

## LOWER CANADA.

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RETURN to an ADDRESS of the Honourable The House of Commons,  
dated 30 June 1836;—for,

COPY of the FOURTH REPORT of the STANDING COMMITTEE of GRIEVANCES  
made to the Assembly of *Lower Canada*, respecting the Conduct of Lord *Aylmer*  
while Governor-General of that Province.

Colonial Department, }  
12 Aug. 1836. }

G. GREY.

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House of Assembly, Lower Canada, Sess. 1835-6.

### FOURTH REPORT OF THE STANDING COMMITTEE OF GRIEVANCES.

**Y**OUR Committee, in conformity to the instruction of your Honourable House,  
“to inquire into the Proceedings adopted by either House of the Imperial  
Parliament of Great Britain and Ireland, relative to the Petitions addressed by this  
House and by the People of this Colony to His Majesty and the said Parliament,  
in the year 1834, on the state of this Province,” have agreed to the following  
Report:

That it appears by a Message transmitted during the last Session of the Pro-  
vincial Parliament to your Honourable House by the late Governor-in-Chief, that  
a Select Committee was appointed on the 15th April 1834, by the Honourable the  
House of Commons, “to inquire into and to report to the House how far the Griev-  
ances complained of in the year 1828, on the part of certain inhabitants of Lower  
Canada have been redressed, and the recommendations of the Committee of that  
House which sat thereupon have been complied with on the part of His Majesty’s  
Government; and to inquire into the matters of certain other Grievances not then  
brought under the consideration of this House, but now set forth in the Resolutions  
of the House of Assembly of Lower Canada in the present Session; and to report  
their opinion thereupon to the House.”

That the Petitions of your Honourable House, and of the people of this Province,  
were presented, in the course of the month of May following, to the House of  
Commons by Messrs. Roebuck and Hume, and referred to the Committee above  
mentioned, who examined several witnesses on the matters referred, (among others  
A. N. Morin, Esq., a member of your Honourable House, who was deputed to  
carry those petitions to England and to support the same,) and considered various  
letters and despatches which passed between the Colonial Office and the Governors  
of this province since the year 1828, and finally reported on the 3d July 1834.

Copies of the said Report, of the various letters and despatches laid before, and  
of the evidence taken by the Committee, will be found annexed.

These important documents refer principally to the financial affairs of this  
province, to the independence of the judges, and to petitions of your Honourable  
House to His Majesty, complaining of grievances during the administrations of  
Sir James Kempt and Lord Aylmer, a period comprising the colonial adminis-  
trations of Sir George Murray, Lord Viscount Goderich, Mr. E. G. (now Lord)  
Stanley, and a short part of Mr. Spring Rice’s.

To the instructions of the first-named of these Colonial Secretaries, on the subject  
of finance, and the rights and privileges of your Honourable House to control and  
regulate the expenditure of the public revenue raised in this province, contained  
in a despatch dated 29th September 1828, your Committee attribute in a great  
degree the harmony which reigned in this colony during the administration of  
Sir James Kempt.

The claims of the preceding administration to be independent of the representatives of the people is formally discountenanced in this despatch, where it is positively laid down that the "Executive Government of Lower Canada cannot be relieved under the existing law, from the virtual dependency upon the Assembly by any constitutional means; and methods of a different nature must not be resorted to."

The pertinacity with which the Provincial Government and an irresponsible branch of the Legislature, supported the odious administration of the Earl of Dalhousie, and the unconstitutional pretensions of that nobleman, are noticed in terms of direct disapprobation.

"I would wish to impress upon your Excellency," says Sir George Murray in his despatch above mentioned, "and through you upon the members of the Provincial Government, and more especially upon the Executive and Legislative Councils, the necessity of cultivating a spirit of conciliation towards the House of Assembly, and of terminating those dissensions with which the province has so long been agitated."

The primary cause of those dissensions, the actual vicious constitution of the Legislative and Executive Councils of this province did not escape the observation of Sir George Murray: "The constitution of the Legislative and Executive Councils is another subject," remarks the same despatch, "which has undergone considerable discussion. \* \* \* You will therefore have the goodness to report to me whether it would be expedient to make any alteration in the general constitution of those bodies."

The opinion of Sir James Kempt on this important question does not appear among the documents printed for the use of the Committee; but it cannot be considered strange that the character and constitution, especially of the Legislative Council, had fallen into contempt, when that body is found opposing, in the year 1826, a Supply Bill, the principles and passage of which they had sanctioned in the preceding year, 1825, and again in 1829 passing a Supply Bill drawn up on the same principles and in the same terms as that which they rejected in 1826.

