

representative Branch under the notion that they were *taxes*, than the rents of the lands in the hands of the proprietors,—that the great Nobles and the lesser freemen had no better title to the one, than His Majesty had to the other, as being both founded in the right of Conquest—that these ideas of the Constitution extended to and prevailed in the Colonies; and could not be infringed without subverting the Government,—lastly, that if the legitimate exertion of the territorial prerogative pressed heavily on the Colonists, we must adopt the practice of Britain, and purchase exemption from it by the establishment of a Civil List. At all events it is plain, that whatever may be given in exchange for these revenues, must be permanent like themselves, and liable to be altered by the levity or caprice of the popular Branch. The King on his accession became entitled to possess them in right of his Crown, and to enjoy them uninterruptedly till they pass into the hands of his successors; so the Civil List in lieu of them must be also an hereditary appanage of the Crown, and voted for the natural life of its wearer.

A very appropriate exemplification of the most of these views may be met with in the present condition and practice of Nova Scotia. Here the King exercises all the functions of his territorial prerogative, without having excited a murmur or having been questioned by the local Legislature. First of all, grants from the Crown of forest lands are subjected to certain fees payable to the public Officers, and settled as to their amount by the sole authority of His Majesty. In most of those Grants, Mines, and Minerals have been reserved; and accordingly a duty per Chaldron on all coals raised at Sydney in Cape Breton, and an annual rent for those dug at Pictou, have been demanded by, and are at the disposal of the Crown. Besides, orders have been now issued to sell all forest lands in future, at a regulated upset price; and the quit rents are to be exacted. These various sources of territorial income have never so much as awoken discussion in the House of Assembly, but been silently and respectfully acquiesced in, as flowing from the legitimate powers of the regal prerogative. We have not yet been visited, with those mighty revelations, that have descended in evil hour on the overstrained vision of Monsieur Papineau.

If the casual and territorial revenue should have been exempt from the unconstitutional grasp of the Canadian Assembly, so equally should have been those taxes levied by virtue of the British Act of Parliament, 14 Geo. 3d. and which were substituted in the room of the French imposts, existing at the time of conquest. These now amount annually to about twenty thousand pounds Currency, and have been invariably applied, under warrants of the Lords of the Treasury, in payment of the Salaries, connected with the Civil and Judicial establishment. They ought to be considered as making part of the Civil List assigned to His Majesty for the maintenance of his Government; and in this light they have been uniformly contemplated at the Colonial Office. Successful attempts have been made by the democratic party to get them into their own hands, that the power of augmenting and diminishing all salaries may be transferred from the King, or what is the same thing, from the Lords of the Treasury, to themselves; and in this way they hoped to exert an efficient influence and control over the whole of the Administration. This is the true meaning of their second and third Resolutions aforementioned, but is a point which never can be conceded by the Crown, until the Cabinet come to the determination of abandoning the Colony. No compromise

can ever be effected, while the principle is maintained by the House, that it is their undoubted privilege to seize the revenues which constitute their Civil List, and subdivide, apportion & apply these among the Public Officers, independently of the consent of the Sovereign. If the British Commons were to arrogate the like power, and lord it over the King, he would cease to reign and become an empty pageant.—By the command which he has for life over the enormous sum of £1,057,000, ster. it is that he holds his pre-eminence at the head of the Government, can fix and pay the salaries of his official servants, can name his Ambassadors and support their dignity, and can incline the scale often by his own weight, of that set of men, that he calls to his councils. Without this mighty, overruling influence in the Crown, what danger of civil commotion on every change of Ministry! The present scene in the House of Commons, created by the elevation of Mr. Canning, demonstrates the necessity of guarding and upholding the Royal prerogative. And it is this conviction on the minds of sensible men, that reconciles them to the expense of Royalty, as a necessary check on the violent passions of the contending parties inseparable from a free Government. These prerogatives are essential parts of the system, and cannot be invaded with impunity. Whenever the Colonies succeed to dispossess His Majesty of the revenues, belonging to him and indispensable for his Government; they are severed from the Empire, and must model and construct a constitution for themselves.

