

Provincial Legislature.

HOUSE OF ASSEMBLY.

WEDNESDAY, FEB. 24.

While the House was in Committee of Supply a vote came up for consideration, in aid of a School of a superior description that has been established at Bathurst, kept by Mr. Robert Mathewson. After the petition upon which the application was founded had been read,

Mr. END said the petition contained all he could say upon the subject; it came supported by the signature of fifty eight individuals, a majority of the trustees of the common Schools, and the directors of the Grammar School. The school that was alluded to, although inferior in some respects to a grammar school, was more beneficial to the community; and he believed with few exceptions the grammar schools had not produced those results, which should flow from the liberal expenditure in their behalf. It would have been in the power of trustees of grammar schools, to have granted a certificate; and in this way obtained the allowance of £100. This they would not do, but desired that the sum of £40 should be allowed annually until a grammar school should be placed on a proper footing. In addition to this, £56 had been subscribed by individuals; and in this way they would have a useful school at Bathurst. The school for which the present vote was sought, resembled that taught at Miramichie, with the exception of the classics which were not taught; but that which is more useful. He hoped therefore the vote would pass, particularly as it was in the power of the trustees had they exercised the least ingenuity, to have obtained the sum allowed for grammar schools.

Mr. STREET was favourable to granting money for the promotion of education, where a good case were made out. He thought the school system was not perfect, and did not go far enough; and if a graduation could be introduced, which would hold out a stimulus, he considered it would be a decided advantage. At present that was not the case; and all the parish schools were entitled to the same allowance. In Gloucester where there is no grammar school, application had been made for £40, in lieu of the usual allowance for that purpose; and it appeared from what was set forth, that it ought to be encouraged. He would not agree that it was on the same footing as that in Miramichie, because there pupils could be fitted for a collegiate establishment; and he knew of no teacher superior to Mr. Sivright; who was doing much good having thirty five scholars. He thought the present school should be encouraged, because it was superior to the common schools of the country, altho' inferior to the grammar schools; and ought not to be put on a footing with the former; he was therefore favourable to the application.

Mr. HILL said if Mr. Mathewson was a licensed schoolmaster, he was entitled to £20; and he, Mr. H. did not see why he should obtain more. He observed that £100 had been granted during the present session to the county of Gloucester for a grammar school; and if the present vote should pass, they might draw £100, £40, and £20. If the grant were made, it should come out of the £100, and include the allowance of £20.

Mr. END thought he had explained fully; the party obtains nothing except what he may get at present. He is teaching under the controul of the directors of the grammar school; but who as they did not think him entitled to that allowance, had not recommended him for it.

Mr. J. M. WILMOT thought the committee should pause before they made the grant, as it would lead to applications from other counties. He was at a loss to know why the petitioner could not come in under the Act.

Mr. WILSON felt some difficulty as to the vote that was proposed. It was not the money, but the principle that was involved; and which it was extending, by professing to provide for a better description of school. Applications of a similar nature had been made to him, and he had told the parties they stood no chance. But he could not do so in future, if this vote were to pass. He said he did not rise to oppose the motion; but he thought the principle should be settled by law.

Mr. END said if the hon. gentleman had not told the Committee he was not opposed to the Resolution, his language would have induced them to suppose he was. He grounded his opposition upon the circumstance of his having told a person in his own county, that he thought there was no chance of his succeeding in a similar application. He had known the Provincial allowance for a grammar school taken, where the schoolmaster had no classical attainments to warrant it. If a third description of school were deemed necessary, it might be provided for by law; and if grammar schools were not efficient, others should be substituted.

Mr. CONNELL said there was a superior teacher in the County of Carleton where there is no grammar school. He thought the resolution should have a general operation, and therefore was not disposed to vote for one of a particular nature.

Mr. McLEOD thought the resolution could do no harm; he would say however, that it should apply to all parts of the Province. If a good school were taught, even though it were not classical, and parties subscribed liberally, he would grant provincial aid.—He was favourable to the suggestion.

Hon. SPEAKER suggested that the sum to be voted should be placed at the disposal of the Justices in session. The sum of £40 was then voted.

FRIDAY, FEB. 26.

