

# 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. IV.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, MONDAY, MARCH 12, 1855.

No. 35.

## Colonial Legislature.

(Continued from our last.)

### STUD HORSES.

Hon. Mr. WIGHTMAN then moved, and Mr. Laird seconded, that the blank in the resolution be filled up with £600, which was carried on a division of 9 to 8. Hons. Messrs. Lord and Whelan being absent at the division, the supporters of the original motion for £1,000, argued that the resolution just agreed to should be referred back to the committee; and when these gentlemen had taken their seats it was reconsidered, and the original motion for £1,000 was agreed to. When the resolution was reported, Hon. Mr. Mooney moved a reconsideration, and protested warmly against the course adopted by the majority as unfair.

Hon. Mr. PALMER stated that the motion was irregular, and that the proper course for the hon. member to pursue would be to move to reduce the amount.

Hon. Mr. MOONEY then moved that £500 be granted, as sufficient for the purchase of three horses, which was lost, and the main motion agreed to by the H. use.

MONDAY, February 19.

### TENANTS' COMPENSATION BILL.

House in Committee on Tenants' Compensation Bill.

Mr. COOPER objected to the Bill as not being sufficiently comprehensive in its nature. A measure of this kind should embrace all classes and descriptions of tenants, and all descriptions of improvements. In Great Britain all tenants are protected by receiving compensation for their improvements, while this measure merely applies to those who have leases for limited periods. There is no provision for compensating those who have settled on and improved lands without any written lease or agreement, and I contend, Mr. Chairman, that every man who spends his time and his labor in improving the lands of another, should be paid for his improvements; and the Bill should provide compensation to tenants under short leases, at the expiration of their terms, as well as for those who may be ejected during the period of their leases. Under this Bill, the proprietors may do as they please, and it seems to have been prepared with a view to prevent tenants improving, and, in reality, offers no protection. It would be better for the landlords themselves that all tenants should be entitled to compensation, for now, if a tenant can be driven off the land at any moment the proprietor chooses, he has no inducement to improve property, but may burn down the buildings and injure the land to any extent, and the present system almost tempts him to do so. I therefore move, Mr. Chairman, that the preamble of the Bill be reconsidered.

Hon. COL. SECRETARY.—I have no objection, Mr. Chairman, to the motion of the hon. member, as I have no doubt that the House is inclined to afford every reasonable protection to tenants in cases where it is sought to eject them from their holdings. I am willing to include in the Bill parties who have been in possession five or ten years, whether they have leases or not, and whether they have settled on lands with or without the sanction of the landlords. So far I am disposed to meet the views of the hon. member; but, sir, I do not agree with him in his idea of affording compensation to tenants who have long leases, for 999 years, for example. I have previously explained that this Bill is intended to apply merely to tenants whom the landlord may desire to eject before the expiration of their term, and I am confident that if we adopt the suggestion of the hon. member, we shall find that the whole measure will be disapproved by the Home Government. He had better embody his views in a separate Bill, and when that shall be introduced, they can be thoroughly discussed, and the opinion of the House expressed. But if we embody them in this Bill, we will probably find the influence of the proprietors arrayed against it at the Colonial Office, and by asking too much we shall, I fear, lose all. The despatch on the Bank Bill shows how vigilant a control the British Government exercises over Colonial legislation. With reference to the nature of the improvements, I am willing that all valuable improvements should come under the operation of the Bill, and that payment of rent for five years should entitle a tenant to its benefits.

Mr. COOPER read the title of the Bill, and maintained that his plan was preferable, that tenants should be induced to improve their lands, and compensation would stimulate them to do so. At present there is no encouragement to them. While they are liable to be turned off the land at any moment, they may be tempted to destroy every thing. Contrast this Bill, Mr. Chairman, with the preemption law in force in the United States. There, any man who goes into the wilderness and puts up his cabin, and clears the forest, is entitled to the preemption of the land he has improved, at a low rate fixed by the Government; while here, our Government charge a man twelve and six-pence an acre for the land he has himself improved.

