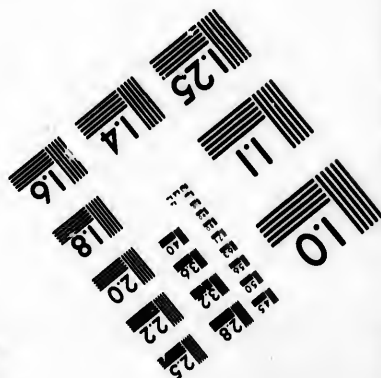
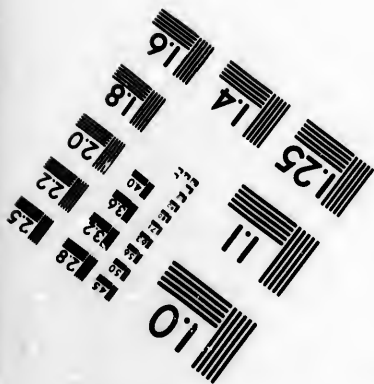
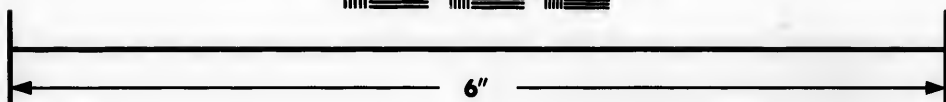
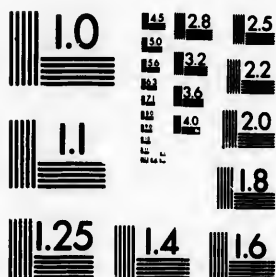


**IMAGE EVALUATION  
TEST TARGET (MT-3)**



**Photographic  
Sciences  
Corporation**

23 WEST MAIN STREET  
WEBSTER, N.Y. 14580  
(716) 872-4503

**CIHM/ICMH  
Microfiche  
Series.**

**CIHM/ICMH  
Collection de  
microfiches.**



**Canadian Institute for Historical Microreproductions / Institut canadien de microreproductions historiques**

**© 1985**

Technical and Bibliographic Notes/Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming, are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured covers/  
Couverture de couleur
- Covers damaged/  
Couverture endommagée
- Covers restored and/or laminated/  
Couverture restaurée et/ou pelliculée
- Cover title missing/  
Le titre de couverture manque
- Coloured maps/  
Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black)/  
Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations/  
Planches et/ou illustrations en couleur
- Bound with other material/  
Relié avec d'autres documents
- Tight binding may cause shadows or distortion  
along interior margin/  
La reliure serrée peut causer de l'ombre ou de la  
distorsion le long de la marge intérieure
- Blank leaves added during restoration may  
appear within the text. Whenever possible, these  
have been omitted from filming/  
Il se peut que certaines pages blanches ajoutées  
lors d'une restauration apparaissent dans le texte,  
mais, lorsque cela était possible, ces pages n'ont  
pas été filmées.
- Additional comments:/  
Commentaires supplémentaires:

- Coloured pages/  
Pages de couleur
- Pages damaged/  
Pages endommagées
- Pages restored and/or laminated/  
Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed/  
Pages décolorées, tachetées ou piquées
- Pages detached/  
Pages détachées
- Showthrough/  
Transparence
- Quality of print varies/  
Qualité inégale de l'impression
- Includes supplementary material/  
Comprend du matériel supplémentaire
- Only edition available/  
Seule édition disponible
- Pages wholly or partially obscured by errata  
slips, tissues, etc., have been refilmed to  
ensure the best possible image/  
Les pages totalement ou partiellement  
obscurcies par un feuillet d'errata, une pelure,  
etc., ont été filmées à nouveau de façon à  
obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below/  
Ce document est filmé au taux de réduction indiqué ci-dessous.

10X	14X	18X	22X	26X	30X
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12X	16X	20X	24X	28X	32X

The copy filmed here has been reproduced thanks to the generosity of:

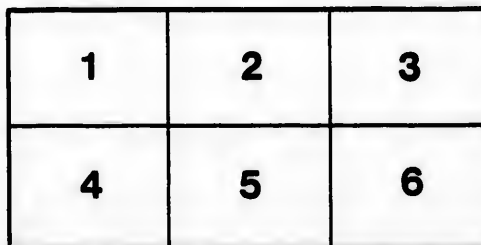
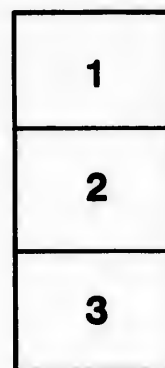
Législature du Québec  
Québec

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

Original copies in printed paper covers are filmed beginning with the front cover and ending on the last page with a printed or illustrated impression, or the back cover when appropriate. All other original copies are filmed beginning on the first page with a printed or illustrated impression, and ending on the last page with a printed or illustrated impression.

The last recorded frame on each microfiche shall contain the symbol  $\rightarrow$  (meaning "CONTINUED"), or the symbol  $\nabla$  (meaning "END"), whichever applies.

Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



L'exemplaire filmé fut reproduit grâce à la générosité de:

Législature du Québec  
Québec

Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Les exemplaires originaux dont la couverture en papier est imprimée sont filmés en commençant par le premier plat et en terminant soit par la dernière page qui comporte une empreinte d'impression ou d'illustration, soit par le second plat, selon le cas. Tous les autres exemplaires originaux sont filmés en commençant par la première page qui comporte une empreinte d'impression ou d'illustration et en terminant par la dernière page qui comporte une telle empreinte.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole  $\rightarrow$  signifie "A SUIVRE", le symbole  $\nabla$  signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit en un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.

F. Ch

308

15 #

# MEMOIRS

OF

THE ADMINISTRATION OF THE GOVERNMENT

OF

LOWER CANADA,

BY

THE RIGHT HONORABLE

THE EARL OF DALHOUSIE, G. C. B.

*(from Robert Christie)*

---

COMPREHENDING A PERIOD OF EIGHT YEARS, viz:—  
FROM JUNE, 1820 TILL SEPTEMBER, 1828.

---

SEMPER HONOS, NOMENQUE TUUM, LAUDESQUE MANEBUNT.

---

QUEBEC:

PRINTED BY THOMAS CARY & CO.

FREEMASONS' HALL.

---

1829.

61  
B.C.

1829

2

DL

CCDD

## NOTICE.

---

**T**HE favorable reception given by the public to the Memoirs heretofore published of the Administrations of the Government of this Province, from that of Sir JAMES HENRY CRAIG, inclusively, has induced the Author to hazard a continuance of them.

He commits these to the public with a belief that they will be found accurate, and that if any errors (of which he is not conscious) are detected, they will be found unessential. He has not entered into details as minutely, as might in some instances have been done, but enough he apprehends, is said on every matter of any importance to enable the Reader to understand and judge of it. He has endeavoured to do justice to the undertaking. How far he has succeeded it is for the reader to determine. If the Author be allowed to express his own apprehension, it is, that he has fallen short of doing justice to the upright and firm administration of the Nobleman just retired, with signal proofs of the approbation of his King and Country, from this Government, to a more splendid and important command.

QUEBEC, 1st February, 1829.

fa  
st  
av  
m  
de  
m  
ve  
he  
di  
je  
m  
ev  
ch  
be  
th  
m

up  
str  
te  
of  
hi  
.  
on



---

ADMINISTRATION  
OF THE  
EARL OF DALHOUSIE.

---

CHAPTER XIII.

**T**HE EARL OF DALHOUSIE entered upon the government of Lower-Canada under circumstances rather favourable. Sir Peregrine Maitland had left things in a state somewhat better than he had found them, having avoided all measures of a tendency to excite the public mind on those matters which had been in discussion under the preceding administrations. His Lordship's administration of the government in Nova Scotia had been very popular, and hopes were entertained on all sides that he would prove not less successful in this Province. The dissolution consequent upon the death of His late Majesty George the Third, afforded time for some abatement of the warmth which had arisen out of recent events, and gave him the advantage of a new Assembly chosen by a public with which, whatever might have been the matters in agitation before his assumption of the Government, his Lordship, personally had no kind of misunderstanding.

Shortly after his arrival at Quebec,\* he visited the upper Districts, to which however he was not a stranger, having the preceding summer while yet Lieutenant governor of Nova Scotia, paid a visit to the Duke of Richmond, then Governor in Chief, and made with him a tour through the Canadas.

\* His Lordship arrived at Quebec in the Newcastle Frigate from Halifax on the 18th June, 1820.

CHAP.  
XIII.

1820.  
June 18th.

CHAP.  
XIII.

1820.

No event occurred during the summer, worthy of notice, except the return of Mr. Plessis, the catholic bishop of Quebec, from a voyage to England, whither he had gone the year before, and where, through the introduction of the Duke of Richmond, he had been received with much attention by Lord Bathurst, the colonial minister. This prelate visited also France and Italy during his absence.

The Legisla-  
ture meet.

The Legislature was convened on the 14th December, and Mr. Papineau being again chosen Speaker by the Assembly, was confirmed as such by the Governor in Chief. His Lordship, in his speech on opening the Session, paid a tribute of respect for the revered memory of the late King, and adverted also in the strongest terms of regard to that of his deceased predecessor, the late Duke of Richmond.

“When the British Empire expressed its unfeigned sorrow upon the loss of a Monarch in whom the whole world acknowledged every public and private virtue, I believe,”—said his Lordship—“that no part of his Majesty’s subjects lamented that loss more deeply than you did in Canada.”

“The manly character of the late Duke of Richmond, his liberal mind, his experience in public affairs, his amiable disposition in private life, all qualified him in an eminent degree to fill the high station to which he was appointed; and it is deeply to be regretted that his Grace has been lost to this Province before he had time to render it the services he had contemplated. It is,” said he, “pleasing to me to offer this tribute to the memory of a friend whom I have known and honoured during thirty years.”

He called the attention of the Assembly to the accounts of the general expenditure in the administration of government for the last two years. He informed them that he would lay before them accounts of the expense annually incurred in payment of the salaries and contingencies of the civil officers permanently established for the service and support of His Majesty’s government in the Province, including such occasional payments as were unavoidable under it; and that to this, he would add a statement of the annual product of the

permanent taxes, and hereditary territorial revenue of the Crown. That from these documents formed upon an average of the last six years, the Assembly would perceive that the annual permanent revenue was not equal to the amount of annual permanent charges upon the provincial civil list, by a deficiency of twenty-two thousand pounds; and that he had it in command from His Majesty to say, that having from past experience the fullest confidence in their loyalty, sense of duty, and attachment to the principles of the constitution, His Majesty did not doubt they would make a proper and permanent provision to supply the deficiency, and thereby enable him to sustain the civil government of the Province with honour and with advantage to his subjects.

CHAP.  
XIII.

1820.

Charge	\$45,000
Revenue	23,000
Deficiency	\$22,000

His Lordship also observed, that immediately after his arrival he had made it his duty to visit as much of the country as the regular despatch of business had permitted him to reach, in the course of the last summer;—that although he had derived some local information by so doing, he did not presume to speak to the Legislature with confidence, of the various measures which might be suggested for the improvement of the Province, and therefore should confine himself to those points he considered most immediately important.

Of these, the first was the constitution of the several courts of law in the Province. His Lordship said, that he concurred in all that had been expressed on this subject in a message from the late Duke of Richmond, to both Houses in March, 1819, and he therefore again recommended it to their consideration.

The permanent enactment of the Revenue Laws, or at least for such a period as would give confidence to those whose interests in a great measure depended upon the stability of the commercial regulations, he deemed a subject highly worthy of their attention, convinced as he was, that great advantage would result from it to the Province in general, and in particular to the mercantile classes.

The improvement of the agriculture of the Province and of the roads and interior communications, he considered objects of great moment; and as they had already extended a liberal hand to encourage these, he trusted

CHAP.  
XIII.

1820.

they would continue the support necessary to their success.

He also recommended to early attention, the laws which had recently expired or that were about to expire, and among these, the militia laws. That system of constitutional defence, his Lordship observed, was peculiarly adapted to the state of the Province; and the events of the late war, had shewn how justly the confidence of His Majesty's government might rest upon it in the day of danger:—that the knowledge of what the Canadian militia was capable, taught them also the wisdom of watching over it, of holding it in a state of readiness, complete in formation, and respectable in officers.

The settlement of the waste lands was a subject to which his Lordship thought proper to point their particular attention. He observed that the great tide of emigration to the Province, promised to continue, and that the experience of several years had shewn the want of some measures to regulate and give effect to this growing strength—many of these people arrive, said his Lordship, in poverty and in sickness; many also, with abundant means; but the settlement of both descriptions, is impeded by the want of legislative aid.

In acknowledging the advantages which these Provinces might derive from the acquisition of so many thousands of British subjects, he knew however that Lower Canada possessed in itself an abundant population to settle these waste lands, and the yet unconceded seignorial territories—that he was aware there were strong prejudices to be overcome, and therefore that inducements must be held out to make the people spread more widely, such as the erection of parochial churches, and the laying out of roads of access to the distant woodlands:—that the subject was of difficult and distant accomplishment, but in his idea, of the utmost importance to Canada.

His Lordship, in conclusion, expressed his sense of the great trust His Majesty had been pleased to commit to him, and that it should be the object of his highest ambition to render himself worthy of such distinguished honor:—That it should be his constant study to adminis-

ter the Government according to the Laws, and in equal justice to all classes of His Majesty's subjects. "A stranger among you" (said his Lordship) "I have no partialities—no object but the good of the country.— All my exertions, and all my attempts must however be vain, unless I have the support of the provincial parliament; and it is exactly to the extent of that confidence which shall be placed in me, that I can hope to render myself useful to the country."

His speech on the occasion, although plain and unambiguous, some affected to consider as the reverse. Those Members of the Assembly who maintained that there ought not to be any "civil offices permanently established," nor "annual permanent charges upon the provincial civil list," but that the whole civil expenditure should be annually controlled by this body, would hear of none other, than an *annual* appropriation by *annual* vote for the purpose, and were resolved to be very clear and explicit in their answer to this part of it. The Assembly, which had pretended to the right of *applying* by *items* the revenue already previously appropriated in a permanent manner, as well under Acts of the Imperial Parliament as of the Provincial Legislature, towards the support of the civil government of the Province, totally discountenanced the idea of making a permanent provision of an annual sum of twenty-two thousand pounds sterling to cover the deficiency called for. They maintained that being required to provide for the gross expense of the civil government, all previous appropriations of public monies for this purpose by whatsoever authority, were to be given up and left at the annual disposition of the Assembly, always applicable by it indeed to those purposes only, for which they were already permanently appropriated, but to be applied for these in such *items*, or salaries to the different officers, as the Assembly should think proper annually to appoint and direct.

These pretensions were resisted by the Executive as an attempt to disappropriate the revenue, and dispossess the Crown of its permanent and hereditary funds destined towards the maintenance of the civil government of the Province, pursuant to Act of the Imperial Parliament—as tending to place the Judges and other civil officers of the Government in a state of annual and



But a settled determination in fact already prevailed in the Assembly to appropriate no monies not even for a single year, unless upon these terms. As to the establishment of a permanent revenue in the Province for any purpose whatsoever, they were entirely opposed to it. Revenue Acts of temporary and short duration, and the exhaustion of the public coffers were points deemed essential to success in reducing the Executive to a state of dependence on the Assembly; and these it became fashionable to hold up as patriotic purposes.

CHAP.  
XIII.

1820.

The Assembly by their Address in answer to his Lordship's speech, observed that they should "hold themselves wanting in that sincerity which was due to the frankness of His Excellency's character; in that duty and respect which they owed to their Sovereign by whose command he had submitted the proposal of an additional and permanent appropriation, which with that already made, would exceed half the usual amount of the whole provincial revenue, were they not even at that early stage of the proceeding, most humbly to represent that the declared sense of their constituents, the duty which they owed to their posterity, and to that constitution of government which the wisdom and beneficence of the Mother Country had conferred on this Province, together with the variable and uncertain future amount of that revenue which, as well as their resources depended on a trade at that moment peculiarly uncertain, would preclude them from making any other than an annual appropriation for the general expenditure of the Province, conformably to the recommendation of His Majesty's Government as signified to the Parliament of this Province by His Excellency Sir John Coape Sherbrooke, late Governor in Chief, in his speech delivered from the throne at the opening of the Session on the 7th January, 1818.\*

Answer to  
the speech.

\* It is astonishing with what assurance, and disregard for fact, and the plain meaning of words, the Assembly here for the first time distorted, and afterwards persevered in the distortion of Sir John Coape Sherbrooke's language on that occasion. Sir John C. Sherbrooke in calling upon the Assembly in His Majesty's name pursuant to the voluntary offer of the Commons in 1810, to provide for the expenses of the Civil Government did not, as here pretended, require them to do it by an "annual appropriation" but to provide for the "ordinary annual expenditure" and this in "a constitutional way" meaning undoubtedly in that constitutional way sanctioned by usage of the Imperial Parliament, that is to say, by a vote fixing once for all, the amount at which the annual expenditure towards the support of the Civil Government should, during the then present reign, be limited, with an appropriation of permanent funds accordingly to cover the annual expense as so limited, reserving for annual discussion, all contingent

CHAP.  
XIII.

1820.

They prayed "His Excellency would accept their humble assurance of the unalterable disposition of that House to vote annually in a constitutional manner according to that recommendation, and to the voluntary offer of the Assembly in the year 1810 all the necessary expenses of His Majesty's civil government in this colony, in the honorable and permanent support of which, none were more deeply and sincerely interested, than His Majesty's loyal subjects whom they had the honor to represent; or more anxious to merit the continuance of the confidence which His Majesty was graciously pleased to express of their loyalty and duty."

To that part of the speech recommending a permanent enactment of the revenue laws, the House observed that the "establishment of permanent taxes being impracticable, they would carefully investigate the effects which might result to the Province, and to the commercial classes in particular, from the duration of the revenue laws, and that they would endeavor to adopt every means in their power to inspire confidence into all His Majesty's subjects, and especially the mercantile classes, by applying to this important subject all that consideration which it merited."

In concluding they observed, that in His Excellency's declaration, "that it would be his constant study to administer the government according to the laws, in equal justice to all classes of His Majesty's subjects, they recognised the language and sentiments of our gracious Sovereign whom he had the honor to represent," and assured him, "that in the course which His Excellency had thus adopted as the general rule of his administration, he might rely on the constant support of that House."

The other topics in the Governor's speech were answered in a way affording hope for a fair understanding between the Assembly and the Executive.

and extraordinary charges incidental to the administration of the Government and other objects of public improvement. The present call for a "permanent provision" was stigmatized as a piece of inconsistency to the Executive, inasmuch as the original request was, according to the Assembly, for no more than an "annual appropriation," but the other party, in turn, reproached these with a gross and flagrant perversion of language, in order to excuse their own prevarication and want of faith, and to impose upon and mislead others.



The estimate of the civil list divided into classes was laid before the Assembly on the 27th December. The first class consisted of the Governor in Chief and officers immediately attached to him. The second, of the legislature and the officers appertaining thereto. The third, of the Executive Council, and officers immediately appertaining to it. The fourth, of the judges and officers concerned in the administration of justice. The fifth of the Secretary and Registrar of the Province and his allowance for office rent; the Receiver General and allowance for a clerk; the Surveyor General and allowance for his clerks; the Surveyor of woods; the auditor of Land Patents; the Inspector of Provincial accounts and allowance for a clerk; the agent for the Province residing in London; the French translator to government; the Naval officer; the Grand Voyers; the Inspector of roads above the *Long Sault* on the Ottawa; the Inspectors for preventing accidents by fire, for Quebec, Montreal and Three Rivers; the Clerk of the markets at Quebec; the Clerk of the Terrars; the Inspector of merchandize at *Coteau du Luc*, and allowance for house rent; the sum of £2000 for Schoolmasters; and certain contingencies for the Secretary of the Province and Surveyor General's department; the sum total required for this class being £6667 13s. 9d. sterling. The sixth consisted altogether of contingencies, relative as well to the legislature, as to the administration of justice, and other departments of government, and different objects of public charge, amounting in all to £5375 sterling. The total of the estimate amounted to £44877-5s. sterling. The charges of the fifth and sixth classes were at a subsequent period, denominated *local*, embracing items part of them fluctuating, and as such liable to annual variation by an annual vote of the legislature, which the Executive thought ought rather to be provided for, out of the unappropriated funds at the disposition of the legislature, than out of the permanent but inadequate fund already appropriated and appertaining to the Crown, towards the support of the civil government of the Province, and which scarcely as yet sufficed, for the permanent salaries chargeable upon it.

The Assembly having entered upon the subject, and discussed the civil expenditure *item by item*, voted the supply with some reductions; and in the hope of reconciling the other branch to the doctrine of an

CHAP.  
XIII.

