the evil to disappear at once. There is principally the absolute property which it vests the seigneur with, about the unconceded lands, which I consider would be the part which the Legislature of Lower Canada could not repeal, in consequence of the second Act.

791. For what reason do you suppose that, having the power given to alter the provisions of the Act, it could not alter that provision?—Because the power given does not relate to any thing but the laws introduced by the Tenures Act. I am of opinion that they might amend it so much as relates to the laws only. I have here the Act.

792. Is that the English Act giving power to the Canadian Legislature?—Yes, it is. I believe I am right in my view of the Bill, because, after reciting that doubts have arisen from the Tenures Act, “how far it is competent to His Majesty, with the advice and consent of the said Legislative Council and Assembly, to make and enact any laws or statutes establishing rules respecting the descent of lands so granted in free and common socage as aforesaid, or respecting the grant, bargain, sale, alienation; conveyance or disposal of such lands, or respecting the dower and other rights of married women in or to such lands, in any case wherein such rules are repugnant to or at variance with the law of England;” and stating that it is expedient to remove such doubt; the Bill goes on to enact, “that it shall and may be lawful for His Majesty, his heirs and successors, to assent to or to authorize his or their assent to be given to any Bill or Bills which hath or have heretofore been, or which may hereafter be, passed by the said Legislative Council and Assembly for regulating the descent, grant, bargain, sale, alienation, conveyance or disposal of any lands which are now or which may hereafter be holden in free and common socage within the said province of Lower Canada, or for regulating the dower or other rights of married women in such lands; any repugnancy or supposed repugnancy of any such regulations to the law of England, or to any of the provisions in the before-recited Acts of Parliament or either of them, contained to the contrary in anywise notwithstanding.” The Bill contains no other provision. So that the power given to the Legislature of Lower Canada relates only to the application of the laws, and not to the other effects of the Tenures Act. There is an important part of it, which I have alluded to, which is the full power it gives to the seigneur on lands not conceded, and which I conceive we have not been given the power to repeal, although I consider we have it of ourselves. The House of Assembly appears to have considered it in the same way.

793. Did you not state that the Legislature of Canada would have no objection to get rid of the burdens of the seigneurial tenure, provided the consequence of the exchange were not to introduce a different law of descent and inheritance?—They not only have no objection to it, but they wish for it very much, and have endeavoured to do it.

794. Then, in point of fact, has not the Legislature of Lower Canada, under that Act of the British Parliament, the power of making all the alteration in the Canada Tenures Act which you conceive to be desirable?—Such as relate to application of the laws certainly, but not otherwise, under that Act.

795. What you complain that you would not be enabled to effect, would be the repeal of that part of the Act which enables a seigneur to commute for free and common socage?—Yes; and which gives to the seigneur rights which are contrary to the ancient laws of the country. The Council have rejected the Bill, and the Act I Will. IV. might be a pretence.

796. Do the Committee understand you rightly; the seigneur would have rights conferred upon him which he had not before; that is, the absolute right in land to which he had a partial right before?—That is the case.

797. When you state that he had only a partial right, you conceive that he was bound to concede those lands by a certain tenure, and that by this Act he obtained the absolute disposal of them, unrestricted by any law?—Yes.

798. Whom do you conceive to be the persons who are injured by such a freedom given to the seigneur?—The settlers; certainly all His Majesty's subjects disposed to take lands and settle them. The inhabitants of the country generally are deprived of a right of a public nature which they had.

799. In point of fact, have many applications been made under the Tenures Act

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for converting seigneurial tenures into free and common socage?—There have not been a great number of applications on the part of the seigneurs; there have been more applications from persons holding lots in the censive of the King in Quebec; there have been more commutations of that kind than of seigneuries. I know only two seigneuries which have been commuted; that is to say, the seigneurie of Beauharnois, and the seigneurie of S^ce Anne in part, as I have said; that is to say, the unconceded part, and not the conceded one. I believe there have been other applications, but no change had resulted, to my knowledge.

800. You state that if this Act were generally acted upon, it would shut out the permanent inhabitants of the country from the vacant lands in the seigneuries; you also complain that “they have been prevented from settling on the waste lands of the Crown, by the partial, secret and vicious manner in which the Crown land department has been managed;” will you explain what you mean by the partial, secret and vicious manner in which the Crown land department has been managed?—Up to about ten years ago, the granting land system was rather a pillage; lands were granted in great extent to public officers and others, generally persons who had by no means deserved them in the opinion of the country, and that without any condition for the most part.

801. Have not the abuses of which you complain been acknowledged by Lord Ripon in the Despatch, dated 21st November 1831, in which he refers to the complaint of vicious and improvident management of the Crown lands, and to which a complete remedy has since been applied?—The vicious system has been acknowledged, but the present system has not been an efficient remedy. The present system is not under the control of the Legislature, the sales of land have not generally been published or known in the anciently settled parts of the country, but only in the places where those lands are situated; it was out of the power of the Legislature to make even the existence of the office of commissioner known to the inhabitants of the country generally; also of the selling the timber upon the lands before they were sold diminished their value; and the price asked for them prevented many of the inhabitants to settle upon them; while if they had been granted under provisions made in the Provincial Legislature, to all His Majesty's subjects applying for them, with precautions to prevent them from being wasted or spoiled by persons not wishing to settle upon them, it would have been much more beneficial. There has also been established since many years an office of agent for emigration, the object of which has been to provide lands for emigrants, and that office was paid, and is supposed to be paid now, from the land fund; there is no such establishment in favour of the native population, and it is out of the power of the Legislature to establish any. Also, under the present system large tracts of land have been granted to public officers under divers pretences, in the same way as they have been before.

802. Will you have the goodness to state the instances?—This is an efficient statement which relates only to such grants as have been made since the Report of the Canada Committee; and I must add that the statement which I now produce does not contain them all, since it does not contain some grants made to the families of those persons, which not being asked for has not been comprised in the statement, but which is known to exist.

803. Who has the power to make the grants in Canada?—The grants are made under the authority of the Executive Government.

804. By whom?—By the honourable Mr. Felton, who acts as commissioner.

805. Is there no control over his power?—Not in the province. There are divers pretences or reasons assigned to some of the grants mentioned in that paper, to others none.

806. Several of those grants are dated subsequently to March 1831, when the new system came into operation; but they are stated to have taken place in consequence of Orders in Council of a previous date; is not it the fact that the greater part of those grants, though dated at late periods, were in fact settled at a previous time?—The present system of land granting began, I believe, in 1825, on the appointing of Mr. Felton as commissioner. Some of the items of that paper may be in that case, and some others not.

807. Was not the date of the existing regulation, by which all lands were ordered to be granted, and by which the other mode of grant was prohibited, in March 1831?—About that time; it was posterior by several years to the establishment of Mr. Felton's office.

808. Is there any one of those grants which you have put in, which were granted

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granted in consequence of an Order in Council dated subsequently to March 1831?—The Orders in Council are anterior to 1831; but since it had been recognized as an injustice, His Majesty's Government might have found other means to recompense whom it desired, otherwise than by grants at variance with the acknowledged policy and promises of Government.

809. Is it not within your knowledge that great difficulty and great delay have existed with regard to the actual grant of patents even in cases where the land had been made over to the party?—It has been the case; it was supposed that the neglect was with the Crown officers.

810. Then your complaint is not that any new grants have been ordered since 1831, but that grants of land for which Orders in Council have passed in conformity to the previous law, have since 1831 been carried into effect in favour of the parties who have a legal claim to them?—When there was no just ground for the granting of those lands, but when the thing proceeded from the abusive system followed before, I do not consider that an Order in Council gave just right to the lands.

811. You admit, however, that no Order in Council has been passed making any new grant of land since the date of March 1831, when these regulations were established in conformity with the wishes of the Province?—I see none in that paper.

812. You produce that paper as a proof that such grants continued to be made?—I do.

813. Is it not a fact that, according to the present system, all land is sold, and sold by auction, and sold by public advertisement, and sold at any price above the minimum reserved price?—Land is sold generally, but the system has not been carried into execution to any extent yet in the vicinity of the anciently settled parts, and the manner in which the other sales are announced is not generally known in the country. They are announced in what is called the Quebec Official Gazette, which has no circulation in the country.

814. If it were an object to make it generally known in the country as a subject of great interest, do you conceive that the newspapers of the country would not publish a copy of that part of the Gazette, and thereby circulate it through the province?—Sometimes they do, and sometimes they do not; but that manner of advertising I consider yet unfair.

815. Is that mode of sale which you have now described that which is sanctioned by the House of Assembly as the partial and secret disposal of land?—It is.

816. Will you state in what you conceive the secrecy or the partiality of the open sale by auction by public advertisement with a fixed price?—There is secrecy in the whole matter, because the House of Assembly have always been refused any information upon the subject. There is partiality, because that system provides for the giving of land to emigrants from the United Kingdom with more facility than it does for the native inhabitants.

817. In what way?—On account of the establishment of that office of agent for emigration.

818. The office of agent for emigration is to direct the emigrants who may come from this country at once to those lands upon which they may be settled to the greatest advantage, is it not?—That office is connected with the Executive; and portions of country have been set apart and put under the control of that officer to settle them with emigrants.

819. Your real objection then to the mode of granting land is the facility which is given to British emigrants to settle?—Yes, in preference to the inhabitants of the country.

820. Will you state in what manner in preference?—First, by the operation of that agency for emigrants; and secondly, because the system, not being established under the control of the Legislature, has not become known or been put generally in operation in the ancient settlements of the country. It is only since about one year that there have been sales in those anciently settled parts.

821. At the end of the rules for the sale of lands, laid down by Lord Goderich in 1831, the Committee find this paragraph: "Such is the system of management which I propose to adopt with respect to the Crown lands. It has been formed after no little consideration and inquiry into a subject of the utmost importance to the prosperity of a country circumstanced like Canada. To promote the prosperity, to adopt the measures best calculated to favour the full development of the natural

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resources of the Province, has, I trust I need not assure the Assembly, been my only aim. If, however, upon a full consideration of the reasoning upon which my views are founded, they can recommend any modification by which this plan can be rendered more likely to forward that which is our common object, any suggestions which they may have to offer shall receive the fullest and most attentive consideration." In consequence of that recommendation, have any suggestions been made by the House of Assembly for the purpose of establishing a better system of sale of land in the Province?—The suggestion that has been made has been that the lands should be under the control of the Legislature.

822. When did they make that suggestion?—They had made it before, and have made it since in their resolutions several times, and they have made it in the Address of this year.

823. Did Lord Aylmer ever invite the Assembly to offer any suggestions for the modification of those rules?—There was a message accompanying that Despatch, but without details.

824. Do you happen to recollect what answer the Assembly sent to that message?—I do not at present; I will look into the Journals. There is not always an answer sent to a message.

825. Did they send any answer to the message?—In this case the message was itself an answer to representations and suggestions made by the Assembly.

826. Have they offered to Lord Aylmer, and through him to the Secretary of State, any suggestions in compliance with that message?—They considered that the whole matter should be subject to legislation in the Province, so that it would have been a contradiction to suggest any thing which related to the present system; they always pretended that the department should be under the control of the Legislature.

827. Then, in point of fact, they have offered no suggestions for the modification of those rules, no plan and no remedy, except a demand that the lands of the Crown should be placed under the absolute control of the House of Assembly?—I believe so.

828. You say that there has been a greater facility granted to British emigrants than to the inhabitants of the Province. Do you conceive, amongst the facilities which have been granted to the British settlers, one to be one-seventh of the land given to his clergy?—There is no doubt that it is. The clergy reserves are, in fact accessible only to such persons as are of British origin, or have the means of being in favour with the corporation which manages them. I will also add, that any connexion of a land company with Government has the same tendency.

829. Do you believe that any body of Canadians would emigrate to any spot in Canada in which they could not have the benefit of religious services?—They would not if there was no possibility for it; but as soon as there would be a number of settlers, they would be provided with a priest by the bishop.

830. Do you think that it would facilitate the settling of the country by Canadians that there should be some provision made for the Catholic clergy, in the way that there is made for the Protestant clergy?—It would, no doubt, if there was any provision of the kind at all; it is an injustice that one part only of the clergy should be provided for in that manner. But that manner of providing for the clergy with lands has been found objectionable. The House of Assembly, if the matter was under their control, would probably provide for religious instruction in the beginning of the new settlements to any denomination whatever, to a certain extent; and it would, I think, also provide for roads and other improvements, which might greatly tend to advance the settlement of the country. I have heard such readiness very frequently expressed, if they had any power in the matter.

831. Do you not think, that reserving this seventh of the waste lands of the country for the support of the Protestant clergy, and thereby creating a corporation, is considered in that country as having been very detrimental to the community at large?—It has been so, and very many times complained of.

832. In fact, does it not draw a distinction between the Protestants and Catholics, which no good government would wish to be drawn?—We have considered it so.

833. The provision of one-seventh of the lands for the Protestant clergy was set apart by the Act of 1791; by that Act a power was also given to the Legislature of the two Provinces to amend such portions of that Act as related to the lands of the clergy?—There is a clause of some kind to that effect, but I cannot say exactly what the words are.

834. Has it been recommended by Lord Goderich to the Legislature of Upper and Lower Canada, that so much of the British statute of 1791 as relates to the appropriation of clergy parcels should be repealed?—There was a message of that kind sent by the Governor in the Session of 1831 and 1832; it was considered, and a resolution reported in conformity with it. A Bill was introduced in the House of Assembly by the officers of Government at a late period of that Session, read a second time, and referred to a Committee. It was said at the same time, that not a word ought to be changed in that Bill as introduced. Considering the lateness of the Session, and perhaps also that declaration, which the House of Assembly might consider contrary to the liberty of its deliberations, nothing was done that year. The object was to re-unite the clergy reserves with the general domain of the Crown.

835. Would not the effect of that Bill have been to remove the objections which you mentioned with regard to setting apart of one-seventh of the land for the exclusive support of the Protestant clergy?—It would have.

836. Was any communication made by message that the House of Assembly would not be permitted to alter one word of that Bill?—No; but Mr. Ogden, then Solicitor-General, declared it.

837. That they would not be permitted to alter one word of the Bill?—That nothing was to be altered.

838. Have any proceedings been taken upon that Bill since?—Not that I know.

839. That was in the Session of 1831 and 1832?—Yes.

840. And the provisions of that Bill would have altogether removed the grievance with regard to the application of the land to the Protestant clergy, and would have applied those lands in the same manner as the other waste lands of the Province?—I believe so.

841. The draft of this Bill was sent down to the Legislature accompanied by a message; is there in that message any thing which would fetter the most entire discretion of the House of Assembly, as to the provisions of the Bill which they might introduce?—There was none: but it was stated by the officer of Government, who took the lead in the measure. The Bill was not sent with the message, but introduced by the Solicitor-General, upon a resolution of the House.

842. Does not the message expressly say, that "His Majesty invites the House of Assembly of Lower Canada to consider how the powers given to the Provincial Legislature by the constitutional Act to vary or repeal this part of its provisions; can be called into exercise most advantageously for the spiritual and temporal interests of His faithful subjects in this Province?"—I believe that forms part of the message.

843. Are you not aware that the arrangements between the Government of the Province and the clergy corporation were matters of extreme difficulty and complication, and which had been considered with the most scrupulous attention in this country by the Colonial Office?—I have no particular knowledge on that subject.

844. Are you not aware that there would have been considerable legal difficulties, and that pains had been taken to surmount those legal difficulties in the Bill as it was sent out?—I suppose that there would have existed some legal difficulties: I do not know whether the Bill encountered them precisely or not.

845. Supposing that the following passage had occurred in the Despatch from Lord Goderich, should you have thought that there was any thing offensive to the Assembly in the manner in which the Bill was laid before them: "Anxious as I am to relieve you to the utmost possible extent from responsibility upon an occasion of so much gravity and importance, I enclose to you the copy of a message, to be transmitted, in His Majesty's name, to both the Houses of the Provincial Legislature. The same motive induces me to transmit to you the draft of a Bill, which has been prepared under my directions, for carrying the views of His Majesty's Government into effect. Without intending to fetter the discretion of the law officers of your Government, I must express my earnest wish that the Bill might be introduced in terms corresponding, as closely as possible, with those of the accompanying draft. I am not sufficiently conversant with the usages of the Canadian Assembly to venture to prescribe any thing respecting the manner in which this Bill should be brought forward. If I am not misled by the analogy of English Parliamentary proceedings, I should desire that the Act might be introduced to the notice of the Assembly by the Attorney-General; or if he has not a seat in that House, then by any official member in whose ability and discretion you can place adequate confidence. Should the law pass in any form, you will neither give nor

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refuse your consent, but will reserve the Bill for the signification of His Majesty's pleasure. Indeed, I conceive that to be the proper course of proceeding in every case in which an Act of the Canadas is required to be laid before the two Houses of Parliament?"—The draft of the message was communicated, but not the Despatch. The Bill was not refused; it was late in the Session when it was introduced, and it became impossible to proceed upon it that year. It has never been presented since by any officer of Government, or any other person on the part of Government.

846. Is there any officer of Government at present holding a seat in the House of Assembly?—There has always been since that time the Auditor-General of Accounts; the Solicitor-General was until the course of the last Session; there is also at present one of the other law officers of the Crown.

847. If the appropriation of the clergy reserves to the purposes of a Protestant clergy was a matter of great and general grievance in Canada; and if the Secretary of State had invited the Legislature to pass a Bill for the removal of that grievance, and had furnished them with a draft of it, do you not think it probable that in one of three successive Sessions that question would have been taken up by some member of the House of Assembly?—It was considered as a high grievance, certainly: and the matter was not brought forward again on the part of His Majesty's Government, which we considered was necessary to insure any effectual proceeding on the part of the Assembly.

848. Do you mean to tell this Committee, that His Majesty having sent the draft of a Bill by message in one Session of Parliament, it was not competent for the Legislature to take that up without another draft in the next Session with a similar message?—It would have been competent certainly, but we could not know what were the subsequent dispositions of His Majesty's Government, since there has been so much variation and misunderstanding between the Colonial Legislature and the Administrations.

849. Do you mean to tell the Committee that the House of Assembly entertained any serious doubt that the same Bill which was sent down the year before by the Government, if introduced by the Legislature and passed by them in the next Session, would have been assented to?—I heard no doubts expressed by others, but that was my belief; I had doubts whether it would be sanctioned. The fact is, that there was a fear of the Bill being connected with some intended act of internal legislation, or with some new scheme of land monopoly. I was, and am yet, under that impression.

850. Has there been any subsequent communication from His Majesty's Government upon this subject?—No.

851. And no answer has been returned to His Majesty's Government by the Legislature, to the message which was sent on the subject of the clergy reserves?—They took the Bill into consideration that year, but it was too late, and I do not know what has been done since that. I do not believe that any answer in the shape of an Address, for instance, has been sent.

852. No answer has been returned to the message?—Unless there be something of it adopted since, which I do not remember.

853. Though you state that the House of Assembly have taken no steps upon this subject of the clergy reserves, and though you state that it would have been competent to the House of Assembly to take any step in compliance with the suggestions in the message communicated to them from His Majesty, does the House of Assembly still make it a grievance that the present state of the clergy reserves exists?—There is no particular mention of it in the Address, but it is considered still as a grievance in the country, and is a grievance against the Administration on account of its pretensions on other subjects connected with the lands, which have prevented any understanding between the different constituted authorities.

854. Are you aware whether any provision is annually made by His Majesty's Government from the Crown revenues in Upper Canada in aid of the Roman Catholic population there?—I have seen in print that it is the case now, but I believe it was not in the beginning.

855. Has not the practice of His Majesty's Government for some years been to apply a surplus portion of the revenues of the Crown lands to the Catholic clergy in Upper Canada?—I have seen it in print as to Upper Canada.

856. Have you any doubt that the same policy would be pursued in Lower Canada if there were any surplus revenues in the disposal of the Crown from its lands?—

lands?—The pretensions of the clergy of the Established Church have been such, that I do not know what would be the case.

857. Will you have the goodness to state why the 61st resolution with regard to the seminary of St. Sulpice at Montreal is introduced together with the resolutions respecting the conversion of tenures?—Because, if Government would once be possessed of that seigniori, the mutation of tenure under the Tenures Act which would take place, would also bring a change in the laws in one of the most important of the ancient settlements, and this might finally bring the change of the whole system of laws in the rest of the Province; since it might be urged that, as the English laws of property prevail in so rich a commercial city as Montreal, it would be of no use to keep two distinct systems of law, but that the necessary consequence would be the abolition of the law of the country. This was supposed to be a plan in the minds of some of the people who urged that measure, by what has been said in their newspapers, and also by their known opinions on the subject of the laws and institutions of the country generally.

858. The Committee presume that the Legislature of Lower Canada would not solemnly record a resolution, "That the inhabitants of this country have just reason to fear that the claims made to the property of the seminary of St. Sulpice at Montreal are attributable to the desire of the Colonial Administration, and its agents and tools, to hasten this deplorable state of things; and that His Majesty's Government in England would, by reassuring His faithful subjects on this point, dissipate the alarm felt by the clergy and by the whole people without distinction, and merit their sincere gratitude," without being accurately acquainted with the circumstances of the case in regard to the seminary of St. Sulpice: will you be good enough to state what the circumstances of that seminary were, under what circumstances the claims of the Government were urged, and what have been the offers made by the Government with regard to that property?—There has been a secret and concealment on that subject, and we could not know any thing. The gentlemen of the seminary refused to give sufficient answers; and the Governor, to whom an address was presented, also refused.

859. You mean to say that the 61st resolution has been introduced without any knowledge of the facts of the case as affects the seminary of St. Sulpice?—It has been introduced with a knowledge as to the tools and supporters of the Administration, and we have just doubts as to the head of the Administration itself, after his refusal.

860. Will you state upon what facts that resolution is founded?—I have stated the facts upon which the resolution is founded: there is the avowal, on the part of the gentlemen of the seminary, that proposals had taken place between them and Government for the surrender of that seigniori; there had also previously been an Address of the House of Assembly on that subject, to which no answer was ever given.

861. Will you state what grievance the House complains of in the case mentioned in the 63d resolution, respecting Dominique Mondelet, esq.?—The refusal of the writ for the county of Montreal, and the subsequent Despatch upon that subject. Mr. Mondelet's seat had been declared vacant by the House of Assembly after his having accepted the office of Executive Councillor, and this was done according to the resolutions of the House, which are mentioned in the 63d resolution of the House of Assembly.

862. Will you be good enough to state what that resolution was?—The resolution was, that until a Bill to vacate the seat of the member who would accept office should have become a law, the House of Assembly would consider vacant the seat of any such member, and that by pretending to sit after that, such member would be subject to be expelled. Mr. Mondelet was not expelled, his seat was merely declared vacant according to the resolution.

863. Did the House of Assembly suppose that they possessed the power to alter by their resolution that portion of the law?—They never pretended to alter the law or to make a law. There was no doubt as to their power of vacating the seat of a member, since it has been the practice of the House of Commons. The House of Assembly could have no better guide than what has been the practice here, and it is not in that single case only that they have wished to conform themselves to Parliamentary law, but in every case which had not been foreseen, or could not have been explained in the Constitutional Act.

