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EDWARD WHELAN]

This is true Liberty, when Free-born Men, having to advise the Public, may speak free.—EURIPIDES.

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Colonial Legislature.

LEGISLATIVE COUNCIL.

MONDAY, March 31.

PETITIONS AGAINST THE TENANTS' COMPENSATION AND RENT ROLL TAX BILLS.

(Continued.)

Hon. COLONEL SWABEY.—Your Honors, there are statements of the petitioners which I must say I consider particularly absurd. One is, their declaration that the principle of the Tenants' Compensation Bill is an unprecedented innovation upon fundamental rules of law. The Hon. Attorney General has shown that the principle has been repeatedly recognised in the British House of Commons, and would have been recorded on the Statute Book, had it not been for the difficulty of adjusting the details. I may mention, as proof of the principle of compensation to the Tenant not being considered so monstrously absurd and unjust, that, in 1851, a law was passed allowing the tenant in England, where it is not so much required as in Ireland, at the expiration of his tenancy to remove improvements he had made, although they should be fixtures, including all kinds of buildings, the only pre-requisite being, that they should be offered to the landlord at a valuation to be ascertained by arbitration. There is another strange assertion put forth by the petitioners, namely, that the Government wish to force them to sell their lands for less than their value. We have had recently an instance of an agent purchasing a large tract of land from his principal at a price less than the Government are authorized to give by the Land Purchase Bill.

Hon. Mr. HAYTHORNE. I do not rise, your Honors, for the purpose of justifying all the statements contained in the memorials, but I think a little latitude may be conceded to individuals whose property is attacked, if they should, in their endeavours to defend it, transgress in a slight degree the strict bounds of propriety. Landed property has always been considered the safest investment for capital, and it is not to be wondered at, that parties who may have invested large sums in land, as a provision for their families, should express their opinions with some warmth, in opposition to measures calculated to depreciate their property to a serious extent. At the close of the discussion the other day, your Honor Colonel Swabey offered a resolution for the appointment of a Committee to prepare resolutions, expressive of the opinion of this House on the various petitions against the Rent Roll and Tenants' Compensation Bills. To that resolution, your Honors are aware, I proposed the following amendment:—That any action regarding certain memorials, addressed to Her Majesty's principal Secretary of State for the Colonies, praying Her Majesty not to assent to two Acts (passed during the last Session, (which Acts have subsequently been refused the Royal Assent,) is useless, and derogatory to the dignity of this House. This amendment, your Honors are aware, was not seconded, but although it received so little favor at your Honors' hands, I think that what we have heard on this subject from those who have spoken on it fully, proves the truth of my assertion; for if the statements complained of are, as represented, false, absurd and unfounded, they certainly should be considered beneath the notice of your Honors. If I were insulted, by a man not in possession of his reason, I would not take off my coat to fight him; yet these documents are characterized as the productions of insanity. I should like to know if there are not other documents against the Bills than those on your Honors' table? why should we not have them all? One was sent from myself, which is not produced. The usual course is for the remonstrant to transmit his remonstrance to His Excellency, whose Government thus has an opportunity of forwarding with it such comments as they may deem necessary. The duty lay on the Executive Council to take the sting out of the petitions, by transmitting to the Colonial Office their grounds of opposition to the statements of the petitioners. This course would enable the Colonial Minister to decide as to which side of the question the preponderance of reason and argument was to be found. I do not intend to justify the reference to individuals by name. I agree with his Honor, the President, that such a course is undignified; and I am satisfied that the petitioners have gained no credit with the Colonial Minister by their allusions to individuals; it is unworthy of our notice in our collective capacity. I have no objection to the speech of the hon. member, Mr. Craswell, who has highly distinguished himself as an orator, and I hope we shall hear many more speeches of the same eloquent strain from him. But I may say, that he went a little too far, when he accused others of slandering. He should be careful that he does not afford in his own person an instance of the fault he denounces. As to the allusions to the One-Ninth Bill, I supported it; it received opposition here and at home, and by none was it more strenuously opposed than by the Hon. Charles Hensley.