1821.

annual appropriation of the supply, and the pretended right of the Assembly to apply, by an annual vote, the fund previously appropriated in support of the civil government, waved the form adopted in a former session, and passed a bill providing now by chapters, or classes, instead of *items* as before, a sum total, (including the appropriated revenue to be levied for the current year) of £44060 10s. 2d. sterling for the expenses of the year. This sum was to include the charge upon the pension list £3083 12s. 8d. sterling, and that of the militia staff £1543 16s. 3d. sterling, neither of which however had been comprehended in the estimate laid before the House. But this spontaneous provision of the Assembly in matters of public expense not regularly before them by message from the Executive, gave umbrage, as premature and indicative of a disposition in that body to assume authority, and encroach upon the Executive. The Legislative Council threw out this bill, as well because it interfered with the appropriated funds permanently appertaining to the Crown in support of the civil government,\* as because it had not in conformity with His Majesty's desire signified by the Governor's speech, made a permanent provision to cover the annual sum required to supply the deficiency called for in aid of those funds.

Various were the arguments in support of the pretensions of the Assembly, and of the position taken by the Executive. An annual revision of the whole expense of the civil government, and an annual vote of the representatives of the people, as well for the distribution and application of those funds already appropriated towards supporting the civil government, as for the supply to be given in aid of them annually, was urged as indispensable to the prevention of abuses in the public expenditure. Without this annual check upon the Executive, burdensome and unnecessary charges it was said, might not only be irremediably perpetuated,

\* The bill was intituled "a bill to appropriate certain sums of money therein mentioned to defray the expense of the civil government of Lower Canada for the year 1821."—The following proviso was inserted, "provided always, and be it further enacted that the monies by law heretofore appropriated for the support of the civil government which now are or that hereafter shall come into the hands of the Receiver General of this Province, shall be applied in part payment for the purposes of this act, and the remainder shall be made up and be taken from and out of any unappropriated monies which now are or that hereafter may come into the hands of the Receiver General of the Province."

but new and vexatious ones might be imposed at the pleasure of any wasteful administration. The interference of the Assembly in the application of the appropriated fund was said to be justifiable, from the reason and equity of the thing itself, for upon the economy in the application of that fund, must necessarily depend the quantum of the sum to be supplied in aid of it: and that unless the Assembly should have the previous right annually to regulate that economy, the amount to be supplied might be annually increased at the will of the Executive. That the commons constitutionally had an undoubted right through their representatives to limit, direct and appoint the application of all monies raised upon them: and that under this, the Assembly claimed the privilege as well of directing the application of all funds previously appropriated in support of the civil government, as of limiting and appointing the application of any sum they might vote in aid of it.

In behalf of the Executive, the inviolability of the funds vested in and applicable exclusively by the Crown towards the support of the government, and this by the paramount authority of an act of the Imperial Parliament,\* was strongly insisted upon. The Assembly were accused of seeking rather their own aggrandizement than the stability of the government, which if it were to depend upon an annual vote of the Assembly, could, it was argued, never be considered as permanently secured, but be rather thereby continued in a permanent state of precariousness, annually liable to dissolution, or to be paralised at the caprice of this, the popular branch of the legislature. That they preposterously endeavoured to bring within their own reach, the dangerous faculty of

\* 14th Geo. 3, ch. 88. The Prov. stat. 35th Geo. 3, ch. 9, also appropriates in a permanent manner, the annual sum of £5000 stg. towards defraying the administration of justice in the Province, out of certain permanent duties levied under this act. This appropriation, as well as that under the first mentioned act, the Assembly pretended they had a right to apply in such *items* as they should think proper, confining themselves in the application of it towards the *purposes only for which they were appropriated*, fully admitting that they could not divert them to other purposes:—an argument which the Executive treated as a mere piece of subtility. The possession of appropriated funds which it could not apply without a previous vote of the Assembly, would, it was justly said, be nearly the same thing as if it had in reality none at its disposition, since difficulties might as well be started upon the application of these, as about the grant or appropriation of other monies for the same purpose. The Imperial act above referred to, expressly authorises the Lords of the Treasury to *apply* the funds raised under and in virtue of it, to the purpose of its appropriation.

CHAP.  
XIII.

1821.

suspending at pleasure the necessary and indispensable operations of government, which it was the first duty of the legislature to place beyond all risk of temporary suspension, whatever disturbance might occasionally at the annual sittings agitate the three branches. Their right of limiting, directing and appointing their own money grants, was not denied, but that of interfering with grants already made, whether by act of the Imperial Parliament or of the provincial legislature, was contested as irrational; and that the pretensions urged with respect to the supply towards the civil expenditure, were such as to render the proffered aid wholly inadmissible and nugatory, since it could not under the unconstitutional conditions attached to it, and unwarranted by precedent in the like cases in the parent state, be accepted by the Executive without a dereliction of principle, a sacrifice of its legal rights, and placing itself in a state of annual and precarious dependence on the Assembly.

While the bill of supply was in progress in the Assembly, the Legislative Council entered into certain resolutions, to remain as standing orders, which clearly indicated their predetermination with respect to the bill.\*

Resolutions  
of the L. Council.

\* Of these resolutions the following will suffice for the information of the reader. "Resolved that the Legislative Council will not proceed upon any bill of aid or supply, which shall not within the knowledge of this house, have been applied for by the King's representative in this Province."

"Resolved that the Legislative Council will not proceed upon any bill appropriating public money that shall not within the knowledge of this house have been recommended by the King's representative."

"Resolved that the Legislative Council will not proceed upon any bill of appropriation for money issued in consequence of an address of the Assembly to the King's representative (addresses of the Assembly for the expenses of that house excepted) unless some extraordinary emergency unforeseen at the commencement of a session, and which unforeseen emergency will not allow of time for passing a bill of appropriation for the same, in the session when the address shall have been voted."

"Resolved that the Legislative Council will not proceed upon any appropriation of public money for any salary or pension hereafter to be created, or any augmentation thereof, unless the quantum of such salary, pension or augmentation shall have been recommended by the King's representative."

"Resolved that the Legislative Council will not proceed upon any bill of appropriation for the civil list, which shall contain specifications therein by chapters or items, nor unless the same shall be granted during the life of His Majesty the King."

CHAP.  
XIII.

1821.

Address of  
the Assembly  
to the Govern-  
or.

The rejection of the supply bill, by the Legislative Council, leaving the Executive without the necessary means of defraying the civil expenditure for the year, the Assembly were willing, as far as depended upon them, to avert the inconvenience, and for this purpose to place at the disposition of the Executive, a sum sufficient to defray the expenses of the current year according to their vote, and accordingly passed a resolution to that effect. Upon the resolution, an address was drawn up, and presented to his Lordship, stating that from peculiar and unforeseen circumstances, it had not been in the power of the house to lay before him a bill of appropriation, but tendering on the part of the Assembly, out of the unappropriated funds of the Province, such sum as with the funds already appropriated, might make up the sum of £46060 10s. 2d. sterling, (including £2000 for schoolmasters) for the expenses of the civil government during the year, and pledging themselves to make good the amount by bill at the ensuing session of the provincial parliament.

To this his Lordship briefly answered, that the question out of which the address had sprung had been considered with the utmost attention of which he was capable, and his opinion was, that the grant now proposed was wholly ineffectual, without the concurrence of the Legislative Council.

Governor's  
Answer.

After the Governor had made this answer, the Assembly thought proper to take notice of the proceedings of the Legislative Council on the subject, and several resolutions were passed expressive of the views they entertained of their own privileges, and of the measures of the Council.\*

\* "Resolved:—That the Legislative Council cannot constitutionally prescribe to this house, the manner or form of proceeding on bills of aid or supply, nor upon any matter or thing whatsoever, and that every attempt of the Legislative Council for that purpose is a breach of the rights and privileges of this house.

" ———. That the right of originating bills of aid or supply belongs solely and exclusively to this house.

" ———. That the right of originating bills of appropriation of public money belongs solely and exclusively to this house.

" ———. That this house is astonished that the honorable the Legislative Council have passed resolutions and adopted rules which affect the constitutional rights and privileges of this house, without having heard the reasons to the contrary which might have been given on the part of this house.

CHAP.  
XIII.

1821.

Here the matter rested until the ensuing session, neither house evincing a disposition to relinquish the ground taken up. The one would entertain no bill of appropriation for the civil list containing specifications by chapters or items, nor unless it were granted during the life of the King. The other would not originate or pass any bill without such specifications, nor for a longer period than a year, nor even for this, unless the right of applying and apportioning by vote, the monies previously appropriated towards supporting the civil government, were conceded them.

Enquiry relating to the Crown lands, tenure, &c.

That part of the speech which related to the settlement of the crown lands, was early in the session made the subject of reference to a special committee, and continued through several successive sessions, less with a view it would seem from a perusal of the reports made by the committee to the Assembly from time to time, to carry into effect the beneficent purposes of the Governor, than to extol the feudal over the soccage tenure, and to animadvert upon certain alleged abuses in the land

“ ———. That the said resolutions have been adopted by the honorable the Legislative Council without any difficulty or dispute having arisen between the said Legislative Council and this house respecting the matters therein set forth, and that the said resolutions adopted gratuitously and unnecessarily by the said Legislative Council, are of a nature to retard the re-establishment of that harmony, and that good understanding between the two houses which it is so desirable should prevail for the good government, peace and welfare of the people of this Province.

“ ———. That all resolutions by which one branch of the legislature lay down for themselves before hand and in a general manner, a rule not to proceed on bills of a certain form or description which may be offered to them by another branch, is contrary to parliamentary laws and usages, to the constitutional act, and to the liberties, rights and privileges of the other branches of the legislature, and even of that branch which adopts such resolutions.

“ ———. That by constant Parliamentary usage recognised by several acts of the Parliament of the United Kingdom, and of the legislature of this Province, the Commons of the United Kingdom, and the Assembly of this Province, have frequently voted by address, advances of money when the exigencies of the state and country have rendered it necessary; and that the practice far from being disadvantageous, has been of very great assistance to government, as the converse would produce incalculable inconvenience, and fatal consequences to His Majesty's government.

“ ———. That it is the duty of this house towards his Majesty, and his people of this Province, to take into their consideration all salaries, pensions and augmentations thereof, and to provide for the same with liberality and justice, although the *quantum* be not mentioned in the recommendation made to the house by the King's representative.

“ ———. That the honorable the Legislative Council cannot directly or indirectly abridge or prolong the time fixed by bill of this house for the collection of any sum of money, nor change the mode established by bill of this house, either for the collection or application of public money.”

granting system. Much miscellaneous and possibly some useful matter on the subject, is collected in the journals of the house, to which the curious reader may refer, but no practical public benefit has hitherto resulted from the inquiry.

CHAP.  
XIII.

1821.

A bill for more effectually ascertaining the state of the public funds in the hands of the Receiver General, was brought forward in the Assembly. By it the Receiver General was annually to account to the legislature, and tell over the balance remaining in hand, and at its disposal. It was proposed instead of a salary to allow him a commission on the monies paid into his hands, he giving security for them. He was to be debarred from commerce, and to be in no wise concerned in trade of any kind. The bill was referred to a special committee, where it underwent revision, but afterwards, being submitted to a committee of the whole, that committee rose without reporting upon it, and the measure was thus laid aside and lost, rather from a want of diligence on the part of the member who had taken it up, than from any aversion to the measure in the house. The Receiver General was largely concerned in the export trade of the Province; and the possession of the provincial monies by a person engaged in commercial pursuits, was the subject of uneasiness to the Assembly, and of much jealousy among the merchants.

Bill relating  
to the Receiver  
General.

A bill "for the trial of impeachments in this Province" was also introduced this session. By it the Legislative Council were to take cognizance of impeachments by the Assembly, and to be styled the "Provincial High Court of Parliament" while in the exercise of this authority. The bill was declaratory, the promoters of it pretending the right of judging in cases of impeachment to be already inherent in the Legislative Council, by the analogies of the constitution of the Province with that of Great Britain; and that such was the sense of the government at home, they appealed to the message which with respect to the impeachment of Judge Foucher, had by command of the King, while Regent, been sent to the Assembly. The bill was committed, but the measure was on discussion in committee of the whole, unanimously thought unnecessary, and accordingly relinquished. It

Bill relating  
to the trial of  
impeachments.

CHAP.  
XIII.

was considered as a step rather adapted to aggrandize the upper house, and in subservience to the views of that branch, than for the general advantage of the Province.\*

1821.

The Duke of Richmond on proroguing the legislature in 1819, had, with that decision of character which distinguished him, fearlessly expressed to the Assembly his disapprobation of their conduct. The present Assembly thought the manner in which His Grace had dismissed the representatives of the Province on that occasion, as deserving their animadversion, and accordingly determined to notice it. The subject being brought forward, it was almost unanimously resolved that "the speech of His Grace the Governor in Chief, of the 24th April, 1819, contained a censure of the proceedings of this branch of the legislature,"—and that—"all censure of any proceeding of this branch of the legislature, by either of the other branches thereof, is an assumption and exercise of power contrary to law, a breach of the undoubted rights and privileges of this house, and subversive of the constitution of government as by law established in this Province."

Resolutions  
of the Assem-  
bly relating to  
the Duke of  
Richmond.

The Legislative Council in rejecting the bill of appropriation sent up from the Assembly in 1819, towards the support of the civil government, had also expressed by resolution, the views they entertained of the manner in which the Assembly chose to provide for it.† As that resolution, and the disapproval of their

\* The Legislative Council on the 19th February, 1819, adopted a resolution on the subject, to the following effect:—"The declaration of the royal pleasure contained in the message of the Governor in Chief of the 2d March last, upon the subject of the address of this house to his Royal Highness the Prince Regent, of the 3d March, 1817, assures to the L. Council in the most unequivocal manner the privilege in the case of Mr. Justice Foucher, and in all similar cases of impeachment, whenever the same shall be preferred by the Assembly, to adjudge the charges preferred against the party accused, and that in the exercise of the powers and privileges of the L. Council in all cases of impeachments by the Assembly, this house will be guided as far as circumstances will admit, by the rules, usages and precedents to be found in the journals of the Imperial Parliament."

† "—The mode adopted by this bill is unprecedented and unconstitutional, and a direct assumption on the part of the Assembly of the most important rights and prerogatives of the Crown:—that were this bill to be passed into a law, it would give to the Commons of this Province not merely the constitutional privilege of providing the supplies, but the power also of prescribing to the Crown the number and description of its servants, and of regulating and rewarding their services individually as the Assembly should from time to time judge meet or expedient, by which means they would be rendered dependent on an elective body, instead of being



conduct on the same subject which the Duke shortly after, in proroguing the legislature, expressed to the Assembly were connected, they took the present opportunity of placing on record their views of it also. They therefore by resolution declared it to be "the undoubted right of this house in voting aids or supplies or offering money bills for the consent of the other branches of the legislature, (as well as in all its other proceedings under the afore-recited act\* of the Parliament of Great Britain,) to adopt such order or mode of proceedings as it may find conformable to its rules, and to propound such matter as in its judgment shall seem fittest and most conducive to the peace, welfare and good government of this Province."

Amidst other concerns, the representatives of the people were not unmindful of themselves, and an effort was made to obtain a vote for compensation during their attendance to the business of the legislature. The subject was brought forward and discussed in committee of the whole house, but the proposition was negatived by a small majority. The members generally considered ministerial, it was observed, voted against the measure; those of the opposite side, for it.

Proposed  
compensation  
to the members  
of the Assem-  
bly.

The appointment of an agent for the Province, in England, again as in former sessions engaged the attention of the Assembly. James Stuart, Esq. was named as such, and a sum voted by that house not exceeding two thousand pounds per annum for the purpose. A bill was accordingly passed and sent to the Legislative Council where it was thrown out. A gentleman holding an appointment in the colonial office in England, already held at the recommendation of the Executive, the appointment of agent for the Province, with a salary of two hundred pounds sterling per annum, but this the Assembly refused to recognise, considering him rather as an agent to the Executive than to the Commons of the Province, who had no participation in his nomination. Various messages had been sent down by the Governor

Agent for the  
Province.

dependent on the Crown, and might eventually be made instrumental to the overthrow of that authority which by their allegiance they are bound to support." Journals L. C. 1819.—It is to be observed that the bill here alluded to, provided by *items* a sum of money to defray the expense of the civil government of the Province for that year.

\* The 31st Geo. 3, ch. 31, commonly called the constitutional act.

CHAP.  
XIII.

1821.

Address to  
the Governor.

during the session, recommending divers objects of public moment to the attention of the Assembly, but little attention however was paid to them. The house towards the close of the session presented an address apologising for the apparent backwardness of the matters recommended. It stated "that the house had taken into its serious consideration the several objects recommended in his speech at the opening of the session, and the divers messages since transmitted for the attention of the legislature, but that the great importance of most of those objects and the multiplicity of business before the house, had prevented it from terminating several of them; and that as they were now in a state of forwardness, the house would, at an early period of the ensuing session, resume their consideration so as to bring them to a speedy conclusion equally advantageous to His Majesty's government, and the general welfare of the Province."

His Lordship in answer said, he was "perfectly aware that many subjects of great importance had been brought under the consideration of the house of Assembly during the session, and was fully satisfied that the delay in terminating some of them might be unavoidable: that still he could not but express his regret that several of them had been deferred to a period so late as to make this delay necessary."

Address on  
grievances.

The session being nearly at a close, the Assembly embodied in an address, with which they went up to the castle, certain matters deemed proper subjects for the consideration of the Executive. This was intended as a statement or petition of public grievances.\* His Lordship received it in a manner gratifying to the house, answering that he would not fail to transmit the resolutions of the Assembly for His Majesty's most gracious consideration, but that he could take no steps in regard to the purport of them until he had received His Majesty's commands upon them. These were afterwards signified to the Assembly, and will be noticed in their proper place.

On the 17th of March, his Lordship prorogued the Assembly with the following speech:—

\* See appendix, A.

" Gentlemen of the Legislative Council, and

" Gentlemen of the House of Assembly ;

CHAP.  
XIII.

1821

" Although I cannot by any means express my  
" satisfaction in the general result of your deliberations,  
" yet it is with great pleasure I acknowledge your  
" assiduous and zealous attendance in the discharge of  
" your public duties, during the long and laborious  
" Session, which I am now to close.

The Govern-  
or's speech.

" Gentlemen of the House of Assembly,

" I thank you in His Majesty's name, for those  
" supplies which have been granted by bills of  
" appropriation, and assure you of my best attention in  
" the application of them to the purposes for which they  
" are intended.

" I exceedingly regret that the expectations of His  
" Majesty, which by his command, I had the honour to  
" express to you on the opening of the session, have not  
" been realized.

" Gentlemen of the Legislative Council, and

" Gentlemen of the House of Assembly ;

" When this Parliament met for the despatch of public  
" business, I did entertain a hope that the experience  
" of the last few years would have led you to a mature  
" and serious consideration of the consequences that  
" would inevitably follow, if the then state of things  
" should not be remedied ; you cannot therefore be  
" surprised that I should now express not only my  
" disappointment, but great concern, that the same  
" question of constitutional principle, should have  
" again disturbed the unanimity of your legislative  
" proceedings.

" Upon this occasion I think it a duty which I  
" owe to you and to your country, to call upon you  
" to consider during this summer, the result of the  
" discussions of the session in all its bearings.

" You will see the administration of the civil  
" government left without any pecuniary means, but

“ what I shall advance upon my own personal  
 “ responsibility ; you will see individuals suffering under  
 “ severe and unmerited hardships, caused by the want  
 “ of that constitutional authority, that is necessary for  
 “ the payment of the expenses of the civil government ;  
 “ you will see the interior improvements of the country  
 “ nearly at a stand ; you will see, in short, the Executive  
 “ government, in a manner, palsied and powerless.

“ When I shall again summon you to meet here in  
 “ Parliament, you will come to decide the important  
 “ question, whether the government shall be restored to  
 “ its constitutional energy, or whether you are to deplore  
 “ the prospect of lasting misfortune, by a continuance in  
 “ the present state of things ; important as the question  
 “ is, there can be no difficulty in the decision.—When  
 “ the blessings of the British constitution were granted  
 “ to this Province, you received with it the recorded  
 “ experience of centuries of practice ; there is no question  
 “ of doubt or of difficulty that may not find its precedent  
 “ in the records of the Imperial Parliament, and I cannot  
 “ think that any wiser guide need be desired.”

Most of the members of the Assembly were rather gratified than disappointed on learning the state in which by his Lordship's speech, they were likely to find the civil government at the ensuing session. The more it were paralyzed and dependent, the sooner as already explained, their own views were likely to be realised. Many of those in the interests of the Executive, thought his Lordship had too candidly avowed the sense he entertained of the embarrassment in which the government might be placed in consequence of the pretensions raised by the Assembly, and that his ingenuousness would, instead of allaying the ardor with which these were pursued, have a contrary tendency. That in the weakness of the Executive, and its inability to carry on the due administration of government, they promised themselves the desired ascendancy, which it was said the popular branch wished to establish over every department of it ; and that they would not be diverted from the attainment of their object, by the prospect of its speedy accomplishment.

Several bills of importance were passed in both houses during the session, some of which were reserved for

the royal sanction.\* Public and charitable institutions were liberally attended to. An act was passed for opening the Lachine canal at the expense of the Province, in the event that the company which previously had been incorporated for the purpose should be unable to carry it into effect, or should relinquish their right. This the company thought proper to do, and accordingly the canal was commenced with great ceremony and demonstrations of public satisfaction, on the 7th July.

