

had an injurious effect on the market. The market in Liverpool still continues depressed both for British and foreign. First class brands of American flour only fetch 29s. 6d. to 30s. per barrel, and Indian corn and cornmeal have declined 2s. per quarter, and 1s. per barrel below the quotations of last week, and the transactions are still limited.

THE EXAMINER.

SATURDAY, FEBRUARY 12, 1843.

MESSRS. COLES AND WARBURTON'S SEATS.

We request our readers, more particularly those who are constituents of either of these gentlemen, to peruse attentively the subjoined list of Resolutions supported by those who considered that law, equity, expediency and every other consideration which could bear on the subject, required that these gentlemen should retain their seats.

Resolved, That it is inexpedient to enter on the examination of the precedence as to the re-election last May of the Hon. George Coles, M. P. P., for this reason, that his seat ought not to have been declared vacant:

1st. Because, in no similar instance in this Colony, was any member of Assembly required to vacate his seat, and that the cases of the present Speaker of the House of Assembly, of Edward Palmer, Esquire, and of the Hon. J. S. McDonald, are equally in point.

2d. That the opinion of the Attorney General and the Solicitor General, given last year on this very point, expresses most decidedly that the accepting a seat in the Executive Council does not, by the law of this Colony, involve any forfeiture of a seat previously held in the Assembly.

3d. That the resolution of the House of Assembly last year, and the procedure in regard to a new Election consequent thereon, having been contrary both to the law and practice of this Colony, ought to be departed from.

4th. That while the law remains unchanged, to pursue a line of conduct in respect to the seat of Mr. Coles, so determinately opposite to that pursued in all previous analogous cases, would be of evil tendency, and ought therefore to be avoided by this House.

5th. That such determination would further be of evil precedent, as it might be held to invalidate all the Acts passed during the time when the present Speaker of the House of Assembly, Edward Palmer, Esq., at present a member of the House, and the Hon. J. S. McDonald, all sat as members of Assembly, on no other or better tenure of their seats than Mr. Coles has for his.

6th. That no petition is before the House against Mr. Coles's seat, and that to determine without any Petition on either side, and without waiting for six days, as the Statute of this Colony prescribes, and without allowing any witnesses to be examined, renders such proceedings null and void.

Resolved, That a Committee be appointed to prepare and bring in a Bill to indemnify the Sheriff of Queen's County and all other persons concerned in attempting to vacate the seat of the Hon. George Coles, a member of this House, for having accepted a seat in the Executive Council, when such acceptance was unaccompanied by any office of emolument under the Crown, and the said attempt to create a vacancy in the House of Assembly being repugnant to all precedents in this Island, and to the opinions of Her Majesty's Attorney and Solicitor Generals, as published in the *Royal Gazette* of the 15th June, 1847, declaring as their opinion "that the seat of a member of the House of Assembly does not (by any Statute of this Island) become vacant by his accepting a seat in the Executive Council, and that such attempt is held to be illegal, null and void; as the present Lieutenant Governor has refused to issue a Writ in a subsequent similar case, viz, that of the Hon. James Warburton, in consequence of its being illegal to do so.

Resolved, That the proceedings of the Committee just terminated are illegal, null and void, inasmuch as the Committee was strictly on Privileges and Elections. That the Statute 7th Vic. cap. 23, requires that previous to the Committee entering on the enquiry, a Clerk shall be appointed, and all the members sworn, and in which clause the nature of the oath is printed out, no part of which provision has in this case been complied with.

AYES—Messrs. Rae, Le Lacheur, Mooney, Whelan, Jardine, D. McDonald, McIntosh, Clark, Warburton.
NAYS—Messrs. D. McLean, Montgomery, John Longworth, F. Longworth, Haviland, Thornton, N. Conroy, J. H. Conroy, E. Palmer, H. McDonald.

That supposing the acceptance of a seat in the Executive Council to vacate the seat of a member, and considering merely the last election, it is very clearly laid down in works treating of the law of elections, "If he, the Sheriff, grant a Scrutiny, the Return must be made in a vacancy in thirty days, at a General Election, and before the return day of the Writ"—Disney El. Stat. 150, 25th Geo. 2d, cap. 84, sec. 1. The Returning Officer, in the absence of any particular provision by our Colonial Law for such exigency, ought in conformity with the Royal Instructions granting a Representative Constitution to this Colony, and with the practice of this and former Assemblies to have been guided by the Parliamentary Law of Britain, and instead of annulling the Election, to have proceeded to the scrutiny; and under

these circumstances Mr. Coles having a majority of votes by the Poll Books, whether regard be had to objected votes or not, ought to be declared duly elected.

