

GENTLEMEN;

In communicating to you the copy of a Despatch which I have recently received from Her Majesty's Principal Secretary of State for the Colonies, I avail myself of the occasion to state to you my views of the very important change which, by this Despatch, is made in the tenure of your respective offices; which, instead of being held as heretofore, either "for life," or during good "behaviour," are henceforward made entirely dependent upon the will of the Sovereign, or that of Her Majesty's Representative. The principal objects of the regulations now introduced appear to me to be: 1st. while enlarging the powers of the Administrator of the Government, by leaving him free to choose his Counsellors and Office Bearers, to, at the same time, impose upon him a corresponding degree of increased responsibility, as well towards the Queen's Government as towards the inhabitants of the Province over which he is appointed to preside, for the satisfactory administration of its affairs; and 2nd, and above all, it has for its object to ensure for the Governor, as far as may be possible, the most cordial and sincere support, assistance, and co-operation, in carrying out his views and policy, and those of Her Majesty's Government, on the part of every individual Member of the Provincial Government, whose tenure of office is now made dependent upon him, by indentifying their interests, (as far as at least as that tenure is concerned,) with that line of conduct.

Entertaining these views of the subject, I hail this despatch as conferring a new, and, in my judgment, an improved Constitution upon these Colonies.

Gentlemen, I have no intention or desire to require from you anything in the shape of a renewed pledge or engagement other than those to which you are already bound by your respective oaths of office; but, having frankly explained to you my construction of this Despatch, I trust that it may only be necessary for me to signify to those who may do me the honor to retain their appointments and seats, that I must regard their doing so as a tacit intimation of their desire and intention to afford me their zealous aid and co-operation, in conducting the affairs of the Provincial Government, and that if they should at any time hereafter feel themselves called upon to avow sentiments adverse to the policy which that Government may pursue, or otherwise to oppose or obstruct the course of the proceedings which it may adopt, they will at the same time fully recognise the condition which such a dissent from the views of the Colonial Government, so carried out, must necessarily involve.

With regard to such of the present salaried officers possessing sufficient claims, from length of service, and who may now or hereafter, upon sufficient grounds, be desirous of retiring from office during my administration, I can only assure them that I shall be found at all times ready and willing to bring under the favourable notice of Her Majesty's Government, and to give all due support to their applications for pension or retired allowance, in fair and reasonable remuneration for past services, upon the principle, however, that such pension or allowance (if obtained) shall cease upon any future restoration to office, and *vice versa*, again revive on the discontinuance of official salary.

These, Gentlemen, are the only observations which I have deemed it necessary to make, in communicating to you a Despatch, of which a Copy, as well as of this Memorandum, will be furnished to each of you by the Provincial Secretary.

(Signed) J. HARVEY, Lieut. Governor.  
Government-House, Fredericton, Dec. 21, 1839.

N. B. The office of "Clerk of the Executive Council" is to be added to the list given in the Despatch.

THE  
COLONIAL HERALD.

SATURDAY, JANUARY 18, 1840.

The "great, the important event," the reunion of the two Canadas, has been decided upon by both Houses of Legislature of the Upper Province. The two Houses have passed Resolutions approving of the main measure, coupled with such conditions as will be found in our last page, wherein the Resolutions of the Legislative Council will be found at full length—the Resolutions passed by the House of Assembly do not materially differ in principle from those passed by the Legislative Council. They go home in the shape of Resolutions, accompanied by an Address from each House, to the Imperial Parliament, together with the recommendation of the Governor General, and will, together, afford the ground work of a Bill for settling the affairs of the Canadas. Three members of the Council who last year voted against the measure of reunion, as now proposed, this time voted for it, which gave a favourable turn to the measure—so much for the magical effect of Lord John Russell's circular despatch relative to the tenure of office in the Colonies.

We understand that John Macgowan, Esq. has resigned his seat in the Legislative Council.

