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. VIII. CHARLOTTETOWN, PRINCE DWARD ISLAND, MONDAY, JUNE 13, 1859. No. 49.

Provincial Parliament.

HOUSE OF ASSEMBLY.

SUMMARY OF PROCEEDINGS.

SATURDAY, May 7.

House met at 11 o'clock.

Indian petition for exemption from ferriage, and petition of Indian Commissioners, for aid to assist the Indians to purchase seed potatoes, were disposed of,—the first was refused. The Commissioners referred to Committee of Supply.

The petition of Daniel Scott for compensation in an action with the late Government. Referred to Committee of Supply.

Several other petitions having been disposed of, the petition praying for the introduction of the Scotch law of trial by jury, was read by the Clerk.

Hon. Mr. THORNTON looked upon the application as quite ridiculous; it would be converting a Petit Jury into a Grand Jury.

Hon. Mr. HAVILAND—It was not so very ridiculous after all. Lord Campbell had introduced a Bill into the British Parliament, for the introduction of the Scotch law of trial by jury into England. It had not passed; and, therefore, it was better not to take any action in the matter till next year.

Hon. Mr. PALMER thought the petition well worthy the consideration of the House. He had intended to introduce a bill for the introduction of trial by jury according to the Scotch mode, into P. E. Island. He knew the English system was a long cherished custon; but they knew the difficulty in obtaining a verdict. He would make the jury 14, and allow 9 to bring in a verdict. The majority of 12 is 7, and they all knew how easily one influential man might gain over 5 to his opinion; 9 out of 14 would be preferable. He had seen the evils of the present system in civil actions. Suitors had withdrawn from Court, rather than submit to the certainty of defeat, when they knew that prejudiced parties were on the jury. There was not time to take the matter up this Session, but he hoped it would be next year,—he should make it applicable to civil and criminal actions.

Hon. Mr. LONGWORTH concurred in all which had fallen from his hon. friend, Mr. Palmer, and would support the introduction of the Scotch law of trial by jury into the Colony.

Hon Mr. HAVILAND was glad to hear his hon. friends, Messrs. Palmer and Longworth, favourable to the measure. He would, however, stick to three-fourths the jury—9 out of 12. Lord Campbell had stated in his place in Parliament, when introducing the measure, that he had often known one man hold out against 11. Such was frequently the case; but he had heard of a juryman here, who was more pliant. It was his custom to wrap himself up comfortably, saying, that when 11 had agreed, he would make 12.

The petition was referred to a Committee to report next Session.

The petition from the Board of Health at Cascumpec for assistance to erect an Hospital, was discussed at considerable length,—the House deciding it inexpedient to grant its prayer, as the remedy was elsewhere.

On the petition of Duncan McMillan, Tavern Keeper, being read, Mr. Conroy stated, the gentleman had only done a charitable and christian act—by affording shelter to a fellow creature—a poor female—during her confinement; his kindness in keeping her five weeks after, and supplying the baby with necessary clothing, would, he hoped, obtain for him a higher reward than this House was able to give. Were he in the petitioner's situation, he should prefer the satisfaction of his own conscience, in the performance of a work of mercy, to any pecuniary recompense which the House could bestow.

Hon. Col. GRAY—It was all very well, on the part of the petitioner, to hope for his reward in futurity, and he trusted he should not be disappointed; but he required also part payment at present. (A laugh.)

Hon. Mr. PALMER—They should vote him the baby. (Great laughter.)

On motion of the Hon. Mr. HAVILAND, that the Bill to amend the Act of Incorporation of the Methodist Church of P. E. Island, be read a second time, Hon. Mr. Coles, in the absence of a petition accompanying the Bill, opposed it. It was an Act transferring the power vested in the Trustees, under the Home Conference, to a new Conference established on this side the Atlantic.

Hon. Messrs. Palmer, Longworth, Haviland. &c., explained, at great length, the proposed amendments in the Bill,—the transfer effected of the right of superintendence of the property of the Methodist Church in the British North American Colonies, from the British Conference to the Eastern Conference of North America; and by mutual arrangement, the further consideration of the Bill was postponed till Monday, with the understanding that if no objections should be offered by parties concerned, the Bill should be proceeded with. Adjourned at 7 o'clock.

MONDAY, May 9.

House met at 10 o'clock. Bills to incorporate Free Churches of Bedeque and New London, read a second time; committed. Reported and ordered to be engrossed.

