

The Examiner.

A WEEKLY JOURNAL OF POLITICS, LITERATURE AND NEWS.

EDWARD WHELAN]

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

[EDITOR AND PUBLISHER.

VOL. VII.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, MONDAY, JULY 13, 1857.

No. 1.

Colonial Legislature.

HOUSE OF ASSEMBLY.

MONDAY, April 6, 1857.

AFTERNOON SITTING.

WAYS AND MEANS.

(Continued from the Supplement herewith annexed.)

Hon. COL. SECRETARY replied, that of the expenditure before the House there had not been a penny voted for the purchase of land. He could not see how the hon. member drew the conclusion which he had now drawn.

Hon. Mr. PALMER asked, why the proposed increase should be attributed to the expense of the education act more than anything else. That act had been based upon the principle that the expense connected with it, would be derived from the land tax. They all knew that it would never have passed if that expense had not been proposed to be raised from the land tax of the Colony. The Hon. Col. Secretary had gone so far as to say that the education act was of as much advantage to the people as if their land were free of rent. Well, on that principle, just lay on as much more taxation, and every man would have so much more. It could not be disguised, however, that the increase of duty was to pay for the Worrell estate. (Hon. Col. Secretary—Not a penny of it.) According, then, to the showing of the hon. Col. Secretary, it was £5,000 in arrears, besides about £6,000, which the people would never be called upon to pay over. That was the real secret of the proposed increase of duty; and why should it be kept from the people? No doubt, they would be taxed; and he foresaw it from an early part of the session. When they began to be taxed, they would begin to consider and to open their eyes. No person could pity them, if they would not raise their voices against it, but he could see no alternative. He, however, would not be a party to the proposed increase. In place of paying £3 or £4 for their quota of education, as formerly, the people would perhaps have to pay as much more again in the way of taxation. This Committee of ways and means should not have gone into so very rapidly after the public accounts were before the House. They had not been an hour or two before the House, before the House went into Committee on ways and means. No person in the minority knew anything about them until called upon to give his opinion on the proposed increase of taxation.

After some further remarks by Hon. Col. Secretary and Hon. Mr. Longworth, the question was put on the said resolutions, and the two first were unanimously agreed to, but on the question being taken on the third resolution the House divided:

Yeas—Hons. Col. Secretary, Wightman, Whelan, Mooney, Speaker, Messrs. Cooper, Dingwell, McDonald, Macintosh, Clark—10.

Nays—Hons. Messrs. Montgomery, Longworth, Palmer, Lord, Messrs. T. H. Haviland, Perry, Laird, Muirhead—8.

The House resumed. The Chairman reported that the Committee had come to three Resolutions, which having been read at the Clerk's table, it was ordered that the question of concurrence be now separately put on the said Resolutions; and the first and second of the said resolutions being again severally read, were, on the question being separately put thereon, agreed to by the House; but on the third resolution being again read, and the question put thereon, the House divided, when the numbers stood as in Committee, with the exception that the Hon. Col. Treasurer voted for the resolution instead of the Speaker, who was in the Chair.

The following gentlemen were then appointed a Committee to prepare and bring in a bill in accordance with the reported resolutions:—Hons. Col. Treasurer, Wightman, and Mr. Clark.

On motion of Hon. Col. Treasurer, it was resolved that no new matter, on which a bill can be founded, be introduced after Tuesday, 7th inst.

Adjourned. T. KIRWAN, Rep.

TUESDAY, April 7.

Hon. Col. Secretary presented a petition of several persons of the Bible Christian denomination, setting forth that the present act of incorporation of that body is inoperative, and praying its repeal, and the passing of another according to the petitioners the privileges enjoyed by other bodies of Christians. Laid on the table.

The House was then a short time occupied in receiving some of the resolutions reported from Committee of Supply.

Hon. Mr. Mooney presented the report of the Pauper Committee, which was then referred to a Committee of the whole House. After a short time spent therein, progress was reported.

