

ported, that the committee having the bill referred to them under their consideration, had passed the following Resolution: 'Resolved, That the further consideration of the said Bill be postponed for three months.' Ordered, That the Report be accepted.

March 2.

Read a third time as engrossed, a Bill to commute the Fees of the Judges of the Supreme Court and Clerk of the Pleas in the Supreme Court, and for other purposes therein mentioned. Resolved, That the Bill do pass.

March 3.

Mr Millar, Master in Chancery, informed the House that the Council had agreed to a Bill relating to the summoning and attendance of Petit Jurors at the respective Sittings and Circuit Courts in this Province, without making any amendment thereto.

On motion of the hon. Mr Weldon, the House went into committee of the whole, in consideration of Ways and Means of raising a Revenue in the Province. The chairman reported, that the committee having the business referred to them under their consideration, the following Resolution was first proposed viz:—'Resolved, as the opinion of this Committee, That the present duties now imposed upon articles imported into this Province should be continued, with certain alterations.' And upon the question, it passed in the affirmative. That the following Resolution was then moved:—'Resolved, as the opinion of this Committee, That a duty should be imposed upon all Tea imported into this Province.' And upon the question for sustaining the same, the Committee divided as follows: Yeas 11, Nays 10. Whereupon it was carried in the affirmative.

Mr Street, from the Committee appointed on the 20th day of February last, to prepare a Bill in amendment of the Civil List Act, reported, that the Committee had attended thereto, and then submitted the Bill so prepared under the title of—A Bill to repeal the Act to restrain the provisions of the fifth section of an Act, intitled, 'An Act for the support of the Civil Government in this Province,' and to establish other regulations for the disposal of Crown Lands and Timber in certain cases. Ordered, That the Report be accepted.

March 4.

The hon Mr Johnston, by command of his Excellency, delivered the following Message.

The Lieutenant Governor, in answer to their Address of the 25th of February, informs the House, that Mr Baillie having, in January, 1840, tendered to him the resignation of his offices of Surveyor General and Commissioner of Crown Lands, on condition of receiving such rate of retired allowance as to her Majesty's Government might seem to be just and reasonable, with reference to his services in those offices; the Lieutenant Governor deemed it to consist with the public interests, conditionally to accept that resignation, with the understanding that a retired allowance, at the rate of £600, currency, per annum, should be paid to Mr Baillie, until the decision of her Majesty's Government should be known.

An authority has also been received by the Lieutenant Governor, to pay the Officer in the actual discharge of the duties of the Surveyor General, a provisional salary, at the same rate until its amount may be permanently fixed.

On the subject of the travelling expenses of the Members of her Majesty's Executive Council, residing at a distance from Fredericton; the Lieutenant Governor informs the House, that these payments are made under the sanction of her Majesty's Secretary of State for the Colonies, as services connected with the management and protection of the Crown Revenues.

Copies of several despatches from her Majesty's Government on these subjects, are herewith transmitted, by which the House will be fully possessed of the views and sentiments of the Right Honorable the Secretary of State, respecting them.

J. H.

The several despatches, communicated by the foregoing Messages, were read at the Clerk's Table, and are as follow:

Retired allowance to Mr Baillie, late Surveyor General and Commissioner of Crown Lands, and provisional allowance to present Surveyor General.

[No. 26.]

Downing Street, 21st January, 1840.

Sir,—I have had under my consideration, the various communications which have recently been received from you, relating to the case of Mr. Thomas Baillie, the Surveyor General of New Brunswick. My attention has been especially called to this subject by a representation which has been addressed to me by Mr. George Baillie, Mr. Thomas Baillie's brother, in which he tenders on his brother's behalf, the resignation of the office of Surveyor General, on receiving a retiring allowance of £750 sterling, per annum. Your Despatches had anticipated this proposal on the part of Mr. Baillie, and accidental circumstances alone, have prevented my furnishing you with instructions on the subject.

It is unnecessary that I should discuss the various points connected with this case, which are to be found in your own communications, and in Mr. G. Baillie's letter. Whatever may be the real merits of this question, they are absorbed or rather superseded by the form in which the question is now presented to me. I am disposed to concur with you in thinking, that under the peculiar circumstances of the

case, the acceptance of Mr. Baillie's offer would be the most satisfactory mode of settlement. I further agree with you in opinion, that having regard to the length of Mr. Baillie's services, the important and responsible offices which he has held, and the peculiar circumstances under which he was appointed to Office, the proposition which he has made is a fair and equitable one.