Resolved, That the number of votes polled for Mr. Coles was 438, of those polled for Mr. McCallum 411, leaving Mr. Coles a majority of 27, and that the number of Mr. Coles' voters objected to was fifty-four, of Mr. McCallum's objected to was forty, and that under such circumstances, as the scrutiny was not declined by Mr. Coles in any way whatever, he ought even under the re-election of May, 1847, to be allowed to continue a member of this House.

Resolved, That in conformity with the Parliamentary Law of Britain, no member of this Assembly who at that Election voted for either candidate, ought to have been a member of the Committee who decided as to the validity or invalidity thereof, and that the Hon. the Speaker did vote at the said last Election, and yet sat and voted as a member of the said Committee; and therefore, and for the reasons stated in the preceding Resolutions, the proceedings of the Committee on Privileges and Elections are null and void, and the matter ought to be referred back to a properly constituted Committee.

Resolved, That it is not the intention of this House, by the adoption of the Resolution moved by Edward Palmer, Esq., relative to the Election of the Hon. George Coles, to cast any censure or reflection upon His Excellency the Lieutenant Governor, who in a similar case to that of the Hon. Coles, declined issuing a Writ of Election, as the opinions of his legal advisers were found contrary to such a proceeding.

The Speaker refused to put the question on this resolution, and the same majority supported him in the refusal. In the course of the debate, it was said by Mr. McLean that the Governor did wrong in not issuing the Writ when the Speaker had given him notice that the seat was declared vacant by four members; and that he (the Governor) had no business to apply to the Attorney and Solicitor General, but forthwith to order the Writ. This drew forth the above Resolution from Mr. Warburton; and in the debate thereon, Mr. McLean stated that he did not blame the Governor but the Executive Council, "which was the most viciously constituted of any in the Colonies."

The question of Mr. Warburton's seat having been brought on, the House again resolved itself into a Committee on Privileges and Elections—again proceeded without swearing the members,—and, on its coming to a division, all those who, as mentioned above, voted Mr. Coles' seat vacant, voted Mr. Warburton's seat also vacant,—namely, Messrs. J. H. Conroy, N. Conroy, D. McLean, Montgomery, H. McDonald, J. Longworth, F. Longworth, Haviland, Palmer, and Thornton—(10.) The Speaker being in the Chair—(there being only eight to support the right of Mr. Warburton to hold his seat against the above named ten) was not called on for his vote, but there was no doubt he would have voted in the chair against Mr. Warburton. He and Mr. Palmer and some others, professed great regret at being obliged by their conscience (!!) to vote Mr. Warburton's seat vacant.

This puts one in remembrance of Douglas, Bishop of Dunkeld in 1516, who, endeavouring to prevent some warlike encounter just about to commence, remonstrated with a Brother Bishop upon having brought with him a large armed retinue which he, Douglass, suspected would take part in the fray. This pugnacious prelate, though sheathed in mail, had concealed all by putting over it his episcopal robes. In the course of their conversation, he began vehemently to protest that he was a man of peace, and by the gesture natural to men upon proclaiming their sincerity, struck his right hand against his breast. The breast-plate returned a sound not mistaken by Douglas, who, smiling, observed, "Ah! my lord, your conscience sounds hollow."

The following Resolution moved by Mr. Rae, was not put—the Speaker declaring it irregular in some parts, and on a division the ten members above named supported him. Two others were moved by Mr. Rae, but objected to,—at length a third was allowed to be put to the question, with the same result, ten against it.

Resolved, That as ten members of Assembly have decided that the seat of the Hon. George Coles is vacant, it is inexpedient in the nine members who maintained that he was, and of right still is, a member of this House, to take up their own time and that of their opponents by again bringing forward (any further than by reference thereto) the principles of the constitution—the practice of this Colony and of Britain—the grounds of equity and the motives of expediency for the public interest, and of consistency which induced the nine members to vote that Mr. Coles had a right to his seat, as eight (Mr. Warburton being excluded) now vote that Mr. Warburton has still a right to his seat.

THE COMING ELECTION.