CHAP.  
XIII.

1821.

Mr. Papineau, speaker of the Assembly, was shortly after the beginning of the late session, called to a seat in the Executive Council, as were also Mr. Hale, a member of the Legislative Council, and Lieut. Col. Ready, civil secretary to the Governor in Chief, a gentleman who had come to the Province with and served in that capacity under the Duke of Richmond.

The Governor visited in the course of the summer the military posts in Upper Canada including Drummond Island, returning by the river Ottawa, to Quebec, where he arrived after completing his tour, towards the end of August.

\* These were four in number; that is to say, one for incorporating the Quebec Bank, another for the Montreal Bank, a third for the Canada Bank, and a "bill for the encouragement and promotion of education in the country parishes of the Province." The three first were sanctioned by His Majesty, but the last owing to some of its enactments was disallowed. A bill however, answering the intended purpose, was passed at a subsequent session (1824) under the title of "an act to facilitate the establishment and endowment of elementary schools in the parishes of this Province."

## CHAPTER XIV.

CHAP.  
XIV.

THE legislature met on the 11th December, and the session was opened with the following speech:—

1821.

“ Gentlemen of the Legislative Council, and

“ Gentlemen of the House of Assembly,

Governor's  
speech.

“ I meet you under the flattering hope that the sentiments which I felt it my duty to express to you on closing the last session of the legislature, have received your most serious reflection.

“ I now again bring under your consideration the state of the Province; and as a part of the subject above all others the most important, I recommend to your immediate attention the financial affairs, with the view to making a suitable provision for the support of the civil government.

“ Gentlemen of the Assembly,

“ Under the difficulties in which I found myself placed at the termination of the last session of the legislature, it became my duty to adopt a course for the payment of the current expenses of government, as nearly consistent as possible with the existing laws or to the practice hitherto observed.

“ I have directed accompts to be laid before you, shewing the amount of revenue which has come into the hands of the Receiver General, and the expenditure under my warrants. I trust, upon examination, they will be found correct.

“ I have ordered that the estimate for the ensuing year, should also be laid before you without delay, and I have it again in command from His Majesty, to acquaint you that His Majesty still has the fullest confidence in your loyalty and affection towards his person and government: that he rests assured of your disposition to provide for the necessary expenses of his civil government, and those also equally necessary

“ for the honour of his crown. And I am further  
 “ commanded by His Majesty to recommend, that such  
 “ provision as shall appear necessary for these purposes,  
 “ should be granted permanently, during His Majesty’s  
 “ life.

CHAP.  
 XIV.

1821.

“ Gentlemen of the Legislative Council, and

“ Gentlemen of the Assembly,

“ It has been established in the British Parliament,  
 “ as a principle of the constitution, that the civil list  
 “ should be granted during the life of the King, and I  
 “ am commanded to impress upon you on this occasion  
 “ His Majesty’s recommendation that such principle of  
 “ the constitution should be adopted and observed in  
 “ future as the practice in this Province.

“ It would be presumption in me to add any words  
 “ to what is thus stated to you by His Majesty’s  
 “ authority; it is a fresh instance of His Majesty’s  
 “ paternal care, and of the interest he takes in the  
 “ welfare of his American provinces.

“ I confidently rely on your well known loyalty  
 “ and attachment to the principles of the British  
 “ constitution, and cannot doubt that this, His Majesty’s  
 “ recommendation, of the measure, will have its due  
 “ weight with you.

“ I shall not advert to any of the various topics of  
 “ great public interest which in the course of the session  
 “ I may have to submit to you; I consider them of far  
 “ inferior importance to the subject now communicated  
 “ to you, by the royal command, and I have therefore  
 “ thought it proper to postpone them for the present.”

It was inferred from the concluding part of this  
 speech that the royal sanction would be withheld from  
 all legislative proceedings of the Assembly, until a bill  
 providing for the civil list in a manner satisfactory to the  
 Executive were passed. This surmise however soon  
 passed over.

The Legislative Council in answer to the speech, Answer of the  
 L. Council.  
 observed; that distinguished as the Canadas had been

CHAP.  
XIV.

1821.

above all other provinces of the British empire, by a constitution perfectly analogous to that of the parent state, they could not but feel it to be their paramount duty as far as in them lay, to adopt what had been established in the British Parliament as a constitutional principle; *the granting of the civil list during the life of the King.*

Address of the  
Assembly in  
answer.

The Assembly entertained a very different opinion.— They requested the Governor to convey to His Majesty “their most humble thanks for the gracious expression of His Majesty’s fullest confidence in their loyalty and affection towards his royal person and government, and their assurance that His Majesty might always place the fullest reliance on the invariable disposition of that house to provide for the necessary expenses of his civil government, and those also necessary to the honour of his crown.” They received, they said, “with all due humility the communication of His Majesty’s present recommendation, that such provision as should appear necessary for those purposes should be granted permanently, during His Majesty’s life; as well as the information, that it had been established in the British Parliament, that the civil list should be granted during the King’s life; and the recommendation which His Excellency was commanded to impress upon their minds, that such principle of the British constitution should be adopted and observed in this Province.”

“We are (continued they) fully thankful for the confidence which your Excellency is pleased to repose in our well known loyalty and attachment to the principles of the British constitution, and we most respectfully assure your Excellency that in the conscientious discharge of our duty to our constituents under the act of the British Parliament in virtue of which we are constituted and assembled, the recommendation of His Majesty will have due weight.”

In concluding, they humbly begged His Excellency to be assured that whatever topics he might be pleased to submit to them in the course of the session, in addition to the subject already communicated by the royal command, would receive their ready and respectful consideration



The Governor in reply told the Assembly that in the prospect, and hope also, of a calm and dispassionate discussion, he availed himself of that opportunity to express his own opinion that the measure proposed was in itself essential to the well being of the Province.— That until the expenses of the government were provided for in this manner, he could entertain no hopes of harmony in the proceedings of the three branches of the legislature; and that until harmony and union and cordial co-operation in these branches were established, he considered the real prosperity of the Province decidedly arrested.

These preliminaries being over, a hope was entertained as well from the solicitude of the Governor to bring round harmony in the legislature, as from the professed spirit of humility with which the Assembly received the King's recommendation, that the present would prove a prosperous and satisfactory session. Never was prospect more delusive. Disregard for almost every subject recommended to their attention by the Governor, and above all a spirit of intolerance and tyranny over those whose opinions were opposed to the prevailing party, were its most prominent characteristics.

The Governor sent down on the 21st of December, the "Estimate of the probable amount of the sum required in future for the support of His Majesty's civil government in this province, and the honor and dignity of the crown."

In submitting the estimate, the Governor in chief thought proper to remark, that he sent it in the form in which it had been sent for some years past; but at the same time as a permanent provision for contingent expenses which were purely casual might not be thought necessary, he informed the Assembly that His Majesty did not expect that the provision which it might be deemed expedient to make for defraying such civil contingences as were purely casual, should be otherwise than annually voted.

The Assembly shortly after this message addressed the Governor, requesting he would cause to be laid before the Assembly a statement of the proper provision for the support of the civil government of the Province of

CHAP.  
XIV.

1821.

Governor's  
reply.

Estimate.

Address.

CHAP.  
XIV.

1821,

*Quebec*, as fixed by the royal instructions previous to the 17th December, 1792—Also a statement of the same for the Province of Lower Canada as fixed by the royal instructions at the latest period previous to the 31st December, 1797—Also a statement of the same as fixed by the royal instructions at the latest period before the 10th February 1810, and finally a statement of the same as fixed by the royal instructions at the latest period before the 7th January, 1818.

Answer.

The Governor in answer to the application, a few days afterwards acquainted them by message that he "felt it his duty to decline to lay the royal instructions or any part of them before the house for public discussion, considering them to be confidential instructions from His Majesty to his representative for the time being."

Supply refused.

The Assembly in the mean time proceeded to business, but the civil list, which the Executive considered an object of the first importance, and as such entitled to the immediate attention of the house, was not there however viewed in the same light. They entered upon it with reluctance, determined not to comply with the royal recommendation, nor yet, if it could be avoided, pointedly to refuse compliance. The member however who conducted the measure, was resolved to leave no room for doubt in the matter, and took the necessary step to bring the question to a close, by putting it at once in proper shape before the house. Accordingly, upon motion, in committee of the whole house, to resolve "that a permanent provision be made for the support of the civil government of the Province, and of the honor and dignity of the crown during the life of his present most gracious Majesty," it was negatived; thirty one being against, and five for the motion.

Resolutions.

As a palliation for this refusal, several resolutions were passed explanatory of the reasons which had influenced the house in its determination. These were made chiefly to rest upon the disparity in circumstances between the mother country and the Province, from which it was deduced, "that in the situation which this Province is, this house can only, and ought to provide for the expenses of His Majesty's civil government annually, and not otherwise." This was followed up by an "opinion of the committee, that according to the offer

1821.

of the Assembly of this Province made in the year 1810 and accepted by His Majesty in 1818, and to the terms of the speeches of the Governors of this Province at the opening of the sessions of the provincial legislature in the years 1818 and 1819, the sums necessary for the support of His Majesty's civil government in this Province ought to be voted and appropriated annually, and not otherwise."—Their own offer in 1810, and the "terms" of the speeches of previous Governors in which not only as previously noticed, there were no such terms, but from which no inference of the kind could fairly be drawn, were now qualified in order to suit their purpose, in evading the present call made upon them in an explicit manner, and by the direct commands of the King, for a permanent appropriation. An address to His Majesty, professing great respect for the principles of the constitution and government followed, in which the substance of the resolutions, not in the most lucid order, and withal mixed up with irrelevant matters were embodied, the whole intended as an apology for not acceding to the demand of a permanent appropriation for the civil list.

Address to  
the King.

The house waited upon the Governor with the address, requesting he would be pleased to transmit the same to His Majesty's ministers; to which his Lordship answered, that he should always think it a duty incumbent upon him to convey to the foot of the throne the sentiments of the House of Assembly whatever they might be, provided they were suitably expressed; and that such being the case at present, he willingly complied with their request.

The expedience of appointing an agent for the Province, near the government at home, was again considered. The effort of the Assembly in the preceding session to appoint as such Mr. James Stuart, having failed, they now fell upon another plan. This was, to request *by resolution of the Assembly* some popular member of the British House of Commons, to assume that capacity in virtue of the resolution of the Assembly to this effect, and act accordingly. It was hoped that the government at home would, if their choice fell upon a leading member, virtually if not formally recognise him, and that by this means, the Assembly might indirectly effect a point which they had not been able to carry in a direct manner. In the appointment of

Agent for the  
Province.

CHAP.  
XIV.

1821.

such a person, they promised themselves the double advantage of a check upon the provincial Executive near the minister, and upon the latter, in case he should introduce before Parliament measures relating to the Province.

Mr Marryat  
named agent.

The Assembly therefore after expressing by resolution their "unabated confidence in the talents, integrity and devotion to the interests of the Province of James Stuart, Esquire, whom it had twice nominated as agent to reside in the United Kingdom, but that under the circumstances in which the house was placed, it was expedient to request a member of the honorable the house of Commons, to act as an authorised agent to attend to the interests of the colony, and communicate with His Majesty's ministers on all points relating thereto, as he might be instructed or as occasion might require"—also resolved, that "Joseph Marryat, Esquire, a member of the honorable the house of Commons, be requested to act as such agent."

Copies of the resolutions of the Assembly on the subject were ordered to be transmitted to Mr. Marryat, and that gentleman was requested to correspond with their speaker. Entries of the correspondence were directed to be made on a register to be kept for the purpose, by the clerk of the Assembly, and of these, copies were to be laid before the Governor for the time being, within fifteen days after the opening of every session of the legislature. Voluminous instructions, principally relating to the civil list matter, were digested by a special committee, with a view of putting the agent elect, in full possession of the subject, from its origin to the present time; the whole of which after receiving the concurrence of the house were transmitted by mail to Mr. Marryat.

Resolution of  
the L. Council.

The Legislative Council not having been consulted in this measure, resented the course pursued by the Assembly, and in turn resolved, that "the resolutions of the Assembly, requesting Joseph Marryat, Esquire, to act as an authorised agent for the Province, to attend to the interests of this colony, communicate with His Majesty's ministers on all points relating thereto, as he might be instructed by the Assembly, or as occasion might require, were a dangerous assumption of legislative

power by the Assembly alone, without the concurrence of the other branches of the legislature, and an attempt at appointment to office, in direct breach and violation of the constitution,—of the King's prerogative,—and of the rights and privileges of that house (the Legislative Council) and tended to subvert the constitution of the Province."

CHAP.  
XIV.

1822.

A copy of the resolutions passed in the Legislative Council on the occasion, was laid before the Governor, with an address assuring His Excellency of the fixed determination of that branch to support the constitution of the Province as by law established, the prerogative of the crown, and the independence of the Legislative Council; and requesting that His Excellency would be pleased to lay their resolutions and assurances at the foot of the throne, in such way as he might see fit.

Mr. Marryat, in a letter to the speaker, declined the charge which he had been requested by the Assembly to take upon himself. His reason for declining it, was the misunderstanding which existed on the subject, between the Assembly and the Legislative Council, without the concurrence of which, he gave it as his opinion, such an appointment could not constitutionally exist, nor be acknowledged by the government in England.

Mr. Marryat declines.

The exhaustion of the public chest, as already mentioned, was looked upon in the Assembly as the most speedy and effectual method of terminating the dispute relative to the civil list, and accordingly one of the temporary revenue acts which had previously been renewed for short periods from time to time, and then stood limited to the first of May ensuing, was allowed to expire, although the Governor by a special message to the Assembly called their attention to the revenue laws which were shortly to expire, considering it a subject, he said, of the highest importance to the interests of the Province. Another which was limited to the same day of the following year, it was also determined should share the same fate.\*

\* One of the acts alluded to is the provincial statute 53 Geo. 3. ch. 11. as amended by the 55 Geo. 3. ch. 2. The other is the 55 Geo. 3. ch. 3. The former yielded for the year ending 1st Nov. 1821, the sum of £12384 13s. 2d. currency; the latter £26222 8s. 3d. currency. The timely interference of the Imperial Parliament at the instance of U. Canada, as subsequently noticed in these memoirs, revived the one, and prevented the expiration

CHAP.  
XIII.

1822.

No appropriation for the service of the current year was voted, under pretext that it was needless to tender an aid for that period, circumstanced as matters were in consequence of the call for a permanent provision, which had been made by the Governor in His Majesty's name. It was said that the remonstrance to His Majesty on the subject, might probably induce a change of opinion, and that in the mean time the Governor as he had previously done, was, if he chose, still free to advance upon his own responsibility, out of the unappropriated funds in the public coffers, such monies as were necessary to defray the expenses of the year, or until an answer to the address of the Assembly should be returned through the minister.

Receiver  
General.

While however this alternative was spoken of as open to the Executive, resolutions at variance with it were adopted by the Assembly expressive of their determination to debar the government of the use of any monies even for its temporary support, unless particularly authorised by act. It was resolved that the house would "hold personally responsible His Majesty's Receiver General of the Province, and every other person or persons concerned, for all monies levied on His Majesty's subjects which may have legally come into his or their hands, and been paid over by him or them under any authority whatever, unless such payments be or should be authorised by an express provision of law."

The quorum which previously stood at fifteen, was early in this session increased to twenty six members including the speaker, constituting a majority of the Assembly of the Province, consisting of fifty members.

An unsuccessful effort was made in the Legislative Council to rescind the resolutions passed, relating to the civil list, during the last session. These, it was argued, interfered with the privileges of the Assembly, as dictating the terms upon which only, the Legislative

of the other, making both permanent. The revenues collected under these acts, it is to be observed, arise from duties upon certain articles imported into this Province, part of which are consumed in it, and part forwarded to Upper Canada, for consumption there. The dutiable articles enumerated are teas, spirits, and other strong liquors, wines, molasses, and syrups. There is also a duty of 2½ per cent by the first of these acts, on "goods, wares and merchandize," imported into the Province, and a like duty in virtue of the last mentioned act, on goods sold at auction.

Council would accede and give effect to any grant of the Assembly towards the support of the civil government, pursuant to the call of His Majesty, wherens by the privileges of the Commons, it appertained to them exclusively to dictate their own terms and conditions, relatively to all aids to the crown, for whatever purpose they might be.\*

CHAP.  
XIV.

1822.

In the debate which arose in the Legislative Council on this matter, Mr. Richardson expressed himself with characteristic fortitude on the conduct of the Assembly, which he considered as unconstitutional and overbearing. He thought its pretensions subversive of the rightful and necessary prerogatives of the crown; and indicative of a desire to govern that ought to be curbed in time. He treated the proceedings of the ruling party in the lower house with much asperity, intimating that cabalistic committees, and from which certain members not in their confidence were carefully excluded, actually assembled from day to day, to concert schemes in furtherance of a disorganizing system acted upon by the body. He compared their measures with those which characterised the disastrous times of Charles I. in England, and with those of the French revolution, observing that it would not be matter of surprise, if at the moment he was speaking, a committee of the Assembly were in consultation about replacing the personage at the castle by another of their own choice. These comparisons gave mighty offence to certain members of the Assembly, who were present at the debates, and it was after two or three days reflection, determined to make it the subject of serious representation to the Assembly.

Debates in  
the L. Council.

Accordingly, on the 29th of January, a member of the Assembly rose in his place and informed the house, "that on Friday the 25th inst. he heard the honorable " John Richardson, one of the members of the Legislative " Council of this Province, express himself in his speech,

Proceedings  
in the Assem-  
bly relating to  
the hon. John  
Richardson.

\* The Assembly in the first session (1791) after the establishment of the constitution, adopted it as a standing rule,—“that all aids and supplies granted to His Majesty by the legislature of Lower Canada, are the sole gift of the Assembly of this Province, and all bills for granting such aids and supplies ought to begin with the Assembly; as it is the undoubted right of the Assembly to direct, limit and appoint in all such bills the ends, purposes, considerations, conditions, limitations and qualifications of such grants, which are not alterable by the Legislative Council.”

CHAP.  
XIV.

1822.

“ in English, in reply to the honorable P. D. Debartzch,\*  
“ in the debate of the said Council, as follows:—*How*  
“ *can we rescind our resolutions when there is a secret*  
“ *committee sitting in the house of Assembly, which is*  
“ *perhaps deliberating on the appointment of a Governor*  
“ *of their choice, and on the removal of the person now*  
“ *in the castle, and putting their own in his place. The*  
“ *committee even sits without the knowledge of several*  
“ *members of the house, of which there is no example in*  
“ *England, except in the time of Charles the first. The*  
“ *committee is perhaps a committee of public safety.*”

This piece of important information was gravely referred to a select committee of five, who after gathering such *ex-parte* information relative to it, as they could get from bye-standers during the debates which had taken place in the Legislative Council, reported the whole to the Assembly. Long and vociferous debates ensued, abounding with invective, and some broad personal abuse against those who in presuming to disapprove of their conduct, arraigned said they, by implication, their constituents, the whole Canadian population. The language complained of, was exaggerated into atrocity, and the whole Legislative Council treated as delinquents for not having called to order nor censured the member who had dared to allude in such terms before that body, to proceedings in the Assembly. The offence was said to be the more heinous, as it came from one who being at the same time senior member of the Executive Council, might, on a contingency, be invested with the temporary administration of the government, but who, it was observed by a member, was now by this his illiberal opinion of the representatives of the people, unworthy of governing them for a single moment on any contingency. That for this reason, it behoved them to endeavour to accomplish his removal from every situation of confidence, honour or profit he held under the crown, and, as far as in them lay, to fix upon that gentleman an indelible mark of public opprobrium, by stigmatizing him as an enemy to the country, and recording it on their journals. Such among others were in debate the

\* It was Mr. Debartzch who moved in the Legislative Council for the rescision of the rules relating to the civil list, already noticed, and which, it was alleged by that gentleman in debate, intrenched upon the rights and privileges of the Assembly.



avowed motives that actuated the Assembly in proceedings, which to this moment remain unexpunged on the journals of that house.

CHAP.  
XIV.

1822.

It was accordingly resolved by the Assembly "that the language and discourse of the honorable John Richardson, a member of the Legislative Council, as proved before a committee of this house, are false, scandalous, malicious: are a high contempt of this house: an odious attempt to destroy His Majesty's confidence in the fidelity and loyalty of this house, and of the people of this Province, and a breach of the rights and privileges of this house."

Resolves of  
the Assembly.

"—That the information given to this house on the 29th instant, of the discourse and language used and held on the 25th instant in the Legislative Council, by the honorable John Richardson, a member of the said Council, against the honor and loyalty of this house; the proofs or evidence before a committee of this house, on the said information; and also the resolutions adopted by this committee be communicated by message to the Legislative Council, that the said discourse and language be laid to the charge of the said honorable John Richardson, before the said Legislative Council; and that the Legislative Council be desired to proceed in justice upon the said charge, and to inflict upon the said honorable John Richardson, a punishment adequate to so high an offence against this house."

