

The Colonial Herald,

AND

PRINCE EDWARD ISLAND ADVERTISER.

CHARLOTTETOWN, SATURDAY, MARCH 13, 1841.

[No. 189.]

HOUSE OF ASSEMBLY.

MONDAY, March 1st.

Mr. HUDSON presented a Petition of the officers of the Prince Edward Island Auxiliary Temperance Society, setting forth, that through the Charlottetown Temperance Society, assisted by the friends of the cause in that Town, Petitioners have obtained a prize Essay on the traffic in ardent spirits, for which Ten Pounds, as a premium, has been already collected and paid—that that Essay is now ready for publication, and would, they believe, if extensively circulated, promote the best interests of the country. That Petitioners are of opinion, that some systematic scheme of directing public attention to the subject in all its bearings, would have a more ameliorating influence upon the state of society than any prohibitory laws which could at present be devised. That Petitioners know of no means better adapted for this purpose than the appointment of a travelling Agent or Agents qualified to disseminate information bearing upon the subject; and they feel persuaded that could they be enabled to publish their Prize Essay on terms such as they could circulate it freely, with other publications of a similar description, that the best interests of the country would be materially promoted—and praying an aid for the advancement of these objects.

The above Petition was referred to the Committee on Temperance Petitions.

A Message was received from the Council with two Bills passed by that House, to which they desired the concurrence of the Assembly, viz: A Bill relating to the limitation of personal actions; and a Bill to continue for ten years the Act appointing an additional Term of the Supreme Court, called the Easter Term.

Mr. FRASER reported a Bill for the regulation of the Fishery Reserves. Second reading on Wednesday.

TUESDAY, March 2d.

The Bill for the relief of the American Loyalists, &c. was read a third time and passed, without eliciting a single objection from any member present. With one trifling exception it is the same, word for word, as the Bill of last Session.

The Bill to continue and amend the Act for regulating the measurement of Timber, Boards, &c. was also read a third time, passed, and, together with the Loyalist Bill, sent to the Council.

The House then went into Committee on the Bill for the appointment of Fish Inspectors, and to prevent, under heavy penalty, the sale of any Pickled Fish imported into this Island, either for home consumption or exportation, until the same shall have been regularly inspected and branded. The Bill was opposed by Mr. Joseph Macdonald, Mr. Maclean, Mr. Rae, and Mr. Gorman, but was generally passed the Committee, and was ordered to be engrossed.

The two Bills which came down yesterday from the Council were severally read a first time.

WEDNESDAY, March 3.

The Fishery Reserves Bill was read a second time, and committed. Progress reported, and leave to sit in the afternoon.

A message from the Legislative Council have passed the Bill, intitled, *An Act to prohibit the burial of human remains within the limits of the several Towns of this Island, and to establish Burial Grounds in the Common of Georgetown and in the several Towns, to which they desire the concurrence of the House of Assembly.*

And also—*The Legislative Council do not insist upon their amendment to the Bill, intitled, An Act to authorize the appointment of Coroners in Prince and King's Counties.*

Ordered, That the Order for engrossing the Fish Inspection Bill be discharged, and that the said Bill be referred to Messrs. Le Lacheur, Palmer and Thomson, to report thereon, by amendments or otherwise.

Mr. Rae presented a Petition from John Macgregor, of Black River, the nature of which will be gathered from the following Address, which the House presented to the Lieutenant Governor on the subject.

His Excellency Sir CHARLES AUGUSTUS FITZ ROY, K. H., &c. &c.

May it please your Excellency; The House of Assembly having had under their consideration a Petition of John Macgregor, of Black River, dated the 23rd of February, stating on affidavit that he had lost a Treasury Warrant Number Three Hundred and Ninety-nine for the sum of £12, (which warrant had been regularly endorsed to him) tendering security, in case said warrant should be presented at the Treasury, and praying the House to take measures for his relief.