The administration of Sir James Kempt closed in October 1830, when Lord Aylmer was unfortunately appointed to administer the affairs of this province. The promises which the Colonial Minister held out to the people during the administration of Sir James Kempt, were repeated at an early period by Lord Aylmer after he succeeded to the government of the province. It will be seen, however, that he was at the same time actively engaged in endeavouring to counteract the favourable intentions of His Majesty's Government. From official documents which your Committee have examined, it appears that the late Governor-in-Chief was guilty, so far back as the commencement of the first session of the fourteenth Provincial Parliament (anno 1831, the first session which he opened) of a gross violation of duty, and of direct disobedience of the instructions of the Colonial Minister, in withholding from your Honourable House, contrary to the express commands of the Secretary of State for the Colonies, information on matters of a pecuniary nature which was transmitted to his Lordship to be communicated to your Honourable House.

In the sessions of 1829 and 1830, your Honourable House objected to and refused to vote certain items of expenditure including in the estimates of those years. Those items (16 in number), amounting to 7,533*l.* 6*s.* 6*d.*, are annexed to a despatch from Lord Viscount Goderich to Lord Aylmer, dated Downing-street, 1st December 1830 (No. 2), and are ordered to be omitted in the estimate to be thereafter proposed. By reference to the message sent down by the late Governor-in-Chief, dated 14th February 1831, in which Lord Aylmer professed to communicate the instructions which he received from His Majesty's Government, and to the statement annexed to the estimate which was transmitted with that message, it will be found that items to the amount of 6,381*l.* 13*s.* 4*d.* only are omitted, and that no mention is made, either in the message or in the statement, of item No. 16, intituled "Sundry Items of Contingent Expenses, amounting to 1,351*l.* 13*s.* 2*d.*," expressly mentioned in the Colonial Secretary's despatch of the above date, and ordered to be omitted.

Shortly after this the attention of your Honourable House was called by message to the final adjustment of the question of Finance, and a Civil List of 19,500*l.* sterling, divided into three classes, viz., "Executive, Judiciary, Pensions and Miscellaneous," was demanded.

In

ON THE CONDUCT OF LORD AYLMER, LOWER CANADA. 3

In a despatch, dated 24th December 1830 (No. 5), conveying the instructions of the Secretary of State for the Colonies on this subject, the Colonial Minister says :

“ It only now remains for me to state, that the duration of the civil list may be either for the life of His Majesty, or for some definite term of years, not under seven, as may be more agreeable to the Provincial Legislature.”

Your Honourable House will learn with surprise that almost the first act of the late Governor-in-Chief, after he had arrived in this province and put himself in communication with the Provincial Parliament, was to mutilate this despatch of the King's Minister, and to suppress all mention of the alternative offered as to the duration of the proposed civil list. In the above despatch, Lord Viscount Goderich plainly states that the civil list may be either for the life of the King or for seven years, “ as may be more agreeable to the Provincial Legislature.”

In the message of the 23d February 1831 (in which Lord Aylmer professed to have communicated His Majesty's commands, and to have obeyed the instructions he had received,) “ it is proposed that the duration of the civil list should be for the life of His Majesty.”

Not the slightest allusion or reference to a civil list “ for seven years” is made by Lord Aylmer in his message.

Two days after the above message was sent down to your Honourable House, to wit, 25th February 1831, another message was received from the head of the executive, enumerating certain branches of revenue comprised under the head “ Casual and Territorial Revenues of the Crown,” which it was deemed expedient to exempt from the operation of the proposed financial arrangement.

These important messages having been referred by your Honourable House to a Special Committee, information of a more detailed and particular nature was deemed necessary to enable the Committee to come to a proper conclusion on the matters referred, and various addresses, dated 1st March 1831, were presented in consequence from your Honourable House, demanding that information; amongst others, for a detailed statement of the intended application of certain items accompanying his Excellency's estimate, under the heads “ Pensions and Miscellaneous,” in class No. 3; also, for a detailed statement of the intended future application of the income arising from the rents of the Jesuits' estates, the land fund, the timber fund, and the other heads of revenue classed in the message of the 25th February as belonging to the casual and territorial revenue; and a third, “ for copies of any despatch or despatches, or of such instruction or instructions as his Excellency may have received from His Majesty's Government concerning the financial affairs of this province,” referred to in the above messages.

In reply to the first of these addresses, Lord Aylmer answered that it was not in his power to communicate the statement required, “ not being in possession of the necessary information,” as far as the item “ Miscellaneous” was concerned. This answer was not correct, Lord Viscount Goderich having distinctly stated in his despatch of the 24th December 1830 (No. 5), that the miscellaneous item was to meet “ unforeseen contingencies.”

In reply to the second address, Lord Aylmer gave for answer: “ I cannot take it upon myself to say what may be the future intentions of His Majesty's Government with regard to the appropriation of those branches of revenues;” yet at the moment he made this answer, giving to understand that he had no means of furnishing the required information in detail, his Lordship was in possession of the despatch of the Colonial Minister, of the 24th December 1830 (No. 6), an extract of which follows, and which enters into a most particular detail of the future appropriation of those revenues.

EXTRACT of a Despatch from Lord Viscount *Goderich* to Lord *Aylmer*, dated Downing Street, 24th December 1830 (No. 6).