Hon. ATTORNEY GENERAL would like to know how the gentleman had opposed it at home?

Hon. Mr. HAYTHORNE.—By his protest, which I am under the impression was sent home.

Hon. ATTORNEY GENERAL.—Then the hon. member is misinformed, and I trust that he will take care in future to found his statements on facts.

Hon. Mr. HAYTHORNE.—I regret the error under which I labored. I supported the One-ninth Bill, because it would have the effect of removing a power of oppressing the tenant, which, although a proprietor, I consider should not be entrusted to any man. As to the Tenants' Compensation Bill, I was always opposed to that measure, as one that is not required, and the reasons for my opposition are recorded in my protest, which appears on the Journals of this House. The tenant gets sufficient compensation now; he has generally eight or ten years without payment of rent; then if able, but unwilling to pay, he should be liable to the provisions of his lease. As to the calculations of the hon. member, based on the very probable supposition of a landlord reaching the age of Methuselah, to prove that it would be more advantageous to sell to the Government than to lease his land, those calculations may be correct, but no people are more opposed to compulsory measures than Englishmen. The principal of the Rent Roll Bill is a violation of British law; and, your Honors, I trust that the day is far distant when we shall witness the recognition of the principle, that it is fair to tax a portion of the community for the benefit of the whole. The hon. member went too far in his remarks on a Rent Roll being a qualification for a seat at this Board. In making these observations, I feel that I stand alone, and conscious that my views will not be adopted by a majority of your Honors, and doubtful if I shall even have my motion seconded. When His Honor the President took his seat at this Board there were but one or two Liberals, and I believe his seat was offered him for this reason, if no other, that a solitary Liberal member might not be left to sit alone, without any one to second him. I recollect in the British House of Commons, Lord Palmerston stated on the debate on the Hango massacre, as an instance of British love of fair play, that a butcher, having his knife in his hand,

being about to kill an animal, was struck by another man. The bystanders cried shame on the coward who would strike a man with his fist. His Lordship also cited the instance of a French Cavalry Officer, who, during the Peninsular war, rode furiously up to attack an Englishman, when he discovered that his opponent had lost his sword arm; the gallant Frenchman generously bowed his sword, and making a courteous salute, rode boldly on to seek a more equal foe. Such spirit, it would seem, does not animate the members of this Board. I sit here alone on questions of this nature; there is no one to support me in resisting the attacks on proprietors. I can assure your Honors, that were the case reversed, I would not tamely sit by and see an hon. member wanting a second, to enable him to bring his views under discussion. Hon. members may style themselves Liberals. I consider myself one, but I would not extend to them the same treatment that is awarded to me. I wish now, your Honors, to say a word or two on the remarks made by his Honor the Attorney General. It is a pity that he had not used his arguments to the Colonial Minister; they might have had a great effect. I consider that he should have laid on the table the reasons which he urged in favor of the Bills receiving the Royal Assent. They would, I doubt not, be a curiosity; at all events, they would enable your Honors to form an opinion as to whether the Hon. Attorney General or the Colonial Minister had the best of the argument. It has been stated that the proprietors do not benefit the Island. Now, your Honors, I think we have pretty good proofs to the contrary. This building itself contradicts the assertion, and the roads throughout the Island are another refutation. The proprietors at present pay the Land Tax on about 12,000 acres of land, which is taken up by roads. The complaint about want of enterprise comes with a bad grace from those whose conduct has the effect of causing the very evils which they deprecate, for how can an enterprising spirit manifest itself in a country where the rights of property are not on a sure and stable foundation? And so long as the agitation of the land question and the attacks on proprietors continue, so long will the present state of things continue. Before I sit down, I will say a few words on the observations of his Honor, Colonel Swabey, when he alluded to the English Act permitting the tenant to remove buildings. In England the tenant generally holds under lease for a few years, and it is consequently necessary that he should not lose the value of his improvements; and the principle of compensation has been recognized from I may say, time immemorial. The method of ascertaining the value differs in different places, but it is usual to appraise the value of manure, lime, fencing and the standing crop. Here, however, where leases are held for 999 years, the case is quite different, and the character of the buildings erected by tenants is such, that in 25 years time they would hardly hold a sheep. Before I sit down, I wish your Honors to understand me, as not justifying the tone and many of the allegations contained in the petitions. My object in rising to address your Honors was merely to combat arguments which I considered futile. I may express the hope that the cogent arguments of Mr. Labouchere will deter the Legislature from protracting this pernicious agitation. The present is, I believe, almost the first case of Bills being refused the Royal Assent under Responsible Government, and I cannot but feel humiliated, not at the refusal, but at the fact of the Bills having ever been sent home. I shall move the amendment, although I am aware that my motion is a mere form.