"—That the information given to this house on the 29th inst. of the language and discourse used and held on the 25th instant, in the Legislative Council, by the honorable John Richardson, member of the said Council, against the honor and loyalty of this house, and also the proofs or evidence received before a committee of this house on the said information, and the resolutions adopted by the house, be communicated by an humble address to His Excellency the Governor in-Chief, praying His Excellency would be pleased for the reasons contained in the said address, to remove and dismiss the said John Richardson, from all offices and places of honor, trust or profit, which he may hold during pleasure, under His Majesty's government in this Province."

F

CHAP.  
XIV.

1822.

Governor's  
Answer.

Messengers were appointed who went up to the castle with this humble address. The Governor answered, that "the address involved consequences of the highest importance. That the resolutions appeared to him to be expressed in language inconsistent with the calm dignity of a legislative body. They affected the privileges of the Legislative Council, and especially in that of the freedom of debate; and that he must for these reasons distinctly refuse the request of the house of Assembly in this matter."

This firm and temperate answer cooled the irritation of the members who had urged the hasty step which the Assembly had taken. They felt that the freedom of debate ought last of all to be assailed by a popular body, and that in respecting it, the Governor had liberally assumed a position in favor of the subject, which they had unwarily relinquished, in the pursuit of a vindictive and unworthy purpose. They finally endeavoured to back out, by a resolution on their journals, reprobating all attempts in any member of the Council to destroy the confidence of the King's Representative in their honor and loyalty,—as a contempt of the house, and a breach of its rights and privileges:—as tending to destroy harmony, and to render useless the endeavours of the Assembly for the general welfare, adding, as a justification of their proceedings, that "it is the incontestable right of this house to repress such attempts by every constitutional means in their power."

The messengers who had taken up the humble address on this matter to the Castle, immediately afterwards, also laid the complaint of the Assembly before the Legislative Council, which, viewing the steps that body had adopted with respect to one of its members for language used in debate there, as a flagrant breach of its privileges, refused to compromise its own honour, or the rights of its members, by any measures on the subject, until reparation were made by the Assembly for the actual breach by them, of the privileges of the Legislative Council in the same matter.\*

Complaint to  
the L. Council.

\* Mr. Richardson, when the subject was taken up before the L. Council, repeated the substance of his observations in the debate which had given such offence. There was some variance between his statement and the reports given of them, arising probably from the imperfect recollection or misconception of the persons examined before the committee. He did not repent his observations for the purpose of retracting them, he said, but

After the Assembly had refused to provide for the civil list during the King's life, and the resolution already noticed, of holding the Receiver General and all others concerned, responsible for all payments made from the public chest without the authority of an express provision of law, the Governor sent a message to the Assembly, acquainting them of the course he intended to adopt in consequence of their determination.

He had, (his Lordship said) at the close of the last session, pointed out the difficulties which would follow from the want of the usual appropriations of public monies to meet the public expenditure, and particularly stated that the government would be left without the pecuniary means which its exigencies would indispensably require, if he did not advance them on his own personal responsibility.

Message from  
the Governor.

That accordingly he did so advance the difference between the amount of the royal revenue which was placed at his disposal, and the total amount of the civil expenditure of the Province, and had called upon the

rather to shew more clearly than ever his meaning, if there could have been any doubt about it, intending fully to confirm on further reflection, all he had then said, and which the Assembly by their proceedings in this matter had strikingly exemplified.

There were no debates in the Legislative Council on the subject. Mr. Richardson, after these observations withdrew, when the following resolution was unanimously adopted:—"That an answer should be sent to inform the Assembly, that the L. Council were extremely desirous to preserve a good understanding between the two houses and were willing to inquire into the subject matter of the message of the Assembly and do right therein; but that the house conceived it was not consistent with its honor or with the rights of its members to proceed upon a presumed breach of the privileges of the Assembly, which the said message alleged, until the Legislative Council should have received reparation from the Assembly for the actual breach of the privileges of the Legislative Council by the Assembly, in the same matter, by their address to His Excellency the Governor in chief, praying him to remove the honorable John Richardson from all his offices and places of honor, trust or profit which he might hold during pleasure under His Majesty's government in this Province, and thereby censure and punish him for words used by him in debate in that house, where only a member thereof, for words so used, can be questioned. The said address being a proceeding on the part of the Assembly, which inasmuch as it sought upon the application of the Assembly, to subject the members of the Legislative Council without hearing or enquiry, to censure and punishment by another branch of the legislature for their conduct in that house, restrains the freedom of debate, and deeply affects the constitutional independence of the Legislative Council."

CHAP.  
XIV.

1822.

Assembly by message of the 8th of January last, to make good this difference.\*

That he therefore had not put in question the constitutional principle, which directs the application of the public monies to the purposes for which they are appropriated. He had relied with confidence upon the faith of the Assembly which was pledged to pay the civil expenditure of the Province, and in the firm belief that he should act in conformity to the wishes of the legislature, he took upon himself this great responsibility in order to prevent consequences equally distressing to individuals, and ruinous to the general interests of the Province.

That by the proceedings of the present session, circumstances were materially changed. It would not now be in his power to make further advances, nor would it be consistent with his duty to venture a greater stretch of responsibility. He therefore would apply the territorial and casual revenues, fines, rents and profits which were reserved to and belonged to His Most Christian Majesty at the conquest, and surrender of Canada to his late Majesty the King of Great Britain; the monies raised by statutes of the Imperial Parliament, and the sum of £5000 sterling, raised by the provincial statute 35th Geo. 3, ch. 9, towards defraying the expenses in support of His Majesty's civil government, and of the administration of justice in the Province, according to the appropriations of those statutes.

That should there be any surplus remaining after the payment of these expenses, he would then apply that surplus towards defraying the expenses of such local establishments and objects of public charge, as form no part of His Majesty's civil government, and are not connected with the administration of justice.

He did not however flatter himself that there would be any such surplus: he therefore called upon the

\* By this message he had called "the attention of the Assembly to the enactment of a law to reimburse and make good to His Majesty's government the various advances in money for which provision had not been made by the legislature, but which had been found indispensably necessary for the support of His Majesty's provincial government, as also for certain public institutions heretofore sanctioned and assisted by the beneficence of the legislature, as detailed in the accounts before the Assembly."

Assembly for the supply necessary for defraying the several expenses of those different local establishments and objects of public charge to which he had referred, and which, as appeared by the expenditure of last year, laid before the Assembly in this session, would amount to about £30,000, including the expenses of the legislature, and the collection of the public revenue—that he deemed it his indispensable duty to add, that if these supplies were not granted, he would have no means to defray the expenses of these local establishments and objects of public charge, except where payment had been provided by specific appropriations.

The Assembly by a humble address to the Governor, thanked him for his message, assuring him that they had received with the greatest satisfaction his declaration, that he had not put in question the constitutional principles that the public money should be applied only conformably to law ; and expressing “ deep regret that the standing rules adopted by the Legislative Council in the preceding month of March, and still acted upon by that body in manifest violation of the constitutional rights of the Assembly, of advising His Majesty by bill in such manner as they might judge best and most conducive to the peace, welfare and good government of the Province, and particularly with regard to money bills, prevented the house from entertaining at present any hope that its invariable disposition to provide for all the necessary expenses of His Majesty’s civil government in this Province, could have its proper and legal effect.” They concluded by assuring His Excellency, “ that the house, as soon as it should have been left in the full enjoyment of its rights and privileges, and His Excellency have communicated to the house his Majesty’s gracious acceptance of the renewed offer of the house to vote annually all the expenses of his civil government in this Province, would not fail in the faithful discharge of its obligations, having regard to that just economy which the present circumstances of the Province imperiously demand.”

Address of  
the Assembly  
in answer.

The Governor, in reply to the address, expressed his “ most sincere regret that the House of Assembly should have thus resolved to grant no supply, nor means by which the expenses of the local establishments or objects of public charge in the Province could be paid that year.”

CHAP.  
XIV.

1822.

The rules adopted by the Legislative Council for its own guidance in this matter, the Assembly held to be a violation of their rights; but these rights, it was alleged on the other hand, were in themselves nothing else than the extraordinary pretension which this house had on the same subject arrogated to itself, of dictating to the other branches. The professed regard for economy by the Assembly was treated as nugatory, there being, it was said, nothing extraordinarily unpromising in the circumstances or commerce of the Province, and which would, on the whole, be less liable to be prejudicially affected by a certain and permanent continuance of the duties in existence, than by their temporary and uncertain duration. The sinister allusion to those circumstances seems to have been intended as a preliminary pretext for the discontinuance of the revenue act previously mentioned, a measure rather prompted by a desire to impoverish the treasury, than to relieve the trade, from which, it had hitherto rather than by land or other direct taxes on the subject, been the policy of the Assembly, exclusively to realize the whole revenue of the Province.

The Governor communicated by message to the Assembly, His Majesty's determination on most of the subjects which, as already noticed the Assembly, towards the end of the last session had represented.\*

The Assembly wound up the business of the session by a series of resolutions declaratory of their views with respect to the financial misunderstanding with Upper Canada.† A negotiation had, in the course of the previous summer, been carried on at Montreal, by commissioners on the part of both Provinces, which was broken off; those of Lower Canada considering the claims of the Upper Province for the proportion of drawbacks on dutiable goods imported into Lower, and passing thence into Upper Canada, inordinate: while those of Upper Canada complained of the evasion and injustice done that Province, by the commissioners on the part of Lower Canada. By the last agreement that had been entered into,‡ one fifth of the whole duties

Financial difficulties with Upper Canada.

\* See appendix, B.

† See appendix C.

‡ 1st May, 1817. This was ratified in the session of 1818, and expired on the 1st July, 1819.

raised in Lower Canada was allowed the Upper Province, the expenses of collection first deducted. A greater proportion was now claimed, which the commissioners of Lower Canada refused. There was also a claim exceeding £20,000 for certain arrears of drawbacks in favor of Upper Canada, upon the crown duties, arising under the statute of the Imperial Parliament 14th Geo. 3, ch. 88 : and another, for a sum exceeding £10,000, due to the Upper Province previous to the last agreement in 1817, which had not then been settled, owing, as it was said, to a want of authority in the commissioners on the part of this Province, who were not empowered to that effect by the act appointing them. The commissioners for Lower Canada endeavored to prevail upon those of the Upper Province, to adopt as the basis of their agreement with respect to the subject in discussion, the principle, that each Province should in future, collect its own revenue, bonding the goods, in transit through the Lower to the Upper Province, and vice versa, so that neither Province should be charged with the payment or refunding of proportions of duties or drawbacks to the other. With respect to the arrears claimed by Upper Canada, the commissioners for this Province declined all negotiation ; alleging that the act by which they were appointed did not give them that authority, and that their powers were only prospective.

The collection of the revenue on so extensive a line as that dividing the Provinces, it was answered, would absorb a great portion of the revenue of Upper Canada in the establishment of custom houses, and this proposal was therefore deemed inadmissible.

The legislature of Upper Canada, thinking that Province aggrieved in the result of the negotiations with the commissioners of this Province,\* took early measures to bring the subject under consideration of the Imperial Government. An agent was appointed, pursuant to an act passed for that purpose, and a suitable appropriation made to defray the expenses of his voyage to England.

Measures on  
the part of Up-  
per Canada.

\* These were Mr. Papineau, Mr. Cuvillier, Mr. Neilson, Mr. Davidson, and Mr. Garden, all members of the Assembly, and named in the act under which they were to negotiate. The commissioners for Upper Canada were appointed by the Executive government, and accountable to it only, under an act of the legislature of that Province passed several years previously, giving power to this effect to the Executive government.

CHAP.  
XIV.

1822.

Notice of the measure was officially forwarded to the government of Lower Canada, but it reached Quebec too late in the session for communication to the Assembly, which nevertheless could not have been unaware of the proceedings of the Legislature of U. Canada, from their notoriety in the public prints. It was afterwards, however, pretended that the Executive of this Province had grievously wronged the Assembly, in not laying before it the proceedings alluded to. The omission, they said had given birth to the projected measure of an union of the two Canadas, and the *Canada Trade Act*, as it is usually termed,—mischiefs of the greatest magnitude, in the opinion of those who had been instrumental in placing the affairs of the Province in a crisis, imperiously demanding the interference of the government at home. The real indifference with which the Assembly viewed the existing misunderstanding with Upper Canada in a matter of urgency to the latter, as withholding a large proportion of the financial resources upon which it depended for the support of its civil government, may be conceived from the circumstance, that no notice whatever was taken by the Assembly of the report of the commissioners, although submitted to that house as early as the 5th January, until the last operative day before the prorogation, and then only for the purpose of enunciating its determination to persevere in the unaccommodating spirit, which had, in this as in other matters, become but too characteristic of this Assembly.

Prorogation  
of the Assem-  
bly.

The session was prorogued by the Governor on the 18th of February, who in his speech observed, “that on a full consideration of the situation of affairs, and of the peculiar circumstances which had led to it, he was satisfied that no benefit to the public could be expected from a continuance of the session, and he had therefore determined to prorogue the provincial parliament.”

He expressed his “regret that it should have been thought proper to have recourse to the unusual practice of withholding the necessary supplies,” but observed, that whatever might have been the intention of that measure, he was happy to state that it would not at all affect the administration of His Majesty’s civil government, or of justice, or the officers employed in either of those departments.—That the effects would fall entirely upon the local establishments, and be felt highly



injurious to the interests of His Majesty's loyal and faithful subjects in this Province."

CHAP.  
XIV.

1822.

"The proceedings which have led to this measure," said his Lordship, "have afforded me the greatest satisfaction of knowing that the Legislative Council of this Province duly appreciate the important duties of their elevated station. Their conduct has assured me that His Majesty may rest confident of their firm support in maintaining the true principles of the constitution and the just rights of the crown; so also it will be the object of my constant study to maintain these, and to employ the powers entrusted to me by His Majesty to the only end for which they were given;—the good of his subjects."

The Assembly were stung at his Lordship's speech, which they felt had not less point than some of those humble addresses they had taken up to him in the course of the session.

A circular was sent round early in May, under the signature of the Clerk of the Executive Council, informing those persons considered by the Executive government, as upon the local establishment, and ranked as such in the estimates which had been laid before the Assembly, that the future payment of their salaries was to be staid until funds were provided for the purpose. The salaries of those officers concerned in the administration of justice, or holding situations classed in the estimate, as appertaining to the civil government, were to be paid out of the funds arising from the appropriated revenue vested in the crown, and if any surplus should remain, it was to go in part discharge of the expenses of the local establishments, as stated in the message already noticed, which the Governor had sent to the Assembly on this subject. This, many considered unfair, as giving an undue preference to one class of public officers, over another equally useful and necessary in the operations of government. They who with the Assembly pretended that the Executive had no right to apply the appropriated fund to the purposes of its establishment without the previous vote of application by the Assembly, were loud against the "*partiality*" and "*injustice*" of such a system; asserting that since the Executive "*illegally*" took upon itself the applica-

CHAP.  
XIV.

1822.

tion of those funds without the previous vote or appointment of the Assembly, it ought, at least, to distribute them as far as they went, generally, by way of a dividend through the whole list of those in the pay of government, and proportionately to their respective salaries.

The Lieutenant Governor of the Province, the honorable Sir Francis N. Burton, arrived at Quebec early in July, from England; in consequence of the remonstrances of the Assembly, as previously noticed, and on the fifth of the month was sworn into office with the usual solemnities.

Proposed  
union of the  
Canadas.

The state in which the result of the last session had left the affairs of the Province, and the disputed claims of Upper Canada, urged the Government at home to take measures of coercion, and for the adjustment of the financial difficulties between them. A legislative union of the two Provinces in combination with other measures was resolved upon, and a bill accordingly was introduced in the House of Commons. One of the avowed objects of the union was to Anglicise Lower Canada, which joined in legislation, as it was in one common interest with a colony of British origin, would, it was thought, the sooner assume the true character of a British Province.

Canada  
Trade Act.

That part of the bill which related to the union being objected to in the House of Commons, as interfering in a way which might meet with the disapprobation of both Provinces, was relinquished by the minister until the sense of their inhabitants were taken in the matter. The bill divested of this measure, was passed in Parliament, and became a law, now known as the CANADA TRADE ACT. By it every essential claim of Upper Canada was awarded, and with a view of securing it in future against the caprice of, or sustaining wrong, from the Assembly of Lower Canada, all the duties which at the time of the expiration of the last agreement\* between the two Provinces, were payable under acts of the legislature of Lower Canada, on the importation of goods into it, are permanently continued. The two temporary provincial acts previously noticed, (the one which the Assembly had purposely suffered to expire being also revived by

\* 1st July, 1819.

the Ir  
liable  
gislata  
tion  
the le

Non  
of Lo  
impor  
sancti  
the b  
before  
obtain  
poveri  
Execu  
only c  
justice  
cise of

The  
Canad  
Act wa  
with t  
of the  
of Fre  
stituti  
which,  
as opp  
introdu

By  
legisla  
nation  
OF THE  
author  
into c  
townsh  
The w  
was no  
was to  
the cle  
incumb  
Council  
appoin  
to take  
in the

the Imperial act,) consequently became permanent law; liable always to be repealed or altered by act of the legislature of Lower Canada, in case such repeal or alteration should meet with the concurrence and sanction of the legislature of Upper Canada.

CHAP.  
XIV.

1822.

Nor does the act stop here. It disables the legislature of Lower Canada from imposing new duties on articles imported by sea into this Province, unless with the sanction of the legislature of Upper Canada, or unless the bill passed for the purpose shall have been laid before the Imperial Parliament and the royal assent obtained. Thus were the schemes of party for impoverishing the treasury and thereby reducing the Executive to implicit dependence on the Assembly, not only completely frustrated, but the Assembly itself in justice to the adjoining Province, restrained in the exercise of its legislative powers in matters of finance.

The intended union when made known in Lower Canada, produced great excitement. The Canada Trade Act was considered of little or no importance contrasted with the mischief anticipated from the extinguishment of the influence and ascendancy which the population of French descent maintained under the existing constitution in the legislature of the Province; and of which, those of British birth and descent in it, complained, as opposed to and prejudicial to improvement, and to the introduction of British enterprise and capital.

By the union-bill, it was intended to unite the legislatures of both Canadas, under the style or denomination of "THE LEGISLATIVE COUNCIL AND ASSEMBLY OF THE CANADAS." The Governor was to have been authorised to erect the townships hitherto unrepresented, into counties, each to consist of not less than six townships and to return a member to the Assembly.—The whole number of representatives for each Province, was not to exceed sixty. As a qualification, each member was to be possessed of a freehold in *fief* or in *roture* of the clear value of £500 sterling, over and above all incumbrances. Two members of each of the Executive Councils of either Province, were in virtue of an appointment under the hand and seal of the Governor, to take seats in the Assembly, with power of taking part in the debates, but not to vote. The Assembly was to

CHAP.  
XIV.

1822.

be quinquennial. Neither of the two houses was to be capable of imprisoning for breach of privilege any of His Majesty's subjects not being members, or officers, or servants of the house, until an act were passed by the Legislature declaratory of the privileges of those bodies in this respect. All written proceedings of the Legislative Council and Assembly were to be in the English language only, and at the expiration of fifteen years after the union, all debates in those bodies were to be carried on solely in English. The free exercise of the Roman Catholic religion, was respected, subject to the King's supremacy, and to the collation or induction into cures, a privilege which the bishop superintending the Catholic church in this Province, had been heretofore, (as he still is,) left in the enjoyment of. This circumstance seeming to the clergy a grievous interference with their church, gave umbrage to that body, who accordingly declaimed against the bill, embracing measures which they viewed with aversion.

Proceedings  
in Lower Ca-  
nada with re-  
spect to the  
proposed  
union.

Resolutions, for and against the union, were adopted at public meetings held for the purpose. The Canadians of French descent were almost to a man, anti-unionists; those of British origin were, for the greatest part, unionists. Party spirit ran high, and all other political animosities seemed confounded in this matter, to which the attention of both parties was, for the present, wholly directed, as involving their future influence. The unionists in their petitions complained in strong terms of the grievances under which the inhabitants of British birth and descent laboured, by reason of the prejudices and systematic opposition of the French Canadians, having the ascendancy in the legislation of the Province, to all improvements of a nature to encourage the introduction of British capital and enterprise. That instead of using their ascendancy to assimilate the Province with the parent state, they abused it in checking every thing of a tendency in that way, recommended by the government or solicited by petition; and that they only desired to maintain their power, that they might the more effectually retard the assimilation of the laws, language, institutions and feelings of the Province, with those of England.—They were represented as anti-British and French at core, and the strong policy of prostrating at a single and determined blow the ascendancy complained

of, and thereby altering the Gallic and Foreign aspect of the Province was recommended and solicited.\*

CHAP.  
XIV.

1822.

