

# The Colonial Herald,

AND

## PRINCE EDWARD ISLAND ADVERTISER.

NEW SERIES.]

CHARLOTTETOWN, SATURDAY, MAY 1, 1841.

[No. 196.]

HOUSE OF ASSEMBLY.  
Tuesday, April 20th, 1841.

**ORDERED**, That the Report of the Special Committee, on the subject of the claims of the American Loyalists and Disbanded Provincial Troops, and their Representatives, in this Island, together with the list of Claimants attached thereto, be once published in the *Royal Gazette* and *Colonial Herald*, Newspapers.

By Order,  
WILLIAM CULLEN, Clerk.

**THE** Committee appointed by the House of Assembly to report if any and what further measures should be taken this Session for obtaining redress for the Loyalists and Disbanded Soldiers, respectfully submit, that they have referred to the Bill passed in 1839, for the relief of the Loyalists, &c.; to the reasons assigned by the Colonial Minister for disallowing said Bill; to the report of the Committee to whom his Despatch was referred; to the Bill brought in by said Committee, and passed in 1840 through this House; to the reasons assigned by the Legislative Council for rejecting said Bill; to the Address to the Imperial Government in 1840; to the Address presented by the said Loyalists to the Governor General in 1840; to the Bill passed this Session through this House; and to the rejection of said Bill by the Legislative Council; and after consideration thereof, they have to submit—

That in regard to the objections of the Colonial Minister (see Despatch, 31st October, 1839), they see no reason to dissent from the opinion on and complete refutation of, part thereof, contained in the Report of 1840, and that the only part of his objections not refuted in said report was nullified by leaving out, in the Bill of 1840, those parts of the Bill of 1839 to which the objections of the Colonial Minister were really applicable. The Bill of 1840 did not in the least interfere with any of the supposed rights of Proprietary Claimants, and kept equally clear of infringing on the rights of the Crown. The first section of said Bill of 1840, provides that such Loyalists and Disbanded Soldiers as should establish their claims to be so regarded, and who had not got land on account of such claims, should be "entitled to a free grant or deed out of any wilderness land which now or hereafter may be vested in Her Majesty, and shall by the direction of the Crown be appropriated for that purpose; as also, out of any lands which, being vested in the Legislature of this Island, shall by Act of said Legislature be appropriated for that purpose."

Your Committee submit, that the above clause does not in the least trench on the rights of the Crown, nor on the powers of the Legislature; and on examination it will appear, that, except the two last clauses, which are to prevent any interference with the Land Bill, and to suspend the operation of the Bill till the Royal Assent should be given, all the remaining clauses of the Bill were devoted to making provisions for investigating the claims of every individual submitting such investigation to the Legislature for revision, and then putting the revised investigation on record, in order that well founded claims should not perish; and that repeatedly delaying justice should leave to these injured men and their heirs as their single possession, the only reward of their loyalty, the sole fulfilment of promises made by great men, and guaranteed by the Representative of Royalty, remediless wrong.

The reasons given by the Legislative Council (Journal of that Body, 1840, Folio 31,) for rejecting the Bill of 1840, are—

1st. That the said Bill was "similar in its provisions to that of 1839," which, so far, as above explained, appears to your Committee to be an erroneous assumption.

2d. That it had been framed without regard to one of the most material objections of Her Majesty's Government, namely, "that the Legislature had assumed a right to dispose of the waste lands of the Crown;" and the Legislative Council go on to say, "which right is yet assumed in the Bill now before this House."

Your Committee submit, that they are utterly at a loss to divine how the clause herein before quoted assumes any such right.

Your Committee regret that the Colonial Minister was not aware that, besides several Acts previously transmitted, there was, in 1809, under the consideration of the then Colonial Minister, a Bill for the relief of these Loyalists, as appears by the annexed extract of a letter from the late Lord Liverpool, dated 22d December, 1809—and they regret, still more, that the "anxious desire" professed by the Legislative Council for affording relief to the Loyalists, did not enable them to understand what to your Committee would appear to be the evident intention and meaning of the Bill of 1840, and that after a lapse of twelve months, the same misunderstanding of a very plain clause, and of the general tenor of the Bill of 1840, should continue.