864. The authority, then, under which they acted was a resolution of the House

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of Commons, passed pretty nearly to the same effect?—Both the practice of the House of Commons and a resolution to the same effect.

865. Can you state the practice?—The practice has been the vacating of seats of members in different cases,

866. That is under the law?—But before the Act of Parliament the practice has been to conform to the resolution of this House.

867. Can you state any case in which the seat of a member was declared vacant under that resolution which the House of Commons passed?—I believe we found some at the time, but I do not remember any at present.

868. In addition to the refusal of the writ, there is a grievance complained of in the Despatches of the Colonial Secretary; will you state what the House considered a grievance in that Despatch?—The manner in which the proceedings of the House of Assembly were treated, and the contempt thrown upon the rights and privileges of the House of Assembly.

869. Are the Committee to understand that it was the tone and manner of the message, or that it was the substance which was complained of?—Both the substance and the tone and manner.

870. Has the Government of Lower Canada shown any disposition in other cases to violate the right of the House of Assembly in expelling their own members?—There has been a Despatch about Mr. Christie which might have been considered in that light; other subsequent explanations have destroyed that impression, I believe.

871. Was Mr. Christie member for the county of Gaspé?—Yes.

872. The county of Gaspé is principally inhabited by British settlers?—There are more British settlers than others.

873. What was the ground on which he was expelled the House of Assembly?—Because he had employed his influence with the Governor at the time he was the confidential officer, or a member of the House, to have a number of members dismissed from the commission of the peace, on account of their votes and opinions in the House of Assembly.

874. Mr. Christie was chairman of the quarter sessions of Quebec?—He was.

875. Was not his official duty in that character to give in a list of persons proper to serve as justices of the peace for the district?—Not that I know.

876. Was he not called upon by the Governor to furnish such a list?—Either he was called upon, or did it of his own wish.

877. Was Parliament dissolved shortly after that time?—About that time.

878. The list which Mr. Christie sent in, as chairman of the quarter sessions, omitted the names of five members of the House of Assembly, did it not?—About that number; and Mr. Christie made known that it was for the reasons above stated that he had omitted their names.

879. For what reasons?—Because they had voted and spoken in the House of Assembly, in a way which was not agreeable to the Administration.

880. In what manner did Mr. Christie make it known that he had omitted their names upon that account?—He mentioned it to a number of persons, I believe. The evidence is recorded in the Journals of the House of Assembly. I was not a member at that time.

881. Was it subsequent to this omission of those names that Mr. Christie was declared a member of the House of Assembly for the district of Gaspé?—It was. He has been declared by the House of Assembly unworthy to have a seat in it.

882. When was he declared to be unworthy to have a seat in it?—At the time that he was expelled for the first time.

883. Was he elected subsequent to the omission of this list?—About that time; the first time he was elected it was about that time, I cannot say whether it was before or after.

884. Do you mean that you are not aware that the preparation or transmission of that list was one month previous to the dissolution of the Assembly?—It may be the case. I cannot say without looking at the dates. If it was before his election, he was then a clerk at law of the House of Assembly, and might have known or had known the votes and opinions of the members in that capacity.

885. In consequence of having so omitted the names, Mr. Christie, having been subsequently elected, was expelled the House?—He was.

886. Was he heard in defence?—He was heard in his place, and also presented a petition.

887. Had

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887. Had he any opportunity of cross-examining the witnesses, or of producing evidence?—He had known, as a member of the House, or it is probable that he had known, as a member of the House, the proceedings of the Committee, and he had full opportunity to express himself in his place, and also in his petition.

888. Had he any notice that that charge was intended to be brought against him?—I cannot say what length of notice he had. He was fully heard.

889. What did the House do upon receiving his petition?—They received the petition, but they considered it as being of an insulting tone to the House.

890. Did they publish the copies of their proceedings against him?—The newspapers published them.

891. Did the House of Assembly print them for general circulation through the province?—No; they publish every thing for the use of members. I do not know that they were printed to be circulated in the province.

892. Do you know that they were not?—It is not the practice to print papers for the use of the public, but only for the use of members. On looking at the Journals, I see the report was printed only for the use of the members. It was the report of a committee appointed about the qualification of the justices of the peace generally.

893. Was Mr. Christie re-elected?—He was.

894. Then no objection was made on the part of the Government to the expulsion of Mr. Christie, or to the issuing a new writ?—I believe not.

895. How often was he re-elected?—Four or five times subsequent.

896. Was he as often expelled the House in consequence of the same charge made against him?—He was; it was not considered as a new expulsion, but only the effect of the first one.

897. Did a dissolution of Parliament take place?—The Parliament was dissolved in 1830.

898. Was Mr. Christie again re-elected on the dissolution of Parliament?—He was.

899. Was he again expelled?—He was.

900. In consequence of this same charge?—In consequence of the preceding judgment of the House upon his case.

901. Was any petition presented from the inhabitants of Gaspé to the King, stating the hardship which they felt it to be, to be for two Parliaments deprived of the services of any member?—We knew it from the despatch on that subject, and they had been published in newspapers somewhere also.

902. What was the answer to the petition in that despatch?—The despatch referred the case to the House of Assembly of Lower Canada.

903. It admitted then the right of the House of Assembly to expel its members, and disclaimed any intention on the part of the Crown to interfere?—It admitted the right of expelling the House, but it remonstrated against the subsequent expulsions, and commented upon the House and its motives.

904. But it left Mr. Christie's case to the Assembly to deal with as they might think fit?—It did; and the Assembly made an answer, saying, that they had fully considered the case and adjudged upon it.

905. Mr. Mondelet was not expelled?—His seat was vacated.

906. You said that, when Mr. Christie was originally expelled, the House held him unworthy of holding a seat in the House?—In terms equal to that.

907. Do you conceive that the Assembly had a right, by a Resolution, permanently to disqualify any obnoxious individual from ever sitting in the House?—I consider that they can do it, although it does not prevent the people from electing the person again; but the House are not bound to receive the person whom they consider as having acted in a defamatory way, or as unworthy of a seat in their House, for having attempted to destroy the very principle of its existence.

908. In short, a leader of a party hostile to the majority of the House may be for life excluded from that House by a single vote of the majority, and that, in your opinion, according to the established principles of the constitution?—Those cases would be political cases; but it is not as the leader of a party that Mr. Christie was expelled; and I do not believe that there is any disposition in the House of Lower Canada to expel any person on account of his opinions in the House; the matter was different with Mr. Christie.

909. Do you conceive that in following that course you follow the analogy of the House

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House of Commons?—Some members have been punished more severely by the House of Commons.

910. Are you aware that the House of Commons, in the case of Mr. Wilkes, expunged from the Journals any Resolution which countenanced the right of the House of Commons to expel a member more than once for the same offence?—They might have reasons for doing so; as to the House of Assembly, they did not consider that they could expunge their Resolutions as to Mr. Christie; they were founded upon facts.

911. You conceive that in maintaining the Resolution for expelling a member more than once, and in successive Parliaments, for the same offence, the House of Assembly acted upon the analogy of the rights claimed by the British Parliament?—I believe so.

912. Will you have the goodness to state the case in which the British Parliament has acted upon that right?—If there should be of necessity an analogy to every point, there would be many cases in which it would be impossible to act under the constitution. At the time it was found that a great number of cases, although of a different nature, authorized the proceedings of the House of Assembly.

913. Will you have the goodness to state the precedents?—The precedents were expulsions several times by the House of Commons; and also much severer punishment, as personal punishments, upon members.

914. Punishments several times for the same offence?—I will state the case of Mr. Wilkes.

915. Is the case of Mr. Wilkes the only one that you rely upon?—That is the only one that I remember now; I have not present in my memory the rest of the cases applicable to the circumstance.

916. Can you conjecture any reason for which the House of Commons should have expunged the Resolutions in the case of Mr. Wilkes from the Journals?—I must believe that they considered the matter, and found that it had been better if he had not been expelled.

917. The House of Assembly considered that Mr. Christie's conduct was such as degraded him; it was an immoral act which he had committed, and therefore they expelled him?—They considered it in that light, and expressed it in their Resolutions on his first expulsion. They considered, also, he had acted against the very essence and principle of the constitution of the House.

918. And you say, for example, if the member had been expelled the House of Assembly for having been guilty of some very gross immorality, that then the House of Assembly would deem that a single expulsion would be sufficient to expel him for ever?—There have been cases in the House of Assembly in Lower Canada itself, and when the measure for the expulsion of members was conducted on the part of the Government officers. A member of the name of Bouc having been accused of conspiracy to defraud, and convicted (whether he was guilty or not was very much doubted in the province—the prosecution arose from party—and, his whole case being considered, a Royal pardon was extended to him in 1822), was expelled by the House of Assembly. He was re-elected and expelled again, and that several times.

919. In different Parliaments?—I believe it to be so.

920. Was this done by Resolution?—It was done by Resolutions of the House, and it was the Government officer who repeatedly proposed the expulsion.

921. Were those Resolutions, confirmed by the law of the province, applicable to the particular case?—After he had been so expelled a law was passed disqualifying him from being elected unless a Royal pardon would be granted to him.

922. Were all those expulsions previous to his having received the Royal pardon, and while he was under the sentence of conviction?—Yes.

923. And the law disqualified him from sitting till he had received the Royal pardon?—Not from sitting, but from being elected. The law did not appear necessary to prevent him from sitting.

924. And all the expulsions took place while he was under the penalty of that sentence?—Yes, before the law was passed. I consider the case of Mr. Bouc more favourable than that of Mr. Christie.

925. When Mr. Christie committed this offence, for which he was afterwards expelled the House of Assembly, was he a member of the House of Assembly?—He was a confidential officer of the House of Assembly, if it was before the election.

926. He was expelled for an act which was committed by him not as a member
of

of the House of Assembly, that act being an omission in the list of justices?—For his act in the omission, and his opinions expressed about that omission.

927. In all those cases of Mr. Christie, the Crown did not interfere even with this exercise of the privileges of the House of Assembly?—No, not then, except by the despatch I have alluded to.

928. Was Mr. Mondelet ever expelled the House of Assembly at all?—He was not expelled, but his seat was declared vacant.

929. In consequence of some Resolutions which had been passed in the year 1831, declaring that the seat of any person who should accept office under the Crown should be vacant; was that the case?—Yes, it was the case.

930. Office of profit or emolument?—Yes.

931. Did one of those Resolutions bear, that, until the Act had been passed, those Resolutions should have the force of law?—Not the force of law, but that the House would act in conformity with them.

932. It was in pursuance of that Resolution, and not of any law of the province, that the seat was declared vacant?—It was.

933. What was the office that Mr. Mondelet had accepted?—Executive Councillor.

934. Was that a salaried office?—Yes, it was.

935. Did Mr. Mondelet accept the place of honorary councillor or the place of salaried councillor?—I do not know what it is to be an honorary councillor. He had declared that he was a member of the Executive Council, for which situation there is an allowance from the public funds of the province.

936. Are you not aware that there are honorary councillors who have not received any salary whatever, and are you not aware that Mr. Mondelet received no salary?—Mr. Mondelet said in the House that he would not receive any salary, but we did not consider that this was a sufficient exemption from the Resolution of the House; he might not have received the salary then, but received it afterwards; and it was not in the power of Mr. Mondelet or the Government to change his situation in respect to that office.

937. Have there not been other honorary executive councillors who have sat as honorary councillors?—I know not.

938. Who moved the general Resolutions in 1831 in the House of Assembly respecting the giving to this Resolution the force of law until the Crown should consent to the law for this purpose?—It was Mr. Neilson.

939. Did Mr. Neilson declare in his place in Parliament that, in consequence of Mr. Mondelet not having accepted a place of profit, he did not consider him to come under the resolution which he had moved?—Mr. Neilson was of opinion that the Resolutions did not apply to the case of Mr. Mondelet, but the Resolutions were the Resolutions of the House, and the majority of the members were of a different opinion.

940. For what reason did Mr. Neilson conceive that the Resolutions of 1831 did not apply to Mr. Mondelet?—I do not remember for what reasons.

941. Did not Mr. Neilson state that they did not apply, because he had not received a place of profit?—It is probable that he did, but I do not remember at present.

942. Does the warrant for the new election bear upon the face of it the ground upon which the seat is vacated?—It is merely said, I believe, that the seat has been vacated by the House of Assembly.

943. Does it not bear upon the face of it that it is vacated in consequence of his having accepted such and such an office?—I cannot speak as to that; I have not seen the warrant. The Resolution of the House, upon which the warrant must have been founded, mentions simply the vacating of the seat.

944. The Governor in Canada exercises the duties of Great Seal there?—The commission appointing a returning officer, and the writ of election, are under the Great Seal of the province.

945. The Governor affixes the Great Seal to the writ?—Yes; and to the returning officer's commission.

946. In the present case the Governor declined to affix the Great Seal to the writ, in consequence of the cause of vacancy not being a legal cause?—I do not know for what reason he refused; the reasons however have been since stated to be, because he did not consider that the House of Assembly had a right to vacate his seat. But the House of Assembly considered that their right of vacating the

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seat of a member should not be defined or discussed by any executive officer, and that in that case he had only a ministerial duty to perform.

947. Is there at this moment any law of the province vacating seats in the House of Assembly, in consequence of accepting an office of profit and emolument?—There have been many Bills passed, but none have been sanctioned, so that there is no law of the province.

948. You hold it to be within the competency of the House of Assembly to affix any qualification that it pleases to the election of its own members?—It is in analogy with the Parliamentary law. It is not a qualification affixed to the election.

949. Will you point out the analogy?—There is an analogy of the Resolution of the House of Commons in the same terms.

950. Did the Resolution of the House of Assembly, by which Mr. Christie was first expelled, contain the grounds of his expulsion?—It did, and at great length; it was for having interfered, in the way I have mentioned, with the liberty of votes and proceedings in the House.

951. Were those grounds set forth in the Resolution in express terms?—They were.

952. Have you a copy of it?—I have it not here. The Resolutions will be found in the Journals of the House, session of 1828 and 1829, pages 493, 494, 495.

953. In consequence of the refusal of the Governor to issue a new writ in the case of Mr. Mondelet, did the House of Assembly pass any Resolutions expressing their astonishment that he should not have known that, in issuing the writ, he was wholly a ministerial officer, and directing him to dissolve the Provincial Parliament forthwith for the purpose of appealing to the public, and holding forth a menace of ceasing to communicate with him until he should have made a reparation for a breach of their rights and privileges?—There was a report stating that this would be a sufficient reason, if other momentous matters did not urge the House not to notice it in that way. I believe the opinion of his being a ministerial officer was also expressed in that report.

954. Are you aware whether the Governor, in considering himself not a ministerial officer, acted upon the advice of the principal law authorities in the province?—It has been said that the Governor had taken legal advice. I have not seen any thing of that.

955. Are you not aware that before the Governor declined to issue that warrant he had taken the legal advice of all the most eminent men in the province?—I believe that he took the advice of the law officers. It has been said that he asked the advice of the judges. I do not know whether he did or not, but I do not consider the thing to be right if he did.

956. Do you know whether he took the separate advice of all the King's counsel in the province?—I believe that he took the advice of the Crown officers generally; he must have consulted some of the King's counsel.

957. And it was upon the Governor taking this step, in conformity with this legal advice, that the House of Assembly expressed their astonishment that he should not have known that he was a ministerial officer, and said they should decline to communicate with him till he had made reparation for this breach of their rights and privileges?—The House of Assembly do not consider the present law officers of the Crown as likely to give impartial advice on that occasion, and they consider also that the Governor is not bound to follow that advice if it is not legal. It was said also that he was not given the same advice by every one.

958. Do you not know that the Governor did not confine himself to the law officers of the Crown in asking for opinions?—I have been told that he asked the opinions of the judges, which I would consider improper; that is all that I know.

Veneris, 13^o die Junii, 1834.

THE RIGHT HONOURABLE EDWARD ELLICE,
IN THE CHAIR.

Monsieur *Augustin Norbert Morin*, called in ; and further Examined.

959. THE 64th Resolution refers to the claim set up by the Executive Government to the control over certain portions of the revenues of the province, and which the House of Assembly denies as being a proper claim. You are aware that, in the year 1828, a statement was made to the Committee of the financial difficulties then existing; will you state what are the circumstances which have occurred since, which have created a difficulty between the Executive Government and the House of Assembly?—In the session of 1828 and 1829, a Bill was passed similar to that passed in 1825. In 1830 and 1831 similar Bills were also passed. In the session of 1831 and 1832, a Civil List was asked, which was refused by the House of Assembly.

960. Will you state the causes of the refusal?—The causes of the refusal were, that the grievances of which the country had complained had not been sufficiently repaired; indeed in a very small part; and also because it did not appear clearly whether or not the Executive was yet claiming control over a part of the public revenue. It even appeared that it always meant to make a claim to part of the casual and territorial revenue. Also, as I have said in my former examination, there were circumstances connected with the proposal of the measure which tended to lead the House of Assembly not to report at length upon the subject, and to refuse it peremptorily. However, an annual Bill of Supply was passed, as in the former years. The Bill was reserved for the pleasure of His Majesty, but was sanctioned here afterwards. In the following session the Governor sent an estimate of the expenses, which did not comprise the items of the Civil List asked the preceding year. He said that His Majesty would pay those items out of the funds which were placed at his disposal, without stating what funds they were. The answer given to an Address of the House did not point them out neither. The House declared that the information given was not sufficient to point out what funds the Executive Government still claimed to be at its own disposal, and therefore they passed Resolutions that it would not be expedient to pass a Supply Bill unless the items were specially mentioned in it; and also unless all the funds of the province, and particularly the funds claimed by the Executive at different times, should be applied to the payment of the amount. They passed a Bill founded upon those Resolutions, in which the items of the Civil List of 1831 and 1832 were not comprised, as not having been asked in the estimate. The Bill was rejected in the Legislative Council. A despatch received since appears also to have disapproved of that Bill. During the last session the Governor did not speak of the Civil List asked heretofore, but submitted an estimate of the expense, in which those items were not comprised neither. The House of Assembly, considering the state of the province, the urgency of an appeal to the Imperial Parliament, and the inefficacy of all its efforts to obtain a redress of the grievances; considering also the conduct of the present Administration, and the continued want of information and regularity in finance matters, decided on not voting any supply for the year, and submitted the matter to this Government. The claims of the Executive have both been brought forward, and also acted upon at different times.

961. Will you describe the different classes of revenue to which the Executive lays claim?—The Executive has laid claim to the revenue raised under the 14th Geo. 3, up to the passing of an Act in this Parliament upon the subject; and even at the same time, in some documents, the Executive of the province has recognized that that amount was at the disposal of the Legislature, while in other documents they considered it still as at the disposal of the Crown.

962. What are the documents you refer to?—One was a document submitted, in some way or other, to the Colonial Legislature, and the other a Return made to the Imperial Parliament, commonly called the Blue Book.

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963. Are those documents contradictory?—They are, as to the claims of the Act of the 14th ; in the one the claim is made by the Executive, and in the other it is given up.

964. In which of those documents is the claim given up by the Executive?—The claim is given up in that submitted to the House of Assembly.

965. Was that document submitted to the House of Assembly, in which the claim is given up, previous to or subsequent to the passing of the Act?—It was subsequent ; the Blue Book is also subsequent ; it is the Blue Book for 1831, and consequently prepared in the year 1832.

966. Was not the provision of the British Act, by which the revenue was surrendered, that it should be given up to absolute disposal upon the 1st of January 1832?—From the date of the Act, that is to say, the 22d September 1831 ; the Blue Book was for the year 1831 also, and made in 1832 ; besides, the House never admitted that there was at any time a power of control with the Executive Government only, about the proceeds of the 14th.

967. But, in point of fact, was not this claim to the control over the revenues raised under the 14th of Geo. 3, consistently and permanently maintained by the Executive up to the period at which the British Act of Parliament passed, relieving the Lords of the Treasury from the duty of appropriating?—It was maintained by the Executive in some years ; in others it was considered as having been compromised in a way not to decide the point, as in the Bill of 1825, and also the Bills of 1829, 1830 and 1831.

968. With regard to the Bills of 1829, 1830 and 1831, was not the acceptance of every one of those Bills accompanied by a distinct message to the House of Assembly, claiming for the Executive the right of the appropriation of that revenue, and even using the expression, that it was not a right which might be surrendered, but that it was a duty from which the Lords of the Treasury could not be relieved, except by Act of Parliament?—That has been said in some years ; I do not believe that it was said in every year ; but the House of Assembly always maintained the contrary.

969. Will you enumerate the other classes of revenue?—There was also the sum of 5,000*l.* sterling, granted under the administration of Lord Dorchester ; there is also the casual or territorial revenue, and also the amount raised under certain Provincial Acts, and in particular the Act of the 41st Geo. 3 ; there is also a fund raised by the sale of lands and licenses to cut timber, which we consider, and which has also been considered by the Executive, as forming part of the casual and territorial revenue.

970. With respect to the 5,000*l.* given during Lord Dorchester's administration, has the appropriation of that been claimed also by the House of Assembly?—It has.

971. Do they also lay claim to the casual and territorial revenue?—They do, to every part of it.

972. Do they also lay claim, under certain Provincial Acts of the 41st of Geo. 3. ?—They do. They consider the sums to be generally appropriated, but that a particular distribution cannot take place without an Act of the Provincial Legislature.

973. Do they also lay claim to the appropriation of all the monies that may arise from the sale of lands?—They do.

974. In a former answer, you stated that the Civil List has been refused, in consequence of grievances not having been redressed ; will you state any one or more distinct grievances which you state not to have been redressed?—The character of the Legislative Council ; the partiality still existing in nominations to office ; the monies due by the Receiver-general were among that number.

975. Was the non-responsibility of the judges also amongst the circumstances which they complained of?—We always complained of it.

976. Was not there a Bill passed by the House of Assembly, by which the judges were rendered independent?—There has been such a Bill passed that very year.

977. It has been stated, by persons acting on behalf of the Government, that in that Bill there was no distinct appropriation for the judges ; was there any such distinct appropriation?—I consider that there was a distinct appropriation, because their salaries, as they existed, were voted to them.

978. And that therefore that part of the agreement that existed between the House of Assembly and the Executive had been fulfilled, by making the judges independent?—

independent?—I consider that the House of Assembly have fulfilled entirely the wishes of the Government upon that subject.

979. You stated that a distinct appropriation was made; out of what fund was it appropriated?—I do not remember precisely out of what fund. It was stated in the Bill, that part of the funds which the Government claimed to be at its disposal should be applied, in the first place, to that subject, which I consider to be very fair, because those funds were claimed by the Executive for supporting the Civil Government and the administration of justice.

980. The funds out of which the judges were to be paid were those to which the Crown has always laid claim, and the claim to which had been confirmed by the Report of the Committee of 1828?—I believe that the Committee meant that they should be paid out of those funds, and out of other funds in the province.

981. Are not then the words of the Bill, "that the salaries of the said judges, and the retiring pensions hereby fixed and established, shall be taken and paid out of the proceeds of the casual and territorial revenue and the revenue now appropriated by Acts of the Provincial Parliament, for defraying the charges of the administration of justice and the support of the Civil Government, and out of any other public revenue of the province which may be or come into the hands of the Receiver-general?"—I remember very well that the casual and territorial revenue was mentioned in the first place; and then, at the end, all the funds of the province generally. I believe that the words quoted formed part of the Bill.

