

The Herald.

VOL. III.

CHARLOTTETOWN, P. E. ISLAND, WEDNESDAY MAY 8, 1867.

NO. 31

THE HERALD

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Of every description, performed with neatness and despatch, and on moderate terms, at the HERALD OFFICE.

ALMANACK FOR MAY.

MOON'S PHASES.

New Moon, 4th day, 3h. 28m., morning, E.
First Quarter, 10th day, 5h. 52m., evening, S.
Full Moon, 18th day, 9h. 40m., morning, N. W.
Last Quarter, 26th day, 1h. 10m., evening, W.

DAY MONTH.	DAY WEEK.	SUN		High Moon		Day's length.
		rises	sets	Wat	rises	
		h m	h m	h m	h m	
1	Wednesday	4 51	7 4	8 40	3 30	14 13
2	Thursday	49	5 9	32 4	4	16
3	Friday	47	6 10	22 4	42	19
4	Saturday	46	7 11	9	sets	22
5	Sunday	45	8 11	57	8 44	21
6	Monday	44	9	morn.	9 51	25
7	Tuesday	43	10 0	47	10 52	27
8	Wednesday	42	12 1	40	11 45	30
9	Thursday	41	13 2	33	morn.	32
10	Friday	40	14 3	43	0 31	34
11	Saturday	39	16 4	29	1 13	37
12	Sunday	38	17 5	31	1 49	39
13	Monday	36	18 6	31	2 21	42
14	Tuesday	35	19 7	32	2 51	44
15	Wednesday	34	20 8	26	3 22	46
16	Thursday	33	21 9	15	3 52	49
17	Friday	31	23 10	0	4 25	52
18	Saturday	30	24 10	45	4 55	54
19	Sunday	29	25 11	24	5 15	56
20	Monday	28	16	even.	9 7	58
21	Tuesday	27	27 0	43	9 34	15 0
22	Wednesday	26	28 1	25	10 56	2
23	Thursday	25	29 2	5 11	15 4	7
24	Friday	24	30 3	2 47	11 50	7
25	Saturday	23	31 3	32	morn.	10
26	Sunday	4 22	32 4	20	0 25	11
27	Monday	21	33 5	11	0 57	13
28	Tuesday	20	35 6	7	1 29	15
29	Wednesday	19	36 7	4	2 1	17
30	Thursday	18	37 8	4	2 35	18
31	Friday	17	39 9	0	3 14	20

PRICES CURRENT.

CHARLOTTETOWN April 2, 1867.

Provisions.		
Beef, (small) per lb.	3d to 7d	
Do by the quarter.	4d to 6	
Pork, (cassas)	3d to 6d	
Do (small)	5d to 7d	
Mutton, per lb.	4d to 7d	
Yeast, per lb.	3d to 5d	
Ham, per lb.	6d to 8d	
Butter, (fresh)	1s 1d to 1s 3d	
Do by the tub.	1s to 1s 1d	
Cheese, per lb.	4d to 6d	
Tallow, per lb.	8d to 9d	
Lard, per lb.	8d to 10d	
Flour, per lb.	3d to 3 1/2d	
Oatmeal, per 100 lbs.	17s to 18s	
Eggs, per dozen.	9d to 1s	
Grain.		
Barley, per bushel.	8s 8d to 3s 9d	
Oats per do.	2s 4d to 2s 6d	
Vegetables.		
Peas, per quart.	2s to 2s 3d	
Potatoes, per bushel.	2s to 2s 3d	
Poultry.		
Geese,	5s to 8s 6d	
Turkeys, each.	1s to 1s 8d	
Fowls, each.	none	
Ducks,	none	
Fish.		
Codfish, per qtl.	20s to 30s	
Herrings, per barrel.	25s to 40s	
Mackerel, per dozen.	25s to 40s	
Lumber.		
Boards (Hemlock)	3s 6d to 4s	
Do (Spruce)	4s to 5s	
Do (Pine)	7s to 8s	
Shingles, per M.	13s to 18s	
Sandries.		
Hay, per ton.	80s to 90s	
Straw, per cwt.	1s 9d to 2s	
Timothy Seed.	18s to 20s	
Clover Seed, per lb.	1s 6d	
Homespun, per yard.	4s to 6d	
Califkins, per lb.	6d to 9d	
Hides, per lb.	4d	
Wool.	1s to 1s 3d	
Sheepskins.	5s to 6s	
Apples, per doz.	2d to 4d	
Partridges.	2d to 4d	