One deduction which appears necessarily to follow from the decision given by the Legislative Council and the Colonial Minister, is, that any measure which is to be of any benefit to the Loyalists, and which requires the assent of Legislative Councils, Governors, and the Crown, will be rendered nugatory, because, by one or other of these objecting to some of the clauses of the Bill, or being unable to see the existence of any wrong requiring such Bill, or by mere delay, all such Bills have for the last forty years been nullified.

Your Committee however submit, that if other public bodies cannot recognize these claims, it is incumbent on the House of Assembly not to relinquish a cause which, after mature examination, they declared well founded; and in this view your Committee respectfully submit, that the list of claims for the Loyalists and Disbanded Soldiers, herewith produced, should be printed as an appendix to the Journals, along with extracts of letters from the late Lord Liverpool and Mr. William Faulkner; and that next Session a Committee should be appointed, to investigate how many of these claimants were put in possession of, and allowed to retain, their land, and to report accordingly, to the end that when the matter shall be reviewed in its true light, the unsatisfied claimants may receive that satisfaction to which they are so justly entitled.

All which is respectfully submitted to the House, by their Committee.  
ALEXANDER RAE, Chairman.

March 11, 1841.

Extract of a Letter from the Earl of Liverpool, to His Excellency Lieutenant Governor Des Barres, dated Downing Street, 22d December, 1809.

The Act intitled "An Act to confirm the Titles and quiet the possessions and locations in this Colony of the American Loyal Emigrants and Disbanded Troops," which contains a suspending clause, still remains under the consideration of the Lords of the Committee of Privy Council; their Lordships being of opinion, as you will perceive by the enclosed extract of a letter from Mr. Faulkner, dated 15th November last, that some information should be obtained from you thereon, as to the nature and defects which it is proposed by this law to dispense with; and I request you will furnish me with such information accordingly, that I may communicate same to their Lordships.

(Signed) LIVERPOOL.  
A true Copy. CHARLES SERANI,  
(Signed) Acting Private Secretary.

Extract of a Letter from William Faulkner, Esq., to the Honorable Cecil Jenkinson, dated Whitehall, 15th November, 1809.

With respect to this Act, their Lordships think it proper to recommend a suspension of the Royal Assent, until they shall be informed of the nature of the irregularities and defects which it is proposed by this law to dispense with.

A true Copy.

(Signed) CHARLES SERANI,  
Acting Private Secretary.

List of Claimants appearing in the Journals of the Council as Loyalists and Disbanded Soldiers, so far as the Committee has been able to ascertain:—

