

PROVINCIAL PARLIAMENT.

LEGISLATIVE COUNCIL CHAMBER.

[From Mr. Hogg's Reports.]

THURSDAY, March 26

DEBATE ON THE ELECTIVE LEGISLATIVE COUNCIL BILL.—(Continued.)

(The Hon. Mr. Connell's speech on this Bill will be found in the *Sentinel* of the 8th instant.)

The Hon. Mr. SAUNDERS said there was one subject at least in which he agreed with the hon. mover of the Bill. That was the rapid stride with which democracy advanced in these Colonies—and he needed no more convincing argument than the energetic and urgent appeal of that honorable member himself, as he well knew the prophetic powers of vision with which that hon. member could see the foreshadowing of coming events—but in every other respect he entirely differed from his facts, his arguments, and his conclusions—personally he felt no anxiety to retain his seat in that House, as he believed was the case with most of the hon. members—but he held its powers and privileges as a member of that body, in trust for the country at large, as a part of its constitution which he was bound in honour not to yield up or abandon unless on some great and paramount consideration. The object of the Bill was to destroy the distinguishing feature which constituted the great excellency and importance of the Council as one of the three distinct and separate bodies for enacting laws for the government of the Province.

That distinguishing feature was the permanency and independence of that body—independent alike of the Crown and of the popular influence. He knew that it was contended that the Council had no permanency, but this could never be maintained while each member held his seat by a commission under the hand of his Sovereign, and while the constitution of the Legislative Council was established by the royal instructions—that charter of the Colonial constitution, and that no instance could be cited of one single member being removed from that Council for an independent expression of his opinion, nor even for a factious opposition of the Government since its first formation in 1832, up to the present time—he would argue the point solely in reference to British constitutional principles. We must remember that this Province was a dependent Colony on Great Britain, and an integral portion of the great British Empire, on whose model we were formed—that the distinguishing feature of that Government was a mixed Government—that it was ruled by a limited monarchy, checked and controlled by the House of Commons representing the great Body of the people at large, and also by the House of Lords constituting the upper House of Parliament.

This form of mixed Government has borne the test of ages in England—has been tried under every pressure—by popular tumults—long wars—but more perhaps than all by the last 35 years of almost universal peace and unparalleled prosperity, when the overwhelming democracy which had prostrated the French Government made an outburst in England and was put down in that country—not by a recourse to arms, not by the strong hand of power, but merely by calling out the fathers of families, the members of the community. It was then that the mere expression of public opinion dispelled like a mist before the contagious infection of chartism, socialism and venal democracy. This was indeed a triumphant test of the benefits of that form of government. On this tested model our Colonial Government was formed, so far as small things may be compared with great. We have the same limited monarchy in the person of Her Gracious Majesty represented by the Lieut. Governor—we have our constituted Assembly expressing the voice of the people—we have this House which if not possessing all the attributes of the British Peerage, yet like the upper House of Parliament holding a central position independent of either Branch. It is true the hereditary principle was wanting, but the Queen was alike the fountain of honour in England, where she created all new peers as she does here the members of this body, and although we might not possess all the influence of the aristocracy existing in England, and he did not think it advisable that we should in this Colony, yet he trusted he could say without fear of contradiction, that this body had ever maintained its high condition in the Colonial Constitution and had ever possessed in the fullest degree the public respect and the public confidence.

The formation of the constitution of the Legislative Council in the Colonies after the American Revolution had been a subject of much reflection among the ablest statesmen of the day in England. The evils of the Elective Legislative Councils had been sufficiently proved in the old Colonies wherever they existed. The present form was therefore adopted in all those Colonies where the population was sufficient to warrant the separation of the Executive and Legislative powers.

In forming the constitution of Canada in 1791, the present constitution of the Legislative Council nominated by the Sovereign was fully discussed in the English House of Commons, and was again adopted by Pitt, Burke, and others, the ablest statesmen of the times; again after the last Canada outbreak, it was fully considered and adopted in that country.

If it was not adopted at the very first settlement of this Province, it was thought with about 10,000 inhabitants persons could not be found to fill both the Executive and Legislative councils separately, nor was it then advisable for other considerations. He would contend that a council formed by the ablest statesmen, so universally and so successfully tried, should not be rashly changed for a crude and novel system the benefits of which were still to be discovered.

