

The Examiner.

AND SEMI-WEEKLY INTELLIGENCER.

"THIS IS TRUE LIBERTY WHEN FREE-BORN MEN—HAVING TO ADVISE THE PUBLIC—MAY SPEAK FREE."—MILTON'S EURIPIDES.

NEW SERIES.

CHARLOTTETOWN, MARCH 27, 1850.

VOL. I.—NO. 18.

HOUSE OF ASSEMBLY.

FRIDAY, March 8th.

QUESTION OF PRIVILEGE.

QUALIFICATION OF MEMBERS.—The House having resumed, the Hon. E. Palmer rose to call the attention of the House to a question of Privilege. The honorable and learned member commenced by observing that the new Election Law had been found to operate well, and to the satisfaction of all parties; it was therefore most desirable that, in every case, it should be carried out impartially and in good faith. The qualification of a member of the Assembly, as fixed and defined by Law, was a very moderate one indeed; and the Law of the country with respect to that qualification ought to be carried out, and no man ought to be suffered to evade it with the knowledge of the House. In consequence of his having reason to believe that a certain individual (Mr. LeLacheur) had taken his seat in the House without being duly qualified according to the Election Law, he would move, according to a provision of that Law, that John LeLacheur be required to lay upon the Table of the House the Schedule of his Qualification. If Mr. LeLacheur was possessed of a legal qualification, it was very easy for him to prove it; and any honorable member rising in his place had, according to Law, a right to require him, or any other individual, respecting whose qualification reasonable doubts should be entertained, to prove, if he could, that he had a legal right to the seat which he occupied in the House. He (the honorable and learned member) was prepared to show that unless Mr. LeLacheur was possessed of another property worth £50, besides that upon which he qualified at the nomination of Candidates, he was in fact possessed of no legal qualification at all, and had, therefore, no right to retain the seat which he had taken in the House: for he held in his hand a copy of the instrument, recorded in the office of Registrar of Deeds, dated as far back as 30th day of December last, whereby he (Mr. LeLacheur) had absolutely conveyed all his right, title and interest to and in a certain Leasehold Farm, the same being supposed to be the only property, either leasehold or freehold, on which he (Mr. LeLacheur) could hope to rest his claim to a legal qualification.

Mr. COLES observed that—though he was aware that it was not absolutely requisite, according to parliamentary usage, that any previous notice should be given of a motion on a question of privilege—it would have been no more than a due exercise of courtesy from one honorable member of the House to another, in such a case, to have given in the Order Book the notice required with respect to intended motions of another character. He was, however, afraid that the motion was not made in a fair spirit of enquiry, but merely to gratify private spleen, by harassing the honorable member who was the object of it, and to throw an imputation upon his character. He (Mr. Coles) knew the honorable member to be possessed of a good and valid qualification; and he hoped the House was possessed of too much good sense and good feeling to sanction so needless and vexatious an investigation as that proposed by the hon. member for Charlottetown. The honorable member (Mr. LeLacheur), anxious to convince his friends of the validity of his qualification, had, on his coming to town, shown it to him.

Mr. LELACHEUR then rose, and spoke to the following effect: It had often fallen to his lot to have the gauntlet thrown down to him; and he had, as often, been ready to take it up. It had been no unusual thing for his political enemies to take aim at him, as if he were a target set up to be shot at; but, however deadly their intentions, he had fortunately hitherto escaped uninjured in body and unshaken in mind, although he could not make the same consolatory reflection with respect to his pocket. Were he even to be arraigned at this time, as it was once the intention of a party in the Island, that he should be, on a charge of High Treason, it would be a heartfelt consolation to him that he would be tried by a Jury of his own peers, and not left to the tender mercies of the learned member for Charlottetown. It was such vindictive feelings as those of the learned member, manifested towards him and men like him, that had, in a very great measure, hastened those reforms which were about to take place in the Colony. It was well known that, at no time, had he displayed any dread of those who felt inclined to persecute him. He had never feared the infliction of their scourge; and all their most bitter scorn had never been able to make him swerve from the path of duty, nor from raising his voice on behalf of the injured Colony. What he had done, he had done advisedly. He had, before the Elections, shown