Hon. Mr. Palmer introduced a Bill to be intitled "an act to increase the powers of the city of Charlottetown over corporations or persons entitled to open streets, squares, and thoroughfares for the purpose of laying down pipes or conduits." Also a Bill to be intitled "an act to extend and more particularly define the powers and authority of the corporation of the city of Charlottetown." Also a Bill to be intitled "an act to define the boundaries of the streets and squares of the city of Charlottetown, and to improve the public thoroughfares therein." Bills read a first time; second reading to-morrow.

Adjourned for one hour. R. LAIRD, Rep.

AFTERNOON SITTING.

The Bill to enable Henry Bessamer to obtain letters patent for the discovery of certain improvements in the manufacture of malleable or bar iron and steel, was committed to a Committee of the whole House. Mr. McDonald in the Chair. After some time spent therein, the Chairman reported the Bill agreed to without amendment. Report received, Bill read a second time, and ordered to be engrossed.

The Bill to prevent fraud by means of secret bills of sale of personal goods and chattels, was committed to a Committee of the whole House. Mr. Perry in the Chair.

[This act provides that a registry be established in each of the Counties for the purpose of registering all secret Bills of Sale, instead of, as heretofore, in Queen's County. It was objected to, however, on the ground that there should be also a general registry of all such Bills. After a good deal of discussion, on motion of Mr. Cooper, the House resumed, the Speaker took the Chair, and the Committee rose without reporting. So the Bill was lost.]

The remaining resolutions reported from the Committee of Supply were taken up, again read, and were all agreed to as reported, with the exception of the grant of £30 to the

Mechanics' Institute of Charlottetown, which, on motion of Mr. McDonald, was reduced to £20 on a vote of 12 yeas, against 8 nays.

The following Committee was then appointed to bring in a Bill to appropriate the Supplies granted to Her Majesty this Session, viz:—Hon. Col. Treasurer, Messrs. Clark, and McDonald.

Mr. T. H. Haviland introduced a Bill to extend the Elective principle to the Legislative Council. Read a first, to be read a second time to-morrow.

Hon. Col. Treasurer presented a Bill for raising a Revenue. Also, a Bill for appropriating certain moneys therein mentioned, for the service of the year 1857.

Hon. Mr. Palmer submitted a Bill the better to secure the independence of the House of Assembly. Read a first, to be read a second time to-morrow.

The Bill to alter certain provisions of the License Law, was read a second time, and committed to a Committee of the whole House. Mr. T. H. Haviland in the Chair. Several amendments were made, when the Committee rose, and reported accordingly. Report received, and the Bill ordered to be engrossed.

Adjourned. T. KIRWAN, Rep.

WEDNESDAY, April 8, 1857.

Hon. Mr. Wightman presented the report of the Light House Committee, which was adopted, and is as follows:—

"Your Committee, to whom were referred certain Despatches relating to Lighthouses, have to report—that it appears, from these documents, the British Government have built a Lighthouse on Cape Race, the cost of erecting which will be about £5,160 sterling, and the cost of its maintenance somewhat over £400 sterling, per annum; and assuming that the cost of its erection is to be paid off in five years, it will be necessary to raise a sum of about £1,500 sterling a year, to be reduced so soon as the cost of erection is paid off. It is proposed to raise these sums under the provisions of the Merchants' Shipping Act amendment Act of 1855, which empowers Her Majesty, by Order in Council, to impose tolls on British shipping, in respect of any new Lighthouse which may be required, on or near the coast of any British possession, by or with the consent of the Legislative authority of such place. It is suggested that such tolls should be collected at the port of clearance, in the United Kingdom, or in the Colonies, and then remitted to England, or it may be collected entirely in the United Kingdom, in the majority of cases.