Hon. Mr. LORD.—Mr. Chairman, I do not think that there are many twenty-one years' leases at present in force in the island. It is true that Lord Selkirk may have some, but I believe that the greater part of those who took such leases from him have left the island and gone to Canada. I think, however, that it is very hard that lessees for twenty-one years should be deprived of their land without compensation. Such tenants will not remain to improve land for the benefit of the proprietors; and if they exercise a wise regard for their future interests, they will dispose of their present holdings and settle on the Worell estate, by purchase from the Government, and the hon. member for Belfast will soon find them leaving him, and placing themselves in a better situation. I agree, Mr. Chairman, with the Hon. Col. Secretary, that it would be wise to let the hon. member (Mr. Cooper) introduce a separate Bill, embodying his views, and not to risk the loss of this by inserting too much. This Bill is a straightforward and honest one. It will prevent any man, be he sick, or poor, or so crippled that he cannot labor, from being turned out into the woods without compensation for those improvements on which he has expended his strength and labor. Some landlords, I am well aware, would cheerfully pay of their own accord, to such persons what their improvements were worth, for the purpose of getting them off their property, as I know not a more painful spectacle than that of a poor settler's hut in the forest. The miserable cabin, with its wretched inmates shivering round the scanty fire, with but a few potatoes for their sustenance, is a sight which would, I know, incline me to pay liberally to clear my property of such destitution. But that should not be left subject to the discretion of any landlord—it ought to be secured to the tenant by the law of the land.

Mr. DOUGLASS.—As to the observations made by the hon.

member who has just sat down, that tenants would be leaving me, I can only say that consideration need not disturb his equanimity. I feel very easy about myself. But, Mr. Chairman, when the hon. member was manifesting such sympathy for the unfortunate tenants, he said not one word on behalf of the unfortunate landlords; and I feel pretty certain that when he is travelling about the country looking for timber, he is not particular whose land it comes from, or whether it is under lease or not, or whether the lease be for 21 or 999 years (Laughter). I think he had better introduce a Bill to provide compensation for landlords; there would be some sense in that. I cannot recognize the propriety of paying any trespasser who may settle on land without permission of the landlord. I can inform the committee that applications to me for land are constantly increasing, and that there are but a few leases for twenty-one years, and they were given with the view of securing to the tenant the value of his improvements, as they contained a clause by which the landlord agreed to sell the land to the tenant at a sum specified. It is not the interest of the landlord to deprive a tenant of his improvements; more money can be made of wilderness than improved land. I can tell the hon. member (Mr. Cooper), that at the time he was agitating the country on the question of Escheat, and going about setting landlord against tenant, and tenant against landlord, several tenants refused to pay their rent, and so fell into arrears; and they have since declared to me that the agitation of that question was the cause of their withholding at that time what they owed, and they have not since been able to pay. That is a specimen of the benefits the country has received from that hon. member's conduct on the Escheat question. I do not, Mr. Chairman, intend to offer any facetious opposition to the Bill; in my opinion, it will do no good one way or the other, and it is all smoke (Laughter). I am, however, very glad to see the Government proprietors. As such, they will, of course, afford their protection to the rights of property (Laughter). I must say, Mr. Chairman, that I differ from the hon. member (Mr. Cooper), when he objects to the price of 12s. 6d. per acre, as being too high. I, sir, do not think it high enough. My opinion is, that more should have been put on those lands which have a shore front, and less upon those in the interior, which have not and cannot have the advantages the others possess. The hon. member, in his allusions to the compensation to tenants in Britain, loses sight of the great difference between the tenants there and in this country. There, a great number are mere tenants at will, liable to be turned off at any moment; and the uncertainty of such title renders it but just that the tenant should receive compensation for his improvements. Here, sir, we have no such cases; and however, hon. members may talk, I contend that there is no country in the world where a poor man, if he be honest and industrious, has better prospects than in this island. True, our winters are long, but they are healthy; and a farmer can now get a good price for his farm whenever he wishes to dispose of it. But I regret to say that all tenants are not honest and industrious, and I consider it wrong in principle to treat the idle and dishonest man in the same way that you would the industrious and honest. The latter should be encouraged, while the former should suffer the consequences of their misconduct. Why, sir, there are some tenants on the property under my management who have leases for 999 years, at 6s. an acre, and the first 10 years of that free of rent, who, nevertheless, owe 20 or 30 years' rent. What benefit are such men to the proprietor or the country? And in many of the cases of the 21 years' leases spoken of, which, as I said before, were given with the view of making the tenants proprietors, although they have paid no rent yet, they have robbed the lands of timber to three or four times the value of the price for which they could have purchased the fee simple.

Mr. LAIRD.—Mr. Chairman, I may mention that, within my own knowledge, there are on Let 24 many tenants (probably 100), who pay rent, yet have no security for their improvements. Such persons, I maintain, should be protected by the Bill, and if they wanted to sell out at any time, should be paid for their improvements. No honest man can object to such a course, which common justice between man and man requires; and I cannot see how a clause to that effect can jeopardize the Bill.

