

The Examiner.

A WEEKLY JOURNAL OF POLITICS, LITERATURE AND NEWS.

EDWARD WHELAN

This is true Liberty, when free-born Men, having to advise the Public, may speak free.—EURYPIDES.

[EDITOR AND PUBLISHER

Vol. VIII.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, MONDAY, JUNE 20, 1859.

No. 50.

Provincial Parliament.

HOUSE OF ASSEMBLY.

SUMMARY OF PROCEEDINGS.

TUESDAY, May 10.

House met at 11 o'clock.

Bills to incorporate the Free Churches of Bedeque Road and New London, read a third time, and passed.

House in Committee on the Bill to amend the Act of Incorporation of the Methodist Church in P. E. Island.—Mr. Sinclair in the Chair.

Mr. COOPER observed that the Hon. Mr. Coles was not in his place. On last Saturday evening that hon. gentleman stated his objections to the Bill, and at his suggestion its further consideration was deferred, to afford time to parties interested to make objections—if they entertained any—against the Bill. It would be well, therefore, not to proceed with the Bill until the Hon. Mr. Coles was present.

On Mr. HAVILAND—It was clearly understood on Saturday last, that if no objections should be offered to the Bill it should be proceeded with on Monday, (yesterday.) This is Tuesday, and no objection had been made to the measure. It was introduced into the Legislative Council by the Hon. Charles Young—an influential member of the Methodist body—and if it were at all objectionable, some opposition would have been offered ere this. But such had not been the case, nor is it necessary, as it only provides for the transfer of the Methodist property of this Island from the Conference at home, to that of the new guardianship recently established on this side the Atlantic.

Hon. Mr. THORNTON had no objection to the Bill. He would limit it to 4 years, and if found to work well, it could be continued.

The Hon. the SPEAKER did not see any objection to the Bill. It was introduced some few days since by members of the Methodist connexion. No objection had since been offered, and, therefore, there existed no valid reason to delay the measure.

The Bill was then agreed to in Committee, and ordered to be engrossed.

The House in Supply, Hon. F. Kelly in the Chair.

Hon. Mr. HAVILAND moved a resolution that £107 be placed at the disposal of His Excellency and the Executive Council, to defray the over-expenditure of the New London Road district for the past year.

Hon. Mr. WHELAN—If New London received a special grant in this way, he thought other districts were also entitled to the like favor.

Hon. the SPEAKER—The House came to a resolution last year that no Commissioners should expend more than the amount of the appropriation, without the consent of the Government. The amount asked for in this instance was in accordance with that Resolution—the Government had consented to the over-expenditure, and thus the debt should be paid.

Hon. Mr. WHELAN said it should be taken out of the contingencies.

Hon. Mr. HAVILAND—The outlay was by consent of the Executive, like the debt on the bridge in Mr. Coles's district, amounting to £168, which the present Government did not refuse. Both expenditures had been sanctioned by the late Government, conformably to a resolution of the House, and therefore this, like the other, should be paid. The appropriation for the New London district this year amounted to only £83; were this all applied to liquidate the debt of last year, there would still remain a balance due of more than £20; and what was to be done with their roads and bridges for the present year?

Mr. HORN—The reason for the large excess of expenditure last year was owing to three bridges having fallen. The appropriation of last year was not able to meet such unseasonable calamities—the Commissioner applied to the Executive for power to carry out the necessary repairs—it was granted—hence in justice the district should not be called upon to pay any part of the debt out of the appropriation of the present. If so, and that they applied the whole, it would be insufficient to pay the amount, leaving their roads and bridges, as had been stated by the Hon. Mr. Haviland, without any provision for the present year.

Mr. SINCLAIR thought the over-expenditure had been too much. In his district £20 had been taken out of the appropriation for a bridge. He would not object to allow a portion of the amount asked for, but the whole amount, £107 10s. 2d., was too much. They should be very well satisfied with £50, or at most, £65, being the amount for the completion of the bridge.

Hon. Mr. LONGWORTH heard the Hon. the Speaker state, that the over-expenditure had been ordered by the late Government, and that it should be paid. He agreed with that hon. gentleman; and thought also that the Government were perfectly justified in ordering that expenditure, by repairing a casual injury over which the people of the District had no control.

Hon. Mr. THORNTON—They had heard of no special grants; but there is one to a very large amount, although they had been told it would be better this year to take the expenses for the repair of bridges out of the road money. Here we are, said the hon. gentleman, the members for King's County, with a very small grant; appropriating £8 for Sturgeon bridge, and £10 for Montague bridge.

