

THE SENTINEL.

AND NEW BRUNSWICK GENERAL ADVERTISER.

VOL. III.

FREDERICTON, SATURDAY, MARCH 7, 1840.

No. 10.

THE SENTINEL.

is PUBLISHED EVERY SATURDAY MORNING
By Edmund Ward.
 Office—Phoenix or Tank House—Frederickton
 AND CONTAINS,
 The Decisions of the Executive, and Notices of
Sales of Crown Lands.
 During the sitting of the Legislature THE SENTINEL
 is published twice each week, and in it
 are inserted
The Debates of the House of Assembly.
 TERMS.—15s. per annum, exclusive of Postage
 Half in advance.
 No paper will be discontinued until all arrears
 are paid.
 All Letters must be Post Paid.

ADVERTISEMENTS not exceeding twelve
 lines will be inserted for four shillings and sixpence
 the first, and one shilling and sixpence for each
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Provincial Legislature.

HOUSE OF ASSEMBLY.

FRIDAY, FEB. 23.

Lord John Russell's Despatch continued.
 We omitted to mention in the commencement of the Report on the Despatch, that the Hon. Mr. JOHNSTON suggested, that it would be as well to select some particular Resolution as the subject of debate, to prevent that dissentious discussion which might otherwise take place; but it was decided to debate with reference to the Despatch generally.—We mention this to explain the allusion in the following Speech, to the proposal of the hon. member for Queen's.

MR. STREET wished to know whether it was the intention of hon. members to discuss any particular Resolution, or whether they meant to take a wider range. As the latter course seemed to be admitted, he should express his sentiments with reference to the entire despatch, although he regretted that the suggestion of the hon. member for Queen's had not been adopted. In this respect he should therefore follow the example of the two gentlemen who had spoken. The question however which was before the Committee was simply as to the nature of the despatch; and the object in bringing it before the Legislature, seemed to be to elicit the sentiments of members upon the subject.—He was therefore naturally induced to ask himself the question, whether the despatch contained anything new; or does it create a different tenure of office, from that which had always been held? And it did appear to him, that office had always been retained upon the terms expressed in the despatch: which refers to certain officers therein specified, and is made to apply to Executive Councillors. Those persons when consulted, if they differed from the head of the government, were bound to state it openly; and if they could not support the line of policy, which was about to be adopted, they must resign their situations; which they would have felt bound to do, if the despatch had not arrived. In Upper Canada a public officer had recently pursued that course; and would any man say it was an improper one. He saw nothing in the despatch, which differed from the implied tenure which had prevailed since the passing of the civil list bill; and therefore would not vote for a Resolution repugnant to what he felt; but he would agree to any acknowledging the despatch, as recognising principles that were already established. But even if it were new, in the principles laid down, he would not go against it; as he saw nothing objectionable in it, or contrary to the rights of the people, or affecting the independence of those who hold office. It rendered them in fact more independent, for if they did not think proper to support the government they could resign; and the effect of the despatch was merely to place the subject on such a footing, that there could be no mistake. As to the circular memorandum that had been referred to, there is nothing contradictory in that document; which was only explanatory of the despatch. He regretted that the Resolutions had not been merely confined to Lord John Russell's despatch, as carrying out principles already established, expressing satisfaction at the manner in which the government had recently been administered, and deprecating any change. The learned gentleman said there was one remark of the learned member for York, to which he should reply before he sat down; who had described the early inhabitants of this country, as being a class of people who were governed by blind obedience; than which nothing was more incorrect. He thought the example of those men well worthy of imitation, as to patriotic zeal and independence of mind. The present generation had better look back to those who settled the Province; and whose descendants he hoped would follow the example of their forefathers.

