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COLONIAL LEGISLATURE.

(*Debate on the Delegate question continued from our last.*)

The delegate, then, had not so much to complain of the disadvantage produced to himself in not being able to communicate personally with Lord John Russell; nor should he complain of the effect of His Excellency the Lieutenant Governor's private Despatch on the subject, which had been once or twice alluded to by honourable members, with much meaning. Contain what it might, and what, he (Mr. Palmer) knew not, (never having heard of it until the answer to it was published in this Island,) it could not be more, if as much, than the other side of the question, so as to prevent a total *ex parte* statement. In Nova Scotia, the Lieutenant Governor had sent home *counter* Delegates. Confidential as the Despatch was, however, if the delegate considered it an obstruction, such is the perfection of our constitution, that it was, and is still liable to be examined into, and, on a proper application, might be delivered up, if supposed to contain any thing unconstitutional; but this he had no reason to suspect. He (Mr. Palmer) thought the delegate lost a great deal of time, last spring, before setting out on his mission; he, however, arrived in London early in July, and the Parliament sat until the 27th August; and yet he took no step towards applying to Parliament. Why did he not remain in England till the Corresponding Committee informed him of the answer sent to his Excellency here. Nay, what was to have prevented his remaining there all winter, and, if prosecuting his duties with any success, trusting to the Legislature here to supply him with additional means, should those which he had run short? What was his hurry, then, to get back to the Island last autumn? Was there any magical or other particular attraction in that cushioned chair which he saw before him? (Hear, hear!) Was his patriotism for his country, his zeal in its cause, so overpowering, that he was afraid to trust that chair to any other individual member of this House than himself? He (Mr. Palmer) thought such an apprehension need not to have hurried him back: he, for his part, considered that there were others in the house who were far more competent to fill it than the delegate; and those too of his own party. With respect to the Law opinion, his excuse for not having obtained it was by no means satisfactory. He (Mr. Palmer) knew well that had such an opinion been published in this Island, it would have had a powerful influence on the minds of the tenantry; it would have been "a light to their path." The delegate himself, in private consultations with the tenantry, at public meetings, and through the public papers, was constantly representing the disadvantages they experienced for want of the advice of able and impartial Counsel. Look, Mr. Chairman, at his opinion of the Bar and Bench of this Island, as expressed in the *Colonial Herald* of the 22d December, 1838. It was not, he says, any part of his instructions; but will this miserable excuse be received? His instructions were the best he could possibly have carried for himself. They were a perfect *carte blanche*. He was not tied down to any thing. Were, he (Mr. Palmer) would ask, the subjects of Education, of Private Notes, of annexation to Nova Scotia, any part of his instructions? No! he would not then let him pass off with this pretence; no! no creeping up the lubber-hole in this way; no gliding down to leeward: he (Mr. Palmer) would bring him up to the wind--turn him to the gale of truth, though it should even be mingled with a little hail. If the Counsel's opinion was not a part of his instructions, why had the late delegate stated in his letter of the 20th September, addressed to the Committee of Correspondence, "that he should employ Counsel, if his answer proved unsatisfactory; that he thought the whole documents would be submitted to the law officers of the Crown, for their opinion?" Look further, Mr. Chairman, at his letter of the 2d October, after he had obtained [illegible] he says he had applied to Counsel for advice on behalf of the tenantry, which advice he hoped to bring with him. Why, then, let me ask, has he not done so? Had he done so, he knew it must be published; and, if published, full well did he know the effect it would have in operating a change upon the minds of the tenantry —a change which he by no means desired. Look at his letter of the 20th September: see the anxiety he therein betrays on this account when he says his hopes depend upon the people: "If they were to change their opinions, I could do nothing." Oh! Mr. Chairman, what a sad piece of news it would have been for him, on his arrival in this Island, had he been informed by some of the worthies who went to greet him on the shores of the White Sands, that the people had changed their opinions, and agitation no longer existed: then, indeed, might he have said—

"Farewell! a long farewell to all my greatness!"

Yes, Mr. Chairman, well might he dread the effects which a full and sound law opinion would have produced on the minds of the people; broadly, fearfully, would it have contrasted with those statements of his own which he had been so constantly publishing as law; those garbled extracts from Chitty on Prerogative, and from Blackstone's Commentaries, with which he had been so long misleading the people. He trusted, then, that such miserable excuses would not prevent the Committee's candidly passing their opinion on his (the delegate's) conduct.