Entertaining this opinion, I should have been prepared to have accepted Mr. Baillie's offer, had I considered myself free to determine the question. There appears, however, to be the following conclusive obstacle to such a course.

In Lord Glenelg's Despatch of the 17th of July, 1835, to the Commissioners of Enquiry in Lower Canada, at paragraphs 44, 45 and 46, his late Majesty signified in the most unqualified terms, his intention of relinquishing the right of granting pensions, except with the consent of the House of Assembly. Lord Glenelg, in his Despatch of the 5th December, 1835, referred the Lieut. Governor of Upper Canada to these instructions, as applying so far as regarded the Public Revenue, to the Upper as well as to the Lower Province; and the Assembly of New Brunswick having claimed a participation in these advantages, his Lordship, in his Despatch to Sir Archibald Campbell, No 84, of the 31st August, 1836, acceded in the most ample terms to the demand. I am therefore of opinion, that her Majesty's Government are precluded by the pledge thus given, from granting any pension in New Brunswick, without the consent of the Assembly, and it is to that body, therefore, that Mr. Baillie's proposal must be referred. In submitting it to that body, I have to instruct you to state, that her Majesty's Government are willing to concur in any arrangement for Mr. Baillie's retirement from office, which might be acceptable to that Gentleman himself, and to the House. I have further to instruct you to make this reference, in the manner which may be most favorable to Mr. Baillie's interests without controverting Lord Glenelg's decisions.

Taking the rate of salary which has hitherto, been attached to the Offices held by Mr. Baillie, he would be entitled, under the provisions of the Superannuation Act, to a retiring allowance of a sum equivalent to that which he claims, (within a very trifling amount); and I cannot but regard him as possessing a strong claim to the support of the Government, in bringing this question before the House, from his length of service, and the zeal with which his official duties have been executed. Neither will the Assembly fail to give Mr. Baillie the credit to which he is justly entitled, for the success which attended his labors, and for the flourishing condition to which this important branch of the Provincial Revenue has arrived under his management.

It is hardly necessary that I should observe that, in the event of the Assembly acceding to Mr. Baillie's offer, the Provincial Revenue would not be considered as chargeable with this pension, which must be fixed on and made payable from the Civil List Fund granted to the Crown.

I have the honor, &c.

(Signed) J. RUSSELL.

[No. 33.]

Downing Street, 9th March, 1840.

Sir,—I have to acknowledge the receipt of your Despatches, No. 3, and separate of the 21st and 22nd of January, in which you report to me the conditional resignation, by Mr. Thomas Baillie, of his appointments of Commissioner of Crown Lands and Surveyor General of New Brunswick.

My Instruction, No. 26, of the 21st of January, has anticipated the answer which I should have to make on these Despatches. I therein notified to you the amount of the Pension which I considered Mr. Baillie was entitled to expect on the relinquishment of his situation, and instructed you to refer the question to the Legislature in the manner which might be most favorable to Mr. Baillie's interests.

I should have had nothing to add to that Instruction, were it not for the observation contained in your present Despatch, that the Assembly would look to be relieved from the payment of Mr. Baillie's Pension, at no distant period, by his nomination to Office elsewhere. On this point it is necessary that I should remark, that under the provisions of the Superannuation Act, 4th and 5th Wm. 4, c. 84, it is provided, that all Public Officers receiving compensation or retired allowance under that Act, should, under certain stipulations, be held liable, when called on, to resume official employment under the Crown. I should be prepared to follow this principle in the case of Mr. Baillie, should a fit and convenient opportunity offer; and it would be satisfactory to me to be enabled to effect this saving on the amount of the Civil List Fund placed at Her Majesty's disposal; but there are certain high considerations, which will be apparent to you, which render it indispensable that Her Majesty should remain entirely unfettered in the choice of Public Officers, and which therefore would prevent my accepting the condition which you anticipated would be made in the present case. It is my wish that you should not adopt any course which may be inconstant with this principle.

I have the honor, &c.

(Signed) J. RUSSELL.

[No. 57.]

Downing Street, 22d May, 1840.