Col. ALLEN would trespass but a short time on the Committee; as with reference to the dis-

patch, he thought the least that was said of it did not require that Lord John Russell should have made such a commotion, and which if acted upon must prove injurious to the interests of the country. Allusion had been made to responsible government; but in what way the despatch alluded to that subject he was not aware. Lord Durham he said wished to introduce responsible government; but this document went to make all officers responsible to the government, and he defied all the legal gentlemen in the House to place any other construction upon its meaning. It went to strengthen the power of government, and was there not already sufficient to carry on its affairs to the satisfaction of the people. Then why this despatch which was only calculated to disturb harmony; and it were better that it should remain a dead letter, for if it went into operation, its effects must be injurious, and may induce persons to retire. Nothing could be urged against the Lieut. Governor, or the candid manner in which he had written his circular; but it was tying up all the other officers of government. If such a man as Sir William Lumley were here what would be the situation of the Province; there must be serious collision somewhere. He was astonished to hear his learned colleague in his admirable address, make a comparison between the servants of government and his domestic servants; he could not perceive the analogy; it was true they derived their honours, emoluments and pay from the government, but yet they were not reduced to the standing of day labourers. He thought the advisers of the governor should be men of uncompromising character, and who would advise him upon the same principle as ministers advise the sovereign. If the Executive Council coincided with the views of the governor, he thought he could do no wrong; and there were many acts which required that advice. Only one construction could be placed upon the despatch; he was sorry it ever came into the Province, or was ever introduced into the House.

MR. HILL said, that the Despatch involved the principle of responsibility; it was a construction put upon it in the other colonies—that Mr. Uniacke, the leader of the opposition in Nova Scotia, resigned his seat in the Executive Council there, on this ground—the Governor General had declared the same principle to be the future ruling principle, on which the Government of "these Provinces" were to be conducted. Sir John Harvey had in effect declared the same in his "Circular Memorandum"—and the Tory Journals generally, had considered the Despatch as involving the principle of responsibility. But he said it was not very material whether "responsibility" was contained in the Despatch or not; that at all events it was a constitutional principle, and the question before the Committee was—Shall we or shall we not declare in favor of infusing into our Colonial Government, the constitutional principle, of the responsibility of public servants to those whose servants they were? He said no man would employ an agent, without holding him responsible for his conduct, with the power of discharging him whenever in his judgment his interest should require it; that this principle ran through all the subordinate relations of society; and was it to cease the moment it touched that highest of all political relations, the relation between the ruler and the ruled? The power of "removal" was always the theory, and the Despatch only declared that the practice in future, was to be in accordance with theory; that the exercise of this power, whenever the public good should require it, was necessary to a "responsible government." It was necessary, in order that the administrator of the Government might be enabled to surround himself, with men having the confidence of the country, and who would, on all matters concerning the general policy of local government, act in harmony with the wishes and interests of the people, as expressed through their representatives. He said the difficulty of carrying out in these colonies the principle of responsibility, was no objection to it; it might be some relief to the alarmists, to know that a good deal of political friction might have to be overcome. The popular branch had no direct power, as the Commons in England have, by withholding the supplies to enforce responsibility. It must call in aid the monarchial principle, to give efficiency to their declared opinions as representatives of the people, of what the public good requires; they cannot move a step without its aid. If they give a false echo to public sentiment, the prerogative of the Crown could readily apply the corrective. This would be a sufficient security against any factious interference of the popular branch with public officers. The rule having been established by Her Majesty's command, as disclosed by the Governor General C. Poulett Thomson, that the Colonial Governments are to be administered "in accordance with the well understood wishes and interests of the people, and to pay to their feelings, as expressed through their Representatives, the deference that is justly due to them," it was necessary to enlarge the practical powers of the Administrators of these Governments, that they might surround themselves with men in whom the public had confidence, and by whom they produce a harmony of action between the heads of the Government and the popular branches. As the sovereign can have no interest not in unison with the welfare of Her people, none other than the most happy results, could be anticipated from the introduction of "responsible government," depending though it would on the Crown to give it efficacy. It would bring to their own doors the means of correcting official misconduct, and managing their own local affairs, without going 3000 miles for that purpose; with all the accompanying annoyances both to the people and Imperial Government.