Almost every township and settlement as well as the cities and towns, in which there were inhabitants of British birth or descent, prepared separate petitions to the King and Parliament on the subject; but the anti-unionists proceeded with greater unity and system than their adversaries, and indeed with a moderation and temperance of language, at least in their petition, which, in some instances the latter, in the fervor of party spirit, lost sight of altogether. A public meeting was held at Montreal on the 7th October, and at Quebec another on the 14th of the same month, by the anti-unionists. At the former, a committee of seventeen, and at the latter place another committee of thirty members were appointed to prepare petitions against the union. That of Montreal consisted wholly of Gallo-Canadians; in that of Quebec there was a sprinkling of Anglo-Canadians, and persons of British birth, including among these, one

\*The petition from Montreal, excelled all others in asperity. It condemned the policy that prompted the British government to divide the Province of Quebec into two Provinces, whereby "the English population in Lower Canada, was rendered inefficient, from the comparative smallness of their numbers, and the whole power of the representative branch of the government was given to the French Canadians." It represented that the "French Canadian population for a short period of time after the adoption of the present constitution, partly from incapacity to exercise the political powers with which they had become invested, and partly from some remaining deference for their English fellow subjects, used their ascendancy with moderation but this disposition was not of long continuance, and soon yielded to inveterate anti-British, and anti-commercial prejudices by which they have not ceased to be actuated."

It was represented that "all commercial enterprise and improvement had been crippled and obstructed, and that the country remained with all the foreign characteristics which it possessed at the time of the conquest, that is, in all particulars, French."

"Without an union, (it was said,) this population must retain its present ascendancy in the government of the country, and will not of course of its own accord, cease to be French." Its progressive increase under the fostering protection of Great Britain, will therefore necessarily lead to a result, which, without an union, is anticipated." They added that they "could not omit to notice that the unreasonable extent of political rights which had been conceded to this population, to the prejudice of their fellow subjects of British origin, together with a sense of their growing strength, has already had the effect of realizing in the imagination of many of them, their fancied existence as a separate nation, under the name of the NATION CANADIENNE, implying pretensions not more irreconcilable with the rights of their fellow subjects, than with a just subordination to the parent state." They therefore "respectfully submitted whether a system of government which had had such effects, and which in its ulterior consequences must expose Great Britain to the mortification and disgrace of having at immense expense reared to the maturity of independence a foreign conquered colony, to become the ally of a foreign nation, and the scourge of its native subjects and their dependants, ought to be persisted in."

CHAP.  
XIV.

1822.

Deputies sent  
to England.

of the judges. These committees, (styling themselves "*constitutional committees*") corresponded together, and concluded upon an address to the King and Parliament, in the name of the inhabitants of the Province, deprecating the intended legislative union of the Canadas. Messengers were dispatched throughout the country parishes for the purpose of obtaining subscribers. The signatures and crosses obtained from the various parts of the Province amounted as it was stated, to about sixty thousand in all. Mr. John Neilson, of Quebec, was deputed on the part of the Quebec committee, and Mr. Papineau, speaker of the Assembly, on the part of that of Montreal to take home the Address. Mr. James Stuart of Montreal, advocate, was appointed by the unionists to carry home their petitions. These persons accordingly proceeded to England, by way of New York, early in the winter, so as to be in time for the opening of Parliament. The committee of anti-unionists at Quebec, during the progress of the petition, addressed printed circulars to several members of the British House of Commons, requesting that all proceedings with respect to the intended union might be stayed, until their petition should reach England and be laid before Parliament.

The Governor, in this matter, prudently kept aloof, not countenancing in particular either of the parties, but obligingly furnishing those who on the part of either had gone home, with letters introductory to the minister.

THE  
sidered,  
lation, a  
cooled t  
ingly m  
circums

Mr. P  
the Asse  
departur  
Union,  
the Asse  
was date  
Governor  
ner, been  
ed them.  
cil, that,  
by which  
service o  
rous that  
gave leav  
and that  
be chosen  
o'clock,

The As  
Bourdage  
Mr. Vige  
went son  
successfu  
pointmen  
the presen  
nominatio  
together,  
tain the v  
whereas h  
self had h  
tween ap

\* The qu  
fixed at tw  
reduced to t

## CHAPTER XV.

THE contemplated Union of the Canadas being considered, in this Province, by the majority of the population, a measure of coercion and of rigour, somewhat cooled the ardour of the Representatives, who, accordingly met in Provincial Parliament, with a spirit of circumspection, if not of conciliation.\*

Mr. Papineau, the Speaker, informed the Clerk of the Assembly, by letter, that owing to his intended departure for England, with the Petitions against the Union, he could not attend his duties as Speaker of the Assembly at the approaching Session. His letter was dated at Montreal, on the 6th of January. The Governor, after the Assembly had, in the usual manner, been summoned to the Council Chamber, informed them, through the Speaker of the Legislative Council, that, "being apprised of Mr. Papineau's absence, by which he had rendered himself unable to attend the service of the Assembly, as Speaker, and being desirous that the public affairs might receive no delay, he gave leave to the Assembly, to choose a new Speaker, and that they were to present the person, who should be chosen, to His Excellency on the morrow at two o'clock, for his approbation."

Meeting of the  
Legislature.

The Assembly having returned to their Chamber, Mr. Bourdages being proposed as Speaker, was rejected. Mr. Viger being next proposed, his political life underwent some severe scrutiny, not mitigated by the unsuccessful candidate, who, chagrined at his own disappointment, and determined to break the strength of the present one, insisted that such as were to be put in nomination for the Speakership, should be proposed together, in order that the House might at once ascertain the whole of the Candidates, and exercise a choice, whereas by putting the Candidates up singly, as he himself had been, there was no choice, or alternative between approval or rejection of the proposed candidate.

\* The *quorum* which in the last Session, as previously noticed, had been fixed at twenty-six, a majority of the whole Assembly was this Session reduced to twenty-one.

CHAP.  
XV.

1823.

This seeming fair, Mr. Taschereau and Mr. Vallières, were successively proposed. The former, however, being called upon to declare, whether if the choice of the House were to fall on him, he would resign his other offices, expressing himself in the negative, waved by this, the chance he otherwise might have had for the Chair, to which, the two others put in competition with him being successively negatived, Mr. Vallières was unanimously chosen, although a very young member of the House.

It is deserving of notice, that the parliamentary conduct of Mr. Viger, during the late war, was on this occasion strongly reprobated by some of those, who, then, had most decidedly approved of it, and co-operated with him; persons whose present popularity had chiefly arisen from a perseverance in the policy they now affected to condemn in that gentleman, whom they represented as having been hostile to the Government, and averse to measures which had been found essential in carrying it successfully through the war.

The Governor having confirmed the Speaker elect, opened the Session with the Speech inserted below.\*

\* Gentlemen of the Legislative Council,  
Gentlemen of the Assembly,

Since I last met you here, the whole system of Navigation Laws, with the general circumstances of British and Colonial Commerce, have been brought under the consideration of the Imperial Parliament, and two Acts have in consequence been passed, materially affecting the Trade of this Province by Sea.

Another Act has also been passed, regulating our trade with the United States of America, and our intercourse with Upper Canada, and providing for an adjustment of the differences subsisting between the two Provinces. I have ordered copies of these three Acts to be laid before you.

I am commanded to inform you, that His Majesty's Ministers proposed, to Parliament certain alterations in the Act thirty-first George the Third, Chapter thirty-one, principally with a view to unite into one the two Legislatures of Upper and Lower Canada; but the measure was withdrawn and postponed to the next Session, in order to afford an opportunity of ascertaining the sentiments of the people of these Provinces upon it.

I have no doubt you will give your early attention to a subject of such general importance, and I will only express my hope that your deliberations upon it, will be marked by that moderation which is best calculated to give weight and effect to such representations as you may see fit to make.

Gentlemen of the Assembly,

No Bill of appropriation having passed in the last Session, to enable me to meet the expenses of the Civil Government, you must be aware of the difficulties and embarrassments thereby thrown upon me. I have endea-



The subjects adverted to in it, particularly the Union, being deemed of the highest importance, a call of the Assembly was ordered for the 21st January, in order that a clear and decided expression of the whole House on the subject, might be given.

CHAP.  
XV.

1823.

The Legislative Council discussed the same subject, and passed several resolutions by a majority of 15 against 5, deprecating the proposed Union, avoiding however to urge any other than as general reasons against it, "the fears and apprehensions, jealousies and discontent it might excite" among "a people warmly attached to their present constitution." They also declared, that as Councillors chosen by His Majesty in this Province, they felt they would be guilty of a dereliction of their solemn duty did they not declare as their firm opinion that the union of the two Legislatures would have a di-

Proceedings  
in the Legisla-  
tive Council,  
relating to the  
Union.

voured as much as I could, to avert the great inconveniences to the public, which I stated in my Message to you of the sixth of February last, by paying up the usual established expenses for the half year then current, but I have not felt myself justified in doing so, beyond that period, and there consequently remains a very considerable arrear due to several of the public servants.

I shall direct a full Statement of the course I have adopted, together with Accounts of the Receipt and Expenditure for the year to be laid before you; and I shall submit to you by Estimate the probable Expense in this year, of those local Establishments and Objects of Public Charge, for which, according to the principles stated to you in that Message, it is my duty to call upon you to provide.

I trust that in the course of this Session, you will take into consideration the whole Financial Accounts which have been furnished at your request, during the last two years. I have given, and am still disposed to give every facility in my power, to enable you to examine and bring these long standing Accounts to a clear and final arrangement, and I must say that I see little difficulty in accomplishing the task.

Gentlemen of the Legislative Council,

Gentlemen of the Assembly,

I am convinced that every Member of this Legislature must regret that the progress of the public interests for some years past, has been so materially interrupted. I will not therefore on this occasion dwell upon past events; the remedy lies in your hands, and to you I will leave it, with my most earnest recommendation that you will seriously consider the incalculable injuries, which have been, and must continue to be, accumulated on the Province, while the Executive Branch of the Constitution remains disabled from exercising its just and legitimate and most useful power.

Many subjects of the greatest moment demand your consideration, and I shall communicate with you upon them in detail, most anxiously hoping to find you assembled in that spirit of moderation and of honorable zeal, which alone can lead to a full and faithful discharge of your duties to your Sovereign and your Country.

H

CHAP.  
XV.

1823.

Resolutions  
of the Assem-  
bly on the pro-  
posed Union.

rect tendency to weaken and embarrass the administration of His Majesty's Government, and ultimately to create discontent in the minds of His Majesty's subjects, in this colony.\*

The Assembly when the subject came on, pursuant to the call, passed several resolutions by a very great majority, after some warm debates. The House declared, "that it participated in the surprise and grief felt by a very large majority of His Majesty's subjects in this Province, on hearing that His Majesty's Ministers had proposed to Parliament an alteration in the provincial constitution, with a view of uniting the Legislatures of Upper and Lower Canada." The last of their resolutions stated, "that were the proposed alterations adopted by Parliament, the result would be, that two Provinces, having laws, civil and religious institutions and usages essentially different, would be subjected to one and the same Legislature, whose decisions would alternately endanger the laws and institutions of either Province. That there would thence result well founded apprehensions respecting the stability of those laws and institutions; fatal doubts of the future lot of these colonies, and a relaxation of the energy and confidence of the people, and of the bonds which so strongly attach them to the mother country."

\* In the Legislative Council, the following protest was entered against the vote, for an Address to His Majesty, praying that an Union of the Canadas might not take place.—"Dissentient—First—Because the Union of Upper and Lower Canada, under one Legislature, would afford satisfactory, constitutional, and effectual means of removing those fiscal difficulties which have hitherto existed, and which, under the present order of things must continue to exist, and excite jealousy and disaffection between the Provinces.

"Secondly—Because such Union would encourage the introduction of a numerous population from the parent state, and give to the Province of Lower Canada, a British character."

"Thirdly—Because such Union would greatly increase the physical strength of both Provinces, and facilitate above all other measures, their power of resisting a common enemy."

"Fourthly—Because such Union, by encouraging the settlement of the waste lands (as well seigniorial as others) would greatly augment our commercial resources, encrease the value of all real property, and give an impetus to the prosperity and improvement of both Provinces, which would render them one of the most valuable appendages of the British Empire."

(Signed) John Richardson, James Irvine,  
Herman W. Ryland, Roderick McKenzie,  
Charles W. Grant, William B. Felton.

The Union of England and Scotland, distinct in their respective laws, civil and religious institutions and usages, and the history of the Empire since that event, were appealed to in refutation of the reasons, if such they may be termed, by which the majorities in both houses professed themselves actuated. These were in debate, also, plainly told, that the loss of that power already too long abused and perverted to the prejudice of their fellow subjects of British descent and birth, immigrating to the Province, was their chief apprehension : and that this, and the dread of seeing it pass into hands, by which, possibly it might in turn be used against them as they had done against others, were the real cause of their aversion to an union. The reason urged in the second article of the protest made in the Legislative Council, was probably as powerful a motive at bottom with the Anti-unionists, as with the party seeking the union, though in policy or propriety, the former could not openly avow it.

The resolutions of the Assembly were embodied in petitions to the King and Parliament. That to His Majesty, was at the request of the Assembly transmitted to England by the Governor. The addresses to the two Houses, were forwarded to Messrs. Papineau and Neilson, in England, to be by them submitted.

His Lordship, at an early period of the Session of the Legislature, acquainted the Assembly by Message that the arrival of the Lieutenant Governor, Sir Francis N. Burton, made it necessary that a residence should be provided for him, and that a furnished house had accordingly been taken for His Excellency, in the month of July preceding, at the rate of £500 currency, per annum, which, his Lordship recommended the Assembly to provide for; and that in order to enable the Lieut. Governor to live in the Province in a manner becoming his situation, a sum not exceeding £1000 Stg. be added to his present Salary, and a suitable residence found him, or an allowance of £500 per annum, until such residence were provided, should be made him.

Message relating to the Lt. Governor.

The Lieutenant Governor, by his affability and amenity of manner, had become popular ; and the Assembly cheerfully voted the full allowance recommended. A Bill was accordingly passed, augmenting his salary,

CHAP.  
XV.

1823.

(which previously stood at £1500) to two thousand five hundred pounds, Sterling, during his residence in the Province; and the further allowance of £500 currency, for house rent.

Eastern Town-  
ships.

The Eastern Townships, hitherto neglected, were, this Session attended to by the Assembly. Separated from Montreal and Quebec, by an intermediate wilderness, through which there hardly was a practicable foot-path, whereby the inhabitants could come to market with their produce, or to the Courts, for justice, loud complaints of oppression and injustice were made by them against the majority of the Assembly, as Anti-British, and opposed to the progress of the Townships, where the British population principally lay. The sensation produced by the intended union, operated in favor of the Eastern Townships; the Gallo-Canadians being sensible, that while they were deprecating a measure which they considered as unjust, they should also quiet the complaints of these, their Anglo-Canadian fellow subjects, lest their remonstrance might induce the Government at home, to do them that justice which had been withheld here, and in doing this, also take steps to place them on a more equal footing than heretofore.

Inferior Dis-  
trict of Saint  
Francis erect-  
ed.

The Assembly, pursuant to the recommendation of the Governor, took the subject into consideration, and passed a bill, erecting a new District, comprehending several of the Eastern Townships, under the name of the Inferior District of St. Francis, from the river of that name which traverses it. A Provincial Court, with jurisdiction in personal actions, to the amount of twenty pounds, sterling, as well as a Court of Quarter Sessions of the Peace, were established in the new District.

Estimate for  
the year.

The estimate for the year was laid before the Assembly, on the 5th February, by message, stating, that his Lordship, in order to show more clearly the nature of the general expenses of the Government of the Province, for the current year, had classed them into two schedules. One comprehended those salaries and contingencies provided for, by permanent Acts and other revenues of the Crown; and it gave him, he observed, pleasure to express his hopes, that in consequence of the Act passed in the last Session of the Imperial Parliament, the revenue raised by the Act of 14th Geo. III. chap. 88,

and applicable to these services, would be nearly, if not fully adequate to the payment of them. The other was an estimate of the expenditure to be incurred in defraying the local and provincial establishments, to which his Message of the 6th February last, particularly referred, and for which it again became his duty to call upon the Legislature to provide.

CHAP.  
XV.

1823.

The first of these schedules, consisted of a class, comprehending the Governor, Lieutenant Governor,\* and certain officers immediately attached to the former, including the Agent of the Province; the Surveyor General and contingencies of his department:—the Judges and officers connected with the administration of justice: the salaries, of £100 each, to nine Members of the Executive Council: the Clerk of the Council, and contingencies for the office, as well as to the Committee of Audit; and to the Inspector of Public Accounts: and the salaries and contingencies of the Receiver General; and Clerk of the Terrars, amounting in all to £32083 11 3, Sterling.

The second, comprehended those offices and objects of public charge, denominated "*local establishments*." These consisted of:—first, the Legislature and its permanent officers, including the Speakers of the Legislative Council and Assembly:—secondly, the expenses in printing the laws:—thirdly, salaries to schoolmasters:—fourthly, the pension list:—fifthly, rents and repairs of public buildings, and the salaries and disbursements of those employed in the charge of them:—sixthly, the expense of collecting the public revenue, under provincial laws:—seventhly, the expenses of the Trinity House:—eighthly, the Militia Staff and contingencies:—ninthly, the expenses for criminals and for houses of correction; and finally, a tenth chapter or article of miscellaneous charges, consisting of salaries to the Grand Voyer, to the Inspectors of Chimnies of Quebec, Montreal and Three Rivers; Clerk of the Market at Quebec; to residents on Anticosti to assist mariners in distress; assessments on public buildings, and other small charges, making a total of £30225 19 5 Sterling.

\* It is to be observed, that the addition made, this Session, by the Assembly, to the Lieutenant Governor's salary, as already noticed, was to be taken from the unappropriated funds, at the disposal of the Legislature. The salary he previously held, was from the permanent revenue vested in the Crown, towards the support of the civil government. He therefore continued to stand on the schedule for the amount of his permanent salary, independent of any vote of the Assembly.

CHAP.  
XV.

1823.

Local expen-  
ces voted.

This classification was strongly animadverted upon, out of, as well as in the Assembly, as springing from the interested and sordid policy of those living upon the public money, and (as asserted) in the confidence of the Governor. Notwithstanding the disgust they expressed, the Assembly, probably keeping in view the attention which the Government at home, seemed disposed to give the affairs of the Province, voted the sums necessary to defray the salaries and pensions for the year. In doing this, they prefaced their votes with certain resolutions, tantamount to a protest against the classification adopted by the Executive, professing also their willingness "to fulfil their engagement toward His Majesty, by granting *annually*, every necessary aid towards defraying the whole expense of the Civil Government, and the administration of justice, and other objects of public charge in the Province," as often as they should be thereunto required by His Majesty, or his Representative in this Province.

Some in the Assembly, entertained a notion that the *Canada Trade Act*, ought to be taken into consideration, but it was thought prudent to defer this for the present. That Act being for the purpose of justice, and for affording relief to Upper Canada from alleged grievances occasioned by the Lower Province, it might prove impolitic to remonstrate against the measure, lest the former should, in their own vindication, again move in the matter, and thereby afford Ministers immediate cause for carrying into effect an Union of the Provinces. While imploring the Government not to unite the two Legislatures, they avoided measures which might bring on the evil, they were anxious to avert.

Bills of indemnity for the monies expended, without the sanction of Acts of the Legislature, towards supporting the civil government for the preceding four years, were passed by the Assembly; taking always their own votes during those several years, as the standard by which the proposed indemnity was to be regulated. The title to these bills being to "reimburse and indemnify His Majesty," gave umbrage in the Legislative Council, as unbecoming and offensive. The Bills were rejected, as well on this account, as because they did not cover the entire amount of expenditure necessarily incurred: and also, because they contained clauses affecting the appropriated revenue.

The Bill of appropriation for defraying the expenses of the local establishments for the current year, specified by items, the several salaries allotted to the respective Officers. The monies appropriated for the purpose, were according to the appropriating clause "to be taken from and charged against the GENERAL FUNDS OF THE PROVINCE, arising from any Act or Acts in force therein, and from any of the revenues of His Majesty, applicable to the purposes" of the Act ; that is to say, towards the support of the Civil Government.

CHAP.  
XV.

1823.

Bill of appropriation.

The Assembly intended, under the ambiguous terms of "*General Funds of the Province*," (no such funds being legally established in the Province, or in existence in it, under that denomination) to save their pretensions to the controul of all monies levied in the Province, under whatsoever authority, including the appropriated as well as the unappropriated. The Legislative Council did not overlook the ambiguity, but viewing the words, general funds, as meaning nothing more than the unappropriated monies, over which the Assembly had an undoubted controul, and not the appropriated revenue of the Crown, over which it was maintained they had none, and which therefore could not in legal interpretation be within the purview of the bill, passed it ; with a protest, however, declaring they would not in future pass another of the same kind ; the present being acceded to, only on account of the particular circumstances under which matters were at the moment. The bill was considered as objectionable, principally on account of the specifications it contained.

The Assembly resumed the consideration of the appointment of an Agent in England, and agreeably to the advice of Mr. Marryat as already noticed, requested the Legislative Council, to concur in the appointment of a person or persons to reside as such near His Majesty's Government in England; to attend to the interests of this Province, and from time to time, to transact such public business as might be committed to his care. The Legislative Council refused to concur in the measure, and nothing further was done towards it during the Session.

