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[No. 134.]

COLONIAL LEGISLATURE.

(Proceedings of Monday, February 10, continued)

Mr. RAE moved the following Resolution:—

Resolved, That it is the opinion of this Committee, That the Despatch from the Colonial Secretary, as to the Bill for the relief of the American Loyalists and disbanded Troops, be referred to a Special Committee, to report thereon, by Bill or otherwise.

Mr. GORMAN asked what new lights were to be thrown on the question. How are we to expect the Bill will pass? Although he was ready to vote for a bill providing for the relief of the American Loyalists, he did not expect such a bill would be finally successful.

Mr. LONGWORTH questioned the utility of reviving such a bill. The royal assent had been refused to the measure. It was contrary to the royal instructions to agree to the Resolution, and therefore it must go for nothing.

Mr. PALMER acknowledged that he was one of those who had been impressed with the idea that some of the American Loyalists had been deceived. He believed some of them had been hardly used, but others had been impostors, whose claims were wholly unfounded. Whatever claims, however, remain, whether good or bad, are not likely to be granted. He formerly said he would be much surprised if such a bill should be sanctioned at home. If hon. members have any new scheme offering a remedy, without an accompanying evil, let them make it known, before we are compelled again to traverse the ground we have already gone over, step by step. The governor, by the royal instructions, was precluded from sanctioning any bill embodying any one principle of that bill to which the royal assent had been already refused. If honourable members still persisted that there were any individuals among the loyalist claimants who at this day were entitled to land, it would be cheaper for the country to vote a few hundred pounds for that purpose, and thereby set the matter at rest.

Mr. MACINTOSH thought the bill, with some slight alterations, might yet be successful.

Mr. LE LACHEUR said he thought the House need not wonder at whatever the honourable member for Charlottetown might oppose. If he would have been surprised if the bill of the last session had been sanctioned at home, at what would he not be surprised? He seemed ambitious to "out-herod Herod." He would not only destroy the babe, but shew no mercy to grey hairs. The cause of the American Loyalists, he (Mr. Le Lacheur) said was not yet to be abandoned as hopeless. Something might yet be done to redress their grievances.

Mr. RAE admitted that in legislating upon the subject this session, it would not be proper to bring in a bill in all respects the same as that of the last session. He thought a bill a little altered, accompanied by an Address shewing the futility of the objections which had been made to the principle of the proposed measure, might yet secure its ultimate success.

The discussion upon the Resolution at this time before the House, though warmly and ably maintained, and a subject of much interest to many, we are, from want of space, compelled materially to abridge.

Mr. RAE concluded his support of the Resolution by observations to this effect: The individuals for whom relief was sought, had done every thing for themselves that lay in their own power, while a dollar remained in their purse. He said we are here to represent and do justice to the people, and we will not give up the point on account of such a refusal as we have met with; but in reviving the bill we must endeavour to make it unexceptionable in point of form.

After Mr. Palmer had risen to repel an assertion which had been made by Mr. Rae respecting the amount of money said to have been subscribed by the American Loyalists, in the year 1803, to send home a certain individual to advocate their claims; and Mr. Rae had explained that he had not been on the Island at the time, but that he had received his information from a person who was not very liable to mistake, and that he knew one individual alone had subscribed £20; Mr. Rae's Resolution was submitted to the vote, and carried in the affirmative.

On the decision of this question, the Committee rose, the Chairman reported the Resolutions, and obtained leave to sit again.

The Speaker having taken the Chair, the Report of the Committee was brought up by the Chairman, consisting of the following Resolutions:

1. Resolved, That it is the opinion of this Committee, That a Bill be brought in for regulating the Fishery Reserves, embracing the principles of the bill passed by the House of Assembly in its last session, for that purpose.

2. Resolved, That it is the opinion of this Committee, That the proposals made by G. R. Young, Esq., of Halifax, as Agent for, or partner with, certain proprietors or land speculators, are inadmissible—First, because if the offers made had been equitable, they were only made by a few, and wanted that formality necessary to warrant the House of Assembly to make them matter for deliberation and enactment; Secondly, that they are not calculated to afford relief to the tenant, but to empower the lessor with more ease and facility to deprive and dispossess the cultivator of his improvements; and, finally, that such proposals betray an entire ignorance of the capabilities and resources of the Island for the tenant to realize the sum required, and a total disregard of the rights of the inhabitants to a speedy, equitable and permanent settlement.