982. So that, in fact, the judges, under any circumstances, must have been paid?—They would have been paid, no doubt, even if the amount received from all sources had been only equal to their salaries.

983. So that the judges, in fact, were not in any way dependent upon a popular assembly?—They were not. As to our appropriating the funds claimed by the Executive to that object, even if there had been some legal claim on the part of the Government, which we did not admit, it still would have been fair to comprise those funds in the settlement, because it was exactly the object for which those funds were generally appropriated, or for which an exclusive claim was raised by the Executive.

984. Was that an object which was contemplated by the Committee of the House of Commons of 1828, when it made use of these words, "and if the officers above enumerated are placed on the footing recommended, they are of opinion that all the revenues of the province (except the territorial and hereditary revenues) should be placed under the control and direction of the Legislative Assembly;" did the Report of that Committee contemplate that the judges should be made independent, by being paid out of these territorial revenues which were reserved to the Crown, and kept from the control of the House of Assembly?—It might be explained in a way consistent with the Bill, because the casual and territorial revenue, although not applicable to other purposes, would have been applied in a permanent way, and in the first place for the salaries of the judges.

985. Would the Receiver-general, under that Act, have been authorized to pay to the judges the salaries fixed by that Act, even if no Appropriation Act or Supply Bill had passed in the course of the session?—Certainly.

986. Was it so understood by the House of Assembly?—There was never a doubt entertained upon that subject.

987. Did not Lord Aylmer approve of the principles of the Bill in his speech?—He approved of the principle, and said that there were only one or two provisions that he objected to, not mentioning which they were.

988. So that, in fact, the House of Assembly really believed that they had rendered the judges wholly independent of them, so far as regarded their salaries?—They believed so.

989. And they believed also that their salaries would always be paid, although no Appropriation Bill passed during the session?—Certainly they did.

990. It is said that the claims of the Executive have been vague and varying; how do you make that out; have they not always laid claim to those five distinct classes of revenue which you have just enumerated?—They have been vague and various as to the application of monies principally. The former Committee of this Honourable House were informed, at length, as to their pretensions and acts in former years. In latter years it appears also that the

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accounts submitted to the House of Assembly do not agree one with another; and the monies paid by the collectors of the customs are not accounted for in the proper time, or in a corresponding way, by the Receiver-general.

991. You state that numerous items have been paid out of the public revenue without the authority of the House; has that been done since 1828?—Part of the expenses were paid last year without the authority of the House of Assembly.

992. Out of what funds?—I cannot say out of what funds; I believe there was no distinct settlement of the funds.

993. Are you not aware that the salaries which were paid in part last year were paid out of funds which had been always claimed to be, and always had been, practically at the disposal of the Crown, in fact out of the permanent appropriation of 5,000 *l.* by the Act of the Provincial Parliament, and out of the funds of the casual and territorial revenue?—I cannot say out of what funds they were paid; there seems to be a great mixture of funds in the accountability; but even if it was paid out of those funds, the Assembly consider it still as illegal.

994. The question just put to you is, whether the funds were not practically and really at the disposal of the Crown. Now, have not, in fact, all the funds been practically and really at the disposal of the Colonial Legislature?—In the years when the Bill of 1825 was passed, the result was, that those funds came under the appropriation of the Colonial Legislature; but there were parts yet of which no account whatever has been submitted to the Legislature, as the land and timber fund.

995. Has an Address been presented to the Governor for an account of those sales?—Not only one but many Addresses, and no statement whatever has been given, except the gross amount of each year's proceeds, and nothing as to the manner in which the amount was collected, nor as to the operations of the commissioners, nor as to the amount of managing expenses, nor as to the application of the monies.

996. Reverting to the Bill by which the judges were made independent, did not the Governor in his speech to the House of Assembly and the Legislative Council, say, "I have great satisfaction in noticing the Bill for establishing the independence of the judges; I think it necessary at the same time to inform you that, although the principle of this Bill coincides altogether with the views of His Majesty's Government, it contains one or two provisions which impose upon me the necessity of reserving it for the signification of His Majesty's pleasure?"—I have already said that that was part of his speech. On the subject of the irregularity of the accounts, the main cause of it seems to be, that the accountability in the province is principally considered by the Executive as being towards the Treasury in England, and not to the House of Assembly; consequently the books and documents are made in conformity to the instructions that may be received from time to time from that body, and not in a regular way, according to the votes of the Provincial Legislature.

997. It is stated in the Resolutions, that the House has been refused constantly divers documents and accounts relating to financial matters and to abuses connected with them, and that the refusal has been more especially during the present and the preceding session; can you state more distinctly what those documents were?—They were mostly relating to the casual and territorial revenue, and to Crown lands, and also to the system of accountability in general; there are, I believe, other distinct points which I cannot state without referring to the documents themselves.

998. Will you undertake to say that any refusal has been made to the House of Assembly within the last year of any document tending to show the expenditure of any part of the revenue, except that which was claimed by the Crown as casual and territorial revenue, and not under the control of the House of Assembly?—There have been such refusals upon the subject of the Post-office department a couple of years ago, and also with regard to the Jesuits' estates before they were surrendered. This year the refusals related both to the funds claimed by the Executive and to the general system of accounts.

999. Were not the Jesuits' estates claimed as droits of the Crown?—I do not know upon what account they were retained; the Crown must have claimed them on some ground or other, since it retained them.

1000. With regard to the Post-office, has not that always been a separate source

source of revenue claimed by the Crown, and for the removal of any possible jealousy connected with which an Act of the Imperial Parliament has been passed in the present session; I am very well satisfied that such a Bill has been passed, but it was not passed there.

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1001. Was not the post-office a description of revenue which was always considered to be immediately under the Crown, and to belong to the department of the Government in this country?—The Executive may have considered it so; but we considered it otherwise in the province.

1002. Was not it strictly placed by Act of Parliament under the control of the Postmaster-general?—There have been great doubts about the application of those Acts to the colonies, and particularly to Canada.

1003. Then, with the exception of the three sources you have mentioned, of the casual and territorial revenue, the Jesuits' estates, and the post-office, there has been no refusal of any information on the part of the Government with regard to the details of the expenditure in the province in the last six years?—I do not remember any other at present, except the general system of accountability which could not be elucidated because the above matters were blended with it; but I consider that those refusals were contrary to the rights of the Provincial Legislature.

1004. Among the funds claimed by the Executive, respecting which they have not rendered any account, have not these been the whole of the Jesuits' estates which were heretofore applied by the French government to education?—They have rendered an account since the surrender of the seigneuries to the province; but the monies have not been refunded. They were applied to education in the time of the French, but not by the Government, but by the Jesuits themselves.

1005. Have not the funds which, under the French Government, were applied to education, been diverted from that source by the English Government?—They have been diverted all the time they have been under the control of the Executive.

1006. To what purposes have they been applied?—To a great many, not for education.

1007. Up to what period?—Up to the period of their surrender in 1831 or 1832.

1008. Then that surrender has removed the cause of complaint?—In part; there is only a part of the estates surrendered. The Jesuits' College at Quebec, which is one of the most considerable properties, has not been surrendered.

1009. Is not the Jesuits' College now used as a barrack, and was not an offer made to surrender it at the moment other accommodations were afforded for the troops?—In acknowledging the justice of the rights of the province, it was rather hard to impose upon it the necessity of paying for that property in order to have it. As to the manner in which the Jesuits' revenue was applied, there has been a great waste and irregularity, and the province consider they have a good claim for that amount, although no offer has been made to refund it. The funds have been given to public functionaries, apparently for the purpose of coming to England to defend themselves against accusations brought by the House of Assembly, while the House of Assembly had no pecuniary means to support its accusations. The sum of about 1,050*l.* was given to the chief justice of the province in that way.

1010. In what year was that?—About 20 years ago.

1011. How was that discovered?—It was discovered by accounts submitted to the House of Assembly since the surrender. A great part of the money has also been applied to helping the building of Protestant churches in different parts of the country.

1012. At what period?—At different periods, before the estates had been surrendered. Large sums also have been paid as pensions and retired allowances on the like funds.

1013. Have not all those grievances disappeared since the surrender?—Not as to the refunding of those sums. Also arrears have been paid as soon as the payments have been sanctioned by the Executive. There are other expenses, the reason of which does not appear. There is also 200*l.* annually given, with arrears for a certain number of years, to one of the sons of the chief justice, under the title of chaplain to the Jesuits' estates. That gentleman is a minister of the Established Church of England.

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1014. How long have the troops occupied the barracks which were the property of the Jesuits?—They have occupied them a very long time.

1015. Since the conquest of the country?—No, only after the extinction of the order; for more than 30 years.

1016. And it was offered upon the part of the Government, that, as soon as the province would find other accommodation for His Majesty's troops than that which they had occupied for 30 or 40, or perhaps 50 years, the whole of this building would immediately be given up to the province, and converted to such purposes as the province thought fit?—I believe there was a proposal made that we should build other barracks.

1017. Would not the House of Assembly consider the long continuance of the occupation of that property as a barrack, as the continuance of a grievance?—We consider it a continued grievance, principally seeing the great difference there is in the results between the education of the people and military domination in the colonies.

1018. The House of Assembly complained that divers subordinate public functionaries, who have been summoned to appear before the Committees of this House, refused to give information; can you state to what that relates?—That the officers of Government have from time to time, in preceding years, and this year, refused to give information, and that they have been backed by the Executive. This year the under-clerk of the Executive Council, Mr. G. H. Ryland, refused to communicate documents in the way mentioned in the Resolutions.

1019. That is, he refused to leave the original of some document with which he was intrusted out of his own care?—Yes; and he demanded also to be present at the deliberations of the Committee while they were discussing the matters connected with those documents, and the Governor has maintained the pretension of that officer. The original of all those accounts had become necessary on account of the irregularity of the documents submitted connected with the revenue and expenditure.

1020. When you state that divers subordinate officers have refused to appear to give information, will you state what officers those were?—Besides Mr. Ryland, there was Mr. Carey, the Inspector-general of public accounts, who refused to give information in several sessions.

1021. Upon what points have they refused to give information?—Mr. Carey refused to give information upon points connected with the funds which the Executive claimed; but the mixture and unsettled state of the funds and accounts connected the matter nearly with the whole system. As to Mr. Ryland, the son, it was about the revenue and the expenditure of the province, and the accountability generally.

1022. Mr. Ryland did not refuse to give information, did he?—He refused to leave the originals out of his possession, and he claimed also to be present at the deliberations of the Committee. It has always been the practice of the Committees of the House to have the originals of the documents on giving a receipt for them, and we inferred from the answer of the Governor that the ordinary course would be followed in this case.

1023. Has not the refusal to give information been a refusal to give information respecting those funds over which the Crown claimed an exclusive control?—That is my impression as to Mr. Carey, but not as to Mr. Ryland.

1024. Was there any request made for copies of those documents?—The House complained of the refusal to the Governor, and the Governor's secretary answered in the negative. The House wanted to see the originals.

1025. Was this refusal in consequence of any complaint having been at any time made of documents being either mislaid or mutilated while they were before the House of Assembly?—Not at all; it would have been, besides, highly improper and disrespectful even to suppose it.

1026. In the 70th Resolution it is said, "that the Executive Government have without any lawful authority paid large sums of money out of the public revenue subject to the control of this House." Was that done since 1828?—It was done last year by the Governor-in-chief. We assert that we have a great claim to all the funds levied in the province. As to the distinction of funds, it does not appear to have been very regular at any time.

1027. Do you mean that the complaint in the 70th Resolution, "that the Governor had, without any lawful authority, paid large sums of money out of the

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the public revenue subject to the control of this House," refers to his having paid sums out of the casual and territorial revenue?—The funds out of which he has paid it have not been expressly stated; but even if it was paid out of the casual and territorial revenue, the Resolution is well founded, and there has been a violation of the rights of the people and of the Assembly.

1028. Are you prepared to state that the Governor has paid since 1828, without the authority of the House, any sums whatever, except those arising out of the funds claimed to be at the disposal of the Crown, out of the casual and territorial revenue?—As I have said, I do not know out of what funds he has paid them, because there has been no settlement of the funds at any time.

1029. Do you believe the fund pointed at in this Resolution to be the casual and territorial revenue?—Both the casual and territorial revenue and the general funds, because they are mixed together.

1030. Do you believe that the Governor or the executive authority has ever appropriated any funds since 1828, amounting in the whole to more than the amount of the casual and territorial revenues, and the other funds which are claimed to be disposable by the Executive Government?—The payments made last year amount to 14,000*l.* sterling. We are far from admitting the legality of such payments out of any fund of the province whatever.

1031. In fact, have not the sums in the chest been invariably mixed together, and when there was a defalcation in the chest, was a distinction ever drawn between the casual and territorial revenues and those over which the House had control?—The funds have always been mixed; no distinction was made when Mr. Caldwell failed.

1032. Have they not in fact been mixed in the case of the Receiver-general?—Yes, and always, at least up to that time.

1033. In what year was that?—In 1824.

1034. Is not the same thing acted upon now?—We have reason to consider that the same thing is acted upon. We have tried to establish a regular system of accountability, but we could not succeed. We do not consider neither that there should be a difference in the application of the casual and territorial revenue and of any other revenue.

1035. Do you know that the same system is followed?—I believe that it is.

1036. Is not the late Receiver-general still a debtor to the colony and to the Crown?—He is, to a very large amount.

1037. That being the case, and seeing that the Governor acts always on the principle that was pursued by the former Governors with regard to the Receiver-general, does not the House of Assembly consider that the sums have been mixed up in the chest?—They consider that they have been mixed before, and that they continue to be mixed.

1038. The 69th Resolution states, "that the pretensions and abuses aforesaid have taken away from this House even the shadow of control over the public revenue of the province." Will you state what the total amount of the public revenue of the province is?—The revenue of the province has amounted of late years to more than 120,000*l.*; the gross amount collected for 1833 is stated as 162,000*l.*

1039. Over what portion of that revenue does the Crown now claim an exclusive control?—The casual and territorial revenue, amounting to several thousand pounds, including the land and timber fund; a sum granted in 1794, amounting to 5,555*l.*, and other sums raised under Provincial Acts. The pretensions of the Executive on that subject prevent the settlement of financial matters, so that the control of the rest of the money does not lie even with the Legislature.

1040. You have stated that the Crown claims an exclusive control over 15,000*l.* or thereabouts; does the Crown claim any control whatever, or has not the Legislature an undisputed control over the whole of the remaining revenue raised in the province?—The pretensions of the Executive upheld by the Legislative Council, have prevented, in fact, the House of Assembly from exercising such a control. The Assembly cannot control any part of the expenditure, if they do not know the precise amount to which the Executive lays a claim, and how it is applied.

1041. In what manner have they prevented it?—By the rejection of Bills, and by the various embarrassments thrown in the way of the House of Assembly.

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1042. Have not the House of Assembly, without any Bills passed, a complete control over the whole of the remainder of the revenue?—They have it of right on all the revenue, but in fact that control is not exercised, on account of the Bills passed by the House not being allowed to become a law.

1043. Have you not stated that no information has been refused to the House with regard to any part of those funds?—I do not remember any refusal on particular points, unless they related to the pretensions of the Executive; but there have been refusals about the general system of accounts.

1044. Can the Governor appropriate any part of the revenue without a distinct vote of appropriation on the part of the House of Assembly?—Certainly he cannot.

1045. What further do you require than the sole right of appropriating, and the entire knowledge of the manner in which it is applied?—We wish that all the revenue that we have a right to appropriate should be under our control. The mixing of the revenue matters together, and the appropriation of a part of it by the Executive, have created an impossibility to the exercise of a sufficient control.

1046. Can you state any particular instances of grievance upon this subject;—The pretensions of the Executive, and the actual exercise thereof, are the principal grievance.

1047. You mean that the Executive and the Legislative Council refused their assent to certain Bills, and that therefore the House of Assembly, although they have a right over certain funds, cannot appropriate them?—That has also been the case.

1048. And at this time are there not two years' funds lying unappropriated, over which the House of Assembly, though they have a control in point of right, have no control in point of fact?—They have no control, in fact.

1049. When you say that the Assembly ought to have a complete control over the revenue of the province, do you mean such a control as would enable them to apply the revenue to whatever purpose they please, without the consent of the other branch of the Legislature or of the Crown?—I consider that they have the initiative, but all Bills of course must have the assent of the other branches.

1050. When you complain that there is a control wanting on their part, do you mean by that to complain that they cannot apply the money when the consent of the other branches is refused?—They complain of it, because the pretensions of the Executive, with respect to the other funds, appear to have been the motive of refusals by the Legislative Council.

1051. What portion of the gross revenue of the province has in point of fact been appropriated within the last two years?—The appropriations have been rather larger, on account of money being given for the roads and for schools.

1052. Then the Committee are to understand that when you speak of the revenue for two years being unappropriated, all you mean to say is, that the officers of the Civil Government have been unpaid for two years, but the purposes of internal improvement and expenditure of that description provided for by separate Acts, have been going on notwithstanding?—Several Bills of appropriation have also been refused by the Legislative Council, and this year a Bill for roads has been refused for no other apparent purpose than the wish of maintaining the pretensions of the Executive on finance matters. Bills of appropriation have also been reserved this year, on no other account, in my opinion.

1053. Have the members of the House of Assembly received their salaries the last two years?—They have, in virtue of a previous law.

1054. Can you state what portion of the revenue of the last two years remains unappropriated?—There is not a very large sum unappropriated, because the appropriations of the preceding years were rather large, and on account of the payments made by the Governor. But the last two years a great many objects connected with the Civil Government, or with the local interests of the province, have not been supplied on account of the rejection of Bills, and also the reservation of Bills for the Royal sanction.

1055. In point of fact, were not the whole of the appropriations for the year 1833 made by the Legislature of Lower Canada, with the exception of those for the Civil Government?—There were appropriations to a large amount for different

ferent objects; the Council rejected the Bill, which related principally to the Civil Government.

1056. Were not the whole of the appropriations made by the House of Assembly assented to, and the money actually appropriated, with the exception of that part devoted to the purposes of Civil Government?—Some Bills failed in the Legislative Councils in that year also. I do not mean to say that the amount of two years' revenues lies in money in the chest, but only that, in consequence of the pretensions of the Executive, for two years no effectual appropriation could be made for the Civil Government, and for many other objects.

1057. What other objects?—Objects of local improvement, such as roads and schools; there have been some appropriations to those objects, but others have been refused.

1058. In Resolution 82 it is said, "that many Bills have been introduced into this House, and many important inquiries ordered by it, in several of which the Governor-in-chief is personally and deeply implicated;" what is the meaning of those words?—They refer principally to the conduct of the Governor, connected with events at the late election for the westward of Montreal.

1059. There is a complaint here that the Governor refused certain sums of money which the House of Assembly requested; will you explain the circumstances?—He was applied to by an Address, in the usual way, to advance money for the contingent expenses of the House, and he refused the sums, not wishing to take them, he said, upon his own responsibility, or in terms coming to that. This has put the House of Assembly to many and very great inconveniences in the proceedings of this year.

1060. Have you with you the message of the Governor, stating the grounds upon which he declined to make that advance?—I now produce it to the Committee.

MESSAGE.

ANSWER of his EXCELLENCY to the Address of the House, praying the issue of a Warrant for 7,000*l.* Currency, on account of the Contingencies of the House.

Aylmer, Governor-in-Chief.

With reference to the Address of the House of Assembly of the 17th instant, praying for the issue of a warrant in favour of William Burns Lindsay, esq., for 7,000*l.* currency, towards defraying the contingent expenses of the House, the Governor-in-chief desires to call the attention of the House to the practice of the two Houses of the Legislature, of making application to the head of the Executive Government, from time to time during the session of the Provincial Parliament, for the issue of Warrants on account of their contingent expenses.

By the Act 33 Geo. 3, c. 8, intituled, "An Act to establish a Fund for paying the Salaries of the Officers of the Legislative Council and Assembly, and for defraying the Contingent Expenses thereof," certain duties are imposed upon wines imported into the province, in order to create a fund for the purposes contemplated by the Act; and it may be presumed that the Legislature of that day considered that the fund so created would be found adequate to meet the demands to be made upon it on account of the salaries of the officers, and the contingent expenses of the two Houses. Experience, however, has shown that, with the exception of a few instances (three only during a period of 40 years), the fund has proved insufficient for those demands. Accordingly, at the commencement of each session, estimates are prepared by the officers of the two Houses respectively, of their probable expenses for the year, without reference to the state of the fund, which estimates are included in the general estimate of the expenses of the Civil Government of the province; and the two Houses, in anticipation of a legal appropriation by the passation of a Supply Bill, have been in the habit of addressing the head of the Executive Government in the course of the session, for the issue of warrants on account of their respective estimates, in terms to the following effect:—

The Address of the Legislative Council prays that "the Governor-in-chief will be pleased to issue his warrant in favour of _____ Clerk of the Legislative Council, for the sum of _____ pounds currency, in advance of expenses to be incurred by him, and for which he will hereafter account;" and the Address of the House of Assembly prays "that the Governor-in-chief will be pleased to issue his warrant in favour of _____ Clerk of this House, for _____ pounds currency, towards defraying the contingent expenses of this House; and that the said sum be charged to the fund by law appropriated to that effect, assuring his Excellency that, if the said fund is not sufficient, the House will make good the same."

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So long as the advances made to the two Houses upon their Addresses shall not exceed the amount of the fund created and appropriated by the Act 33 Geo. 3, c. 8, such advances are perfectly regular and legal, and the head of the Executive Government incurs no responsibility in any quarter in ordering them to be made; but the case is different whenever such advances are found to exceed the amount of the fund; for the head of the Executive Government then becomes responsible for the excess, and continues so to be until relieved by a legislative enactment; or, in other words, by a Supply Bill.

In the ordinary course of Parliamentary affairs, the existence of the responsibility thus incurred by the head of the Executive Government, although objectionable in principle under any circumstances, is of short duration in point of time; for the whole of his advances to the two Houses, upon their Addresses during the session, are speedily covered by the Bill of Supply.

The Supply Bill of last year having failed, the Governor-in-chief necessarily remains accountable for the advances made to the two Houses during the session (after deducting the amount of the fund created by the Act 33 Geo. 3, c. 8), a circumstance which is calculated to excite in his mind no inconsiderable degree of anxiety; for should the present session, probably the last of this Parliament, be brought to a close without provision being made for the estimate of last year (in which are included the estimate of the expenses of the two Houses), the same responsibility must continue to attach to him; and it is possible that the next succeeding Parliament may not be disposed to make good the engagements entered into by the existing House of Assembly in their Addresses.

The amount for which the Governor-in-chief now stands accountable for advances made upon the Addresses of the two Houses, during the last session, will appear from the following copy of a Statement in figures, furnished by the Inspector-general of Accounts:—

Memorandum.

Issues made during the year ended 10th Oct. 1833, by accountable warrants; viz.