On considering the circumstances of the case, the House of Assembly beg leave respectfully to represent to your Excellency, that they think it equitable that the said John Macgregor, on his finding security to relieve the Treasury in the event of such Warrant being presented for payment, and forthwith paying the expenses of the bond to that effect, and of any advertisements the Law officers may consider necessary, should receive a Warrant to the amount of £12, to bear interest on the same date as the lost Warrant, and they respectfully request that your Excellency will be pleased to give the necessary directions to that effect.

A Committee was appointed to wait upon his Excellency with the said Address, who returning, reported the delivery thereof, and that His Excellency was pleased to say that the matter would be duly attended to.

Mr. Thomson reported a Bill for regulating the qualifications of Jurors, and the mode of striking Juries.—Second reading on Wednesday the 10th inst.

Resolved, That this House do now resolve itself into a Committee of the whole House, on the further consideration of His Excellency the Lieutenant Governor's Message of the 1st February, with the enclosures, relating to the transmission of the Mails by a Steam Vessel.

Mr. Fraser took the Chair of the Committee.

Mr. Fraser reported, that the Committee had come to Resolutions, which he was directed to submit to the House whenever it shall be pleased to receive the same.

Ordered, That the Report be received To-morrow.

Mr. Fraser also acquainted the House, that he was directed by the Committee to move for leave to sit again which the House agreed to.

THURSDAY, March 4.

Mr. FRASER, from the Committee of the whole House on the State of the Colony, reported, according to order, the Resolutions of the said Committee; which Resolutions were again read at the Clerk's table, and are as follow:

1. RESOLVED, That it be recommended to the Lieutenant Governor to grant a sum not exceeding Five hundred and Fifty pounds, Prince Edward Island currency, to enable the Government to contract for an efficient Steam-boat for the conveyance of the mails during the ensuing season.

2. RESOLVED, That it is the opinion of this Committee, that His Excellency the Lieutenant Governor humbly requested to cause a contract to be entered into with any person or persons, for the conveyance of the Mails of this Island by a Steam-boat, between this Island and the Provinces of Nova Scotia and New Brunswick, in conformity with the foregoing Resolution; and that his Excellency be also requested to stipulate that such Boat shall ply as follows, viz: to commence by running the first week twice between Charlottetown and Pictou, and once between Pictou and Georgetown, within the week; and the next week to run once between Pictou and Miramichi, calling at Charlottetown, coming and returning, within the week; and so on for so long as the navigation shall continue open during the year, on such particular days, and under such other regulations as to his Excellency shall seem requisite.

and the First of the said Resolutions being again read, and the question put thereon, it was agreed to by the House.

The Second of the said Resolutions being again read;

Mr. RAE moved, in amendment thereto, that after the word "Resolved," all be struck out, and the following substituted:—

"That as in the present circumstances of this Colony, it is inexpedient to apply a sum exceeding Three hundred pounds, currency, to provide for conveying the mails by steam; and as any steam-vessel which shall run merely hence to Pictou, will not probably tend to the further benefit of increasing the exports from this Island, as there is in that quarter no demand for such produce—therefore, the sum to be granted for conveying the mails, by a steam vessel, between this Island and Pictou, be limited to Three hundred pounds currency."

The House divided on the motion of amendment: YEAS—Messrs. Rae, Fraser, Macintosh, Gorman, Macneill—5.

NAYS—Messrs. Longworth, Beck, Hudson, Le Lacheur, Dalziel, Montgomery, Clark, Maclean, D. Macdonald, Wm. Dingwell, J. Dingwell, Forbes, J. S. Macdonald, Palmer, Thomson—15.

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

"That the sum of Five hundred and fifty pounds, Prince Edward Island currency, be granted, when the House is in Committee of Supply, for the purpose of engaging an efficient Steamboat, of not less than sixty horse power, to run every week between Charlottetown and Pictou, and between Charlottetown and Miramichi; and in case that no such Boat can be obtained, that provision be made to such amount as will be necessary for the transmission of the mails during summer by such transit as to the Executive may appear most eligible."

