

PROVINCIAL.

PROVINCIAL LEGISLATURE.

TUESDAY, 4th February, 1834. Reply of the Right Honourable E. G. Stanley, to the Deputation from the House of Assembly to England.

Downing-street, 10th August, 1833.

GENTLEMEN, I am directed by Mr. Secretary Stanley to transmit to you the enclosed statement, which contains the substance of the Despatch, that has lately been addressed to the Lieutenant Governor of New-Brunswick, on the subjects referred to in the various applications which have been addressed by you to this Department, on behalf of the Provincial Legislature.

I am, Gentlemen, Your most obedient humble servant, R. W. HAY. C. Simonds, Esquire, E. B. Chandler, Esquire, 16 Norfolk-street, Strand.

Colonial Office, 8th August, 1833.

The Gentlemen deputed by the Assembly of New-Brunswick, to convey its representations to His Majesty's Government, have presented the Copy of an Address dated 16th March 1833, alleging various Grievances, connected with the following subjects:

- 1st Timber Reserves. 2nd Mill Reserves. 3rd Additional charge of 3d., on Timber. 4th Exaction of double duty by the Officers of the Crown Land Department. 5th The Town Plat at Fredericton. 6th Collection of the Quit Rents. 7th The division of the Councils and the Composition of the Executive Council. 8th Accounts of the Crown Revenues. Besides the foregoing subjects:—The Sale of Water Lots,—the mode of laying out Timber Berths, and some other matters of complaint are brought under notice by the evidence appended to the Address. The Delegates have likewise addressed to this Department several Letters, in which the following subjects are touched upon, in addition to those which have been brought forward in the Address to the King.

- 1st The Post Office Department. 2d Differences between Custom House Officers and the Provincial Treasury, on the application of Seizures. 3rd The Tea Trade. 4th old Parliamentary Duties. 5th Royal Instructions as to Duties on British Manufactures. 6th King's College. The object of the present Paper is to describe the substance of the Instructions with which the Secretary of State has furnished the Governor on the principal matters brought under the consideration of His Majesty's Government, by the above-mentioned representations.

WATER LOTS.

On this subject the Secretary of State thinks that it will be proper to quiet the apprehensions of Proprietors of Lands situated on the Banks of Rivers or of other Waters. The Governor therefore has been authorized to propose to the Provincial Legislature the enactment of a Law by which, in all cases where the grant itself does not clearly (as in the case of that Messrs. Hazen, Simonds and White) extend to low-water mark, the privileges of the Proprietor shall nevertheless be deemed to reach to low water mark, or to such reasonable distance from the Bank, as will not interfere with the navigation of the River or Harbour on which the grant may be situated. In this measure the Rights of the Crown should be so far reserved as to allow an interference for the care of Towing Paths, or for the prevention or removal of any obstructions to the uninterrupted navigation of the River,—all future Grants or Sales should be deemed to include Water Lots, unless specially excepted.

TIMBER RESERVES.

The Reserves alluded to are those of Mr. Cunard,—one on the Nepisiguit,—the other on the North West Branch of the Miramichi. The general defence of these Reserves is, that they were granted with a view of procuring a large expenditure of private capital to remove obstructions in Rivers; but since Mr. Cunard has not found it convenient to embark in so expensive an undertaking, it is hoped that circumstances having prevented him from fulfilling his part of the arrangement, he will be willing to give up the Reserves in question.

It will be proper that the whole system of granting Reserves should undergo revision, for there are great objections to that at present pursued, by which they are granted to individuals by the sole authority of one public officer.

MILL RESERVES.