3. Resolved, That it is the opinion of this Committee, that a Special Committee be appointed, to prepare the draught of a Petition to the Imperial Parliament, setting forth the nature of the grievances under which the agricultural population of this Island now labour—and praying for the redress thereof.

4. Resolved, That it is the opinion of this Committee, That the Despatch laid before this House by the Lieutenant Governor, from Lord John Russell, Her Majesty's principal Secretary of State for the Colonies, of the 17th of September last, together with the Bill passed by the House of Assembly in its last session, to which it refers, be referred to a Special Committee, to report thereon, by bill, bills, or otherwise.

The Fifth Resolution was that relating to the Loyalists, as copied above.

The First Resolution being again read by the Clerk;

The Hon. J. S. Macdonald moved, in amendment, "That a Committee be appointed, to prepare and bring in a Bill to regulate the carrying on of the Fisheries on the coast of each Township in this Island containing a Fishery Reserve."

It was contended by the supporters of the amendment, that the Fishery Reserves did not extend to the shores of harbours, creeks, armlets of the sea, or the mouths of rivers, nor were they meant to include salt marshes, but must be confined to the out coasts of the Island.

Those who supported the original resolution denied that the Fishery Reserves were restricted to the out-coasts of the Island, but applied to harbours, creeks, and armlets of the sea; and that for the encouragement of fishing, it was absolutely necessary they should do so, as otherwise fishing could not be prosecuted to any advantage. There were some among them, however, who seemed to admit that the salt marshes ought not to be included in the reserves; and that the reservations should be made from high-water mark.

Mr. THOMSON said, that to insist on passing a bill embracing the same principles as the one of last session, was to say that we were determined not to come to any arrangement on the subject. He should support the amendment.

The amendment was lost, on the following division: Yeas—Hon. J. S. Macdonald, Messrs. Thomson, Arbuttle, Hudson, Palmer, Longworth, 6. Nays—Messrs. Gorman, Fraser, D. Macdonald, Macintosh, Rae, Le Lacheur, Macfarlane, Clark, Macneill, Montgomery, 10.

The Resolution, as reported from the Committee, was then put and carried, ten voting for it, and six against it.

The question being then put on the Second Resolution (repealing the proposals made by certain proprietors through G. R. Young, Esq.) it was carried by a majority of eleven, 14 voting for it, and Messrs. Palmer, Hudson and Longworth against it.

The Third Resolution (for referring Lord John Russell's Despatch, on the subject of the delegation, and the Escheat Bill of last session, to a Special Committee) being again read by the Clerk; Mr. Palmer moved, in amendment thereto, that after the word "Resolved," all be struck out, and the following substituted:—

"That in reviewing the Report of the proceedings of William Cooper, Esq., the delegate appointed by this House to represent to the Home Government certain matters which have been long a subject of agitation

in this Colony, it does not appear to this House that the said William Cooper, Esquire, made any effort or attempt to prosecute any of the said matters in the Imperial Parliament, or even to lay them before the said Parliament, although the same was in session many weeks during the absence of the said William Cooper, Esquire, in England, on the subject of his mission, and although full authority was given him, by a Resolution of this House, in its last session, to adopt such a course if it became necessary, and although all evidence that this House could supply, together with full instructions to prosecute such a measure, and adequate means provided to carry the same into effect, were afforded the said William Cooper, Esquire; nor does there appear to this House, from the said Report, any causes or reasons, sufficiently well grounded, as having prevented the said William Cooper, Esquire, from pursuing the course assigned to him by this House."

Mr. LE LACHEUR, in defence of the delegate, said, he believed the Imperial Parliament, at the time the delegate was in England, did not continue in session long enough to afford him a proper opportunity for making application to them. He did not pretend to say that the delegate had done all that he, (Mr. Le Lacheur) if in the delegate's place, might have seen proper to do; still he maintained that the delegate was in no way open to censure for neglect of duty in the discharge of his mission.

Mr. SPEAKER said, he had been called upon to exculpate himself from the charge of neglect of duty, in his capacity of delegate, when in England, in not having made application to the Imperial Parliament. The fact was, that Parliament was prorogued before he had anything to try before them. Had he waited for the re-assembling of Parliament, he would have been detained in England until nearly the time this year at which he arrived there last year. This consideration, and the additional one, that to bring the matter before Parliament, the presence of a delegate was not requisite, had induced him, on his finding he had nothing further to expect from the Colonial Office, to adopt what he considered to be the wisest course—to hasten again to present himself before his constituents.

