

publicity. But here where the despatches conferred exclusively to local matters, no such reason could be alleged. In defiance of all principle, and of the fact that the people at the other side of the water could know nothing of those who were best fitted to fill the offices, the recent appointments had been made by the Colonial Minister, without the advice or the knowledge of the Provincial Government. He did not wish to hurt the feelings of those gentlemen. For Chief Justice Carter he felt much esteem, and with Mr Justice Wilmot he had long been on the most friendly terms. He was dealing with principles and not with them. It was no doubt a laudable ambition in Mr Carter, to desire to be Chief Justice, and in Mr Wilmot to be raised to the bench; though he regretted that the Attorney General had accepted the Judgeship under the circumstances as he did. He may be wrong, but he thought there were other letters than this of the Governor's read by the Colonial Secretary and other influences brought to bear. They all knew that in olden times and under the old system when the Lieutenant Governor made appointments that did not please, that man went home frequently to make intercession at the Colonial Office and that men having parliamentary influence to depend upon seldom failed to succeed in their applications. He did not believe Earl Grey would have so far disregarded public opinion unless other influences had been brought to bear on him besides those despatches. Who was more interested in the proper constitution of the judiciary than the people of the Province. When would Earl Grey's property be affected by their decision or his life or liberty depend upon it? Who were more interested than that bench they should have talent, ability, and unsullied integrity than the people among whom they were to live and exercise their judicial functions. Earl Durham found this to be the sore that so long rankling and festering finally burst into rebellion. It was not the Colonial Secretary disposed of these matters; he was engaged in too many others of far greater consequence to the empire—but his subordinates who were responsible to nobody, who had no interest in the Province, but every interest in pleasing their parliamentary supporters, and who knew nothing of the circumstances of the Province. The house knew nothing of all this from the mutilated despatches, but looking at the facts as they appeared must they not arrive at this conclusion: Was any one willing that Earl Grey should have the appointment of all their officers? Would they submit to Downing-street domination again and go back to the old, sycophantic, cringing principle, that they were not to stand upon their own merits with their own people, but cap in hand with cringing fawning sycophancy beg favors at the Colonial office. Out upon such a principle: it was a low beggarly principle from first to last, that tends to keep Colonists low and spiritless, and make them still lower, instead of elevating them: that instead of making them more independent, made them more sycophantic every day. Last summer he would have said this should never be again. That they now enjoyed Responsible Government based upon Lord Durham's Report, Earl Grey's Despatch, and Lord John Russell's Declaration. But only a year or two pass away and Lord Grey inflicts the principle on the Province that he is to say who shall be Chief Justice, who Puisne Judge. If the Province would submit to have one office so filled then they must be willing to fill the whole filled in the same way, the Provincial Secretary, the Attorney General and all the others. Better abolish the Legislature at once, for it would be but a mockery, and yield all the power into the hands of the Colonial Minister. Was then the language of the Resolutions too strong? Was there a man who was bold enough to go back to his constituents and hold up his head before them and say that he had consented to the imposition of such principles and to such a betrayal of their rights by his vote on this occasion. Now the question was, if these resolutions passed how were they to be sustained? Was it by remonstrance? A few sessions before they had passed a bill giving bounties for the growth of wheat, which went home for approval, and never was a more dictatorial despatch penned than the one they received on that occasion. They then remonstrated but the reply was but a repetition of the former despatch. He had seen how little was to be effected by remonstrances and put little reliance in them. Did the Executive Council remonstrate when they knew those appointments were about to be made. No! though they ought to have done so. The Executive Council at the moment the appointment appeared in the Gazette, should have gone to the representative of Her Majesty and said that these appointments being made without their being consulted, was a flagrant violation of principle, and they could no longer hold office. What would have been the effect of this? How would they then stand before the country had they done so? He believed there was not a traitor in the country who dare take office under these circumstances, and lend himself to the minister in his designs for destroying the constitution of his country; or if there were such a one he could only hold office to the first day of the meeting of that house, when he would be hurled as a political traitor from that post into the insignificance from which he never should have emerged. What the Council did they did not know, they now said these appointments should be the subject of grave remonstrance. The despatches containing the appointments had arrived by the second of December, as he saw a copy of Chief Justice Chipman's on