The Hon. the SPEAKER said, the members of the District should apply a portion of their appropriation to liquidate the debt, and the Committee ought to have no objection to pay the remainder.

Mr. OWEN would vote the completion of Crapaud bridge £65, and the remainder ought, in justice, to be taken out of their money.

Mr. COXROX—If the House had not given him a grant, he could not understand how he was to pay a debt of £168 out of an appropriation of £90; and, therefore, he should follow the good old christian maxim—of doing unto others as he would they should do unto him—and felt bound to support the resolution.

Hon. Col. GRAY said, the road system was quite rotten—all wrong—and hoped the Government would not sanction those special grants. Why should £200 be laid out in one year, and expect that £100 will pay the next?

Hon. Mr. HAVILAND—It was no wonder his friend, the Hon. Col. Gray, felt indignant at the system. The fault rested with the late Government.

Hon. Mr. McAULAY—As the Committee had granted £168 to the bridge at Lewis Ferry, which had neither an approach

to, nor exit from it, he should support the resolution. He should, however, be very cautious, in future, of delegating powers to those Road Commissioners. Some of them were very ambitious, as in the case of the gentleman for the New London District, who had aspired to be a representative of the people, but who had been woefully disappointed.

Hon. Mr. LONGWORTH—The Government would issue circulars to the Commissioners, informing them that, in future, they should not expend more than the sum appropriated. The sum for the completion of the Crapaud bridge was agreed to.

Hon. Mr. THORNTON moved the reconsideration of the grant to the Indians, and suggested it be increased from £25 to £40.

Mr. McNEILL said, they received a portion of the pauper grants—he would oppose the addition.

Hon. Mr. PALMER could not see any good grounds for the grant. Able-bodied Indians were as capable as any others of earning their livelihood. Labour here is always scarce. They should go into the fields—assist in the tillage of the soil, which would improve their own condition, and add to the wealth of the country. The system of granting them money withdraws them from their usual avocations, engenders habits of idleness, and prolongs a life of dependence. He could not see any just reason for continuing the grant, and would not consent to its increase.

Mr. COXROX understood it to be the intention of the House to add to the grant. If not, why was it allowed, on the discussion the other day, to go to Supply?

The Committee decided in adhering to the original grant.

Absalom Gregory, late a preventive officer, who got his house burned, was allowed £7, on condition that he should support his aged mother.

Adjourned at 2, resumed at 4, when the Hon. Col. Gray moved the order of the day, second reading of the Bill to alter the Constitution of the Legislative Council, by making it elective.

ELECTIVE LEGISLATIVE COUNCIL.

Hon. Mr. HAVILAND said, in moving the order of the day, it was unnecessary for him to make a long speech. He had advocated the principle of an elective Legislative Council for several years. At first he had few supporters, but was glad to find that the principle was gradually gaining ground. Even the leader of the late Government, the Hon. Mr. Coles, had at last so far become a convert to the principle, as to acknowledge the necessity of filling up the vacancies by election; but would not go for the whole bill. The principle would, however, now command a majority of this House. The elective system had been established in the greater part of Her Majesty's Colonies, at the Cape of Good Hope, Australia, and Canada. The principle was very necessary here, where the Legislative Council had a large majority politically opposed to the majority of this House, which represented the political sentiments of the country. Look at the recent conduct of those gentlemen: they had adopted an Address to the Queen, condemning the conduct of the present Government. It was a piece of cool impudence, indeed, on the part of those individuals, who have no influence in the country, who could not obtain a constituency—the acknowledged nominees of a party—who do not hold their seats for life—removable at pleasure, to condemn the present Government. The present majority of this House, 14 of whom were returned in the short session, pledged themselves to the elective principle, went to the hustings, were again returned, with four more, bound to carry out the principle of an elective Council. The necessity of the elective principle was not only felt here, but acknowledged in Great Britain. British statesmen of every shade of politics, whigs and Tories, and Roebuck—considered a radical—all are unanimous in their support of the elective principle. The Duke of Newcastle felt its necessity, and had recommended it. The Earl of Harrington had also approved of it; and the great Earl of Derby, looked upon as the very essence of Toryism, had given it the sanction of his name; and the illustrious Lord Brougham had advocated the same view in the debate on the Elective Council for Canada. It was now for the House to decide whether the old obsolete *effete* system—worn out everywhere—shall be allowed to continue any longer in P. E. Island. He should go for the infusion of new blood into the Council. Two denominations—one nominative, the other elective—are too antagonistic, and would never be found to agree in carrying out the legislation of the country, and could never represent the sentiments of the people. It was not, perhaps, in consonance in all its details with members on his side of the House. It proposed to give six members to King's County, and three each to King's and Prince Counties. It provides that the members shall be elected by the whole county. The distribution of members was based upon population and wealth—the only true basis of representation. The last census gave Queen's County half the population of the Island, and her agricultural wealth was in a greater ratio. This would give King's and Prince Counties more than they have at present; both have only four under the late liberal Government, being one third; this would give them one half. The qualifications of the electors would not be changed, the same machinery by which members are returned to this House should remain in operation; all possessing the franchise now should have the right of voting for Legislative Councillors. Their own qualification would be, as fixed by the bill, £700. That might be too high; his own opinion was, that £500 would be sufficient. After the first election, the members would be divided into three sections, by lot, of four each. The first to retire at the end of three, the second at six, and the third at the end of nine years. When a Councillor was elected, he would retain his seat until he should legally retire, or when he would become a bankrupt; and the Council could be dissolved only by the Crown.

