

LEGISLATIVE SUMMARY.

On Saturday the House went into Committee for the consideration of a Bill to establish an Audit office; which after a warm debate which we shall report on Saturday, was lost.

Hon. Mr. Johnston Chairman of the Great Road Committee reported, that in addition to the former grant, the Committee had agreed to recommend a further sum of £7,550, to be expended in the following manner:

Road from Grand Falls round the Tamiscouta Lake	£1,500
Road from Woodstock, through the Williamstown Settlement, to the River Des Chutes	250
Road from Fredericton to Peticodiac	2,500
Road from Red Rock to the Nerepis	250
Road from Oak Bay to the Bridge at Eel River	750
Road from the Bridge at Brockways, Magaguadavic, to the lower Bridge on the Saint Croix	200
New Road between Grand Lake and Richibucto	600
Road from Head of Bellisle to Kingston	600
Road from Fredericton to Oronocto	400
Royal Road	500
	27,550

On Monday the House went into Committee on a Bill sent down from the Legislative Council, altering the Law of Replevin, which was passed. It afterwards resolved itself into a committee to consider the Report of the Committee, to whom was referred the consideration of the best mode of granting the Mines in the County of Westmorland; and Mr. L. A. Wilmot read the Report, embracing a plan upon which the Mines should be granted; pointing out different mining districts in the County of Westmorland, which are to be put up at public auction with an upset price, and subject to a duty of five per cent. on all minerals or ores which may be raised.

Yesterday the House was engaged in Committee of Supply, and afterwards on the Revenue Bill; when the scale of duties hitherto in force, with a few exceptions, were agreed to. Among other alterations, the Committee recommended that the duty on Rum should be 1s. 9d. per gallon at a certain strength, to increase as the strength increases; 2s. 3d. on Brandy, on Whiskey 3s. and on the better kinds of Wines 2s. 6d.; upon every Horse imported from the United States £5, instead of £3 10s. as formerly; and on oxen and other horned cattle one pound. They also recommended the withdrawal of the duty of one penny per gallon on Molasses which has hitherto been in force.

A Bill for dividing the County of Westmorland, was considered in Committee on Monday, and lost by a majority of 16-14. Mr. Fisher's Bill taxing wild-granted Lands was afterwards taken up and passed.

We understand the Bill regulating the duties of Sheriffs in the choice of Jurors has been lost in the Legislative Council. The Bill providing payment for members of that body was taken up on Monday, and after some opposition was concurred in by the Council.

The report of the Debates on the Petition from St. Martins, that on the Audit office, and another on the division of the County of Westmorland will appear on Saturday.

NEW FLOUR.

OF this month's inspection, just received and for Sale by THOMAS PICKARD, Fredericton, March 13, 1840.

BAPTIST SEMINARY. The second Term for 1840, at the Baptist Seminary, will commence on Monday the 23rd inst.

JOHN T. SMITH, Secretary of Committee. Fredericton, March 17, 1840.

GREAT BARGAINS! WILL BE SOLD by Public Auction on Wednesday the 25th March, at the Store of the Subscriber, the whole of his present STOCK, consisting of

Dry Goods, GROCERIES, PROVISIONS, SADDLERY & HARDWARE; and as it is his intention to bring his present business to a close, the whole will be Sold off without Reserve. J. WILLOX, Fredericton, March 14, 1840.

STEAM SHIP NORTH AMERICA.

THIS new and beautiful STEAMER will commence operations early in April next between SAINT JOHN, EASTPORT, and BOSTON, and also between SAINT JOHN and WINDSOR, more particular notice of which will be given in a few days.

This vessel is fitted up in fine style with every comfort for Passengers, and will be provided with every facility for the prevention and extinguishing of fires, with Force Pumps, Leather Hose, fire Buckets, and Life preservers, with extra Boats, &c and with a most admirable construction of Boiler, calculated to be perfectly safe from fire. This Boat is built expressly for a Sea boat, and will (the proprietors have no doubt) give perfect satisfaction.

JAMES WHITNEY & Co. St. John, 29th Feby. 1840.