At a Meeting of the P. E. Island Native Benevolent Society, held at the Commercial Inn, on Tuesday the 7th inst., the following were appointed Office-bearers for the ensuing twelve months:—

Donald Macdonald, Esq., President (re-elected).  
Mr. H. W. Lobban, Vice President.  
Mr. G. Clark, Assistant do.  
Mr. Robert Hutchinson, Treasurer (re-elected).  
Mr. C. Desbrisay, Secretary (do.)

not sufficient to induce the proprietors to come to an equitable arrangement with the tenantry; and he regrets, from the slow progress made, that there is so much reason to doubt the willingness of the proprietors to come to such equitable arrangement. On this point Lord John Russell is of the same opinion with me. I never asked for more than an equitable settlement for the tenantry; but I was always of opinion, and am so still, that an equitable settlement, such as the people could accept, will never be agreed to by the proprietors, who form a majority in the Councils, until the lands are vested in the Crown by Escheat. The Bill of last Session provided that the tenantry were to have a freehold, on payment of from two shillings to six shillings per acre; and this sum was to be paid into the Colonial Treasury, for the public service; but if the proprietors were to receive it, to withdraw such an amount from the Colony, we would be left without a revenue; the desire of the people to collect money and be free from the proprietors would be such that there would scarcely be a sixpence left in circulation, or any dutiable articles consumed; and, consequently, there would be neither revenue or public improvements—there would scarcely be a bridge or even a road in less than five years.

The second objection to the proposition contained in my letter is, because the Crown and the Colony have agreed to a tax on wild lands. You will recollect that the tax was passed during the confinement of three of the members for King's County. Those who carried that measure must have known that the forfeited lands would have been re-vested in the Crown if they had not prevented it; but by this measure they, instead of seeking the rights of the Colony, were persuading the people that the lands could not be escheated, and, to fulfil their prediction, passed an Act for a Land Tax, not only to prevent the settlement of the people, but to deceive ministers, who were desirous that the question should be settled—for you see in the Despatch that Lord John Russell is quite disappointed that the tax had not produced the desired effect, of making the landlords come to an equitable arrangement with the tenantry. I cannot see that any person was so ignorant as to believe that that tax would have any influence whatever to induce the landlords to come to any equitable arrangement; but, on the contrary, that it was to give them another plea to collect money to pay the tax by harassing the tenantry, as they are now doing, with distraints, writs, and ejectments.

Three proposals for the settlement of the land question have presented themselves at the Colonial Office, beside that contained in my letter. First, an application for the establishment of a Court of Escheat. Secondly, the Crown to purchase the land from the proprietors, at the expense of £200,000. Thirdly, a heavy penal tax on wilderness land. Before we examine these proposals, it is necessary that we find out where they came from. It was not from me, as I presented only the first; it could not have been from the inhabitants, or, in all probability, I should have heard something of it. It could not have been from the lesser proprietors, for they are blamed by ministers for withdrawing themselves from the Legislature of Messrs. Cunard and Young; and it could not have been from these personages themselves, as it appears they presented an Act of quite a different description; and it is surprising, that instead of recommending their Act so strongly, Lord John had not given it the Royal Assent! So, as the three last propositions have not been made by any of the parties named, there is every probability that they were sent home in the confidential Despatch of the 7th May. It appears to me that the Court of Escheat sought for by that proposition would place the settlement and unsettlement of the people under the control of the Governor and Council; they would have it in their power to settle and unsettle whom they chose; and, having the land at their disposal, to increase their influence by patronage, might play a second Sir Francis Head! When we see that the men composing that body have always opposed an Escheat that would settle the people; that any body so constituted, who act in secret, and who are not responsible, either to the Crown or the people, but are desirous of assuming great powers and patronage, we ought to pause and enquire whether it would produce evil or good; yet we may be safe in saying this much, that if the Governor and Council asked for the establishment of a Court of Escheat, it is a proof that it can be granted, for certainly the Governor and Council would not ask for what could not be granted.

The next proposal, that of purchasing the proprietors' interest in the soil, is better understood from the objections made, than from the proposal itself. It appears that Lord John Russell sees no reason to dissent to the scheme, provided he was assured that the proprietors would be willing to accept the offer, and that the Colony would secure the return of the money advanced. The British Government would no doubt say that they had done a great deal for us in providing Officers with suitable salaries to administer the Government, and to afford us justice and protection—and yet Lord John Russell, in desiring that an equitable arrangement should be made with the tenantry, admits, that hitherto they have been inequitable dealt with; and our Government, who ought to do us justice, proposes that we should pay £200,000 for our rights—not that we have gold in our possession, as a temptation to entice an enemy; but we are to borrow the money, and, no doubt, have to stake our labour for the payment! If a foreign enemy, upon whom we had no claim for either justice or mercy, were to demand such a ransom, what would the men say who made such proposals? But I am given to understand that the people are tired of agitation, and desire that some arrangement should be made, that hereafter they may live in peace; but I hope they will not act as they have done formerly, to promise, through intimidation, what they can never pay.