Hon. COLONEL SWABEY.—The allusion of his Honor to the Hango massacre is not very felicitous, for his situation in the debate bears no analogy to that of the officer bearing a flag of truce. Our position is purely defensive, and we are only repelling the attacks made upon us, while our opponents have no claim to forbearance, because they have raised the standard of war. His Honor seems to think it derogatory in this House to interfere in the matter of these petitions. I can see very good reasons why we ought to notice them. It has been stated that the archives of the Colonial Office are open to the inspection of proprietors, to make them to counteract the wish of the people of the Colony. This, I conceive, renders it necessary that the Legislature should express its opinion on statements so grossly false and injurious as those to which your Honor's attention has been called. No man can say that our Legislature is independent, while any man can truly boast that he can nullify our proceedings. There is no intention on the part of any of your Honors to deny the legitimate exercise of the right of petition, but some regard should be paid to decency of language. I will admit that in some respects those documents are beneath contempt, but who can tell the effect of their going abroad unanswered? Are we not to repel the charge of having acted with systematic injustice for five years? Are we not to notice language so scurrilous, that the very supporter of those who use it, cannot as a gentleman, justify?

Hon. Mr. BAGNALL.—After the length to which the debate had extended, I will not detain your Honors with many observations of my own. I consider that the proprietors have made an outcry greatly beyond what the paltry five per cent tax would justify. If their land is of so little profit, surely it were better for them to sell. I shall give my support to the resolution, and in doing so, I wish to be understood as not limiting in any way the right of the petitioners to state their own case; but in doing so, they should not place those who differ from them in a false position. As to his Honor, Mr. Haythorne's remark, that the proprietors pay a tax on roads, I am not in a position to refute the assertion, but in the part of the country where I reside, the tenant pays far more than the Landlord.

Hon. Mr. WRIGHT moved the addition of the word "calumnious" as an amendment, which was agreed to; and the resolutions of which the following is a copy, was adopted:—

"Whereas this House has reviewed the documents laid before it by order of His Excellency the Lieutenant Governor, purporting to be Petitions and Memorials against Her Majesty's assent being given to two Acts of this Legislature, (namely the Rent Roll Bill and Tenants' Compensation Acts): Be it resolved, That it is the opinion of this House, that the language used in these documents, in many parts, cannot be justified by facts, and is grossly calumnious and offensive to the members of this House, inasmuch as it is therein imputed that several laws which have not only passed this Legislature, but received the Royal Assent, during the last five years, are of an unjust and arbitrary character; and the charge, that corrupt motives have actuated the Legislature in passing the two measures more directly the subject of these Memorials, is equally unfounded in fact."