The British constitution, so far as the colonies were concerned, might be considered as having hitherto been in abeyance; which state of things, it was hoped, was about to cease, and the people were to be admitted into the enjoyment of their lawful inheritance. It was objected, that they have not yet outgrown their hitherto state of wardship; that if they have they are not fit to be trusted with the management of their own internal affairs; that the essential principle of free constitutional government, viz. responsibility, is not applicable to the condition of dependent colonies. The objectors were chiefly those who profited, or hoped to profit by the present "irresponsible" system, and their friends. These of course were an interested party, whose testimony by every rule of fairness, ought not to have much weight in so grave a matter. That it appeared to be a singular anomaly, if it were necessary that the Colonial Government, must, *ex necessitate*, be administered on principles, directly the converse of those which obtained in the parent

state. Was it indeed true, that responsible government was inconsistent with the condition of a dependent colony? Was it true, that some half score office-holders must, from the necessity of the case, exercise all the functions, and that irresponsibly, of these governments?—Was it true, that the exclusion of the people from the constitutional means of influencing the acts of their rulers, was the only adhesive principle of British connexion? This doctrine might make demagogues, it could never make loyal subjects. Let the people be persuaded of its truth, and the work of the political demagogue is more than half accomplished. Persuade them that their position as Colonists, is incompatible with much that is British in government, and you dispel the illusion, which had all his life long been the guarantee of his loyalty. All that the Colonist asks for is to be put in possession of the benefits of the British constitution; he desires nothing more, nor ought he to be satisfied with anything less. To boast of the "glorious constitution" of British freemen, and at the same time deny its applicability to his condition as a Colonist, is a strange solecism.—If he may not taste it, is it to him the cup of Tantalus. The colonial governments are modelled after the form of the British Parliament; the analogy as far as form is concerned, is preserved as nearly as the difference of condition will admit of. In the imperial legislature, each branch is a check upon the others respectively. Here there is the outward form—the shell without the kernel. A brief analysis of the action of the several branches upon the others, will make this apparent. It has been satisfactorily shown, and is indeed almost a self-evident proposition, from the circumstances of his position, that the Administrator of a colonial government, is, and must be directed and controlled by his constituted advisers. These advisers, the official class generally, and the Legislative Council, almost universally belong to and constitute the colonial aristocracy, acting in unison, having an identity of interest; and that interest, in all cases where a division of interest is capable of being created, at variance with the general wishes and welfare of the people at large. If the above are the real facts of the case, and the history of the Colonies furnish confirmation of it, then it follows, that the monarchial principle is practically merged in the aristocratical. What is there in the popular branch to counterbalance this? The Legislative Council having, of course, a negative on all the measures of the Assembly, can arrest, *in limine*, any inchoate legislation at variance with the interest of that class, to which the Council belongs. It follows then, that under the present irresponsible system, the popular branch is destitute of that efficiency, which is necessary to check or control either of the others; and that the aristocratical principle is the only one, which can be said to exist in any vigor in the Colonies.