	£.	s.	d.
On Addresses of the Legislative Council - - - - -	3,356	10	5
On Addresses of the House of Assembly - - - - -	6,500	-	-
Total Currency - - - - - £.	9,856	10	5
Deduct, Amount of fund created by the Act 33 Geo. 3, c. 8, during the above period - - - - - £.3,313 11 9			
Less, Payments to officers of the two Houses on Account of their salaries - - - - - 1,379 19 5			
	1,933	12	4
Deficiency Currency - - - - - £.	7,928	18	1

For which deficiency the Governor-in-chief is now responsible, in consequence of the failure of the Supply Bill of last year.

For the information of the House of Assembly, in the event of their taking up the consideration of the subject of the present communication, a statement has been prepared, and is herewith transmitted, showing the amount, year by year, of the fund created by the Act 33 Geo. 3, c. 8, from the year 1793 to the year 1832, and of the expenses of the two Houses; by which it appears, that the expenses of the two Houses during that period have amounted to 277,280 l. 15 s. 11 $\frac{1}{2}$ d.; and the net amount of revenue to 66,019 l. 4 s. 3 d., being an excess of expenditure over the revenue of 211,261 l. 11 s. 8 d. currency.

After having maturely weighed and considered the circumstances above stated, the Governor-in-chief now informs the House of Assembly, that, until he shall have been relieved by an Act of the Legislature from the responsibility which still attaches to him on account of the advances made during the last session upon the Addresses of the Legislative Council and House of Assembly, he must decline taking into his consideration the expediency of incurring further responsibility on the same account.

The Governor-in-chief desires the House of Assembly to be assured, that he will very sensibly regret any inconvenience to the service of the House which may result from the course which he has found it necessary to adopt upon the present occasion. It is a course which the Governor-in-chief is firmly persuaded will be found in perfect accordance with the spirit of the constitution; and it is, moreover, one from which, under existing circumstances, no consideration of expediency can justify him in departing.

(True copy.)

Castle of St. Louis, Quebec,
18 January 1834.

T. W. G. Lindsay,
Clerk of Assembly.

1061. In point of fact, had he made the advance in the preceding year?—He had.

1062. Has that been made good to him?—It cannot have yet been made good, but there is no doubt that it will be; it has invariably been the case. I consider that an Address of that kind of the House of Assembly is a legal vote of credit. Moreover, the Governor has applied some funds or other to paying the

the expenses, in part, of the Civil Government; it would be singular if the sittings of the Legislature were not considered as connected with the Civil Government.

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1063. In point of fact, was not the answer of the Governor, in substance, this: that, having advanced a similar amount upon a similar Address of last year, he had not been reimbursed for that advance, and that the Appropriation Act not having taken place last year, and there being every prospect of the Appropriation Act not taking place this year, he declined, upon his personal responsibility, making any further advances till he should be indemnified for those he had already made?—He did not enter into those details, although he alluded to the matter; he stated that he had already advanced large sums, and that he would not take, upon his own responsibility, to advance any more.

1064. Did that put the House of Assembly to great inconvenience?—It did. The House of Assembly was already indebted to many individuals; and the House could not pay its writers, clerks, messengers, nor any one, indeed. We could not provide sufficiently for the service of the House.

1065. Can you state any circumstances that have happened since 1828, respecting the Receiver-general's case. We have asked the Governors for information, by Address, at different times, and no other information has been communicated to us, but that the Governor had written to Lord Goderich on the subject of the opposition pending before the Privy Council, and had received an answer, saying that the Ministry would have the pending suit decided as soon as possible.

1066. What is the pending suit?—It is an opposition made by the son of Mr. Caldwell to the sale of the property.

1067. Has that suit been commenced since 1828, or was it in existence before?—It was in existence before, but it has been brought to England on appeal.

1068. Then the Government are proceeding against Mr. Caldwell, to the utmost extent of their power, for the amount of his deficiencies?—We are of opinion, in the province, that it could have been done much sooner, for it is several years since the appeal has been brought here.

1069. In the mean time, what is the arrangement made with regard to Mr. Caldwell, and what is done with the money recovered from him?—There has been an arrangement which the House of Assembly has not been a party to. That arrangement goes to give time to Mr. Caldwell, on condition that he pays 2,000*l.* a year, and those 2,000*l.* are deducted from the capital of the debt; and it is a singular fact, that he pays no interest, the judges not having condemned him to pay interest, although it was demanded in the declaration. That is considered as a grievance against the judges.

1070. What is done with that 2,000*l.* a year?—It is placed in the funds of the province, at the disposal of the Legislature. So that by paying 2,000*l.* a year, which is only one-third part of the interest of the sums due by him, Mr. Caldwell will, in a number of years, if that arrangement is continued, eventually be liberated from his debt, and preserve his property. That is considered, and is, in fact, an undue favour.

1071. Are the Committee to understand that that is a temporary arrangement till the result of Mr. Caldwell's appeal against the Government shall have been determined, which now lies before the Privy Council?—It appears to be so, but the delay which has resulted has created an opinion to the contrary, of undue favour to save Mr. Caldwell.

1072. The Government, however, which you consider to show an undue favour towards Mr. Caldwell, have taken steps for taking possession of the whole of his property, and that question is now pending by appeal before the Privy Council?—They have not taken all the necessary steps. There were three suits against Mr. Caldwell, one personal, and he has been condemned to pay a large amount, but without interest; there was another suit, as heir to his father, on account of the Jesuits' estates; and there has been a judgment also, and that has been paid in part out of Mr. Caldwell's smaller property. There was also another suit for a large sum against him as heir to his father; that suit is still pending. It is considered that the effect of not proceeding upon that suit might be a pretence to save the large property; because if there had been a judgment upon that suit, the property might have eventually been sold as being subject to a debt of the father, even if the entail was considered legal.

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1073. Where is that suit pending?—In Quebec.

1074. Since when is it pending?—Since 1825.

1075. Do you mean that no step has been taken since 1825?—Not that I know of. I see, from authentic documents, that the cause is still pending. I have a number of these documents here connected with that suit, but I have not them all.

1076. With whom lies the power of proceeding in the suit?—With the officers of the Crown under the Governor.

Mercurii, 25° die Junii, 1834.

JOHN NICHOLAS FAZAKERLEY, ESQUIRE,

IN THE CHAIR.

James Stuart, Esq.

25 June 1834.

James Stuart, Esq. called in ; and Examined.

1077. YOU are a resident of Lower Canada?—I am a native of the late province (now state) of New York, but have been a resident of Lower Canada since the year 1794 ; the previous part of my life, however, from the year 1784, was passed in Upper Canada, with the exception of a few years that I was absent for the purpose of education ; so that nearly the whole of my life may be said to have been passed in Upper and Lower Canada.

1078. You have been engaged in professional practice as an advocate in Lower Canada, and also held an official situation there, and therefore have had opportunities, no doubt, of being well acquainted with the past and present political state of the country?—I was admitted to the bar in Lower Canada in 1801, and have since constantly been engaged in professional practice there. I was also appointed at the same time assistant-secretary to the then Governor of the province, and subsequently appointed Solicitor-general ; was a member of the House of Assembly for ten or a dozen years, and have also filled the office of Attorney-general of the province. These public offices and situations of course have afforded me opportunities of becoming intimately acquainted with the political state of Lower Canada, both past and present.

1079. Do you now hold any public office?—I do not.

1080. Are you aware of any instance in which property or the rights of the inhabitants of Lower Canada have been injuriously affected by Acts of the British Parliament. The Tenures Act, for example, is that, in any particular, objectionable?—There have been very few instances in which the British Parliament has exercised the power of legislation with respect to the affairs of Lower Canada ; I do not recollect more than two, I mean as to matters of internal legislation. It exercised that power in the case of an Act, commonly called the Canada Trade Act, which passed in 1822 ; and the Tenures Act, which, I think, passed in 1826. These are, in fact, the only instances that I am aware of, at least that occurred while I was in Canada, in which the British Parliament has exercised any power as to internal legislation in Lower Canada ; and in those instances I apprehend no person can imagine that the power was, injuriously exercised. In the case of the Canada Trade Act, absolute necessity compelled the British Parliament to settle, by some legislative enactments, the then subsisting differences between Upper and Lower Canada, on the subject of the revenue raised by imposts in the ports of the latter province. Of the enactments then made, the Assembly of Lower Canada did not complain, and its acquiescence in them is, therefore, to be inferred. Strong considerations of utility and expediency, as affecting the interests of the inhabitants of Lower Canada, urged, I presume, the passing of the Tenures Act, which, in its general scope and character, is calculated to be highly beneficial. The great object of the Act was to provide for the voluntary, optional and gradual conversion of the French feudal tenure into that of free and common socage. No compulsory obligation whatever has been imposed by this Act ; it was left entirely to the discretion of the parties concerned, from a sense of their own interest, to determine whether such conversion should take place or not. With this view

of the matter, the commencement of the projected change was to take place on the part of the seignior, or tenant *in capite*: he was to be permitted on the most easy and liberal terms, if he should be so inclined, by an amicable commutation, to alter the tenure by which he held his estate, in respect of the Crown: a subsequent conversion was then to take place between the seignior and his terre-tenant, the actual holder of the land, when the latter might desire it, but no obligation was imposed on the seignior to commute with his terre-tenant until after he (the seignior) had previously commuted with the Crown, and then only on payment of a full and fair equivalent and indemnity for the change.

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1081. Was the Terre-Tenures Act in any way objectionable?—I have been endeavouring to show that the Act, in its general character, could not be objectionable, the object being, by the voluntary act of the parties interested, to convert tenures, in their nature burthensome and unfavourable to improvement, into a tenure free from all burthens, and highly conducive to the advancement and prosperity of the country. The Act, nevertheless, in my opinion, is objectionable in one particular; I advert to that clause by which a conveyance of the tenure is made to draw after it, as a consequence, English laws as to descent, dower and alienation, and render these laws applicable to lands which, at the time of the conversion of tenure, were subject to French laws. I should never have thought, I confess, of including such a provision in such an Act, for obvious considerations. In the first place, the clause has no connexion with the professed object of the Act, which was to relieve the land-holder from feudal burthens: in the next, it was calculated to defeat the purpose of the measure, by arming against it the prejudices of a large proportion of the people for whose benefit it was passed; and it was still more objectionable with reference to the great inconveniency that would arise from the application of different rules of law to pieces of land, however small in extent, lying contiguous and intermixed with each other, while the process of conversion, it was expected, would be going on. It is on this point only that I consider the Act objectionable. In all other respects, the inhabitants of Lower Canada, in my opinion, would derive great advantage from the execution of it.

1082. Are you aware that an Act of the British Parliament passed in 1830 or 1831, by which the Canadian Legislature was enabled to make such alterations in the British Act as they might think desirable, and in consequence of that permission certain alterations were made; state to the Committee what alterations were made by the Canadian Legislature in the British Act?—The Act to which the Committee refer has been passed since I left Lower Canada, and I am entirely unacquainted with it. There was a Bill previously passed by the two Houses of the Provincial Legislature, in which some provisions were made with reference to this Canadian Tenures Act, but which were liable to great objections.

1083. And to that clause you have been speaking of?—I presume so; but I do not bear in recollection the particulars of the Bill.

1084. Do you happen to know whether the possessors of seigniorial property in Canada have availed themselves of the provisions of the Tenures Act?—Up to the period of my leaving Canada, no person holding lands *à titre de cens* in seigniories, that is, terre-tenants, had availed themselves of the provisions of the Tenures Act; nor could they have done so, as no seignior has yet commuted with the Crown for the settled parts of his seignior, so as to admit of his tenants obtaining from him the benefit of a conversion of their tenures. As to the unsettled portions of seigniories, conversions of tenure have been obtained only in two seigniories; namely, in Beauharnois and St. Ann.

1085. According to the law as it formerly stood, seigniors were bound to concede, upon application and on certain terms, any unsettled land in the seignior to the inhabitants of the country; do you conceive that the alteration of the law, by which unlimited power is given over unsettled lands within the seignior to the seignior, operates injuriously to the inhabitant who is deprived of certain rights which he may claim, upon the whole?—I will state why I do not apprehend any injurious operation of the Tenures Act on this score. It is true, that according to the nature of the French tenure *à titre de serf*, the seignior is to sub-grant, *à titre de cens*, the lands comprised within his seignior, except a certain portion of them, which he may retain in his own hands, under the

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name of a domain ; and it is also true, that while the French Government subsisted, a senior might be compelled to grant to applicants, on certain terms, unsettled lands in his seigniory. In an early period of the settlement of Canada, I think about 1711, an Arrêt of the King of France was passed, by which seigniors were compellable to make such grants ; and by an Arrêt subsequently passed in 1732, they were prohibited from taking any price for the lands so granted, under pain of forfeiture of the lands, and restitution of the price. But the Arrêt of 1711 was not revived by execution since the conquest of the country, at least not to my knowledge ; and seigniors, as things have been practised, have granted lands or withheld grants at pleasure, as their interests may have dictated ; so that no existing right or power to obtain lands from seigniors, by a compulsory process, has, in my opinion, been affected by the Tenures Act.

1086. Then it is your opinion that the whole provisions of the Tenures Act were advantageous to the seignior, and did not operate injuriously to the inhabitants?—Yes ; the Act, with the exception of the clause above adverted to, I think is advantageous for all parties.

1087. What portion of seigniories, speaking in round numbers, do you conceive is still waste and uncultivated?—I am unable to answer this question with any accuracy, not being conversant with the extent of settlement in the different seigniories ; but I may state that the whole of some seigniories, and the largest portion of the seigniories generally in Canada, are settled.

1088. Do you happen to know whether any legal application has ever been made to our courts to enforce those Arrêts?—I have been concerned professionally in a case or cases of this kind, which occurred with respect to the barony of Longuevil.

1089. What was the consequence?—There was an action, in which I was counsel for the defendant, brought by a man of the name of Thirien, which was grounded on the alleged infringement of the Arrêt of 1732, which prohibits the taking of a price on the grants of lands in seigniories. The case was carried into appeal from an interlocutory judgment which had been rendered in the court of King's Bench at Montreal, was remitted back to that court for further proceedings, and never, I believe, received final judgment.

1090. That was to enforce the practical right of concession?—The action of which I have made mention was not to enforce a concession, but was grounded on the Arrêt of 1732, as already mentioned ; but I think (though I am not certain), that there were also actions subsequently instituted, a short time before I left Canada to come to this country in 1822, the object of which was to compel the baroness of Longuevil to make concessions under the provisions of the Arrêt of 1711 ; but I am unable to speak of the ultimate result of them, not having afterwards practised at the bar at Montreal.

1091. Is the law still undetermined?—I am not aware of any decision by which the Arrêt of 1711 has been enforced ; nor am I aware of any action, except that of Thirien above mentioned, which has been brought on the Arrêt of 1732. The Arrêt of 1711, which contains provisions for compelling seigniors to make grants of land when required of them, has, in my opinion, been incapable of execution since the conquest, for the want of any existing authority under the present Government to supply the place of the French authorities to which its execution was confided. According to the terms of this Arrêt, the Governor and Intendant of Canada conjointly, in case of improper refusal by a seignior, were empowered to make a grant of the land demanded, upon the terms imposed on other land-holders in the seigniory ; and the dues arising from such grants were made payable to the King's Receiver-General, for his Majesty's use. To render this Arrêt susceptible of execution under the present Government, it would be necessary to vest the powers given by it to the French Governor and Intendant in some court of justice or public authority existing under the present Government. This has not been done ; and from this cause, I presume, the Arrêt has not received execution.

1092. Has any dissatisfaction been produced by this Tenures Act among the inhabitants of the province generally, and in what light has this Act been viewed by the English inhabitants in particular?—I am not aware of dissatisfaction with this Act, in so far as it provides for a conversion of tenure, having been expressed by the inhabitants of the province generally : to the English inhabitants I have always understood that it gave satisfaction in this particular, and

and by them has been considered as a boon conferred by the Parliament of this country.

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1093. Are you aware that the House of Assembly has complained of the Tenures Act?—Yes; and I have understood one of the grounds of complaint to be the effect the Act would have on the right of the inhabitants to obtain grants of unsettled lands from the seigniors.

1094. Is there not another consequence which has been adverted to in general terms, that it was likely to give dissatisfaction by introducing our laws of primogeniture, instead of an equal distribution of property?—Yes. The alteration in the laws which has been made consequent on a change of tenure, and by which the right of primogeniture would be established, I have understood to be another cause of complaint.

1095. Speaking as a lawyer, do you not know that lands which are in townships and under free and common socage, by the operation of this Act became subject to the law of England?—I do not bear in recollection the precise words of the Tenures Act, but I have understood the clause in question as having relation to the proviso in the Act of 1774, and as having limited the effect of this proviso to the establishment of English law in the three particulars of descent, dower and alienation. The objection to this clause in the Tenures Act I apprehend to be, that it has been so worded as to take in lands not contemplated by the proviso in the Act of 1774, being lands not originally granted by the Crown in free and common socage, but rendered subject to this tenure under peculiar circumstances.

1096. So that, in fact, the Canadian Tenures Act settled that all lands, however they might become so, held under free and common socage, should be subject to the English law of succession, dower and alienation?—Yes, and I think it objectionable in this particular.

1097. Those three particulars were introduced?—As to lands originally granted by the Crown in free and common socage, it did not, according to the interpretation put by the highest legal authority on the proviso in the Act of 1774, introduce English law, but was of the nature and had the effect of a declaratory law, by defining the extent to which English law, under that proviso, should obtain.

1098. Was not this practically a very great change in the law of Lower Canada?—I apprehend not, inasmuch as, before the Tenures Act was passed, it was held by the best legal authorities in the province, and I believe also by the Attorney and Solicitor-General of England, that, as to the three particulars already mentioned, English law prevailed under the proviso of the Act of 1774.

1099. But in practice?—In practice I am not aware that this point was ever determined by a judicial decision. But I may state, as being of importance on this head, that 30 years ago the opinions of all the judges in Lower Canada were taken as to the construction to be put on the proviso in question. The chief justice of the province at that period, who was of acknowledged learning and ability, held, with others of the judges, that this proviso imported precisely what the Tenures Act has declared, with respect to grants of land by the Crown in free and common socage, in the first instance. These opinions of the judges were transmitted by the Governor of the colony to the Colonial department here; and I have understood, though I have no personal knowledge of the fact, that the Attorney and Solicitor-General of England concurred in the opinion held by the chief justice of the province. The opinions of the judges were taken in Lower Canada, I think, about the year 1803.

1100. But in practice was it not the case that the circumstances of descent and alienation, as applied to the great mass of property in Canada, were allowed to take place according to the French law?—The great mass of property in Lower Canada is held under the French tenures. The lands held in free and common socage are almost entirely situate in the townships, which I have never visited, and it has not occurred to me professionally to become acquainted with the practice in the townships. Different opinions have been entertained on the point; and, as I have already stated, the doubts thus engendered have not been removed by a judicial decision.

1101. But, practically, when an estate held in free and common socage in Canada was either alienated or changed possession by descent, did such change take place practically under the French or English system of law?—I was never called on to give an opinion on this point. Such changes, in practice, I take it

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for granted, have taken place sometimes under one system of law, and sometimes under the other. The degree of knowledge possessed by the parties or their advisers would have much effect in determining this matter.

1102. Are you not able to inform the Committee which of the two systems regulates the descent or alienation of property?—I have already stated that contrary opinions were entertained by the judges of the province, and therefore no person could say which of the two systems would prevail. In the case of alienations of property I have, when acting professionally, prepared the conveyances in the terms of both French and English law, to wait the event of either being made to prevail.

1103. Are you not able to inform the Committee what the general practice in the colony is upon the subject?—With the practice in the townships, where, with the exception of a few lots in other parts of the country, all the lands held in free and common socage are situated, I am unacquainted; and as to the other parts of the province with which I am acquainted, few cases for the application of French or English law to such lands have occurred; so that I cannot speak to any general practice on this subject. I must also observe, that the power and practice of disposing of property by will would render less frequent than might be supposed the application of the law of descent.

1104. Then no occasion of intestacy has occurred within your knowledge?—No case of intestacy before the passing of the Tenures Act has occurred, in which I have been called on professionally to advise respecting the descent of lands held in free and common socage.

1105. Without speaking of your professional practice, but merely of your observation as a resident in the colony, what were the general circumstances attending the descent of property held in free and common socage?—In the society in which I have lived I am not aware of any family in which it has become necessary that such a point should be decided; at least I have never been consulted on it.

1106. Do not you know that almost the universal practice in the division of property is, that it should be equally divided, whether it is held in common socage or otherwise?—I am not aware of any such fact. I have already stated that it is in the townships that the practice on this subject is to be looked for, so far as regards lands held in free and common socage, and with the townships I am unacquainted.

1107. What is your persuasion upon the subject?—I have no grounds for persuasion on the subject.

1108. When the declaratory Act of the British Parliament was passed, did not persons who were in the enjoyment of estates find that the title by which they held those estates was invalidated?—Persons, I take it for granted, have found themselves in that situation, where property had been obtained by conveyances according to the French form; but it did not happen to me to be consulted respecting any such cases.

1109. I am talking of the practical effect; was not the practical effect of that Act that a great mass of property which was in the enjoyment of parties was found not to be, according to the construction then put upon the law, legally in their possession?—I am not informed of any such fact; nor did I hear of any individual having been dispossessed of property in consequence of a defective French conveyance.

1110. The question does not apply to persons actually dispossessed of property; but did not a great number of persons who were in the quiet enjoyment of property consider, after this Act was passed, that their title to it was invalid, or at least shaken?—I cannot say what a multitude of men may have thought, but I did not hear before leaving Canada that any man in that province had lost an inch of ground in consequence of a defective conveyance obtained previous to the passing of the Tenures Act.

1111. Are you prepared to say, if the Tenures Act had come into operation, in that case that the title of no freehold would have been shaken?—Certainly not. It is probable that such cases would have occurred; but I repeat, as I have already stated, that before leaving Canada I heard of none such.

1112. Since that interpretation was put upon the Act of 1774, by the last Canadian Tenures Act, has any proprietor in a seigniorie been evicted from his possession in consequence of that interpretation?—No proprietor in a seigniorie could have been evicted, because no lands held in free and common socage
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are to be found in seigniories. In the townships, where almost alone the question can occur, there has been no instance within my knowledge, either as a private individual or as a professional man, of the eviction of a proprietor from his estate, in consequence of the passing of the Tenures Act.

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1113. State what objections you have to the passing of that Act, since the introduction of the declaratory clause?—I have no other objection to it than that already stated, as to the application of English law to lands of which the tenure is charged.

1114. Have you known any case in which primogeniture has been the rule adopted in families in Canada?—I cannot say that I have.

1115. You are not acquainted with any case?—I am unacquainted with any instance in which it has become a question, whether the land should go according to the law of primogeniture or according to the law of equal distribution.

1116. The question is not as to the law, but whether you are acquainted with any families in which the eldest son has taken the whole of the property?—No, I am not.

1117. In all instances that you are acquainted with, families have divided equally?—I have already stated that I am not acquainted with divisions by families either way. I have not been consulted respecting, nor am I acquainted with, the arrangements that may have taken place in such cases.

1118. Have you known any cases in which the rule of primogeniture has been observed?—I have already stated that I have not. In the French part of Lower Canada, where little property is held in free and common socage, such matters are generally regulated by a will.

1119. As you have resided long in the colony, it must naturally have been brought under your observation as a point of practice, and not as a point of law, under wills?—I have no knowledge beyond what I have stated on this point.