Agent for the Province.

Among the matters of minor importance that occurred, some deserve notice. The excitement produced by the intended union, vented itself in acrimonious reflections

CHAP.  
XV.

1823.

Remarks by  
the Editor of  
the Canadian  
Times.

on either side, through the press ; each party representing the designs of the other, as hostile to the Government or oppressive to the people : the unionists reproaching their opponents with disaffection, and the latter retorting upon the former, their disposition to rule with arbitrary sway. After the Resolutions of the two houses of the Legislature had gone abroad, the unionists, provoked at the determined aversion which had prevailed there, against their favourite measure, expressed themselves in some instances more warmly than excusable, even under the mortification of party discomfiture. Offence was taken at the remarks of the Editor of the CANADIAN TIMES, (a paper then published at Montreal) who observed, that " the Resolutions and Addresses of the " Legislative Council, and the House of Assembly, could " not be productive of surprise, when the majorities by " which they were carried, shew how completely anti- " British was the composition of these bodies."

The Legislative Council took no notice of these remarks, but the Assembly by a resolution, declared them a false and scandalous libel upon the House, and a manifest breach of its privileges. It was therefore ordered, that the Editors and publishers of the paper be accordingly taken into custody by the Sergeant at Arms, and brought to the bar of the House. Ariel Bowman, one of the Editors, was taken into custody, by a Messenger despatched to Montreal for the purpose, but immediately after his apprehension, effected his escape. The other, Edward V. Sparhawk, kept out of the way and was not apprehended.

Sheriff of Que-  
bec.

The Office of Sheriff for the District of Quebec, having been vacated by the removal of Mr. De Gaspé, who had proved insolvent, the son of the Chief Justice of the Province, Mr. Sewell, was appointed in his stead. The appointment of this gentleman caused dissatisfaction, because, in cases where the Sheriff might be party, the Chief Justice must according to law (as it was said) abstain from giving an opinion, owing to his paternity, and that the public would therefore in such cases forego the benefit of the advice of the highest law authority in the Province.\*

The House, at the instance of Mr. Andrew Stuart, took up the subject, and having passed resolutions upon

\* See Appendix D.



it, addressed the Governor in Chief, praying His Excellency would be pleased to take the matter into consideration, and in his wisdom adopt such means for obviating the inconveniences complained of, and applying a remedy, as His Excellency should deem meet.

CHAP.  
XV.

1823.

The Governor answered, that the inconveniences and the danger apprehended, to the proper administration of the laws, and justice, in the Country, as represented in the Address of the Assembly were assuredly of the highest importance. That he would most readily give his serious attention to the subject, and adopt such measures thereon, as the circumstances of the case might require. Thus the matter remained, until the following Session, when the steps pursued by his Lordship were made public, which however, did not disturb the Sheriff in the possession of his Office, the Judges who gave their opinion on the subject not seeing any legal objection to his retention of it, on the grounds urged by the Assembly.

In the embarrassments of the Receiver General, who it would seem had for some time been upon the verge of insolvency, his Lordship was induced, for the purpose of enabling him to pay the expenses of the Civil Government, for the half year, expired on the first of May, 1822, and to meet other incidental public expenses during the remainder of the year, to place upon his own responsibility in the Provincial Treasury, thirty thousand pounds from the Military Chest. He acquainted the Assembly of the circumstance, early in the Session, and called upon the House for immediate repayment of the amount to the Military Chest. The Assembly would consider the Loan in no other light than as a personal favor to the Receiver General, who, at that time, instead of being deficient, ought, it was said, to have upwards of one hundred thousand pounds of the public money in his hands, and therefore took no notice of the call, but proceeded to vote the necessary sums for public purposes, as if this money were actually in the chest, although it was now too manifest that there was a serious defalcation. It was observed, that to reimburse this sum, would be an assumption of the Receiver General's responsibility : and that while the Executive virtually proclaimed that officer Bankrupt, it was inconsistent, in suffering him to continue in the receipt of the public revenue, and still more so, in expecting the sanction of the Assembly.

CHAP.  
XV.

1823.

Mr. Caldwell, was, notwithstanding, after this, suffered to remain in Office, until the opening of the ensuing Session, by which time, his embarrassments had, become so insuperable as to render his removal indispensable. There is cause to believe that this would have taken place at a much earlier period, had not some assurance by that Gentleman's friends been held out, that the difficulties with which he had to contend when the circumstance first drew the Governor's attention, were but temporary ; and that the public would lose nothing by any indulgence he might from continuance in office be permitted to enjoy. The sum in which at the time of his removal, he was deficient, was, it is said, less by three thousand pounds, than it had been for some months previously. The Province, therefore lost nothing by the temporary indulgence shewn him.

Canada Trade  
Act.

The Assembly took into consideration the *Canada Trade Act*, and requested the Governor to lay before them, copies of any address or addresses to His Majesty, by the Legislative Council and Assembly of Upper Canada upon the financial concerns of that Province with Lower-Canada, and of the papers and documents accompanying the same, that had been transmitted to His Excellency by the Lieutenant Governor of Upper-Canada, during the last Session of the Legislature of this Province. The Governor in compliance with the request, accordingly transmitted to the Assembly the papers received on this subject from Upper-Canada, and which, as he informed them, had come too late to be laid before the last Session of the Legislature. They contained the Report of a joint Committee of the Legislative Council and Assembly of the Province, dated 22d October 1822, giving a detailed and lucid statement of the matters in discussion between the two Provinces, and of the fruitless negotiation which had been carried on between their respective Commissioners. This document drawn up with great ability, and grounded upon official and notorious facts, proving satisfactory to the Minister, he accordingly brought the subject before Parliament ; and without reference to the Assembly of Lower Canada, took immediate steps in Parliament to relieve the Upper Province from further dependance upon the temporizing policy by which the Assembly of the former had navigated it.

The deliberations of the Assembly on this Act, evaporated in a resolution towards the termination of the Session, that they would at an early period of the ensuing Session, take the Act into most serious consideration.

CHAP.  
XV.

1823.

Several appropriations were made this Session, exclusive of the monies voted for the local establishments appertaining to the Civil Government. The Company incorporated by an Act of the Legislature in 1818, for cutting a navigable Canal from St. Johns to the Basin of Chambly, being unable to realize funds sufficient for the undertaking, an Act appropriating fifty thousand pounds, was passed, for the purpose. Twelve thousand pounds in addition to the appropriation already made, for the Lachine Canal, were also given. A pension of three hundred pounds a year was conferred upon the widow of the late Mr. Panet, who had filled the important post, of Speaker, in the Assembly for many years, without remuneration. Pensions were also at the recommendation of the Crown, provided for Mr. Monk, Chief Justice at Montreal, and Mr. Ogden, a Judge of the Court of King's Bench at the same place, both superannuated, and who therefore, on retiring, were, by the vote now passed in their favor, to receive, the former five hundred and fifty, and the latter, four hundred and fifty pounds, sterling a year. Two thousand one hundred pounds, currency, were appropriated for the encouragement of Agriculture. Eight hundred and fifty pounds were conferred upon the society of the Montreal General Hospital, and upwards of two thousand pounds upon the Ladies of the Hotel Dieu of Quebec, as an aid to enable them to complete certain improvements to their Hospital. Two hundred pounds were also granted in favor of a Society for Education at Quebec, consisting of individuals who had formed by voluntary contribution a small fund for this purpose, and which the Legislature therefore encouraged.

Appropriations, &c.

His Lordship closed the Session on the 22d of March, which, having been characterized by diligence and liberality, enabled him to part with the Assembly in terms of commendation. The following is the Speech at the prorogation :—

“ Gentlemen of the Legislative Council,

“ Gentlemen of the Assembly ;

CHAP.  
XV.

1823.

Governor's  
Speech.

“ I have seen with great satisfaction that the various  
“ subjects submitted to your consideration in the course  
“ of this Session, have been discussed with all that dili-  
“ gence and attention, which the peculiar circumstances  
“ of the Province so much required.

“ The Acts passed by you to facilitate the Administra-  
“ tion of Justice and to extend the advantages of it to  
“ the distant parts of the Country, the encouragement  
“ continued to Agricultural Societies and to Canals, the  
“ regulations adapted to the Trade of the Province, and  
“ the assistance afforded to charitable institutions, are  
“ unequivocal testimonies of the public spirit which has  
“ animated you in the discharge of your Legislative  
“ duties.

“ Gentlemen of the Assembly,

“ I thank you for the Supplies granted, and the liberal  
“ Appropriations made for the purposes which I have  
“ recommended. I hope to find that the means also  
“ have been duly considered and adequately provided.  
“ Be assured that on my part they shall be faithfully  
“ applied.

“ Gentlemen of the Legislative Council,

“ Gentlemen of the Assembly ;

“ I regret that so much difficulty has been found  
“ in the establishment of Offices of Registry. I hope,  
“ however, that the subject will still be kept in view as  
“ one of the highest importance, affecting equally the  
“ security and the value of private property, and that  
“ you will, at a future period, again take it into consi-  
“ deration.

“ I have not failed to transmit your respective Ad-  
“ dresses to His Majesty upon the subject of the Union  
“ of the Legislatures of the Canadas. I trust that the  
“ people of this Province will now await the decision of  
“ this important question with that full confidence,  
“ which, from the experience of more than sixty years of  
“ happiness and prosperity under the British Crown,  
“ they ought to place in the wisdom and justice of the  
“ Imperial Parliament, and in the paternal views and  
“ intentions of their Sovereign.

"It only remains for me to offer my warmest thanks for your assiduous and laborious attendance. The hopes I lately expressed to you, have been fully realized, and I think it must be gratifying to you to be assured, that I esteem the result of the Session to be at once honorable to yourselves and useful to your Country."

CHAP.  
XV.

1823.

CHAP.  
XVI.

1823.

The Governor  
visits Nova-  
Scotia.

CHAPTER XVI.

THE Governor-in-Chief sailed for Halifax on the 24th of June, on a visit to Nova-Scotia, where he was received with every demonstration of respect and enthusiasm by the inhabitants. His exertions while Lieutenant Governor of that Province in promoting its agriculture had been crowned with wonderful success, and he now after an absence of three years, had a fair opportunity of witnessing the improvements resulting from them, seconded as they were, by an intelligent and industrious population. He visited various parts of the Province, every where receiving the most gratifying proofs of the high estimation in which he was universally held. His Lordship having accomplished his tour, reached Quebec on the 12th August, (His Majesty's birth day) in time to review the troops in garrison, and to celebrate the day with the accustomed honors.

Official  
Gazette.

A new Official Gazette, under the immediate authority of the Executive Government, was issued in October, a commission which some time previously had been given to Mr. Samuel Neilson, as King's Printer, being revoked, and another issued for the purpose, in favour of J. C. Fisher, Esquire, an English gentleman of literary acquirements, who had recently been Editor of the ALBION, a paper of English principles, published at New-York.

The public conduct of the elder Mr. Neilson, for some years a member of the Assembly of the Province, and Owner of the Press from which the old Quebec Gazette had issued, a paper which the Government, not having a Gazette of its own, had patronized and employed as the organ of conveying to the public, such official information as from time to time it had been necessary to impart, had become obnoxious. The politics to which his Gazette was inclined, were also thought irreconcilable with the course an official paper, ought to follow. It was therefore deemed necessary by the Executive, that an Officer should be appointed as King's Printer, and a Commission to that effect was offered the elder Mr. Neilson. This he declined, pro-

bably not wishing to place himself in the situation of a dependent upon the Executive, and, at the same time, also relinquished the editorial responsibility of the Gazette, upon certain stipulated terms, to his Son, who took the Commission. After this, his Gazette purported to issue by authority\* and continued so until the appointment of Mr. Fisher.

Mr. Neilson thinking himself aggrieved, applied for redress to the Court of King's Bench, against Mr. Fisher, but failed. He considered an Ordinance of the Governor and Council, passed in the year 1785, requiring the publication of all sales of real property by the Sheriff to be made in the Quebec Gazette, as investing the persons who at that period issued the paper, with the exclusive privilege of this publication and the emoluments arising from it. Mr. N. being the legal representative of the person who then published the Gazette, the first ever published in Canada, and continued without interruption ever since, claimed, as proprietor, that the publication should by order of the Court be made in his, the original and ancient Quebec Gazette.

The Court did not consider Mr. Neilson as maintainable in his pretensions.—That he could not claim a right which had not been vested in those who preceded him. The Ordinance without vesting an exclusive privilege or right in any one, required that certain formalities as to publication should precede every Sheriff's sale of real property, and the formality of publication in the *Quebec Gazette*, was an indispensable one:—but the Gazette intended, must legally be understood to be that which should be Published by Authority of His Majesty's Government, rather than that not published under its authority. In the existence of two Gazettes of the same denomination, that edited by the King's Printer, must be understood to be the one in which the legal notices by Law required, ought to be made.

The Legislature met on the 25th Novr. which being the last Session of that Parliament, it was expected would be an eventful one. The Governor informed the two Houses that it was painful to him to meet the Legislature each succeeding year with statements of difficulties in

\* This took place in July 1822.

CHAP.  
XVI.

1823.

Legislature  
meet.

the financial affairs, but that as they still existed, it was incumbent on him to bring them forward in the fullest detail, and that it was for that especial purpose he had called them to meet at this early period. His Speech was short and conciliatory. "We are" (said his Lordship, in concluding it) "at the last Session of this Parliament. Let it be the anxious desire of all to close our labours in that harmony and effectual concert which always promote public good, and ensure public prosperity. In that desire, I think I need not assure you of my cordial concurrence." The Judicature Bill and that for the establishment of Register Offices which had already been under consideration, he recommended them to resume.

Receiver General suspended.

The Receiver General, Mr. Caldwell, was formally suspended from the duties of his office, on the 23d November, which in fact he had virtually been from the 14th August preceding: the Revenue by Law payable into his hands, having then been placed under the controul of two persons, one a Member of the Executive Council, the other a Member of the Assembly, without whose order he neither could receive or pay away any public monies. Of this measure the Governor gave the Assembly notice, by message.\*

\* The Governor in Chief having experienced great difficulties in the Public Service during the last Summer, by the embarrassment of the Receiver General's Office, lays before the Assembly for their consideration a full statement of the circumstances that have occurred.

Having directed his attention immediately on the close of the last Session of the Legislature, to ascertain the state of the Funds upon which the large Appropriations had been granted during the Session, there appeared to be an available Balance in the Receiver General's hands, of ninety-six thousand pounds, and he called upon that Officer to declare whether he was prepared to meet Warrants to that amount.

The Receiver General produced various Accounts and Statements shewing claims on the part of the Province on the Imperial Treasury and the Military Chest, the payment of which into his hands would enable him to meet the demands of Government, and in time to pay up the actual Balance of his Accounts with the Public; but it appeared that he was not then prepared with that Balance to meet the Warrants for the Public Salaries, to be drawn upon him, and a further request was submitted by him that the Warrants for the Public Salaries payable on the first May, might not be issued until the first of July, when the Revenue of the current year would place Funds in the Chest.

The Governor in Chief agreed to this last request; but the question as to this repayment of the sums claimed by the Receiver General as due to the Province, being one on which His Majesty's Government could alone decide, it was accordingly referred to them, and Mr. Davidson was sent to England as a Messenger, both on the part of the Provincial Government and of the Receiver General, with voluminous papers to be submitted to the Lords of His Majesty's Treasury.

The Governor in Chief returning to Quebec in August, from a distant part of his Government, was informed by public rumour, of increased embarrassment in the Receiver General's Office, and shortly afterwards re-



The defalcation in the Provincial Chest amounted to £96117 13 4 Stg. according to Mr. Caldwell's own statement. He had, however, on entering office in 1811 assumed the responsibility for £39874 10 10 Sterling, upon the strength of which, his Father and predecessor in office, had by the Exchequer at home been declared even and quit, and this which it is believed, was never in reality paid over to the Receiver General, although he assumed the responsibility of it, accounted for so much of the existing deficit. It is to be observed that the inadequacy of the Salary (£500, including allowance for a Clerk, Office Rent, and Stationary,) to the charge and responsibility upon the Receiver General, whose predecessor, had not even so much, has been almost universally admitted.

CHAP.  
XVI.

1823.

Defalcation.

This sum, he proposed before a Committee of the Assembly, to which the matter had been referred, in consequence of a message on the subject from the Governor, to discharge by an assignment of property, for the purpose of sale, valued by him at £32,000 Currency, and by the annual payment, during his life, of the sum of £1500 arising from the Seigniori of Lauzon, which he pretended to be entailed upon his Son by the will of his late Father, the *usufruit* remaining with himself for life. He submitted to the liberality of the Legislature a claim for some allowance in the nature of a set off, for services rendered by his late Father and himself, in performing

Mr. Caldwell's  
propositions.

ceived a declaration from that Officer himself, that he was unable to meet any further Warrants to be drawn upon him.

Under these circumstances it became the duty of the Governor in Chief, to take immediate measures to guard the public interests, and to prevent any embarrassment in the necessary operations of Government. For these purposes and until an answer should be received from His Majesty's Government, he appointed a Commission of two gentlemen, to inspect and controul the operations of the Receiver General's Office, and took upon himself the responsibility of granting Loans from the Military Chest, according to the urgent necessities of the Civil Government.

No intimation having yet been received from the Lords of His Majesty's Treasury, that they will admit the claims advanced by the Receiver General on the part of the Province; but there being reason on the contrary to believe that this will not be done; the Governor in Chief has been compelled, in the absence of the expected instructions from His Majesty's Government with respect to the Receiver General, to take that step by which alone under these circumstances the Public Service can be continued in a legal, secure, and regular course, by suspending the Receiver General from his Office, and appointing another person to fill it, until His Majesty's pleasure shall be known, or until such arrangements shall be made, as shall replace the deficient balance in the Chest, and consequently render this measure no longer a matter of necessity.

(Signed) DALHOUSIE.

Castle of St. Lewis, Quebec, 29th Novr. 1823.

CHAP.  
XVI.

1823.

Propositions.

duties not required of them under their respective patents, in receiving and paying large sums under Provincial Acts, for which no charge hitherto had been made, or per centage allowed. The amount of monies received by himself and his Father under these Acts, he stated to have exceeded a million and a half. An allowance, upon the sum so received, of three per cent, as given the Receiver General in Upper-Canada, by Act of the Legislature in that Province, would amount to £45471 9 3, which he considered, ought in equity to be allowed him. He also expressed his willingness to pay into the Provincial Treasury, a further sum of a thousand pounds per annum, in the event of his restoration to Office with a provision by the Legislature suited to its responsibility, until the whole debt were extinguished.

The proposals were disregarded, the Assembly being averse to make any compensation for services attended with a breach of trust. The House had at various periods shewn a disposition to look into the state of the Provincial Treasury, but no Bill on the subject had hitherto been passed and laid before the Legislative Council. It was pretended in the Assembly that the responsibility of his failure ought to rest upon the Imperial Government, whose Officer he was ; and upon which therefore it was incumbent to have adopted measures to guard against the event that had occurred. It is, however, to be observed, that for all monies levied under Acts of the Provincial Legislature and paid into his hands, there is authority to this effect in those same Acts, and it was therefore contended, that although with respect to the Crown duties or monies raised under Imperial Acts, he was exclusively the servant of the Crown and solely accountable to the Treasury ; yet, that as the Legislature had authorized the payment of the Provincial duties to be made into his hands, he had thereby been made their Officer.

Determination  
of the Assembly.

The Assembly, however, considering the Imperial Government bound in equity to make good the defalcation, declined measures pursuant to the proposals of the late Receiver General, intending to lay claim for the amount against the Government at home. The Committee made a voluminous report, upon the subject, giving it as their opinion, that the monies levied on the

subject in this Province, vested in His Majesty, under the Royal Instructions,\* and paid over to the Receiver General, accountable to His Majesty through the Lords of the Treasury, were in the nature of a deposit in the hands of the Imperial Government.

The Report also stated, that the Government in England, by former proceedings and addresses of the Assembly, to His Majesty, in relation to the civil expenditure and revenues, had been sufficiently informed of the insufficiency of the check, which hitherto existed, on the issues of monies from the Provincial funds.—That no remedy, or Legislative provision, had such been deemed necessary, either in the opinion of His Majesty's Government at home, or those acting under its instructions here, had since, or at any previous time, been recommended to the Legislature, although without such recommendation, such provision could not be successful.† That both must have been fully aware from the Receiver General's semi-annual accounts, that the balances in his hands were generally less than the money stated annually by the Colonial Government to be actually there, and at the disposal of the Legislature. The Committee expressed its opinion of the propriety of an appeal to the honor and liberality of the British Government on the present occasion. The monies levied on the Inhabitants of the Colony for the public uses thereof, deposited in the hands of an Officer of that Government, in conformity to Royal Instructions, and accountable only to it, had, they observed, been diverted from their uses without the possibility of its being prevented, on the part of the people of this Colony.‡

\* These instructions were originally given to His Excellency Alured Clarke, Esquire, Lieutenant Governor of the Province, by whom they were communicated on the 26th February 1793 to the Assembly for their guidance. They are as follows—vizt: "That in all laws or ordinances for levying money or imposing fines, forfeitures or penalties, express mention be made, that the same are granted or reserved to us, our heirs and successors, for the public uses of the said Province, and the support of the Government thereof, as by the said law shall be directed, and that a clause be inserted, declaring that the due application of such money pursuant to the direction of such laws be accounted for unto us, through Our Commissioners of Our Treasury for the time being, in such manner and form as we shall direct."