Hon. Mr. WIGHTMAN.—Mr. Chairman, with reference to the remark of the hon. member for Belfast, that this Bill is all smoke, I must say, I do not attach much weight to his observation, as I have heard him express the same opinion in the same words when we were engaged in passing the Education Act and the One-ninth Bill. On these occasions the hon. member expressed himself to the same effect, that no benefit would result from the measures. But, sir, I consider that very great benefit will be experienced under this Bill by all those tenants whose landlords may desire to eject them; and not only will the Bill be of service to the tenants, but it will be found to be of mutual advantage to both landlords and tenants. It pays a due regard to the interests of both parties, and if a landlord should at any time wish to turn off a tenant, he can select one arbitrator, the tenant has the same privilege, and by these arbitrators, mutually chosen, the improvements are to be appraised. If, however, they cannot agree, they can select a third; and if, after that, no agreement can be arrived at, the Supreme Court settles the matter. Such a mode of action is the best that can be adopted, and I do not see how any reasonable man can object to it. With reference to the twenty-one years' leases on Lord Selkirk's property, I am happy to say that I believe the tenants are now on good terms with the agent, the hon. member from Belfast. Some years since, when the Escheat question was in agitation, the hon. member may, probably, have felt inclined to shew his power, by granting short or long leases, as he pleased, and if tenants did not choose to take them, they might go about their business. But since that time he has reduced the rents and forgiven the arrears, with the exception, I believe, of two years, so that he is not so bad after all.

Hon. Mr. MONTGOMERY.—Mr. Chairman, the question before the committee is, shall we re-consider the preamble? Yet we are talking of amendments without knowing what those amendments are. It will be time enough to discuss them when they are brought before the House.

Mr. COOPER then proposed to amend the preamble of the Bill, so as to put tenants attorning to the land on the same footing as lessees, and he read the preamble as amended, and proceeded to mention the case of a tenant who had taken a lease at one shilling per acre rent, payable partly in kind, and after having gone to great expense in erecting a mill and other buildings, and making valuable improvements on the property, was actually compelled to leave the land and lose all his labor and outlay, or take a lease from another party for two shillings an acre, which he is now paying.

Hon. Mr. MONTGOMERY.—I think, Mr. Chairman, that all lessees for short periods should be protected in the value of their improvements, and that proprietors of lands held by leases of 21 years, should be compelled to pay to the tenant the value of the improvements, if that tenant pays the landlord rent. There is no doubt, sir, that the strangers arriving in the island take short leases, in ignorance of the great difference between the circumstances of this country and that they have left. A man spending twenty or thirty years of his life in Britain, comes out here totally unacquainted with the place, and any proprietor taking advantage of his ignorance should be compelled to give good compensation for his improvements. Squatters, too, whose settlement on the land has been known to the landlord, and suffered to continue, should have a right to be paid for the increased value they had given to the property of the landlord. If the amendments can be incorporated with the Bill, without endangering it, I will support them.

Mr. McLEOD did not wish, nor did he suppose the House desired to injure the proprietors. It was but right that the man who had expended his labor in making improvements should be paid the value of them, for the improving tenant worked not only for his own advantage, but also for the benefit of the proprietor. The Bill should extend to tenants not under lease, so that if the landlord wanted possession of the land, the improvements might be appraised, and the surplus, after deducting the rent, should be handed over to the tenant, who might thus be enabled to purchase a freehold property. He could see no reason why there should be any distinction. The fruits of industry should be secured to the industrious.

Hon. COL. SECRETARY stated that a Bill to regulate the terms between proprietors and squatters had been formerly introduced by the Hon. the Speaker, and he thought it would be better that the matter should be the subject of a separate Bill. The present one applied to tenants for five years, but he did not consider that tenants taking a farm for one or two years entitled them to compensation. The hon. member (Mr. Cooper), would find that the extension of the principle of compensation to such cases would require far more machinery to carry it into practice than he at present supposes.