The House resolved itself into a committee for the consideration of the Bill vacating the seats of members in certain cases.—Mr. Taylor in the chair.

Mr. FISHER said the object of the Bill was to assimilate the constitution of this Branch of the Legislature to that of the mother country. The Bill which was under discussion a few days since, for shortening the duration of the Assembly was said to be anti-British. And as the present measure was not open to the same objection, he expected the opponents of that Bill would be favourable to that at present under consideration, the object of which was to infuse British principles into the constitution of the Assembly. The present Bill he said would not affect the seats of the members of the present House. He did not intend that it should have immediate operation, in consequence of the purity and public virtue which it was stated the House contained; and as it was alleged to possess the entire satisfaction of the country, he thought it would be doing wrong to introduce a measure, that would by any remote possibility have the effect of depriving the Province of the services of any of the members of the present House; and he had altered the Bill since the discussion alluded to accordingly. The Bill did not go as far as the English statute, but provided that upon the acceptance of certain offices by a member, he should vacate his seat. If his constituents should again return him then he could hold it. First the seats of all Crown officers and Executive Councillors should be vacated; then all members who should receive or expend any sum of public money, exceeding £200. He believed according to the pure English principle no such member could sit in the House of Commons. This Bill goes on, and provides a class of cases which would not disqualify a member from holding a seat, but which until his re-appointment should be vacant. The person also who expends £200 annually should go back to his constituents; any smaller sum would not have that effect, and he would not send the member back to his constituents on that account; the principle in all cases was the same, but he was anxious to meet the views of all parties. His object it would be perceived was to assimilate the Assembly of the Province to the House of Commons in the parent state, and to place it beyond the control of the Executive of the country; which by the appointment of new members of the Executive Council, and filling the Assembly with officers to expend and collect the revenue would have an undue influence in the House, and although no instance of the kind might not yet have occurred in this way; the public virtue of the House would be preserved in all future time and what was more the whole body would be placed beyond suspicion. He considered in the present working of the constitution as received in the country, that some such provision was more necessary than ever. They had been assured that responsible government had been granted to this Province; whether we had it or not he was not quite sure. He felt satisfied if the people were true to themselves they would get all that was necessary for good government. It was the intention of the government to give it; and therefore a measure of this kind would be the more necessary than at any former period. Such, the learned member said, was the object of the present Bill. He should not make further observations. He did not think the principle of the Bill a debatable subject. In Prince Edward Island they had gone farther; and the mere entering into a contract with government vacated a seat in the Assembly of that Island. The learned gentleman concluded by saying he had also introduced another provision, by which a member might resign his seat; upon which the committee could make such rule as it pleased. He hoped there could be no difference of opinion about the measure under consideration; he might extend his observations to great length upon the subject. The Bill might be made to include a large number of persons and fall short of the principle and practice.

Hon. SPEAKER said he hoped the Bill would pass.—Indeed, he could see no possible objection to it. The object was to make more perfect, and to assimilate the House to that of the mother country. It could do no harm, and might do much good. It could not be denied that the Executive Government might exercise its power improperly, and might create an undue influence if it were not restrained. He knew such was not the case at present, but that it does all that is possible for the benefit of the country; but it might be changed, and it was best to guard against the occurrence of any possible evil. He thought the Bill should go farther, and extend to every person holding a place of emolument under the Provincial Act; it was immaterial whether it was to collect or expend money, no matter how small the sum; even the expenditure of the Bye Road money. Every member who accepted an appointment should vacate his seat. Probably, nineteen-twentieths of them would be returned; but if the people thought the appointment created an improper influence, they would not return them. That had not been exerted hitherto, nor had the slightest influence operated upon the Supervisors then in the House, who had acted in an independent manner. But although no such influence had been exercised, the time might arrive when such would be attempted; as they were all sons of Adam; and now was the time to prevent it. It was intended the Bill should take effect after the termination of the present Assembly, which might exist for three years. He thought it should certainly apply to revenue officers, as is the case in England; because if their income depended upon a per centage, they would have a direct interest in making the duties as high as they would bear. His honor said it was unnecessary to multiply words, as there could not possibly be any valid objection urged against the Bill. He was favourable to the provision for enabling members to vacate their seats, as a difficulty was experienced with reference to one of the members for St. John, who was unable

to attend, and could not resign. He wished they could tack on the quadrennial Bill also, which seemed so unpopular in the House, whatever it might be out of doors.