Mr. RAE characterised the amendment proposed, as unwise and unnecessary, in this stage of the business; for, by adopting it, the original Resolution would be defeated.

The House divided on the motion of amendment: Yeas—Messrs. Palmer, Hudson, Thomson, Longworth, Hon. J. S. Macdonald, 5. Nays—Messrs. Fraser, Gorman, Macneill, Rae, Macintosh, D. Macdonald, Le Lacheur, Montgomery, Clark, Arbuttle, Dalziel, Macfarlane, 12. So it passed in the negative.

Mr. HUDSON then moved, in amendment to the said Resolution, that after the word "Resolved," all be struck out, and the following substituted:—

"That the questions between the Crown and the Proprietors of the Township Lands of this Colony, and between the said proprietors and their tenants, which arise from the construction of the conditions of the original grants from the Crown, and generally upon the forfeiture of the said grants, for the non-compliance of any of the said conditions, and which questions have been so long subjects of public dispute and controversy with many of the tenants of this Colony, are abstractly, and mainly, questions to be decided by conclusions of law; and that any law opinion on such questions, obtained from constitutional authority, or from Counsel of competent ability, in whom the said tenantry could confide, as being wholly disinterested in, and unprejudiced by the case submitted, would be highly important to the said tenantry, and fully acceptable to the public, and could not fail to have great influence on the conduct of the said tenantry in any further controversy or discussion on such subjects."

Mr. PALMER said, he felt disposed to second the amendment. It was the duty of the delegate, when in England, to obtain a sound constitutional lawyer's opinion. What could have greater weight in bearing upon the question? He was amply provided with means. The excuse he had offered was not sufficient, and ought not to be accepted by the House on the part of the Colony.

Mr. ARBUCKLE said, that although he had opposed the former amendment, he felt it his duty to support this.

Mr. SPEAKER, in explanation, said, that for the present, he would merely observe, he had been assured in London, by two legal gentlemen from Nova Scotia, that it would be useless for him to seek a Counsel's opinion, without a copy of the Island Laws to lay before him. He (Mr. Speaker) would at a proper season answer more fully for himself.

The House divided on the motion of amendment: Yeas—Mr. Hudson, Hon. J. S. Macdonald, Messrs. Arbuttle, Palmer, Longworth, Nays—12. So it passed in the negative.

Mr. LONGWORTH said, as the last motion was lost, he considered it his duty to submit the following to the House, as an amendment to the Resolution reported from the Committee:—

"That after the word 'Resolved,' all be struck out, and the following substituted:—That while this House duly appreciates the undertaking of William Cooper, Esq., the delegate appointed by this House, in its last session, to discharge the trust reposed in him by this House, personally to represent the grievances of certain of the tenantry of this Island to Her Majesty's Home Government, and to obtain for them redress, this House cannot, in deliberating on the result of his mission, refrain from viewing with deep regret and equal disappointment, the omission of the said delegate to pursue that part of his instructions requiring him to apply to the Imperial Parliament for redress, or even to procure a competent law opinion (while provided by this House with ample means for such purpose) upon the questions which have so long agitated the minds of the said tenantry—or otherwise coming to the conclusion that the said delegate was decidedly of opinion that either course could not have been attended with any benefit or advantage to the Colony."

He (Mr. Longworth) admitted that it would have been more proper to have brought forward this amendment when the House was in Committee, when the Speaker would have an opportunity of relying to it; but the Resolutions proposed and agreed to in the Committee, had been carried with so much precipitancy, that there had been no opportunity to bring forward any amendments.

Mr. THOMSON said, as the amendment embraced opposite principles, to one of which he was opposed, although in favour of the other, he could not conscientiously vote upon it. He had, therefore, now no other course than to retire behind the bar.

Mr. ARBUCKLE said he was in the same predicament as the hon. member for Georgetown; and must for once follow his example.

The House then divided as follows: Yeas—Hon. J. S. Macdonald, Messrs. Palmer, Hudson, Longworth, 4. Nays—11.

The question having been put on the original Resolution, it was carried, on the following division: Yeas, 11. Nays—Messrs. Longworth, Thomson, Arbuttle, Palmer, Hudson, 5.

The original Resolution, as reported from the Committee, was then carried, on the following division: Yeas, 12. Nays—Messrs. Thomson, Palmer, Hudson.