Hon. Mr. PALMER.—The Bill before the committee, Mr. Chairman, is, I believe, based on one introduced into the British House of Commons for the relief of the tenants at will, of whom there is a great number in Great Britain, and a very large proportion in Ireland. Those persons know when they take possession that they hold the land solely at the will of the landlord, and therefore such a measure is proper and necessary for the protection of their rights and interests. I have been informed, Sir, that this Bill is for similar purposes. It has been rumored that it will give compensation to tenants at will. If that be the case, Mr. Chairman, it should be known—the country should be informed of it. But we have no such class in the island, squatters are not strictly tenants at will, and I consider that those who have settled on land under a promise of obtaining a lease, should have the power to compel the landlord to grant it. It will not do to limit the classes to be affected by this Bill. If its operation be restricted to any particular class, it will be found to be but of small relief to the Country. And, Sir, I agree with the Hon. Member Mr. Montgomery, that those persons he described have as good and righteous a claim for compensation as any tenant under lease or written agreement can possibly have; at the same time I would not extend its provisions to mere willful trespassers, who openly defy their landlords. I myself, Sir, know one township where the tenants set the proprietor at defiance, refuse to pay rent, and do as they like with the property. I would never consent to compel the landlord to compensate such men, but the class of settlers who have occupied and improved lands on the understanding that they would receive leases, are so numerous as not only to justify, but positively demand the interference of the Legislature. I say this, as my sincere conviction, for I am not personally interested either for landlord or tenant. This Bill professes to confer great benefits upon the tenants. I for one do not think that it will have that effect, nor will it be such a check upon landlords as has been said. A landlord inclined to a rigid prosecution of his claims, may still, after this Bill may have become law, harass and distress his tenant as much as he can at present. He will still have it in his power to sue for the rent, and can distrain as freely as he can now. I was not present when the Bill of the Hon. the Speaker was discussed in the House. I did not oppose that, nor do I intend to offer any opposition to the passage of this. But I repeat that, if this Bill is to realize to the people the benefits its friends claim for it, it should embrace the class alluded to by the Hon. Member (Mr. Montgomery). They comprise a very large number of the inhabitants of the island, and have made very extensive and valuable improvements. Why, Sir, I have frequently been astonished to find in the course of my professional business, men who have occupied for years extensive tracts of land, for which they have been paying rent, and on which they have made improvements of great value, yet have never received a lease. Men such as these should be protected and secured in their property, and I hope their interests will be as carefully guarded as those of other tenants who may have leases or written evidences of title. For I do not come here to legislate for a portion of the community, but what I would give to one I would give to all.

Mr. COOPER explained that his amendment was intended to encourage the tenant in making improvements, and to prevent the destruction of property by him, though dissatisfaction at the conduct of the landlords or a desire for revenge for some real or fancied wrong received at his hands. Those tenants who have paid rent should not be styled squatters. They are substantially and justly as much entitled to receive compensation for their improvements as those who hold leases. But, Mr. Chairman, I have known instances in which they have been turned out of the lands they had cultivated and improved, and smarting under a sense of the injustice that had been done to them, they have burnt their buildings, and even the fences, and destroyed all they could. In such a case the landlord would be put to heavy expense for fencing, which we all know costs considerable money, and my amendment proposes to bring fences and any other improvements to the land within the scope of the Act.

Hon. COL. SECRETARY saw no necessity for this protracted discussion—all parties agreed on the principle of the Bill. Even the Hon. Member for Charlottetown had spoken in favour of it. He was mistaken, however, in saying that the Hon. Mr. Montgomery had first suggested the propriety of including in the Bill, those who had settled on lands under promise of leases. He himself had stated that they were to be comprised in the Bill. The Hon. Mr. Montgomery merely referred to parties having short leases.

Hon. Mr. MONTGOMERY explained that he had expressly mentioned in his observations the propriety of including in the Bill those who had settled on lands without written evidences of title, but with the understanding that they were to receive them.

Hon. COL. SECRETARY.—Yet the hon. member (Mr. Cooper) says there is no provision made for squatters, though we agree that the Bill shall apply to cases of use and occupation for five years.

Hon. Mr. PALMER.—The Hon. Col. Secretary either misunderstands or misrepresents my meaning; and he is now advocating the Bill, not as it was introduced, but as it has been amended, by including the numerous class of settlers without leases. The Bill, as introduced, did not extend to them.

Hon. COL. SECRETARY and Hon. Mr. LORD stated that they were included.

Hon. Mr. PALMER.—Then that class should know that they are included for the boon to the hon. members, Messrs. Cooper and Montgomery. I am perfectly indifferent about the Bill, for, as I said before, I do not consider it will produce any beneficial result one way or the other.

Hon. COL. SECRETARY denied that the credit of the extension was due to Mr. Cooper. He was happy to have the support of the hon. members opposite who had declared their approval, not supposing that it had originated with himself.