Alexander Atcheson,	Daniel Grant,
Alexander Aird,	Daniel Grandine,
John Aldeston,	Samuel Grandine,
Thomas Alexander,	Henry Gray,
William Allen,	Thomas Green,
Peter Anderson,	Patrick Griffin,
George Anderson,	John Griffin,
David Anderson,	Benjamin Grosvenor,
Thomas Andrew,	John Hales,
John Apps,	Robert Hancock,
William Baker,	Captain Hayden,
John Baker,	James Lewis Hayden,
John Barefoot,	William Heden,
John Barnes,	James Henderson,
Lawrence Barret,	David Hoare,
David Beatty,	Robert Hodgson,
Joseph Beers,	George Hopps,
John Beg,	Charles Hooper,
Samuel Bernard,	Thomas Hooper,
William Bernard,	Major Hooper,
Walter Berry,	William Hony,
Laurence Berry,	John Howatt,
William Bethel,	Nicholas Hugh,
Thomas Biggins,	Thomas Inglis,
Thomas Birk,	George Jacks,
John Black,	Michael Jeffries,
Daniel Blaid,	Francis Jenison,
Abraham Blatch,	William Isaac,
William Blatch,	William Jutson,
Alexander Boyzer,	Robert Keating,
Samuel Braddock,	Dennis Keef,
John Braine,	Daniel Kennedy,
John Brecken,	Augustus C. Kileash,
John Breen,	Samuel Kenney,
Enoch Broom,	Richard Lamb,
Alexander Brown,	Thomas Landrican,
John Brown,	John Lawson,
John Brownyang,	William Laws,
James Bryan,	George Linklighter,
Daniel Bulkely,	Dennis Lister,
John Burke,	Michael Liston,
James Burke,	John Long,
John Burnham,	Morris Lvsart,
George Burns,	George Mabey,
John Barrow,	Daniel M'Alpine,
Stubertus Bymer,	Archibald M'Callum,
Alexander Campbell,	Dugald M'Callum,
James Campbell,	John M'Caske,
James Campbell,	Murdoch M'Leod,
Robert Campbell,	Robert M'Leod,
Colin Campbell,	John M'Leod,
John Carey,	Stephen M'Connell,
John Carpenter,	Barnaby M'Crossen,
Joseph Carr,	Major Alexander M'Donald,
Charles Carroll,	Captain John M'Donald,
James Carver,	Lieut. John M'Donald,
John Casey,	Lieut. Kenneth M'Donald,
Michael Cailley,	Lieut. Donald M'Donald,
John Chambers,	John M'Donald,
Robert Charlotte,	Charles M'Donald,
Lathrop Chase,	Alexander M'Donald,
John Cherrie,	Ronald M'Donald,
John Clark, sen.	Allan M'Donald,
John Clark, jun.	John M'Donald,
William Clark,	John M'Donald,
Lewis Clark,	Angus M'Donald,
John Price Clunn,	Archibald M'Donald,
Elisha Coffin,	John M'Donald,
Isaac Colthorp,	Alexander M'Donald,
John Condon,	Donald M'Donald,
Henry Congreve,	and Sons.
Henry Conners,	John M'Donald,
Patrick Conolly,	Ronald M'Donald,
Peter Conolly,	John M'Donald,
Robert Cooksey,	Lauchlan M'Donald,
Peter Cosgrove,	Roderick M'Donald,
Adam Coulter,	William M'Dugald,
George Coswell,	Hugh M'Eachern,
John Coxen,	Donald M'Farlane,
Spencer Crane,	William M'Glaser,
William Crane,	Dennis M'Goll,
James Crockett,	John M'Gregor,
Benjamin Darby,	Robert M'Innis,
John Davis,	John M'Innis,
William Day,	Galleer M'Innis,
Aaron Deval,	Kenneth M'Kenzie,
James Dogherty,	John M'Kenzie,
Maurice Dogherty,	Bartholomew M'Kie,
John Dowling,	Alexander M'Millan,
Thomas Doyle,	Michael M'Neil,
Michael Doyle,	Michael Maloney,
Jeremiah Dayley,	Edward Manwaring,
William Drake,	Peter Mullet,
Richard Dring,	Michael Mahone,
John Duke,	Thomas Marks,
John Duchan,	William Marks,
Patrick Dwyer,	James Marshall,
Thomas Dwyer,	Michael Martin,
Martin Dwyer,	Matthew Meredith,
Daniel Dymock,	John Miller,
John Eachorn,	William Mishill,
Andrew Eastman,	Richard Moorfield,
John Elmar,	David Morgan,
Richard Elewood,	Joseph Merida,
Joseph Emanuel,	John Murphy,
Greecie Emanuel,	John Murray,
Thomas Englis,	David Murray,
John Elmslie,	Peter Musick,
Sarah Elmslie,	M. Myers,
Governor Fanning,	William Myers,
Alexander Farquhar,	Duncan Nichols,
James Farquharson,	Ebenezer Nicholson,
Joseph Ferdinand,	John Niston,
B. Ferrar,	Thomas Oakes,
William Fisher,	Michael O'Brien,
Alexander Fletcher,	James Osborn,
John Ford,	Thomas Payte,
John Foy,	Jonathan Palmer,
Robert Fox,	Churchill Patten,
James Fraser,	Walter Patterson,
Hugh Fraser,	William Pickering,
Adam Fulmore,	Seagoe Porter,
John Gillespie,	Robert Potts,
Thomas Geary,	Richard Price,
Daniel Geddings,	John Purcell,
Barney Geonan,	John Quigley,
John Gibbons,	Morris Quinta,
Matthew Gigg,	Nicholas Quinahan,
Donald Gillies,	John Ramsay,
Duncan Gillies,	James Ramsay,
Daniel Godfrey,	Alexander Rea,
Thomas Gould,	Francis Reilly,
Moses Graham,	