Sir,—I have to acknowledge the receipt of your despatch, No. 30, of the 7th ultimo, re-

lative to the case of Mr. Thomas Baillie, the late Commissioner of Crown Lands and Surveyor General of the Province of New Brunswick.

Under the circumstances, I shall not withhold my sanction to the arrangement which you have made for the payment to Mr. Baillie of a retired allowance, at the rate of £600 currency, per annum, until such time as a final decision can be taken in his case. Such a course is due to Mr Baillie, after the unimpeachable character which he has always borne for integrity in the pecuniary transactions of his Office. It would have been more satisfactory, however, if on the receipt of my Despatch, No. 26, of the 21st January, you had followed the instructions therein contained, and at once brought the subject under the consideration of the Provincial Legislature. The Assembly would thus have been invited, or rather the opportunity would have been afforded them of proceeding with any measure which they might see fit to adopt, on the Report of the committee appointed to investigate the Accounts of the Crown Land Office, and Mr Baillie might have been spared the anxiety which he must necessarily feel, until the opportunity is afforded him of publicly defending and justifying himself. Had the Assembly remained passive, or declined to entertain the claim for a pension until the other question was investigated, you would nevertheless have been still justified in making a temporary provision for him, pending the investigation of the claim against him.

The only course which now remains for adoption is, that you should avail yourself of the earliest opportunity of bringing the whole question connected with Mr Baillie under the consideration of the Assembly.

My Despatches are sufficiently explicit on the subject of a grant of a pension to Mr Baillie. In regard to the imputation against him which is involved in the Report of the committee on the Land Office Accounts, you will take care that every facility is afforded him in preparing his defence and justification.

I have the honor, &c.

(Signed) J. RUSSELL.

Downing Street, 5th June, 1840.

[No. 62.]

Sir,—Since my Despatch, No. 57, of the 22d ultimo, conveying to you my authority for the payment of an allowance of £600 currency to Mr Baillie, as a temporary arrangement, I have received a representation from Mr G. Baillie, on the subject of his brother's affairs, of which I enclose you a copy. You will notice that Mr Baillie addresses himself to the consideration of two points. The first having reference to the Report of the House of Assembly as to the alleged default in his brother's accounts; the second controverting the necessity of obtaining the consent of the Assembly for the grant of a pension to his brother, on resigning his office of Surveyor General.

I pass by the first statement in Mr Baillie's statement, as it is impossible for me to form any opinion upon it, until his brother shall have been afforded a proper and ample opportunity for meeting the charge which has been brought against him. I have therefore only to notice Mr Baillie's observation on the second point.

It appears then that that gentleman seeks to establish the right of the Government, not only in point of Law but in point of honor and good faith, to grant a pension to his brother, without any reference to the House of Assembly.

You are already aware from my Despatches that I do not coincide in that view. I considered Lord Glenelg to have pledged the government to grant for the future no pensions whatever, except with the consent of the House of Assembly, and in pursuance of that opinion I explicitly instructed you to refer the question of Mr Baillie's pension to the House of Assembly. It would seem, however, that you had taken a different view of the case; for although in possession of my Despatch of the 21st of January, you state that you did not deem it expedient to send it to the House of Assembly, but on your own responsibility had authorized the issue of a retired salary to Mr Baillie, at the rate of £600, currency, per annum. I must therefore conclude that as you have pledged yourself to Mr Baillie that he should not be deprived of his office without a pension, you are satisfied either that a reference to the Assembly is not absolutely essential for the fulfilment of Lord Glenelg's promise, or that, if it is, you will find some more convenient occasion for submitting the question to the Assembly than any that presented itself at the close of the last Session. I admit that with the charge of the committee of the Assembly hanging over him, and Lord Glenelg's pledge, the settlement of a pension to Mr Baillie is a matter of considerable embarrassment. I can therefore only state as my opinion, that this matter cannot be committed to a more just or impartial person than yourself, and that, whilst on the one hand you will seek to obtain for Mr Baillie such a settlement of the question as will be satisfactory to that gentleman's just claims, you will not lose sight of the right course that should be taken with reference to Lord Glenelg's pledge to the Assembly.