Hon. Col. GRAY, Chairman of the Committee appointed to draw up a loyal and dutiful Address to Her Most Gracious Majesty, in accordance with the resolutions moved by him on Thursday last, brought up the draft Address—for the appointment of a Commissioner or Commissioners to negotiate with the Proprietors—report on the Fishery Reserves, &c., in order to prevent, in future, all agitation in the Colony, by settling for ever those questions which had hitherto been the fruitful source of animosity between Landlord and Tenant—to the great detriment of the best interests of the country.

Hon. Mr. THORNTON would not oppose the Address. He was in favor of the principle; but the Legislature had, in 1843, adopted something of a similar nature,—it was sent home, and it was never more heard of. He hoped such would not be the fate of the present. He felt sorry that he was not in his place during the discussion, and at the division. Had he been in the House, he would have supported the resolutions, while he objected to the preamble. He was opposed to delegating the sole power of settling the land question in Prince Edward Island to one person—three at least was more preferable—the latter principle had been adopted, which removed one of his principal objections. He had never been an escheator, and was not so now; but even at the eleventh hour, he was prepared to support Escheat, if any good to the people would accrue by Escheat. He feared the Proprietors would turn a deaf ear to the claims of the Tenantry, through the Commissioner or Commissioners,—they would not feel inclined to make much sacrifice for the advantage of the tenant farmers of the Colony. He trusted, however, that the measure, as now before them, would receive the cordial co-operation of the other branch of the Legislature. He was inclined to give it a fair trial; and as his motto was to take all he could get,—though far short of what he wished—and believing also, that it might be the commencement of advantages to the people—in giving them a portion of the justice to which they were entitled—he would support the Address.

Hon. Col. GRAY said, there was only a shade of difference between the Hon. Mr. Thornton and himself, as to the resolutions, which he had the honor of introducing the other evening to the consideration of the House. He was sorry the hon. gentleman was not in his place during the discussion. He had expressed himself favorable, in part, to the resolutions, and he was glad to find that he was not opposed to the Address.

Mr. COOPER was convinced that the power of the Commissioner or Commissioners would be but very limited in doing justice to the people. If the power rested with the Government, the country, and the Commissioners, he would have no objection to give it his support. But this was only going half way—resorted to as a means of delay, and would only disappoint the people in their reasonable expectations,—and the only way to bring the matter to a fair conclusion, was to agitate the country from one end to the other—that public feeling might be elicited, and this grievance of the people redressed. He could not, in justice to his own feelings, and in the discharge of his duty to his constituents, support the Address.

Hon. Mr. COLES—It was true that in 1843 an Address, nearly similar to this, was introduced for the first time into this House. It was supposed that it would prove beneficial to the people; but it failed to do so. Messrs. Cooper, McDonald and McGregor voted against it. Mr. Cooper was sent home to try and have the question settled, and still no good was the result. The hon. gentleman read the Address of 1843, and said, this goes a little farther, fixes a price for the purchase of the land—recommends a reduction of the rent—holds out the hope of future advantages to the people—which, he trusted, might be realized—embraces other measures of importance in which the people have the deep t interest—accorded more with his views than the resolutions, and, therefore, he would give it his support.

The Address was adopted—22 voting for it, and Mr. Cooper against it.

House in Committee of the whole on the petition of the Contractors of Prince Street Wharf.

Mr. DAVIES handed in the report from the Committee, which considered the arrangement between the contractors and the Government final, and should not be disturbed; but recommended that, in equity, some compensation be given petitioners, for loss sustained by them at the hands of the late Government.

Hon. Mr. THORNTON looked at the report as very strange indeed, an anomaly in terms, viewing the decision of the arbitrators as final, and not to be disturbed, while it recommended compensation to the petitioners, for loss sustained by them at the hands of the late Government. The Committee had, no doubt, through motives of charity, recommended some compensation; while the award of the arbitrators forced them to think, and very correctly, that the decision was final, and should not be disturbed. The late Government had the control over those matters—their own contracts,—they agreed to arbitration with the contractors; the award had been made, the matter finally settled, and yet the petitioners come to this House, and ask us to set aside that settlement. Something like the petition of Mr. Haszard the other day, demanding payment, with interest, of a bill over 15 years due, which had been refused by former Governments. He would go with that part of the report which considered the matter finally settled, and not to be disturbed; and could not agree with that portion which recommended compensation to the petitioners.