William Reilly,  
Thomas Reynolds,  
Joseph Robertson,  
John Robertson,  
John Rollins,  
Richard Rollins,  
Rollins,  
Daniel Roper,  
Peter Rose,  
Peter Roubiere,  
Thomas Rysoff,  
Samuel Jamieson,  
Robert Sampson,  
Thomas Shoemaker,  
William Sensibaugh,  
Thomas Sandford,  
William Schurman,  
Philip Sentiner,  
Thomas Shaw,  
James Sheen,  
Archibald Shillan,  
John Shadowin,  
Jonathan Shelfox,  
Frederick Shultz,  
Jacob Silliker,  
Jean Simon,  
Joseph Smallwood,  
Bayne Smallwood,  
Alexander Smith,  
John Smith,  
Andrew Stacey,  
David Stage,  
John Stanbury,  
Adam Stewart,  
Charles Stewart,  
John Stewart,  
Dugald Stewart,  
John Stipwell,  
John Stipwell,  
John Stipwell,  
John Stipwell,  
William Stock,  
John Stonehouse,

HOUSE OF ASSEMBLY.  
Wednesday, April 28th, 1841.

**ORDERED**, That the Examination of the Hon. George Wright, Surveyor General, touching the operation of the Boundary Act, be once published in the *Royal Gazette* and *Colonial Herald*, Newspapers.

By Order,  
WILLIAM CULLEN, Clerk.

The Hon. G. Wright, Surveyor General, called in and examined.

Q. Are you one of the Commissioners for fixing the Boundary lines betwixt Townships?

A. I am.

Q. Have you been called on to determine the line dividing Townships 3 and 4?

A. There was a requisition made to the Commissioners by one of the Proprietors of Township 4.

Q. Did the Commissioners determine the line?

A. They did not.

Q. When was the requisition made?

A. In the winter of 1839.

Q. What did the Commissioners do?

A. The Commissioners directed a Survey to be made of the coast, on each side of that part of the line we were called on to fix, which survey was continued to the Northward, as far as Lot 1, when it appeared that there were nearly three miles of sea-coast introduced on the original plan which was not in existence, and which deficiency fell upon Lots 2 and 3—principally upon the latter. The Commissioners, in consequence, did not feel justified in fixing the line between Lots 3 and 4, until they had searched the Surveyor General's office, for further records, which might enable them to proceed in that service. Shortly after which, the operation of the Act, for Prince County, was suspended.

Q. Whom did they direct to make the survey above referred to?

A. Alexander Anderson, who executed the survey under the immediate inspection of the Commissioners.

Q. Was that in 1839?

A. I think it was in 1839.

Q. Have the Commissioners, since then, got any information which will enable them correctly to ascertain the lines betwixt Lots 2, 3, and 4?

A. They have not; I consider it impossible to fix these lines satisfactorily, without a re-survey of that part of the Island.

Q. Do you mean a re-survey according to the provisions of the present Boundary Act?

A. The Act contains no such provision.

[BY MR. PALMER.]

Q. Do you mean a re-survey to be taken in like manner as surveys are now taken under the several Boundary Acts?

A. A different mode would be necessary, to form a correct plan by which irregularities might be obliterated.

Q. Do you consider, in regard to Lots 2, 3, 4, 5 and 6, that there is any clear and satisfactory evidence by which the boundaries of any of these Townships, where bordering on the Straights of Northumberland, can be correctly ascertained?