Mr. Speaker here rose and said, he held in his hand a copy of a letter which he wrote to Mr. Scott Tremain, a gentleman of the law, then in London with himself, and that gentleman's answer thereto. He said, with permission, he would read them both. Those letters would clearly shew that he did apply to Counsel for legal opinion, although it did not form part of his instructions. And this Committee would bear in mind, that he had not the remotest idea of the correspondence which was taking place between Downing Street and the Colonial Government. This ought to weigh a little with honourable members. It had been said he ought to have remained in England this winter. He was advised by Mr. Hume and the gentlemen from Nova Scotia to return to the Colony; and Mr. Hume assured him that he could bring the matter before the Imperial Parliament as well in his absence as if he were to wait for the reassembling of Parliament. He did not wish to trouble the Committee with any further explanation, but would merely add, that the steps which he had taken appeared to him to be the wisest; and of that he had been more convinced since his return, when he saw the Despatch from Downing Street; and he trusted the House would not lose sight of the advantages held out in that Despatch.

The following are the letters above alluded to:—

15, Saville Place, Mile End, 30th Sept. 1839.

Dear Sir;

As you desired to be informed when I engaged a passage to Halifax, I have to inform you that I have agreed for a passage in the Fleta; she will not be ready to sail until the first of next week. The vessel is small, and consequently the accommodation for passengers confined, but she appears to be a well built new vessel, and if they do not load too deep, will be as safe as a larger vessel.

I have received another communication from the Colonial Office, to say that Lord John Russell *regrets his inability* to return to my application any other answer than that already received. In regard to the advice which you were to give, it will be necessary to bear in mind that the conditions imposed by the original grants were not merely a duty to the Crown as an individual person, but a duty to the Crown in behalf of the people; and the Crown refusing to proceed against the grantees according to law, gave them the power to oppress the people, by exacting exorbitant rents for land, which in justice belonged to the public. If the Crown can refuse to put the law in force, to revest forfeited lands in the Crown, to afford justice to the public at large, it must be inconsistent for the Crown, by its judges, to give judgment against the tenantry, in favour of such proprietors whose claims originated by the Crown refusing a Court to exact the performance of the conditions of its own grants, or the forfeiture of the land. Mr. Johnston, your Solicitor General, said, that it was the parable of the unjust steward, in the New Testament; but our case is more iniquitous than that in the parable: the lord of the steward forgave him his debts; but he only exacted the utmost farthing from those who were legally indebted to him. Whereas the crown, withholding a court of escheat, and extending indulgence to the grantees, enabled them to impose a debt for public property, and it appears most unjust to release the grantees from their obligations to the public, and authorise them to impose a debt upon the public; and the laws and constitution of Great Britain must be very defective if ministers can refuse a court to do justice to the public, and, at the same time, authorise a court to do injustice to the public; that is, to prosecute the tenantry for rent, the claim for which rent is founded upon the denial of a court of escheat. Now, I think that there must be a way to enforce a court of escheat, and the main question of advice would be, to find out the right way, if there is a way. I cannot promise much for advice; you will see in my instructions that I was allowed £300, currency, in a warrant, to cash which, was only £190, sterling, for my expenses. But if you could obtain an opinion from one of the most able Counsel upon that question, I would willingly give £10, which I hope would leave you half for your trouble. I shall endeavour to call upon you on Saturday, and am,

Sir, your most obedient humble servant,

Wm. Cooper.

Scott Tremain, Esq. 5, Foley Place.

5, Foley Place, October 1st, 1839.

Dear Sir; I am pleased that you have been so fortunate as to procure a passage. I saw Mr. Taylor yesterday, who came over in the Fleta. He is satisfied with the vessel and master; he paid £15—if you have not concluded your bargain, I mention this as a hint. I have examined your papers, and feel much interested for the tenants. We must not conclude that Government will not grant equitable terms. I have a favourable impression of Lord John Russell—he has a master-mind, and I hope he may pen the answer. If a forfeiture is not insisted upon by Government upon terms, and we are driven to a court of law, we shall require much ingenuity and perseverance, and a firm and impartial judge. I fear much injury in this case has arisen from the slumbers of the Attorney General of the Island, who ought to have sought a forfeiture on behalf of the Crown years since. I agree with you, and by no means admit that the duty was to be performed as to an individual. The Crown for this purpose is a Trustee of the people; the leaning of the Crown Officers and Government ought to be with us; it would be so were I Attorney General. Intrigue and interest has operated upon the government here. You are desirous of a legal opinion; I am much at a loss, and am like a mariner without his compass—the use of a good library is indispensable. Mr. Whiteaker, my professional friend, is in Kent. I should like to examine the Commissions of the Court of Escheat in N. S., the Records, the Provincial Statutes, the Orders in Council at P. E. I., which were laws. I am obliged for your offer of pay—I will not take it from you unless to do your cause a service, but should wish to see you; you need not be afraid of occupying my time, it cannot be better employed. I doubt if any correct and decisive course can be pointed out without first seeing what the Government intend to do or to decide upon. I must beg you will take charge of a large parcel for me, to be delivered at Halifax; if I am compelled to go to N. Y., I shall wish to get rid of my luggage.