The members of this Council though not forming an

hereditary aristocracy which never could exist in the Colony, yet did represent its wealth and property as far as any Elective body could, and he believed in an infinitely greater degree than any new Council would be found to do if elected under the Law now before us; every member now possessed such a stake in the country that no measure injurious to the interest of the Province could be carried without deeply affecting some of us—He contended that the present House did represent every important section of this Province, and that we had members well acquainted with the wants and wishes of every part and also of its resources.

There was no provision in the Bill to give a fuller representation, but when there were still vacancies in our House to be filled up by the Government, he would ask the hon. member why these remote parts were neglected which the hon. member contended were not represented at present in the Legislative Council? He contended that no Body had ever represented not only the property of the country, but its knowledge and intelligence.

What Body had ever possessed more knowledge of its commercial interests? Had their Honours ever been defective in a thorough knowledge of our laws? Did it not possess members successful agriculturists well skilled in any branch of Agriculture? In what branches of information are we then defective? He would appeal to the laws of the Province, to the enactments, the amendments made by this House—their whole proceedings would shew the powerful and judicious check they had exercised over hasty Legislation.

It was one of the beautiful features of our constitution that the people had their House—the House of Assembly without the consent of whom no law could be passed on any subject, with whom every popular right originated—who alone could originate any tax—grant of money, impost or fine, and where they were most fully and amply represented by their constituents; if they were not, let the franchise be extended, or let the most ample scope be given to their deliberations; but he did not think that it would be contended but that the House of Assembly was an ample and sufficient guardian of the peoples rights.

Why then bring forward a bill merely to create a second House of Assembly, though calculated to degrade that body in some of its most essential features. As to the Electors they were exactly the same as those of the House of Assembly, as was the place and manner of holding the Election, and actually referring to the Election law for their existence.

There was indeed a nominal difference in the qualification. £800 was mentioned in the Bill, and a thousand recommended by the honorable mover, but there was no security whatever to prevent the candidate from receiving his property qualification, the day that he presented himself on the Hustings and divesting himself of it when his purpose was served, as was the practice so frequently in England, besides which there was no instance that he was aware of, of any member's having been ousted of his seat for want of a qualification even when the laws had been stricter; the difference in the qualification therefore was a mere delusion. There was one singular provision indeed in the Bill, that at the end of every two years the members for each section should toss up to see who should remain in and who should vacate his seat. Another singular and most degrading circumstance was that they were to be deprived of the right of choosing their own Speaker—a privilege essentially necessary to every elective body. The President was to be appointed by the Executive Government, it was not even necessary that he should be a member of the same body or elected by the people. What would be the practical working of this in carrying out Responsible Government, when the two Houses came into collision which they would be very certain of doing? The Executive would then place at their head, a man, not to preserve order and dignity in their House, not to give a full and fair expression of their decisions and resolves, but one who might thwart every measure—indeed might stop their whole proceedings, as they would have no power in themselves to select any other President—any other mouth piece. It must be remembered too that that Council was to have been the Senate of the land, to embody the wisdom, the gravity, and the dignity that ought to belong to such an august body. Ought such an assembly then as this to have a gag put upon their proceedings? The very comparison drawn between such a President as this, and the Speaker of the House of Assembly, the first commoner of the land, would be degrading to such an Elective council. However he should say nothing more now in regard to the details of the Bill except to remark one most singular omission. The Governor in his despatch to the Colonial Secretary recommends that the existing members of this Body should retain their seats for their lives as this would be more consonant to the spirit of English Institutions. To this Earl Grey had responded in the fullest manner stating "It to be a proper mark of respect to Gentlemen who had devoted much of their time to the public service." Again in His Excellency's Speech at the beginning of the Session, which must also be considered as the speech of the hon. member and the rest of the Executive Council—His Excellency recommends that the measure should be carried out without any hasty and ill considered change, and without unnecessarily invading existing rights.

Such were the sentiments of an English Gentleman and a British Governor, also of an English Colonial Minister, with regard to the long and tried services of the hon. members of this House. This was but strict justice to those who had devoted the services of half a life to the public interests. Such a recommendation as this was in strict accordance with the true spirit of British feeling and British legislation. Look to the position of the venerable President who had been more than thirty years a member of this House. Could any one contend that there was the slightest ground for this summary dismissal, for casting this unnecessary stigma on this Body and on that venerable and respectable individual

He would ask why then was no provision introduced into the Bill to carry out this recommendation of the Colonial Secretary, of a British Governor, and also of the Executive Council? Was not the omission of such a provision a breach of plighted faith? We talked of the repudiation of the United States, but were we not acting ourselves in the true spirit of repudiation?