New Year's Day. It was now the middle of April, and what had they done during all this time. There were whisperings around that the vote on the opening of the session on the motion of want of confidence was a receipt in full to the Government for their conduct on this matter, as no resolution had then been proposed, or no motion of want of confidence founded on the conduct of the government in this transaction. How could the question have been raised when nothing was known of the course the government had taken, and no official information was given. When that information was asked, here was all they were even now afforded. That the Council met, that a minute of council was made, to which six agreed and set their names, but from which Mr Wilmot immediately after withdrew his name. What reason was assigned, why they should lose Responsible Government and have their constitution infringed? The Council were of opinion that there should only be three Judges, but what arrangement was made to carry this out?

If the Executive knew of those despatches then transmitted by his Excellency they should at once have resigned. It was due to the country and to themselves. Then they would know where the responsibility lay. One mail would never have arrived before the despatches were withdrawn, and they were reinstated. They could then come before the country, and the people would approve of what they had done, and Earl Grey would have learned that the people of this province are not to be trifled with. But as for remonstrances they would never effect anything. Earl Grey would say what is all this you are going to do, and would pay no further attention to them, and the government would just go on as before and new appointments would be made in the usual way, wherever the opportunity offered. He apologized for occupying their time; but each resolution was a distinct subject, and it was necessary when he took them all together to trespass a little on their patience. The third resolution related to the important question of reduction of salaries. The Judges had acted fairly with respect to this. He did not say they wished to mislead; but the course they had pursued afforded proof that no matter how trained the mind may be to habits of judicial investigation and careful examination, still it was generally biased by personal interest. The Judges in their communications, state that they have two direct pledges, that they are to have certain salaries, and quote from the journals of the house to prove this; but they carefully refrained from saying a word of certain most important Despatches contained in these Journals also. Up to 1824 the Judges had been on a reduced salary, and had then asked the Government for an increase of salary. Was not here a starting point? The honorable member then read a portion of the despatch of Earl Bathurst in 1820, in which this advance is made; but the right is expressly reserved of modifying those salaries at any future period. This despatch, however, the Judges never once alluded to. The Surveyor General was another of the Salaries they were now told they must not touch, as the public faith was pledged, and must be observed.—Lord Glenelg writing at the time of the former reduction in this salary, in 1839, after stating that Mr Baillie asserted that such a compact had been made with him; and his opinion that Mr B. sincerely believed such to be the fact, added, that "he did not acknowledge the right of any former Government to fetter the discretion of the present, and that he declined to assent to the opinion, that a compact could exist between the Government and any public officer, holding at pleasure, for the continuance of his emoluments without reduction." Ought not the Judges have referred to these in justice to those whose conduct they were arraigning, and whose motives they were impugning. He did not think any more of the principles because they existed in a despatch; he merely referred to this to show that it also was on their Journals, and that those Colonies now maintained principally in virtue of an alleged compact, could not be sustained on such grounds. The Master of the Rolls and Judge Street were said also to be protected by this implied compact, and that their salaries could not be reduced, though the Master of the Rolls was a purely Provincial appointment—appointment under an act of that house. The next resolution says, that reduction and retrenchment are necessary, and that the Government having failed to carry this out, have failed to realize the just expectations of the people. When the Attorney General had enunciated such doctrines, as he had, respecting these despatches, in which Earl Grey told them that £3,500 a year was not too much for them to pay their Governor, and they must support this resolution. What representative who opposed it could say to his constituents that he had gone for retrenchment. There were two other resolutions, but of these he would say little as he had spoken of them before. Knowing how the Attorney General had complained of former governments, that they had introduced no measure for the advancement of agriculture, he was surprised when he heard him use such language as this that rural economy was of more importance than political economy. That rural economy is lamentably deficient, and persons might be sent to rural districts and show how much less people can live upon. When he heard this enunciated and thought that this were all the farmers were to get, then he could not avoid thinking that they had asked for bread and had received a stone. The hand of Providence had already compelled them to adopt a too rigid system of rural