Mr. STREET was favorable to the general provisions of the Bill; and he thought the time had arrived when they should follow the example of the mother country. It was desirable he said that the Representatives of the people should be above suspicion. As his honor the Speaker said they were all sons of Adam, by which he presumed he meant they were liable to temptation; and as far as legislation would go, he would remove out of the way every thing that could have that effect. According to the present law, members of the Assembly might accept a situation here, which in England would vacate their seats. It should therefore operate with equal force in this Province, especially as members are less wealthy than they are in the Imperial Parliament. There was another reason why this should be the case. In many instances the members of the Assembly audit their own accounts; and while that was the case, it furnished an additional reason why the same rule should be introduced here. Therefore where persons are receiving emolument, it rendered the rule more imperative here. He was speaking of the general measure, and should not go into details. By the proviso of the 6th Ann, persons were rendered as capable of being re-elected, as if their seats had not been vacated. Members therefore were not disqualified, but were merely sent back to their constituents; therefore if an alteration were made in the law, gentlemen would take seats with their eyes open; and if they accepted office must return to their constituents, who if they thought proper again to elect them might do so. The learned gentleman said he did not agree with the Speaker, that revenue officers should be put on the same footing, as if the constituency send such persons at first or re-elect them, they could not express their confidence more fully. By other statutes since that of Ann, he said certain persons could not be sent; judges are disqualified in this way; and by the common law a few persons are disqualified. He repeated he was favorable to the principle of the Bill. With respect to the manner in which it was provided that members should vacate their seats, he thought that would not answer, as it was open to much objection; because in this way a number of members might retire, and thus embarrass the government. He thought a clause could be introduced to enable members to vacate their seats without opening the door in that way; and when the section came up, he might move an amendment.

Mr. BROWN did not see what could be urged against the principle of the Bill, although some of its details might be objectionable. He considered the Bill itself as perfectly fair and necessary, and that it was called for. If he understood the provisions of the Bill, any person who should receive or expend any public money must vacate his seat: but he was eligible to hold it, if the people chose to return him again; and if he was returned he would be a new man and in a new character. That holding a situation of honor or profit might affect the standing of members no one would deny; but if under those circumstances the people chose to trust them, they had a right to do so. Still the Bill would operate as a salutary check. This he said was not an *ex post facto* law, and did not affect members who had taken seats under no such enactment; but they might dissolve the House as soon as they liked. The learned gentleman said he had been appointed a Supervisor last year, and if he were again offered the appointment he would accept it. But if holding that situation would have a tendency to prevent his constituents from returning him, he would then consider if he would hold it rather than continue a representative of the people. He did not know whether he should carry the principle to the extent of Bye Road appropriations, but he was willing to go the whole length of the Bill in other respects; and he should give it his cheerful support.

Mr. WILMOT said the measure was one of great importance; and he trusted would receive deliberate attention. He should allude particularly to that part of the first section which referred to Executive Councillors. The Committee he said should bear in mind the breach that was made a few years since in the constitution of the Council; and they should see how the provisions of the Bill would operate in that respect, before they assented to the measure. They would find on reference to the proceedings of 1833, that at that time a new Council was formed distinct from that which became purely a Legislative branch. At that time owing to the Executive Councillors taking precedence of the others, several junior members were exalted, which gave offence and an address was sent home claiming rank according to seniority. This brought out a despatch from Mr Spring Rice; in which it was explained that his Majesty was influenced in the decision he had made, because those members were to be the channel of communication between the House and the Executive government. That despatch was received by the popular branch with approbation. The committee therefore should bear in mind that those Councillors were chosen as the medium for an unrestrained intercourse; and of which the House had felt the benefit. The situation of Executive Councillor however, was not one of profit; although he would admit it was one of patronage. But they were called to that situation because they were members of the House; and as the Speaker of the House of Assembly in Nova Scotia had observed, they were a standing committee, representing the popular wishes; and should they exceed the strict line of their duty, the House would express its dissatisfaction. But did the Committee suppose, that the popular branch in future would be satisfied unless Executive Councillors were taken from among its members;—they would feel disho-