A. Only three of these Lots bound on that shore—2, 3, 4, and part of 5. The Commissioners did fix the boundary between Lots 5 and 7, and found no difficulty. As regards 2, 3 and 4, with the exception of the line between 1 and 2, said lines cannot with present documents be satisfactorily established.

Q. Does the witness know, or has he reason to think, that any of the Townships, 1, 2, 3, 4, 5, 6, and 9, contain more than the quantity of land stated in the Grants?

A. I cannot say whether they do or not.

Q. Or any of the townships bordering on these?

A. Not having an actual survey of any of the Townships bordering on these, I cannot say.

Q. Does the witness believe that there is not a sufficient quantity of land to give every one of these Townships its stated quantity—that is, that the said part of the Island, to the North of Townships 10, 11 and 12, does not contain an area equal to the sum of the acres stated in the respective Grants of the Townships to the North of these three?

A. Very possibly there might, but I cannot speak with certainty.

Q. Have the Commissioners made the search you alluded to in the Surveyor General's office?

A. They did.

Q. Were such shore survey as you alluded to to be made, at what points, in your opinion, ought it to be commenced and terminated?

A. A survey might be commenced at Egmont Bay, and carried through the Island to Cascumpec Bay, and Foxley River, and continued on the N. E. Shore, as far as Lot 1—on the other side of the Island, from Egmont Bay to Lot 1—on the N. W. side of the Island, it might be likewise necessary to include Lots 11 and 12 in the survey.

Q. Then have you clearly ascertained the lines dividing Lots 1 and 2, or are you certain that there is no doubt of the points where the line separating these two Townships touch the sea shore of the Island?

A. The natural marks, on the N. W. are very distinct; as an actual survey of that Township has recently been made, it would save the necessity of another survey of it.

Q. Have you, as one of the Commissioners, found material difficulty in clearly ascertaining the old Boundary lines of Townships, in any other part of the Island?

A. We generally found the old Boundaries to correspond with those established nearly forty years ago.

Q. Have not great changes taken place in the appearance of Capes, Headlands, and the mouths of small Rivers or Brooks on the seashore in several parts of the Island?

A. On the seacoast, there is a material difference.

Q. Does Lot 1 contain more or less than the quantity mentioned in the Grant, or in the Tabular description?

A. The survey recently made has not yet been returned to my office, therefore I cannot tell.

Q. Do the side lines of Lots five and six, as run partly from one shore and partly from another, exactly coincide, or is there a corner formed at their junction?

A. I am not aware that the lines have been run, but I have reason to believe they will not join.

HOUSE OF ASSEMBLY.

On Tuesday the 20th and Wednesday the 21st little business was done in the House, except holding several Conferences with the Council, chiefly on the School Bill, to which the Council had suggested several amendments.

On Thursday the House was engaged in Conferences and on routine business.

On Friday the House went into Committee on the State of the Colony, when the following Resolutions, prepared by Mr. Rae, were agreed to:—

1. Resolved, That the people of this Colony are highly dissatisfied with the measures pursued towards them by the claimants of townships. That as the conduct of these claimants and their Agents has been in almost every instance oppressive, and in many instances both oppressive and fraudulent, there is no prospect of the dissatisfaction being done away with, by refusing, year after year, the popular requests for redress.

2. Resolved, That the House may be dissolved, the representative part of the constitution suspended or abrogated, but these measures will bring neither prosperity nor even peace; because it is not a desire for an extension of political power which mainly agitates the people, but a desire for even-handed justice, and for land on such terms as that by an union of labor, hardihood and economy, they may live upon it, and leave their dear bought property to their children; and until this be conceded, every branch of industry must languish, and every impartial man, confessing that the people are deeply wronged, will look for the bitter fruits which spring from oppression long persisted in.

3. Resolved, That this House has derived considerable satisfaction from the Despatch of the Colonial Minister, stating that henceforth the land question must be considered a public question, and treated accordingly.