Mr. DAVIES asked, what remedy had a poor man against the Government? It is no uso in going to law, as the Government will not pay costs: and what are poor men to do? The Committee, of which he was Chairman, considered all the circumstances of the case, and they felt justified in recommending compensation, on those grounds—that there was extra work to the amount of £35, for which the petitioners were not paid,—that the contract was not carried out in good faith, on the part of the late Government. The contract stipulated, they were to be paid in the current money of the Island; but they were paid in Treasury Warrants, which were sold at a large discount. The floating block was taken up by order of the Superintendant of Public Works, which caused considerable delay. They had been fined, and J. Doirant had been paid £66 17s. 6d. out of these poor men's money. Under all those circumsiances, the Committee, while repudiating the principle of interference with the Executive Government of the country, and being of opinion that the arbitration was final and ought not to be disturbed, believed that the petitioners had a fair and equitable claim to compensation. It was, however, for the House to deal with the matter, and give those poor men, what in justice they thought fair.

Hon. Mr. COLES said, the member for Charlottetown was not correct in what he had stated. The late Government had not acted very rigorously with the contractors; they had given up four times the amount of penalty imposed; and if they had not exacted part, at least, of the penalty provided in the agreement, they would not have done justice to other contractors. After the work had been commenced, it was thought better to have a solid, instead of a floating, block; this change was ordered by the Superintendant, the right to do so being vested in the Government, in terms of the contract; this was the only change made, and the floating block could not have cost more than £9. The late Government had acted fairly with all contractors—shown no favor to any party while performing their work. Look at the case of Scott, a staunch Liberal; he felt dissatisfied, and sued the Government. The present petitioners had also been impartially dealt with. He was one of the Committee which settled the claim of Hector McLean, who had given a receipt in full to the Government; but if, however, the present Government felt themselves justified in entertaining his petition, they might vote him any sum they pleased; they had the majority, and he should offer no further objection.

Hon. Col. GRAY could not understand how a contract could in justice be carried out, which stipulated that the payment should be in current money, but paid in paper, which sold at a very large discount. If a man owed him £500, and bound to pay it in cash, and he received paper, for which he could only get £450, he would not consider himself fully paid. Such had been the case with those poor men. They were paid £730 in Treasury Warrants, which they converted into cash at 10 per cent. discount, a loss of more than £70. Was that doing justice to those poor men? He had a very strong bias against parties coming to a new House, where the matter had been settled by a former Government, and he repudiated the interference of the House with former Executives; but still was of opinion, that those poor men were in justice entitled to some compensation. £73, more or less, was a large sum for poor men to lose, by discount, when they should have been paid in cash. And as regarded the arbitration, and the receipt from the Government, that was all very well in law, but not in equity; law was one thing, equity another. Those poor men came here as petitioners, and would the House say they had signed away their rights by giving a receipt?

Mr. HOWAT—It appeared from the statement of the reporting Committee, that the contractors had been delayed in the execution of the work by alterations ordered by the Government; why then enforce the penalty? It was argued that the claim came too late; better late, if just, than never. What could the petitioners expect by an application to the former House, where the members were heads of departments? nothing. But now it is quite different, the majority have purged this House of such iniquity, and, therefore, parties aggrieved may apply with all confidence, conscious that if right and justice be on their side, they are sure to obtain redress.

Hon. Mr. THORNTON—It was not fair, on the part of Mr. Howat, to accuse the late Government of having a desire to vote any petitioner down, who had a just claim, because they had the majority, and, therefore, it was not right or proper to insinuate that because a majority existed the rights of any petitioner should be voted down. They were told, that on the principle of equity, justice, mercy—not law—they were entitled to grant compensation. If they had plenty money in the Treasury, they ought to do so—he should offer no objection.

Hon. Mr. PALMER had never been inclined to lend an ear to contractors, whose claims had been refused by the Government. He always thought, and did so still, that the Government had the best right to settle their own contracts; and parties coming before this House seeking redress, should make out a very strong case indeed to justify the Legislature in revoking the decision of the Government. He would have no objection, however, to vote the amount paid in discount, but he would go no further. Looking at the contract, it was plain that if the petitioners were called upon to perform extra work, they were bound to do so. He would not say that extra work might not exclude contractors from payment of the penalty. If such extra work were a deviation from the plan, and opposed to the terms of the contract, a matter of expediency, the contractors would not be bound to pay the penalty. The Government had exacted part of the amount; they construed the contract according to law, and they had a right to do so, and if he had been in the Government, he would, perhaps, have taken the same view of the case. Yet, looking at all the circumstances, the warrants gave them a just plea for compensation, the payment being clearly a deviation from the contract; and he could not understand the reason for so wording it, but it clearly implied that the payment was to be in gold and silver. It was said that petitioners got a large sum of Treasury Warrants in advance, yet that did not exclude them from claiming discount paid on the rest; and as it was quite clear that they had paid discount, he was inclined to give them some amount; it was for the Committee to fix the sum.