1120. In drawing wills, have you received instructions from the testator to devise the bulk of his property to one child?—The distribution of property by will is entirely arbitrary, and I do not recollect to what extent in particular cases a preference may have been given to one child over others, but it is not the practice to give such a preference.

1121. Have you known any instance to the contrary?—In what particular?

1122. You have said you have generally drawn wills not following the rule of primogeniture?—I mean to say, in wills that I have drawn, such right as is conferred by primogeniture was not conferred by will.

1123. In no instance; in no case?—In none that I recollect.

1124. Are you acquainted with the transactions which have occurred between the Government and the seminary of Montreal, with regard to their property in the seigniorie of Montreal?—Any knowledge I have with respect to the seminary of Montreal, has been obtained either in the course of professional practice or in my official capacity as Attorney-General. What I may have learned officially I can hardly consider competent to me to state.

1125. State what are the circumstances under which the seminary of Montreal claim to hold the seigniorie of the island of Montreal?—The titles and circumstances under which the seminary of Montreal claim to hold the island of Montreal are generally known; and it is not, I presume, expected that this question should be answered in any other than very general terms. The alleged rights of the seminary of Montreal have their origin in a deed of gift made by an association of individuals, who had become associated together for the conversion of the Indians, to the seminary of St. Sulpice at Paris; which deed of gift was followed by a decree in mortmain, and the establishment of the seminary at Montreal under letters patent from the king of France.

1126. Do you mean a grant from private individuals, afterwards sanctioned by royal letters patent?—Yes.

1127. State the date of those royal letters patent, and to whom they were granted?—The letters patent were dated, I think, in the year 1677, and were granted to the seminary of St. Sulpice at Paris.

1128. What was the object set forth in the grant, by which those lands in Montreal were held?—The object was the conversion of the Indians to the Christian faith.

1129. Was the seminary established at Montreal an offset from the seminary of St. Sulpice at Paris, and did they act under those letters patent?—The seminary of Montreal was an establishment or ecclesiastical house dependent on the

James Stuart, Esq. seminary of St. Sulpice at Paris, and composed exclusively of members of the latter seminary.

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1130. Are you aware whether, in the treaty of Paris, after the conquest, any stipulation was attempted to be introduced, securing the property to the seminary of St. Sulpice in Paris, notwithstanding the transfer of the territory from the Crown of France to that of England?—I have no knowledge of this fact.

1131. Was none attempted?—I only know that there is nothing contained in the treaty of peace, after the conquest of Canada, which relates to this property.

1132. The question is, whether it was attempted upon the part of the French government to introduce that into the treaty of Paris, and whether it was distinctly refused or not?—I do not know.

1133. Upon what ground then was it that, after the conquest, the right of the seminary was disputed on the part of the British Crown?—The general ground on which a right in the Crown has been asserted is, that the seminary of St. Sulpice, to which the island of Montreal belonged, being a corporation composed of aliens, and established and subsisting at Paris, that property devolved to the Crown by right of conquest. There are various other grounds on which the right of the Crown to the island of Montreal is maintained, but upon which, I presume, it cannot be deemed necessary to enter.

1134. How long did the seminary of Montreal exercise a right of property without any dispute upon the part of the Crown?—I am not aware that the Crown, from the period of the conquest downwards, has ever admitted or acquiesced in any right of property in the seminary. It has acquiesced in and permitted the possession of the estate by the seminary, but its rights continue unimpaired, and may be enforced at any time.

1135. In 1827, a question of legal right having been raised upon the part of the Crown, did any proceedings take place between the Crown and the seminary, for the purpose of bringing the matter to an amicable compromise; were any terms then offered by the Crown?—I can only state that which is generally known, that, in 1827, a negotiation was carried on by the superior of the seminary, then in England, and His Majesty's Secretary of State for the Colonies; with a view to an amicable adjustment of this matter.

1136. State to the Committee what offers were made on the part of the Crown in 1827, to the seminary of Montreal, and what has been the result of those offers?—The documents which are to be found on this subject in the Colonial Office would convey this information, I beg leave respectfully to state, in the most satisfactory manner. I am only enabled to state, that terms in the highest degree advantageous to the seminary of Montreal were then assented to by His Majesty's Secretary of State for the Colonies, but that from various causes the projected arrangement did not take place.

1137. Have the courts of justice in Lower Canada in any manner exercised their power illegally or improperly in restraint of the use of the French language?—No. The use of the French language has always been continued without any restraint, in the proceedings of His Majesty's courts of justice, in which parties, attorneys and counsel, both in writing and orally, use either the English or French language, as they find most convenient. Writs of summons also, within my personal experience, continue to be issued in the French language, though the legislative enactment by which they were required has been repealed. I allude to a clause in an ordinance of 1785, by which the use of the French language was rendered necessary in writs of summons, which clause was subsequently repealed by an Act for amending the Proceedings in the Courts of Justice, passed, I think, in 1801. A few years afterwards, in a cause between Odber and Suzer, in which the point was specially litigated, this appeal was adjudged by the provincial Court of Appeals to have taken place. Notwithstanding this decision, writs of summons, in practice, I believe, have been continued to be issued as previously, in French as well as English.

1138. Has any change in the constitution of the Legislative Council become necessary; is its present composition objectionable; and can you suggest any measure by which it may be improved?—I am not aware that any change in the constitution of the Legislative Council, as established by the Act of 1791, has at all become necessary. I conceive that the appointment to the Legislative Council, as it now takes place by the Crown, is expedient, and a proper part of the constitution, and that no alteration in this particular is advisable. As
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to its composition, I must confess, as an inhabitant of the province, that I do not think it so good as it might be; and I think also that the composition of it, particularly in some recent instances, has not been improved.

1139. State in what particular?—I think that some appointments have been made to the Legislative Council which may be considered injudicious; but I should certainly be of opinion, that a remedy for an occasional circumstance of this kind ought not to be sought in any manner inconsistent with the prerogative of the Crown to make such appointments. If I might be permitted to offer any suggestion on this head, I should state, that it appears to me that two measures might be adopted to ensure such a composition of the Legislative Council as would be satisfactory to the country. One of these is the establishment of a qualification in point of property, by an Act of the Legislature.

1140. Landed property?—Yes. Such a qualification, it appears to me, would be extremely expedient. I think also, with respect to the recommendations of the Governor, on which the appointments to the Legislative Council are founded, it might be required, in order to render these recommendations less subject to error as to the personal fitness of the individuals recommended, that the list of intended recommendations, previous to its transmission, should be laid before the Executive Council. An additional security for the appointment of fit persons might in this manner be obtained.

1141. In that case, do you propose that the Executive should continue to be formed as it is now?—The suggestion is made on the supposition that the Executive Council itself would be composed of fit and unexceptionable persons.

1142. Does the opinion which you have now expressed rest upon the conviction that the Governor has not himself the means of judging correctly of the qualifications of different persons in the province for seats in the Council?—My opinion is grounded upon the belief that Governors are liable to adopt recommendations that are objectionable, and that a wholesome check might be obtained in this manner.

1143. Do you think it would give satisfaction to the people of the province?—I should think they would be satisfied with any regulation calculated to improve the principal departments of the Government.

1144. Have the French inhabitants of Lower Canada, as a body, to your knowledge, shown any preference for an Elective Council?—At the period I was living in Lower Canada, in 1831, there was no expression of opinion proceeding from the people upon this point.

1145. That is to say, the question of an Elective Council was not raised before you left the province?—In the session of 1831 it was, I believe, mooted in the Assembly; but certainly nothing was done among the inhabitants on the subject.

1146. The persons who formed the Executive Council are named by the Crown, are they not?—The members both of the Executive and Legislative Councils are named by the Crown.

1147. Are the Executive Council removable by the Crown?—Yes, of course they are removable by the Crown.

1148. But the usual practice is, that the Executive Council keep office for life?—They hold their appointments during the pleasure of the Crown.

1149. Then the counter recommendation of Government would be of that party which is generally represented by that Council?—I think the Council, in its composition, ought not to represent any party, but consist of such persons as would be entitled to the confidence of all parties.

1150. It would, in fact, make the Executive Council a self-electing body?—No suggestion I have made, as to recommendations, applies to the Legislative Council; it might or might not be extended to the Executive Council itself; if it were, it would only give a right to state objections to proposed appointments, and would have no other effect than that of putting the Government on its guard in making them.

1151. Would not the practical effect of that be to mix the Governor more particularly with that party which seems to be represented by the Executive Council?—I have supposed the Executive Council to be properly composed, and not the organ of any party.

1152. The Executive Council of late have practically had very little to do with the government of the colony?—It ought to have a great deal more to do

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with it. The insignificance to which it had been reduced, I conceive to have been the cause of much mischief in the colony.

1153. You consider it of utility to have a permanent administration?—I consider it should be placed on the footing of the Privy Council of this country, and consulted by the Governor upon all important occasions.

1154. Has the Executive Council been the subject of complaint, as to its composition?—It was made the subject of complaint while the judges occupied seats in it, and is still considered defective.

1155. In point of fact, are there many French Canadians members of the Council?—There are some. The Council is not sufficiently numerously composed of either English or French members. I apprehend it will be found necessary to alter its composition materially.

1156. Has the Act which has given a new representation to the province afforded satisfaction to the English inhabitants; have the French or English Canadians cause to complain of that Act?—The Act certainly has not given satisfaction to the English part of the community, inasmuch as it has enlarged very much the French representation, while a very small English representation has been obtained for the townships.

1157. Can you state from your own personal knowledge whether the representation of the two sects or parties, as you may choose to call them, is at all equivalent to their numbers in each case?—The English that are dispersed among the French Canadian population, constituting a minority, they have no influence whatever in the elections in the part of the country which they inhabit. They cannot return a single member to the Assembly, and are therefore, otherwise than constructively, not represented at all in that body.

1158. Still, returning to the question of a fair and equal representation, taking the number of the population into consideration, do you not suppose, throughout the whole province, there is a fair and equal representation in accordance with the population?—If the population were all of the same national character, and exclusion from the Assembly on national grounds did not take place, the representation would not be objectionable; but, as things are, the representation as it exists is most objectionable on the part of the English.

1159. Do they not have influence in proportion to their numbers?—Their numbers have influence in deciding a contest between two rival candidates supported by French interests, but alone are powerless, and this influence might as well not exist.

1160. Upon what principle would you give them an influence in the choice of members for the House of Assembly, independent of their proportionate numbers?—I have stated that the national distinctions which exist in the province would have rendered expedient some arrangement, if practicable, to give them a reasonable share of influence in the representative body. In the adjustment of the representation, when the Bill establishing a new representation was lately passed, some such arrangement might have been made by conceding to the townships a larger representation than under different circumstances they would have been entitled to, and through the medium of this representation the English inhabitants in other parts of the country might have been virtually represented. With the Bill on this ground, and also as having enlarged the representation unreasonably and beyond what the state of the country required, the English population have, I conceive, cause for dissatisfaction.

1161. Are they not in the condition of every minority?—They are in the condition of a minority under very peculiar circumstances.

1162. Is the system of judicature now in use in Lower Canada adapted to the state of the country; have the inhabitants reason to be satisfied with the administration of justice?—The system of judicature as it now exists in the province is very defective.

1163. State in what respects?—It is defective as respects the courts of original jurisdiction, and most defective as respects the Court of Appeals. The courts of original jurisdiction in the principal districts of the province being held at one place only in those districts, which are of large extent, a great and oppressive expense is incurred by persons in the distant parts of the country, who with their witnesses are compelled to resort to them for justice. It must in many cases have the same effect that a denial of justice would have, and is an evil that has long required a remedy. The constitution of the Court of Appeals is altogether anomalous; two chief justices preside in the court, on appeals

appeals from the judgments of each other, assisted by members of the Executive Council. In this manner they may be said singly to confirm or reverse judgments rendered by courts of law consisting of four judges, in which they themselves sit, and there have only a voice as members of the court. Under this constitution of the Court of Appeals, the law may vary from time to time as one or other of the chief justices may happen to sit in judgment; rendering it altogether uncertain which of two contradictory rules may prevail. No uniformity in decisions, no certainty in the law, can be expected while this system continues; nor can it be expected that under such a system justice can be well or satisfactorily administered.

1164. Would you promise to increase the number of the courts of original jurisdiction?—No. The establishment of a court of original jurisdiction for the whole province, in conjunction with circuits, will, I presume, be found the most expedient plan. A Court of Appeals, to be composed of persons versed in the laws of the province, and unconnected with the Executive Council, must be a part of any system that may be adopted.

1165. Is the establishment of a tribunal within the province for the trial of judges and other public officers, on charges of the Assembly, in your opinion an expedient measure?—I should consider it a most inexpedient measure; nor can I conceive that a discreet government would consent to it. I am not aware that any country having colonies has ever found it consistent with safety or good government, to establish within them a tribunal for the trial of its own officers. A fit and constitutional jurisdiction adapted to such cases may now at any time be called into exercise, by the recent organization of the Judicial Committee of the Privy Council, under an Act passed in the last session of Parliament, by which all the necessary powers have been given for the administration of justice in such cases.

1166. Though you would have no tribunal of that description; you would think it expedient that the Assembly should have the power of complaining of public officers?—Unquestionably; but subject to a fair opportunity for self-defence on the part of public officers, and with means for obtaining an impartial decision in such cases.

1167. You think that such a tribunal established in the colony will not be free from party bias, and therefore not fit to adjudicate on such questions?—Party bias is one, but there are other very serious objections to the establishment of such a tribunal.

1168. To what causes do you ascribe the dissatisfaction which has prevailed in Lower Canada, and what remedies would you suggest?—The question is complicated, and not to be answered otherwise than by referring to general permanent causes; though these, no doubt, have been recently rendered more injurious in their operation by temporary circumstances, to which it is not necessary to advert. The political disorder, and the consequent dissatisfaction which now prevail in Lower Canada, I conceive are mainly ascribable to the composition of the House of Assembly, in which a few individuals are enabled to exercise a power and influence inconsistent with the rights of their fellow subjects and with good government, and over which there is not that check and control on the part of the constituent body which ought to be found in a representative government.

1169. Do they not represent the opinions of the people?—In the present state of Lower Canada, the opinions by which the Assembly are governed can hardly be said to be those of the people. They are the opinions of a few individuals possessing uncontrolled power in the Assembly, which they disseminate with unceasing activity among the people, and call their opinions. The people are possessed of excellent natural intelligence, and of the best qualities, and intentions, but they are without the advantage of education, and are not conversant with the political subjects on which they are called to decide. They are therefore liable to be deceived.

1170. You have stated, that you think the great bulk of the population of Lower Canada hardly competent to form an opinion upon political subjects; but do they not feel very great confidence in those whom they send to represent their interests in the Assembly?—The fitness of that confidence would depend upon the qualifications and character of the individuals in whom it is reposed. In many cases the greater the confidence the greater the evil, where confidence may have been misplaced.

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1171. Do you mean to say, that the political education of the people of Canada is in so very backward a state, that they can hardly be competent to enjoy, with advantage to themselves, the right of a free constitution?—I mean to say, that practically the mass of electors in Lower Canada, in the present condition of the country, do not exercise over their representatives the control which is essential to check excess in the popular branch of the government; and that this is a main cause of the misgovernment under which the province labours.

1172. How would you suggest that the Assembly should be composed?—I am not aware that any effectual remedy for the existing composition of the Assembly can be found, otherwise than by an union of Upper and Lower Canada under one legislature. As lesser but permanent causes in contributing to the misgovernment of Lower Canada, I would mention the vicious system of judicature which is now in force, and the consequent defective and unsatisfactory administration of justice which it causes throughout the province; I would mention also the defective composition of the Executive Council, which as a court of justice in the last resort, and as being charged with important duties in the government of the country, it is essential, in my opinion, should be placed on a footing of efficiency and respectability. For these causes of misgovernment, if found to exist, the remedies are of course a new system of judicature, adapted to the present state of the country, and a re-construction of the Executive Council, by which its composition may be improved.

Lunæ, 30^a die Junii, 1834.

JOHN NICHOLAS FAZAKERLEY, ESQ. IN THE CHAIR.

Captain *George M^cKinnon*, of the Grenadier Guards, called in;
and Examined.

Capt. G. M^cKinnon.

30 June 1834.

1173. DO you hold any situation in the provincial government of Lower Canada?—I am Aide-de-camp to Lord Aylmer as Commander of the Forces.

1174. You hold no civil situation?—No.

1175. How long is it since you left Canada?—I left Canada on the 20th of April last.

1176. Have you resided with Lord Aylmer during the whole of his government?—Yes.

1177. Your attention has therefore been directed to the occurrences that have taken place in Canada during that period?—It has.

1178. Have there been any proceedings instituted by the House of Assembly in reference to the riots which took place in Montreal?—Yes, an investigation has been carried on for the last two sessions.

1179. Was that investigation carried on by the House of Assembly, or in a committee?—In a committee of the whole Assembly.

1180. Has there been any report from that committee, or any resolution entered into?—There have been no resolutions, that I am aware of, by the committee.

1181. Have you known any applications or demands that have been made upon the government of Canada for the production of information by that committee, and have you known the result of such application?—Yes, here is a copy of the resolution of the House of Assembly, bearing date the 23d of November 1832, applying for the production of official documents; and the answer of Lord Aylmer to that address.

“ *Resolved*, That an humble address be presented to his Excellency the Governor in Chief, praying that he would be pleased to cause to be laid before this House copies of—

“ All official communications and reports that have been transmitted to him of the proceedings, resolutions and depositions taken by the justices of the peace for the city of Montreal, during the last election of a representative for the West Ward of the said city, relating to the said election.

“ All reports that may have been made to him by or on the part of Lieutenant-colonel A. F. Macintosh, commanding the garrison of Montreal, on the

21st of May last, of his interference, in the neighbourhood of the place where the poll for the said election was held, with the military force under his orders, by which three of His Majesty's Canadian subjects were killed and several others wounded.

"The proceedings that took place before the Coroner on the inquest held upon the bodies of Casimir Charwin, Pierre Billet and Francois Languedoc.

"The proceedings relating to the measures adopted by the Crown officers for arresting the said Lieutenant-colonel Macintosh, or any of the officers or soldiers under his orders, for having fired, or given orders to fire, on the people, by which the three citizens above named were killed.

"The reports of the proceedings which were had before the judges of the King's Bench, upon the application of Lieutenant-colonel Macintosh and Captain Henry Temple, to be admitted to bail under a writ of habeas corpus.

"The report of the proceedings of any inquiry instituted by order of his Excellency the Governor in Chief upon this melancholy occurrence.

"The reports of the proceedings relating to the indictments preferred against Lieutenant-colonel A. F. Macintosh and Captain Henry Temple of the 15th regiment, and William Robertson and Pierre Lukin, justices of the peace, at the Court of King's Bench for the district of Montreal, held in August and September last.

"The reports of the Solicitor-general and other Crown officers upon the said events and proceedings; with every information in writing which may have been received by his Excellency, and which may tend to elicit the whole truth regarding the circumstances that caused, accompanied and followed this most deplorable affair."

His Excellency the Governor in Chief's Answer to the above Address.

"Gentlemen,

Quebec, 24 November 1832.

"Copies of such official documents as may have been submitted to me regarding the events adverted to in this address, shall be transmitted to the House of Assembly as soon as they can be prepared."

1182. Are you aware whether those documents were transmitted by Lord Aylmer to the House of Assembly?—They were.

1183. Was any further application made for the production of documents or for the examination of official persons, connected with this transaction?—I am not aware of any further application for the production of official reports. Lord Aylmer's military secretary and deputy adjutant-general were called to the bar of the House and examined.

1184. Of how many members does the Legislative Council of Lower Canada consist?—Thirty-seven.

1185. How many of that number hold office under the Crown; and state to the Committee their names and the offices which they hold?—Mr. Sewell the speaker; he is also chief justice of the province.

1186. Is he a member of the Executive Council?—No. The bishop of Quebec, he is also a member of the Executive Council; Mr. Hale, also receiver-general; Mr. Ryland, also clerk of the Executive Council; Mr. Grigy, also sheriff of Montreal; Mr. Kerr, also puisne judge of the court of King's Bench and judge of the court of Vice Admiralty; Mr. Bowen, also puisne judge of the court of King's Bench; (these two last-named gentlemen do not take part in the deliberations;) Mr. Felton, also a commissioner of Crown Lands; Mr. Stewart, also member of the Executive Council, master of the Trinity-house and commissioner of the Jesuits' estates. Those are the members that hold offices.

1187. How many are there?—Seven who attend, and two who do not; nine altogether.

1188. Can you give the Committee any information with respect to the appropriation of monies made during the last year and the year before, by Lord Aylmer; take 1833 first?—In the absence of the ordinary supplies for the support of the Government and the administration of justice for the years 1833 and 1834, Lord Aylmer has, under the authority of the Secretary of State, applied the funds permanently appropriated for those purposes to the payment in part of the salaries of the public officers, and other necessary expenses of the Government and the administration of justice. These funds are the casual and territorial revenue (exclusive of the land and timber fund), and the produce of the provincial Acts 35 Geo. 3, and 41 Geo. 3.

Capt. G. M^cKinnon.

30 June 1834.

1189. Those monies are levied under the Act of 1774?—No; the monies levied under the Act of 1774 were not applied. I have not given the amount of the monies which were applied; is that required?

1190. You had better give the amount?—For 1833 it was 14,082*l*.

1191. Is that the whole amount?—Yes, that is the whole amount of revenue applied to the support of Government for 1833.

1192. Is that the whole amount of money taken from the chest?—Yes; for the support of the Government and the administration of justice for 1833.

1193. For what other purposes was money taken from the chest?—Appropriations for public improvements.

1194. Was that taken without being voted?—No; they are separate from the expenses of the Government. An estimate for the expenses of the Government was made, upon which a bill of supply was founded; that bill failed; the monies that were taken for public works and other improvements were not in that bill, they were in separate bills. There was also an advance made for the support of a quarantine station; that Lord Aylmer has since been indemnified for.

1195. By the House of Assembly?—Yes.

1196. In the year 1833?—The advance was made in 1833, and Lord Aylmer was indemnified during the last session.

1197. What sum was that?—I cannot recollect; I believe about 10,000*l*.

1198. Were the sums which were expended in public works and other matters, expended in consequence of votes of the House of Assembly?—Specific votes of the House.

1199. Under the authority of Acts?—Yes; which also passed the Council and received the Royal Assent; separate Acts.

1200. Were there any other sums besides that 10,000*l*. for the quarantine station?—There was a small advance made for the Emigrant Hospital. No other sums were taken without the authority of the Assembly; those were taken without their authority; they were advances on the responsibility of Government.

1201. So that the whole amount of sums taken in the year 1833, without the authority of the Assembly, was what?—The amount for the expenses of Government taken out of the public chest was 14,082*l*.; the amount for the quarantine station I cannot positively state.

1202. But you believe it to be about 10,000*l*?—Yes; it has since been covered by bill of indemnity.

1203. You do not include in that the appropriations out of the land and timber fund?—They are not included; those accounts are kept separate, and detailed statements of the receipts and expenditure are transmitted half-yearly to the Secretary of State.