The Hon. mover had pronounced the address of the Assembly as a document abounding in wisdom, to him it appeared a mere fallacy from beginning to end; they stated "that the Legislative Council does not now retain over the House of Assembly that constitutional check which that branch is called upon to exercise according to the theory of our mixed form of Government." Was there ever before such a complaint as this made by one body of another? the complaint is not that we obstruct the business, but that we don't check their ill advised and hasty legislation, that we don't often enough stop their money grants, nor prevent the other evils which their measures inflict on the Province. This is like a School-boy who complains to his Parent that his master does not flog him enough. They request that the Council be made elective by the people of the Province, and then follows another evident fallacy when they say, "in advocating that measure, we humbly submit that we are not seeking the introduction of a principle unknown to the British Constitution, we need not remind your Majesty that the representative Peers of Ireland and Scotland are now elected." It was intended that this should convey to the minds of ignorant people, that the people of Ireland and people of Scotland elected peers to sit in the House of Lords, whereas they have no more to do with those elections than the People of Kamchatka have—The peers of both those countries are hereditary Peers and are selected to sit by their brother Peers. (The Hon. Member continued his remarks through the different passages of the address.)

Was this change to an elective council demanded by the people? He would say decidedly not. The Hon. members who had taken the most active part in getting up this address were rejected at the next election by their constituents. The address itself with the bills for the reduction of salaries were the measures which distinguished the last three days of the existence of the last House of Assembly. Had the Assembly rested their claims to popular favour on their advocating this measure of an elective council? who would venture to claim any credit for such a measure? (Here the Hon. Mr. Connell remarked "I did.") That might suit the vicinity of Bangor or Houlton but it would not go down in any other part of the Province. Nothing would warrant such a change as this in our constitution but a full and decided expression coming from the whole body of the people: it was the essential characteristic of a free Government that it was a Government of laws, a Government of chartered rights and not the Government of men and of measures changing and shifting like the sands on the sea shore. He agreed with the hon. member from Carleton that this change was but the first step, and that the next was what the hon. member contended to be essential an elective Governor. What would then prevent us from becoming a separate and independent State? (The Hon. Mr. Connell—"we can unite the colonies in one general Government.") that the hon. Mr. Saunders contended would be no remedy if they were united on these principles, such a federal Government would possess a far greater power and therefore the evil would be greater. Under such a form of government the supremacy of the metropolitan State could not be maintained. Great Britain had declared her intention of preserving inviolable her commercial regulations and interests over her North American Colonies. Whenever therefore their interests became different from those of the parent state collision must ensue.

But why should this colony, one of the newest and smallest adopt a change so likely to lead to a dissolution of the connexion, at all events to break one of the most important links that bind us to the mother country. We are still in our very infancy as a State, our population not equalling those of many English parishes. Our trade, the only real trade that we now possess—the only known source of commercial prosperity—the only thing that brought money into the country—the only thing that caused a cash circulation in the Province was our timber trade, existing entirely by the protective duties of Great Britain against the introduction of foreign timber. This Province had been planted and fostered by Great Britain. Till within a little more than 20 years our expense, our whole civil list had been paid by that country—our shores and our commerce were guarded by the British Navy and by British troops, all of which cost us not a penny. He did not mean to undervalue the constitutions of the American States or of the State of Maine, but it must be remembered, that they were formed as strictly in accordance with the Colonial system as circumstances would possibly permit, it was a matter of necessity and not of choice that all their bodies must be elective; there was one feature certainly, the permanency of all their institutions, of their public rights, which were fixed by an immutable charter and if assailed were tried, not by the law of the State, not by the changeable impulses of popular feeling, but by appeal to the supreme court of the Union. He would give every credit to the senate of this neighbouring State but he contended that our hon. body yielded to them in no respect. But he would say with regard to the present Bill that it contained no one provision calculated to make our elective Council like that of the State of Maine.—(To be Continued.)

A letter from Naples says that a sailor (by birth a French man) had deserted from one of our vessels and taken refuge on board a French man-of-war. His delivery was demanded, but refused by the French commander, on the ground that every Frenchman is entitled to the protection of his country's flag.—*Boston Olive Branch.*