

LEGISLATURE OF NEW-BRUNSWICK.

EXTRACTS FROM THE JOURNAL OF THE LEGISLATIVE COUNCIL.

Several Messages from His Excellency the Lieutenant Governor were delivered by the Honorable Mr. Baillie, a Member of His Majesty's Executive Council. The President read the same, and they were again read by the Clerk as follows:—

NEW BRUNSWICK.

Message to the Legislative Council,
26th January, 1835.

ARCHIBALD CAMPBELL.

THE Lieutenant Governor, in obedience to the commands of His Majesty's Government, communicates to the Legislative Council the copy of a Dispatch from the Secretary of State, with its inclosures, assigning the reasons why His Majesty has not been pleased to confirm the Act passed by the Legislature of this Province in the year 1832, "to provide for the Custom House Establishment," and expressing the confident expectation of His Majesty's Government, that the House will, in lieu thereof, substitute a Bill making an effectually permanent provision for that service.

A. C.

NEW BRUNSWICK.

Message to the Legislative Council,
26th January, 1835.

ARCHIBALD CAMPBELL.

THE Lieutenant Governor communicates to the Legislative Council, a copy of a Dispatch from the Secretary of State, in answer to the Petitions of the Legislative Council and House of Assembly, on the subject of the Timber Duties.

A. C.

Downing-Street, 2d May, 1834.

SIR,

I have the honor to acknowledge the receipt of your Dispatch No. 15, of the 18th March last, transmitting Petitions from the Legislative Council and House of Assembly of New Brunswick, to the King and both Houses of Parliament, praying that no alteration may take place in the Timber Duties; but that the Timber Trade of the Province may continue to receive that protection which is believed to be essential to its existence. I have to acquaint you in reply, that it is not the intention of His Majesty's Government to propose to Parliament any alteration in those duties affecting the Trade of the present year, and that no step will be taken without the fullest consideration of the Colonial interest involved.

I have the honor, &c.

(Signed)

E. G. STANLEY.

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

NEW BRUNSWICK.

Message to the Legislative Council,
26th January, 1835.

ARCHIBALD CAMPBELL.

THE Lieutenant Governor communicates to the Legislative Council, a copy of a Dispatch from the Secretary of State, in answer to their Address to the King, respecting the relative Rank and Privileges of the Members of the two Councils.

A. C.

Downing-Street, 31st October, 1834.

SIR,

I have received your Dispatch dated the 26th of March last, No. 20, inclosing an Address from the Legislative Council of New Brunswick to the King, respecting the relative Rank and Privileges of the Members of the two Councils, and praying His Majesty to appoint the Legislative Councillors for life.

I have laid this Address before His Majesty, and have received His Majesty's commands to return the following answer to it.

The Members of the Legislative Council claim to be entitled to take rank, and to succeed in the administration of the Government, according to the Seniority of their appointments. The claim to precedence, and to succession to the Government, rest upon very different grounds, and involve considerations entirely separate from each other. It is not easy to suppose any part of His Majesty's Prerogative more entirely beyond the reach of dispute, or one which it is more important to maintain unimpaired, than that by which He determines into what hands shall be delegated the administration of every other branch of His Royal Authority, in the Dependencies of this Kingdom. Any claim which derogates from the unfettered right of the King to decide upon whom the Government of New Brunswick shall devolve, is the assertion of a right incompatible with the just rights of the Sovereign, and inconsistent also with the public interests. It is impossible, therefore, for His Majesty to relinquish a branch of His Royal Authority, with which He is invested for the common benefit of His People at large, and the renunciation of which would effect a most dangerous change in the practice and principles of the British Government.

Whatever rules therefore may be established respecting the precedency of the Members of the Councils of New Brunswick, it may be assumed as a fundamental principle, that His Majesty's right of selecting the temporary administrator of the Government, in the event of your own absence, will not be dependent upon any such regulations. That trust will always be committed into the hands of the Person, whoever he may be, whom His Majesty may consider as best qualified to discharge it with benefit to the Public at large.

It is not necessary, for the present purpose, that I should examine very closely into the accuracy of the general maxims laid down by the Legislative Council, respecting their own constitution and inherent rights; but the choice of an Executive Council had no tendency to impair, it might indeed rather be said to have strengthened, that resemblance to the Constitution of the House of Peers, on which the Address insists. Although in their individual character, their Lordships enjoy an ancient and prescriptive right to tender their advice to the King, on questions of public interest, yet in their collective capacity, in which alone the analogy is to be found, the Peers of England have never possessed or assumed a right to act as Executive Councillors of the King.

The recent change left the Legislative Council unaltered in its constitution, and in all its appropriate functions. It withdrew from them an employment to which they were not considered to be as competent as the Body to which it was transferred. That employment was the counselling the Governor in the administration of His Executive duties. The rights of the King to select the person to whom the exercise of His prerogatives is to be delegated, necessarily implies and supposes

the right of selecting the Persons by whose advice the Governor is to be assisted in the discharge of that trust. In this, as in many other cases, the greater power necessarily involves the less.