GEORGE LEWIS, Market Clerk.

COLONIAL PARLIAMENT.

DEBATES AND PROCEEDINGS OF THE LEGISLATIVE COUNCIL.

Council Chamber.

THURSDAY, April 18, 1867.

The General Assembly of this Island having been summoned by His Excellency George Dundas, Esquire, Lieutenant Governor, to meet this day, for the despatch of business, the following members of the Legislative Council were present:—

The Hon. Mr. Montgomery, President,
The Hon. Mr. Dingwell, The Hon. Mr. Lord,
" Mr. Walker, " Mr. Gordon,
" Mr. McDonald, " Mr. Muirhead,
" Mr. Palmer, " Mr. Haythorne,
" Mr. Anderson, " Mr. Beer,
" Mr. Balderson.

His Excellency came down to the Council Chamber at three o'clock, and being seated on the Chair of State, the House of Assembly were summoned to attend him immediately at the Bar of that House. His Excellency then intimated to the House of Assembly, through the President of the Legislative Council, that he would not proceed to declare his reasons for calling them together till they should retire to their own Chamber and choose a Speaker.

The House of Assembly accordingly withdrew, and in a short time returned, when the Hon. Joseph Wightman addressed His Excellency, and stated that the House had chosen him as their Speaker, which choice His Excellency was pleased to approve and confirm. The Hon. Mr. Wightman then claimed, on behalf of the members of the House, all their former rights and privileges,—including freedom from arrest, freedom of speech in their debates, and free access to His Excellency at all times—all of which were readily granted by His Excellency.

His Excellency was then pleased to open the Session with the following

SPEECH:

[See Herald, April 24.]

The Speech being ended the House of Assembly withdrew, and His Excellency was pleased to retire.

After prayers, the House proceeded to business, when it was

Resolved, That an humble address be presented to His Excellency the Lieutenant Governor, to return the thanks of this House for his Speech delivered this day.

A Committee was then appointed, consisting of the Hon. Mr. Walker, Hon. Mr. Palmer, and the Hon. Mr. Dingwell, to prepare a draft Address.

APPOINTMENT OF PRESIDENT.

On motion of the Hon. Mr. McDonald, the Hon. Mr. Montgomery was appointed President of the Legislative Council.

CHAPLAIN.

The Hon. Mr. Lord moved, seconded by the Hon. Mr. Dingwell, that the Rev. L. C. Jenkins, D. D., be appointed Chaplain to this House.

The Hon. Mr. Palmer thereupon submitted the following amendment:

"Whereas, by the 26th section of the Act of the General Assembly which constitutes the Legislative Council an elective Body, it is declared that the Crown shall have no power to dissolve the Legislative Council when elected, and in providing that six of its members shall vacate their seats every four years, the said Act doth not in any of its provisions, require that the officers of the Council, duly appointed, shall be displaced at the termination of each of four years:—

"Resolved, Therefore, that without sufficient cause adduced for removing an officer of this House, it is deemed inexpedient to displace him from office."

The question of concurrence having been put on the amendment, the House divided—

Contents—Hon. Messrs. Palmer, Beer, Anderson and Gordon—4

Non-Contents—Hon. Messrs. McDonald, Walker, Dingwell, Lord, Haythorne, Muirhead and Balderson—7.

So the amendment was lost, and the question having been put on the original motion it passed in the affirmative.