† The reader will give what credit he pleases to this last assertion by the Committee. It is by its boldness imposing, but it is also absolutely gratuitous. They preposterously declare success to have been hopeless, without having once ever made a trial for it.

‡ This also is rather a bold assertion, and referable to the preceding note.

CHAP.  
XVI.

1824.

The Report further observed, that although all the responsibilities of the Receiver General, and the securities given by him, were towards His Majesty's Treasury only, they had, nevertheless, thought it expedient to call upon him to state what means he had of making good the defalcation acknowledged by him ; but that having come to an opinion, that the House ought to look to the Justice of the Imperial Government for the amount of defalcation in the Provincial funds entrusted to the Receiver General, they could not presume to pronounce on the reasonableness of his offer, or on the claims therewith connected.

Pursuant to the suggestion of the Committee, the Assembly addressed His Majesty, representing the failure of the Receiver General as an "evil which had occurred in the Administration of the Affairs of the Colony under the controul of the authority of the Empire ; and which it had not been in the power of the Assembly of the Province to prevent."

Address of  
the Assembly  
relative to the  
defalcation.

"That the nomination and controul of His Majesty's Receiver General for this Province, is vested in the Lords Commissioners of His Majesty's Treasury in the United Kingdom ; and that in virtue of Royal Instructions, signified to the Assembly of the Province previous to its passing any money bills, all the laws passed therein for raising money on the subject, vested the same in His Majesty ; and provided that the said monies should be accounted for to the Lords Commissioners of the Treasury."

"That these as well as other monies levied by Acts of Parliament on the subject in this Province, had been paid into the hands of the Receiver General, who, at no time, had accounted to the Assembly of the Province, but had been exclusively under the controul of His Majesty's Government in the United Kingdom."

"That being informed by Message from the Governor in Chief, of a defalcation in the monies levied on His Majesty's subjects in this Province, it had been on enquiry, before a Committee, found to be as stated by the Receiver General £219064 0 7½, of which the Receiver General claimed to have advanced on Letters of Credit, and for other Payments uncovered by War-

“ rants £122946 7 7, leaving an acknowledged balance  
“ in cash due by him of £96117 13 0¼ Sterling.”

CHAP.  
XVI.

1824.

The Assembly therefore submitted their case to His Majesty “ on the part of all His Majesty’s subjects in  
“ this Province, in the hope that these might not suffer  
“ in their property, confided under Royal Instructions,  
“ and by Act of Parliament, to an Officer over whom  
“ they had no controul ; and that all losses of the said  
“ monies in the hands of the said Officer, or disburse-  
“ ments thereof, without the authority of law would be  
“ made good to His Majesty’s subjects in this Province  
“ for the uses for which they were levied.” This Ad-  
dress was on the Petition of the Assembly, forwarded by  
the Governor to His Majesty’s Ministers.

The Governor, early in the Session, informed the As-  
sembly by Message, that he had not failed to take into  
most serious consideration their Address to him of the  
25th February 1823, respecting the appointment of Mr.  
W. S. Sewell, as Sheriff of the District of Quebec ; and  
that having consulted the Judges of the Court of King’s  
Bench in the several Districts, he had been convinced by  
the reports he had received on this reference of the sub-  
ject, that there was not any illegality in this appointment,  
nor any real danger from it to the rights of His Majesty’s  
subjects, in the Administration of Justice criminal or  
civil in this Province. That for these reasons, and having  
every cause to be satisfied with Mr. Sewell’s conduct in  
that situation, he felt it is duty to maintain him in the  
enjoyment of it.

Message re-  
lating to Mr.  
Sheriff Sewell.

This communication inflamed the Assembly, who  
voted an Address, (a single voice dissenting) praying  
his Lordship would be pleased to lay before the House,  
copies of the Reports made by the Judges who had been  
consulted on the subject. His Lordship answered, that  
he could not but feel sensibly this further step of the  
Assembly upon the subject, as pointedly doubting the  
grounds of the Message he had sent the House, but that  
he would, nevertheless, cause the papers asked for, to be  
sent down.

He accordingly sent down to the Assembly transcripts  
of the documents required,\* observing in his Message

\* See Journals of the Assembly 1823-4.

CHAP.  
XVI.

1824.

on the occasion, that in addition to the opinions therein stated, he had the advantage of the advice of the Chief Justice, personally, in whose talents and upright character, he placed the fullest reliance ; and that he had also reason to know the concurring opinion of Mr. Justice Kerr, who having early solicited the appointment for his Son, must therefore have thought there was no illegality or danger to the public interests in such an appointment. His Lordship added, that he also had the decided opinion to the same effect, of His Majesty's Executive Council for the Province, whose advice he would always consider, as the best he could obtain to guide him in the public interests.

Is referred to  
a Committee.

This Message instead of satisfying the Assembly, rather increased the excitement in it. The subject was in the first instance taken into consideration by the whole House, and afterwards referred to a Committee of five members, who did not report until near the end of the Session ; and there the matter has since been left at rest. The report expatiated largely on the subject, but made no observations on the opinion of the Judges. The Committee, however, expressed their regret, that the dangerous practice of obtaining from the Judges, extrajudicial opinions, should upon the present occasion have been resorted to. The Committee recommended as the result of their deliberations, the introduction of a Bill, to disqualify the relatives within certain degrees, of any one of the Justices of the King's Bench, from holding the Office of Sheriff or of Coroner, or of Prothonotary in the District wherein such Justices respectively sit.

Sir George  
Prevost's ad-  
ministration.

The Assembly resumed early in the Session, at the instance of Mr. Bourdages, the consideration of the *Prevost* administration, of which he had been an active supporter. Resolutions were adopted expressive of the high sense they entertained of the services of that Governor, in the administration of the Government of the Province, and in his successful defence of the same during the late War. They declared that it had been solely owing to circumstances beyond the controul\* of the Commons of the Province, that the resolutions of the Assembly, of the 21st March 1815, to appropriate the sum of five thousand pounds, for the purchase of a Service

\* These were,—the refusal of the Legislative Council to concur in the appropriations voted for the purpose by the Assembly.

of Plate, to have been presented to him on their behalf, had not been realized. A Committee was appointed to take into consideration, and report to the Assembly, the most proper means and effectual method of carrying into effect, and commemorating the sense of the Commons of Lower-Canada, with respect to the public services of that Governor. The Committee recommended that an Equestrian Statue should be erected to his memory, in a proper situation, fronting the Edifice in which the Commons of Lower-Canada hold their Sessions.\* The question of concurrence in the recommendation, was not however, put in the House, consequently the measure has since remained imperfect.

CHAP.  
XVI.

1824.

The illicit importation of Tea from the United States carried on for several years, to an extent very prejudicial to the Revenue of the Province, and to the fair trader, drew the attention of both Branches of the Legislature, which, in this Session by a joint Address, prayed His Excellency would be pleased to represent to His Majesty's Ministers, the expediency of advising such measures as might be most proper to enable the Inhabitants of the Canadas, to obtain from India and China, such goods as they might require from those countries; particularly Tea, either by some arrangement with the East-India Company for an annual supply, or by granting to His Majesty's subjects the benefit of direct importation. This application was attended to by the East-India Company, and Tea more than sufficient for the consumption of the Province, has since, been annually imported to Quebec, direct from Canton, in ships employed by the Company.

East India &  
China Trade.

Messieurs Papineau and Neilson, who had went to

\* It was also recommended by the Committee, that the following Legend or Inscription should be borne upon the Monument—vizt :

In memoriam  
Illustrissimi viri  
D. Georgii Prevost.  
Baronell,  
Hujusce Provinciae Gubernatoris,  
Atque  
Copiarum Ducis,  
Canadarum Servatoris,  
Hoc Monumentum  
Grato animo  
Decreverunt Communes  
Inferioris Canadæ,  
Die                      Januarii 1824.

CHAP.  
XVI.

1824.

England with the Petitions against the Union, laid before the Assembly, in letters addressed to the Clerk, the result of their mission on that subject. They stated, that the Minister having informed them that His Majesty's Government had not determined to bring the measure forward, the Petitions to the two Houses of Parliament had not been presented.—That if the consideration of an Union of the Provinces were resumed, the circumstance would previously be notified through the Governor, to the Inhabitants of the Colony, in time to enable them to be heard in Parliament, if they should think proper, by Commissioners, by Petition, or in such other manner as they should see fit.

Canada Trade  
Act consider-  
ed.

The consideration of the *Canada Trade Act* was revived in the present Session. Mr. Bourdages proposed several strong resolutions on the subject. These were supported by Mr. Vallières, the Speaker, but successfully opposed by Mr. Papineau, who maintained the measure to have been one of necessity, arising from the state of affairs between the two Canadas. This gentleman, who had been one of the Commissioners appointed by Act of the Legislature of this Province, to negotiate with Upper-Canada on the subject of Drawbacks claimed by that Province, and which had given rise to the Act, was roughly handled in the debates. The majority were however, with him, against the proposed resolutions, of which two series were at separate periods submitted, (the second of a more qualified and temperate character than the first) and they accordingly fell to the ground.

Referred to a  
Committee.

It was then proposed to address the Governor, praying he would beseech His Majesty to recommend to Parliament, the repeal of the Act, on account of certain dispositions it contained, contrary, as it was said, to the rights and interests of the Province. This proposition was rejected by a strong majority. The matter was finally referred to a Committee of seven members, for the purpose of enquiring into and reporting upon the advantages or disadvantages, resulting from the Act, to the constitutional rights and interests of the Province. The Committee made no report upon the subject, which thus was left at rest. It was interesting to the public, rather by the trial of strength, to which it gave occasion between the late, and the present Speaker, than otherwise.



A Petition from several Merchants in Quebec, complaining of the exaction of illegal fees and other wrongs, by the Collector and Comptroller of the Customs, was laid before the Legislative Council and Assembly. An enquiry was instituted in both Houses, and the Petitioners having substantiated their complaints to the satisfaction of these bodies, they severally addressed the Governor upon them. The address of the Assembly prayed His Lordship to adopt such measures, as to him might appear effectual for remedying the abuses of which the Petitioners complained.

CHAP.  
XVI.

1824.

Complaint  
against the  
Collector and  
Comptroller.

To this he answered ; that having no proof satisfactory to him that the conclusions or resolutions upon the Petition alluded to, were well founded ; on the contrary, being firmly persuaded that the Collector of the Customs at the Port of Quebec, was an Officer of upright integrity, honorable in principle, diligent in the duties of his office, and obedient to the laws and instructions he received, he could not undertake to comply with the Address in any other manner than by laying it before His Majesty's Secretary of State for the Colonies. His Lordship's answer to the Legislative Council on the same subject, was nearly to the like effect.

Governor's  
Answer.

These answers in which encomiums were passed upon a public functionary, whose official conduct had been the subject of representation by both Houses, seldom of the same opinion in matters of alleged grievance, were thought very unsatisfactory, and gave great offence, particularly to the mercantile world.

The matter, however, did not rest here.—Indignant at the manner in which the Addresses of the two Houses of the Legislature had been received, the Petitioners determined to adopt legal measures in order to obtain redress, and the subject was accordingly submitted to the Grand Jury, at the ensuing criminal term of the Court of King's Bench for Quebec. The Grand Jury made the exaction of illegal fees by the Collector of the Customs at Quebec and the several Officers under him, the subject of a presentment to the Court. An action was also instituted against the Collector by one of the Petitioners who had considered himself individually aggrieved by the exaction of certain fees which he contended were illegal. The prosecutor succeeded in his suit, the Collector being con-

CHAP.  
XVI.

1824.

demned to make restitution, but against this judgment, (rendered in April 1825) he appealed. Some of the fees complained of, were, however discontinued by orders from England in the course of the present year, in consequence of the remonstrances of the Legislative Council and Assembly.

The Estimate  
for the Expenses  
of the year  
sent down.

The Assembly had sat upwards of two months and a half before the estimate of the general expenses of the civil government for the year was sent down. The delay caused some murmuring, it being thought intentional, and with a view to take the advantage of a thin House at the end of the Session, so as to carry every point which otherwise might be overruled; but it was in fact owing to some misunderstanding on the subject among the officers whose duty it was to prepare the necessary papers.

The classification previously adopted, was also preserved in the Estimate now sent down, the line of distinction between those Officers deemed to be provided for by permanent funds, and those considered as only of local establishment, and as such to be provided for by the Legislature, being more clearly defined than before. Each class formed the subject of a distinct document. The first was denominated "a schedule of the probable expenditure to be incurred in the year 1824 for the regular Offices, and their contingent expenses, of His Majesty's Civil Government, or of the Administration of Justice," and comprehended six chapters\*. The salaries attached to the offices included in this class amounting in all to £33455 11 3 Sterling, the Executive Government considered to be permanently provided for, by the permanent revenue appropriated towards the Administration of Justice and support of the Civil Government of the Province. The second was denominated an "estimate of the usual charges and contingent expenses of local and provincial establishments for the year 1824," comprehending ten chapters, amounting in all to £34191 12 2 Sterling, and for which, the Governor in Chief called upon the Legislature to provide.

Supply to-  
wards the Ci-  
vil-list expen-  
ses.

The Assembly in Committee of the whole resolved by a majority of one only (14 for, and 13 against it) that a supply should be granted to His Majesty, in which the House concurred; but on motion being made, that the House should on the ensuing day resolve itself into a

\* See Appendix to the Journals of the Assembly 1824—letter T.

general Committee to consider of the supply, it was at the instance of Mr. Papineau, enjoined the Committee to take also into consideration certain propositions (which he then submitted) connected with the financial affairs of the Province.

CHAP.  
XVI.

1824.

Accordingly when the Supply came under consideration, the Committee by way of preface to their vote of Supply, adopted with little alteration the propositions submitted. In these the Executive was accused of prodigality, and of making use, illegally, of the public monies, that is to say, without the previous authority of the Legislature.\* The dilapidated state of the finances owing to the failure of the Receiver General, gave rise to much declamation, levelled rather at the Governor personally, than against the defaulter. The prevailing disposition in the Assembly seemed rather for taking advantage of the evil, towards the enlargement of their own powers, than to remedy it.

In going through the Civil List, which they, as previously, did item by item, they made a reduction of twenty five per cent on every Salary, from that of the Governor in Chief inclusively, downwards, under pretence of embarrassment in the finances, owing to the insolvency of the late Receiver General. The gross sum voted, for the Civil Expenditure of the year amounted to £43101 6 5 Sterling; but the classification of offices as adopted in the estimates sent down by the Government was wholly disregarded, the Assembly assuming the controul over all, by pretending in the first place, to apply in detail, the revenue previously appropriated, and then making up the deficiency out of the unappropriated funds at their disposal.

In pursuance of their claim to make the application of the appropriated revenue, (which was now the great point) while supplying the sum wanted for the service of

\* It is to be observed that during the protracted misunderstanding in the Legislature with respect to the civil expenditure, the Governor had, in order to carry on the Civil Government, been under the necessity of advancing out of the Treasury, on his own responsibility, the usual & necessary sums for the purpose, trusting to the faith of the Legislature, to hold him harmless by an act of indemnity whenever a return to a better understanding should take place. It was for this that the Assembly found fault, as *illegally* done, although resulting from the most imperious circumstances.

CHAP.  
XVI.

1824.

the current year, the bill passed by the Assembly on the occasion, enumerated the several offices and charges they intended to defray, without specifying the *items*, or salaries to each, and directed that of the "funds, revenues and monies applicable to the defraying of the charges of the administration of justice and support of the civil government, levied and collected in the Province in virtue of any law or laws, statute or statutes, actually in force therein, or arising from any of the casual or territorial revenues of His Majesty, applicable to those purposes, the sum of £43101 6 5 Sterling, should be paid and applied by warrant for the services of that year." This was followed by a *salvo*, that in case those funds, revenues and monies, should be insufficient, the deficiency should be supplied and taken from the unappropriated monies in the hands of the Receiver General.

The Bill was intituled, "an Act to apply and appropriate a certain sum of money therein mentioned, to enable His Majesty to defray the expenses of the civil government of the Province for the year 1824," the Assembly meaning first to apply the appropriated monies, and then to supply the deficiency from the unappropriated.

This Bill being sent up to the Legislative Council on the fourth of March, was on the same day thrown out, on the first reading, it being there unanimously resolved "to proceed no further in the consideration of the same."—The Assembly having in their proceedings and votes on the civil expenditure, wholly disregarded the distinction observed in the Estimates as to the two official classes, and the funds from which their respective salaries were to come; and having also otherwise proceeded in the measure, in a way foreign to the views of the Executive, Mr. Taschereau, who originally moved the Supply, declined the conduct of the Bill, which therefore was carried through its various stages in the Lower-House by an anti-ministerial member.

Address of the  
Legislative  
Council to the  
King.

The Legislative Council having rejected the Bill of Supply, passed several resolutions on the subject. They also addressed the King, imploring "His Majesty out of tenderness to his loyal subjects in Lower-Canada, to take into his royal consideration the evils which must inevitably ensue from the existing state of things, unless

an adequate remedy be applied ; and that His Majesty would be graciously pleased to recommend the state of this Province to the consideration of the Imperial Parliament, to the end that Legislative provision may be made to remedy the evils referred to, and to prevent their recurrence in future, or that His Majesty would be pleased to adopt such other means as His Majesty in his great wisdom should deem fit and effectual for the purpose."

CHAP.  
XVI.

1824.

The debates in the Assembly, on the Civil Expenditure and Supply were more acrimonious than at any former Session, the administration being pointedly assailed, and in a manner rather indicative of passion and personal resentment, than of public zeal in the Speakers. Mr. Papineau, who was for withholding the Supply entirely, was conspicuous for his antipathy against the administration, treating it as undeserving of confidence ; indulging himself at the same time in a strain of broad invective against the personage at the head of the Executive.

The Governor called upon the Assembly by Message to refund certain advances he had made from the Military Chest to the late Receiver General in his embarrassments in the years 1822 and 1823, to enable him to meet the expenses of the civil government, to the amount of thirty thousand pounds each year. These sums His Lordship observed, " advanced upon his own responsibility, formed a special and prior claim upon the Province, to be adjusted in the financial arrangements of this session." The subject was referred to the Committee on the Supply, for their consideration. Here it was discussed with some asperity, and the claim was finally disregarded by the Assembly, which considered the loan merely as a personal accommodation to the Receiver General.—

When the sums in question had been advanced from the Military Chest to that functionary, there ought, by his accounts, to have been in the Provincial Chest upwards of ninety thousand pounds. It was said that with such a sum in his possession he ought not to have required aid ; but that having required it, this was a tacit admission that he was already a Defaulter, and therefore, instead of being aided, that an immediate removal would have been a more salutary course. His Lordship had probably been induced by the representations of the Receiver General and his friends, to believe his affairs in a less desperate state than they actually were, and with charac-

Message of  
the Governor  
calling for re-  
imbursement  
to the Milita-  
ry chest.

CHAP.  
XVI.

1824.

Claim of the  
U. S. to the  
free naviga-  
tion of the St.  
Lawrence.

teristic benevolence, have therefore assumed a responsibility which it may have appeared to him, might have the double effect of securing the funds of the Province, and of averting the insolvency of this Officer.

The Message of the President of the United States on opening the Congress this year, by which it appeared the American Government on the part of the nation had claimed the free navigation of the St. Lawrence, from their territory bordering on that River, to the sea, caused some uneasiness in the Canadas. The Legislative Council addressed the Governor on the subject, deprecating such a concession on the part of the British Government, as contrary to the established and recognized law of nations in similar cases; dangerous with respect to the connection and dependence existing between these colonies and the parent state; and of a tendency to systematize contraband trade, and evasion of the laws, and thus to destroy all hope of deriving efficient revenue from import duties. That it would be pernicious to British interests in various other respects, and beneficial in none, to these Provinces, as parts of the British Empire.

The Legislative Council in this address, also represented that it was with great concern they observed the internal communication by the St. Lawrence, from Upper to Lower-Canada, was threatened with interruption, by reason of the Commissioners under the Treaty of Ghent, having awarded to the United States Barnharts' Island, above Cornwall, in the Upper Province, whereby no practicable channel of descent, for boats, rafts, or other conveyances by water was left on the British side of that River; and that consequently this communication seemed to be placed at the mercy of the States. The Legislative Council therefore besought the Governor to submit these important points to the consideration of His Majesty's Ministers, and earnestly to recommend that His Majesty might be advised not to concede to the United States upon any terms, the navigation through the River St. Lawrence to sea. They also expressed their hope, that means might be taken to procure by negotiation, the reciprocal right or exercise of navigation, during peace, of the several internal channels of the St. Lawrence, southward of the forty-fifth degree of north latitude, in whatsoever territory those channels might be situate, in order to prevent those collisions which must otherwise take place, to the injury of both nations.

