

"I am in the first place to signify to you my entire approbation of your Lordship's conduct in declining to affix your name to the new Writ for the election of a Member for the County of Montreal, in the room of Mr. Mondelet, whose seat had been declared vacant by a vote of the House of Assembly. Were I disposed to qualify in any measure this approbation it would be to express my regret that an extreme, though not unnatural degree of caution, should have led you to acquaint the House, that you had referred the matter to the consideration of the Secretary of State; and that sanctioned by the opinions and advice of those whom you had very properly consulted you should not have at once taken upon yourself to announce the decision which your own knowledge of the British Constitution had led you so correctly to form. It is unnecessary for me to comment upon the tone and language adopted by the House of Assembly, in which they presume to dictate to the King's Representative, the occasion and the period at which, in their opinion, he ought to exercise the Royal Prerogative of Dissolution, and hold forth the menace of ceasing to communicate with him, until he shall have made reparation for a breach of their rights and privileges. My present purpose is to express the sentiments of the King's Government as to the assumption by the House of Assembly of "Rights and Privileges" wholly repugnant to the practice and principle of Parliament, and incompatible with the maintenance of the British Constitution. Such an assumption I have no hesitation in declaring the claim on the part of the Assembly, to vacate the seat of Mr. Mondelet, in pursuance of a forced construction of a Resolution of their own House, notwithstanding the surprise which they express, that your Excellency should not have known that your signature to a Writ of Election was simply and purely a ministerial act."

"That your Lordship would not, except upon weighty considerations, desire to limit the authority of the House of Assembly over its own Members, is sufficiently apparent from your not having hesitated to sign the warrant for a new writ upon the expulsion of Mr. Christie, a proceeding, upon the merits of which I am not called upon, and feel no desire to express any opinion.—Assuming that the powers of the House of Assembly are in all respects not only analogous but equal to those of the British House of Commons, I deem it not only difficult but unsafe to attempt to prescribe the bounds within which such a body should exercise the right of restraining and punishing their own Members, and to the discretion of the House of Commons it has been well and wisely left by the practice of the Constitution to decide upon the degrees of criminality in a member which should call for the highest degree of punishment in their power to inflict, the disgrace of expulsion as unworthy to belong to their body. But as the prudence of the House of Commons has rarely, if ever, permitted them to carry to a faulty extreme this power, thus wisely left indefinite; so their knowledge of the British Constitution, and of what was due to the privileges of the other branches of the Legislature, has preserved them from the fatal error of arrogating to themselves the monstrous right of giving to their Resolutions the force of Law. The House of Commons undoubtedly possesses, and exercises every day the right of interpreting and expounding by Resolutions of its own the laws which regulate the rights of candidates and electors in certain cases and according to certain forms which themselves are regulated not by Resolution but by Act of Parliament; but it neither possesses, nor has ever claimed to possess any right, authority or power without the consent of the Crown and the House of Peers to make laws relating either to the qualification or disqualification of electors or candidates, or rather to effect their object by resolutions only."

"Examples are numerous and of recent date in which restrictions analogous to those sought for by the House of Assembly have been imposed by the authority of Parliament, but they have always been by Bill and have never been sought to be obtained by resolutions of the House of Commons. That so extravagant an assumption should be made by a body like the House of Commons, well acquainted with its own rights, and equally acquainted with the rights of others, is not to be contemplated; but I believe I am warranted in saying, that if the Speaker in the exercise of his ministerial

capacity, should be called upon to issue a warrant for a new election, in consequence of a member being unseated, or an illegal resolution, the duty would devolve upon the Lord Chancellor to take notice of the cause of vacancy, as recited in the warrant, and on the ground of illegality to refuse to affix the Great Seal to the new writ, as your Lordship has in this cause very properly declined to give your sanction to the issuing of a warrant. The House of Assembly indeed appear, from the course which they have adopted on former occasions, to have considered the right which they claimed to be at least doubtful, and although I have assumed throughout the Despatch that the case of Mr. Mondelet fell strictly within the terms of their Resolution, I cannot but say that the instance, so far as I collect the case from the documents furnished to me by your Lordship, appears to have been most unfortunately selected for the first experiment of their right."

Your Lordship will understand me as separating altogether the justice of the general principle, that persons accepting office of emoluments under the Crown, should be subjected to the judgment of their constituents, from the claim set up by the Assembly to effect this object by their own mere Resolution; and while I am happy to express my complete approbation of your Lordship's refusal to sanction a claim so subversive of the balance of the constitution, and ultimately so dangerous to the liberty of the subject, I shall defer until a future occasion the expression of my opinion as to the propriety of assenting to any act which may be passed by the Legislature of Lower Canada, for carrying into effect the object of subjecting Members accepting office under the Crown to a new election."

The Governor in Chief communicates to the House of Assembly, for its information, an extract from a despatch addressed to him by the Secretary of State for the Colonial Department, in answer to the Petition of the House addressed to the King, which by desire of the house, was transmitted to the Secretary of State during the last Session, for the purpose of being laid at the foot of the throne.