economy, and was the first Minister of the Crown to tell them that Legislation on this subject was surrounded with so many difficulties that nothing more could be done than to send some persons about to teach rural economy, how to live on less and spend less. He (Mr R.) wished rather that they would send round persons who would teach them how they could live better, how they could get a better coat, and how to elevate their condition. Did the hon. Attorney General begrudge the farmers the Indian meal and molasses, to which they were reduced by the loss of their crops and the badness of the season. If this was all the government could give they surely had a right to say that the agriculturists expected more than the mere enunciation of the propriety of rural economy. These resolutions he had put forward in a way not to be mistaken. He had, with the assistance of his hon colleagues, Messrs Gray and Wilmot, prepared these resolutions, and to the principles contained in them he believed no member in the house could refuse his consent. He had endeavored to show to them the necessity that the people should, at so important a crisis, speak out; that by those despatches the constitution was infringed on, and if they did not withstand those encroachments at once, would be utterly overthrown; that the Government had not acted as it should have done and as the country had a right to expect; and that the mode of proceeding was not by remonstrance, but by a firm determination to oppose and resist all attempts at a resort to a Downing-street domination, and so to restore the constitution and establish the right of self government.

The ATTORNEY GENERAL then raised a question, as to the way of putting the resolution. He contended that the first contained two distinct resolutions and should be so put. To the first part he proposed as an amendment the insertion of the words "as far as consistent with the public service" at the place marked A, and the second to be put in as a distinct Resolution, he proposed should be expunged. This gave rise to a lengthy argument, in which Mr Ritchie, Mr Tilley, Mr Needham and others took a part, and during which hon. Mr Partelow spoke to the question. At length the Attorney General wrote out the amendment in the way he wished it put, allowed this to go as an amendment to the whole Resolution.

Hon. Mr PARTELOW said the speech of the hon. member for St. John was a very powerful one, and he felt quite inadequate to reply to it: but this he would say, that after they had been sixty eight days in Session, he did not expect such a question as this which was equal to a vote of want of confidence to come up. Such a thing was unheard of in history, and such a course had never been pursued in the British Parliament or in any of the Colonies, especially as all these matters had been adverted to on a former occasion by the hon. gentleman and others and the sense of the house had been fully taken on them. The government was charged with not resigning when those Despatches containing the appointments came. In ordinary circumstances they probably would have resigned. But they were then in a very peculiar position. It was late in the year. There was great difficulty in the way. They reflected that another government could not be got to conduct the government according to the despatches. There were other grave charges of high crimes and misdemeanors committed during the year, made against the government which if they resigned they would appear to admit. These were the reasons why the government held on, and that the despatches being laid before the House, they may have the expression of the opinion of the house on them. No man deprecated this mode of appointment more than he did, connected as he was with the government. But after the appointment was made, what could they do but what they did; six of them signed a remonstrance and this was still the subject of negotiation with the home government, else the whole papers would have been laid on the table. Suppose the government had resigned, could any hon. member have formed a government in correspondence with those patches. It must be remembered that the furnishing of the despatches now before them was entirely a voluntary act of the Governor. There was no address of the house. The government knew nothing of that despatch, though they may be held accountable for it, as the constitutional advisers of His Excellency. But how in this emergency were they to get the Council together after they had assembled and gone home again. They had not the heads of the departments constituting the Executive, and residing at the seat of government, as was the case in Canada and Nova Scotia. Another thing to which he would allude, was that they had not the services of the late Attorney General after October. The last despatch also was written without the knowledge of the Council though for this also, he supposed they would be held accountable. He was a Responsible Government man, and wished to see it clearly defined, and fully carried out. Under all the circumstances he did not know what the Government would do different from what they had.