Your obedient servant,

Scott Tremain.

William Cooper, Esquire, 15, Saville Place, Mile End.

Hon. Mr. Pope remarked, this was like all that was done by the honourable gentleman. He had told them he would satisfy them that he had discharged every duty of his mission, as far as circumstances would permit; and he had just read them two letters which he wished them to receive as partly corroborant of his assertion. But how did those letters bear him out in his affirmation? From the copy of his own letter, which he had read, it did not appear that he had been seeking, but giving an opinion. He (Mr. Pope) had heard the Speaker say, in this House, that £160 would be sufficient to defray all the necessary expenses of a delegate to England; but he had had at his disposal nearly twice that sum, and yet could afford to offer no more than the paltry sum of £5 to a counsel for an opinion—£10 between two—£5 for the opinion, and £5 to an agent for procuring the opinion. Had the delegate lived in so expensive a style, that, out of the ample means placed at his disposal, so small a sum, for so important an opinion as was required, was all he really could afford? Mr. Scott Tremain was certainly not known as a man of high standing or celebrity at the Bar, even of Nova Scotia; but from his letter he appeared to be an honest man, that *rara avis*, an honest lawyer—he would not take a fee where he had done no business. Had he (the delegate) gone home from New York in the saloon of the Great Western, and, on his arrival in London, had then taken up his residence at one of the fashionable hotels in the West End of the Court End of the town, that his means, if not too small, had yet barely been sufficient for his personal expenses. But when they should hear that this had not been the case, but that, on the contrary, the delegate had providently and wisely taken a steerage passage in a timber ship from Halifax, and, on arriving in London, taken up his quarters at Mile End, in the unfashionable vicinage of Wapping Old Stairs; where, if he lived according to the frugality and economy which he (Mr. Pope), from the significance of the name—Wapping Old Stairs—would be inclined to think was generally observed there, he could be in no great danger of out-running his means; they, the House, would surely imagine any thing rather than that their delegate had not had it in his power to procure a competent law opinion, from any lack or insufficiency of means to make, even to a lawyer of high standing and legal reputation, a tender of a suitable and handsome fee. In order that no excuse of this kind might have to be made, £50 additional had been granted to the delegate, almost for the express purpose of enabling him to obtain a law opinion. He (Mr. Pope) had himself moved that the delegate should take with him all grievances, whether of old or recent origin, that not even a nest-egg might be left whereon to lay new ones; and that for such purpose he might have access to every public office, and have copies of all papers, documents or records which he might think necessary to the furtherance of his views. The excuse of the delegate was, that he had not the laws of the Island to lay before a Counsel. Did he not know that copies of the Island laws were kept at the Colonial Office, and that there he might have had them, had he applied for them? Did he not know that there were many persons residing in London, who are proprietors of lands in this Island, and who, having copies of the laws of the Island, would have been glad to accommodate him with them? Many of these individuals, had they known he wanted a copy of the Island laws, and particularly for what purpose he wanted them, would not only have been ready to send them to him, but they would have had them bound, lettered, and gilt for the occasion. He had not a copy of the laws! What a frivolous, paltry excuse was this! He (Mr. Pope) wished to divest himself, for the time, of all feelings arising out of a consideration of the escheat question. He, at that time, wished to confine himself simply to the enquiry whether or not the delegate had faithfully, according to his ability, discharged the duties which devolved upon him in that capacity. In that capacity the speaker went home to perform certain duties; and, to that end, he was provided with certain means. The House and the country have a right to ask, they have a right to know, whether or not the delegate did his duty, and how the money granted in aid of his mission, had been expended. The truth, if fully brought to light, (the delegate's conduct in the matter wholly out of the question,) would prove to the people that the hopes they have been led to entertain are hopes which will never be realized, and that the claims they have been taught to prefer are claims which will never be acknowledged; in fine, that further agitation would be worse than useless, and could tend only to bring down evil upon their own heads. Let those who know this to be fact, and who either pretend to be, or are, in reality, the friends of the people, earnestly endeavour to impress this upon their minds. Many among the people themselves have opened their eyes; they have seen the error into which they had been led, and are tired of agitation. There is not, he said, a more prosperous Colony, at this day, in all British America, than Prince Edward Island; and if this be so evidently the case, that those who are most deeply concerned to prove it otherwise must admit the fact, what might not have been the prosperity of the Island, had it not been for the baneful influence exerted upon the industry of the inhabitants and its abundant natural resources by those demagogues who were ever ready to fan the embers of discontent and rouse the flame of sedition? Had it not been for the mischievous exertions of demagogues, the people of this Colony would have now been among the most contented and happy of Her Majesty's subjects. It is then our duty to shew the people the precipice to which, blindfold, they have been led; and to tell them, that nothing but an abandonment of their unlucky guides, and a speedy return to the path from which they have been artfully led astray—the path of persevering industry, and of steady, plain and simple honesty—will ever lead them to the attainment of that respectability and independence, with the fair prospect of which they have, hitherto, been vainly allured: and our first step towards the discharge of this duty must be a full, free and unreserved declaration of our opinion of the conduct of our late delegate when in England, and of our conviction that the objects of the delegation were and are utterly unattainable.