The resolution having been reported, the Hon. Mr. WALKER rose and said:—Mr. President.—Not having had an opportunity of making any observations while the House was in Committee, I will now say a few words on the subject of this discussion, without occupying the time of this House by going at length into the question. In doing so, I must say that it will become Mr. R. Bruce Stewart to slander, as he has done, my hard working fellow countrymen—the men on whose toil and industry his existence mainly depends. But with respect to that part of the petition wherein it is stated that my hon. friend, Mr. Craswell, and myself, are not qualified to sit at this Board, I think our right as good as that of any one whose name is attached to those documents. I have been now upwards of eighteen years engaged in business in Charlottetown; during that period I have annually paid into the Treasury from two to three hundred pounds. I am a freeholder. When my father came to this Island, he was about twenty-four years of age. After his arrival he settled on Township 55, where by hard labor, strict integrity and steady persevering industry, he rendered himself independent, and before his death, which occurred in 1845, he was enabled to establish all his sons, six in number, as freeholders. How many of the parties who have put their names to the petitions can say as

much? Although Lot 55 was escheated that fact did not materially benefit the settlers, as it was mostly regranted to parties residing in Charlottetown, who resold to the tenant, at prices higher than the proprietors now ask for their lands. I know those parties whose names are signed to those petitions, and I know their antecedents; and if I chose I could make some of them blush to think that they had found fault with my appointment to a seat in this House. The resolution was agreed to, Hon. Mr. Haythorne being the only dissenter.

Gleanings from late Papers.

(By Telegraph to the St. John News Room.)

FOUR DAYS LATER FROM EUROPE.

ARRIVAL OF THE STEAMSHIP BALTIC.

TREATY SIGNED!

The following brief, but satisfactory despatch was received at the News Room yesterday afternoon. The Baltic brings dates to the 22nd instant.

NEW YORK, April 17.

Baltic arrived—Treaty of Peace signed by all the Plenipotentiaries on Sunday, 30th. Great rejoicings in Paris. English demonstrations much quieter.

Consols advanced to 93½. Breadstuffs dull about "Cambria's" quotations.

ADDITIONAL BY THE CAMBRIA.

THE PEACE CONFERENCE.—*Wilner and Smith's European Times* of the 29th ult., has the following remarks on the unexpected delay in concluding the treaty of peace by the Conference:—

"Another week has passed without peace being proclaimed, and people were wondering what hitch could have occurred in the deliberations. In this uneasy state of the public mind, the leading morning journal of yesterday, relying, evidently, on some scraps of information picked up in Downing Street, intimates, that while the last diplomatic difficulty was on the point of being settled, the claim which Prussia has put in to sign the treaty on the same terms as the other European Powers gave rise to delay, but that even this unexpected obstacle has been overcome. From the same source we learn that so near was the completion of peace before this interruption, that Louis Napoleon had given orders for the canon of the Invalides to announce it, at the same time that the *Te Deum* was resounding in the Churches of France for the safe delivery of the Empress. The Emperor, who delights in striking effects, must have been sorely mortified that it was otherwise; but the difficulty was too great to be immediately overcome. At length the point in dispute has been settled by a kind of compromise. Two protocols are to be drawn up, or rather we should say, have been drawn up by this time, to the first of which the signatures of the Allied Plenipotentiaries and those of Russia will be attached, and another which Prussia will be permitted to sign in conjunction with the representatives of other Powers. Lord Clarendon is said to have silently resisted the admission of Prussia on any other terms, and to have stood alone in the Conference in maintaining this position. There may be some speculation in this statement; but it is probably near the truth, and so near are we to peace that it would not surprise us if Lord Palmerston, on the evening of Monday next, did not in his place in Parliament announce the fact, reserving such details as the necessities of the case might suggest. The humbling of Prussia, even by the distinction here pointed out, may perhaps save some hostile criticism. It is two years yesterday since England declared war against Russia, and the armistice terminates on Monday, the 31st; but orders, we believe, have been despatched to the Crimea, prohibiting the renewal of hostilities in the event of peace not having been proclaimed before that time. But the discussion in the British Parliament will compel Ministers for their own sakes to give as clear an insight into the machinery at the Conference as possible, for the opposition are already preparing to make political capital out of whatever short-comings the terms of peace may present. On this head Lord Palmerston's Ministry will be vigorously assailed, and it is fortunate for him that his Foreign Minister is so popular with the country, and possesses the reputation of having been thoroughly in earnest respecting the war from its commencement. The terms of peace, we believe, are still a matter of conjecture, but it is useless to indulge in speculation when we are so near the reality."