According to the accounts transmitted to this country from Lower Canada, it appears that the casual and territorial revenue was composed of the following items in the year 1829:—

Gross revenue of the Jesuits' estates	-	-	-	-	-	-	-	-	£. 2,000
Rent of King's posts	-	-	-	-	-	-	-	-	1,200
Forges of the St. Maurice	-	-	-	-	-	-	-	-	500
Rent of King's wharf	-	-	-	-	-	-	-	-	351
Droits de Quint	-	-	-	-	-	-	-	-	965
Lods et Ventes	-	-	-	-	-	-	-	-	3,265
Land fund	-	-	-	-	-	-	-	-	1,800
Timber fund	-	-	-	-	-	-	-	-	1,150
									<u>£. 11,231</u>

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From this sum should be deducted the revenues of the Jesuits' estates, which being regularly applied to the purposes of education, cannot properly be diverted from that object. I must, however, remark that the expense of collecting it (between 500 *l.* and 600 *l.*) bears a large proportion to the total amount of the revenue received, and that it ought to be reduced within the smallest possible compass at as early a period as is practicable.

The remainder of the casual and territorial revenue may be estimated at rather more than 9,000 *l.*; and if from this item there be deducted the expense of collection and management, amounting probably to 1,500 *l.* or thereabouts, there will be at the disposal of the Government the sum of about 7,500 *l.*, more or less, liable to some increase, I would hope, from the double operation of diminished expense in the collection, and increased receipts from some of the items.

The first item to which it will be obviously proper to apply this fund, will be that portion of the provision for the clergy of the Established Church which has hitherto been paid either out of the army extraordinaries, or the funds of the commissary-general. Nothing can be more unseemly or objectionable than such a mode of meeting that charge; nothing more correct than placing it on the casual and territorial revenue. You will, therefore, pay the stipends contained in the enclosed list (now charged, as far as I can make out, on the army extraordinaries,) out of that fund, and adding thereto the sum of 1,000 *l.* to the Roman Catholic Bishop of Quebec, and 500 *l.* divided between the different Presbyterian ministers in the province, the whole charge under the head of religious services will amount to 6,850 *l.* There will then remain a sum of about 950 *l.*; but I do not think it would be prudent to place, at present, any fixed charge upon the surplus, in order that there may be always some reserve in hand to meet unforeseen contingencies.

Whether it would be possible to induce the Legislature (or prudent to attempt it,) to take upon the provincial funds the charge of the Roman Catholic Bishop, I cannot undertake to say, and I must leave it to your discretion to decide upon that question on the spot. If, however, it should be practicable to relieve the casual revenue from that charge, or if any circumstance should increase its disposable amount, then it would be desirable that such disposable increase should be applied to the payment of an equivalent portion of the charge for the Church of England, now defrayed by the Society for the Propagation of the Gospel, out of the annual vote of the British Parliament.

I have, &c.  
(signed) *Goderich.*

SALARIES and ALLOWANCES to the Clergy of Lower Canada, exclusive of the Allowances from the Society for the Propagation of the Gospel:—

	£.	s.	d.
Lord Bishop of Quebec - - - - -	3,000	-	-
Archdeacon of Quebec - - - - -	650	-	-
Minister of Trinity Chapel, Quebec - - - - -	200	-	-
Rector of Montreal - - - - -	300	-	-
— Three Rivers - - - - -	200	-	-
— William Henry - - - - -	150	-	-
— Durham - - - - -	100	-	-
— Chatham - - - - -	100	-	-
— Caldwell Manor - - - - -	100	-	-
— St. Armand - - - - -	100	-	-
Evening Lecturer at Quebec - - - - -	150	-	-
— Montreal - - - - -	150	-	-
Vergers of Quebec - - - - -	30	-	-
Rent of Protestant Burial Ground - - - - -	20	18	6
	£.	5,250	18 6
Presbyterian Minister, Quebec - - - - -	50	-	-
— Montreal - - - - -	50	-	-
Additional Allowance to Presbyterian Ministers - - - - -	500	-	-
Roman Catholic Bishop, Quebec - - - - -	1,000	-	-
TOTAL - - - - -	£.	6,850	18 6

This despatch is not and cannot be considered confidential, inasmuch as the first part of it was embodied in the message of the 25th February 1831; the latter and most important part, for reasons best known to his Lordship, was most cautiously suppressed, and refused to be communicated to your Honourable House, as will be seen by the answer to the third address, in which his Lordship stated that those despatches are intended for his own information and guidance, in the confident expectation that the commands of His Majesty will be executed with fidelity. An idea of the "fidelity" with which the commands of His Majesty were executed will best be formed by a recollection of the above facts: The total suppression by his Lordship of all allusion to the alternative offered by His Majesty of accepting a civil list "for seven years." His statement that he was not in possession

sion of the information required as to the "Miscellaneous Items," whilst Lord Goderich's despatch contained that information; and finally, his representing that it was not in his power to explain in detail the intentions of His Majesty's Government relative to the proposed appropriation of the casual and territorial revenue, when, at the same time, the Colonial Secretary's despatch of the 24th December 1830 (No. 6), furnished the most explicit details. Notwithstanding these repeated instances of disobedience of His Majesty's commands, and the refusal of information demanded by your Honourable House, and which it was in his Lordship's power to furnish, Lord Aylmer most unwarrantably gives it as his opinion, in a despatch which he addressed to the Colonial Secretary, 4th March 1831, that the Assembly "can never at any future period complain of a want of plain-dealing on the part of the executive government upon this occasion." The facts of the case prove that upon this occasion the late Governor-in-chief has been guilty of most unfair dealing towards your Honourable House.

