

highly respectable character. But the moment a question emerges, in which they, as individuals, have any interest, no matter how small that interest may be, they are to be considered as private persons, and to be allowed no farther cognizance of such question than the unavoidable necessity of the case may require. What the measure and limitation of that necessity is, in the present case, I have clearly stated in my first paper.

The first answer of the Assembly on this head, is concluded in terms that seem to have been hastily dictated.—“The allusions to personal advantage, (they say) best become those who indulge such unworthy motives; the House think this part of the objection deserves no other answer.”

On this I decline making any comment, further than by remarking, that, in their subsequent reply, the Assembly declare “they are not sensible of having, in their answers, indulged any asperity of language.”

But as the House has expressed such disdain at the suggestion of their having endeavoured to impose on the Council, an alternative, embarrassing to them in the discharge of their public duty, and “in a matter in which the Members of Assembly, as individuals, were immediately interested”—I beg leave to repeat what I have just now stated, that in any question respecting their personal interest, however small that interest may be, it absolutely disqualifies them as judges of that question.

“Allusions to personal advantage,” they think, “best become those who indulge such unworthy motives.” Now I fear that the Council, and (begging the Governor’s pardon) his Excellency too, have for several years indulged the Members of Assembly, beyond what necessity could justify, in the amount of wages allowed them, and certainly in the mode of making that allowance. Of the latter impropriety, indeed, the Council have at length confessed themselves sensible. How far this indulgence, in respect to the amount of the allowance, may have been objectionable, I shall not presume to determine. The Assembly seem to think it so—for they have now proposed to lessen that allowance. For this proposal I sincerely give them credit. For though I deny their right of deciding as judges in their own cause, yet I presume every one will agree with me in allowing them a right, not only to lessen their demand of wages, but to relinquish them altogether.

### No. III.

**I**N answer to the sixth and seventh objections of the Council, respecting expences incurred by order of the Assembly, without the knowledge or sanction of either the other branches of the Legislature, and for services which to the Council appeared unnecessary, the Assembly claim “the sole right to judge and determine what services are necessary and expedient, and what are not, and to provide for them accordingly;” and alledge, that this right is “intrenched upon by these objections.” Let us then enquire how far the Council were warranted in this instance by the power lodged in them by the Constitution.

I presume it will not be denied that the Council may reject a Money Bill, if they conceive the Assembly have been lavish or improvident in their grant; and that, in order to discharge this important trust reposed in them, they must necessarily take into consideration the nature of the service for which any sum is granted. If so, their exercising this their undoubted privilege cannot be censured as a breach of any privilege of the Assembly, without destroying their independence, and of course destroying the balance of the Constitution, “the safety of which depends on the balance of the parts, and the balance of the parts on their mutual independence on each other.” To suppose a privilege of dissent in the Council, and a right in the Assembly to censure them for dissenting, would be absurd. If the Council dissent without good reason, it is an abuse of their power; but they do not thereby intrench on the privileges of the Assembly. The King has the power of declaring war; the Commons may refuse the supplies necessary for carrying it on, if they disapprove of the war. If the war should be just and ne-

cessary, this would be an abuse of their privilege; but not an invasion of the Prerogative.

The power of granting or refusing supplies, is undoubtedly in the Assembly, and the Council cannot censure them when they do not grant; they can only dissent, when they conceive the grant to be greater than was requisite, or for a service unnecessary or prejudicial to the public. The Assembly have a constitutional, not an unlimited controul over the purses of their Constituents. They should not tax them for any services that are not either strictly necessary or of manifest utility and importance. If they do, the Constitution has provided a check;—the Council may, and ought to reject their Bill. And it would be criminal in the Council to neglect this important part of their duty, especially in this Province, for two reasons:—the inability of the people to pay taxes, and in order to give an early check to that insatiable love of power, which is natural to all men, and which is always increased, but never cloyed, by indulgence.