The next and last proposition is, that for imposing a heavy penal Tax on wilderness land. I cannot see that this Tax would produce the desired effect of making the proprietors come to an equitable arrangement with the tenantry, unless coupled with some act of settlement. If the people are inclined to borrow money to purchase the proprietors' interest in the land, even at half the price proposed, then I think a tax of ten shillings per hundred acres, on all land, would be serviceable. I am aware I am treading on dangerous ground, to propose taxation; but I beg you will hear me with patience, and I think I can make it appear that such a tax would be for the benefit of the Island generally. If we were to pass an act of settlement for the people, and to purchase the proprietors' interest in the land, and at the same time to impose a tax of ten shillings per hundred acres upon all land, whether held of the Crown or of the proprietors, this would induce proprietors to accept of the proposal. It would prevent persons monopolizing large tracts in the prospect of its value being enhanced by the labour of adjoining settlers. It would reduce the price of wilderness land to persons who intended to purchase for the purpose of settlement and cultivation; the tax would go a considerable way to reimburse the Government for the purchase of the proprietors' interest; it would prevent the sale of large tracts for a small amount, which would otherwise have to be sold for money to reimburse the Government; and even if this were to be continued, after the land debt was discharged, instead of an *ad-valorem* duty on goods, it would benefit the people. This tax upon land would induce people to cultivate and make the best use of the land; and while it would reduce the price of wild lands, to persons who intended to settle upon and cultivate them, it would reduce the price of goods, and make trade more free.

In another part of the Despatch, Lord John Russell says—"I had hoped, from a statement contained in a letter, which has been lately received from an extensive proprietor, Mr. Cunard, that the proprietary body generally participated in the desire felt by that gentleman himself, to meet the wishes of the government; and therefore we are given to understand that the wishes of the Government are contained in that unreasonable plan proposed by Mr. Young to Lord Glenelg. Lord John Russell has said, that an equitable arrangement should be made with the tenantry—Mr. Young's proposals go to confirm every species of extortion that has been practiced. Lord John Russell has expressed his

doubts, as to whether the Colony could refund the sum of two hundred thousand pounds, if that were advanced, to purchase the proprietors' interest in the land—Mr. Young's plan goes to withdraw a million and a half, in money or produce, from the colony; and as this sum could never be realised, another million and a half would be required for Writs of Attorney, ejectments, mortgages, and law expenses. I am aware that there are not a million and a half of acres in the Island, but I know that a great portion of the land is let at two shillings, and one shilling and sixpence per acre, and some at a rent rising to five shillings per acre. I am at a loss to account for the recommendation of Mr. Young's plan; but the rest of the despatch will warrant the belief, that the Ministers and the Colonial Government are in earnest, that some equitable plan of settlement for the tenantry should be adopted, and we may rest assured that when Lord John Russell recommended an equitable arrangement with the tenantry, and expressed his doubt that the Colony could not refund £200,000, if advanced for us to purchase the proprietors' interest, he could not suppose that Mr. Young's proposals went to impose a far greater burthen. Lord John has expressed his doubts as to the willingness of the proprietors to part with their land at the stipulated price, but he could not doubt the willingness of Mr. Cunard, who had expressed his earnest desire to meet the wishes of the Government; and if the people try to come to an equitable arrangement with the proprietors, and fail in their endeavours, they stand in a much better situation, with this despatch in their favour, than they did formerly, having now the law and the ministry on their side. Whatever promises or indulgences the proprietors may have had from Ministers heretofore, the Ministers could not set aside the Order in Council, nor the Grants after they were passed, without a due course of law; therefore, as Ministers could not set aside Orders in Council to pass grants, after the grants were made, nor the Grants after they were passed, without a due course of law, they could not set aside any part thereof without using the same means as they would have to do to set aside the conditions of the grants. The Grantees are still bound, by the grants to the Crown, as trustees for the people to perform certain conditions, and to regard certain reservations. But through the delay or neglect of the Crown Officers to enforce the performance of those conditions, and to preserve the reservations, the proprietors have, without any law authority, and contrary to the conditions of their grants, imposed conditions on British subjects far more impracticable and oppressive than any conditions contained in the grants; and as we are the parties injured, instead of fruitlessly seeking new laws or new institutions from Ministers, we ought to seek redress by the laws through the Courts instituted in the Island; and if they refuse a Trial, or decide that the tenants shall perform their conditions to the proprietors, and that the proprietors are released from the performance of their conditions to the Crown, as trustees for the people, then, in that case, we must carry our suits to the Courts in England, and lay our complaints against our Courts in the Island before Parliament. I would therefore recommend to you to contribute the means for that purpose. If you collect money to procure men of character and ability to plead your cause—and, to show that I am in earnest, for every nine pounds that you contribute, I will add one to make it ten; and at this rate I will go as far as fifty pounds; and as soon as you appoint a Committee to receive the money and conduct the proceedings, I will place twenty pounds in their hands, as a commencement, to be used. I can also inform you that our grievances can be brought before Parliament, without any further delegation or expence.—A member of Parliament, to whom I applied, and submitted the whole documents, went through them with a research and scrutiny surpassing my expectation; and when he became acquainted with the subject, he was of opinion that we ought to have a trial in the Island, and if it went against us, we would have a much better case to bring before Parliament.