Your Committee cannot proceed further in their Report without most distinctly, emphatically and firmly protesting, as well against the doctrine laid down in the Lord Viscount Goderich's despatch of the 24th December 1830, relative to the casual and territorial revenue (No. 6), as against the distribution of those revenues which his Lordship proposed in that despatch.

By a message from his Excellency Lord Dorchester, then Governor-in-chief, dated 29th April 1794, the whole of the casual and territorial revenue was expressly stated to have been "most graciously ordered by His Majesty to be applied towards defraying the civil expenses of the province," in lieu of which a sum of 5,555 *l.* 11 *s.* 1 *d.* currency was granted to His Majesty in 1795, without limitation, to defray the expenses of the administration of justice and of the civil government in this province. The Colonial Minister, therefore, had no grounds to support the claim which he made to the disposal of those revenues, and much less was he authorized to distribute them as he proposed.

On the continent of America the principle has long ago been established, that no particular religious establishment ought to have exclusively the protection of, or derive pecuniary support from, the Government, as the interests of religion are only injured when connected with the State. That no man ought in any way be called on to support religious teachers of whose ministry he does not partake, or be subject to any inferiority on account of his creed.

The proposed distribution therefore of the casual and territorial revenue among the clergy of the Protestant Episcopal and Presbyterian churches, or among the clergy of any other religious denomination, would tend only to the final injury of religion, and was unjust in principle, and contrary to the pledged faith of the Government.

Upon the review of the whole of the proceedings had in 1831 on the financial question, your Committee are of opinion that His Majesty's Government must ascribe any unsatisfactory issue of those proceedings to the unconstitutional pretensions which it put forth, and to the unfair conduct of its agent, the late Governor-in-chief, in withholding from the knowledge of your Honourable House information transmitted to him by the King's Government to be communicated to your Honourable body.

In the course of the Session of 1831, your Honourable House, having taken into consideration the various abuses then existing in this province, and the manifold grievances oppressing His Majesty's subjects, passed, on the 8th of March of that year, a series of resolutions setting forth their complaints, which resolutions were embodied in a petition to the King and the other branches of the Imperial Parliament.

The petition to the King was forwarded on the 6th of April following, and accompanied by a despatch from Lord Aylmer to the then Colonial Secretary, commenting on the several complaints preferred by your Honourable House. It is with much pain and regret that your Committee find, on perusal of this despatch, that the person appointed by His Majesty to administer the affairs of this province, and to be a channel of communication between your Honourable House and the King, mistook on this occasion his position, and forgot the high duties which he was called on to perform impartially and for the good alone of His Majesty's subjects. Instead of supporting the constitutionally-expressed demands of the representatives of the people of this province, Lord Aylmer abused his office; endeavoured to prevent in many respects the prayer of the petition of your Honourable House from being granted, or to have it granted in such an ungracious

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manner as would be considered only a new insult and attack on the character and privileges of your Honourable House.

In order to explain these allegations, it is necessary to state that in the course of the Session of 1831, your Honourable House presented an address to the head of the Executive, demanding that the proper officers should be directed to lay before your Honourable House certain statements in detail of the receipts and expenditure of the Jesuits' estates: Lord Aylmer refused complying with the prayer of this address. In calling the attention of the Colonial Secretary in the despatch last mentioned to that part of the petition to His Majesty in which reference is made to the Jesuits' estates, Lord Aylmer recommends that the whole of the accounts of the receipts and expenditure of those estates should be annually published, not through the medium of your Honourable House, the only constitutional channel through which the same should be made public, but by insertion in a weekly newspaper called the Official Gazette of Quebec. The insult which Lord Aylmer recommended the Colonial Secretary to offer to your Honourable House in this instance, justly called down upon his Lordship the mild but pointed reproof of Lord Viscount Goderich, the then Secretary of State for the Colonies, who, in a despatch, dated Downing-street, 7th July 1831, expresses his regret that Lord Aylmer should have withheld those accounts from your Honourable House; disavows at the same time every wish for concealment, and instructs his Lordship "to lay these accounts, in the most complete detail, at the commencement of the then next Session, and to supply the House of Assembly with any further explanatory statements which may be required respecting them."

It is to be regretted that His Majesty's Government should have stopped short in their desire to be just, and retained up to this day the Jesuits' college for the use of His Majesty's troops. By an examination of Lord Aylmer's despatch of the 6th April 1831, your Committee find that this ungracious and narrow act was suggested by the late Governor-in-chief, who represented that "should His Majesty think fit to waive his exclusive right to those estates, it would be advisable to retain possession of a building situated in the city of Quebec," (meaning the Jesuits' college, now occupied as a barrack for soldiers), "as the relinquishment of this college would entail considerable expense and inconvenience to the public service."