4. Resolved, That this House have no expectation that the correspondence which in said Despatch the Colonial Secretary proposes to open with the Proprietary claimants, will result in any equitable offers being made by said Proprietary claimants.

5. Resolved, That this House maintain that the rights of the Crown authorise the escheat of the Townships of this Island, and that the real interests of the inhabitants would thereby have been greatly promoted, and that the sales of the land would have cleared off part of the arrears of the Civil List due by those Proprietary claimants to the British Government, amounting to upwards of £120,000, and would, at all events, have made ample provision for said Civil List for many years to come.

6. Resolved, That though the Colonial Minister, in 1802, ordered said Escheat to be carried into effect, yet, as the Bill prepared in conformity with his instructions, and passed through the Legislature of this Colony, was believed to have been concealed or abstracted after the Crown had assented thereto, and as the influence of the Proprietary claimants prevailed so far as to throw obstacles in the way of any similar enactment; and as from the year 1830 to 1839, the Colonial Ministers uniformly refused to sanction Escheat, the present House in its Second Session passed a Bill for purchasing such alleged claims, as is explained in the third paragraph of their Petition to the House of Commons, forwarded in 1840.

7. Resolved, That considering said Bill, and the opinion expressed by the Legislative Council of the same, in their Resolution of 28th April, 1840, (folios 89 and 90 of Legislative Council Journals) and that there was no chance of these Proprietary claimants making any offer which would come near to what the Colony could pay, the House felt themselves called on to pass said Bill a second time.

8. Resolved, That as the question is to be henceforth a public question, it is expedient to give publicity to all the leading important facts of the case, and that therefore a Committee be forthwith named, to make a list of such Despatches received from Ministers, and of such answers thereto by Governors, and of such reports and examinations made by the House of Assembly, and of such petitions and addresses by the House of Assembly, the Legislative Council, or the people of the Colony, as may seem necessary. That the same shall be printed, and Five hundred copies thereof forwarded, under the direction of said House of Assembly, to Joseph Hume, Esq., as Agent for the House of Assembly, and that said Committee be directed to request Mr. Hume to cause same to be distributed to such Members of the Imperial Parliament, and other influential individuals, as he may think most likely to advocate the cause of the oppressed cultivators of this Island.

9. Whereas the Legislative Council did, on the 28th April, 1840, pass Five Resolutions, the Third of which distinctly charges the majority of the House of Assembly with deluding the people whom they represent, and is in all its bearings highly insulting (See folio 90 of Journal of Legislative Council)—

Resolved, That the present House of Assembly, in the various procedures wherein they have had to communicate with the Legislative Council, have shewn no disrespect to that body, nor will any part of their Resolutions bear any interpretation of reflection on the moral character of any individual of that body. The original and unwise granting the soil of the Colony to a few, and providing that these should have a seat in the Legislature, has set those in opposition to the mass of the people on that most important subject, of the price of rent to be paid for the wilderness—and at the same time has given these few the power of exercising a similar influence in all the departments of public business; and therefore, though the Members of the House of Assembly, as individuals, entertained no ill will to the Members of the Council, yet as a public body the House of Assembly was bound to represent the injuries occasioned by this unfortunate constitution. That under the circumstances of the Colony, the House of Assembly could do no less than state the peculiar interests existent in the Legislative Council. How far such statement was consistent with the fact, will appear from sundry of these present Resolutions; and they represented a plan for introducing as a system propagated by those at present in the Council, but as a necessary consequence of said constitutional defect, particularly alluding thereto in the Resolutions and Addresses of the Sessions of 1839, and fully describing same in the Sixth Resolution of 1840. (folio 146, of Journals of House of Assembly.) But the Legislative Council, in their reply thereto, refer to alleged "notoriety," represent the majority of the House of Assembly as turbulent demagogues, who had devised a plan for plundering the rich, and who, as the Legislative Council had resisted this, were anxious to divert the popular odium, incident on the failure of such scheme, from themselves to the Council. How far this is consistent with fact, will appear from the subsequent part of this Resolution, and