I take this opportunity of acknowledging your three Despatches, Nos. 7, 8, and 12, and of acquainting you that as no final appointment to the office of Surveyor General, in the room of Mr Baillie, can be made until the subject of his pension is disposed of, the arrangement which you have proposed in anticipation of Mr Baillie's retirement, must be suspended for future consideration. I have no objection to the

provisional arrangement you have made; but I cannot hold out to Mr Power any prospect of employment in England or Ireland, and I think it due to that gentleman to state that he appears to me to have some claim, from his merits and services, on the Government of New Brunswick.

I have the honor, &c.

(Signed) J. RUSSELL.

No. 2, Parliament Street, 19th May, 1840.

My Lord,—I have been induced, from the anxiety I feel with regard to your Lordship's decision on my brother's case, to write the accompanying observations as to the right of the Crown to grant compensation to him, on the abolition of the office of Commissioner of Crown Lands, out of the Surplus of the Civil List Fund granted unconditionally to her Majesty, in fulfilment of the positive pledge made to him by Sir John Harvey, previous to his conditional resignation of his Office, of £600 per annum, as a minimum allowance, or as much as your Lordship might sanction. Your Lordship will perceive, that after providing for the salary of £1000 currency or £900 sterling, recommended for the future Surveyor General, and the allowance of £750 which your Lordship considered my brother entitled to receive, there would still remain a surplus of £100 per annum out of the salary of the Commissioner of Crown Lands unappropriated.

I earnestly hope that your Lordship will feel yourself justified in authorizing the Lieut. tenant Governor to issue the proposed compensation of £750 per annum, and to which the only difficulty which he considers to exist is the Report of Commissioners of the House of Assembly, charging Mr. Baillie with the payment of £3,200 for Timber which they cannot discover to be accounted for, and deposits alleged to have been paid into his office, a large proportion of the whole deficiency having occurred during his absence in England on the public service. On this subject I also enclose some observations, to which I also request your Lordship's attention; and under all the circumstances of the case, I trust that your Lordship will relieve him from further responsibility with these accounts, that under any circumstances he may not be condemned unheard, and that the case be tried on its own merits before a Jury. I believe that your Lordship is aware that the proposed reduction of my brother's salary has led to his entire ruin. It was unfortunately suggested to him that he could easily make up the difference of his income, and anticipating his retirement, he was induced, by false representations, to lend all his money to a mercantile house, and in the hope of saving what he had risked, he subsequently supported it, I fear, beyond his means. On the decision, therefore, of your Lordship depends the very existence of himself and infant family. In addition to his own zealous exertions, he, in the most distinguished manner, urged the surrender of his own fees, in order to give effect to the sale of Lands, by which the Province gained upwards of £20,000, which surely gives him a claim to favorable consideration; and notwithstanding his misfortunes, his honor and integrity are unimpaired. I therefore hope that your Lordship will allow him to resume his office, if, with regard to the compensation allowance, the legality of granting which I believe would not admit of question, and with regard to it, no difficulty or objection is anticipated. If, however, your Lordship should not deem it expedient to do so at present, I trust that you will not make any definite appointment to the office until some decision has been come to with regard to his retired allowance, either by your Lordship's instructions for its payment or by the decision of the House of Assembly.

I feel very grateful to your Lordship for the favorable decision your Lordship came to with regard to the amount of the proposed compensation. The observations on the Report of the Commissioners I request that your Lordship will consider only as my own view of the case, for I have not the requisite information on some points at hand to enable me to do justice to my brother.

I have, &c.

(Signed) G. BAILLIE.

(To be continued.)

United States.

Boston Courier, March 3.

BOUNDARY.

The following Resolves reported to the House of Representatives of Massachusetts by a Committee, of which Mr Adams of Boston was chairman, were unanimously passed to a third reading. Before the vote was taken Mr Adams said that the report drawn up by the British Commissioners, Messrs Featherstonhaugh and Mudge, having been drawn up with great ingenuity and adroitness, was calculated to affect the public mind in England very seriously in the absence of complete information. The committee thought it judicious for the Legislature of Massachusetts to act upon the subject, and to urge upon the Federal Government, in a firm yet temperate manner, the propriety of taking immediate measures to arrange the matter with the British Government.

Resolved, That the right of the United States, and of the State of Maine, to require of Great Britain the literal and immediate execution of the terms of the second article of the treaty of 1783, so