Your Committee deem it unnecessary to expose all the instances in which the representations made by your Honourable House in the petition in question, were opposed by the late Governor-in-chief; they will be seen by reference to the despatch in question. But your Committee cannot forbear directing the attention of your Honourable House to that part of the despatch which refers to the complaints against the judges for interfering or taking an active part in the political affairs of the province.

The late Governor-in-chief recommended that those complaints "might be left to the discretion of the person at the head of the Government, who, should he witness any instance of such conduct, would, of course, take such steps as the circumstances of the case might appear to him to require."

After a declaration such as this, His Majesty's Government and the people of this province were naturally to expect that, however difficult it might have been to remedy the past, the judges would be directed and obliged to abstain for the future from the indecent practice of meddling in the political affairs of the province; the public would be relieved from having to repeat their complaints on this subject; and your Honourable House would have been spared the task of protesting against the continuance of such a practice, and of prosecuting and demanding the removal from office of partizan judges. But so far from this being the case, a desire not only to prevent the full correction of those abuses, but to increase them, has, in the opinion of your Committee, guided the late administration in its policy. Grave accusations were brought against a judge, whose oppressive conduct had roused his victims to demand justice. Your Honourable House had on two several occasions resolved that the said judge had been guilty of high crimes and misdemeanors, and he ought to be removed from the bench. Of such facts the late Governor-in-chief was not ignorant, yet it has come to the knowledge of your Committee that so far from taking the steps necessary to deprive the individual referred to (Mr. Justice Fletcher) of the office and trust which it has been proved he so flagrantly abused, Lord Aylmer, so late as year 1834, invited the said Mr. Justice Fletcher to accept the higher, more honourable, and more responsible charge of Judge of the King's Bench of the district of Montreal.

Again,

Again, in the year 1833 the Legislative Council of this province voted unanimously a most calumnious Address to His Majesty, ascribing to your Honourable House designs and intentions of a most dishonourable and unnatural nature. That address was concurred in, among others, by the Honourable Jonathan Sewell, chief justice of the province. Yet, notwithstanding His Majesty's Principal Secretary of State for the Colonies, in a despatch of the 8th February 1831, recommended to that officer "a cautious abstinence from all proceedings by which he might be involved in a contention of a party nature," and notwithstanding the late Governor-in-chief, in his despatch of the 6th April 1831, pledged himself that "should he witness any instance of judges engaging themselves, or taking part in the political differences of the province, he would of course take such steps as the circumstances of the case might appear to him to require," it does not appear that Lord Aylmer took any steps to prevent or to punish the interference of Mr. Chief Justice Sewell, in this instance, in political affairs.

As successor to Mr. Justice Uniacke on the bench of the Montreal district, the late Governor-in-chief chose a violent partizan of one of the most detestable administrations that ever this province was afflicted with. The then Secretary of State for the Colonies, the Right Honourable Mr. Spring Rice, as appears by a despatch laid before your Honourable House, dated Downing-street, 11th November 1834, "feeling it to be of the highest importance that no persons who can be considered as strong political partizans should be placed on the bench of Lower Canada," refused to sanction that appointment in consequence of "the line adopted by Mr. Gale (the person in question), before the Committee of 1828, and his connexion with the measures of those times;" Lord Aylmer, nevertheless, disobeyed the orders of His Majesty's Ministers, and retained Mr. Gale on the bench, in direct contradiction to the commands of his superior, transmitted to that effect.

But even these, numerous though they be, are not all the instances in which the late Governor-in-chief broke his own pledges, falsified his own declarations, and set at nought the commands of the King, his master.

The chief justice of the province having been incapacitated by ill health from attending in his place as Speaker of the Legislative Council, in the session of 1834, Lord Aylmer appointed to that situation the Honourable Mr. Bowen, one of the judges of the district of Quebec, and thus dragged back to the political arena from which he had for several years retired, one of the judges of the land, contrary to the recommendation of a Committee of the House of Commons; contrary to the orders of the King's Ministers, who expressly stated in the said despatch of the 8th February 1831, "That it was desirable that they (the judges,) should be exempted from all temptation to interfere in political controversies, and even from a suspicion of such interference;" and contrary to the pledge which His Lordship himself had given in his despatch of the 6th April 1831, already referred to.

This plain statement of facts requires no commentary from your Committee; it will show the manner in which this province has been governed for many years; the policy of which it has been the victim; and will prove that the late Governor-in-chief, even when he professed to be guided only by friendship for the people of the colony, and by justice and impartiality, was not only doing all in his power to obstruct and prevent any redress of grievances, but was also actively engaged in adding to their number.

In the next session of the Provincial Parliament (1831-32) the negotiation for a civil list came before your Honourable House in a new shape.