Notwithstanding that the opinion of the Crown Law Officers, when first given, was, that no law of the Island exists by which Mr. Coles's seat can be vacated, the Lieutenant Governor has now issued a Writ for a new Election for the First District of Queen's County. Mr. Coles is still an Executive Councillor, and it remains to be seen whether the Officers of the Government will openly attend the Election, and array themselves against this Lieutenant Governor as they did against his predecessor. We trust His Excellency is well assured by those who advise him—as no Executive Council has been called, and he has taken the whole

matter on his own responsibility. As to the Electors, there is no doubt that they will take care that their honest and fearless Representative shall rise superior to all the machinations of his and the People's enemies. We know the sophistry which is put in requisition to create a distinction between Mr. Coles's case and Mr. Warburton's, but we are unable to recognise it without the aid of those perceptions which party feeling can alone supply. Sooner or later, all these undue and unconstitutional influences must succumb to public opinion. It is a libel, as scandalous as it is artful, to represent—as it has been industriously done—that there is any ground of apprehension, that the people would not conduct themselves peaceably at an election. The true reading of this that it does not suit the all ruling Oligarchy to consult, in the only constitutional manner, the wishes of the People.

THE ANSWER TO THE SPEECH.—The Gazette of Tuesday contains a paragraph on this subject, into which has been introduced a most palpable misstatement, whether for the purpose of deceiving His Excellency the Lieutenant Governor, or of creating an impression in the country unfavourable to our party, in the House, we are at a loss to determine. The writer of the paragraph in question, in speaking of the delay which occurred in the getting up of the Answer to the Governor's Speech, says: "That 'it is but just to state that that delay is not to be attributed to the majority of the House,'" and, in a round-about manner throws a censure upon Mr. Rae, who was appointed Chairman of the Committee to whom were entrusted the drafting of the Address. Now the fact is the very reverse of the statement in the *Gazette*. The very first day of the Session Mr. Rae urged upon the House the necessity of preparing and presenting the Address to His Excellency, and stated that it would not be due to His Excellency to allow the matter to remain in abeyance. But no, said the so-called "majority," let us first decide the question of Privileges and Elections, and it will be time enough to debate upon the address afterwards. Hence the delay. Their ulterior object was evident to any person of the smallest perception. Messrs. Coles and Warburton were first to be excluded from the House—that was decided upon—and as they would then have a very trifling "majority," an Address of their own making could be substituted for the one drafted by Mr. Rae—and thus accomplish a very paltry triumph, to be used as a recommendation for themselves in the eyes of Sir DONALD CAMPBELL.

THE TWENTY-EIGHTH OF FEBRUARY.—The Election of a Member for the First District of Queen's County is proclaimed to commence on the Twenty-Eighth day of the present month. The Hon. Mr. COLES, who is now, we regret to state, suffering from severe illness, will we trust, be enabled by that time, to meet his late constituents at the Hustings. Though the bribery and corruption and rascality which disgraced the opposition to him at the last Election, may be repeated, should another candidate be got to enter the field, we have sufficient confidence in the honor and manhood of the Electors to predict for Mr. Coles a triumphant return.

Queen's County Election.

FIRST ELECTORAL DISTRICT.

PUBLIC NOTICE is hereby given, to the Freeholders, Leaseholders and Resident Housekeepers of the First District of Queen's County, that a Poll for the Election of One Member, to represent the said First District of Queen's County, in a Lower House of Assembly in this Island, in the place of the Hon. George Coles, the late Election for the said First District of Queen's County having been declared void by the House of Assembly—will be opened at or near CAMPBELLTOWN, on Township Number 21, on MONDAY the TWENTY-EIGHTH day of FEBRUARY, instant, at the hour of Eleven o'clock, forenoon, of which all persons concerned are required to take notice and govern themselves accordingly.

The First Electoral District of Queen's County comprises Townships Numbers 20, 21, 22, 23, 24, 33, 34, and 67, and Peter's Island.

CHARLES STEWART,
Sheriff of Queen's County.

Sheriff's Office, Charlottetown, }
February 11, 1843.

To the Independent Electors of the First Electoral District of Prince County.

GENTLEMEN;

THE HOUSE OF ASSEMBLY having, contrary to the Law, as laid down by the Attorney and Solicitor Generals, declared my seat in the Assembly vacant, and those gentlemen having advised the Lieutenant Governor that he cannot legally issue a Writ for another Election, the First Electoral District of Prince County must remain unrepresented during the present Session. You will perceive by the divisions of the Committee on the Hon. Mr. Coles's case, the side each party took in that debate, and also the divisions regarding myself. Should there be another Election, I beg leave to offer my services, and I assure you, should you again confide your interests to my care, I shall endeavour to prove myself worthy of your confidence, by promoting every measure calculated to benefit the country.

I am, Gentlemen,

Your obedient Servant,

JAMES WARBURTON.