The remedy is, to increase the *active power* of the Representative of Her Majesty; to make the general welfare of the people, the established policy of these governments, in all matters relating to their own internal affairs; and the representatives of the people the organ, through which the wishes and welfare of the people, shall be conveyed to the other branches of the government; leaving of course unimpaired the legitimate power of the Council, and the royal prerogative to check any tendency of the popular branch, to overstep the constitutional limits of its authority. He did not expect that a change of system, would prove a panacea for all political evils. This could never be done until the selfish principle in man, was made subordinate to higher and nobler principles. The best that could be done, was to surround authority with checks. The responsible system would infuse into Her Majesty's colonial empire, a feeling of renewed attachment and permanent adhesion to British connexion; until a peaceful separation should be dictated by mutual interests. The opposers of "responsibility," in effect, assume the absurd position, that the great mass of the people will become disaffected under a system, which will not exclude them from their just weight in the management of their local affairs, and with which they will be satisfied. He said the country had an opportunity of comparing the benefits of the two systems, by their respective practical workings. The Crown Land Department, up to 1837, was irresponsible to the people; and every body could estimate the blessings of this so much desired irresponsibility. Had a different system prevailed, it had been better for the head of that Department, as well as for the public; of which the late head himself is now said to be convinced.—The treasury Department was directly responsible to the people through their representatives; and what was the result? The very power of withholding the supplies, that is, of the salaries of its officers, prevented the necessity of its exercise, and all went on harmoniously, and to the satisfaction of the country. The perfectionists seem to imagine, that the Province had arrived at the "millennium" of its government. They would await the arrival of "evils," and then provide against them; and this was their method of keeping down agitation. He would take security for the future, and prevent the recurrence of abuses; and with it the fruitful source of agitation. He would carry responsibility into every department of the public service, and thus bring redress to our own doors, and prevent the necessity of going 3000 miles to seek it. The independence of the legislative councillors as such, would not be affected—but only as holding places of emolument. The Executive Councillor, would be required to support the general policy of the local governments, or in other words the general interests of the Province. If he would not do this, he had no business there; and the good of the country demanded his resignation. All matters of minor importance would be open questions, upon which a diversity of opinion and action would be admissible without affecting his seat. There was no hardship in all this, unless the end of government was to advance the interests of a few to the prejudice of the many. The question of "responsible government" was now fairly before the country; and it was a duty they owed to themselves, their constituents and their sister colonies, to express an opinion upon it; and he would not be recant to his duty.—Now was the proper time to act, quietly to lay the foundation of future good government; and to secure a new cement of British connexion.

MR. BARREAU said the learned member for Charlotte had delivered himself of his annual offering; he had listened attentively, but had been unable to understand his arguments, and could only come to the conclusion that he had swallowed one of Joe Howe's pamphlets, but not foreseen. He had not prepared any Resolution himself, but out of the mass of those

before the Committee one might be selected to meet the views of the House. He should not go at length into the subject, but must agree with that laid on the table by the hon. member for Northumberland.—He did not think the despatch contained anything new, but was perfectly in accordance with principles laid down in the instructions to Sir F. Head; and he believed had that officer been properly supported, that the result of his administration would have been very different. The Speech of the Governor General and the Despatch of Lord John Russell conveyed a very different meaning. That officer tells the Assembly of Upper Canada, that he is commanded by Her Majesty to carry on the government of the country in accordance with the wishes of the people; but that principle was not laid down in the despatch of Lord John Russell; and it was this vacillating and uncertain policy which produces all the evil.—The ashes of McKenzie's rebellion are rekindled, and a faction in that country are roused to fresh exertion, by the cry of responsible government. The learned member for York said he liked the word responsible; he would ask him to whom he would like the responsibility to apply. He was sorry to see the same spirit awakened in the sister Province of Nova Scotia; and that there also there were individuals diffusing a kindred feeling; he trusted that a better principle would still prevail, and that they would not be led astray by a grasping individual; but he hoped the government would never be made responsible to the popular branch. He would agree that public officers should be responsible to government and support its measures, for only in that way could it be carried on. And as respected members of the Executive Council, he felt bound to say they must agree in opinion with the head of the government; and those who belong to the popular branch should be sent back after their appointment, to their constituents to see if they would again return them; but at present that cannot be done; but the Speaker of the House as its organ should be free to act. The learned gentleman said he agreed with the learned member for Gloucester, that the Circular Memorandum was highly honorable to the gallant officer from whom it proceeded, who thus candidly communicated the construction which he placed upon the despatch.—He had every confidence in His Excellency, but the country might not always have so good a man. The governor in future would probably have the confidence, and would carry out the views of the ministry; and a whig radical cabinet would send out a radical governor. That might be the case; the people of the Province, must however, be guided by the mother country, and must be subservient to her views.—He concluded by saying he thought it right that those who hold office, should support the policy of the crown.