In the preceding session the civil list was divided into three classes, and amounted to 19,500 *l.*, but the Legislature was required to provide only for the sum of 14,500 *l.*, 5,000 *l.* having been permanently granted by the 35th Geo. 3, towards the maintenance of the civil government.

In the session of 1831-32, the demands contained in the civil list were divided into two distinct and separate measures, pursuant to instructions contained in despatches, dated Downing Street, 8th February 1831, and 29th September following. The first of these demands was for the passing of a Bill to secure the independence of the judges, and to render their salaries permanent.

A civil list amounting to 5,900 *l.*, to pay the salaries of the Governor, the Civil Secretary, the Provincial Secretary, the Attorney and Solicitor General, was next demanded for the life of the King. By those two measures, from 17,900 *l.* to 19,900 *l.* was demanded for the salaries of the judges and other officers, a sum which exceeded the demand of the preceding year by from 3,000 *l.* to 5,000 *l.*

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The first of those demands was complied with by your Honourable House, and a Bill was passed by the Legislature of this province to secure the independence of and to make permanent provision for the judges, thereby providing for a portion of the civil list, demanded in 1831, to the amount of from 12,000 *l.* to 14,000 *l.*

The failure of the other demand, viz., for a permanent appropriation of 5,900 *l.* was mainly owing to the irregular and unprecedented conduct observed on the occasion by the late Governor-in-chief.

His Lordship was well aware, by a report agreed to by your Honourable House and communicated to His Lordship, that your Honourable House had declined in 1831 making any further permanent provision for the provincial government, in consequence, among other reasons, of the inadmissible pretensions of the Crown to the exclusive disposal of the casual and territorial revenue. Notwithstanding this declaration on the part of your Honourable House, all information as to whether the Government persisted in its claim to the exclusive control and disposal of those revenues, was studiously withheld. Your Honourable House had already granted from 12,000 *l.* to 14,000 *l.* to defray the judges' salaries; and without any explanation as to the pretensions of the Crown relative to the casual and territorial revenue, your Honourable House was called on to grant another sum of 5,900 *l.* Instead of furnishing the requisite information on this head, the late Governor-in-chief adopted the unprecedented and unparliamentary proceeding of writing a letter to the executive officer in charge of the measure, threatening the members of your Honourable House that, unless the civil list was voted, his Lordship would not assent to any Bill providing an indemnity for the members, thus precluding at once the representatives of the people from entertaining any proposition to which such dishonourable conditions were annexed.

What were the representations made to His Majesty's Government by the late Governor-in-chief on this occasion? Instead of frankly communicating to His Majesty's Ministers the causes which led your Honourable House to decline acceding to the proposed civil list; instead of recommending His Majesty's Ministers to give up to the constitutional control of your Honourable House the revenues in dispute; instead of candidly stating that his Lordship did not furnish the necessary explanations as to the claims of the Government to the disposal of certain revenues; that he had, on the contrary, adopted the indecent and unparliamentary course of menacing the members of the Assembly, his Lordship observed a careful, pre-meditated, and disingenuous silence on these causes, and called on His Majesty's Government to make a firm stand, and assert their claim to the proposed civil list; representing at the same time the respectability, the numbers, and talents of the minority, forgetful of the fundamental and plainest principles of a representative government, that the opinions of the majority and not those of the minority should be the guide of the executive.

After a due examination of the proceedings in the session of 1831-32, on the question of a proposed "civil list," as it is improperly called, your Committee are of opinion that besides the just grounds and weighty considerations which could well induce your Honourable House not to depart from that sound policy which has also almost universally prevailed in all British colonies, to provide for the necessary expenses of government, not permanently, but for short periods only, it is plain that the unbecoming, irregular, and unparliamentary conduct observed by the late Governor-in-chief, precluded your Honourable House from entertaining for a moment the proposed measure.

The session of 1832-33 opened under gloomy prospects. Continued bad government, and increased grievances in the administration of the affairs of the province; the unconstitutional and improper connexion between the executive, judicial, and the legislative authorities; the abuse of that irresponsible power with which the several authorities in this colony are unfortunately invested; the neglect on the part of the King's Ministers to apply a practical and efficient remedy to those grievances, together with the violent, unjust, and oppressive conduct of the late Governor-in-chief, had created universal discontent, and the people of the colony, almost weary of hoping, became clamorous for justice. In this state of things, your Honourable House exercising your constitutional, undoubted, and exclusive right and privilege "to direct, limit, and appoint, in Bills for granting aids and supplies to the Crown, the end, purposes, considerations, conditions, limitations and qualifications of such grants, which cannot be changed or altered elsewhere," annexed to several of the items in the Supply Bill certain conditions, with a view to abolish pluralities, and to prevent incompatible offices from being filled by the same



same individuals. This Supply Bill was thrown out on the 23d March 1833, in the Legislative Council by a majority composed of placeholders, dependents, and expectants on the Executive Government, whose pecuniary interests and expectations were immediately and directly affected by the votes of your Honourable House.