Mr. Secretary Stanley can see no objection, in an unsettled Country, to selling, together with a Mill site, the right of sawing logs within a certain district, as an inducement to expend capital in the erection of proper buildings; but the right should be for a limited period, proportioned to and conditional upon the expenditure of capital, and should be offered to fair competition in the first instance. The Governor therefore has been acquainted that when a Mill Reserve is applied for, and the project of erecting a Mill on the particular site is deemed worthy of encouragement, the Reserve may be made; but that instead of being at once granted to the first applicant, or disposed of according to the will of any Government officer, it should be offered for sale by Public Auction. In this manner the original applicant will not be deprived of an opportunity of erecting a Mill, with the advantage of a Reserve, while impartiality will be secured to the public, and a fair price to the Crown. The Governor has further been instructed that no Reserve should be granted to an established Mill-site; when encouragement is no longer necessary for procuring the erection of a Mill, the grant of a Reserve would be a gratuitous monopoly.

TIMBER BERTHS.

On this subject there are various complaints: 1st that by the authority of the Commissioner of Crown Lands an additional charge of 3d per Ton has been imposed in lieu of fees for surveying and laying out the Berths; 2d, that the amount of 1s. 3d. per Ton is ruinous to the Timber trade of the Province; 3rd, that the duty of laying out the Berths is not in fact performed; 4th, that by the negligence of the Crown Land Office, concurrent Licences are granted to different Individuals on the same Berth; and 5th, that extraordinary charges are made on the sole authority of the Commissioner of Crown Lands or his Deputy.

1, 2, and 3. On the two first heads there does not appear to be much ground of reasonable complaint. The question of Timber Duties need not and ought not to be mixed up with the amount of Tonnage. The Tonnage is in the nature of a Rent; charged by the Crown as the Proprietor of the greatest portion of waste Land; and it appears from Mr. Baillie's statement (which has not been contradicted), that the price demanded is considerably less than that charged in the neighbouring districts of the United States or on private property in New-Brunswick. The system of payment by Salaries is also infinitely preferable to that of payment by Fees.—But while this is Mr. Stanley's opinion on the first and second complaints, here arranged under the head of Timber Berths, he feels that it is unquestionably the duty of the Commissioner of Crown Lands to see that the duties imposed upon his Deputies, for which the extra charge is made, are fully and efficiently performed. It seems doubtful whether this has been done to most instances or not: it would rather appear that the laying out of the Berths has been frequently neglected; but the Officer states that the parties have been generally satisfied with what has been done, and it is rather singular that no witness speaks to having sustained inconvenience to his own case, except Mr. Boies, whose testimony may be balanced against that of Mr. Rainsford.

4. Mr. Baillie reports that the applications for Licences to cut Timber are attended to in the order in which they are received, and are numbered according to the time of their reception. This would seem to be the fairest mode of dealing with the cases which present themselves; and though it is alleged that many persons may apply and pay for Licence to cut Timber on the same Berth, some confusion in these matters is said to be scarcely avoidable, owing to the imperfect manner in which the land sought for is frequently described in the application to the Surveyor's Office, and that whenever such is found to be the case, the greater part of the fees paid is invariably returned, and only a small sum of 5s. retained in particular instances, which, to prevent frivolous applications, it may not be altogether improper to exact.

5. It seems that the practice of the Department is, that parties applying for a Licence pay for so many Tons; and that having cut so many, they are compelled to apply for a new Licence if they cut more, or are liable to heavy penalties: in this case the proceedings appear to have been very irregular.—It is stated that one of the Deputies, instead of compelling the taking out of a new Licence, made a sort of arbitrary charge for supposed excess. In the same manner Mr. Ackerly's Note Book, referred to in Mr. Baillie's defence, gives a recommendation that one party detected in shipping more Timber than he had a licence for, should be charged 6s per Ton;—and another, 3s. 6d. These charges may be, and probably are, below the amount which would be exacted by enforcement of the legal penalty, and can hardly be complained of, as a grievance to the individual: but the power thus exercised by individual Officers of the Crown of imposing, at their own discretion, payments higher or lower in lieu of penalties, is open to obvious and grave objections. The proper remedy would seem to be the enactment of a Law imposing such moderate penalties as might in all cases be strictly enforced.