The fifth Resolution, relating to the Loyalists, was then read, and the question thereon having been put, was carried in the affirmative, on the following division: Yeas, 14. Nays, Mr. Palmer.

Then the House adjourned.

TUESDAY, February 11th.

Mr. CLARK moved, that as the Speaker felt aggrieved at certain aspersions which he considered the amendments proposed the day previous, by Messrs. Palmer, Hudson, and Longworth, conveyed against him in his capacity as Delegate, that he may have leave to lay his defence in writing before the House to-morrow.

This was opposed by Mr. Palmer, as a violation of the 13th Standing Rule of the House, which requires a day's notice before any new matter is introduced.

Mr. CLARK denied the applicability of the Rule to the case in point, as it was connected with a subject already before the House.

Mr. ARBUCKLE was of opinion that the course the Speaker seemed anxious to pursue was not according to parliamentary usage.

Mr. CLARK said he was aware that the offensive amendments had been lost; but the Speaker had felt himself aggrieved by the manner in which they had been brought forward; and it was due to him, and to every other public man, that, when his public conduct was arraigned, and the arraignment was to go forth to the public, he should have full and fair opportunity for vindication.

Mr. PALMER said, he was surprised that any hon. member should maintain that this Resolution was put in a parliamentary way. If it were a matter of privilege, let it be taken up as such. If inquiry be intended, due notice should have been given. If a more arbitrary proceeding were intended, he knew the opposite party were numerically strong enough to carry it. They might do so, but he would not on that account omit to oppose them. He then read the proposed amendment, and denied that it either personally reflected upon

the Speaker, or could be construed into any breach of privilege. He also read the second amendment which had been rejected, and wondered how it could be said to have any connection with a breach of privilege. Certainly, he said, it contained many stubborn and disagreeable truths, and on that account it might well rouse the feelings of their late Delegate. He (Mr. P.) then read the third rejected amendment, and asked if the mover of it had been guilty of a breach of privilege by stating what duties he considered had been omitted by the Delegate. The amendment was intended to shew the futility of an application to Parliament. The opposite party may, however, as they have it in their power, vote every line an insult, and every passage a challenge. He said he again repeated, if it be considered a matter of privilege, let it be taken up as a matter of privilege. If investigation into the conduct of the Delegate be intended, due notice thereof must be given.

Mr. SPEAKER observed, that as these amendments had not been brought forward in the Committee, he had not had an opportunity to reply to them there; and, when in the chair, he was effectually debarred from the privilege. The amendments were to go forth to the public; so ought his defence.

Mr. LONGWORTH said, they had been afforded no time to bring forward their amendments in Committee, as the Resolutions had been carefully kept out of sight until they were submitted one by one by the mover.

Mr. CLARK said it was an improper time for going into any enquiry respecting the Delegate's conduct; and, as he thought it unbecoming for neither did he intend any such thing. The Speaker, he said, had a right, if he felt himself aggrieved, to complain even from the Chair, without any breach of privilege.

Mr. ARBUCKLE said he appreciated the feelings of the Speaker. He had lately been persecuted himself, and among those with whom he had lately acted—among those who had pretended to be his friends, he had found his most bitter foes. (Calls of Order.) If Mr. Speaker only sought an opportunity to answer to the reflections which, in the amendments in question, he thought had been cast upon his conduct as a Delegate, he (Mr. Arbuttle) thought no friend to impartial justice could deny it.

Mr. HUDSON said he would be sorry to deny the Speaker an opportunity for explanation or defence. What he (Mr. Hudson) had stated, was merely that he considered it was the Delegate's duty when in London to procure a law opinion. It had, in defence of the Delegate, been said by some, that the means with which he had been furnished were too small to enable him to do so. He (Mr. Hudson) however, thought otherwise. £300 should have proved amply sufficient to enable the Delegate to discharge every duty of his mission.

Mr. LE LACHEUR said, the sum placed at the disposal of the Delegate was £300, Island currency. This was little more than £200 sterling—a sum very inadequate to enable the Delegate to accomplish the colossal designs, the execution of which he had to attempt.

The Hon. J. S. MACDONALD said, if it were alleged that there had been a breach of privilege, the best way would be to appoint a day to try it; in his opinion, however, there had been no such breach. The question before the House was, whether it was proper the motion should be then submitted. He thought if it were, it would be contrary to order, without previous notice. Sorry, however, he would be to see the Speaker debarred the privilege of answering to any allegations by which he felt himself aggrieved.