The Legislative Council by message to the Assembly requested the concurrence of this body in the Address, which, however, they declined, an opinion prevailing there, that the dangers anticipated by the Council were far over rated, while others thought, or feigned to think them, merely visionary.

CHAP.  
XVI.

1824.

The Governor laid before the Assembly at a late period of the Session, certain resolutions of the Assembly of Upper-Canada, relating to losses sustained by inhabitants of that Province during the late war, from pillage of their property and devastation of their estates, by the enemy. The British Government had consented, that a loan towards indemnifying the sufferers to the amount of one hundred thousand pounds should be effected, and for which it would guarantee half the annual interest, (£2500 per annum) the Province providing for the remainder. This, Upper-Canada, was of itself unable to effect, and its Legislature therefore recurred to this Province, in the hope that the Legislature thereof would aid the former, by an imposition of new duties on imports at Quebec.

Application  
from Upper-  
Canada.

In these resolutions, in which both houses of the Upper-Canada Legislature had concurred, it was said that "Lower-Canada, although a separate Colony was distinctly identified with Upper-Canada in the issue of the late contest with the United States of America, and was in a great measure preserved from the dangers and devastations of war, by the successful resistance made to the enemy in Upper-Canada, at so ruinous an expense to the fortune of many of its inhabitants; and that an appeal might properly be made to the sympathy and justice of Lower-Canada, to participate in the payment of the indemnity, to which the sufferers had so distinct a claim."

In answer to this application, it was resolved by the Assembly "that inasmuch as Upper-Canada made in the late war, the same meritorious efforts as Lower-Canada, to repel the American invasion; and as all the disposable resources of both Provinces were employed in resisting the urgent dangers which threatened them, this House sympathises with the Legislature and people of Upper-Canada in the sufferings and ruin experienced in that Province, as in this, by a large number of persons,

Answer of the  
Assembly.

CHAP.  
XVI.

1824.

but that the very unfavorable state of the commerce of this Province, renders impossible for the present, the imposition of new taxes." The articles upon which it was proposed by Upper-Canada to impose new duties, were, wines, refined sugar, muscovado sugar, and an *ad valorem* duty on merchandize. In the Upper Province, this answer was considered evasive and unsatisfactory.

Address of the  
Assembly re-  
lating to the  
Clergy reser-  
ves.

The Assembly addressed His Majesty in favour of the Clergy and People of the established Church of Scotland, residing in the Province, and of other Protestants dissenting from the Churches of England and Scotland.— They conceived, they said, the true sense and meaning of the constitutional Act in appropriating a reserve of the Waste Lands of the Crown towards the support of a Protestant Clergy, equal to one seventh of all Lands to be thereafter granted in Canada, was, to give an equal right to the Clergy of the established Church of Scotland, to participate in common with that of the established Church of England in the advantages and revenues to arise from those reserves. It was also said in the Address, that if the Ministers charged with the religious instruction of protestant dissenters, had not an equal right to participate in the revenues which those lands might produce, they had an equitable claim to that effect, in consideration of their utility, with respect to the religious instruction which it was just, they observed, to facilitate, to a class so numerous in this Province as Protestant Dissenters from the Established Church of England and Scotland, who in consequence of a conscientious separation, justly authorized by the Laws, ought not to be excluded from civil advantages nor from any act of royal munificence and protection which other classes of the King's subjects enjoyed.

This Address from the Assembly, consisting chiefly of Roman Catholics, gave great offence to the Clergy and members of the established Church of England, who deemed it an improper interference in their concerns on the part of the Assembly. It was ascribed less to a spirit of christian charity, or liberality to protestants generally, than to a desire to weaken the infant establishment of the Church of England in the Canadas, for which the British Parliament had wisely and liberally provided.

Arrears due to  
Upper Canada

The Upper Province had claimed certain arrears of drawbacks, alleged to be due by Lower-Canada upon



importations into that Province during the late war as already noticed, but of which no exact or proper entries at the Custom-House could be procured. This matter being provided for in the *Canada Trade Act*, had been referred to Arbitrators, who in 1823, awarded the sum of £12,220 17 6 currency to Upper-Canada. The Governor at an early period of the Session sent down a message, informing the Assembly, that application had been made to him on the part of Upper-Canada for payment of this amount, but that the embarrassment of the financial affairs of this Province had placed it out of his power to make payment, and he therefore submitted the subject to the Assembly, that they might make provision accordingly.

This message caused much dissatisfaction in the Assembly, being there considered as intended by the Executive, to involve that body in a certain degree of responsibility for the failure of the Receiver General, which they pretended rested wholly with the Government.— Little or no notice of the message was taken until near the termination of the Session, when it was resolved, “that the Arbitrators having determined, that the amount of the arrears due to Upper-Canada was £12,220 17 6 currency, and their decision being final, that sum had thenceforth ceased to form part of the disposable funds of this Province, ought to have been paid to Upper-Canada, and not to have been retained towards paying the Public Officers up to the first of November last, six months of their Salaries; and that by suspending the execution of the said Act of the Imperial Parliament, His Excellency the Governor in Chief has exposed this Province to the misfortune of a renewal of the difficulties with Upper Canada.” This was a virtual admission that the sum awarded Upper Canada ought now forthwith to be paid; but the message being wholly unconnected with the Salaries paid the Public Officers, the reflection on this subject embodied in the resolution, and that of the danger of a renewal of difficulties with the other Province, were gratuitous and angry sarcasms indicative of the spirit which influenced the Session.

By the Canada Trade Act, it is among other matters provided that persons holding lands in this Province in *fief et seigneurie*, may on rendering the same to His Ma- Commutation of tenure.

CHAP.  
XVI.

1824.

jesty obtain re-grants of them in free and common soccage, by paying a certain sum in consideration of the change of tenure and relinquishment by the King of the fines and other dues to His Majesty. This enactment was indubitably prompted by the liberality of the Government at home, with a view to the gradual disenfranchisement of the subject in this Province from the feudal tenure. But by the laws of the Province the seignior is obliged to concede the ungranted lands in his seigniority to applicants desirous of settling on them, and this on the like conditions as have been originally imposed on the first grants made in the seigniority. The seignior, it is to be observed is not absolute proprietor of the lands within his fief or seigniority—His property in them is of a qualified and limited nature. He cannot legally sell or dispose of them in such manner as to exempt them from all feudal liabilities in time to come, and to which by the nature of the original grants from the crown, lands under that tenure are subjected. He must concede them according to the tenure, and that system of laws under which he himself holds them. Any agreement between him and the grantee by which it might be intended to evade, or frustrate these, would in the end prove a mere nullity. He is, on the concession of the ungranted lands, entitled to a small annual rent in perpetuity, amounting to scarcely any thing more than an acknowledgment for his right in them, from the owner or *censitaire*. He is also entitled to *Lods et Ventés*, or a mutation fine equal to one twelfth of the purchase money, upon every sale of land within his fief or seigniority, payable by the purchaser.—These being paid the seignior, it is not in his power to disturb the possessor of the land who in some respects may be considered as tenant in common with the former, both having rights, but of a different nature, in the same soil.

The enactment alluded to, puts it however, now in the power of the seignior to commute, and by that means instead of being the qualified proprietor to become the absolute owner of the lands remaining ungranted in his seigniority. A commutation effected with the crown with respect to the whole extent of any seigniority, enables the seignior in his turn to agree with his *censitaires* for a commutation of their respective lands from the feudal tenure, to that in free and common soccage, and which lands upon such change of tenure, thereupon become subject to other laws than those previously affecting them.

The introduction of a new system of laws incidental to the tenure in free and common soccage, was disliked. It was considered as a scheme gradually to undermine and overthrow the old laws for the maintenance of which in their integrity, it was said the Canadians preferred the imaginary inconveniences of the old tenure, to the doubtful advantages of the one proffered. The Assembly took up the subject, and by resolution declared "that any arrangement which might be made under the said Act between His Majesty and the holders of waste lands *en fief et seigneurie*, would deprive a third party of a legal right which is beneficial to the individual, advantageous to the community—and granted by the capitulations of the Colony,—by an Act of the fourteenth year of the reign of His late Majesty." They therefore addressed the Governor, praying "that in any conditions which may be imposed on any seignior rendering lands under the said Act, to obtain a grant thereof in free and common soccage, such conditions may be imposed on such seignior in conformity to the said Act, as may preserve entire the right of the subject to a grant of such waste lands at the usual redevances or dues and conditions."

This was in effect, a request that no change of tenure should be permitted. In answer to the request, His Lordship said he would pay every attention to the subject when any exchange of the seigneurial tenure should come under his consideration.

Among the last proceedings of the Session was a vote of thanks to Sir James M<sup>c</sup>Intosh, and other members of the Parliament, who, as it was said "influenced by a sense of justice, and attachment to the principles of the British constitution, succeeded in persuading His Majesty's Ministers to relinquish their support of a Bill introduced in the House of Commons in 1822, for altering the established constitution of the Canadas, until such time as the Inhabitants of the Provinces could have an opportunity of making known their sentiments thereon."

The Governor prorogued the Legislature on the ninth March, with the following Speech :

"Gentlemen of the Legislative Council,

"Gentlemen of the Assembly,

CHAP.  
XVI.

1824.

Address of  
the Assembly  
with respect  
to change of  
tenure.

Sir James  
M<sup>c</sup>Intosh.

CHAP.  
XVI.

1824.

“ I am now to close a Session of the Provincial Parliament, the result of which I am much afraid will prove to be of little public advantage ; at the same time your long and laborious attendance is entitled to my best thanks ; but before I prorogue this Parliament, I think it important to the Country that I should here, as His Majesty’s Representative express my sentiments upon the general result of your proceedings during the several Sessions in which I have met you : I declare those sentiments in an earnest desire to attract the serious attention of every Member of this Parliament, of every man who values the prosperity of *Canada*, and I trust I know too well the principles of the British Constitution to express myself in any manner inconsistent with that respect which one Branch of the Legislature owes to another or with those rights and privileges which belong to each respectively.

“ A claim has been made to an unlimited right in one Branch of the Legislature to appropriate the whole Revenue of the Province according to its pleasure, including not only that part of it heretofore granted to His Majesty, and which is appropriated by Acts of the Provincial Parliament to specific purposes, and subject to such distribution as the King may see fit, but even that portion also of the Revenue which is raised by the authority of the Imperial Parliament, appropriated to defray the expenses of the administration of Justice and of His Majesty’s Civil Government in this Province, and directed by an Act passed in the British Parliament long before the establishment of the present Constitution in this Province, to be so applied, under the authority of the Lords Commissioners of His Majesty’s Treasury ; this claim, made by one, has been formally denied by the other two Branches of the Provincial Parliament ; nevertheless it has been persisted in, and recourse has been had to the unusual proceeding of withholding the Supplies, except upon conditions which would amount to an acknowledgment of its constitutional validity.

“ This subject has occupied every Session from the first to the last, and is now transmitted to those which shall follow : It has caused incalculable mischief to the Province ; and now leaves it to struggle under difficulties, while every Inhabitant of it must see that the encouraging aid of the Legislature is alone wanting to

arouse powerful exertions and draw forth those resources which without that aid must in a great measure lie dormant and useless within its reach. But, Gentlemen, I see with infinite satisfaction, that notwithstanding these unfavorable circumstances, *Canada* is powerfully advancing in improvement, and that the differences which continue to disturb its Legislature, have not interrupted in the smallest degree that general contentment which the people enjoy under the paternal care and protection of His Majesty.

“ In former years, when the Supplies necessary for the support of His Majesty’s Government and the honor of His Crown in this Province, were not granted, I averted the unhappy consequences which must have resulted from a strict adherence to the letter of the Law, and I trust that my conduct on these occasions will be justified and approved, where alone I am responsible : But as my advice has been unavailing to prevent this result at the present period, I shall interfere no further ; adhering now to the letter of the Law, I shall guide the measures of the Executive Government by that rule, and according to my best judgment, lamenting that the Public must feel those consequences which have so long impended over it, and which I can no longer avert.

“ Gentlemen of the Legislative Council,

“ I feel myself called upon to acknowledge the calm, firm and dignified character of your deliberations and conduct in the discussion of the Public Business, and I take it upon me, in a sense of duty, to thank you in His Majesty’s Name, for the support you have uniformly given to the measures I have from time to time recommended to you for the good of the Province.

“ I fervently pray that the wisdom of your proceedings may make a just impression upon the loyal Inhabitants of the Province, and lead them to that temperate and conciliating disposition which is always best calculated to give energy to public spirit, to promote public harmony, and ensure public happiness ; these are the great advantages which result from a wise exercise of the powers and privileges of Parliament.”

The encomiums passed on the conduct of the Legis-

CHAP.  
XVI.

1824.

lative Council, were offensive to the Members of the other House, as indirect censure upon it. Thus the Assembly and the Governor parted, without having made the least progress during the four years of this Parliament, towards an adjustment of the difficulties in which it was involved when his Lordship assumed the Government. These had even multiplied, and parties seemed to be still further from a good understanding than at any previous period since the introduction of the subject from which they had chiefly sprung.

The dissolutions which had taken place under some former administrations, had been held up as the great obstacle to an adjustment of difficulties between the Executive and the Assembly, which it was said, could not, while scarcely free from the excitement of recent elections, and probably excited by the prospect of fresh ones be supposed to meet with that disposition necessary to produce harmony. This pretext was, however, now totally wanting, the present administration having from first to last of this Parliament evinced the fullest forbearance and moderation towards the assembled representatives of the public, and which to give the experiment a fair trial, it must have been his Lordship's determination from the outset, should not be wanting on his part, to secure success, if such were to be secured by those means.

Formation of  
a Literary &  
Historical So-  
ciety 15th  
March 1824.

The formation and establishment of a LITERARY and HISTORICAL SOCIETY at Quebec, under the auspices and patronage of His Lordship took place this spring. Its origin is indeed owing to the patriotic feeling, and anxiety for the honor and the welfare of the Province which characterized the Earl of Dalhousie. The attention and munificence of its noble founder and patron towards the institution, seconded by the exertions of its members, have already brought it forward to a grade among the scientific institutions of this continent, highly respectable, and will be the means of securing and perpetuating its existence. The purposes of the Society were, by an address to the public, issued shortly after its institution, declared to be the "investigation of points of history immediately connected with the Canadas.—To discover and rescue from the unsparing hand of time the records which yet remain of the earliest history of Canada. To preserve while in our power such docu-

ments as may be found amid the dust of yet unexplored depositaries, and which may prove important to general history and to the particular history of this Province."—Men of learning and taste were invited to join the Society, which concluded the address issued on the occasion by soliciting "the assistance and co-operation of a liberal and enlightened public in the prosecution of a cause which in so many ways conduced to the advancement of historical knowledge, and consequently to the honor and ornament of this Province."

CHAP.  
XVI.

1824.

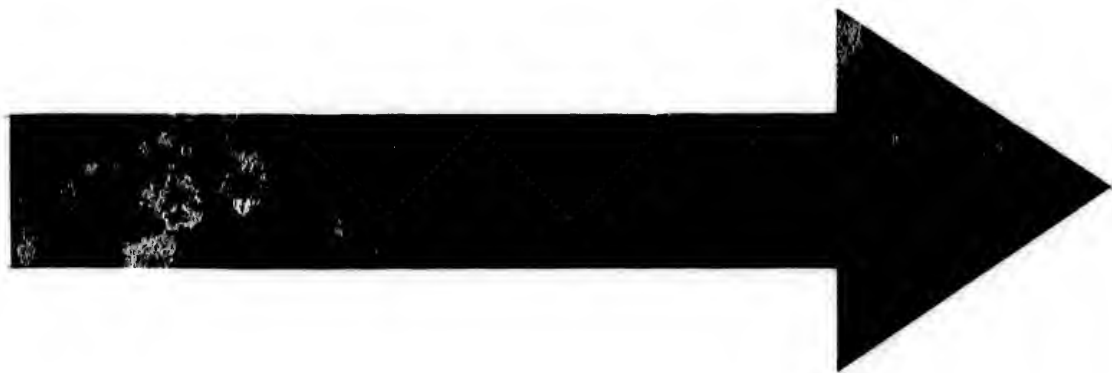
His Lordship visited Montreal in the month of May, where an address was presented him by a numerous and respectable body of the Inhabitants desirous of testifying their respect for his public character previous to his departure from the Province, on an intended visit to Britain, for which purpose he had obtained leave. An address from the Inhabitants of Quebec was also presented shortly before his Lordship sailed for England, expressive of their respect for his public and private character, and regret at his intended departure and temporary absence from the Province.

Governor vi-  
sits Montreal.

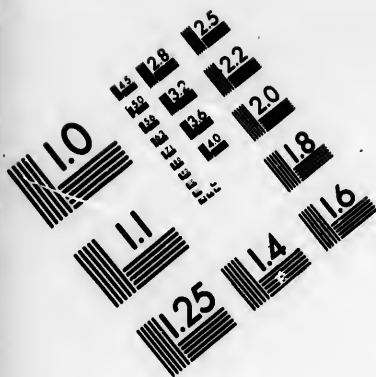
He embarked with his family the 6th June, on board the Athol, frigate, for England, upon which, the administration of the Civil Government of the Province devolved on the Lieutenant Governor, Sir Francis N. Burton.

Although much towards public improvements had been done during the four years which had elapsed of this administration, much also of what had been particularly recommended by the Governor, had been left undone. Besides those topics embraced in his Speeches to the Legislature, others of major importance were from time to time brought under notice by message.

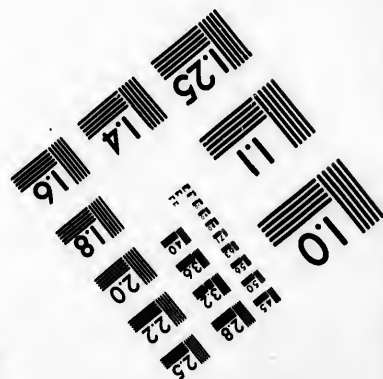
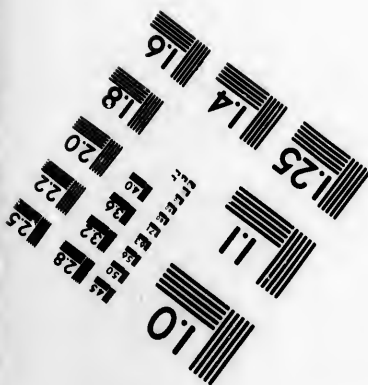
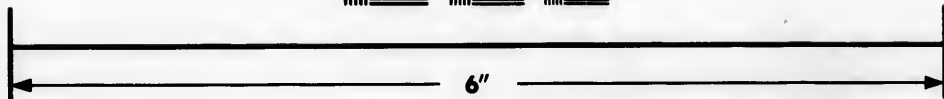
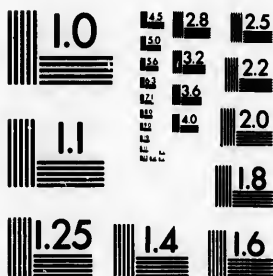
In the first Session, his Lordship recommended a revision of the system of Road Laws, and in connection with this subject, the establishment of an office of Grand Voyer for the Province, in whom the superintendence of all general improvements by the opening of new high-ways throughout the Province, and controul of the expenditure of all public monies on roads, or internal communications should centre. The decayed state of the Castle of St. Lewis, the residence of the Governor







**IMAGE EVALUATION  
TEST TARGET (MT-3)**



**Photographic  
Sciences  
Corporation**

23 WEST MAIN STREET  
WEBSTER, N.Y. 14580  
(716) 872-4503

25  
22



CHAP.  
XVI.

1824.

General, was brought under consideration: as also the expedience of providing a suitable House for the accommodation of the Public Offices, immediately connected with the Civil Government. He further recommended in this Session, as a matter that concerned both the honor of the Country and the dignity of its Parliament, that steps should be taken with a view to erect in the course of future years a Public Building for the seat of the Legislature, suited to the circumstances and corresponding with the rank which this Province holds among the sister Provinces of His Majesty's North American dominions.

In the Session of 1823, he by message recommended the enactment of a law for the public registry of instruments conveying, charging, or affecting real property, with a view to give greater security to the possession and transfer of such property, and to commercial transactions in general.

The possession of large tracts of township lands by absentees, and owners who had made no improvements on them, and who in no wise contributed towards opening the roads of communication which gave value to their lands—a burden, which fell chiefly on the settler, and resident landholder,—had long been deemed a grievance, that essentially retarded the progress of the townships. This the Governor anxiously desired to remove, and he accordingly in 1824 sent a message to the Assembly, recommending Legislative enactments for the escheat and forfeiture to the Crown of large tracts held, under Letters Patent, in the townships, on which no improvements had been made according to the conditions of the patents. He also, this Session, recommended measures, by which he might be enabled to cause an inspection to be made into the state of the Divisions and Battalions of Militia, principally with a view to check abuses which had grown into practice in the appointments and promotion of Militia Officers. These, however, as well as other measures of importance which he recommended to the Legislature, were disregarded.