To the proposal that the King should constitute the Legislative Councillors Members of that Body for life, His Majesty will not be advised to accede. His Majesty will be at all times most ready to receive, and to weigh attentively, any arguments which the Legislative Council of New Brunswick may wish to lay before Him; but with respect to the division of the two Councils, it is advisable to state, that His Majesty's decision was mainly influenced by the reflection, that this new arrangement might enable him to bring the Executive Government of the Province into that free communication with the House of Assembly, which is on every account so desirable. By calling some Members of that House to the Executive Council, a channel for constant and unrestrained intercourse was opened, from which it seemed reasonable to anticipate very considerable public benefit. Nothing has hitherto occurred to shake the foundation on which this opinion proceeded.

With regard to the question of precedence between the Members of the two Councils, it was certainly thought that, as in the absence of a Governor, or Lieutenant Governor, or an Administrator of the Government, the succession most properly belonging to the Head of the Executive Council, precedence should be accorded to the Members of that Body. But I am at present disposed to adopt as reasonable, the modification suggested in the Address, that the Ranks of Members of either Council should depend on the Seniority of their appointments: not however admitting, but rather denying, the consequence, that the succession to the Government should be regulated by Seniority of Rank. The persons selected to advise the Governor in the administration of his Office, are presumably the best qualified to succeed, in case of necessity, to the discharge of it.

I have the honor to be &c.

T. SPRING RICE.

(Signed)

Major General Sir Archibald Campbell, Bart. G. C. B.
&c. &c. &c.

Continuation of Extracts from the Journal of the House of Assembly.

THURSDAY, 29th January.

On motion of Mr. Partelow,

Whereas it has been communicated to this House, by Message from His Excellency the Lieutenant Governor, that a Set of Books, published by the Record Commission in England, have been presented to this Province, by His Majesty's Government, which are soon expected to arrive:—And whereas it is considered necessary that a suitable place of deposit should be established for this munificent donation, commensurate with its great value, and its consequent importance to the Loyal people of the Province, as tending to foster and cherish that deep interest which is so universally felt in the history and the institutions of the mother Country:—Therefore

Resolved, That a Committee be appointed to report to the House the description and extent of a Building, requisite to contain the said Work, and estimated amount necessary to be appropriated for the purpose.

Ordered, That Mr. End, Mr. Crane, and Mr. Taylor be a Committee therefor.

Mr. Johnston, from the Committee appointed to take into consideration the Act relating to Parish Schools, submitted a report, which he read, and is as follows:—

"First. That not less than five, and not exceeding seven fit persons residing in each County of this Province, be appointed by His Excellency the Lieutenant Governor, Commissioners, for the purpose of examining all persons who may hereafter be applicants for the situation of Teachers of Parish Schools, within this Province, and that any two of them be competent to perform this service.

"Second. That it shall be the duty of the Commissioners, in conducting such examinations, to enquire into the moral character of every applicant, as well as his qualifications otherwise; and being satisfied therewith, recommend him to the Lieutenant Governor for a Licence to teach a School in that County only, wherein he shall have been examined; and that the said Commissioners be required to exercise a superintendant care over the Schools in the several Parishes, in their respective Counties, and to report annually to the Lieutenant Governor the progress of Education within the same; and also forward to the Secretary of the Province, for the information of the Legislature, a detailed account of the expenditure of the Funds placed at their disposal.

"Third. That the Commissioners, or a major part of them, be authorized to draw quarterly or half yearly from the Province Treasury, one quarter or one half part of such amount, as may, by Warrant, be placed at their disposal, for the payment of Parish School Masters, and with which they immediately pay the wages due to the several Parish Teachers, provided they produce to the Commissioners the Certificate of the Trustees of Schools, required by the seventh Section of the said Act.

"HUGH JOHNSTON, Chairman.

"Committee Room, 29th January 1835."

SATURDAY, 31st January.

On motion of Mr. Crane,

The House went into Committee of the whole, on the Report from the Select Committee on the Act relating to Parish Schools—submitted to the House on the 28th instant.

Mr. Weldon in the Chair of the Committee.

Mr. Speaker resumed the Chair.

The Chairman reported, that they had gone into consideration of the Bill referred to them, and in the Committee, the following Resolution was moved:—

"Resolved, That in the opinion of this Committee, it is expedient that Commissioners be appointed by His Excellency the Lieutenant Governor, in each County of this Province, for the purpose of examining all Applicants for the situation of Teachers of Parish Schools."

To which it was moved, as an amendment, to strike out all after the word "Committee," and insert—

"A Board of Education should be appointed for each County, by His Excellency the Lieutenant Governor, and that it shall be the peculiar duty of such Board to examine into the qualifications and moral character of all Applicants for Licence to teach a School: And further, that no Licence for teaching a School should be granted to any person or persons without a Certificate, from such Board, of the Applicant's qualification and good moral character."

That upon the question for adopting the amendment, the Committee divided—

Yeas, 7.

Nays, 23.

And it was decided in the negative.

The question was then taken upon the original Resolution, when the Committee again divided—

Yeas, 13.

Nays, 17.

And it was also decided in the negative.