CHAIRS! CHAIRS!! THE SUBSCRIBER has on hand a quantity of good CHAIRS, which he will dispose of cheap for ready money. W R WITHAM, March 9 1840.

FOR SALE.

BY the Subscriber, Lots No. 5, 6, and half of 7 on the Newcastle Ridge, 6 miles from YEAMAN'S MILL, two miles and a half from JOHN McDONALD'S MILL and about four miles from the Iron Bound Cove, Salmon River in Lots of 115 acres each, more or less. With immediate possession on compliance with the terms, which can be known, at White's Point Grand Lake. ABRAHAM WOOD.

RUM! RUM! RUM!!!

FOR Sale at FREDERICTON, 20 PUNCHONS good retailing Demerara Rum. Terms and necessary information given, by applying at Mr. OLIVER SMITH'S COUNTING ROOM. WILLIAM HAMMOND, St. John, March 3, 1840. 6w.

NOTICE.

ALL Persons having any demands against the estate of the late ARCHILUS CARPENTER deceased, are hereby required to send in their accounts, duly attested, within three months from the date hereof. And all persons indebted to the said Estate are required to make immediate payment to ELEANOR CARPENTER, Sole Administratrix. March 10, 1840.

extend to the great mass of the people.—Whom did these same Barons consider free men?—was it the nullus liber homo there alluded to, at a time when the feudal law was in terrible force, and when they deemed themselves to be the only free men. To talk of magna charta therefore in the usual manner, he repeated, was a delusion; as it only went to remove vassalage from the crown to the nobles. To return however to the Legislative Council, he said he considered the representation in that body as unfair, and those who wished for a fair representation of the interests of the Province in that branch of the Legislature, would vote for the Bill; because all that is wanted to obtain that is, affording to its members the means of defraying their expenses while attending to their public duties. He said there was no public spirit in existence in this Province, and a man might wear himself out in its service, and no person would give it a thought. He would say then, extend the same freedom of choice to the Executive, which is possessed by the people, and they would see a different state of things. As to what had been said of the tendency of the measure to increase the number of members in the Legislative Council, it would have no such effect; and the observation was only made to distract the minds of hon. members. Upon every view of the subject, and that the government might have a freedom of selection, he felt himself bound to give his support to the Bill.