But it has been argued by the conductors of the Press, who have listed themselves in the cause of the democratic party, that powerful reasons exist in these Colonies to deter from the appointment of a permanent Civil List, that have little or no weight in the United Kingdom. They found this opinion of the dependence of the Legislative Council on the Executive Government; by which they say the Hon. Members of that body, some of them, from a regard to place and future preferment, must crouch and temporize—on the want of the powers of impeachment in the Lower House to keep in awe public delinquents—on the precarious appointment of the Judges who hold their seats, not during their good behavior, but the pleasure of the Crown. With these defects in the constitution given them in 1791, they infer that the House of Assembly could not act with sufficient vigor nor apply any effectual principle of restraint against mal administration, unless they retained in their own hands the funds, to be voted annually, that were needed for the payment of salaries and other expenses of the Civil Government. On these and other grounds they cannot adopt the practice of the British Parliament and vest the Crown, from reign to reign, with the disposal of an ample sum for the Civil List, without a surrender of their dearest rights and the subversion of their just authority. How far these evils are felt in Lower Canada, is not for me to determine, but certain I am we have no such grievances in Nova Scotia. Our Judges hold their places equally during pleasure, & such of them as have been raised to the Council are acknowledged on all sides to deliver on questions of legislation, bold, manly and independent sentiments. The power of impeaching the officers of the Crown would be, perhaps, too dangerous & terrible a weapon in a colonial Assembly, and would jostle, often rudely & unseasonably, with the supremacy and consequent instructions and orders of the imperial Government. It would be unwise to clothe a subordinate Legislature with the plenitude of authority, and the high and important functions that of

right appertain to the Sovereignty of the British Parliament; and therefore these imperfections are, I fear, irremediable and might be aggravated by the applications of political empiricism.

On the whole view of the case, one cannot help being of opinion that there is little call for our sympathy in these their complaints. Let us concede to the party that a misapplication or unnecessary waste of the public money is authorised to a certain extent, under the orders of the treasury—that some salaries are exorbitant—that a plurality of lucrative places is conferred on the individual distinguished either for the talent of flattery or servility—that pensions are secured to absentees and sinecurists—and that there is a lavish prodigality to the extent of £3000 which unquestionably ought to be curbed. What of all this?—Do not these clamourers know, that in every free State where men are to be governed by interest, or what those out of place call, *corruption*, such stains have ever been detected on the drapery of the court, and that the unsullied whiteness of doubly refined democracy becomes dingy on a sudden in such an atmosphere? Let them toss these idle complaints to the winds, and bless God that civil and political liberty can be enjoyed at the cost of so poor a sacrifice. Have not Westminster and St. James' furnished copious themes of radical complaint and lamentation on the self same grounds? Are not murmurs of a like kind beginning to be heard in the pulchre of Washington—are not the sturdy republicans already shivering under the aguish tremors of costly display and profusion in some departments of the Executive? Free institutions where the voice of the people is heard, will always offer sufficiently efficacious correctives to the higher and more blameable degrees of improvident expense, and the lesser must be borne as incurable maladies.

But the main stronghold of defence taken by the dissatisfied party lies in their construction of the 18, Geo. 3. by which they maintain every colonial Legislature was empowered thenceforth to appropriate every item of taxation levied and collected by act of the Imperial Parliament in the American Provinces, and West India Islands, whether the act was of a prior or posterior date. I appeal to any lawyer who can look into the statute of 18, Geo. 3. whether or not it be the intention of the lawgiver, that our great Colonial charter should operate retrospectively. I think it clear as noon day, that such was not in the contemplation of the British Parliament; and that it is a wresting equally of its letter and spirit, to give it such latitude of interpretation. Its effect is manifestly to be future, and accordingly it runs in the future tense: That to quiet the fears and apprehensions of His Majesty's subjects "the King and Parliament of Great Britain will not impose any duty, tax, or assessment whatever" payable in any of these colonies, but for the regulation of commerce and the net produce of the duties arising therefrom, is to be delivered over to the treasury, and be at the disposal of the local Legislature. No former statute is repealed, except the 7th, Geo. 3, cap. 46, which was to rise on Tea a revenue available for the general defence of the Empire. That tax was abrogated, and the principle too on which it was founded—with an express declaration of what would be thereafter the great maxim of British Colonial Policy, in respect of taxation. But to set the matter at rest, as to the views of the Parliament, let us consult the Statute Book, wherever the 14, Geo. 3, is referred to, and see if the Imperial Government ever meant to place the duties levied under it, at the disposal of the local Legislature.