noured. Assuming that to be the case, let gentlemen see what would be the effect of the operation of this Bill. An election takes place; the Governor has to call members to the Council; and by the operation of this Bill the seat became vacated. Suppose others are returned, they would not necessarily be taken to the Council; the government must be driven to choose some other person; and in the mean time the channel of communication must be closed up. This he said was not a mere possible, but it was a very probable case; as members upon being sent back to their constituents, from various causes might not be again returned. If the Committee would look upon the measure in this light, it would be allowing the populace to dictate to the government; and were they to carry out the principle of the Bill, it would be defeating its object. But he would ask his learned friend upon what principle was the sum which a member could be allowed to expend limited to £200; was it at that amount that partiality begins, because it might be twisted at £150, and even at a much less sum. He should like hon. members to state upon what principle they agreed to fix the sum at £200. Then it had been argued that all who collect or expend public money, should vacate their seats; but if the Bill were to pass into a law, he had a list of names, from which it would appear that a large number of hon. members would be affected. But it was argued that the Bill would not go into operation till the end of the last session of the Assembly. But they must practise some self-denial; and the rule must be applied at once. Suppose the Bill were to pass with a sweeping clause, would the Executive Government re-appoint either of the present Supervisors? With a full view of the manner in which the per centages were to be affected, he did not think the Bill would find a majority to support it.

Mr. HILL did not consider the Bill as going far enough; and submitted an amendment carrying out his views, which he said he had hastily prepared, but which he submitted to the committee.

Mr. FISHER said he should oppose the amendment, and which he should think no person who was favorable to the Bill would propose, as it went to introduce an entire new principle and to fetter the prerogative. With reference to the minimum sum that had been proposed he had introduced that on the ground of expediency. He was willing to extend the principle to all persons holding places of profit or emolument. He did not think the Bill went as far as it ought, but his object was to make it palatable.

Some discussion here took place between Messrs. Wilmot and Fisher, with reference to the present policy of Her Majesty's Government towards these colonies, and the degree of responsibility on the part of public officers that it is intended to introduce, with the exclusive surveillance of their internal affairs; which as it had no immediate bearing upon the question under debate, is one of much length, and as it would occupy a large space, we pass over. It will be proper however to remark, that Mr. Wilmot considered the applying the principles of the Bill to Executive Councillors, as operating against those intentions; as if they were returned to their constituency it would be in effect allowing a small county of perhaps 8000 souls to decide for the whole country. He considered the House therefore as representing one entire county of the Province, and if it were satisfied with the choice that should at any time be made by the government from among its members, the individual counties to which they might belong should not have the power of annulling such appointment.

Mr. HILL said the arguments of his learned friend for York, would go against the whole Bill. He considered the idea that the House might be considered as forming an entire county as a fallacy throughout. If an individual member received an appointment, then his constituents should assent to it or not, and he should go back to them for their approval; and if they did not approve of the principle, then another would be returned.

Mr. BARBARIE agreed that the Bill was one of importance; he was glad it had been introduced, and was happy to find that it had the support of his honor the Speaker. He was not a little astonished at the principle advanced by the learned member for York, Mr. Wilmot, which was contrary to that which he advocated last session, whose object then was to give to the Executive Council the support of the constituency of the government, by which the people in fact would elect the members of that body. That he always understood was the pith and marrow of responsible government; that the people were to have an influence, and that the government were to possess their confidence. It was not for the House therefore to decline that confidence. Suppose the present influential members of the Executive who were also members of the House, at another election should not be chosen as such, and the free and unrestrained intercourse that at present exists would be done away with, were their seats at the Board to be vacated. That must be the case however, under the workings of the present constitution, and others must be chosen from the House. What was its present operation in Nova Scotia when candidates tell the freeholders at elections, that they could return them in a two-fold capacity, as members of the Executive Council and House of Assembly; for the constituency were told that unless they were elected they could not hold their seats in the former body. It would therefore be seen that the people elect the members of the Executive Council. The learned member said he always thought a seat there was not one of emolument. This he had formerly understood was the case; and the Speaker had formerly told the House that the honor was a sufficient recompense. He saw however, by a document on the Journals of the House, that £500 had been applied in a vote to the members of that