Mr. WILMOT said it would occupy too much time to refer to the speeches that had been made for and against the present measure; but he could not let escape what had fallen from the learned member for Gloucester, that Magna Charta was a mere humbug. Did he hear him correctly when he called that a humbug which had since been confirmed by thirty-three different monarchs; had been called for by the people and agreed to and proclaimed by the King. His learned friend before he made such an assertion again, had better read Lord Coke upon the subject, who described it as the root out of which had grown the basis of British liberty, the writ of habeas corpus, and other securities against oppression; and which was the great corner-stone of trial by jury. Thus much for Magna Charta. Then with reference to the subject before the committee, from the consideration of which they had been drawn aside by the remarks of the learned member, he would remind them that it had been introduced in 1838, when it was nearly carried; and circumstances had since occurred, which rendered some such provision necessary as the Bill contained; for when he turned his attention to appointments that had subsequently been made, he was at a loss to know upon what principle or by what rule those appointments had been regulated. If the political sentiments of the parties, were to be a qualification for a seat in the Legislative Council; then certain appointments that had taken place, were so anomalous and contradictory to the public wishes, that it was evident they were not consulted; and made as they were from among "a small and disappointed party," he repeated he was at a loss to know by what principle the Executive had been governed in making the past selections; and regretted to say that he perceived in them no satisfactory guarantee for the future. He should like to know also what is the duty of Executive Councillors in this respect, and whether they were consulted in the formation of this important body; whether it were within the sphere of their Executive duties, or whether the appointments were made without consulting them. If however the selections of Legislative Councillors were made without such advice, the good intentions of government might hereafter be frustrated, and a branch of the Legislature be rendered sufficiently powerful to thwart its general policy and to counteract the wishes of the people. He did not know of any measure of more importance than the selection of members to fill the other branch of the Legislature; all other duties of the Executive were trifling in comparison with that of raising individuals into situations, where they would form a check upon the popular branch, and stand between it and the executive government of the country. The learned gentleman said he put it to the members of the Executive Council who were members of the House, to state what was the fact; and if the giving of advice upon such occasions did not form part of their duties; it was time it were known by the House, whether in making these appointments, the representations of the Executive Council were turned aside. He felt that he should not discharge his duty, if he did not express his sentiments upon this subject. If a majority could be increased in this way, there was no telling to what it might lead; and principles might be established as adverse to the interests of the Province and the public benefit, as light is from darkness and liberty from slavery. If the Committee would refer to the members of the Legislative Council, they would find that at present it contains seven members from the County of York, six of whom are holding office. And was it not astonishing that even here the Crown takes those persons having large emoluments; there must be some reason. Was it because they were receiving fixed incomes, and were therefore better able to devote their time in this way to the public service. It was of importance he said that all parts of the Province should be represented in that body; as at present members of the House are frequently put in communication with those of the other branch to enable them to comprehend the bearings of a local measure; and since the two Councils had been divided, it became the more necessary that this selection should be made from different parts of the Province; and he thought the reason why this principle had not been acted upon more generally, was owing to the want of payment. He would take the members from the Counties of St. John and Westmorland; and if any individuals were able to give their services gratuitously, they were of that number; but they were not prepared to do so for fifty or sixty days and pay their own expenses. He believed the working of the present system would come to this, that unless provision were made they must resign. He would say they were bound in justice to do so; and then the choice would be limited to Fredericton. He felt satisfied that in every county individuals could be found who were willing and able to serve; and with that view he would make provision for members of the Legislative Council. There would be nothing undignified in receiving compensation for services performed by those gentlemen. The Legislative Council he said was an important branch, and while he deprecated any thing like an elective body, yet he wished to see it stand independently between the government and the people. The learned gentleman said he agreed with His honor the Speaker that the number of members in the Legislative Council should be limited; but that must be done by address, and he was prepared if the Bill passed to follow it up with a representation not only with reference to the number of members, but the impropriety of public officers holding seats in the Legislative Council. If this were necessary in '38, it became more so now, since the despatch of Lord John Russell, who told them they are bound to support the views of government. Therefore if the Bill passed, he would say, the number of members should be limited, and persons holding official salaries should be excluded. He was dis-

posed to go with the Bill, provided it were followed by an address, and he had no doubt of the result; and they would then find out whether the Executive Council have any thing to do with the appointment of members of that branch of the Legislature.

Mr. STREET said he was not disposed to give a silent vote, altho' he had expressed his sentiments very fully when the subject was formerly under discussion. He had always been opposed to the measure in which it was proposed to grant payment to members of the Legislative Council, and was still opposed to it. He had heard with no small degree of astonishment the learned member for York state, that he was in favour of the Bill, as he formerly opposed it as strenuously as he now supported it. He hoped he had satisfied himself upon the subject; but he had failed to convince or satisfy him that the conclusion at which he had arrived were wrong. The learned member for Gloucester said, he wished to place the Council on the same footing as the House of Assembly. That would be objectionable, as it would destroy the independence and utility of that branch. The present Bill also was objectionable, inasmuch as it went to provide partial payment; which would be highly derogatory, and would place a stigma upon those to whom it would apply; and in his opinion if the Bill were sent up to the Legislative Council as at present framed, it would be thrown under the table. There was only one principle upon which he would agree to vote pay; and that was, that the Province does not contain persons of pecuniary and intellectual powers, who would discharge the duties of a member of that branch without remuneration. And if that were the case, it might justify this anomaly in the constitution. But he thought before the Committee agreed to the Bill, that they should be satisfied of the fact. During the half century however in which the Province had been in existence, when the duties were more arduous, and private wealth was less, individuals had been found. In 1833 when the communication from Lord Goderich upon this subject was discussed, he said a large majority was found against the measure; he recollected the learned member for St. John was decidedly of opinion that the Legislative Council ought not to be paid; and the resolution at which the House arrived at that time was satisfactory to the country. Since that period wealth had increased, and persons could be found far more able than at that time to discharge those duties gratuitously; still they were told the province was too poor, and that men of sufficient wealth cannot be found.—This is the only ground on which the Bill can be supported; and all the arguments of the learned member for York came to that. The learned gentleman said he did not agree that there is any necessity for having a member from every county; as one great object was, to keep the upper branch divested of all local feeling, which would in the contrary all should be paid. But the moment it was agreed to pay the members of the Legislative Council, their limits and qualifications should be fixed; because they must look to what may then take place; and it might so happen that situations would be filled by persons of neither sufficient standing or property.—Then how were they to provide a remedy. If before the principle of payment of members were admitted, they must declare the qualifications and number of members, otherwise a large part of the revenue would be required, to pay the other branch of the Legislature.—He believed the learned member for York would not have supported the Bill, if the Baptist Seminary grant had not passed; he was glad for his own part that it had passed, because he believed the country wished it; that gentleman had also inadvertently upon the persons who composed the Legislative Council, who he believed faithfully discharged their duty to their country, but who happened to be of different politics from his learned friend, yet who were equally warmly attached to the British constitution; and nothing had come out to show that they were not equally warmly attached to the interests of the Province as other members. The learned gentleman concluded by saying he was opposed to the Bill upon these grounds:—he did not believe that persons could not be found to act without pay, or that the country was too poor; secondly the course proposed, appeared partial in its nature;—and thirdly, it did not declare what should be the qualifications for a member of the Legislative Council.