Mr. Speaker here rose and observed that Mr. Scott Tremain was a gentleman with whom he had been acquainted nearly all the time he was in London, and from whom he had received many civilities; he was a professional man, and one whom he thought well qualified to lend him that assistance of which, before directly applying to any eminent English Counsel for a law opinion on this case generally, he stood in need. He (Mr. Speaker) had thought that such a gentleman as Mr. Tremain would know much better than himself how and what questions it would be most suitable for him (Mr. Speaker) to put to a Counsel, and, influenced by this opinion, he had, therefore, applied to Mr. Tremain, (explaining the matter to him as well as he could,) and tendered him a fee of £10 for his assistance.

Mr. Rae observed, the opponents of popular rights asserted that the delegate had fallen short of his instructions. They next asserted that because he had fallen short, therefore the real representatives of the people, the liberal portion of the Assembly, were wrong in sending him, and should, thereafter, do nothing for their own relief: as if a lawyer's mismanagement of a case would be sufficient to prove the cause was bad. They attempted to kill two birds with one stone, and, by one vote, to get the House to declare that the delegate had not used the means in his power to obtain justice, and, by the same vote, to declare, that, as he had not used the proper means to obtain justice, therefore there was no injustice. Next, said Mr. Rae, they had a beautiful tirade from the learned member for Charlottetown, about the labouring class of society being always in a state commanding commiseration. There were poor in England, in Nova Scotia, in Newfoundland, and, therefore, says the learned member for Charlottetown, the farmers in Prince Edward Island are entitled to no redress. Nay, more than that, he maintains that they ought not to look for it—that they never will obtain it. Why? Why because my Lord John Russell has said he will not escheat the lands. But does Lord John say that no redress will ever be given? No: on the contrary, he seems in dim vision, to see that they must have redress; and lest, like the unjust judge, by their continual coming, he should be wearied, he proposes, or at least considers, three or four different modes of redress. But, supposing he had said, in the insulting language of an aristocrat: "Vile scum, ye shall have no redress! Beasts of burden ye are, and shall remain!" Supposing that this man had given utterance to so arrogant and insulting a sentiment, would it be our duty to submit and yield a dumb compliance? Is my Lord John Russell immortal? Are the dicta of a Colonial Minister like the laws of the Medes and Persians? Would such a decree, asked Mr. Rae, backed by the opinion of the Lord Chancellor and the whole Privy Council—would it guide the plough? No. Then, continued he (Mr. Rae), if it was found necessary that a rational being should guide the plough, then was their complaint of ancient birth and of enduring existence; for, at all times, rational beings, undebased by actual slavery, had complained when required to raise the wheat, and eat only the bran. The learned member for Charlottetown and his helper had given them a long tirade against demagogues, and those who stirred up the people. According to such honourable gentlemen, they who had advocated the rights of the people were the enemies of the people—the tenantry were well and happy till those people made them believe they were unhappy! Vain and insulting language. The people were stirred up by the extortionate demands of proprietary claimants, the pettifogging, insulting management of land agents, and the friendly visits of constables, to take the beef and leave the bones. Escheat had not been obtained, said these honourable gentlemen, therefore Cooper and his friends had led the people astray. The fact was, he said, Mr. Cooper and his friends might have been warm, bigoted, violent, but they had done much more good than evil to [illegible] people. As for demagogues and deceived people, and that sort of slang, which seemed to intimate that whoever sought relief from oppression, or advised others to seek it, must of necessity be a fool, he (Mr. Rae) felt easy; for he knew that all the words of the English language, however aptly strung together, would fail to persuade the people of Prince Edward Island to put themselves and all their concerns under the management of the learned member for Charlottetown and his honourable colleague, with their coadjutors.