It appears, from Despatch No. 42, of the 13th November, 1856, from the Right Hon. H. Labouchere to His Excellency the Lieutenant Governor, that the Law Officers of the Crown, in England, have pronounced their opinion, that under the above Act, the consent of the several Colonial Legislatures to the levying of these tolls must be obtained, before promulgation by Her Majesty, of an Order in Council imposing them, can legally take place; and an expression of assent is requested on the part of the Legislature of this Colony, either by means of an Address to the Crown or by Legislative enactment.

Your Committee are of opinion, that great advantage will accrue to the shipping of Prince Edward Island, passing between it and Great Britain or Newfoundland, from the erection of the said Lighthouse on Cape Race; they have, therefore, no hesitation in recommending that the assent of the Legislature to the promulgation of the Order in Council, imposing the above toll, at the rate of one-sixteenth of a penny per ton, should be at once notified by an Address to Her Majesty, on the subject; and it appears to them that this course will meet all the exigencies of the case, at the present moment, and render unnecessary any Legislative enactment on the subject, until some general arrangement is made, providing for Lighthouses on the coasts of all the Colonies, and establishing a general and equal system of contribution to that object, by the Colonies and the Mother Country.

There are seldom, if ever, any vessels navigating from this Island, upon Transatlantic voyages, to Ports not in the United Kingdom; and the toll upon ships engaged in the trade between this Island and Newfoundland can, at all events, be temporarily collected in Newfoundland, on their arrival there, under the local laws on the subject.

It appears that no communications have been received from the Governments of the neighboring Colonies, as to their willingness to contribute to the erection and maintenance of Lighthouses on the North Cape and East Point of this Island; but your Committee are of opinion that the subject should not be lost sight of, as it daily becomes of greater importance, from the constant increase in shipping.

Your Committee have to state, that by far the greater number of ships recently lost on the Northern and Eastern coasts of this Island, belonged to Great Britain, the neighboring Colonies and the United States of America, which shews that such Countries have an equal, if not a greater, interest than ourselves in maintaining Lights at East Point and North Cape, and should, in the opinion of your Committee, contribute to their erection and maintenance.

Your Committee have also had under their consideration certain Petitions relating to the erection of Lighthouses and to other matters, further submit—that with reference to the Petition of inhabitants of Princetown Royalty and vicinity, praying for the erection of a more sufficient Lighthouse at Fish Island, your Committee have been informed that it is the intention of the Government, as early as practicable, to make some alteration in the Lighthouse at that station.

That with reference to the petition praying for the erection of a Lighthouse at the North Cape, the subject of erecting Lighthouses on the North Cape and East Point of this Island is now under the consideration of the Government.

That with respect to the Petition of Thomas Robson, of Sackville, New Brunswick, about erecting Fog-bells on Cape Tormentine, in that Province, and on Cape Traverse, in this Island, your Committee cannot recommend their erection at the public expense.

The same Committee who prepared the report, were then appointed to join a Committee of the Legislative Council to prepare a joint address to His Excellency on the subject.

Mr. Perry, from the Committee on new lines of roads, presented the draft of an Address to His Excellency on the subject of the report of the Committee, which was adopted, and the same Committee were appointed to wait upon His Excellency with it.

Mr. Macintosh, from the Committee to whom was referred the petition of Donald McDonald and others, presented the following report:—

"Your committee to whom was referred the petition of Donald McDonald, John Ford, and John McDonald, praying for a return of their property which had been seized at Souris last summer for a breach of the Navigation Laws,

have to report, that the act which required spirits to be imported in casks of not less than sixty gallons, was not generally known until after the first importations under the act; and it appears that petitioners were not aware of that alteration in the act, and therefore had no intention to evade the laws as to the size of the packages for the convenience of landing them; for the duties were tendered before any attempt was made to land the goods.

"Your committee, therefore, recommend that there be returned to the petitioners whatever share the Government is entitled to receive of that seizure."

The report was adopted, and the same committee who prepared it, were appointed a committee to prepare an address to His Excellency on the subject.