Mr. GILBERT said it only remained for him to subscribe to the opinions advanced by the learned member for Carleton, except that he did not despair of succeeding in resisting the Bill; which he thought came before the Committee without having the prerequisite of having been read in session. But he would ask had the country arrived at that point, that a measure not recommended by any power, and only originating in the mere motion of an hon. member, was to be carried by a ruse. The assertion that material and sufficient independence were not to be found in the country amounted to nothing. The influence and patronage, given by the selection of a Legislative Councillor were not trifling; and several of them had already received sufficient remuneration in grants of land. Then it was proposed that members having salaries should be excluded.—That was a mere entering wedge; and he hoped the Committee would pause before they suffered the measure to be carried in that way. It had been stated that a gentleman in Queen's had refused the situation because there was no emolument attached to it. That gentleman he was credibly informed was a Captain in the navy, who besides his half-pay, had a private income of £400. What he would ask would satisfy such a man! And if he would not accept it, there were others equally well qualified who could be found. He was satisfied if the Bill should pass that the number of members of the Legislative Council would be increased to thirty; and as to the gentlemen who now compose it, if they were not disposed to devote their time gratuitously for the service of their country, others could be had who would do so.

Mr. PARTELOW wished to state that the late period at which the Bill had been in-

troduced, which had been alluded to by the Speaker could be easily explained. There was an important question to be decided,—a grant which had during five years been passed by the House, had been rejected by the Legislative Council; and he wished that to be decided before he brought in the Bill; he particularly referred to the Baptist grant, with reference to which there was every probability of a collision; the Council however had receded, and had agreed to the expenses of the Delegation; there was now nothing therefore likely to arise, which would interrupt the harmony of the Legislature. These were the reasons of the delay; he had not used any improper means in bringing it forward; and a gentleman who formerly took an active part had complained that he was not consulted. The Bill therefore came fairly before the House, and if there were not a majority in favour of it, why it were not rejected; and he should feel no concern about it. The hon. member for Queen's had alluded to large grants of land which had been obtained. This had not come fairly before the Committee, and did not apply to the present question. With reference to the influence which members of the Legislative Council possessed, he could assure that hon. gentleman that trifling as his was in the House, yet he had more than either of the gentlemen alluded to; and altho' the old Council did not receive pay, yet they obtained a very handsome bonus; in the effects of which he believed the learned member for Northumberland was now participating.