TOWN PLAT AT FREDERICTON.

After full consideration of the Representations on this subject, the Secretary of State is of opinion, that the proceeds of the sale of the Town Plat at Fredericton would have been most properly applied in promoting the improvement of the Town, and he has accordingly signified to the Governor his desire, that they should now be refunded, and so applied, together with any future proceeds still remaining unpaid. The same principle is applicable to the appropriation of the money arising from the sale of the public Landings at St. Stephens, where any portion of that ground has been disposed of.

QUIT RENTS.

The collection of these having been suspended, it has only been thought necessary on the present occasion to refer the Governor to a late despatch in which it is stated, that, unless the Assembly should be disposed to enter into some arrangement for a permanent Civil List on the re-

linquishment by the Crown of the Quit Rents due throughout the Province, their will be no alternative except to resume their collection:—a measure which, it is hoped, may not be rendered necessary.

DIVISION OF THE COUNCILS, AND COMPOSITION OF THE EXECUTIVE COUNCIL.

Mr. Secretary Stanley entirely approves the general principle on which the measure of separating the Councils was founded, and, without further proof of practical inconvenience resulting in the particular instance than has yet been brought forward, he should think it far more expedient to disturb arrangements so recently adopted by His Majesty's Government.

CROWN REVENUES, AND MANAGEMENT OF CROWN LAND DEPARTMENT.

Recent Instructions to the Governor to furnish the House of Assembly with detailed accounts annually, of the Receipts and expenditure of the Casual Revenue, will have removed the principal cause of complaint on this point. The same measure will have removed one of the chief grievances alleged respecting the management and salaries of the Crown Land Department, viz. the want of responsibility on the part of the Chief Commissioner.—The Salary of the Commissioner is perhaps higher than it ought to be, having reference to the general scale of Salaries within the Province; but there are peculiar circumstances in Mr. Baillie's case, which would render it scarcely just to reduce his emoluments during his tenure of the Office.

POST OFFICE DEPARTMENT.

The Post Master General of Quebec is expected in England; and it is intended to take advantage of his presence for the purpose of considering the management of the Post Office Departments throughout the North American Colonies, at the same time will be taken into consideration the representation made by the Gentlemen deputed from the Assembly of New-Brunswick, respecting the mode of appropriating and accounting for the funds arising from the Postage of Letters in New-Brunswick.

DIFFERENCES BETWEEN OFFICERS OF CUSTOMS, AND OFFICERS OF PROVINCIAL REVENUE, ON APPLICATION OF SEIZURES.

The Lords Commissioners of the Treasury have been moved to call for a Report on this matter from the proper officers.

TEA TRADE.

His Majesty's Government can come to no decision on this subject, whilst the whole question of the East India Company's Trade is under discussion in Parliament.—The Application, however, of the Province of New-Brunswick will be borne in mind, together with others of a similar kind, which must be brought under consideration.

OLD PARLIAMENTARY DUTIES.

The Duties referred to are those under the 6 Geo. 2 c. 13, 4 Geo. 3, c. 15, and 6 Geo. 3, c. 52.

The Delegates state that it is not known to the Assembly by whom, and to what purpose, these duties are applied; and further that the Assembly is convinced that they ought to be disposed of by itself.

In answer to these remarks, it is only necessary to observe, that, in pursuance of directions contained in the Statutes themselves, the duties levied under them are remitted to the Exchequer in England, in aid of the expense incurred for the defence of the British Colonies in North America. They could not be left to the disposal of the Provincial Legislature except in violation of the Acts of Parliament, by virtue of which they are collected.

ROYAL INSTRUCTIONS AS TO DUTIES ON BRITISH MANUFACTURES.