1. They did not do it in the 31, Geo.

3, c. 31, wherein a constitution of King, Legislature, Councils, and Houses of Assembly, is conferred in the Upper and Lower Provinces.

2. They did not do it in the Canada Trade Act of 1822, for the Lords Commissioners of His Majesty's Treasury are authorized to divide the duties levied under 14 Geo. 3, chap. 88, into such proportions between the two provinces of Canada "as to them shall seem meet."

3. Nor did they do it in the late final arrangement of the domestic and foreign trade of the British Empire, as is undeniably evinced in 6, Geo. 4, chap. 114, sections 10th and 11th, for in the first of these it is declared, "that nothing in this act shall extend to repeal or abrogate, or in any way to alter or affect the 18, Geo. 3. concerning taxation by the Parliament of Great Britain—Nor to repeal any act now in force, passed prior to the last mentioned act (18, Geo. 3.) and by which any duties in any of the British possessions in America, were granted, and still continue payable to the Crown. Nor to repeal 31, Geo. 3, cap. 31, (the Constitutional act of Canada); and the eleventh section further enacts that the duties imposed by any of the acts before mentioned or referred to, passed prior to 18, Geo. 3, shall be received, accounted for, and applied for the purposes of those acts. The permanent fund raised by 14, Geo. 3, c. 38, is four years prior to 18, Geo. 3, was granted, and shall continue payable to the Crown, and must therefore be accounted for to the King, by the Lords of the Treasury, and be applied by them for the charges of the Civil Government, and the administration of Justice. No sophistry wielded by the most acute mind, can parry off this irresistible conclusion. It may cloud the understanding of the ignorant, it may deceive the obstinate and headstrong of a party, it may find some little loophole or evasion, but the clear understanding of the British Government as to its control over these revenues, expressed in all its consecutive acts, establishes beyond the shadow of doubt that the 18, Geo. 3, was not to have a retrospective construction.

But I shall go further and throw down the gauntlet of defiance, even under the risk of being denounced as the Knight Errant of the Clericalty—the low cant phrase by which the officers of the Civil Government are designated by the antagonist Canadian Press. Abuse there is the order of the day, and no writer can expect good treatment after reading the strictures and remarks levelled against the four letters of the "Novascotian" that appeared lately in the Acadian. The author of these letters is the temperate defender of Constitutional liberty, shows his regard for the prerogative of the Crown, without infringing on the rights of the Assembly, and displays with great strength of colouring and beauty of language, the fearful consequences of that course in which L. J. Papineau, Esq. has embarked. Notwithstanding, a perfect tempest of scurrility is directed against him, his words are perverted, and his best arguments turned into ridicule. Such has ever been the fate of political disputants.

I contend then that the democratic party who gave this retrospective construction to 18, Geo. 3, and under colour of which they found their claim of specifically appropriating, by their local Legislature, the permanent fund vested in the Lords of the Treasury, cannot bring forward a single instance of any duties payable to the Crown, levied by acts prior to the colonial charter, which have been since surrendered to the control of the general assemblies either in America or the West Indies. So tenacious has the British Government been of these duties, that they have uniformly guarded and reserved them in their future enactments—obviously for the purpose of lessening the burden of the Colonies to the Mother Country, and for that same reason we should submissively acquiesce, when we derive from her other mighty and more than countervailing advantages.

But furthermore, I desire that party to show me where the revenues of the territorial prerogative have been, on any pretence whatever, claimed except in Canada—or where the representative Branch of any colony has tried to gripe within its clutches the Crown Duties of anterior date to 18, Geo. 3. Their assumptions are not only at variance with the Constitution, but unexampled in colonial history. The struggle of the American States was directed against the right of taxation in the Parliament of Britain for the purpose of general defence, and by which the duties were to flow into the Imperial Treasury; but as this right is abandoned for ever