STATE OF THE BRITISH ARMY IN THE CRIMEA.—The accounts from the British army in the Crimea are of the most flattering kind. The troops were never more healthy or in finer trim, and the regret with many is that the cessation of the war closes the avenue to that advancement which the chances of war brings to the fortunate.

ANGLO-FRENCH MEDAL.—Marshal Pelissier has issued the following order of the day:—

Soldiers.—A medal, commemorating the war in the Crimea, has been instituted by the Queen of England. That august Ally of our Emperor has wished to decree it as a testimonial of the estimation in which she has always held the many fatigues and dangers shared with her own soldiers. You will receive this noble sign, which will testify on your breasts the glories and fraternal achievement accomplished in many combats, and in a siege memorable forever. Re-entering your families, this medal will commemorate in the most remote villages the alliance of two great peoples.

CAUSE OF THE MORTALITY IN THE FRENCH ARMY.—The comments of the English press on the condition of the French army in the East has provoked an explanation from the official organ in Paris. This explanation throws a light on the mortality amongst the French troops, which seems like truth. It appears that the French army are encamped round the ruins of Sebastopol, where so many interments took place, and to this cause the sickness is attributed; whereas the English army, occupying a most healthy position, escape severe diseases to which the French are exposed. It is perfectly denied by the *Moniteur* that the French soldiers have been in any way deficient of clothing and the most wholesome food, including fresh vegetables from Constantinople, and fresh bread baked in their own ovens.

THE CRIMEA.—The *Times* has received its correspondence to March 15th. The conditions of the armistice had been settled on the previous day. Drafts of men were continually arriving from England. The Fourth Division numbered nearly 8000 men. The English and Sardinians generally desired the continuance of the war, while the French are glad it is over. In another campaign the French feel that it would be in vain for them to effect an imaginary superiority over their allies. Our army augments daily, while theirs continues to dwindle.

CLOSE OF THE CONFERENCE.—*Signature of the Treaty of Peace.*—Paris, Friday Evening.—The Congress has terminated its labour, with the exception of a formal signature of the conditions of peace, which, it is said, will be definitely signed by the whole of the Plenipotentiaries on Sunday next.

The *Post* also mentions Sunday; but the City article of the *Daily News* states that the treaty will be actually signed to-day. It is understood that this last statement rests on very excellent authority.

TEMPEST IN THE BLACK SEA.—The Black Sea has experienced another tempest, only inferior to the one in which the unfortunate Prince and other vessels foundered last November twelve months. The destruction of life and property has been serious. Several transports laden with war stores have been wrecked, and some steamships, engaged in conveying Russian prisoners to Odessa, had been obliged to return to the Bosphorus.

PROBABLE RETURN OF SMITH O'BRIEN.