1204. What were the circumstances which led the Governor on his own responsibility to advance a sum, for which he has since been indemnified, for the use of the quarantine department?—The fear that pervaded the province generally that the cholera would appear a second time, and the anxiety all the inhabitants felt that there should be a quarantine station. It was merely a renewal of what took place in 1832, when a vote of money was passed by the Legislature, in case the cholera should make its appearance; and Lord Aylmer made the advances upon his own responsibility, in consequence of the Quarantine Bill of 1833 having failed in the Legislature.

1205. Do you know of a sum of 7,000*l*. being advanced by Lord Aylmer out of his own private funds?—He advanced a sum of money, but not to that amount.

1206. Was it not 500*l*.?—He made an advance out of his own private funds on account of the distress that existed in parts of the province, from the failure of the harvest; the exact amount I cannot state; it was not large, about 600*l*. or 700*l*.

1207. Did the Assembly refuse to grant that sum?—They indemnified him.

1208. So that the many statements that have been made as to the misapplication of funds are incorrect?—The best answer I can give to any statement of that kind as to misapplication of funds, is that Lord Aylmer was indemnified for all the advances he made without the authority of the Assembly.

A P P E N D I X.

Copy of a DESPATCH from Viscount *Goderich* to Lord *Aylmer*, dated Downing-street,
7th March 1831.

My Lord,

HAVING had under my consideration the regulations which are at present in force for the disposal of lands in His Majesty's North American Provinces, I am of opinion, after having consulted those who are the most competent to give an opinion on the subject, that some of the clauses or heads of instructions by which the Commissioner of Crown Lands is now governed, are liable to considerable objection. I allude more particularly to those clauses which have reference to the disposal of lands on a quit-rent of five per cent. on the estimated value. I altogether disapprove of this system, and I therefore desire that the practice may be immediately discontinued.

I enclose, for your Lordship's information, a copy of the new Regulations which I propose to establish for granting lands in the North American Provinces; and, if, upon consideration, you should be of opinion that they are liable to no serious objection, I am to desire that you will forthwith convey the necessary directions to the Commissioner of Crown Lands, in order that they may be brought into immediate operation.

I think it necessary to apprise your Lordship that in future, grants of land will not be given to any persons whatever, with the exception of military settlers.

I therefore request that your Lordship will decline to forward to me any applications which may be addressed to you for free grants of land.

I have, &c.
(signed) *Goderich*.

REGULATIONS for Granting LANDS in the *British North American Provinces*.

No. 1.—For the information of persons desirous of proceeding as settlers to His Majesty's Provinces in North America, the following summary of the rules which have been established for the regulation of grants of lands, has been prepared by the direction of His Majesty's Principal Secretary of State for the Colonial Department.

No. 2.—The Commissioner of Crown Lands will, at least once in every year, submit to the Governor a report of the land which it may be expedient to offer for sale within the then ensuing year, and the upset price per acre at which he would recommend it to be offered; the land so offered having been previously surveyed, and valued in one or more contiguous tracts of those which are most adapted for settlement, according to the local peculiarities of the province, and in proportion to the number of deputy-surveyors who can be employed.

No. 3.—The lands to be laid out in lots of 100 acres each, and plans of such parts as are surveyed to be prepared for public inspection; which plans may be inspected in the office of the Surveyor-general, or in that of his deputies in each district, on payment of a fee of 2s. 6d.

No. 4.—The Commissioner of Crown Lands will proceed to the sale in the following manner: He will give public notice in the Gazette, and in such other newspaper as may be circulated in the province, as well as in any other manner that circumstances will admit of, of the time and place appointed for the sale of lands in each district, and of the upset price at which the lands are proposed to be offered; he will give notice that the lots will be sold to the highest bidder, and if no offer should be made at the upset price, that the lands will be reserved for future sale, in a similar manner, by auction.

No. 5.—The purchase-money will be required to be paid down at the time of sale, or by four instalments, with interest; the first instalment at the time of the sale, and the second, third and fourth instalment at intervals of half a year.

If the instalments are not regularly paid, the deposit-money will be forfeited, and the land again referred to sale.

No. 6.—Public notice will be given in each district in every year, stating the names of the persons in each district who may be in arrear for the instalments of their purchases, and announcing that if the arrears are not paid up before the commencement of the sales in that district for the following year, the lands in respect of which the instalments may be due, will be the first lot to be exposed to auction at the ensuing sales; and if any surplus of the produce of the sale of each lot should remain after satisfying the Crown for the sum due, the same will be paid to the original purchasers of the land who made default in payment.

No. 7.—The patent for the land will not be issued, nor any transfer of the property allowed, until the whole of the instalments are paid. The lands sold under this regulation are not to be chargeable with quit-rents, or any further payment beyond the purchase-money and the expense of the patent.

No. 8.—Persons desirous of buying land in situations not included in the tract already surveyed, must previously pay for the expense of survey, and the price must of course depend upon the quality of the land and its local situation.

No. 9.—The Crown reserves to itself the right of making and constructing such roads and bridges as may be necessary for public purposes in all lands purchased as above; and also to such indigenous timber, stone and other materials, the produce of the land, as may be required for making and keeping the said roads and bridges in repair, and for any other public works. The Crown further reserves to itself all mines of precious metals.

No. 10.—The regulations for granting licenses to cut timber will be learnt by application to the Surveyor-general's Office in the province.

No. 69.—Copy of a DESPATCH from Viscount *Goderich* to Lord *Aylmer*; dated Downing-street, 21st November 1831.

My Lord,

IN my despatch of the 7th July, No. 51, in which I adverted to the various complaints contained in the petition addressed to His Majesty by the Assembly of Lower Canada, I informed you that I would make what is there termed "the vicious and improvident management of the Crown Lands," the subject of a separate communication. In proceeding to do so, I will, in the first place, consider separately what I believe to be the most prominent of the particular grievances which the Assembly intended to comprehend under this general head. These are,—1st, The difficulties in the acquisition of land under a secure title, encountered by the *bonâ fide* settler.

2d. The abuse by which large tracts of land have come into the possession of persons unable or unwilling to improve them, and have in consequence been rendered useless to the province, and injurious to the real settlers, by separating them from each other, and interrupting their communications; and,

3d. The similar inconvenience which has arisen from the clergy reserves.

Upon each of these subjects I shall proceed to offer some remarks in the order in which I have mentioned them. Difficulties are, I believe, at present met with by the *bonâ fide* settler in acquiring land under a secure title, in consequence of the forms of conveyance now in use, which seem calculated to cause needless delay and expense. I entirely concur with the Assembly, that this is an inconvenience which ought immediately to be got rid of. I have had under my consideration the best means of doing so, and I trust if the measure I shall propose in a subsequent part of this despatch is adopted by the Assembly, I shall be able without delay to furnish you with instructions, by which this important improvement may be effectually accomplished. The complaint, however, which I am now considering, seems to relate not only to the delay experienced in obtaining patents for land, and to the fees which are charged upon them, but also to the practice which has of late years been introduced of selling the Crown Lands instead of parting with them gratuitously. In recapitulating at the end of their petition the principal grievances of which they complain, the Assembly particularly advert to the "management of the waste lands of the Crown, in consequence of which applicants for actual occupation are prevented from freely possessing the same under secure titles, in sufficient quantities for cultivation, without unnecessary delay, and without any expense or burthen other than the fair and necessary cost of survey and title." I must dissent from the view here taken by the Assembly, and I am persuaded that a more careful consideration of this subject would have led to a conviction, that to restrain in some degree the extreme facility of acquiring land, by demanding a moderate price from all who are anxious to obtain it, instead of being injurious to the interests of those who desire to become settlers on the Crown Lands, would be found calculated to promote their success, no less than the welfare and prosperity of the province at large.

It has been urged, that to compel the *bonâ fide* settler to pay for his land any thing beyond the necessary expense of surveying it and marking out the limits, is to deprive him of a portion of his capital, which, if allowed to retain, he might employ to great advantage. Plausible as this objection is, experience has demonstrated that by yielding to it, and making free grants, much more inconvenience is incurred than can arise from this alleged defect in the system of sale. If no consideration is to be given in return for land, all persons will be desirous to obtain it, and that too in quantities not limited by their ability to turn it to their advantage; either, therefore, land must be lavished in a manner which will quickly leave none unappropriated and open for the occupation of those who can really make use of it, or a power must be entrusted to the Executive Government of deciding what claims are to be admitted and what rejected. To such a power being placed in any hands there are the strongest objections: it gives a species of patronage to its possessor, almost without responsibility, since its due exercise is with difficulty to be distinguished from its abuse, and the latter, therefore, is as easy as it may prove dangerous. The same difficulty of judging of the manner of exercising a discretion of this sort, which in bad hands facilitates its abuse, also exposes to suspicion even the most perfect impartiality and fairness. Whether, therefore, the power of abuse which it confers is considered, or the unmerited obloquy which it may occasion, it is most inconvenient that the Government should

should be called upon to undertake the task of the gratuitous distribution of the land. It is also found practically, that under the system I am now considering, no degree of caution is sufficient to prevent large tracts of land from getting into the possession of persons whose object is not to improve it, but at a future day to dispose of it, when it shall have acquired an increased value from the settlement and improvement of the vicinity; the effect of this being to enable the idle or fraudulent proprietor not only to put his more industrious neighbours to great inconvenience, but also to derive a profit from their exertions to which he has in justice not the slightest claim.

As far as I am acquainted with the history of new settlements, there is no instance in which the practice of making free grants has been followed, without leading to the abuse I have described. Various Regulations have been adopted, with a view of guarding against it; but these, though complicated and otherwise inconvenient, have ultimately failed to accomplish their intended object. It has been supposed, that it would be a simple mode of attaining the end in view, to prevent any individual from acquiring more than a certain fixed extent of land, imposing upon him at the same time the condition of improving it. The difficulty, however, of defining beforehand what this improvement is to be, immediately occurs. No general rule can be laid down applicable alike to all situations, and without such a rule it is impossible to avoid either, on the one hand, permitting the condition to become a dead letter, or on the other, giving rise to endless disputes and litigation. Again: the effect of the limitation upon the quantity of land to be acquired by a single individual is liable to be defeated, as those who have money will prevail upon their poorer neighbours to allow them to make use of their names, in order to obtain more extensive grants than the Regulations would permit. If to guard against this, the transfer is prevented, persons able and willing to improve their land are enabled to obtain from those who are not so, what in their hands is useless; besides, that improvement is greatly discouraged, and the spirit of enterprise injuriously checked, by preventing the conversion into money of the increased value, which the industry of a settler has given to his grant. Another plan is, to allow to every settler a grant proportioned to the amount of his capital, and to require from him, before he is permitted to alienate it, that a certain sum should be expended on its improvement. This is the principle of the Regulations lately in force in the Australian colonies; but notwithstanding the care with which they were drawn up, in practice they have not been found to answer.

It is not necessary that I should do more than thus generally point out the objection to a system of free grants, since experience has not only shown these objections to be well founded, but has further proved the advantage of the opposite plan of disposing of land by sale instead of by grants.

The example of the United States has shown that, without any of the complicated Regulations by which it has been attempted to guard against the misapplication of land acquired gratuitously, without those conditions and restraints which have been equally inoperative in the prevention of fraud, and inconvenient to the *bonâ fide* settler, we may safely trust to the interest of purchasers, as a sufficient security that land which has been paid for will be turned to good account.

It has been said, that by a strict adherence to this system, by refusing land to the poor man, whose labour is his only wealth, a most useful class of settlers will be discouraged. I see no ground for such an apprehension. Whatever promotes the prosperity of the colony will naturally attract settlers, both of the labouring and of all other classes; nor do I see any reason to suppose that the former will consider it any hardship to be required to pay for the land which they acquire, while its price is moderate, and while wages are so high as to enable them, if industrious, to earn in no long period the means of purchasing it. Has it, on the other hand, been sufficiently considered by those who make this objection, whether it would conduce to the real prosperity of the province to encourage every man who can labour, to do so only on his own account, to obtain and cultivate his own allotment of land without giving or receiving assistance from others? Without some division of labour, without a class of persons willing to work for wages, how can society be prevented from falling into a state of almost primitive rudeness; and how are the comforts and refinements of life to be preserved? Declining, however, to pursue any further the discussion of this question, I must observe that the price paid by the settler for his land is not in fact lost to him. It is applied in diminishing the burthen of taxation, by defraying part of the necessary expenses of the government; and it will also, it is hoped, afford the means of opening roads, of creating schools and churches, and of making other local improvements. Indeed, with reference to one of these purposes, more particularly the opening of roads, I think there would be a considerable advantage in demanding a higher price for land than is usually paid. Upon the principle that a public object is always better and more certainly effected by enlisting in its favour the individual interests of those by whose efforts it is to be accomplished, than by requiring their services by a mandatory law, it would seem an obvious improvement in the mode of disposal of waste land to see it at a higher price than heretofore, free from all conditions, allowing the settlers to earn again a part of the price by their labour, in effecting those improvements which are now required from them in discharge of the obligation they incur by the acquisition of their land. The effect of this would be, that instead of paying beforehand in land for work which may never be done, it would be paid for when actually performed in money previously received in exchange for the same land. The industrious settler would therefore lose nothing, whilst those who chose to be idle would be prevented from injuring any but themselves.

2. What I have now stated will sufficiently explain to you the manner in which, with respect to the still unalienated estate of the Crown, I think the abuse complained of, the

acquisition of land by persons unable or unwilling to improve it, may be guarded against. I am, however, aware that large grants, already made in some parts of the province, remain in a state in which they greatly impede and retard the improvement of the surrounding country. I can only direct you, by a strict enforcement of the existing law, to endeavour to correct the evil; and if any further legislative measure should be found to be necessary for that purpose, to call the attention of the Assembly to the subject. Perhaps a small tax, levied upon all unimproved land, would be the most effectual remedy; it would make it the interest of the holders to clear it themselves, or to part with it to those who would.

3. With respect to the clergy reserves, I have no hesitation whatever in stating, that I entirely concur with the Assembly in thinking that they form a great obstacle to the improvement and settlement of the province, without being productive of any corresponding advantage to make up for this inconvenience. During the 40 years the system of making these reserves has existed, the total amount of the income they have afforded has not equalled the expense incurred in their management. I find, by a Report made by Sir James Kempt, that in the year 1827 the expenses of collection and management exceeded the proceeds by 58 *l.* 3*s.* 6*d.*; that in 1828 and 1829, the first years in which there has been any surplus, the net proceeds were 177 *l.* 15*s.* 6*d.* in the one, and 217 *l.* 18*s.* for the other. For the year 1830 I have no account of the sums actually received; but although I find that out of the half million of acres, at which the reserves in Lower Canada are estimated, nearly 100,000 acres are under lease, at a nominal rent of 1,190 *l.* currency, judging from the example of former years, I should not anticipate that the clear income which has been obtained has been greatly improved. There seems, indeed, every reason to believe, from what has been experienced, not only in Canada, but in the Australian colonies, that land in countries where so much remains unappropriated, can only be profitably occupied by those who have the stimulus of personal and permanent interest. Hence the income derived from landed property, retained in the hands of the Government for any public purpose, is trifling compared to the inconvenience which it occasions. The same sum, raised in almost any other manner, would be much less burthensome to the colony.

Under these circumstances I cannot entertain a doubt that an end should immediately be put to the system of reserving a seventh of the waste lands of Canada for the support of a Protestant clergy. That which would be an objectionable mode of raising a revenue for any public purpose, is still more strongly to be condemned as a provision for the ministers of religion, since it must have a direct tendency to render odious to the inhabitants those to whom their good will and affection are so specially needful.

Such are the reasons which have led me to the conclusion that the continuance of the present system is inexpedient; and in a separate despatch I have detailed the measures it will be necessary to adopt for causing these reserves to revert into the general mass of the Crown estate, where they will be managed by the same officers, and according to the same rules. In the preceding part of this despatch, I have in a great measure anticipated what I have to say in explanation of the principles on which I conceive these rules should be founded; I have therefore little to add, beyond a recapitulation of the points to which it is of most importance to attend. In the first place, the form of the instrument by which land is granted should be as simple, and its expense as small, as possible. The adoption of a mode of conveyance answering this description has hitherto been prevented chiefly by the necessity, under the Act of Parliament, of specifying in each grant of Crown Land the particular reserve made in respect of it for the support of the clergy. The removal of this difficulty will be one of the most beneficial results I anticipate from the measure, which, in the despatch already referred to, I have directed you to propose to the Legislature. As soon as the legal difficulty is thus got rid of, I will transmit to you detailed instructions (which are already in a state of preparation) as to the manner in which the desired improvement may be effected.

The transfer of land from hand to hand should be left perfectly free and unrestricted; all persons should be permitted to acquire land in any quantity, and for any purpose they may think fit; the abuse of this privilege being guarded against by demanding a moderate price for all land alienated by the Crown. This will likewise supersede the necessity of inserting in grants conditions of making roads and other improvements. Instead of exacting the performance of what are termed the duties of settlement, land may be sold free of all conditions whatever, and a portion of the price obtained applied to doing what was formerly required of the settler.

In order to guard the Government against even the suspicion of partiality in the distribution of land, the utmost freedom of competition should be permitted; and the highest bidder, or the first applicant, should be entitled as a matter of course to a preference. The regulations best calculated for securing this object must be left to you to determine.

Such is the system of management which I propose to adopt with respect to the Crown Lands. It has been formed after no little consideration and inquiry into a subject of the utmost importance to the prosperity of a country circumstanced like Canada. To promote the prosperity, to adopt the measures best calculated to favour the full development of the natural resources of the Province, has, I trust I need not assure the Assembly, been my only aim. If, however, upon a full consideration of the reasoning upon which my views are founded, they can recommend any modification by which this plan can be rendered more likely to forward that which is our common object, any suggestions which they may have to offer shall receive the fullest and most attentive consideration.

I have, &c.

(signed) *Goderich.*

(No. 70.)—COPY of a DESPATCH from Viscount *Goderich* to Lord *Aylmer*; dated Downing-street, 21 November 1831.

My Lord,

In my Despatch of this date (No. 69), I have announced to your Lordship the intentions of His Majesty's Government on the subject of the Clergy Reserves in Lower Canada, and have apprised your Lordship that I should, in a separate Despatch, describe in detail the measures it would be necessary to adopt for the purpose of causing those reserves to revert into the general mass of the Crown estate. I now proceed to execute this purpose. The statute 31 Geo. 3, c. 31, s. 36, 40, provides for the appropriation of lands for the maintenance of a Protestant clergy, and for the erection and endowment of rectories, and the presentation of incumbents, and the manner in which such incumbents shall hold their livings. The 41st section, which immediately follows those enactments, is expressed in the following words:

"Provided always, that the several provisions hereinbefore contained respecting the allotment and appropriation of lands for the support of a Protestant clergy within the said provinces, and also respecting the constituting, erecting and endowing of parsonages or rectories within the said provinces, and also respecting the presentation of incumbents or ministers to the same, and also respecting the manner in which such incumbents or ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express provisions for that purpose contained in any Act or Acts which may be passed by the Legislative Council and Assembly of the said provinces respectively, and assented to by His Majesty, his heirs or successors, under the restrictions hereinafter mentioned."

The 42d clause then proceeds to enact, that whenever any Act shall be passed by the Legislative Council and Assembly for any of the before-mentioned purposes, such Act shall, "before any declaration or signification of the King's assent thereto," be laid before both Houses of Parliament in Great Britain, and that His Majesty shall not signify his assent until 30 days after the Act shall so have been laid before the two Houses.

Subsequently to the date of this Act of Parliament, the corporation for the management of the clergy reserves was established by a charter issued under the great seal of the province. That body have granted leases of a considerable quantity of land, none of which, as I understand, are made to endure for more than 21 years from their respective dates.

The statute 7 & 8 Geo. 4, c. 62, authorized the governors of the provinces, with the consent of the Executive Council, in pursuance of any instructions which might be issued to them by His Majesty, through one of his principal Secretaries of State, to sell a part of the clergy reserves, not exceeding one-fourth part of the whole, provided that in no one year more than 100,000 acres were so sold. The money arising from these sales was to be invested in the public funds of this kingdom, and the interest of that investment was declared applicable either to the improvement of the unsold reserves, or to the purposes for which the reserves were originally made.

It appears that, in pursuance of this statute, 11,256 acres of the clergy reserves have been sold, up to the month of June last, for sums together amounting to 1,880 £, and that the sum of _____ was due by the purchasers, who by the terms of their contracts were liable to payment of interest.

In order to accomplish effectually the designs which I have explained in the Despatch already referred to, it will be necessary that so much of the statute 31 Geo. 3, c. 31, as relates to the allotment and appropriation of lands for the support of the Protestant clergy within the province of Lower Canada, should be repealed by an Act to be passed by the Council and Assembly, in exercise of the authority committed to them for that purpose by the 41st section of the Act. The Bill, if so passed, must be accompanied by an address from the Legislative Council and Assembly, desiring that it may be "transmitted to England without delay, for the purpose of being laid before Parliament, previously to the signification of His Majesty's assent thereto."

A simple repeal of this part of the Act of 1791, would give birth to some questions of an embarrassing nature, the discussion of which it is very desirable to preclude. The questions which I anticipate, would be, First, Whether the clergy reserves already made would vest in His Majesty absolutely, or would be held by him upon any trust for the benefit of the Protestant clergy? Secondly, Whether the leases granted by the corporation for managing the reserves would be still subsisting? Thirdly, Whether the rent reserved on those leases would be payable to His Majesty or to the corporation? Fourthly, Whether the money already raised by sales under the Act of 1827, would remain applicable or not to the purposes expressly declared by that statute? It might be suggested, as a further doubt, whether the corporation would continue in existence, and whether the powers of sale given by the Act of 1827, were to be exercised any further? The solution, however, of those questions is obvious: the corporation could not survive the extinction of the object for which it was erected: the power of sale could not be exercised, after the subject of sale, viz., the clergy reserves, had ceased, as such, to exist.

To meet, however, still more effectually the two last-mentioned questions, you will, as soon as the Act shall have been introduced into the Assembly, intimate to the clergy corporation that it is the express desire of His Majesty's Government, that until the Bill shall have been finally passed into a law, or shall have been finally rejected, they do abstain from

granting any more leases of the clergy reserves. I cannot doubt their ready compliance, and am most reluctant to reason, even hypothetically, on the contrary supposition. But as it will be necessary, to prevent improvident leases, which on the haste and excitement of the moment might be made, you will, in the unfortunate contingency of the corporation persisting in making them, direct the Attorney-general to take such measures as may be best adapted to bring to trial the validity of the charter itself. I apprehend that the result must be to ascertain that it is void in point of strict law. But it is impossible to deprecate such a controversy too earnestly, or to contemplate it at all, except as an extreme remedy in a case of extreme importance.

Whenever the Act shall have been finally passed, the continued existence of the charter would be of no practical importance, though it would be on the whole desirable that the charter should be then surrendered.

With regard to the continuance of the powers of sale under the Statute 7 & 8 Geo. 4, c. 62, you will immediately signify to the officers employed under the Statute His Majesty's commands that they do abstain from acting any further in execution of it, after the 30th June 1832; and that during the half year from the 1st January to that date, the sales to be made should not exceed in number of acres the number actually sold in the preceding half year.