On the day after the Bill was thus disposed of, the late Governor-in-chief addressed a despatch to the Colonial Secretary, dated Castle of St. Louis, 29th March 1833, in which his Lordship attempted to persuade the Colonial Minister to violate the Act passed in the 1 & 2 Will. IV. c. 23, and to withdraw or contradict an opinion which the Secretary of State had previously pronounced on the 29th September 1831, in favour of the rights of your Honourable House to the exclusive control of the proceeds of the 14 Geo. 3, c. 88.

By the 1 & 2 Will. IV. c. 23, it was distinctly enacted, that all the monies to arise from the duties levied by virtue of the 14 Geo. 3, should be appropriated in such manner, and to such purposes, as the Provincial Legislature might deem meet; and in order to remove all doubt or misunderstanding as to the intention and meaning of His Majesty's Government in introducing, supporting and sanctioning that Act, Lord Goderich informed Lord Aylmer, in a despatch, dated 29th September 1831, with which he transmitted a copy of the Act in question, that although his Lordship "had been compelled hitherto to deny the Assembly's pretensions to the 14 Geo. 3, henceforward the same objection could not be of course insisted on."

Unwilling, however, to acknowledge the rights of your Honourable House, and desirous to divest the representative branch of the Legislature of that salutary control over the public revenue with which it is constitutionally clothed, the late Governor-in-chief had recourse to falsehood, in order to induce His Majesty's Government to countenance his illegal views.

In the first place he pretended, in a despatch of the 29th March 1833, addressed to Lord Viscount Goderich, then Secretary of State for the Colonies, utter ignorance of the views of His Majesty's Ministers, as to the construction of the 1 & 2 Will. IV. c. 23; a reference to Lord Goderich's despatch of the 29th September 1831, above quoted, will prove that there was no foundation in truth for their pretended ignorance; for in that despatch he is distinctly informed, that henceforward he could not object to the claim of your Honourable House to the proceeds of the 14 Geo. 3. As the object, however, of the late Governor-in-chief was not to obey the law, or the King's instructions, but to evade both, and to induce the King's Government into sanctioning his unlawful views, he next called on the law officers of the Crown and the King's counsel in this province, a class of men who have hitherto, with but few exceptions, been notorious for supporting the pretensions of an irresponsible Executive, for their authority to violate the law and to disobey the King's instructions. As may be expected from their servility and subserviency, those authorities almost unanimously gave it as their opinion, "that in the event of the three branches of the Legislature of the province not concurring in regard to the disposal of the revenues raised under the Act of the 14 Geo. 3, the provisions of that Act came into full operation in like manner as if the Act of the 1 & 2 Will. IV. c. 23, had never existed, enjoining the Lords of the Treasury to appropriate those revenues to the expenses of the civil government of the province, and to account to the Imperial Parliament for the overplus, if any should remain after providing for those expenses."

The plot to abstract the proceeds of the 14 Geo. 3, from the public chest, against the letter and spirit of the law, supported though it was by the pliant and corrupt tools of a wicked administration, did not succeed. The late Governor-in-chief was shortly afterwards virtually censured by the Secretary of State, who directly discountenanced, on the part of His Majesty's Government, the projected spoliation, and Lord Aylmer's ignorant advisers received a severe rebuke, by having their want of knowledge exposed, and their ignorant opinion utterly disavowed.

"Having," says the Right Honourable Mr. Stanley, in a despatch to Lord Aylmer, dated 6th June 1833, "referred to the law officers of the Crown your Lordship's despatch of the 29th March last (No. 30,) with reference to the absolute or conditional surrender by the 1 & 2 Will. IV. c. 23, of the revenues raised under the 14 Geo. 3, c. 88. I have to acquaint you that those officers are of opinion that the effect of the Act 1 & 2 Will. IV. c. 23, is at once, from the time of the passing of the Act, and without qualification, to place at the disposal of the Legislature of the province the appropriation

of those Revenues which the previous Act of 14 Geo. 3, had raised and placed at the disposal of the Government through the medium of the Treasury; any application, therefore, by the Treasury of those revenues which have accrued due since the passing of the Act 1 & 2 Will. IV. c. 23, appears to be no longer in the power of the Lords of the Treasury, or in any other of the officers of the Crown; and if it shall be thought advisable to resort to the provisions of the Act 14 Geo. 3, it cannot be legally done without a repeal of the Act 1 & 2 Will. IV. c. 23."

Not satisfied with thus endeavouring to dispose of a part of the public revenue, not only without, but against law, Lord Aylmer next attempted to destroy the most important of the privileges of a representative branch of the Legislature, by rendering the public servants independent of your Honourable House. With this view he applied to the then Colonial Minister in the early part of 1833, to authorize an issue from the military chest, of a sum sufficient to defray the services left unprovided for in consequence of the wanton rejection by the Legislative Council of the Supply Bill passed by your Honourable House. Notwithstanding the strong recommendation of his Lordship to adopt this unconstitutional measure, the Colonial Minister, (the Right Honourable E. G. Stanley), "felt it to be his duty" to withhold his sanction from such a proceeding; and to the confusion of the corrupt and obnoxious administration of that day, and its guilty advisers, marked a second second time with his disapprobation improper recommendations and illegal pretensions of the late Governor-in-chief.