Mr. WOODWARD said the speech of the learned member for Northumberland met his views most fully. With regard to the reasons given by the hon. member for St. John for not bringing in the Bill before; it appeared from what had been stated, that had not the Council met the views of the House with reference to one or two grants it would not have been introduced. He thought it amounted to that. As the country increased in wealth, he felt satisfied that men of talent would be found to take seats in the Legislative Council, without receiving remuneration. He felt it was unnecessary to adduce any other arguments; those of the hon. member for Carleton met his views, and had induced him to move the following Resolution. He would however be in favour of any Bill which might go to define the qualifications and to limit the number of members of that body; and also with reference to the President, who as Chief Justice, ought not to be permitted to preside at the Board.

Whereas the present constitution of the Legislative Council, is not such as to make it independent of the Crown, nor composed of men who represent the various interests of this Province, and that the number of members of that House is not fixed; and whereas there is no reason to apprehend that men of tried worth and talent, cannot be found to serve as Legislative Councillors without pay:—therefore

Resolved, That the Bill to provide pay for members of the Legislative Council be postponed for three months.

Mr. BROWN said the question before the Committee notwithstanding it was hedged round by sophistry, and walled up with the principles of the British constitution, was one of the simplest which ever came before a Legislature; and was a mere matter of expediency, to which the principles of the constitution would not apply; and although one branch of the Legislature receiving pay, might have nothing British in it, and it might be said that the Americans pay their senators, yet it would not weigh where the question was as he had already stated one of expediency. He said this was no new question, and had been already acted upon when the Crown paid the expenses of the other branch. The analogy between that Legislature and Parliament had been destroyed, when the members of that House undertook to pay themselves, to the exclusion of the other branch. He considered the proposal therefore to pay the Legislature as no innovation upon the British Constitution; and when the proposal was formerly made by Lord Goderich, he did not oppose the principle, but was of opinion the Council should be paid from the Crown Revenues, and that was the view taken by a majority of the House at the time; and the answer returned was that when the House had the command of those funds they would pay. After a while they succeeded in obtaining them, and why should they not do justice and put the members of the other branch on the same footing as themselves; and as to the distinction which was made, he did not see that it offered any barrier to the passing of the Bill. Then as to the introduction of the measure at the present time; there had been a bone of contention between the two branches, and it was a hard case if they could not dispose of their own money in their own way. The other branch stood out, and if their good sense had not prevailed there must have been a collision; but now there was a profound peace and a better time could not be chosen, in which to bring forward the subject. He said he believed the Committee would find that the House had always admitted the propriety of paying the members of the other branch; and if they now adhered to that principle the Bill would be carried. Let gentlemen see the effect which results from the present state of things.—One member of the Legislative Council is detained by business at home,—another would not accept the situation, and the Executive were driven to select another, who probably could not afford to come; and the consequence was that there were seven persons chosen from the town of Fredericton alone. He was satisfied that such a state of things should not be permitted to continue, if it could be removed in the manner proposed.

Mr. FISHER had voted for the introduction of the Bill, that it might have a fair trial, and with a conviction that it would not pass. He said he agreed with what fell from the learned member from Northumberland; and was opposed to the principles of the Bill, which he considered as very invidious in their nature. [The remainder of the learned gentleman's speech and that of Mr. Council which followed, were unable to report, owing to a conversation which was carried on near us in the gallery.]

Mr. HARRINGTON regretted that the Bill had been brought in at so late a period in the session, but should have felt it his duty to oppose it, had it been brought in earlier. He could not agree in the opinion that no principle was involved, at that the payment of the Council was rejected before, because the House had not the command of the casual and territorial revenue; and if in '35

when the question came up, an admission was made to the effect mentioned by the hon. member for Charlotte, it arose from the mere hopelessness of attaining that fund. The principle of paying the Council however was a bad one; were he to consult his own feelings he would perhaps vote for the measure, but in a constitutional point of view he must oppose it. If it were thought proper that every part of the Province should be represented in the Legislative Council, let a Bill be brought in to that effect; he was satisfied however that it would have a bad tendency, and would introduce local feeling; and until it could be shown that persons could not otherwise be procured, he would not pass a Bill for the payment of members of the other branch. But even then he would oppose such a Bill as the present.—He presumed the public officers who are in the Legislative Council, receive their salaries for services which they perform, and if they were too high let them be reduced; but it would appear invidious to pay a part of the members and not the whole. How would that principle apply to members of the House; and why should those who receive salaries not be paid as well as wealthy persons without salaries. The hon. gentleman concluded by saying that he understood large grants of land had formerly been made to members of the Executive Council; but he believed there had been no instance since '38; and altho' it might be deemed a hardship, yet individuals who accepted seats since that time, accepted their contingent upon receiving no pay; and however hard might be their case, and however he might feel towards those gentlemen personally, yet he would vote for postponing the consideration of the question till that day three months. He hoped the hon. member for St. John would withdraw his preamble, as he should vote against it.