his qualification to some of the magistrates in his District, who agreed with himself that it was a legal qualification, as he was in actual possession of all the property that he had ever possessed. The attack, however, he felt convinced, was not made upon him because it was believed he lacked a qualification, or because the honorable and learned member (Mr. Palmer) thought he had turned his coat; but the move was made because he had told the people that they were not in the enjoyment of those benefits and blessings which the British Constitution was calculated to bestow, and would certainly confer upon them, were the Government of the Colony administered in accordance with Responsible Principles. That was the real, the sole cause of the clamour which had been raised against him; and he might adopt the words of Milton, addressed to the detractors from the merits of his works: "I did but prompt the age to quit their clogs by the known rules of ancient morality, when, lo! an envious noise environed me, of owls and cuckoos, asses, apes, and dogs;" or "O! save free conscience from the paws of hireling wolves, whose gospel is their maw." The honorable and learned member put him in mind of a caricature which he once saw in the window of a Bookseller's shop in the Island of Guernsey, in 1804. It represented a waggoner, dressed in his peculiar costume, (a smock frock), scratching his head, and a liveried servant standing by and saying to him, "John, why don't you let those democrats alone?" To which interrogatory the waggoner replies, "Ned, they are aristocrats, for see how they stick to the crown." He (Mr. LeLacheur) did not mean to say that the honorable and learned member stuck to the Crown; but he certainly would say that he stuck to the old corrupt system—the leaves and the fishes were his all-engrossing consideration. With respect to his qualification, he (Mr. LeLacheur) was ready to comply with whatever the House should enjoin: he was in their hands. All that he had done had been done advisedly, and in the full belief that he was in no way seeking to abuse or contravene the Law.

Mr. FRASER said that such an enquiry, which might be extended to every member of the House, would, if sanctioned, be arbitrary, inquisitorial and odious. If the constituents of any member were satisfied that he was a fit and proper person to represent them in Colonial Parliament, that ought to be quite sufficient to entitle him to occupy his seat without molestation.

Mr. HAVILAND maintained that it was due to the reputation and honor of the House that—if it were known, or even supposed, that any individual had, contrary to the Law, taken his seat in the House—a prompt and due enquiry into the case should be immediately made, and the individual be either confirmed in his seat or expelled by the decision of the House.

Mr. MOONEY said that, if he remembered rightly, every Candidate, when put in nomination, was required to produce and swear to his qualification, before the Returning Officer. If, however, after the meeting of the House, they should think fit to enquire into the legality of any member's qualification, it was competent for them to require him to lay his qualification upon the Table of the House, for due investigation; but the power to do so was not vested in any one member.

Mr. WARBURTON observed that the power rested in the House; and, in his own case, not long ago, it was shewn that the power of the House was superior to Law. If certain hon. members were satisfied that they, and the majority of the Assembly, with whom they then acted, had determined according to the constitutional power of the House in his case; how could they, with any show of consistency, seek to set aside the power of the House to decide, without reference to Law, in the present case.

Mr. POPE could not see that the requiring of a member, in accordance with the Law, to satisfy the House as to the legality of his qualification, could be construed into an imputation upon his character. A member whose qualification was doubted, ought rather to be pleased than annoyed—if he knew his qualification to be positively good—when he was afforded an opportunity to establish its sufficiency and legality before the House.

Mr. LELACHEUR expressed his readiness to do whatever the House commanded him to do, with respect to his qualification; but he would certainly resist the vindictive call which had been made upon him by the hon. member for Charlottetown, unless the House should think it right to order him to submit to it.