MR. BROWN said ever since the despatch came down, he had considered it as a puzzling question; and his mind had not been relieved by the debate which had taken place, or satisfied him as to what would be the probable event of its introduction; and he could only say he was sorry it ever came. He thought the Province was in a fair state, and had obtained a responsible government without the aid of the despatch, and could have got on without it.—It would not do any good therefore but might work evil. He admitted it might be said the despatch involved no new principle; but he took the same view of it as Col. Allen, and thought it would produce injury unless suffered to remain as a dead letter. The alteration which it produced he considered essential, because the situation of the Executive Council is changed; and they cannot take a different view from the Governor without being liable to be displaced. So it was with reference to the second branch, which was essential to the welfare of the Colony, whose members would probably discharge their duty without fear; but when he looked at their situation, and saw several of them holding their living at the disposal of the Lieutenant Governor, and whose families depended upon them for their support, he thought the tendency of the despatch was to do away with their independence of action. The hon. gentleman said he admired the doctrine of the triangle each side possessing equal weight; and if either were weakened or shortened, the whole system is affected; the effect of the despatch therefore as it went to strengthen the administrator of the Government, must weaken the other branches in proportion. He regretted to find his opinion in collision with that of his learned friend for the County of York, whose eloquent speech had failed to convince him; but he stood there independently, and desirous of doing his duty, and giving his opinion upon a subject as it presented itself to his mind. The hon. gentleman said he did not see how his learned colleague had arrived at the conclusion which he had expressed; for his own part he saw no necessity for the despatch, because the present happy state of things had been brought about without it.—He admitted the necessity of introducing the working of it in another colony; but hoped however that things would proceed quietly in this Province; and if the government was conducted as at present, it would produce good; but if not, the result would be injurious to the best interests of the country.

MR. FISHER rose to address the Committee at that late hour because his hon. colleague Col. Allen had stated, that every member who had moved a resolution would make a speech; now he had moved the resolution for the express purpose of avoiding it, as the resolution contained his ideas. "Resolved that the Committee is impressed with gratitude to Her Majesty's Government, for the announcement contained in the Despatch of the Right Hon. Lord John Russell, of the 16th of October last, declaring the determination of Her Majesty, in future, to exercise the royal prerogative in this Province, in the free spirit of the constitution, and according to the ancient and invariable practice of the parent state." It had been urged that the Despatch had nothing to do with Lord Durham's Report; he was fully convinced however, that was the key stone to the whole of it; it was the cause—the despatch the effect. Ever since he had read that admirable production, he had made up his mind that the great question of responsible government was settled, and sooner or later must and would prevail throughout British America. So far as New Brunswick was concerned, he had thought it as well to proceed with our internal improvements, and wait the event of the struggle going on in Nova Scotia, and the settlement of the Union of Canada; for whatever political privileges were granted the other Provinces, must necessarily be given to this.—Of the event he had no doubt. In the Union of the Canadas, he anticipated a firm and vigorous government, conducted on the responsible princi-

ple; a government which in all respects, had no parallel in the annals of British colonial history; a subordinate Legislation, in a Province consisting of upwards of a million of people.—The government had conceded the principle and the people generally had gratefully received it; and it was of little consequence, what was done that day. Lord John Russell had made some unguarded observations, in his speech in Parliament; which he on reflection doubtless discovered, were opposed to the principles of the British Constitution, and to his whole political life; and he accompanied the mission of the new Governor General with the despatch, declaring how in future the royal prerogative should be exercised in the Colonies. If it was not intended by the Ministry to adopt the recommendation of the Report, why did Lord John Russell leave the Home office for the Colonial, and send out as Governor General, a member of the cabinet, who would unite with him in carrying out the measures of the imperial government; and having the confidence of the Sovereign and the British people, was pre-eminently fitted for the office. Again look at Mr. Thomson's public acts; the only great measures he had proposed, were those recommended by Lord Durham, and he had been supported wholly by the great majority of the people, and had succeeded in carrying measures of vast importance to Canada, and had already laid the foundation of lasting peace in these hitherto unhappy Provinces.