The difficulties which might oppose or partly frustrate the execution of the designs of His Majesty's Government being thus obviated, it remains to consider what provisions the proposed Act of the Assembly should contain.

First, then, it should be enacted, that so much of the British Statute of 1791, as relates to the appropriation of clergy reserves, should be repealed. But as it is necessary, and it would be highly inconvenient to repeal so much of that Act as relates to the erection and endowment of parsonages, it will be fit, in order to obviate the possibility of mistake, that the precise words upon which the repeal is to operate should be quoted in the repealing Act.

Secondly. To remove all doubt as to the effect of the repeal, it should be expressly provided that the reserved land should immediately vest in His Majesty, and be held by him, His heirs and successors, in the same manner in every respect as if the provisions to be repealed had never been enacted.

Thirdly. The leases granted by the clergy corporation should be declared to be as valid as though the repealing Act had not been passed; but the tenants should be required to attorn to His Majesty, and to pay their rent to him or to the receivers of His land revenue in the province.

Fourthly. All sales effected and all acts done under the Statute 7 & 8 Geo. 4, c. 62, shall be declared to be as valid as though the repealing Act had not been passed.

Fifthly. The only additional provision, the necessity of which I can anticipate, would be an enactment declaring, that henceforward no grant of lands, whenever made, shall be deemed invalid or ineffectual by reason of the absence of the specification of the clergy reserves, appropriated in respect of such grant. With reference to future grants this of course would be superfluous, but it might obviate some inconvenient doubts as to the effect in future of past neglects of this part of the Act of 1791.

A Provincial Statute, embracing these provisions, and neither exceeding nor falling short of them in any material respect, would, I apprehend, effectually set at rest all the questions respecting the clergy reserves to which I have adverted in my accompanying Despatch, except in the possible, but I trust very improbable, event of either House of Parliament addressing His Majesty to withhold his assent. That, however, is a contingency against which no security can be taken, and upon which it could answer no practical purpose to speculate.

It remains to consider what steps should be taken in order to bring this question fairly under the notice of the two branches of the Provincial Legislature. For this purpose it will be fit that they should be invited to the consideration of the question by a Message from His Majesty. Anxious as I am to relieve you to the utmost possible extent from responsibility, upon an occasion of so much gravity and importance, I enclose to you the copy of a Message to be transmitted in His Majesty's name to both the Houses of the Provincial Legislature.

The same motive induces me to transmit to you the draft of a Bill which has been prepared under my directions for carrying the views of His Majesty's Government into effect. Without intending to fetter the discretion of the law officers of your government, I must express my earnest wish that the Bill might be introduced in terms corresponding as closely as possible with those of the accompanying draft.

I am not sufficiently conversant with the usages of the Canadian Assembly to venture to prescribe anything respecting the manner in which this Bill should be brought forward. If I am not misled by the analogy of English Parliamentary proceedings, I should desire that the Act might be introduced to the notice of the Assembly by the Attorney-general, or if he has not a seat in that house, then by any official member in whose ability and discretion you can place adequate confidence. Should the law pass in any form, you will neither give nor refuse your consent, but will reserve the Bill for the signification of His Majesty's pleasure. Indeed, I conceive that to be the proper course of proceeding in every case in which an Act of the Canadas is required to be laid before the two Houses of Parliament.

I have, &c.
(signed) *Goderich.*

DRAFT of a MESSAGE to the LEGISLATURE of *Lower Canada*.

THE Governor has received His Majesty's commands to make the following communication to the Legislative Council (the House of General Assembly) in reference to the lands which, in pursuance of the Constitutional Act of this province, have been set apart for the support and maintenance of a Protestant clergy.

The representations which have at different times been made to His Majesty and His Royal predecessors, of the prejudice sustained by His faithful subjects in this province, from the appropriation of the clergy reserves, have engaged His Majesty's most attentive consideration. His Majesty has, with no less anxiety, considered how far such an appropriation of territory is conducive either to the temporal welfare of the ministers of religion in this province, or to their spiritual influence. Bound no less by His personal feelings than by the sacred obligations of that station to which Providence has called him to watch over the interests of all the Protestant churches in His dominions, His Majesty could never consent to abandon those interests with a view to any temporary and apparent expediency.

It has therefore been, with peculiar satisfaction, that in the result of His inquiries into this subject, His Majesty has found that the changes sought for by so large a proportion of the inhabitants of this province, may be carried into effect without sacrificing the just claims of the established churches of England and Scotland. The waste lands which have been set apart as a provision for the clergy of those venerable bodies have hitherto yielded no disposable revenue. The period at which they might reasonably be expected to become more productive is still remote. His Majesty has solid grounds for entertaining the hope that before the arrival of that period, it may be found practicable to afford the clergy of those churches such a reasonable and moderate provision as may be necessary for enabling them properly to discharge their sacred functions.

His Majesty therefore invites the Legislative Council (the House of General Assembly) of Lower Canada, to consider how the powers given to the Provincial Legislature by the Constitutional Act to vary or repeal this part of its provisions, can be called into exercise most advantageously for the spiritual and temporal interests of His faithful subjects in this province.

DRAFT of a BILL to be laid before the LEGISLATURE of *Lower Canada*.

WHEREAS by an Act passed in the Parliament of Great Britain, in the 31st year of the reign of his late Majesty King George the Third, 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,'" it was, amongst other things, enacted, that it should and might be lawful for his said late Majesty, his heirs and successors, to authorize the Governor or Lieutenant-governor of each of the said provinces respectively, or the person administering the government therein, to make from and out of the lands of the Crown within such provinces, such allotment and appropriation of lands for the support and maintenance of a Protestant clergy within the same, as may bear a due proportion to the amount of such lands within the same, as had at any time been granted by or under the authority of his said late Majesty; and that whenever any grant of lands within either of the said provinces should thereafter be made, by or under the authority of his said Majesty, his heirs or successors, there should at the same time be made in respect of the same, a proportionable allotment and appropriation of lands for the above-mentioned purposes, within the township or parish to which such lands so to be granted should appertain or be annexed to, as nearly adjacent thereto as circumstances would admit, and that no such grant should be valid or effectual unless the same should contain a specification of the land so allotted or appropriated in respect of the lands to be thereby granted; and that such lands so allotted and appropriated should be, as nearly as the circumstances and nature of the case would admit, of the like quality as the lands in respect of which the same should be so allotted and appropriated, and should be, as nearly as the same could be estimated at the time of making such grant, equal in value to the seventh part of the land so granted: And it was thereby further enacted, that all and every the rents, profits or emoluments which might at any time arise from such lands so allotted and appropriated as aforesaid, should be applicable solely to the maintenance and support of a Protestant clergy within the province in which the same should be situated, and to no other use or purpose whatever: And whereas, in pursuance of the said Statute divers tracts of land within this province have been allotted and appropriated for the support and maintenance of the Protestant clergy within the same: And whereas by certain letters patent under the great seal of this province, bearing date the day of _____ in the year _____ his said late Majesty King George the Third, did constitute (A. B. and C. D.) and their successors, to be a body corporate:

And whereas the said corporation have, in pursuance of the powers so vested in them as aforesaid, demised various parts of the said clergy reserves within this province to divers persons for terms of years by leases, in the name and under the seal of the said corporation, in which leases divers sums have been reserved and made payable as and by way of rent: And whereas, by a certain Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the 7th and 8th years of the reign of his late Majesty King George the Fourth, intituled, "An Act to authorize the Sale of a part of the Clergy Reserves in the

Provinces of Upper and Lower Canada," it is enacted, "That it shall and may be lawful for the Governor and Lieutenant-governor, or Officer administering the Government of the said provinces, or either of them, with the consent of the Executive Council appointed within such provinces for the affairs thereof, in pursuance of any instructions which may be issued to such Governor, Lieutenant-governor or other Officer as aforesaid, by His Majesty, through one of His Principal Secretaries of State, to sell, alienate and convey in fee-simple, or for any less estate or interest, a part of the said clergy reserves in each of the said provinces (not exceeding in either province one-fourth of the reserves within such provinces,) upon, under and subject to such conditions, provisoes and regulations as His Majesty, by any such instructions as aforesaid, shall be pleased to direct and appoint; provided, nevertheless, that the quantity of the said clergy reserves so to be sold as aforesaid, in any one year in either of the said provinces, shall not in the whole exceed 100,000 acres; provided also, that the monies to arise by or to be produced from any such sale or sales shall be paid over to such Officer or Officers of His Majesty's Revenue within the said provinces respectively, as His Majesty shall be pleased to appoint to receive the same, and shall by such Officer or Officers be invested in the public funds of the United Kingdom of Great Britain and Ireland, in such manner and form as His Majesty shall from time to time be pleased to direct; provided also, that the dividends and interests accruing from such public funds so to be purchased shall be appropriated, applied and disposed of for the improvement of the remaining part of the said clergy reserves, or otherwise for the purposes for which the said lands were so reserved as aforesaid, and for no other purpose whatsoever, save only so far as it may be necessary to apply the same, or any part thereof, in or towards defraying the expenses of or attendant upon any such sale or sales as aforesaid, and which appropriations shall be so made in such manner, and from and for such special purposes as His Majesty from time to time shall approve and direct." And whereas, in pursuance of the said last-recited Act, the Lieutenant-governor for the time being of this province, with the consent of the Executive Council, hath, in pursuance of instructions for that purpose issued by his late Majesty King George the Fourth, through one of His Principal Secretaries of State, effected sales of divers parts of the said clergy reserves: And whereas by an address to both Houses of the Provincial Legislature, bearing date on the

day of

last, Lieutenant-general Lord Aylmer, Knight Commander of the Most Honourable Military Order of the Bath, did signify to both the Houses of the Provincial Legislature His Majesty's most gracious invitation to consider how the powers given to the Provincial Legislature by the Constitutional Act to vary or repeal that part of its provisions which relates to the lands allotted and appropriated in this province for the support and maintenance of a Protestant clergy could be called into exercise most advantageously for the spiritual and temporal interests of His Majesty's faithful subjects in this province. Now, therefore, be it, and it is hereby enacted, &c. &c. that so much as is hereinbefore recited of the said Act of the British Parliament, so passed as aforesaid in the 31st year of the reign of his said late Majesty King George the Third, shall be and the same is hereby repealed.

And be it further enacted, that from henceforth no grant heretofore made by or on the behalf of His Majesty, or any of His royal predecessors, of any lands situate within this province shall be or be deemed invalid or ineffectual, or be liable to be impeached, vacated or set aside by reason that any such grant did not contain a specification of the lands allotted or appropriated for the support and maintenance of a Protestant clergy, in respect of the lands thereby granted; but every grant of lands within this province heretofore made by or on behalf of His Majesty, or any of His royal predecessors, in which any such specification may have been omitted, shall henceforth be, and shall be deemed and taken from the day of the date thereof, to have been as valid and effectual in the law as though such grant had contained the specification aforesaid.

And be it further enacted, that all the lands heretofore appropriated within this province for the support and maintenance of a Protestant clergy now remaining unsold, shall be and the same are hereby declared to be vested in His Majesty, His heirs and successors, as of his and their original estate, absolutely discharged from all trust for or for the benefit of a Protestant clergy, and of and from all and every the claims and demands of such clergy upon or in respect of the same.

And be it further enacted, that all and every the tenants or tenant of the land so demised as aforesaid by the said corporation shall, and they and each of them are and is hereby required to attorn, and during the remainder of the terms by such respective leases granted, to pay the rents thereby respectively reserved to His Majesty, His heirs and successors, or to such person as shall by His Majesty, His heirs and successors, or by the Lords Commissioners of His Majesty's Treasury for the time being, be appointed to receive the same.

Provided always, and be it further enacted, that nothing herein contained shall take away or affect, or be construed to take away or affect, the right or title of any person or persons in or to any lands which may by any such person or persons be holden or enjoyed, or which any such person or persons may claim to hold or enjoy by virtue of any sale, alienation, conveyance or contract, made, accepted or entered into in pursuance of the above-recited Act of Parliament passed in the 7th & 8th year of his said late Majesty's reign, but that every such sale, alienation or contract shall be as valid and effectual in the law, and shall henceforth have and continue to have the same force, virtue and effect, as if this present Act had not been made.

TO THE KING'S MOST EXCELLENT MAJESTY.

May it please Your Majesty,

WE, Your Majesty's faithful and loyal subjects, the Commons of Lower Canada, assembled in provincial Parliament, deeply impressed with the necessity of the concordance and harmony that ought to prevail between the several branches of the legislature of the province, for promoting the happiness, the welfare and the good government of its inhabitants, have taken into mature consideration the circumstances connected with the constitution and composition of the Legislative Council of this province, as established by the Act of the Parliament of Great Britain, in the 31st year of the reign of your late Royal Father, our august sovereign of blessed memory, have considered it as our duty towards Your Majesty, as the supreme head of the British Empire, and paternal chief of the people who compose it, towards ourselves, as representing one of the most loyal of those people, and towards the general interests of the empire—

Most respectfully to represent,

That the Legislative Council of this province has not at any period of its existence given proofs of that spirit of independence, and community of interests with the inhabitants of the country, which could alone ensure that harmony in the proceedings of the Government, and give in particular to each of its branches that degree of confidence of public opinion, which is requisite to produce that effect.

That it could not be otherwise when it is considered that the original constitution of that body, and its renovation, in proportion as vacancies occurred, has been at the disposal of the Crown, at the recommendation of the Provincial Administrations, most frequently interested in surrounding themselves in that second branch by public functionaries, or by other individuals known to be advocates of the measures of the Executive, and who became thus clothed with a legislative inviolability. No bounds were given to those appointments, and they were thus made in great majority from amongst those who were the least connected with the country, either in point of permanent interest, of services rendered to their fellow citizens, or of the esteem in which they were held. Hence the whole body became isolated from the people, none of the great interests of whom it represents.

That the existence of this evil, which has for a long time formed the subject of the remonstrances of the inhabitants of this country, has induced us to search after a remedy, so that the Provincial Government might be re-constituted upon bases which may at the same time coincide with those imitations of the Metropolitan Government, which it was evidently the intention of its Legislators to introduce in the Canadas, and at the same time present that practical analogy, the results of which were, no doubt, not less their desire to introduce, and without which an apparent imitation in forms alone would only produce a still greater anomaly.

Although we have no hesitation in stating our opinions as to the means of remedying this constitutional defect in our Government, as forming the basis of our humble representations to Your Majesty; and although we do consider that all the interests of the country are fully and equally represented in the third branch of the Legislature, yet those to whom a defective system of Government has given an unconstitutional preponderance, might make a handle of it to cause the expression of our opinion not to be looked upon as that of the population in general, and by the operation of the same system, the representations of interested public functionaries and of privileged persons in the colony might reach Your Majesty's Government, carrying the same weight as those of Representatives freely elected by the whole people. This danger, added to the wide local distance, might cause measures, adopted in the United Kingdom with the best intentions, but without practical and local knowledge, to be discordant with the true interests of the province, and even to hurt those interests in essential points.

We therefore presume humbly to represent, that in case Your Majesty should be convinced of the difficulties that have been exposed, there would be the certain means of preventing them by placing the people of the country in general in a situation to express their opinion, and to recommend proper modifications, through delegates freely and indiscriminately chosen for that purpose by all classes, and out of all classes of the community, so as to be in harmony with the interests of the province and with those of Your Majesty's Government, which cannot be separated from each other. Such a body, constituted in virtue of an Act of Parliament of the United Kingdom, to whom they would have afterwards to make a report of their labours, would, whilst it could be no disparagement to the supreme authority of the empire, be in unison with numerous examples in the free institutions of this continent; with respect to which, it has often been declared, that England desired to leave nothing to be wished for by the inhabitants of these colonies.

A general assembly of that kind would prove to be a faithful interpreter of all the interests of the Colony taken collectively, including those which it was the intention to be caused to be represented by the Legislative Council, and those which that body claim to represent. Those interests would in effect possess therein all their weight, and all their legitimate influence. Unless, indeed, whilst the executive branch of the Colonial Government represents the interests of the Metropolitan State, there ought to be also another constituted branch out of the country, and compounded of elements without any affinity with the varied interests and feelings of those who inhabit it.

In case Your Majesty should not consider it proper at this time to adopt such a measure, we will not take upon ourselves, in stating the result of our deliberations, to determine whether the entire abolition of the present Legislative Council of this province, and the assimilation of its government to that of several of the adjacent colonies, would tend to cause peace and harmony to be re-established in the conduct of affairs. The people of the country, if they had an opportunity of being legally constituted for that purpose, would be the best judges to decide this weighty question. We therefore proceed upon the supposition that an intermediate branch may, in certain cases, produce more maturity in the deliberation and examination of Bills, than if only one body were called upon to assent to them; at the same time, circumstances of rare occurrence might happen, in which the popular representation might, for the moment, contravene the interests of the body of their constituents, and that those interests might be cherished in the second branch, and guarded, until the wishes of the people were more fully expressed, either by more decided representations or by the means of new elections.

The second branch, as actually in existence, is in no way connected, in the majority of its members, with the superior and permanent interests of the country; is not adapted to fulfil that end; and even putting the case, of which as yet there has been no example, that a provincial administration were to send to it a majority of men of opposite principles, the following administration, or perhaps the same, might very soon hasten to recompense the body in such a way as to ensure its approbation of their measures.

The habits, the climate, the newness of the country, the changeability of fortunes, the division of estates, and the laws which facilitate it, are obstacles to the existence of a permanent aristocracy; so that an hereditary legislative body, with the powers of the House of Lords, would be simply an impossibility in Canada. Landed property being here almost wholly owned in small lots by the mass of the people, it would be impossible to make a choice so as to form a permanent Legislative Council, even supposing it to be a numerous one, of men, who in their own persons, would present an essential portion of the existing means and capital of the country; much more, they could not counterbalance in importance, and in wealth, any one single county of the province; and even supposing that such a body could be collected, the above-mentioned circumstances would very soon bring it into decay. In fact, several persons heretofore called to the Legislative Council, and who we may reckon then possessed a large and permanent interest in the country, have since found themselves entirely destitute of fortune.

As to the idea of perforce creating an aristocracy through the medium of law, either by endeavouring to establish, upon a system of *substitutions* (entails), or otherwise, a state of things which the moral and physical circumstances in which the country is placed forbids, or by making provision out of the public funds for legislators for life, and without responsibility, it is one that is so contradictory to the known ideas of the constitution of England, as a practical model to go by, that your faithful and loyal subjects who now most respectfully address Your Majesty, do not think it necessary to dwell upon it.

A pecuniary qualification required in the persons called to the Council, if the choice of them be left to the Executive, would not probably produce any perceptible change in the composition of the body, with relation to the nature of the various other portions of our colonial institutions. The appointments must, in that case, necessarily be made upon the recommendations of governors, who, being only transitorily in the country, and not having in their power to become properly acquainted with the inhabitants of the country until after a long residence, most frequently have recourse to irresponsible advisers in the colony. The persons who are qualified being much fewer in number than those who would have to be chosen, the result would be, that the worst would be chosen of those, and that the supposed qualification would only serve to legitimate the abuse, and to render its disappearance more difficult. Then, although each of those who were called to the Legislative Council might be capable of having a seat there, the majority would collectively have been chosen in an exclusive sense, and from among such as had the fewest relations of interest and feeling with the people. We should see, as we have in times past, this body, far from being attached to the country and making part of it, representing only favouritism, monopolies and privileges; and through its unconstitutional influence upon the march of public affairs, perpetuating that tendency of the men in power in the province to oppose themselves to every measure demanded by the people, and creating and maintaining a separate interest, and feelings of distrust, and even hostility, in the minority, instead of labouring in conjunction with the House of Assembly to unite all the inhabitants of the country by means of an uniformity of views and institutions, possessing the same confidence in Your Majesty's Government. The abuse here pointed out is, as we humbly conceive, sufficiently exemplified in the present composition of the Legislative Council; the appointments made in the last few years having only in a small number a relation with the mass of the people generally, whilst the majority has been such as we have supposed it would continue to be along with a pecuniary qualification.

There only remains, may it please Your most Gracious Majesty, the principle of election to rest upon, as being capable in practice of presenting an analogy with the second branch of the Legislature of the United Kingdom.

We entertain no doubt of the result of the adoption of this principle, if the election depended upon a numerous body of electors, composed of the best ingredients, and the best interests of the colony; and if the choice were confined to persons possessed of a certain easy degree of fortune, without, however, raising that qualification so high that such choice could only be made in any case but out of a small number of eligible persons.

The best effects might be expected from a legislative body constituted upon those bases, if, whilst its principle of action was found in the interests of Your Majesty's subjects in this province as a general and common motive, it found itself, in its formation and its proceedings, independent of the popular assembly. It would undoubtedly be thus with the above qualifications, and with a different mode of renewal, so as to give more permanence to the body that is now in question.

It is upon these several considerations that we most respectfully submit the following details:

That an elective Legislative Council be established, chosen by land-holders, having net annual income of 10*l.* in the country, and 20*l.* in cities; and who have been residents for at least one year within the circle where the election takes place.

The eligibility to be restricted to the subjects of Your Majesty having attained the age of at least 30 years, residents in the province, and having resided therein at least 15 years, and possessing an annual freehold income arising from property situated within the province, of at least 100*l.* for those elected for the country, and of at least 200*l.* for those for the cities of Quebec and Montreal.

The duration of the body to be limited to six years; the renewal to be made by one-sixth part every year; it being to be determined during the first five years by lot, which of the members chosen at the general election shall have to retire. When there shall happen to be any vacancies, those who succeed them to be members only for the period which would have remained to their predecessors.

The number of the members to be equal to that of the counties, cities and divisions thereof, or other circles, sending members to the House of Assembly, with the exception of boroughs, whose population does not amount to 2,000 souls, who would only have to vote in the counties of which they make part; so that the number of councillors would be nearly half of that of the members of the Assembly.

The speaker or chairman of the body to be chosen by the members, subject to the approbation of Your Majesty.

The judges to be ineligible, as well as the clergy.

The members of the present Legislative Council not to belong to the new Council, unless they are elected; yet, nevertheless, should Your Majesty in Your gracious royal intention think proper to retain them therein, they should only be considered as supernumerary members, and would have to justify their qualifications in landed property, and resign their places of profit.

The Legislative Council not to be subject to dissolution.

The members not to accept, otherwise than by Bill, places of profit or honour during good pleasure, excepting those of justice of the peace and in the militia, nor become accountable for public money, nor receive any from the Executive Government, under whatever denomination, without subjecting themselves to re-election.

The individuals who offer themselves as candidates, to make oath as to their qualifications; if the candidates are not present, three electors must make affirmation as to that qualification to the best of their knowledge. The members elected shall, before they take their seats, take the same oath, and shall be bound to renew it at all times, upon order of the body.

When it happens that members are elected at the same time both for the Legislative Council and for the Assembly, they shall make choice of either one or the other of the Houses within a prescribed time.

We cannot close our present humble Address to Your Majesty without expressing how much we should have desired to have received the particular statement of the views of Your Majesty's Government on this important subject, as announced by the Right Hon. Lord Viscount Goderich, Your Majesty's Principal Secretary of State for the Colonies, in his Despatch of the 7th July 1831, addressed to his Excellency the Governor-in-chief of this province, and that the same has not yet been communicated to us, so-as to aid us in our endeavours to remedy an acknowledged and instant evil.