The ATTORNEY GENERAL differed somewhat from the proposition laid down by the hon member for St. John. For the first time the proposition was laid down that the head of the Government was obliged to lay before the house copies of all despatches and correspondence. This was the purpose of the first resolution, and the second was predicated upon this. This was inconsistent with the language of all former addresses, wherein such portions of despatches only were asked

for as his Excellency may think right to communicate to them. That was the practice hitherto in the house and in Nova Scotia where despatches had frequently been refused, in Canada and with the Home Government. This resolution now brought up the important question, whether the house has a right to demand that all despatches be laid before them or whether a discretionary power was to be left to the Governor. Great inconvenience may arise from such a principle as that now attempted to be established. No blame could be attached to the Lieutenant Governor who did not wish to retain any thing, but on the contrary had taken care that the fullest information of the decision of the government should be laid before the house. It was nothing new that there should be stars or asterisks as they were called, and portions withheld. Every Governor did so. If the house did mean not to resolve that no discretion should be exercised in laying these despatches before the house, then some one must exercise that discretion. Was it the house? He thought it was the Government. If they exercised that improperly then there would be cause for a vote of want of confidence and a representation to the Home Government. He (the Attorney General) was not the one to deny the right of the house to all information on every question that came before them. No one had ever previously denied to the Government this discretionary power. While his honor the Speaker was in power, during the administration of Sir W. Colebrooke and Sir J. Harvey, that power was allowed and acted upon. Therefore the Government now only exercised a constitutional right. Then they had to inquire whether the Executive exercised a proper discretion in the present case. It would appear that nothing was withheld that would enable them to deal satisfactorily with the question. The subsequent resolutions showed what are the questions of a local nature therein referred to. Where did the hon. member get the information on which the second resolution was predicated. Was it not from the information laid before them by His Excellency. His Excellency stated clearly all the circumstances of the appointments. He does not state that they were made by the Executive, but gave them all information to enable them to judge whether the Constitution of the Colony was infringed on. He stated that the resignation was sent in, that a Council was held, that the majority were of opinion that three Judges were sufficient. He (the Attorney General) was of opinion that they could not constitute a proper tribunal without the Chief Justice; and if he were correct then this recommendation could not be carried out. He had no hesitation in saying that he agreed with his hon. colleague in the government, that if the resolutions were carried in their present shape, this would amount to a want of confidence. And then it would be the duty of the Government to have recourse to the usual constitutional means (Mr Hatheway—A dissolution.) He did not intend to convey any such impression, or to use any language approaching to intimidation. He would be sorry to resort to such a mean subterfuge.

The hon. and learned Attorney General having commented on the Despatch of the Government relative to the appointments, proceeded: This was the Despatch, and would now ask them if anything was withheld, or to be complained of. This was a peculiar case. There was no intention on the part of the Executive to enunciate such a principle, as that they should refer to the home Government on all these cases. But the case was this, that the Government had given no opinion or advice as to these appointments. Did this give any dissatisfaction. One of the members of that Government, Mr Fisher, had resigned in consequence of these appointments, and the letter in which he tendered that resignation and assigned the reasons was published. Therefore the fact was well known when the house met, but no allusion was made to this, nor was there any attempt to ground the vote of want of confidence on the conduct of the government on this occasion. It was asked why the government did not resign. Under Earl Grey's Despatch the members of the Government must be members of the house—political appointees. Under the peculiar circumstances he did not think they were called on to resign. If the case was animated on at the opening of the House, and that they declared a want of confidence in the government on this ground, and that the Government did not perform their duty as they were bound to do by the oath they had taken to the Queen and Country. A week, however, was taken up in the debate on this vote of want of confidence; and though these despatches were not published, their contents were matter of public notoriety, and as well known as now. The facts were known; all the arguments that could be brought to bear on the subject were used, and the matter fully debated, and that motion of want of confidence was lost. Not a word was said to the effect that these were such appointments as the government should not have advised. If they were to go through the country they would not find one opposed to those appointments, yet it was on these that those resolutions were predicated. The Governor, in this instance, acted in a fair, open and manly manner. His government were consulted, but did not say, we advise you to do so, or so. And under these circumstances he laid the whole matter before the Colonial Secretary. This could never have been drawn into a precedent. On the contrary, if the Governor now called his Council, and thought fit not to follow their advice, then he (the Atter-