There can be no doubt that the Royal Instructions, literally construed, prohibit the imposition of Duties on Manufactures of this Kingdom imported into the Province. On the other hand, it is not less clear that this Instruction has been so long, and so continually disregarded in practice throughout the British Colonies, as to have become obsolete and of no real authority. The policy by which it was originally suggested has been long since abandoned; and for more than half a century, the only rule on the subject which has been steadily observed is that no Duties shall be imposed on British goods by any Colonial Legislature which should deprive them of the protection secured for them by Parliament, by the various Revenue Acts which extend to the Colonies.—Under these circumstances, Mr. Stanley has had pleasure in complying with the wish expressed through Messrs. Simonds and Chandler, that the local Government may be relieved from any doubt as to its competency to assent to Acts, imposing reasonable Duties on Goods of British Manufacture; such Duties being calculated for the mere purpose of raising a local Revenue, operating only as a Tax on the Consumer, and having no object in favor of rival Manufactures, Foreign or Domestic.

KING'S COLLEGE.

No Documents are attached to prove the want of success or unpopularity of this Institution; but His Majesty's Government will be ready to consider, such modifications of the Charter, should they appear to be generally desired, as may render its provisions less exclusive, and leave the Professorships open to all denominations of Christians.

Such being the substance of the Despatch addressed to the Governor, on the

subjects brought under consideration by the Delegates from New-Brunswick, a copy is added, in illustration of those passages that relate to Quit Rents and to the Crown Revenues, of a separate Despatch, sent by the same opportunity, on the question of accepting a permanent Civil List, in lieu of the Casual and Territorial Revenue.

Downing-street, 3d August, 1833.

SIR, Among the subjects brought under my notice by the Gentlemen deputed from the Assembly of New-Brunswick to visit this Country, there is one of great importance, on which I am desirous to furnish you with Instructions for your guidance, should the matter be brought before you by any proceeding of the Assembly. I allude to the surrender of the Casual and Territorial Revenue, in consideration of a Civil List to be provided for by the Province. I cannot on the present occasion express any positive opinion, or the terms which should be accepted, but I am able to authorize you, should you see any probability of a favorable reception to such a declaration, to express the readiness of the Crown to give up its present Rights for an equivalent secured and chargeable with the Salaries of the principal Officers of Government. With this general intimation I must for the present rest satisfied, but I shall shortly address to you another Despatch, more fully explaining the nature of the conditions, which I should think requisite, in any arrangement for the surrender of the Revenues belonging to His Majesty.

I have &c. E. G. STANLEY.

(Signed) Major General Sir Archibald Campbell, G. C. B.

The following documents accompanied the Messages, delivered by the Honourable Mr. Secretary Odell, from His Excellency the Lieutenant Governor, to the House of Assembly.

COPY. CIRCULAR.

Downing-street, 2th September, 1833.

SIR, I HAVE the honor to transmit to you the enclosed Extract of a communication, which has recently been received from the Secretary to the Treasury; and I have to convey to you His Majesty's pleasure that in conformity to the opinion expressed by the Lords Commissioners of His Majesty's Treasury, you will not, except in such urgent cases as are adverted to in Mr. Stewart's letter, assent to any Act authorizing the issue of Government Paper or Securities, unless you shall have received His Majesty's express previous sanction for so doing, or unless the Act shall contain a clause, suspending its operation until the pleasure of His Majesty thereon shall be signified.

I have the honor to be, Sir, Your obedient humble servant, E. G. STANLEY.

(Signed) Major General Sir Archibald Campbell, G. C. B. &c. &c. &c.

True copy. J. CAMPBELL, Private Secretary.

COPY. EXTRACT.

Treasury, 28th July, 1833.