The House divided on the motion of amendment: YEAS—Messrs. Clark, Montgomery, Gorman, Rae, Fraser, Macneill—6. NAYS, 14.

So it passed in the negative.

Mr. FRASER then moved, in amendment to the said Resolution, that after the word "Miramichi," the following be inserted:—"touching at Bedouque in going and returning."

The House divided on the motion of amendment: YEAS—Messrs. Fraser, Clark, Macneill, Gorman, Rae, Hudson, Montgomery—7. NAYS, 13.

So it passed in the negative.

Mr. RAE then moved, in amendment to the said Resolution, that the following be added thereto:—"and providing, that in the event of the Steamboat being regularly at Georgetown, that the allowance to the packet sailing thence to Pictou shall thenceforth cease, during the running of the said steam."

The House divided on the motion of amendment: YEAS, NAYS, 13.

So it passed in the negative.

Mr. RAE then moved, in amendment to the said Resolution, that the following be added thereto:—"But at, if no Steamboat can be found, the owners of which will contract for the said Boat going to Miramichi, as above expressed, the sum allowed such Boat for the other services, as above stated, shall be limited to Three hundred pounds."

The House divided on the motion of amendment: YEAS, 6. NAYS, 13.

So it passed in the negative.

The question being then put on the said Resolution, it was agreed to by the House.

Resolved, that a Committee of five Members be appointed, to prepare and report the draught of an Address to His Excellency the Lieut. Governor, in conformity with the above reported Resolutions.

Ordered, That Mr. Palmer, Mr. Longworth, Mr. Thomson, the Hon. J. S. Macdonald and Mr. D. Macdonald do propose the said Committee.

FRIDAY, March 5.

ASTER TERM.

Debate upon the Bill sent down from the Council to continue the said term for ten years.

Mr. PALMER moved, that the Bill receive a second reading.

Mr. THOMSON, seconding the motion, said, he would have no objection in allowing this Bill to go into effect for two years, in order to enable the suitors now in Court out with as little expense as possible; at the end of that time let this act expire; these suitors do not then urge that they had not sufficient time by their actions. It would be every thing but fair, to discontinue the act, as such would be the mode of throwing heavy expense on suitors before they could have their actions revived. He hoped to see the day in the present harassing and vexatious mode of brief, transitory actions would be substituted by one less expensive and inconvenient to the country suitors—viz. T. went on (as he did on a former occasion) setting forth the great inconveniences arising from the present mode of commencing such actions.

Mr. SPEAKER in reply said, that a Resolution embodying the principle of the Bill had already been before the House, and members are aware of its fate. He was still of the opinion, that this term was a useless term to the country. The people of the country were taxed to erect Houses and Jails in the other counties; they were taxed to pay a Chief Justice to attend at all courts. What was this all for, but to enable every man to have cheap justice at home at his door. He would have cheap justice at home at his door. He would have cheap justice at home at his door. He would have cheap justice at home at his door.

Mr. PALMER said, he felt that to see hon. members stand so much in their light, as to pass this Bill, it would be of much benefit to the country. All their arguments so far, were but a futile and idle attempt to get an act passed to alter the present mode of bringing certain actions, and for want of the co-operation of the other branch of the Legislature, we were

frustrated in carrying out our object. Now, we have no other way than this to express our disapproval of the conduct of that body, (in that matter) than by giving our dissent to this measure.

Mr. PALMER said, "I do not like these Doctor Fell—The reason why, I cannot tell; But this I know, and know full well—I do not like thee, Doctor Fell."