body. But he would call the attention of the committee to another circumstance that came nearer home, and he would say that every member holding a public situation of profit, or who had the expending of any sum of money, should be sent back to his constituents. The learned gentleman said he had felt the effects of the situation held by hon. members in the road service, as he found that whenever any particular object came under consideration where they had money to expend, it was always sure of their support, and the more that was obtained the more went into their own pockets; and when on select committees they use the whole of their influence to oppose other votes. He repeated therefore, he would disqualify all officers holding situations under the Provincial government, or in collecting the revenue, from holding a seat in the House; because in the latter instance by increasing taxation the revenue would be increased, and the amount of the ten per cent would thereby be increased, and they would therefore throw their weight in the scale. These he said, were his views, and they must be evident to every other hon. member. He hoped therefore the Bill would pass, and if it went further it should have his hearty concurrence.

Mr. WILSON said attempts had been made heretofore to carry out the principles of the Bill. Last year a Resolution to the same effect was lost, because it was considered more advisable to allow members to express their sentiments deliberately in this way. He was struck with the arguments of the learned member for York, who said he would send members back to their constituents, after accepting office; and he saw no difficulty with reference to the subject. They were sent to the House unshackled but when they accepted a situation under government, they altered their situation; and how could it be known if they would continue to have the same support. Being sent untrammelled therefore, they should go back and see if the confidence of their constituents continued. The learned member for York Mr. Wilmot said last year, that there must be antagonist principles in the government; but it would be breaking down antagonist principles, if this course were not pursued; as by accepting a seat in the Executive Council, they would to a certain extent be destroyed. The hon. gentleman said he should not take up much of the time of the House; but he wished to state his reasons why he was in favour of the Bill.—In this Province he said they naturally looked to England, when changes were proposed, to see the working of any system in the mother country; and there it would be found established by the experience of ages, that any member accepting any office of trust or emolument under the government, must be returned to the people, to see if he still retained their confidence; and he believed that was all which was asked by the Bill. He should like to hear any experimental argument, that was opposed to the system adopted in England; they should therefore imitate her example in this particular; and they could do so wisely and justly.

The measure under consideration, did not affect the tranquility of the country; and he should like to hear some good argument why it should not pass. He spoke with great deference, but he must say those that had been urged were most fallacious. With regard to the members of the Executive Council who held seats in the House, they had all been elected subsequent to their having seats in that body; the present measure therefore could not affect them; and he wished those gentlemen to understand his arguments had no reference to them, as their conduct had afforded no reason why the Bill should pass; although it was not known when they were elected what influence would be exercised, in consequence of their forming part of the Executive Government of the country. As regarded the expenditure of monies however, that certainly exercised an influence, and it was in accordance with human nature that it should have an effect upon the House. Men might be found who were clever but not wealthy, they might be good road-makers, but it was reasonable to suppose that their votes would be brought to bear upon any favourable measure; and they might even act contrary to popular feeling. He did not say that such was the case at present; but if such an influence could be brought to bear, some measure should be adopted to prevent its operation. There was another observation he wished to make;—he did not think the Executive government was strengthened by the introduction of Councillors into the House; and there were many instances, in which members might think an influence was intended to be exerted; when they would vote in a contrary manner to show their independence. The effects of members having to expend monies had been found injurious in other colonies. When McKenzie was laying his plans in Upper Canada, he used his influence to have members appointed to expend the road money; but his object would have been defeated, if a Bill similar to the present had been in operation in that country; and there could be no doubt that the power which he possessed, gave him undue influence. What he would ask, was the state of things here?—It would be found that a number of members were appointed to places of profit or emolument, or honour; of thirty-three members four were councillors, and five or six were supervisors of the great roads. It would be found that nearly one-third of the members hold public situations; and just in proportion as the number increases, would it create jealousies, and derogate from those constitutional privileges which should be observed. And if the Executive exerted such an influence that feeling must be engendered; at the same time he never wished to see the due exercise of the prerogative invaded. A strange circumstance had occurred in Nova Scotia; a person of some importance and influence had offered