CLERK.

Hon. the President informed the House that His Excellency the Lieutenant Governor had been pleased by commission, bearing date the 14th day of March last, to appoint Mr. John Ball Clerk of the Legislative Council of this Island; which commission was then read.

Hon. Mr. McDonald moved that Mr. John Ball do now enter upon the duties of his office, as Clerk of the Council, in virtue of the Commission which had just been read.

Hon. Mr. Palmer: I am sorry that I feel the necessity of rising to object to that proposition. My objection is not to the person appointed, but to the manner of his appointment. I think I am just as much alive to our privileges as any member of this House, and I never turned my back when a question of privileges came before us. I hope and trust that every member will be sensible of the duty which rests upon him to preserve inviolate the privileges of the House, which are no more than the privileges of the people at large. I look upon this commission as an invasion of our privileges, and I would be willing in duty to my constituency if I remained silent when the authority is claimed by another body of doing that which belongs to us. But while I say this I would not be understood as speaking in any way disrespectfully of the head of the Government, yet as I consider it a violation of the privileges of this House to dictate to us who we shall appoint as our Clerk, I shall stand up and resist it, even if I should stand alone. The act which constitutes this Council elective enables us to choose our own President, and, by necessary inference, that gives us power to appoint our Clerk. We have convinced ourselves that we have that power, and we have just exercised it by appointing subordinate officers; therefore I hope there is no individual in this House who is willing to allow another authority to dictate to us who we shall appoint as our Clerk. I cannot tell what the result of the motion may be, but we have certainly resolved, in other matters, that we have power to appoint our own officers. If your honors conceive that a new Clerk is necessary, then let him be appointed in the constitutional way, but let us not be dictated to by the Lieutenant Governor, or by any other authority.

Hon. Mr. McDonald: After what has been said by his honor about the violation of the privileges of the House, one would suppose that the Executive Government had no authority for the course it has taken; but the present Clerk was appointed in the same way as Mr. Ball is now appointed; and not only so, but he was appointed against the wishes of the members of Council. In the journals of 1860 we find the following entry:—

"Mr. President informed the House that His Excellency the Lieutenant Governor had been pleased, by Commission, bearing date 20th March, instant, to appoint James Barrett Cooper, Esquire, Clerk of the Legislative Council, of this Island, which Commission was then read, and thereupon—

"Mr. Cooper appeared within the Bar, and took the oath of office in the following words:—

"After which he took his seat, and entered upon the duties of his office."

Now it appears evident that the Clerk held his situation by virtue of a commission received from

the Governor, up to the time when the Legislative Council was made elective, and then he took his seat in virtue of that commission. Turn to the journals of 1863, the first session of the elective Council, and you will see that the Clerk was not appointed by this House, though all the other officers were. We also see that the Clerk's salary is not fixed by the Legislative Council but by the Civil List Bill. It is, therefore, evident that the appointment rests with the Government; but if the Legislative Council wish to have the appointment, I do not think the Government will have any objection to passing a bill for that purpose.

Hon. Mr. Beer: I differ very much from his honor who has just sat down as regards the power of the Government to appoint an officer of this House. When Mr. Cooper received his commission, this House was not elective; but since it has become elective, it surely enjoys the same privileges as the House of Assembly with respect to the appointment of its officers. And as this House has power to appoint its President, surely the greater should carry the lesser with it. As regards the appointment of officers in 1863, if your honors will turn to the debates of that year you will find that the Clerk was appointed by this House, as well as all the others, and I do not see how we can have less power now than we had then, or less than the House of Assembly in this respect. Are we going to make ourselves the mere tools of the Government of the day? I am not prepared to fritter away the privileges of the House by acknowledging that the Government has power to appoint our Clerk.