Mr. HOLM—It had been stated that the petitioners had given a receipt to the Government—just so. The poor men were perhaps in danger of being sent to jail, and they were glad to take what they could get—but that did not set aside the justice of their claim. It was also asked why did they not petition the House last Session? What absurdity to suppose that the House, consisting of the parties who had refused their claim and held their receipt, would entertain their petition. He believed the poor men lost considerably by the warrants, and they were in justice entitled to compensation.

Mr. SINCLAIR condemned the principle of parties coming to the House when their friends were in power, asking money for claims settled by former governments.

Hon. Mr. HAVILAND informed the member for Princetown, Mr. Sinclair, that the claim was not so very stale as he might imagine. The contract was entered into in 1857, the work was not completed till January, 1858, when the House was in session. A short time before the award had been made and offered—at the point of the bayonet, by Coles and Warburton—to which those unfortunate men had to submit. They had paid Treasury Warrants in advance to the amount of £523, at the period of the crisis, when the bank of P. E. Island had stopped payment in specie; the consequence was these poor men suffered great loss by the warrants, and therefore he would support their claim for compensation, to the amount of the discount. But it has been said by gentlemen on the other side, that the present majority were serving their friends by supporting their applications for money grants. He denied the assertion, they repudiated the statement. The Hon. Mr. Coles had stated that the present Government brought down their demands for public money to this House piecemeal, and asked sums not charged in the estimates. They had done nothing of the kind—independent members of the majority, representatives of the popular will, had proposed money grants, which they had a perfect right to do under the present system, where the heads of departments are excluded from the House—and their grants had been passed. Not so with the immaculate Government of the hon. gentleman when he held the purse strings of the colony, he used the iron rod, and made it do its work too, as in the case of such a willing slave as Clark. The present majority exercise the sole power over the finances of the country, and he hoped they would not yield it; and as a member of the Government he told them never to part with it. Look at the sums appropriated last session not contained in the estimates, £300 to repair the Barracks, brought in by a side wind; also £250 for Government House, and £150 for Southport Wharf, not in the estimates.

The Hon. the SPEAKER said the duty of the House was to ascertain, in the first place, what amount of discount had been paid by the contractors. When they discounted their warrants the rate was 2½ per cent. The amount discounted would make the sum paid about £30; in the meantime they were in the dark as to the true state of the case. He believed the contractors had never paid 10 per cent. on the warrants. But it would be better to pay the full amount of their claim than thus take up the time of the House.

Hon. Mr. LONGWORTH—The claim for compensation should be confined to the loss sustained on the discount of the warrants, for instead of being paid in cash, as stipulated in the contract, petitioners were paid in warrants. They were not entitled to any consideration for the first amount, which was money paid in advance; nor for the second either, as the discount at those periods was only what had been usual, according to the trade and circumstances of the country. But the third payment was altogether different, at a time when warrants were at a discount of 10 per cent.; thus the £730 was diminished £73 to the loss of the contractors. It was said the cause of the great depreciation in the case of warrants was owing to the Bank. No such thing, for the Bank had in circulation, of its own paper at the time, nearly three times the amount of the bullion in its vaults; the cause was owing to the over expenditure of the Government, and not traceable at all to the Bank. The affairs of the Bank were in a sound state, their paper was out and circulated freely, they kept the gold in their coffers, while on the contrary the Government acted as a man with an income of £100 who spent £300. As the contractors had been so long past the time agreed upon to finish the work, they were not entitled to a remission of the penalty charged by the Government; but they should in justice, be paid the amount of the discount on the last payment. The reporting committee were of opinion that they should be paid something, and this hon. committee were almost unanimous that they had a just claim to compensation. If they got £50 in full it would not be too much, and he would go for that amount.

Hon. Mr. COLES—The hon. gentleman who had just sat down was always most anxious to have a fling at the late Government—his illustration of the extravagance was, however, most unhappy, it was quite untrue; for if they had £40,000 income, they should, according to his statement, have expended £120,000. Now what was the fact? Last year they expended £45,000, and their income amounted to £35,000, that was not expending three times their income; but that was owing principally to the universal depression in trade, and the restriction of the circulating medium; and also to the system which prevailed of giving 15 months credit on bonds—the Government altered that system, and the result was acknowledged to be most essentially necessary, and highly advantageous to the public service.

The blank was finally filled up with £50, and referred to committee of supply.