Hon. Col. Treasurer presented a petition of divers inhabitants of Casumpec, setting forth that the dwelling house, furniture, &c., and five children of Samuel Cannon, shoemaker, Kildare Road, had been destroyed by fire on the 4th inst. and praying the House to afford relief to that individual. It was ordered that the sum received as fees for two private bills passed by the House, this session, be granted and paid for the relief of the sufferer.

The Appropriation Bill was read a second time, committed to a committee of the whole House, and reported agreed to without amendment.

The bill to alter the act now in force relating to the sale of spirituous liquors, was read a third time and passed;—also the bill to enable Henry Bessamer to obtain letters patent for the discovery of certain improvements in the manufacture of bar iron and steel. The standing order of the House having been suspended, the Appropriation Bill was also read a third time and passed.

On motion of the Hon. Col. Treasurer, the House went into committee of the whole on the second reading of the bill for raising a revenue. After some time spent in committee, the bill was reported agreed to with certain amendments, and the report was adopted by the House.

CITY CORPORATION BILL.

Hon. Mr. PALMER moved the third order of the day the second reading of the bill to increase the powers of the City of Charlottetown over corporations or persons entitled to open the streets, squares, and thoroughfares, for the purpose of laying down pipes or conduits.

Hon. T. H. HAVILAND said, before the question was put, it professed to be a bill to give increased powers to the Corporation of Charlottetown over the Gas Company, a Company which was in existence previous to the City of Charlottetown being incorporated. The bill, he had reason to know, had originated with His Worship the Mayor for reasons best known to himself. It had been stated that the bill was taken principally from a Bill of a like nature which made certain provisions for gas companies formed in towns in England. Now, that was all very well; for in England those towns had corporations to Gas Companies being formed, and so had power to make necessary provisions for preventing any injury to those parts of the town where pipes were to be laid down; but in this city the Gas Company laid their pipes before the city was incorporated. If the bill went into operation, it would compel the Gas Company to sink their pipes four feet below the surface, causing injury to the company by the taking up of the pipes. He moved that the bill be read "this day three months."

Hon. COL. SECRETARY had not read the bill; but he saw no reason to oppose it because it interfered with the rights of the Gas Company. He had been sorry to differ from the Judges in the case tried last year between the city corporation and that Company; but he thought they had a little feeling of opposition against the Mayor in that case. The Mayor and Council had been making improvements in the city; and in the cutting down of the streets necessary before they could be macadamized, they had come upon the pipes of the Gas Company, who said the city must put them down from the first at their own expense. The City Council would not put them down at the expense of the city, and he thought very justly; but the decision of the Judges had been against them. He did not pretend to know so well as they did, but he thought the common sense view of the case was, that where the Company had pipes in the way they ought to put them down themselves. He did not say that they should go all the extent that the bill required, that the pipes be four feet deep; but if required to be lowered, let the Gas Company lower those pipes themselves, and not tax the city to do it. He did not see the necessity of going so far as the bill provided for; but he would vote for going into committee on it.

Mr. PERRY was astonished that the bill should be brought in at that late hour, if it was of so much importance. He did not see the necessity of such a Bill; and therefore he would support the motion of Hon. T. H. Haviland.

Mr. MACINTOSH could not go that length; for if the city had not been prepared to bring in the bill before, the House ought to wait a little now. He would support the bill's going into committee.

Hon. Mr. MOONEY would support the bill to go into committee, and was in favor of it so far as he was concerned.

Mr. CLARK could not vote to keep the members from the country in attendance all that time, and would vote against the whole three bills from the city.

Hon. Mr. LORD said, it was very extraordinary that hon. members sent there to represent the country acted in that manner. If there was a necessity for having this bill passed, he thought they ought to stay till it was passed. He saw the necessity of something being done to prevent litigation between the two companies in Charlottetown. He was prepared to support the House going into committee on the bill.