When the memorial, signed by nearly one hundred and fifty members of the House of Commons, and presented by one of the most influential deputations that ever conferred with the British Government, had been laid before Lord Palmerston last year, we entertained a confident hope that the prayer of the memorial would be immediately granted and Smith O'Brien restored to his country. The tone of the premier on the occasion was kindly sympathetic with the object of the memorial. He was so gracious to the deputation, and so warmly expressed his desire to meet in any manner, consistent with duty or public policy, the wishes of such an influential mass of the House of Commons, that we expected in a few weeks the withdrawal of the prohibition. But time wore on—no Royal pardon was issued. Lord Palmerston transferred the memorial to the Home Secretary—Sir George Grey took charge of it—and so ended the document which had been prepared with so much trouble, and the deputation that urged its adoption with so much earnestness. Ministers, no doubt, had a variety of grave matters to occupy their attention, to which the neglect of the memorial was attributed by some of the friends, while others were foolish enough to connect the disregard with the manifestation of Russian sympathy in Ireland? If the latter were the fact, why should Smith O'Brien be held responsible for the opinions of others? He suffered for his own. He expiated by an eight year's exile the atonement of his sentiments, and we know of no moral or political principle which should exclude him from a return to Ireland because others exercise the undoubted privilege of every subject in a free state—to advocate any cause they think proper, and in whatever manner, consistent with legality, may suit their peculiar tastes. We cannot believe Lord Palmerston would rely on such reason to evade the fulfilment of a promise. Other motives he might have had—and we are at a loss to discover any beyond the "hurry of business"—but the idea of a "Russian sympathy" was obviously generated among the sixth class clerks of the Home-office. Now, that the war fever has sensibly abated, the attention of Government has been again directed to the case of Smith O'Brien. At his lordship's suggestion his private residence in Piccadilly was, on Saturday, visited by another influential deputation, not so numerous as the first, because the assizes had produced the usual dispersion—but sufficiently so to prove the deep interest the Irish members feel in the fate of their exiled countryman. The selection of his own house may have been the result of ordinary arrangements which rendered the Treasury Chambers of the First Lord inconvenient for the purpose on that particular day. But it may also have been intended as a compliment to the deputation—and as circumstances indicate the direction of air currents, so this slight circumstance leads us to hope, that now, at least, Lord Palmerston will not procrastinate. It is right, however, to observe, that he is but one of the cabinet whose decision will determine the question; and though his voice is potential among the select body, it is not absolute. From one member of the cabinet a strenuous opposition to the release of Smith O'Brien is popularly entertained. But there is no foundation for that belief. On the contrary, we have heard that Lord Clarendon not only offered no opposition when Smith O'Brien's case was last urged upon the Government, but generously expressed a wish that the prayer of the memorial should be instantly acceded, and without imposing any conditions to diminish the value of the concession. As we have already remarked, something intervened to check the action of the Government. Now the time is more favourable, and from the words of Lord Palmerston—if one may speculate again in what before proved so fallacious—we are confident that in a few weeks Smith O'Brien will be at full liberty to revisit all the scenes of his childhood—kindle at the sight of the old familiar faces—grasp many a well-beloved hand, and both receive and give many a tender embrace. His lordship's first words are re-assuring—"the subject should have his most anxious consideration, to which it was entitled, not only on account of its peculiar nature, but from the additional weight which it derived from the present influential deputation." An immediate answer he was not prepared to give; but he would submit the question to the general Government, and announce their decision immediately after the Holidays. To Smith O'Brien himself we leave the grateful task of thanking the gentlemen who signed the first memorial, comprising one-fourth of the House of Commons, and including men of every party. We should not set so much value on a document emanating from the whole Liberal Representation of Ireland. It is the diversity of the materials, working in harmony, which renders the O'Brien memorial so remarkable and pressed with so much force on the government. The Whig of Brooks' and the Conservative of the Carlton are equally anxious for his liberation. Lords and Commons vie with one another in generosity. All feel that, whatever the original offence, he had atoned for it amply, and that when querulousness might naturally be expected from a person in his position, Smith O'Brien never forgot the character he was born to sustain through life, that of the Irish gentleman. He indulged in no violent recriminations on the one hand, or yielded to craven submission on the other. He bore his hard fate with equanimity, and improved the painful years of banishment in studying the First Principles of Government which he elaborated into a formal treatise and published since his return to Europe. We would not raise expectations which possibly may not be realized. We before yielded to the delusion and are grown wary by experience. But at present we see nothing to prevent the issue of the royal pardon. State reasons there are none. Ireland is a model for the empire in its almost complete immunity from crime, and Ireland would accept with gratitude such an act of royal clemency and respect for national feeling. We set no value whatever on the absurd story circulated by the prince of story tellers at the London press, that Her Majesty is the chief obstruction to the unconditional pardon, or indeed any pardon, beyond the qualified condonation already extended to Smith O'Brien. We would not mix up Her Majesty with such an ungenerous proceeding, for it does not harmonise with the private opinions she once expressed in Dublin. As a constitutional Sovereign, she must be guided by the will of her ministers, and they by motives of public policy. Personally, it was generally understood Her Majesty was well disposed to the prayer of the petition.—*Dublin Freeman's Journal.*