This is the second time he, Mr. P. had occasion to apply this little epigram to the arguments of Hon. members. The hon. member, Mr. Rae, after finding that he had failed in argument, then had recourse to a little pleasantry, by which he amused us in saying that it was a means of recreation for the Chief Justice and attorneys to engross the whole of the law business in Charlottetown, and keep it there among themselves. Again he tells us, their object is to get away from Charlottetown for recreation.—The other Hon. Member (Mr. Gorman) said a great deal while on his feet—but it was all of little effect. He (Mr. P.) has heard the Hon. member deliver speeches on different subjects mixed up with truth and error,—in such case he (Mr. P.) was wont to apply the one and reject the other; but in the present speech he could neither see the one thing, nor the other—it served however (as he sometimes succeeded) to make the House laugh; but certainly not at the point of argument. Mr. Speaker has told us of his attempting to pass a Bill last session relating to certain actions which proved quite nugatory in effect—and why should it not, when the principle was so repugnant to all the rules and practices of British Law—but he would, forsooth, bring in this old story as of some weight, in leading members from the main question, under consideration, which, (as already mentioned) has not the least relation to local or transitory actions; such no doubt would be an unjust restriction and productive of a bad effect, were all actions, without distinction, confined to the place where the cause of action arose.

Mr. SPEAKER said in reply, that as to the bringing of actions in a different County from that in which the parties reside and where the cause of action arose, he thought the law now was, that if two persons reside in King's County, and one becomes indebted to the other, the latter might bring his action in Ch. Town if he liked; this is the cause of all the accumulation of business at Ch. Town, and consequently, another Term must be called for; but he (Mr. Speaker) would have the case altered, if the debt were contracted with a merchant in Ch. Town, there let the action be brought and tried, and let the like principle apply to the County Courts. By rejecting this Bill, we will show the other branch of the Legislature that we ought to have such actions tried in those Counties where the parties reside and where the cause of action arose.

Mr. DALZIEL said, that as long as there will be Courts held in King's and Prince Counties, so long will these dry questions of law (originating therein) be argued and determined in Charlottetown.

Mr. MONTGOMERY asked, will we by our disagreeing to the present Bill prevent the attorneys from coming to Charlottetown to argue their points of law so reserved in the County Courts?—No, certainly not; and as they all live in Charlottetown it will be of no expense or inconvenience to the country if they argue and determine those questions of law there. This will no doubt, expedite justice—which is a great object in an infant colony like ours.—He (Mr. M.) was still of the opinion that he was of, on a former occasion; he saw no reason why the bill should not be adopted.

The motion for the second reading of the Bill was then agreed to, without a division; and thereafter the said Bill was committed to a Committee of the whole House, when several amendments were moved, and agreed to.

House in Committee on the Bill to extend the jurisdiction of the Small Debt Commissioners.

Mr. LE LACHEUR said, we are not prepared for this measure at present; the Colony is now in such a state as not to warrant the passing of such a Bill as this. When we think of making laws, we should first consider how they would operate, and whether they are called for or not; if we find a remedial enactment is required, it should be our next duty, as legislators, to legislate for the many and not for the few. As to the extension of the jurisdiction of the Small Debt Commissioners, he would like to inquire into the past conduct of some of them. By the adoption of this Bill, we will furnish an additional weapon to coerce the unfortunate tenant. By this measure would he become subject to those magisterial courts. Their jurisdiction, as regards rent, is now confined to sums not exceeding Five Pounds, currency, not sterling. One great objection to this Bill is, that it would furnish the Commissioners with various weapons to put the country in a worse plight than it is at present; it would be to bring the tenant the more speedily to the rack—in effect, it would be lynch-law in all its horrors. This extension of jurisdiction would be verily to exterminate the agriculturist. If we were in a country where the great bulk of its inhabitants were free and independent, we might think of passing a Bill of this nature; but, situated as we are, in a proprietary Colony, whose Government officers are generally the instruments of proprietary tyranny, are we, the chosen of the people, convened here to pass a measure like this? to put it in the power of those men whose public character we well know, to hunt down the agriculturist—to strip bare the widowed and fatherless. This Bill will answer a few very well—such as the petty-chapman and pedlar. He would be sorry to think, that any honest creditor should feel a difficulty in recovering his just debts, but such he knew was not the case, as courts of justice are open to all in the Colony. He felt assured that the majority of the House would never consent to this Bill. As for himself he would use his individual exertions to oppose it in every stage.