Hon. Mr. Lord: His honor who has just sat down appears to have altered his tune since 1863. At that time the Clerk was not appointed by this House but by the Government of the day; and as the Government is now changed he contends that the power is in this House. I regret that the power is not in this House, but the Act stands in the way. There was no motion made to appoint Mr. Cooper in 1863.

Hon. Mr. Beer: I believe I myself proposed Mr. Cooper, and the motion was carried unanimously. The commission was not brought to our notice at that time.

Hon. Mr. Lord: Then how is it that Mr. Cooper's name is omitted in the journals. Did Mr. Cooper do it intentionally to injure himself? No, the appointment originated with the Government of the day.

Hon. Mr. Haythorne: From what has been said, one would suppose there was a disposition on the part of some members of this House to fritter away our privileges; such I am sure, is not the case. In the Executive Council it was fully understood that the appointment was in the Government of the day, and we therefore acted upon that power. It may be desirable to have the power in this House, and if his honor the member for Charlottetown will bring forward a measure for that purpose, I will support it; but I do not think it fair for his honor to speak so warmly upon an invasion of our privileges. As far as we are able to judge, Mr. Cooper took his seat, and retained it, by virtue of a commission from the Executive Government, and we considered that we were to exercise the same privileges as our predecessors had done. I think the time is not far distant when we will have to re-model the Act under which this House is constituted; and if his honor from Charlottetown would turn his attention to that, it would be an advantage to us all.

Hon. Mr. Palmer: If there is one question which the members of this House should be alive to more than another, it is this question of privileges. We are now a popular Assembly, and our privileges are the privileges of the people. With respect to the appointment of a Clerk, I would like to know what the question before us really is. If it is that Mr. Ball do take his seat in virtue of a Commission from the Government, I must direct my opposition to it, and the House should reject it. The Government had once the power to appoint the Clerk of this House, and Mr. Cooper, it is true, was appointed by virtue of that power, but that was under the old constitution. I need not tell the House that in 1862 the Legislature thought proper to alter the constitution, and that swept away, not only the old Council, but also the power of the Governor to appoint its officers. The Clerk then derived his appointment in virtue of this Act, and Mr. Cooper was appointed by a vote of this House. It may not so appear upon the journals, but that is no matter. Reference has been made to the Act of 1860, but we have nothing to do with that. That Act was passed to separate the functions of the Clerk of the Executive and Legislative Councils. I do therefore contend that when the Legislature gives power to this House to appoint its head officer, the President, that gives it power to appoint all its subordinate officers, even if there were five hundred of them. I therefore consider the motion before the House unconstitutional, and I regret that it is supported by members of the Government. I say this, not because it is a gratification to me to do so, but because I think it is incumbent upon every man who has a right spirit in him to resist any invasion of our privileges. There is no argument to be drawn from the Act of 1862 to show that the Government should have the appointment, but rather the reverse. The 27th and 28th sections are as follows:—

"XXVII. The Legislative Council shall appoint a President from its own members.

"XXVIII. Every member of the Legislative Council shall hold his seat for the term and subject to the provisions for vacating the same herein expressed; and the Council as a body, and its members individually, shall possess and continue to exercise and enjoy all the authorities, powers, privileges and honors now exercised and enjoyed by the Legislative Council of this Island, except as otherwise provided by this Act."

Now mark the distinction. When the Act of 1860 speaks of the Clerk of the Executive Council, it puts the appointment expressly in the Governor in Council; but when the appointment of the Clerk of the Legislative Council is spoken of, does it say, "The power of the Government?" No! there is no such thing. But be that as it may, we know that the Act of 1862 fully intended that the power of appointing the Clerk by the Governor should cease, and if we suffer any infringement of this kind to pass, we will leave ourselves open to the severe denunciation of our constituencies.

Hon. Mr. Anderson: Some of your honors think that because it does not appear by the Journals that the Clerk was appointed by this House in 1863, that therefore it was not the case, but I distinctly remember that he was. He was not appointed by such a commission as is now before us.