I have likewise to inform you, on good authority, that the Grants which have been made contrary to the Order in Council, that is, grants that do not contain the Reserves for a free Fishery, are illegal! These are all I can recollect at present, which I consider necessary for your information; and I say to you now, as I said formerly, your future welfare depends on your moderation and firmness; and if you allow those who have been served with writs and distraints to be ruined for the want of the means to employ trustworthy men to plead their cause, it will come to your turn next to be served in like manner.

Mr. THOMSON said—After having given the question of Escheat, and the settlement of the Colony, every consideration in my power, I deemed it to be my duty to submit to the Lieutenant Governor a scheme for the purchase of the right of the proprietors in the soil, similar to that referred to by Lord John Russell, in the Despatch now under consideration: I must therefore avow myself to you as (if not the author or agitator of the scheme), at least, the advocate of such a measure; and why?—because the grantees, their heirs and assigns, have held 50 or 60 years possession, partly by virtue of their grants, and mostly by virtue of indulgences. Now, who amongst us would not complain of a government that would allow us as grantees, heirs or purchasers, to be dispossessed of our property, after such a lapse of years, and when law after law, on almost every page of the Statute Book, had been allowed to be passed, confirming our titles, either directly or indirectly? I say, every one of us would complain. Government, no doubt, thought they acted justly, wisely, and for the public good—time has, however, shewn the contrary, and discovered the great error they committed, by allowing the over-reaching and cunning proprietors to deceive them, whereby they have entailed on this Colony the great evils complained of—and as it is a principle of law (I think), that no person can take advantage of his own acts, so neither could the Government. The only way then appeared to me to be, the one generally resorted to by individuals, and by Government, too, to settle a difference which cannot otherwise be disposed of—that is, by money, which is taken to be an equivalent for a wrong, and the purchaser of a right. Now, you have wrongs, long and justly complained of, and the proprietors' rights, long asserted. Legislatures are for settling such matters and differences as are beyond the power of the lower Courts to adjust. Let, therefore, a law be passed, securing to the Crown, on the Land and the Revenue of the Colony, the repayment of the amount that may be adjudged to the proprietors—this will remove one objection, and the greatest one, to the scheme. The second objection is—that the proprietors "might be unwilling to dispose of their lands on these terms." Lord John Russell can, however, soon settle that point, as he has done parallel affairs. Besides, the public interest, the peace and prosperity of the Colony, and the wrongs of the many, demand an immediate settlement of this question. The Escheat of the land would merely place them in the hands of the irresponsible advisers of Government, who would take care of themselves and their friends first. Your

share would be as small as possible, and cost as much in the end, likely, as the value of your places, so that you would not be great gainers by such a measure. Taxation, penal taxation, is only a measure that can be justified as a last resort, and will not relieve you—will not pay for the back rents. Do not look upon that for relief; and as to agreeing with or paying the proprietors—never for once think of it; contend with them to the last, and finally leave them your respective places good for nothing, rather than submit to be first gulled and then made hereditary bondsmen. If they possess rights, they have been acquired by your being wronged, so that a conventional settlement of the question becomes a measure of justice as well as of state policy. My advice, therefore, is, to call upon your Representatives to pass a Bill to purchase their rights, by remittance—some of the proprietors will, I feel assured, at once consent. To contend against them, on any other principle will, I fear, end in disappointment. Were the land re-vested in the Crown, on the principle of remuneration to the proprietors, the settlement of the lands would be under the control of the Legislature; and who would you trust to obtain your rights in this case sooner than your Representatives? I say to you again, advise your Representatives to pass such a Bill, which I hope will pass into a Law, and I hesitate not to say, peace and prosperity will soon be the portion of P. E. Island.