"I have also laid before the King, the addresses of the House of Assembly. I cannot pass over this document without observation. The object of this address is to pray His Majesty to sanction a National Convention of the people of Canada, for the purpose of superseding the Legislative authorities, and taking into their consideration in which of two modes the Constitution of Lower Canada shall be altogether destroyed. Whether by the introduction of the elective principle or by the entire abolition of the Legislative Council. On the mode proposed, his Majesty is willing to put no harsher construction than that of extreme inconsiderateness: to the object sought to be obtained, his Majesty can never be advised to assent, as deeming it inconsistent with the very existence of Monarchical Institutions. To every measure which may secure the independence and raise the character of the Legislative Council, his Majesty will be most ready to assent. In 1828, a committee of the House of Commons carefully investigated the grievances alleged by the inhabitants of the Canadas, and amongst them the constitution of the Legislative Council was a matter of serious deliberation. The committee reported that one of the most important subjects to which their enquiries had been directed was the state of the Legislative Council in both the Canadas, and the manner in which those Assemblies had answered the purposes for which they were instituted. The committee strongly recommended that a more independent character should be given to those bodies, that the majority of their members should not consist of persons holding offices at the pleasure of the crown, and that any other measures that might tend to connect more intimately that branch of the constitution with the interests of the Colonies, would be attended with the greatest advantage. With respect to the Judges, with the exception only of the Chief Justice, whose presence on particular occasions, might be necessary, the committee entertained no doubt that they had better not be involved in the political business of the house.—An examination of the constitution of the body at that period and the present, will sufficiently show in what spirit his Majesty's Government have laboured to accomplish the wishes of Parliament.—The House of Assembly state correctly

that it has often been avowed that the people of Canada should see nothing in the institutions of neighbouring countries to which they should look with envy. I have yet to learn that his Majesty's subjects in Canada entertain such sentiments at present, or that they desire to copy in a monarchical government all the institutions of a republic, or to have the mockery of an executive absolutely dependent for its existence upon a popular body, usurping the whole authority of the state. I am not prepared to advise his Majesty to recommend to Parliament so serious a step as the repeal of the Act of 1791, whereby the institutions of this country were conferred separately on the Provinces of Upper and Lower Canada: Serious as are the difficulties by which your Lordship's administration is beset, they are yet not such as to induce me to despair of the practical working of the British Constitution: but should events unhappily force upon Parliament the exercise of its supreme authority to compose the internal dissensions of the Colonies, it would be my object, and my duty as a servant to the crown, to submit to Parliament such modifications of the Charter of the Canadas, as should tend, not to the introduction of institutions inconsistent with monarchical Government, but to maintaining and strengthening the connexion with the mother country, by a close adherence to the spirit of the British Constitution, and by preserving in their proper place, and within their due limits, the mutual right and privileges all classes of his Majesty's subjects.

Downing Street, July 27, 1833.

SIR,—I have received and laid before the King, your Lordship's despatch, No. 28, of the 21st March last, enclosing an address to your Lordship from the Legislative Council of Lower Canada, praying that a question which had arisen respecting the true construction of the Act 31 Geo. III, cap. 39, so far as regards the casting vote giving to the Speaker of the Council, may be submitted to the consideration of His Majesty.

The important subject thus brought under the notice of His Majesty, has not failed to receive all due attention. After comparing and revising the weight of the arguments to be drawn from the usage of past times in the Province, from the analogy of the Peers, and from the verbal construction of the Act itself, His Majesty's Government has come to the conclusion that the Speaker of the Legislative Council has not a right to give a double vote;—and that he is only entitled to vote when all the voices of the other Members of Council are equally divided.—This is the opinion which has been arrived at in this country after a very careful examination of the point under discussion. But I think it right to add, that the present communication is merely the expression of an opinion; that if it be thought necessary to determine the question by authority, Parliament alone is competent to furnish the final decision. My Lord, your Lordship's most obedient humble servant,

(Signed) E. G. STANLEY.

TEACHER WANTED

For the School at Moorfields. Intending Candidates are requested to lodge their applications with the Parish Trustees,—none need apply who cannot produce satisfactory Testimonials of Character and qualifications. Newcastle, 27th January, 1834.

NEW-BRUNSWICK ALMANACS FOR 1834

For Sale at the Post Offices in Chatham and Newcastle, and at the Gleaner Office.

WANTED—A smart, active Woman, who is a good Cook and Washer, and capable of taking charge of a Boarding Establishment. For particulars enquire at the Gleaner Office. December 24, 1833.

BREWERY

The Subscriber's BREWERY is now in full operation where good strong Ale, Porter, Table Beer, &c. may be had on reasonable terms, in quantities to suit purchasers.

This Subscriber intends carrying on the WHEEL WRIGHT business, in its different branches, comprising, Carts, Waggon, Gigs, Sleighs, Ploughs, and all other articles of Husbandry; which will be of the first quality, always having on hand a supply of best American White Oak, and seasoned hick wood of other denominations; he will furnish on reasonable terms. He will take Barley, and other country produce, in barter. Miramichi, February 26.

GAVIN RAINNIE.

NOTICE—All persons having just demands against the Estate of JOHN BURKE, late of the parish of Newcastle, deceased, are hereby required to present the same duly attested, within Six calendar Months from the date hereof; and all persons indebted thereto, are requested to make immediate payment to Sophia Burke, at Newcastle.

SOPHIA BURKE, Executrix.

MARTIN CRANNEY, Executor.

Newcastle, 23d December, 1833.