From the Circular Memorandum of Sir John Harvey accompanying the despatch, he inferred the opinion of His Excellency; and when he viewed that in connection with the answer of Mr. Thomson, to the address of the Assembly of Upper Canada, that he had received Her Majesty's commands, to administer the government of these Provinces, in accordance with the well-understood wishes and interests of the people, and to pay to their feelings as expressed through their Representatives, the deference that is justly due to them; he was satisfied it was intended to introduce the responsible principle; and Mr. Thomson had carried on the government upon that principle. There is nothing new in the Despatch; it merely declares the intention of Her Majesty to act upon principles which are old, and in future to exercise the royal prerogative, according to the ancient and invariable practice of the Parent State.—Officers are either judicial or ministerial, and the latter class have ever since the establishment of constitutional government in England, been held during the pleasure of the Crown, and that was their constitutional tenure in New Brunswick. It appeared to be the intention of Ministers, to assimilate the government of the colonies, as far as local circumstances would admit, to that of the mother country. What was the object of all Governments; attainment of the greatest good for the greatest number.

There were three descriptions of Colonial Government, chartered, proprietary and royal; New-Brunswick was a royal government, a miniature of the imperial; a resemblance in all imitable respects of that of Great Britain. It was not necessary to trace out the analogy; but as in England, the respective powers, and energy of the different branches, were in progress of time moulded into their present completeness and beauty; and the influence of the Commons had grown up in modern times. In these Provinces, the period had arrived, when in the language of the learned member for Charlotte, the Colonists were to throw off their wardship, and assume the character and responsibility of British subjects. The old bugbear of the vicinity of the United States, had been urged as a reason why we should not enjoy the British constitution. Would the establishment of a pure despotism, counteract the tendency of Republicanism; he thought not. He felt satisfied nothing would more effectually perpetuate the British rule in America, nothing cement the colonies to the Parent State more permanently, than to give full scope to the pure principles of the British constitution. There was no danger in applying to the British people and their descendants every where, the limited monarchy principle, of which De Lolme had so beautifully treated. Let us fairly try the three great principles, which Montesquieu had eloquently described. He loved the Responsible principle because it was British; it was incidental to British institutions, and it was the only kind of government, the inhabitants of the British Isles and their descendants would ever tolerate. The state of society was changing in the Colonies and the institutions should keep pace with the improvement of the people.—What might have answered in the first settlement of the country, would not do now. In England society had changed, and the institution of the country had also changed.

The same indomitable spirit of the Anglo Saxons that sustained our ancestors in all their conflicts, was suffused into their descendants in these Provinces; and the progress was onward. What had occurred in this Province during the last four years? Did not the present government come in upon this principle: did they not hold office upon this principle; was not this principle substantially conceded on the accession of Sir John Harvey; did he not act upon it, professedly in the selection of his first Councillors.—Did not his hon. the Speaker say, on the first day of the first session of this Parliament, that when he lost the confidence of the country, he would "back out of the Council." Hon. members well knew this, and that it is professedly the rule of action of the present government.—It was stated by Lord Durham, then why not say so manfully by resolution, for it was also admitted that the country was delighted with this despatch. Mr. Attorney General Hagerman had been mentioned as a pattern of independence, he thought him the very contrary; true he had doggedly said no on the Clergy Reserve Bill, on the great question; but he shrunk from contesting the details, though his friends were of opinion that he could have defeated the Bill. With the despatch staring him in the face, he had not sufficient manliness to contest the Bill in Committee. Unless the responsible principle was applied to the Colonies, the old compact must rule; and all admitted that principle was about being exploded. He saw no alternative for a new Governor coming to Province, but either to act on that principle, or to fall into the hands of a few families, who had no interest but their own. Lord John Russell's despatch was decidedly aimed at this; for the favored few who have engrossed all the offices for life, are now informed for the first time that they are tenants at will; and unless they support the government, in promoting the best interests of the governed, they must give place to others. He concluded by urging upon the Committee, if they regarded the permanent peace, happiness and prosperity of the Province, to decide in favour of Responsible Government.