Hon. Mr. THORNTON presented a petition from a district school teacher, for compensation for loss of the use of money detained in the post office; and also for the trouble consequent thereon, and the great toil to which he had been subjected in travelling over 400 miles in quest of his money, before he was able to obtain it. Petitioner had left a Treasury Warrant for £25 with Mr. Aldous, and instructed that gentleman to appropriate £10 of it to part payment of land for a friend of his on the Worrell estate. Mr. Aldous had agreed to have the remaining £15 discounted for 10s., promising to send the £14 10s. by mail. He did not get the money, and had travelled from St. Peter's to Charlottetown and back again three times, but could not get any information as to the money. At last the postman told him, when on his way home, that there was a money-letter for him at St. Peter's. He considered that this was a case of very considerable hardship, and would leave the petition to be dealt with by the Committee.

Hon. Mr. PALMER observed, that it was a matter solely between the petitioner and the post master, the law gave a remedy—the House could not interfere.

Mr. CONROY said before the House adjourned, he would suggest that they should come early, and endeavour to get on with the business of the country. It was a serious loss for gentlemen to be from their homes at this season of the year, and he wished therefore that members would be punctual in attending at the proper time.

Hon. Col. GRAY fully agreed with the hon. member who had just sat down. He was most anxious that they should come early and hasten through the public business. He had proposed the other evening that the House should meet at 6 o'clock in the morning; he would feel inclined to come at 4, and sit till 12 o'clock at night, in order to get through the business of the session. The season was advancing rapidly, and the time had arrived for the cultivation of their farms, and if they never sowed, it was certain they should never reap.

House adjourned at 9 o'clock.

ANTHONY BEGLEY, Reporter.

LEGISLATIVE COUNCIL.

MONDAY, 25th April, 1859.

DEBATE ON THE FISHERY RESERVE QUESTION.

(His Honor the President's Speech Concluded.)

I say the dominant party have not as yet attempted to set aside the lately established form of government by legislative enactment; but they have done much worse. The majority in the other House, have dared to violate the great fundamental principle of parliamentary government. Acting upon the monstrous assumption that in a majority of the Lower House, is vested the whole power of the state, the leaders of that majority have taken upon them to change our form and system of government without the concurrence of the other two branches of the legislature. A British Parliament, as we all know, consists of three branches or powers. In the parent state, of sovereign, lords, and commons. In her colonies, of three analogous bodies—the representative of the sovereign, a Legislative Council, and a House of Assembly. And, besides, as we all likewise know, no law can be passed, nor any fundamental change made in a system of British parliamentary government, without the concurrence therein of the three parliamentary estates, whether in the parent state or any of her colonies. Yet, notwithstanding this palladium which the British Constitution interposes between usurpation of power and irregular change, a party, sustained by a majority in the other House, have arrogantly taken upon themselves—without even having sought the concurrence in the act of the other two branches of our local legislature, or endeavoured to obtain Her Majesty's sanction of their intention—completely to subvert that form and system of local government which was so lately, after the most mature deliberation and all necessary preliminary negotiation, conceded and confirmed to the people of this Colony, by Act of Parliament. On the strength of a decided majority in the popular branch, a party may constitutionally endeavour to effect a change in the working of the constitution; but, were such a majority of itself, unsustained by the other branches of the Legislature, and without their concurrence, to make any alteration or innovation in the practice of the constitution, it would amount to nothing short of a positive revolution, or an actual subversion of the constitution itself. Your Honors, cognizant of these facts, we would, most likely, have thought any party,—however strongly sustained by a majority of the other House, and however fairly that majority might have been obtained,—quite presumptuous enough, should they have attempted by Bill, that is by a regular parliamentary mode of proceeding, to subvert our free constitution, although, in such case, it would have been in our power, by our mere constitutional resistance, to defeat their object. But now, when a party, (seemingly convinced that such a Bill, if brought forward by them, would not become law) have surreptitiously,—yes, almost literally by stealth,—effected a disruption of our constitution, setting aside not only the parliamentary power of this House and of Her Majesty's Representative, but also totally disregarding the authority and sanction of Her Majesty herself, it will, in my opinion,—in the event of their failing to afford us, in the shape of a Bill, an opportunity to discuss and dissent, should it appear to us right and just so to do, from the grounds, assumed as constitutional, on which the change has been made,—most certainly be our duty to protest and remonstrate against it, distinctly and strongly, in a dutiful Address to Her Majesty. To some of Your Honors, these remarks may, perhaps, appear irrelevant to the subject immediately under our consideration, which is the Despatch of Sir Edward Bulwer Lytton, the Secretary for the Colonies, in which he informs us that he cannot advise Her Majesty to assent to the Fishery Reserves Bill, because the claim of the people to those Reserves is obsolete. But irrelevant they cannot be deemed by any who justly consider that this dictum of Sir Edward Bulwer Lytton and the arbitrary change which has just been made in the