Early in the succeeding Session of 1834, Lord Aylmer had again recourse to his usual practice of mutilating the despatches received from the King's Minister, and of communicating only such curtailed and partial extracts as in his opinion approved of his conduct, or tended to convey a censure on your Honourable House, whilst he unwarrantably and unjustly suppressed every passage which he found corroborative of the constitutional principles by which your Honourable House was guided in your proceedings.

On the 13th January, 1834, the late Governor-in-chief transmitted a message to your Honourable House relating to the failure of the Supply Bill of the preceding year. In this message the late Governor-in-chief professed to communicate the views of the Secretary of State, relative to certain "conditions" which your Honourable House, in the exercise of your constitutional and undoubted privileges, thought fit to annex to certain items in that Bill; and gave it to be understood as the opinion of the Colonial Minister, that your Honourable House, in annexing these conditions, had gone beyond your attributes.

To those conversant with Parliamentary history and the rights of the Commons House of Parliament in granting money, as insisted upon and regulated by the British House of Commons, so far back as 1678, it was a matter of surprise to be given to understand that a British Minister could be ignorant of the long established, incontrovertible, and well-defined rights of the representatives of the people in money matters; but your Committee have since discovered that the late Governor-in-chief mutilated the despatch of the Colonial Minister; for so far from pretending that the practice of annexing conditions to money votes, adopted by your Honourable House, was unconstitutional or improper, the Colonial Secretary frankly admitted, in his despatch of the 6th June 1833, that such practice is a matter of constant occurrence in the Colonies and in Parliament.

"In so far," says the Colonial Secretary, "as the Supply Bill imposed upon the different grants it contained, conditions of a pecuniary nature for the performance of specific services in return for the sums voted, they were not unconstitutional in substance. It is a matter of constant occurrence in the Colonies, and as I conceive in Parliament, that in voting money for the public service, stipulations of this nature should be made for the public benefit."

In communicating the opinion of the Secretary of State contained in the despatch of the 6th June 1833, to your Honourable House, the late Governor-in-chief with his usual bad faith carefully suppressed the above important passage.

A system of misrepresentation and premeditated deception which Your Committee have just exposed, uninterruptedly continued for five years, could not fail to embroil your Honourable House with His Majesty's Ministers, to shake the confidence of His Majesty's subjects in the justice of His Majesty's Government, and to plunge this province in confusion from one extremity to the other.

To be relieved from the misgovernment and oppression which proceeded from such a state of things, your Honourable House and the people of this province  
appealed

ON THE CONDUCT OF LORD AYLMER, LOWER CANADA. 11

appealed once more to the Imperial Parliament. The Report, Evidence, and documents hereunto annexed, are the fruit of that appeal.

From a careful examination of those despatches and documents, and a faithful comparison thereof with the various messages and other communications made by the late Governor-in-chief to your Honourable House in His Majesty's name, your Committee are of opinion that Matthew Whitworth Lord Aylmer, late Governor-in-chief of this province, has grossly abused the authority and trust reposed in him by the King his master, and been guilty of high crimes and misdemeanors.

That he has been in the constant practice of mutilating and curtailing various despatches, transmitted to him by the King's Ministers, before communicating the same to your Honourable House, thereby wilfully misrepresenting and perverting the views of the King's Government.

That he has flagrantly and repeatedly disobeyed the King's instructions.

That he has frequently, to the injury of the interests of the province, refused to communicate, or falsely denied that he had information with which your Honourable House, with a view to promote the public service, requested to be furnished.

That he has wilfully and maliciously deceived the King's Government as to the views, opinions and wishes of your Honourable House, representing His Majesty's subjects in this province.

That he has attempted at sundry times to destroy the constitutional and inherent privileges of the representative branch of the Legislature of this province.

That he has, by wicked and evil counsel, attempted to mislead, and actually did mislead, the servants of the Crown on matters touching the welfare of this province and the rights and liberties of the good people thereof, thereby endangering the safety and connexion of this colony as a dependency of the British Crown.

The whole nevertheless humbly submitted.

29th January 1836.

(signed) *E. B. O'Callaghan*, Chairman.

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House of Assembly, Tuesday, 23 February 1836.

*Resolved*,—That this House doth concur in the Fourth Report of the Standing Committee of Grievances.

Attest,

*Wm. B. Lindsay* Clk. Ass<sup>y</sup>.

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**LOWER CANADA.**

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**COPY of the FOURTH REPORT of the STANDING  
COMMITTEE of GRIEVANCES made to the Assem-  
bly of *Lower Canada* respecting the Conduct of  
Lord *Aylmer*, while Governor-General of that  
Province.**

*(Mr. Roebuck.)*

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*Ordered, by The House of Commons, to be Printed,  
16 August 1836.*

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