Hon. Mr. MOONEY was in favor of the measure, as it would do some good for tenants. For himself, he could say that he always had, and always would support any measure that might be introduced, if he thought it beneficial to the public, no matter who brought it in. The dispute as to who was entitled to the credit of including the tenants not under lease, reminded him of the contest about the birth-place of blind old Homer, and, no doubt, in a few years we shall have warm arguments as to who was the father of this measure. If Mr. Cooper is entitled to praise, let him have it by all means. But I hope the Bill will pass, and the people will be allowed to get the benefit of it.

Mr. COOPER.—The object of the amendment is simply that all tenants should be paid for their improvements, but the Hon. Col. Secretary argued that because a man executed a lease for a limited period, he should not at the expiration of that period receive compensation. Now, it is impossible for a man on a farm, which he is improving, to save in a few years money sufficient to enable him to purchase a freehold property. It is for such reasons that I wish the amendment to pass.

Hon. COL. SECRETARY again explained that the Bill was intended to apply to all those tenants ejected before the end of their term, and would consequently include tenants even for one or two years, and reiterated his opinion that Mr. Cooper's views should be embodied in a separate Bill.

Mr. DOUGLASS repudiated the idea of taking the improvements from a tenant without compensation, even at the expiration of twenty-one years' lease. Such a line of conduct had never suggested itself to his head or heart. The leases spoken of had been drawn with a clause giving the tenant a right to purchase at a fixed price at any time within the term, and many had found it to their interest to do so. It is no bad thing for a man to have £5 or £10 indorsed on his lease as part of the purchase money of the fee simple. But he was strongly opposed to legislating for the benefit of trespassers. People of that class are injurious to the best interests of the country. They not only misconduct themselves, but their bad example leads others astray.

The Hon. the SPEAKER.—Mr. Chairman, the hon. member for Belfast is merely fighting shadows. The hon. member (Mr. Cooper), does not mean to apply the benefits of the Bill to mere squatters or trespassers, as he (Mr. Douz), seems to think is his intention. The Bill applies to rent payers who may be ejected before the expiration of the period for which their leases were given, yet hon. members are occupying the time of the committee in discussions about the length of the tenancy, and whether holders of leases for twenty-one years shall receive compensation at the end of their term. Those questions have no connection with this Bill, and should be the subject of a separate measure. The more complication the greater risk of the Bill being defeated somewhere. I, therefore, will support the Bill, as it is better to get half a loaf than no bread, and it will not do to risk the fate of this measure by the addition of what may ultimately cause the loss of the whole. I would remind the committee of the fate of a Bill which this House sent to the Council. That Bill embraced the One-ninth Act and the Currency question. The Council advised us to separate them. We did so; and they then passed the One-ninth Bill and rejected the other. The introduction of other matters into this Bill may cause its rejection at the Colonial Office by the influence of a fifth power. The sooner the Bill passes the better, as enquiries are being constantly made as to whether it has become law. I will support the hon. member (Mr. Cooper), in bringing in a Bill for compensating tenants for twenty-one years, at the termination of their tenancies, and also squatters. The Bill I introduced some years since, passed by so small a majority that the Council felt it their duty to throw it out. Had that measure become law, many would have been saved from ruin who have been compelled to sell their little all and go elsewhere.

Mr. DOUGLASS would oppose the recognition of a trespasser as a tenant.

Hon. Mr. WIGHTMAN would support the Bill in its present shape, although it does not go as far as the hon. member (Mr. Cooper) wishes. I agree with him, however, that the labor and improvements of twenty-one years should be compensated, as well as of five years, or even one year. I am fully sensible of the hardships on those tenants who hold twenty-one years' leases, and who have complied with all the conditions of their leases, and paid their rent to their landlord, and improved their land, erected buildings and fences, and exhibited themselves in every relation as good, honest and industrious members of the community. Those men should be paid for their improvements, as well as the men who go into the wilderness under long leases, with covenants for the payment of improvements. On these grounds I shall be happy to support the hon. member (Mr. Cooper), in a distinct Bill providing relief for such tenants.

Hon. Mr. LORD.—I have no objection, Mr. Chairman, to support the introduction of a separate Bill. I think that the insertion of the proposed clause in this Act would jeopardize the whole measure. I will go heart and hand with any hon. members to provide compensation to tenants with short leases and to squatters; by which term I mean those who have no written leases. There will be found, I think, but few of that class on lands, the title to which is good. If a man has settled on land and made improvements, a landlord with good