Mr. WILSON said he had always been in favour of the principles of the Bill then under consideration; because he thought the House was called upon to pay the expenses of the members of the Legislative Council, and he had never heard any reason that should induce him to alter his opinion. It had been urged that such a measure would not prove satisfactory to the country; but he had yet to learn that such was the case in that part of it which he represents. At present he said, there are two members from the County of Westmorland in the Legislative Council, who give their time and money to the country; and he felt it was an advantage to have that county represented in that body; and if its members felt it inconvenient to attend, then the Legislature ought to make provision, and vote an adequate sum. He felt it his duty to vote for the Bill. If it should pass, they would then have a member from every county, and no new principle would be involved. He was amused with what had fallen from the hon. member for Kent, Mr. McAlmon, who thought the members of the House worked very hard. The hon. gentleman was well paid—from his looks it appeared he was well fed—and he certainly was not overworked; for his arduous duties seemed to agree with him. He should extend a little of his commiseration to the other branch of the Legislature, altho' their duties might not be as important as his own.

Mr. HILL was not prepared to admit the principle of the Bill, and objected to its details. He considered the introduction of it as premature. The learned member for York had complained of the late appointments as not carrying out the principles laid down by the Colonial office. But if they were to pass the Bill, would that remedy the difficulty; the objection would still remain. He said he thought locality should be a qualification, and in that way every part of the country would be represented.—The Legislative Council at present wants local knowledge; and persons of a popular character were not to be had. To remedy the evil the Legislature might pass a law; but if it went to take £1500 from the Treasury, they should be satisfied the measure was a good one. With reference to the details, he would say that a distinction should be made. Those gentlemen who have large salaries and who live in Fredericton, could well afford to suffer for their country. There were at present only two or three members in the other branch, who were suffering inconvenience. He concluded by saying that the Legislative Council should be so constituted, as to embrace the principle laid down in the despatch of Lord Goderich, that every interest should be represented; which was not the case at present. He thought however the Bill had better stand over, until they could see how the present system worked. If its principles were once adopted, there would be no receding; the Committee therefore should be cautious how they acted.

There being by this time a general expression on both sides of the House, that Mr. Woodward's Resolution should be put without the preamble, he agreed to withdraw it; and the question was taken as to deferring the farther consideration of the Bill for three months; and the Committee being equally divided, the Chairman, Mr. Taylor, gave the casting vote in the negative. The details of the Bill were then taken up, and it was carried after much opposition. When the House resumed, a division was again called for, when it stood 16-14, the Speaker who was one of the minority being in the chair.

On the following morning, after the Bill had been agreed to, Mr. Beardsley moved the following Resolution; but which he subsequently agreed to withdraw:

Whereas the Bill, entitled a Bill further to provide for the expenses of the Legislature, was carried in the Committee of this House, as well as in this House upon the reception of the report by a small majority; and whereas from the nearly equal division of the House upon that question, doubts are entertained by them, with regard to the wishes and opinions of the people of this Province in respect thereof; and whereas in a measure so important and novel in its character and in which the interests of the people of this Province are so deeply involved, it is desirable that their opinions should be expressed thereon; and whereas the said Bill has been introduced into this House at a late period of the Session, and no opportunity afforded the people of this Province to express an opinion thereon; and whereas the most constitutional mode to afford them such opportunity, will be by a dissolution of this House;—Therefore resolved, that an humble address be presented to His Excellency the Lieut. Governor, praying that his Excellency will be graciously pleased, immediately after the prorogation of this House, to dissolve the same; and that in the interim he withhold his assent to the said Bill.