Mr. T. HEATH HAVILAND said, the question for them to consider was whether the bill was an equitable measure or not. He was of opinion that it would not be equitable for the House to pass the bill. They had given the Gas Company a charter, laying down the manner and mode in which the pipes were to be laid in the city, and the Company had followed the directions of that act. That had been decided by the Judges of the Court, though they differed from the Hon. Col. Secretary; but he presumed that in a question of law their opinion was before that of the Hon. Col. Secretary. They gave that decision according to the law in England, which was, that every individual shall so use his own property as not to injure his neighbor. If the Company so laid their pipes as to injure the rights of others, there was a law for their protection without coming to that House. He regarded the bill as one of the most one-sided measures ever brought before the House. To pass such a law would be interfering with chartered rights, where men had invested their capital. He said they would be disgracing themselves by passing such an act; and when he said so, he had no pecuniary interest in the matter. He saw no necessity for such a law; because if the Gas Company were guilty of injuring the streets of Charlottetown by laying their pipes too near the surface, there was already a remedy for it. He would vote against the Bill.

Hon. Mr. PALMER thought the hon. member who made the motion, was rather premature, as he (Mr. P.) did not make the motion for the reading of the bill; he had moved for the House to go into the order of the day. He moved then that the House go into the order of the day.

Mr. COOPER did not think it was as sufficient reason to reject the bill, because it was late in coming in. He did not know the circumstances of the parties very well; but if it was necessary to have such a bill passed, they ought to pass it.

The House then went into the order of the day, and the bill was read by the clerk.

Hon. Mr. PALMER said, this bill had been entrusted to him and his colleague as the representatives of the town, to lay before the House; yet he confessed that he had very little opportunity of perusing it, or of giving that attention to it which perhaps he ought to have given. The bill had been approved of by the City Corporation after full discussion and deliberation, and in that case; he conceived it to be his duty to represent the wishes of the inhabitants of the city as expressed through that body, and to place the bill fairly before the House. After alluding to the circumstances which had originated the bill, he said that with regard to it, he agreed with hon. members who were opposed to the bill, that there were some of its provisions which were perhaps unnecessary; because the Corporation had power within themselves to make those regulations. Still he thought there were some of the regulations proposed in the bill that might be deemed necessary, and which the Corporation had not authority to pass; because they might be said to be a little in conflict with the rights of the Gas Company. He did not conceive it was necessary, as was provided for in the bill, that in future the pipes should be laid four feet deep, which, if carried into effect would create a great deal of confusion and expense. That part of the bill which provided that the Gas Company should give notice to the Corporation when they commenced laying down new pipes, was, he thought, necessary. There was not much in the bill that called for Legislative interference; but he was disposed to go into committee on it and let each clause be fairly discussed. He moved that the House go into committee on the bill.

Hon. Mr. LONGWORTH seconded the motion for the reasons given by his hon. colleague. He had objections to some of the provisions of the bill; but certainly no objections would be made to going into committee on it.

Hon. T. H. HAVILAND said there had nothing fallen from the hon. member for Charlottetown which had induced him to alter his views; he therefore pressed his motion.

Mr. DOUSE had no interest in the bill beyond what he considered for the public good. As the Gas Company had been established first, he thought the Corporation were bound to lower the pipes at their own expense, so far as they had been disturbed.

Hon. COL. SECRETARY said, hon. members seemed not to understand the bill. It was not a retrospective but a prospective bill,—that in future the pipes should be sunk four feet. He considered that the Gas Company obtained no more right over the streets of the city by the act incorporating them, than the Magistrates of the town had formerly power to grant.

After a few further remarks, the House divided on Hon. T. H. Haviland's motion as follows:

Yeas—Hon. T. H. Haviland, Montgomery and Wightman, Messrs. T. Heath Haviland, Douse, Dingwell, Macdonald, Perry, Clark, Laird, and Muirhead—11.