Hon. Mr. McDonald: If we turn to the Journals of 1863, the first session after the Council was made elective, we will not find Mr. Cooper's name in the list of officers appointed by this House; but he attended according to his duty, and acted in virtue of his commission from the Governor. His honor from the City says that the Act 23d Vic. Cap. 39, puts the appointment of the Assistant Clerk of the Executive Council expressly in the Government, while the Act constituting this Council elective does not do so, and he drew the inference that the Government had not the power to appoint our Clerk; but he should remember that the Act to author-

ize the appointment of an Assistant Clerk to the Executive Council was creating a new office, which was not recognized in the Civil List Bill. With regard to the name of Mr. Cooper appearing in the debates as appointed by this House, I do not consider that of any consequence. Therefore it is clear to my mind that the appointment rests with the Governor in Council. I think it should belong to this House, but till an Act is passed giving us power to appoint a Clerk, we have no power to do so. I suppose it was an oversight or it would have been done before. I would be as anxious as any person to maintain the privileges of the House, but I cannot see that they have been infringed upon by this appointment.

Hon. Mr. Beer: It has been said that Mr. Cooper attended here when the House met in 1863, but he is also here now, as well as other officers of the House. I do not object to the appointment of Mr. Ball, except on the ground that being appointed by the Governor in Council, it interferes with the privileges of this House.

Hon. Mr. McDonald: The 31st section of the Act of 1862, constituting this Council elective, is as follows:—

"The Legislative Council may establish rules for its government, and the attendance of its members; it may punish members for disorderly conduct, or for a breach of its rules, and with the concurrence of two-thirds of all the members, may expel any member for cause; provided that the rules and orders of the Legislative Council, existing at the time this Act shall come into operation, shall continue in force, as far as applicable, until abrogated or altered."

Now, it was one of the regulations of this House that the Clerk should be appointed by the Governor in Council; therefore I cannot see that, under that Act, this House has any power to appoint its Clerk.

Hon. Mr. Balderson: I have always felt disposed to retain officials when they are efficient, even though they should differ a little from us in politics. It certainly looks rather arbitrary for the Governor in Council to dismiss the Clerk of this House and appoint another, but it appears that the Executive merely acted upon the custom of their predecessors, and as we sometimes say in the country, "Custom becomes law." Therefore I think we should not censure the Government for appointing Mr. Ball as Clerk of the Council under the circumstances.

The Hon. Mr. Palmer then submitted the following amendment:—

"Resolved, That it is the opinion of this House that the appointment of the President of this Council being conferred on it expressly by the Act of 25 Victoria, cap. 18, which constitutes it a Legislative Body, the appointment of all its officers, inferior or subordinate to the President, is necessarily conferred also on the Legislative Council by the effect of said Act, and that it would be an unconstitutional interference for any other authority to attempt to appoint a Clerk to this House."

The Hon. Mr. Gordon seconded the amendment, and the question being put the House divided thereon:—

Contents—Hon. Messrs. Palmer, Gordon, Beer and Anderson—4

Non-Contents—Hon. Messrs. McDonald, Walker, Dingwell, Lord, Haythorne, Balderson and Muirhead—7.

So it passed in the negative, and the question being put on the original motion it passed in the affirmative.

REPORTER.

On motion of the Hon. Mr. Beer, seconded by the Hon. Mr. Dingwell, James Ramsay was appointed Reporter to this House.

USHER BLACK ROD.

On motion of the Hon. Mr. McDonald, Henry Palmer, Esquire, was appointed Usher of the Black Rod and Sergeant-at-Arms to this House.

MESENAGER.

On motion of the Hon. Mr. McDonald, Mr. William C. Trowan was appointed Messenger to this House.

DOOR-KEEPER.

Hon. Mr. Walker moved that Mr. John Hobbs be appointed Door-keeper to this House.

Hon. Mr. Palmer moved, in amendment, that Mr. Hugh Perkin, the present Door-keeper, be continued.