MY Lords admit that circumstances may occasionally occur to render it advisable, that a temporary issue of Government Paper in a Colony should be sanctioned; but to evince the urgent necessity for the observance of the greatest circumspection, in regard to the issue of paper by Colonial Governments, they need only advert to the difficulties and the embarrassments that have arisen from this cause in Ceylon, the Cape of Good Hope, Mauritius, the Colonies of British Guiana and Jamaica. My Lords apprehend that the Governors of all those Colonies, in which the Fiscal authority rests solely with the Crown, are prohibited from making any new or additional issues of Government Paper, of any description, without the express previous permission of His Majesty's Government, and with the view of preventing the occurrence of the Colonies having local Legislatures. My Lords would especially recommend that the Officers administering the Governments of those Colonies, should be distinctly cautioned, not to assent to any local Acts or Ordinances authorizing the issue of Government Paper or Securities, until they receive His Majesty's express previous sanction for so doing, unless upon any pressing or unforeseen emergency, which may call for a temporary measure of this nature, and with specific provision for the redemption of the debt thereby incurred.

True extract. J. CAMPBELL, Private Secretary.

Downing-street, 31st May, 1833.

SIR, Mr. Secretary Stanley has directed me to acknowledge the receipt of your Despatch, No. 15, of the 5th March last, transmitting an Address presented to you by the House of Assembly of New-Brunswick, with a copy of a joint Address from the Council and Assembly, made during the Session of 1832, relative to the naturalization of Aliens in the Province; and I am to acquaint you that the subject will receive Mr. Stanley's consideration at a moment when he is less occupied than he is at present.

I have the honor to be, Sir, Your most obedient humble servant, (Signed) R. W. HAY.

(Signed) Major General Sir Archibald Campbell, G. C. B. &c. &c. &c.

True copy. J. Campbell, Private Secretary.

COPY. No. 7.

Downing-street, 25th June, 1833.

SIR, I HAVE the honor to acknowledge the receipt of the Despatch, No. 20, of the 19th of March last, transmitting Petitions from the Legislative Council and House of Assembly of the Province of New-Brunswick to His Majesty, and to both Houses of Parliament, on the subject of the Timber Duties; and I have to acquaint you that the Petition to His Majesty has been duly laid at the foot of the Throne, and that I shall take an early opportunity, of presenting the Petition to the House of Commons, and shall request one of my Colleagues, in the Upper House to present

the Petition to the House of Lords.

I have the honor to be, Sir, Your most obedient humble servant, E. G. STANLEY.

(Signed) Major General Sir Archibald Campbell, G. C. B. &c. &c. &c.

True copy. J. Campbell, Private Secretary.

Extract of a Dispatch from the Right Honourable E. G. STANLEY, His Majesty's Secretary of State for the Colonies, dated

Downing-street, 23th September, 1833. No. 29.

I FULLY participate in the regret you have expressed, that the House of Assembly should have manifested such a disinclination to adopt the measures which are necessary to secure the efficiency of the Militia of the Province. His Majesty's Government have done every thing in their power for arming and properly equipping that Force; but it is obvious, that unless these earnest endeavours are seconded by the Colonial Legislature, they must become altogether nugatory. A large sum of money has been expended already for this purpose out of the King's Casual and Territorial Revenue; and it was my intention that a further supply should be furnished from the arms which have been deposited in the Ordnance Stores of the Province. How far it may be advisable under present circumstances to carry that intention into effect, is very questionable. The Resolution of the House of Assembly of the 13th of March last, would induce the belief that no grant will be made for the Militia Service for the ensuing year.—Under such circumstances, I should not feel myself justified in recommending His Majesty to expend any further sum out of the Crown Revenues for the organization of a Force which could not be rendered efficient, or in any way serviceable unless called out more frequently, and for longer periods.—I am unwilling, however, to imagine that the House of Assembly are indifferent upon a subject of such vital importance to the Province, or that they will refuse to forward the views of His Majesty's Government, by withdrawing the assistance which is required to render your exertions successful. I am, therefore, desirous that you should bring the subject again before the Legislature at their next Meeting, pointing out the obvious inexpediency of limiting the number of training days, as they were desirous of doing, and calling upon them to continue a certain amount of pay to an Inspecting Field Officer, or Officers, and to provide for the safe custody, and proper repair of the Arms which may be appropriated to the Militia. (Signed) E. G. STANLEY. True Copy. J. CAMPBELL, Private Secretary.