Wherefore we, the faithful subjects of Your Majesty, do most humbly pray, that Your Majesty will be pleased to take these our representations into Your gracious and favourable consideration, and grant such remedy therein as to Your Majesty in Your wisdom may seem proper.

And as well from inclination as from a sense of duty, we shall not fail ever to pray for Your Majesty's sacred person.

House of Assembly, Quebec, }
Wednesday, 20 March 1833. }

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

TO THE KING'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign,

WE, Your Majesty's dutiful and loyal subjects, the Legislative Council of the Province of Lower Canada in Provincial Parliament assembled, having had under our serious consideration the dangerous and unconstitutional proceedings adopted by the Assembly, are humbled by a sense of duty to Your Majesty and Your Majesty's faithful Canadian people, humbly to approach Your Majesty's throne with a representation of the alarming posture

of the affairs of this province, and our earnest supplication for immediate and effectual relief.

From the enviable state of peace and prosperity to which we had attained under the constitution bestowed upon us by Your Majesty's Royal Father and the Imperial Parliament, we are approaching to a state of anarchy and confusion. Unceasing attempts are made to destroy the confidence which has hitherto subsisted between the subjects of Your Majesty of different origin and language; the interests of agriculture and commerce, and the wants of the people, are neglected for the advancement of the cabals of party. Your Majesty's representative is falsely charged with partiality and injustice, in the exercise of the powers confided to him. Your Majesty's officers, both civil and military, are deliberately libelled as a combined faction, actuated by interest alone to struggle for the support of a corrupt Government, adverse to the rights and wishes of the people; and this unmerited abuse, we add with reluctance, has for years past been as frequent within the walls of the Assembly as without. Nor can it be doubted that this system has been adopted with a wicked intention to degrade the local authorities in the eyes of the people, and thereby ultimately to render them powerless and inefficient for the support of Your Majesty's Government in this province.

Every thing indicates a continuance, if not an increase, of the evils which we have briefly enumerated; for while Your Majesty's courts of law are accused and defamed, a competent tribunal within the colony, to which they might appeal for trial and vindication, is refused, whereby a timid instead of a fearless and independent exercise of their functions is to be apprehended: and, with a view to the completion of its designs, the Assembly has ventured on the daring step of addressing Your Majesty to render the Legislative Council elective.

The crisis at which we have arrived is pregnant with consequences of the deepest interest to the happiness and welfare of Your Majesty's subjects in this province; and at such a moment it would be criminal in the Legislative Council to withhold from Your Majesty the frank and candid avowal of its sentiments.

The efforts of the Assembly have been obviously directed, for several years past, to the attainment of power and influence at the expense of the Crown, and in direct violation of the constitutional rights and privileges of the Legislative Council. In illustration of this, we respectfully advert to the persevering endeavours of that House to obtain the entire control and disposal of all the provincial revenues and income, refusing, at the same time, to make any adequate permanent provision for the expenses of the civil government, and to provide for the independence of the judiciary; to the conditions and restrictions annexed to the votes of certain sums contained in the Bill of Supply sent up during the present session, which strike at the existence of Your Majesty's prerogative to appoint to all offices of honour or profit in the colony; to the claim advanced by the Assembly to preserve this extensive and important part of Your Majesty's dominions (in which there is room for millions of inhabitants) as a colony, to be settled only by Canadians of French origin and descent, contrary to the just and manifest rights of Your Majesty's natural-born subjects; and, lastly, in the attempt to induce Your Majesty to adopt a measure which would destroy the equilibrium of the constitution, by substituting an Elective Council for the intermediate branch established by law. In reference to the pretension last noticed, we humbly entreat Your Majesty's attention to the undeniable fact, that in proportion as Your Majesty has graciously been pleased to increase the constitutional weight and efficiency of the Legislative Council, by the addition of members unconnected with the local administration, and largely taken from the Assembly itself, the efforts of that House for its entire abolition have become more and more violent and daring.

That the constitution of government established in this province, under the Act passed in the 31st year of the reign of his late Majesty King George the Third, c. 31, has been efficacious in promoting the welfare and happiness of the inhabitants thereof, and in confirming their attachment to the British throne, are facts powerfully attested by the peaceable submission of the people to the laws, and the readiness with which they have on all occasions defended the province against foreign aggression, as well as by the petitions laid at the foot of the throne in the years 1814 and 1828; and the addresses, at those periods, of the Assembly itself, in which they entreated his late Majesty and the Imperial Parliament, "to maintain the inhabitants of Canada in the full enjoyment of the constitution as established by law, without any change whatsoever."

It was in the year 1831, after the general election for the Assembly now in session, and when some grounds of complaint against the local administration were in course of being redressed by the interposition of the Imperial Parliament, that a desire for a change in the constitution was first openly avowed in that body; and it is matter of astonishment, that a violent and reckless party in that House should be able to induce a majority of its members into an attempt to destroy a form of government, under which Your Majesty's Canadian people have enjoyed a state of peace, security and contentment scarcely exceeded in any part of the world, and against which no considerable portion of the people have yet formally complained.

While, therefore, the Legislative Council desire not to conceal from Your Majesty the actual state of the province, they are far from believing that the great body of the people yet participate in the views and wishes of the majority of the Assembly; but in a community in which education has made so little progress, even the well-disposed, though happy and contented, are too liable to be misled by the factious and designing.

The constitution enables Your Majesty to uphold an independent branch of the legislature by a judicious selection of the members chosen to compose it, and we venture, with all humility, to state to Your Majesty, that a branch so chosen is essential to maintain Your Royal prerogative, to maintain the connexions which happily subsist between this colony and the mother country, and to give security to a numerous class of Your Majesty's subjects of British origin, now numbering about 150,000 souls scattered over the province, whose interests cannot be adequately represented in the Assembly, seven-eighths of the members whereof are of French origin, and speak the French language.

It is under the circumstances above described that the Assembly have proposed to Your Majesty to abolish this House, and to substitute in its place a council, to be elected by proprietors of estates of 10*l.* annual value; a measure well conceived to further the desired object of obtaining a legislative body, in all respects the counterpart of the Assembly, inasmuch as that would virtually embrace the whole constituency of the country.

Having maturely considered, we trust without improper bias, the nature of the alteration in the constitution proposed by the Assembly; we entreat Your Majesty duly to weigh the opinion which we now humbly submit, as to the fatal consequence which may be expected to result from such a change. Its more immediate effects would be to render all offices in the colony elective; to unsettle the minds of Your Majesty's subjects of British origin, respecting the security of life and property which they now enjoy, to prevent their further increase through emigration, and to sever the ties which bind the colony to the parent State; while its ultimate result would bring into collision the people of Upper and Lower Canada, and drench the country with blood; for it is our solemn conviction, that the inhabitants of Upper Canada will never quietly permit the interposition of a French republic between that province and the ocean.

When the leaders of the Assembly in the year 1831 first openly declared themselves against the constitution, they found means of inducing a member of this House to proceed to England, for the sole avowed purpose of supporting the petitions of the Assembly to Your Majesty, and they have since, from year to year, procured the prolongation of his mission. We humbly submit that representations made by this gentleman to Your Majesty's Government, ought to be received with extreme caution, because the Legislative Council have never assented to his mission; have never had official communication of any instructions given to him, or of despatches received from him, and he has committed a gross breach of the constitutional rights of this House, by receiving a large annual salary from the Assembly, knowing the same to be without sanction of law, paid to him out of the public money, advanced upon the single votes of that House, for defraying its ordinary contingent expenses.

Under all these circumstances, the Legislative Council earnestly beseech Your Majesty, to take into your most serious consideration the present alarming posture of affairs in Your Majesty's once happy province of Lower Canada, to be graciously pleased to adopt such measures as in Your wisdom will tend to tranquillize the mind, to maintain the constitutional rights and liberties of all Your Majesty's subjects therein; and thus guarantee the permanence of the existing connexion between the colony and the parent State.

Signed by Order,

(signed) *J. Sewell*, Speaker.

Copy of a DESPATCH from Mr. Secretary *Stanley* to Lord *Alymer*;
dated Downing-street, 6 June 1833.

My Lord,

I HAVE the honour to acknowledge the receipt of your despatches of the numbers and dates noted in the margin, relative to the expulsion of Mr. Mondelet from the House of Assembly, and to the grounds on which you had declined to issue a new writ.

I have likewise to acknowledge your despatches, No. 30, of the 29th March last, reporting the rejection by the Legislative Council of the Supply Bill sent up by the House of Assembly; Nos. 29, of the 27th March, and 33, of the 5th April, transmitting Addresses to the King from both Houses of the Legislature, and your despatch, marked "separate," of the 31st March 1833, enclosing an Address to His Majesty from certain inhabitants of Montreal, respecting the alteration of the constitution of Lower Canada as established by 31 Geo. 3, c. 31.

I propose to refer to all these topics in a single despatch, because, though in themselves apparently unconnected with each other, they bear a relation unhappily too perceptible to those who have studied the political discussions which have so long distracted the councils of Lower Canada.

I am, in the first place, to signify to you my entire approbation of your Lordship's conduct in declining to affix your name to the new writ for the election of a Member for the county of Montreal, in the room of Mr. Mondelet, whose seat had been declared vacant by a vote of the House of Assembly. Were I disposed to qualify in any measure this approbation, it would be to express my regret that an extreme though not unnatural degree of caution, should have led you to acquaint the House that you had referred the matter to the consideration of the Secretary of State, and that, sanctioned by the opinions and advice of those whom you had very properly consulted, you should not at once have taken upon yourself to announce the decision which your knowledge of the British constitution had led you so correctly to form. It is unnecessary for me to comment upon the

No. 100, Nov. 29,
1832.

No. 105, Dec. 27,
1832.

No. 27, March 20,
1833.

tone and language adopted by the House of Assembly, in which they presume to dictate to the King's representative the occasion and the period at which, in their opinion, he ought to exercise the Royal prerogative of dissolution, and hold forth the menace of ceasing to communicate with him "until he should have made reparation for a breach of their rights and privileges." My present purpose is to express the sentiments of the King's Government, as to the assumption by the House of Assembly of "rights and privileges" wholly repugnant to the practice and principle of Parliament, and incompatible with the maintenance of the British constitution. Such an assumption I have no hesitation in declaring the claim, on the part of the Assembly, to vacate the seat of Mr. Mondelet, in pursuance of a forced construction of a resolution of their own House, notwithstanding the "surprise," which they express "that your Excellency should not have known that your signature to a writ of election was simply and purely a ministerial act."

That your Lordship would not, except upon weighty considerations, desire to limit the authority of the House of Assembly over its own members, is sufficiently apparent, from your not having hesitated to sign the warrant for a new writ upon the expulsion of Mr. Christie; a proceeding upon the merits of which I am not called upon and feel no desire to express my opinion. Assuming that the powers of the House of Assembly are in all respects not only analogous, but equal to those of the British House of Commons, I deem it not only difficult, but unsafe, to attempt to prescribe the bounds within which such a body should exercise the right of restraining and punishing their own members; and to the discretion of the House of Commons it has been well and wisely left, by the practice of the constitution, to decide upon the degree of criminality in a member which should call for the highest degree of punishment in their power to inflict, the disgrace of expulsion, as unworthy to belong to their body. But as the prudence of the House of Commons has rarely, if ever, permitted them to carry to a faulty extreme this power, thus wisely left indefinite, so their knowledge of the British constitution and of what was due to the privileges of the other branches of the Legislature, has preserved them from the fatal error of arrogating to themselves the monstrous right of giving to their resolutions the force of law. The House of Commons undoubtedly possesses and exercises every day the right of interpreting and expounding, by resolutions of its own, the laws which regulate the rights of candidates and electors in certain cases and according to certain forms, which themselves are regulated, not by resolutions, but by Act of Parliament; but it neither possesses, nor has ever claimed to possess, any right, authority or power, without the consent of the Crown and the House of Peers, to make laws relating either to the qualification or disqualification of electors or of candidates, or rather to effect their objects by resolutions only. Examples are numerous, and of recent date, in which restrictions analogous to those sought for by the House of Assembly, have been imposed by the authority of Parliament; but they have always been by Bill, and never have been even sought to be obtained by resolutions of the House of Commons. That so extravagant an assumption should be made by a body like the House of Commons, well acquainted with its own rights, and equally acquainted with the rights of others, is not to be contemplated; but I believe I am warranted in saying that if the Speaker, in the exercise of his ministerial capacity, should be called upon to issue a warrant for a new election, in consequence of a member being unseated or an illegal resolution, the duty would devolve upon the Lord Chancellor to take notice of the cause of vacancy as recited in the warrant, and, on the ground of illegality, to refuse to affix the great seal to the new writ, as your Lordship has in this case very properly declined to give your sanction to the issuing of the warrant. The House of Assembly, indeed, appear, from the course which they have adopted on former occasions, to have considered the right which they claimed to be at least doubtful; and although I have assumed throughout this despatch, that the case of Mr. Mondelet fell strictly within the terms of their resolution, I cannot but say that the instance, so far as I collect the case from the documents furnished to me by your Lordship, appears to have been most unfortunately selected for the first experiment of their right.

Your Lordship will understand me as separating altogether the justice of the general principle, that persons accepting offices of emolument under the Crown should be subjected to the judgment of their constituents, from the claim set up by the Assembly to effect this object by their own resolution; and while I am happy to express my complete approbation of your Lordship's refusal to sanction a claim so subversive of the balance of the constitution, and ultimately so dangerous to the liberty of the subject, I shall defer until a future occasion the expression of any opinion as to the propriety of assenting to any Act which may be passed by the Legislature of Lower Canada for carrying into effect the object of subjecting members accepting offices under the Crown to a new election.

It is with great regret that I perceive, in the terms of the Supply Bill recently sent up by the House of Assembly, and rejected by the Legislative Council, a similar manifestation on the part of the former body of a desire to monopolize to themselves the whole power and authority of the government. The conditions annexed to the grant of many of the items in the Supply Bill, are altogether unprecedented in point of form, and without any precedent in substance. Conditional grants are not infrequent in Acts of Assembly, but the terms in which money is voted, have been invariably embodied in distinct and substantive enactments, instead of being attached in the shape of notes to successive items, as in the present case. This distinction is not without real importance, because, by adhering to the more usual form, the Legislature would have admitted, or rather invited, under each head a distinct consideration, first in Committee of Supply, and then in successive stages of the Bill, of the grant itself, and of the condition to which it was subjected.

In so far as the Supply Bill imposed upon the different grants it contained, conditions of a pecuniary nature, or conditions for the performance of specific services in return for the sums voted, they are not unconstitutional in substance. It is a matter of constant occurrence in the colonies, and as I conceive in Parliament, that in voting money for the public service, stipulations of this nature should be made for the public benefit. On the other hand, the various conditions which require that certain officers should not be members of the Executive or Legislative Councils, must be considered (in Parliamentary language) tacks, the effect of which is to introduce changes in the law, by the decision of a single branch of the Legislature. To tack to a Bill of Supply demanded by the exigencies of the State, a clause or enactment not properly connected with it, in order to compel the Crown, or the Upper House, to make their choice between the loss of the supply, with all the consequent mischiefs on the one hand, or the adoption of a measure which they disapprove on the other, is a practice which, though formerly attempted in this kingdom, has been long since discontinued, as directly tending to wrest from the King and the Peers their share in the general legislation of Parliament.

I cannot therefore but think, that even had the consideration of the very serious inconvenience which will be sustained from the loss of the Supply Bill, induced the Legislative Council to sanction the Bill of this year in the form in which it left the House of Assembly, His Majesty could not have been advised to sanction the enactment. It remains, therefore, to consider in which way, and to what extent, the inconvenience can be mitigated by the application, to the more pressing exigencies of the service, of the revenues within the province at His Majesty's disposal. Having referred to the law officers of the Crown your Lordship's despatch of 29th March last, No. 30, with reference to the absolute or conditional surrender by the 1 & 2 Will. 4, c. 23, of the revenues raised under the 14 Geo. 3, c. 28, I have to acquaint you, that those officers are of opinion, that the effect of the Act 1 & 2 Will. 4, c. 23, is at once, from the time of passing the Act, and without qualification, to place at the disposal of the Legislature of the province the appropriation of those revenues which the previous Act 14 Geo. 3, had raised and placed at the disposal of the Government, through the medium of the Treasury. Any application, therefore, by the Treasury, of those revenues which have accrued due since the passing of the 1 & 2 Will. 4, appears to be no longer in the power of the Lords of Treasury or any other of the officers of the Crown; and if it should be thought desirable to resort again to the provisions of the Act of 14 Geo. 3, it cannot be legally done without a repeal of the Act 1 & 2 Will. 4, c. 23.

The fund, therefore, which remains at the disposal of the Crown, is limited to that levied under

Provincial Act, 35 Geo. 3 - - - - -	£. 5,000
Ditto - - - 41 Geo. 3 - - - - -	5,600
Net produce of casual and Territorial Revenue, including Land and Timber Fund - - - - -	4,500
Which may probably be considered to amount to - - - - -	<u>£. 15,100</u>

These sums your Lordship will apply, as far as they will meet the charge, to the payment of the officers enumerated below :

No. 1. Governor - - - - -	£. 4,500
Provincial secretary - - - - -	400
Governor's ditto - - - - -	500
Attorney General - - - - -	300
Solicitor General - - - - -	200
	<u>5,900</u>
No. 2. Chief Justice - - - - -	1,500
Ditto - - Montreal - - - - -	1,200
6 Puisne Judges, 900 <i>l.</i> each - - - - -	5,400
3 Provincial Judges - - - - -	1,600
Judge Vice Admiralty Court - - - - -	200
	<u>9,900</u>
	<u>£. 15,800</u>

Or if your Lordship should deem it more expedient to appropriate for this object only such an amount as shall provide for the salaries of those officers until the period when the Provincial Legislature shall again re-assemble, and have an opportunity of reconsidering the case, your Lordship is authorized to appropriate the balance remaining after the payment *in part* of those officers whose names have been enumerated in the list already given, to such other branches of the public service as might appear to be most inconvenienced by any delay of payment. I am by no means insensible to the extreme inconvenience which will be felt in consequence of no provision being made for other objects of great importance to the internal affairs of the colony; but I feel it to be my duty, notwithstanding the strong inducements which would suggest a compliance with your Lordship's recommendation, to withhold my sanction from any issue out of the military chest, for services unprovided for by the Local Legislature. The responsibility of the absence of such provision must be left upon those who have incurred it by their unreasonable pretensions. I cannot but feel the greater surprise and concern at the course adopted by the Assembly, when I consider the liberal and conciliatory spirit in which, in pecuniary matters, as well as in other matters of alleged grievances, His Majesty's Government have, of

late years, invariably met their complaints. His Majesty has manifested every disposition to throw himself upon the loyalty and attachment of his Canadian subjects. He has directed the fullest explanations to be laid before them with respect to the expenditure of the revenues at his own disposal; and he has displayed a confidence which now, unhappily, appears to have been misplaced, in the just intentions of the House of Assembly, by placing unconditionally, at their own disposal, a large portion of the Crown revenues, on the distinct understanding, and in the entire conviction, that when by this liberal concession all grounds of jealousy should be removed, they would enable His Majesty to place the judges, and the higher officers of the State, in that condition of pecuniary independence upon an annual vote, which is essential to the due administration of justice, and to the true interests of the province. I shall offer no comment upon the spirit in which His Majesty's gracious offer and liberal concessions have been met by the Assembly.

I have received and laid before His Majesty the Address of the Legislative Council. His Majesty receives with satisfaction the expressions of loyalty and attachment to the Constitution which are contained in this Address, and he is readily induced to believe the assurance, that the great body of His Canadian subjects do not participate in the views of those who would be desirous to effect extensive changes in the fundamental institutions of the country; yet His Majesty cannot but wish that in laying at the foot of the Throne the expressions of their own feelings of loyalty and attachment, they had abstained from using, with reference to the other branch of the Legislature, language less temperate in its tone than is consistent with their own dignity, or calculated to maintain or restore a good understanding between the two bodies. More especially His Majesty laments the introduction of any word which should have the appearance of ascribing to a class of His subjects, of one origin, of views at variance with the allegiance which they owe to His Majesty. On all classes alike His Majesty relies for a cheerful obedience to the laws. To all classes he will ever extend his paternal protection; and the Legislative Council may rest assured, that He will not fail to secure to all the constitutional rights and liberties which they enjoy by their participation in British institutions.

I have also laid before the King the Address of the House of Assembly. I cannot pass over this document without observation. The object of this Address is, to pray His Majesty to sanction a National Convention of the people of Canada, for the purpose of superseding the Legislative authorities, and taking into their consideration, in which of two modes the constitution of Canada shall be altogether destroyed: whether by the introduction of the elective principle, or by the entire abolition of the Legislative Council. On the mode proposed, His Majesty is willing to put no harsher construction than that of extreme inconsiderateness. To the object sought to be obtained, His Majesty can never be advised to consent, as deeming it inconsistent with the very existence of monarchical institutions: to every measure which may secure the independence and raise the character of the Legislative Council, His Majesty will be most happy to assent. In 1828, a Committee of the House of Commons carefully investigated the grievances alleged by the inhabitants of the Canadas, and among them, the constitution of the Legislative Council was a matter of serious deliberation. The Committee reported, that one of the most important subjects to which their inquiries had been directed, was the state of the Legislative Councils in both the Canadas, and the manner in which those Assemblies had answered the purposes for which they were instituted. The Committee strongly recommended, that a more independent character should be given to those bodies, that the majority of their members should not consist of persons holding offices at the pleasure of the Crown, and that any other measures that might tend to connect more intimately that branch of the constitution with the interests of the colonies, would be attended with the greatest advantage. With respect to the Judges, with the exception only of the Chief Justice, whose presence on particular occasions might be necessary, the Committee entertained no doubt that they had better not be involved in the political business of the House. An examination of the constitution of the body at that period and at the present, will sufficiently show in what spirit His Majesty's Government have laboured to accomplish the wishes of Parliament. The House of Assembly state correctly, that it has often been avowed that the people of Canada should see nothing in the institutions of neighbouring countries to which they should look with envy. I have yet to learn that His Majesty's subjects in Canada entertain such sentiments at present, or that they desire to copy in a monarchical government all the institutions of a republic, or to have the mockery of an executive absolutely dependent for its existence upon a popular body usurping the whole authority of the State. I am not prepared to advise His Majesty to recommend to Parliament so serious a step as the repeal of the Act of 1791, whereby the institutions of this country were conferred separately upon the province of Upper and Lower Canada. Serious as are the difficulties by which your Lordship's Administration is beset, they are yet not such as to induce me to despair of the practical working of the British Constitution; but should events unhappily force upon Parliament the exercise of its supreme authority to compose the internal dissensions of the colonies, it would be my object and my duty, as a servant of the Crown, to submit to Parliament such modifications of the charter of the Canadas as should tend, not to the introduction of institutions inconsistent with monarchical government, but to the maintaining and strengthening the connexion with the mother country, by a close adherence to the spirit of the British Constitution, and by preserving in their proper place, and within their due limits, the mutual rights and privileges of all His Majesty's subjects.

I have, &c.

(signed) E. G. Stanley.