It was then moved by Mr. Dalziel, and seconded by Mr. Arbuttle, that the motion of the hon. member (Mr. Clark) be withdrawn. The motion was accordingly withdrawn, Mr. Clark giving notice that he would again bring it forward on Monday.

After some routine business, such as the reading of Bills, continuing and amending former Acts which were about to expire, &c. the House adjourned.

WEDNESDAY, February 12.

The Bill to continue and amend the Dog Tax Act, was read a third time and passed. The old Act is amended so far, that it exempts from the tax such inhabitants of Charlottetown, as keep one dog only.

Mr. RAE, on presenting a Petition from certain inhabitants of Bedeque, praying for an allowance from the Treasury to enable Anthony Simpson, of Shediac, to run a larger Packet between Bedeque and Shediac, stated that the Government of New Brunswick had granted £30 a year in aid of such Packet: that the transit betwixt these two places was nearer than betwixt any other two places, the one in this Island, and the other on the main land; that Bedeque, he knew, was a safe and commodious port, and he understood Shediac to be, if not so good, yet a good port for small vessels. Application, he said, had been made for establishing a Packet between Georgetown and some part of Nova Scotia; and although he was not prepared at present to state any particular objections to such a provision, yet he thought, that unless, by some of the many mechanical inventions, recently made public, the Island could be hove round, so as to bring Georgetown and the mainland into greater proximity, the route from Bedeque to Shediac would be judged preferable by every one who considered the position of the Island. Shediac was only 12 miles from Dorchester, the most central Post Office in the two Provinces of Nova Scotia and New Brunswick. He made these observations, not as fully explanatory of the proposal he intended to submit at a future day, but as sufficient to give members notice of the general bearing of the question. He concluded by saying he thought it highly beloved the Assembly to encourage any plan by which the country would be enabled to dispense with the expensive services of Messrs. Cunard's Steamer. After some observations from Mr. Macintosh, Mr. Palmer and Mr. Thomson, the Petition was received and ordered to lie on the Table.

Mr. RAE moved, that a Special Committee be appointed, to prepare the draught of a Petition to the Imperial Parliament, setting forth the grievances which the people of this Island suffer, and praying for the redress thereof.

Messrs. PALMER and ARBUCKLE were opposed to any motion recommending such a Petition to Parliament as the Resolution just submitted contemplated.

The question having been put, it was carried in the affirmative, on the following division: YEAS, Messrs. Rae, M'Neill, D. Macdonald, M. Intosh, Beck, Gorman, Dalziel, Clark, Fraser, Forbes, Le Lacheur, Macfarlane, Montgomery—13. NAYS, Hon. J. S. Macdonald, Messrs. Arbuttle, Thomson, Palmer, Hudson, Longworth—6.

The following gentlemen were then appointed a Committee for the above purpose:—Messrs. Rae, Fraser, Le Lacheur, Clark, D. Macdonald, Montgomery and Dalziel.

Mr. D. Macdonald moved, that a Committee of five members be appointed, to prepare and bring in a Bill to regulate the Fishery Reserves in this Island, pursuant to a Resolution reported from the Committee of the whole House on the state of the Colony.

Ordered, That Messrs. D. Macdonald, Le Lacheur, Clark, Montgomery and Macneill do compose the said Committee.

Mr. RAE moved that a Committee of six Members be appointed, to report, by Bill or otherwise, on the Bill of last Session, for the relief of the American Loyalists and disbanded Troops in this Colony, or their Representatives, pursuant to a Resolution reported from the Committee of the whole House on the state of the Colony.

Mr. PALMER remarked, that this was a question which should no longer be discussed. It had received its final answer. There could be no further hopes of its success. The House had no warranty to take it up again when it had been objected to on the score of principle. It would be acting in direct opposition to Her Majesty's Instructions, to bring in a Bill, the principle of which it had been so expressly declared her Government could not recognise. It was altogether inexpedient further to enquire into the subject. The American Loyalists had had a fair trial. Their *ex parte* statements had been received by the House. Their evidence had been received as they happened to present themselves, whether drunk or sober; nor was their testimony even upon oath. All had been received, in whatever way, or from whatever source it was offered, that could militate against the interests of the proprietors; but, on the other side, nothing had been received or called for. The very worst had been assumed against the proprietors; and, on the very assumption that all alleged to their prejudice might be true, the Bill had been positively rejected, and its principle declared inadmissible.