COPY. No. 30. Downing-street, 30th Sept. 1833.

SIR, In the present dispatch I propose to convey to you the terms on which I should feel that His Majesty might properly be advised to place the proceeds of the Casual and Territorial Revenue under the control of the Assembly of New-Brunswick. You are aware that the flourishing state of this Province, and the probability of its continuance, and even increase, for many years, entitle the Crown to expect a liberal compensation for its surrender. The receipts last year appear to have been £15,888, and the fixed charges, £14,005; to be reduced, however, prospectively by the change in the Salaries of the Agents for Emigrants to £13,698. It is possible that hereafter the fixed charges may be further reduced. In the above mentioned receipts for the year 1832, there is only included a sum of £649 from Quit Rents, a source from which, had not His Majesty been pleased to suspend the enforcement of His Rights, a much larger amount must have been derived in subsequent years. In the Revenue of £15,000, and for the power of augmenting it by the collection of Quit Rents, I should be prepared to advise His Majesty to accept a permanent appropriation by the Legislature, duly secured, to the amount of £14,000 per annum. And I should further be willing to recommend that the Crown should undertake to charge on any such permanent Grant the following heads of expenditure:—The Salaries of the Lieutenant Governor (including the Private Secretary); Commissioner of Crown Lands; Provincial Secretary; Chief Justice; 3 Puisne Judges; Attorney General; Auditor; Receiver General; the expense of the in-door Establishment of Crown Land Department; the Grant of £1000 to the College.

None of the surplus will be applied otherwise than to objects connected with the Colony, and accounts of the appropriation will be laid periodically before the Assembly.

In contemplating the surrender of this Revenue; it is to be observed that the promotion of Emigration to New-Brunswick, should the means of extensively encouraging it by pecuniary aid hereafter occur, will necessarily be devolved on the Legislature by this measure, instead of depending, as heretofore, on the Crown. I cannot, however, entertain the slightest doubt that the Legislature will always be most ready to foster any growing disposition of Emigrants to resort to New-Brunswick; a disposition not less favourable to the augmentation of this particular Revenue, now proposed to be ceded to the Province, than conducive generally to the mutual advantage of the Colony, and of this Country.

It will be necessary that any Bill passed in consequence of the proposals contained in the present Dispatch should contain a suspending clause, in order that it may be submitted to His Majesty before it is finally assented to. You will, therefore, inform the Assembly that you are not authorized to accede to a Civil List Act which shall not be thus reserved for His Majesty's pleasure. In order to prevent any misunderstanding and delay it will also be proper that they should at the same time, be apprized, that, unless some other fully equivalent and sufficient security can be devised, it will be expected that the Act shall provide that the stipulated annual commutation shall be payable out of the first Receipts in each year, or other stated period of any Revenues or other monies that may be raised for the service of the Colony, whether under permanent or annual enactments, and that the Treasurer or Receiver of such Revenues should be empowered and directed to make the payments accordingly; and in the case of any default in such payment, that the whole of the Rights and Revenues surrendered should revert to, and be at the disposal of the Crown, as fully and absolutely as before the passing of the Act.

Having thus explained to you the conditions on which His Majesty would be advised to give up His Casual and Territorial Revenue in New-Brunswick; I shall merely add the expression of my hope that they may prove acceptable to the Assembly; and that this attempt to

Fredericton, 11th June, 1833.

Blanks for Sale at this Office.

off his debauch. It were needless to go through all the distressing details of what ensued. Dempster henceforth became a Down-draught on who laughed at his antics he would seize impossible to describe the horror with society. But, in order to turn most efficiently the ends of creation, I propose which she heard the details of the plot.— Her mind was at first in such a whirl of with your honourable co-operation, to ex- pushing himself into her presence, when- distracted feeling, that she hardly knew punge these nuisances, aided in our pious