In claiming the sole right to judge and determine respecting the necessity and expediency of all services, and providing for them accordingly, the Assembly have undoubtedly assumed no less than the whole legislative authority; a power which, I believe, has not been claimed in England by any one branch of the Legislature since the reign of Charles the First. That unfortunate Monarch made the same claim, and nearly in the same words, in the case of ship-money. The question put to the Judges was—“whether he might not impose that tax in case of necessity, and for the defence of the kingdom, and whether he was not the sole judge of that necessity;” to which they complaisantly answered, that in case of necessity he might impose the tax, and that he was the sole judge of the necessity. An answer for which their characters have been deservedly held in execration, by all those who are friends to our free Constitution, from that day to this. Whether the good people of this Province will think an arbitrary controul over their property less dangerous in twenty-six men than our adorners thought it in one, I knew not; but I am an enemy to arbitrary power in any one Branch of the Legislature, and think it is to be dreaded in proportion to the numbers who claim it, as one master is a less evil than twenty-six.

Whoever attentively reads the conferences must observe, that the Assembly are extremely apprehensive and jealous of an invasion of their own privileges, of which they seem to entertain to extravagant an opinion, and to be so blinded by them, that they can neither see nor pay any respect to the privileges of the Council. It is a truth not to be controverted, that each branch of the Legislature has a right to direct its own proceedings, which are not to be examined or controuled by any other branch.

The Assembly claim a right to search the Journals of the Council, to know the fate of their Bills: But they have gone further; they have taken from those Journals an extract, containing a motion, made in Council, that did not determine the fate of their Bill. And, what is still more extraordinary, this extract from the Journals of the Council is published by order of the Speaker of the House of Assembly, and the motion itself is, by that House, declared to be a flagrant breach of their privileges.” This, I think, may fairly be considered as a novelty in the history of legislative proceedings.

Should the Assembly be tempted to try another step, and vote the Council an useless branch of the Legislature, (which indeed they have virtually done already) they will find a precedent even for this too, as well as for their sole power above mentioned, in the same disastrous reign of CHARLES the FIRST.

As the Council proposed for the sake of harmony, in that instance, to waive these two objections, I should not have thought it worth while to make this notice of them, had not the Assembly, in their answer, asserted a power that, if submitted to, must destroy our constitution, and introduce a pure democracy—a Government, to avoid which,

his Majesty’s loyal subjects in this province left their native country, and encountered the difficulties to be expected in a wilderness; and I think nothing has since happened in any part of the world to recommend a democratic form of Government to our approbation, or induce us to repent the choice we have made.

### No. IV.

**I**T is asserted, on the part of the Assembly, “that the Council have been and continue to be the means of preventing the House of Assembly from expediting the public business, and from paying off the the public debts of the Province, and that they subject them to distressing mortification of not being able to pay off the pressing demands even of the officers and servants necessarily attending both the former and present Houses of Assembly.”

But how did the Council subject them to all this distressing mortification? Did they require of the House any unconstitutional concessions, or the sacrifice of any privilege? No—they offered, “for the sake of Harmony, and to prevent public inconvenience,” to pass the Bill in question, if the Assembly would only take out of it what related to their own pay—and even that they also declared they would pass, if it were provided for in a separate Bill. Whatever mortification, therefore, may have been felt by the Assembly on that occasion, it is to be charged, not to the Council, but singly and exclusively to their own account. This inference is so obviously palpable and incontestible, that I should think it an affront to the reader to suppose he could doubt for a moment in so plain a case. And yet the Assembly, not satisfied with having, in conference, accused the Council as the sole authors of their distress, have repeated the same accusation in an Address which they thought proper to present to his Excellency the Lieutenant Governor, “for the purposes (they say) of counteracting any misrepresentations that might be made to him of their proceedings, and to justify them to the world at large.”

To what extent these conferences may circulate in the world at large, or how far the Assembly may have succeeded in the pains they have taken to justify their proceedings, I shall not presume to conjecture. I shall only observe, that their Address appears to have been hastily penned, and as hastily adopted. Otherwise, I think, they must have perceived the indecency of the reason suggested for presenting it. Did they really suppose the Council capable of attempting to misrepresent their proceedings? Or that the Governor was so negligent and inattentive, as to leave room for any misrepresentation, with regard to proceedings, which were all entered on the respective Journals of the two Houses?