Mr. Thomson said he would support a measure giving jurisdiction to a certain number of Commissioners, to adjudicate on matters not exceeding Ten Pounds; but this jurisdiction he would not extend indiscriminately to every Commissioner. Some of them are of very inferior standing in the community; some of them are bull-dogs of oppression in their magisterial office; some of them he would not trust with a two-penny on a ten-penny matter to adjudicate on. Although this measure might be favourable to the views of many of his constituents, yet he was not their servant, no more than he was their master; he was their representative, who had been sent to represent their interests in this House; but in doing so he would be governed solely by his own judgment.

Mr. MONTGOMERY said the object of the Bill is to provide the cheapest justice possible for the country. The jurisdiction of the Magistrates was first limited to forty shillings; that was found to work well; it was then extended to Five Pounds; we find that to work very well also. Why, then, should we limit their jurisdiction to this amount, after taking into account the great inconvenience the country now

feels through the want of an intermediate jurisdiction extending to sums of from five to ten pounds.

Mr. CLARK said, that as to what the hon. member for Georgetown (Mr. Thomson) had said, respecting some of the magistrates not being competent to adjudicate in two-penny or ten-penny matters, he thought the hon. member had not exhibited much consistency; or else his opinion with respect to the fitness of the Magistracy, had undergone a wonderful change since last Session. So high did they stand in his estimation then, that he actually introduced a Bill for taking the right of selecting Jurors for the Supreme Court out of the hands of the Sheriff of the County, and conferring it upon those very Magistrates, who, if we are to believe the hon. member, are not competent to decide upon a two-penny or ten-penny matter. He would next advert to the remarks of the hon. member (Mr. Le Lacheur) on the effect this Bill would have in increasing the power of the Commissioners; that hon. member need not be so dreadfully alarmed as to putting a weapon of oppression in the hands of that body. If that hon. member has no confidence in that body—if they are betraying the trust reposed in them by the Executive—why does he not immediately seek a repeal of that Statute under which they act; or why does he not petition the Executive for their immediate dismissal? Have not the proprietary body another more summary and efficient mode to recover their rent? Yes, for the course laid down by the law of the land is (as he conceived) very plain and simple, for when the rent becomes due, all that the landlord has to do is, to authorize his bailiff to distrain for the rent. If the tenant pleases, he can appeal, by reply, to the Supreme Court, there to try his right. This is so simple a mode, that the landlord would not likely adopt a more circuitous mode of proceeding. So much for this hon. member's sagacious foresight. He has also told us that we must legislate for the many and not for the few. Now, if we are to legislate for the many, who recklessly run into debt, we will be legislating for the encouragement of fraud and imposture. After the extension of the jurisdiction of the Magistrates, if any suitor questions their competency, he (Mr. C.) would say, let there then be a clause introduced into the Bill, to provide a Jury to act in conjunction with the Magistracy. And as the Commissioners' Court is a Court of conscience, a suitor might be heard in evidence on oath in his own cause. This would be very convenient in the country in dealings amounting to £10, where, perhaps, a contract is entered into between two, for the purchase of a horse, a cow, or any other commodity, and all witnesses being absent, the party litigant in such case would be allowed to be a witness in his own cause. He (Mr. C.) for his own part, saw no difficulty in the way, where the suitor would have his option either to leave his cause to the decision of the Magistrates or to the verdict of a Jury, to sit in cases amounting to £10. This would be the means of saving much expense to the suitor. Were such suitor obliged to seek his remedy in the Supreme Court, a heavy bill of costs would likely follow, and he would likely fail for want of that strict legal evidence required in Courts of Law.

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