The House divided upon the amendment—

Contents—Hon. Messrs. Palmer, Balderson, Beer, Anderson and Gordon—5.

Non-Contents—Hon. Messrs. McDonald, Dingwell, Walker, Lord, Haythorne and Muirhead—6.

So the amendment was lost, and the original motion passed in the affirmative.

COMMITTEES.

The following Committees were then appointed:—

To regulate the expenditure of the House: Hon. Mr. Lord and Hon. Mr. Walker.

To receive Tenders for printing and binding the Journals: Hon. Mr. McDonald and Hon. Mr. Balderson.

To make arrangements for the publication of the debates: Hon. Mr. Beer and Hon. Mr. Haythorne.

To-morrow being Good Friday, the House adjourned till Saturday at 11 o'clock.

COMMUNICATIONS.

Hon. the President informed the House that he had received a communication from Mr. Archibald McNeill, Superintendent of the Charlottetown Reading Room, granting the members of the Council free access to that institution during the session.

FRANKING PRIVILEGE.

On motion of the Hon. Mr. McDonald, it was

"Resolved, That the postage on all letters and printed papers, both foreign and inland, to members of this House, and the postage on the same when inland only, from members of this House, shall be charged to the contingent accounts of the House."

ADDRESS—ANSWER TO SPEECH.

Hon. Mr. Walker, chairman of the committee appointed to prepare an address in answer to His Excellency's Speech, presented the following draft thereof:—

To His Excellency George Dundas, Esq., Lieutenant Governor, &c., &c., &c.

May it please your Excellency:

We, Her Majesty's dutiful and loyal subjects the Legislative Council in General Assembly convened, thank your Excellency for the speech with which you have been pleased to open the present session.

Although the period of our meeting has been unusually late, owing to the ministerial arrangements which were the result of the General Election, we will cheerfully devote to the business of the Session sufficient time to enable us to mature such measures as the exigencies of the Colony and its public service may require.

We are gratified to learn that during the recess extensive estates have been purchased, and that your Excellency's efforts are directed towards extending the ac-

tion of the Land Purchase Bill to such parts of the Island as have not yet participated in its benefits, and we trust that your endeavors to buy out the interest of the remaining proprietors to the extent contemplated, will be fully successful; and in aid of this most desirable object we will readily concur in the vote of whatever funds may be necessary for its accomplishment.

The important question of Education is one to which we will be prepared to give our serious attention, with the view of improving the system by which it is at present managed, and rendering it more efficient and more extensively useful than it has hitherto proved.

We shall most gladly co-operate with your Excellency in all such measures as can be devised for the development of local industry, and the improvement of the Agriculture of the Colony.

In entering upon the consideration of the present imperfect state of the public highways, we will most willingly assist with our earnest endeavors in maturing such a measure as we think will be best calculated to improve the system under which that branch of the public service is at present managed.

The draft address was made the "order of the day" for Monday next.

Adjourned till Monday next, at eleven o'clock.

MONDAY, April 22nd.

The House resolved itself into a committee of the whole to take into consideration the address in answer to His Excellency's speech—Hon. Mr. Walker in the chair.

First and second paragraphs agreed to.

On motion of the Hon. Mr. McDonald, seconded by the Hon. Mr. Palmer, the third paragraph, on being read, was separated into two distinct paragraphs, and were then, together with the fifth, severally agreed to.

Sixth paragraph.

Hon. Mr. Beer: I am pleased to see that paragraph in the Speech. There is not much debating ground in the speech as a whole; but something might be said upon this clause relating to local industry, and I hope and trust it will be acted upon by the present Government—that they will assist in developing the resources of the Colony. There are several things to which their attention will soon be directed; some of which, indeed, were initiated by the late Government. An amount of money was appropriated by the late Government for the importation of a boring machine to ascertain whether we had anything valuable beneath our soil. That amount should be expended, and even a larger sum, if required, so as to have the question set at rest.

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