Mr. LE LACHEUR felt pleasure in observing that so many had attended, notwithstanding the bad state of the travelling and the want of sufficient notice, and he was happy to see so many of his constituents amongst them. He said that the Despatch was sufficiently commented upon by the gentlemen who had spoken, to require any further explanation from him. He was sorry to remark, that a number of distraints had lately been made for rent, and some cases were to come on in the Supreme Court at Charlottetown at the next sitting. He recommended highly the appointment of a Committee to watch over the proceedings, and receive contributions to defray law expenses. And should it be thought advisable to come to any arrangement with the proprietors, let it be made through the Legislature, and they might rely that their Representatives, when in Session, would do their duty and protect their interests.

Mr. MACINTOSH was happy to find that a desire prevailed to appoint such a Committee, and entered at some length on the utility of the measure, and recommended that they be appointed from the different Districts; and he hoped that they would be liberal in their subscriptions; at all events, there was likely to be a good example set for them to go by.

Several other gentlemen addressed the meeting; after which, the following Resolutions were severally proposed, and passed unanimously:

Moved by David Johnson, seconded by Charles Sanderson, jun.—

1. Whereas the fraudulent and oppressive transactions of the Proprietors have been represented to Her Majesty's Government, and, in consequence of such representations, the Secretary of State for the Colonies having recommended to the Proprietors to come to an equitable arrangement with the Tenantry—Therefore, Resolved, That the people cannot with safety make any arrangement or agreement with men who have repeatedly deceived them, and that therefore the people will not trust to or depend upon any terms or promises of the Proprietors, unless such offer or terms be made to the Representatives of the people, in General Assembly, and passed into a Law.

Moved by James Douglas, seconded by Mr. Benjamin Clow:—

2. Whereas it has been repeatedly published, and sufficiently made known, that the Grants of this Island were made subject to conditions which have not been performed, and reservations which have not been preserved; and through the neglect or delay of the Crown Officers to enforce the performance of the conditions, and preserve the reservations for the Fisheries, the Grantees have been enabled and encouraged to retain the Lands, together with the Fishery Reserves, without the performance of any conditions on their part, and to impose impracticable conditions upon British subjects, who have improved the Land, so as to have the lands of the Colony and the labour of the inhabitants without any trouble or expence, contrary to the intentions of the Original Grants; and whereas the inhabitants having been led to believe that the Laws and the Government were just and equitable, have applied to both without the desired effect—Therefore, Resolved, That it be recommended to the Representatives of the people, in General Assembly, to institute an inquiry into the proceedings and decisions of the Courts of Law and Equity in cases where the proprietors of the grants have prosecuted the inhabitants for rents, and to report the state of the Colony to the British Parliament.

Moved by J. W. Le Lacheur, Esq., seconded by John Morrow:—

3. Resolved, That it is necessary to contribute money, to defray the law expenses of the Tenantry, and that a Committee be appointed, to receive such subscriptions, and also to conduct and watch over the proceedings for rent.

And the following gentlemen were severally appointed for that purpose:—J. W. Le Lacheur and Donald Macdonald, Esqrs., Messrs. Benjamin Clow, Murray Harbour; John Fraser, Belfast; and Charles Sanderson, jr. St. Peter's Bay.

Mr. Dalziel having left the Chair, it was taken by Mr. Benjamin Clow, and, on motion, the thanks of the meeting were tendered to the Chairman, for the regularity and good order which was observed in conducting the business of the meeting; after which, three hearty cheers were given for the Queen, and the meeting broke up. The Committee retired into Sentiner's, and made choice of Mr. Clow, as Treasurer, for receiving subscriptions, to whom Mr. Cooper paid down £20, as a commencement of the fund.

DONALD MACDONALD,  
Secretary.  
Big Spring, Lot 44, Jan. 4, 1840.