Mr. Palmer said, the Committee could not rise without some Resolution; and it was his intention now to submit one. In addressing himself to that portion of the honourable House with which, he regretted, it was not oftener in his power to agree, he would beg leave to remind them, that, although the celebrated maxim of Lord Chancellor Bacon, that knowledge is power, had now almost attained the force of an axiom, yet the converse of that maxim, that power is knowledge, was very far from meeting with the same general admission. He knew that, numerically, they were sufficiently strong to negative his motion; but, as on this occasion he thought there could be but one real opinion entertained, and that favourable to his view of the case, he felt a willingness to believe, that they would—on a question, the decision of which was likely to have peculiar influence upon the minds of the people—shew themselves superior to that spirit of party which frequently engaged men in the support of principles in opposition to private conviction. I think (continued Mr. Palmer) this is the course the delegate ought to have pursued. He ought to have remained in England till he had received an answer from the Committee of Correspondence. He should have staid until he had spent every farthing of the money he had received, in the furtherance, or, at least, in attempts to promote the furtherance of his ostensible designs. Had this House seen that he was making due progress, and that he had properly applied the funds entrusted to his management, they would, undoubtedly, have been ready to replenish his exhausted coffers as soon as apprised of their condition.

The Resolution, to the adoption of which Mr. Palmer wished to lead the House, was read, and is as follows:—

Resolved, That this House, having had under its consideration the Report of William Cooper, Esq., the delegate appointed by this House in its last session to proceed to England, to represent to Her Majesty's Government, and, if necessary the Imperial Parliament, certain matters connected with the state of this Colony; and also, having had under their consideration the additional statement of the said delegate, designated his "defence to certain charges" alleged to have been preferred against him in this House, in reference to his said mission, as presented to this House on the 17th of February instant, and being actuated by a sense of their duty to the inhabitants of this Colony, whose interests they represent, have to express their dissatisfaction at the result of his said mission, and their disapprobation of the want of energy, and the inertness shewn by the said delegate while engaged thereupon.

That it does not appear to this House, from any thing contained in the said Report, or the said subsequent statement, or from any of the different explanations offered by the said delegate, in his place, as Speaker of this House, and in debate on the subject of his report, while in Committee of the whole on the state of the Colony, and while in Committee on the said subsequent statement, that the said delegate took such proceedings, or used such means as were within his power, while in England, and as might most materially have advanced the progress of the different matters entrusted to him, notwithstanding the determination of Her Majesty's Ministers on the said subject was postponed, to be given through the medium of His Excellency the Lieutenant Governor of this Island.

That this House, recurring to the circumstance of having, at its last session, appointed a Committee to correspond with the said delegate, during the prosecution of his duties in England, consider that the said delegate was not warranted in returning to this Island until the said Committee had communicated to him the determination or answer of Her Majesty's said Ministers, as received in this Island by His Excellency the Lieutenant Governor, and published by authority on the 26th Nov. 1839.

That had the said delegate remained in England "at his post," until he received from the said Committee the said determination; had he thereupon immediately proceeded, with the advice of Counsel, if he felt such assistance necessary, to prepare and procure to be printed, a properly arranged statement of the various matters and evidence with which he was provided, in support of the claims of the Colony, for the purpose of laying before individual members of the House of Commons of Great Britain; and therewith have solicited their support and influence in respect of the said claims; and have adopted such other preliminary matters and arrangements for such a course of proceeding as occasion might from time to time suggest or necessarily call for; and had he alse continued "at his post" until the said Parliament assembled, and in correspondence with the said Committee, in order to have been the better able to supply the supporters of the said claims in Parliament with such additional information and explanations as might, in all probability, have been occasionally