The distressing mortification felt by the Assembly, as above mentioned, seems, however, to have been not a little alleviated by other considerations; for, in the same moment, they proceed in the following terms:—“The House of Assembly further declare, that they with heart-felt satisfaction review the steady and constitutional conduct of the former Houses of Assembly—that they feel an exultation in having steadily followed the same steps—and that they are resolved to continue to assert the privileges of the House of Assembly, and the honour of their Constituents.” And to this they subjoin the following denunciation: “The House of Assembly therefore leave the Bill with the Council, together with the ill consequences that may attend the not passing this Bill.”

I know the respect which is due to the House of Assembly. The privileges of that House are sacred in my estimation. But when the Assembly publish their proceedings, for the express purpose of justifying them to the world at large, they must be supposed to have intended to submit these proceedings to a full and free discussion, and examination. I do therefore confess, that the language of self-complacency and exultation, here used by that respectable House, appears to me hardly compatible with that gravity and decorum which might have been expected from the Representatives of Englishmen, or the descendants of Englishmen. It resembles too much the

manner of a Nation not at present in very high repute, I hope, either with our own, or any other Assembly in the King’s dominions.

Here also are such contrasted expressions, of different emotions, such a mixture of distress and satisfaction, of triumph and mortification, not unlike the mixture of services complained of by the Council in the Bill then under consideration, that I think the whole may be fairly considered as dictated by the hope of eventually prevailing on the Council to make a sacrifice of their own opinion, and once more give way to the persevering temper of the Assembly. I say, the persevering temper; for what else could have hindered them from adopting the simple and easy remedy proposed by the Council, by which, as I have already observed, they might, in fact, have obtained every thing they had contended for, for that time at least, excepting only the absurd pretensions to a right of being judges in their own cause, and of mixing their own pay with all the other provisions for the public service. And yet that very proposal of the Council, though made in a free conference, was considered, when reported to the House of Assembly, as “an interference in matters of supply—and a manifest breach of their privileges.”

The Assembly, in their transition from distress to exultation, review, “with heart-felt satisfaction, the steady and constitutional conduct of the former Houses of Assembly.” What connection, then, was there between the subjects of this conference and the conduct of any former House?

There were two questions agitated in conference between the Council and the last House of Assembly. The one was respecting a requisition made by the Lieutenant Governor for the sum of one hundred and twenty-four pounds, to defray expences which his Excellency had found it necessary to incur on an emergency of general alarm, and which (however astonishing it may seem) that House did expressly refuse to pay, without assigning any other reason than that those expences had been incurred for the general defence—the very reason why the Assembly ought to have considered it as their indispensable duty, without hesitation, to comply with the Governor’s requisition. Their refusal was an act of flagrant injustice to the public Creditors, and a failure in the first and most essential duty which they owed to their Constituents. And do the present Assembly exult “in steadily following the same steps?” I am told, indeed, that they have deviated a little from this part of the path, and, indirectly though not avowedly, voted money sufficient for defraying the expences in question. Respecting the other point, they have exactly followed the steps of their predecessors. It was the same that has been the principal subject of dispute in the last conferences, namely, the pay of the Members of Assembly. The Council rejected the appropriations of that Session, because that pay, with other objects of inferior moment to the public, was provided for in a Bill which went to the exclusion of a service acknowledged by the Assembly to have been necessary for the public defence. Such was the Bill which the present Assembly are pleased to say the Council rejected “on untenable grounds.” I sincerely hope that the Council may never again have such grounds for rejecting Bills, either of supply or appropriation: but if they should, I presume they will not consider them as untenable grounds, or such as they can be warranted to give up or abandon for any consideration whatever.

In the Address above mentioned, with which the Assembly have closed their publications on this memorable occasion, and which may be considered as a sort of Manifesto, addressed, as they acknowledge, not only to his Excellency, but also to the world at large, in justification of their proceedings—they say, “that they had answered all the objections of the Council with arguments supported and drawn from volumes of precedents of the most constitutional and legal authority, both in the Parliament of Great-Britain and Legislatures of British Colonies.” In answer to this, though I think it unimportant to add any thing to what I have already stated, it is obvious to remark that, by the condition on which