Nays—Hons. Palmer, Longworth, Col. Secretary, Col. Treasurer, Whelan, Mooney and Lord, Messrs. Cooper, Macintosh and Munro—10.

So the bill was lost.

The bill for raising a revenue was read a third time and passed.

House adjourned.

THURSDAY, April 9.

Mr. MACINTOSH presented the draft of an address to His Excellency relating to the report of the committee on the petition of Donald McDonald and others, which was adopted, and the same committee were appointed to wait upon His Excellency, with the address.

SHERIFF'S BILL.

Hon. COL. SECRETARY moved the first order of the day, the second reading of the bill to enable the Supreme Court of Judicature to give relief against adverse claims made upon persons having no interest in such claims. He said he believed that this Bill, except one clause was an exact copy of the imperial statute. It provided that the plaintiff should pay expenses in the first place, and the defendant in the second place.

Mr. T. H. HAVILAND said, he did not object to that part of the bill from the imperial statute; but he did not think the principle was sound as regarded the last clause; because it was laid down there that the sheriff should be entitled to his fees, though he did not rescue a person, the same as if he did. He thought the last clause was a most monstrous clause.

House in committee on the bill. Some further objections having been made to it.

Hon. COL. SECRETARY explained that there was a necessity for something being done. The sheriff could not be expected to engage in his duties without being paid whether he accomplished his duty, or failed in taking the person.

The Hon. SPEAKER said, this bill was for the protection of the sheriff alone; but they ought to protect the people as well. The bill was a new principle in legislation, and would have a bad effect. He was wholly opposed to it.

Hon. Mr. LORD spoke in favor of the bill. His opinion was that if a sheriff used due diligence in endeavoring to take a person, he ought to be paid whether he succeeded or not, especially if he employed several constables to assist him. He saw nothing unfair in the bill, and considered it was frequently very difficult for the sheriff to execute the duty assigned to him.

Mr. MACINTOSH did not see that a sheriff was entitled to his fees, if he did not use sufficient diligence in the apprehension of parties. He believed that officers were very well protected; and he would oppose the bill in every sense of the word.

Mr. COOPER thought as they had gone on a long time without such a bill, and business had been carried on without any complaints having been previously made on the subject, that there was no occasion to pass the bill. He felt much dissatisfied with it.

Hon. Mr. PALMER thought the provisions of the bill extremely novel. The appointment of sheriffs was not generally a difficult matter; and when they accepted office, they took the unprofitable part along with the profitable part of their duties. Should the clause alluded to pass, there would scarcely be any limit to the expenses which sheriffs might incur in the execution of their duty. He regarded the proposition so preposterous and palpably wrong, and the impolicy of it so dangerous, that he wondered hon. members would stand up in supporting of it.

Several other hon. members expressed themselves as strongly opposed to that part of the bill which had excited discussion, and on motion of Mr. T. Heath Haviland, it was struck out.

When any sheriff shall report to any plaintiff's attorney that he has made an effort to execute any writ that may have been placed in his hands by such plaintiff or his attorney, and requires the assistance of one or two constables to assist in such execution; and if the said plaintiff or attorney refuse to guarantee the expenses incurred in the employment of such constables, it shall be lawful for such sheriff to retain such writ and state the grounds, being the refusal of such plaintiff or attorney to give such guarantee.

After a few remarks, the amendment was negatived, and the House having resumed, the bill was reported agreed to with certain amendments. It was then agreed to by the House and ordered to be engrossed, to be intitled "an Act to enable the Supreme Court of Judicature to give relief against adverse claims."

The rule of the House relating to bills having been suspended, the bill was read a third time and passed.

EXTENSION OF THE CITY POWERS BILL.

The third order of the day having been read, viz: the second reading of the bill to extend and more particularly define the powers and authority of the Corporation of the City of Charlottetown, the bill was read by the Clerk of the House.

Hon. Mr. PALMER said, he believed the principal provision sought for by the bill, was, to increase the jurisdiction of the