Mr. WHELAN remarked that he was quite aware that his own qualification, as well as that of his friend (the hon. member from Murray Harbour) had been very freely called in question by certain parties; but he

could produce as good a qualification as the law required, and with as good grace as any member of the opposition. The objection to a member's qualification, the hon. member argued, ought to be made before he takes his seat—before he is allowed to vote in the House: but the hon. member (Mr. LeLacheur) had been allowed to take his seat unopposed and to vote unquestioned for three days. Were the House now to entertain the question submitted by the hon. member for Charlottetown, they would be going far beyond the requirements and limits of the Law. Were they to consent to enforce it, they would, in fact, be erecting themselves into an arbitrary and inquisitorial Court of the most odious character.

Hon. E. PAMEER rose and said that he held in his hand an attested Copy of the Assignment of Lease of 50 acres of Land by John W. LeLacheur to Edward Jorden, duly executed on the 30th day of November, 1849, and registered the same day on the oath of the subscribing witness, which he begged leave to read for the better information of the House touching the question. The hon. member then read the Copy, which set forth: That, for and in consideration of the sum of £150 currency, to John Windsor LeLacheur in hand well and truly paid by Edward Jorden, his executors, administrators, and assigns, a certain tract of land containing fifty acres, and all and singular the premises belonging thereto, with their appurtenances, and all the estate, right, title, interest, term of years yet to come and unexpired, property, claim, and demand whatsoever of the said J. W. LeLacheur, of, in, to, or out of the said premises, every or any part thereof, to have and to hold the said fifty acres of Land, &c. &c., unto the said Edward Jorden, from the 30th day of November, 1849, for and during all the rest, residue, and remainder of the term of 999 years by indenture of Lease granted thereof: subject nevertheless to the payment of the rent and performance of the covenants in the said Indenture of Lease on the tenant or lessee's part to be paid, done, and performed. Signed and sealed by the said John W. LeLacheur, in the presence of John Lawson. The hon. member then read a Certificate from the Registrar of Deeds, of which the following is a copy: "I certify that there does not appear to be registered in this office any Real or Leasehold Estate, at present vested in the name of John Windsor LeLacheur. Registry Office, P. E. Island, March 7th, 1850. T. H. Haviland, Registrar." The hon. member then proceeded to observe that the Electors who had returned Mr. LeLacheur might have taken it for granted that he was, at the time of the election, in legal possession of the Leasehold which, on former occasions, had constituted his qualification; but now when it was shown to the House that he had, by a legal sale and transfer of his Leasehold interest, divested himself of that qualification, and they had cause to think that, at the time of his election he was not possessed of any other, should they, for party purposes, smother up the enquiry, they would stamp themselves with indelible disgrace. The House certainly had it in their power to deal with the motion as they thought proper; they were supreme, and, although their determination might be stigmatized as partial and unjust by the judicious and conscientious among the people, they had no reason to entertain any apprehensions of their being arraigned at the bar of justice on account of their decision, whatever the hon. member might have to dread on that score. He (the hon. member) maintained that his qualification was good; and yet he refused to produce it. And why did he refuse to produce it? Only because he knew it would be his own condemnation. He would not produce it, he said, until he was ordered by the House to do so. So he said, but if the House were to order him to produce it, he would comply with the greatest reluctance. He (the hon. member) would not undertake to prosecute the enquiry; and he cared not how the majority should get rid of the motion, whether by previous question or motion of adjournment. The question would be laid before the public: they would read, and he would leave it to their determination.

Mr. DAVIES said the Electors who returned the hon. member were quite capable of deciding touching his qualification and the propriety of their election. The motion, he feared, had had its origin more in ill-feeling, than in public principle.

Mr. POPE maintained that the enquiry was clearly and distinctly authorized by law, and that the House, if they regarded their own honor and credit, would not, by their decision, sanction any violation of the law. In urging this opinion upon the House, he had no object to gain, nor any private feeling to gratify. He was no enemy to the hon. member from Murray Harbour; but