Hon. Mr. THORNTON—The gentleman who had introduced the bill knew very little about constitutions. The Legislative Council in the Colonies, like the House of Lords in the mother country, was a break-water, to oppose the power of the Crown in making any inroads upon the privileges of the people. Not so, however, with Legislative Assemblies, or with the British House of Commons. It often happened, that whenever unpopular measures were proposed by the Minister, and that there was a certainty of dissolution, in the event of failure of the ministerial policy, that the members, in opposition to their conviction, yielded; and thus the best interests of the people were sacrificed to political expediency. But they were to have an infusion of new blood every three years, with the power given to the Council of appointing their own President. In Canada he is nominated by the Crown. On the whole, he was not opposed to an elective Council, but it should not be all at once;

it should be safely and gradually initiated, guarding against those violent changes which had ever proved unwise wherever they had been tried.

Hon. Mr. McAULAY would offer a few observations on the second reading of the Bill. Although claiming no parental connexion with it, he might be called its grandfather. Nine years ago his bantling had no supporters—neglected, it fell, but was not destroyed—its spirit lives, and survives today in more active and healthy vitality, and has extended its influence to the other colonies of British North America. The idea of an elective Council was, a few years since, deemed most audacious by the British Parliament, as the Government claimed the power of nomination in the British Colonies. Look at Massachusetts 100 years ago, its people the descendants of the Pilgrim Fathers, with the same blood in their veins as ourselves, who claimed the right then which we do now, to elect their Legislative Councillors, and told Sir William Fitzroy, that they would do so, acknowledging no power to nominate their Councillors. An angry discussion in the British Parliament was the consequence, and that bright constellation of statesmanship, wit and genius—which eclipsed all former glory, and has never since been equalled in the erudition of Burke, the eloquence of Sheridan, the integrity of Fox, and the patriotism of Pitt. Those great minds were divided on this great principle of elective legislation. Pitt and Fox were great friends, but the discussion of this principle caused a disagreement. Pitt's views predominated—extended to the American Colonies, proving, in conjunction with all the facts in the world's history, respecting Governments, that as the people advance in the path of knowledge, they desire to be free. Our good and gracious Queen Victoria is anxious for the happiness of all her people. She desires the social and political progress of the inhabitants of this Island,—he wishes that all the evils of which they complain may be redressed,—and among those, the annihilation of the corrupt nominative system of the Legislative Council—so obnoxious to the feelings of the country. Some will say, that the elective principle is an innovation, a reflection upon the House of Lords;—wonderful, indeed, how very loudly they are. The House of Lords in England began with William Rufus, being a recognition of the power of the princes, as he permitted them to meet together at a Christmas dinner, where they discussed the affairs of the nation. This continued till the time of King John when the balance of power was aristocratic. The people remonstrated against the rule of the oligarchs, and agitated a republican or democratic constitution. Thus the representatives of the people—the democratic commons—became a check upon the lords spiritual and temporal; for long previous to this, the chief heads of the sectaries had become amalgamated with the temporal princes, to the prejudice of the democratic love of freedom. Thus the British constitution is well balanced—properly regulated in all its parts—the royal prerogative is kept within due bounds, but not subject to any harsh restraint; the power of the Lords exercises a conciliatory influence between the demand of the popular branch of the legislature, and the will of the sovereign; and under this beautifully arranged fabric—the palladium of universal liberty—the oppressed of every nation find refuge and a home. When in Scotland, he had seen the exiled monarch of France—conversed with him, one of the chief negotiators of a mighty nation—whom adverse fate had driven from a throne, kindred and country, and whom Great Britain, in the overflowing kindness of her vast imperial heart—forgetting all national antipathies—opened wide her generous arms, and received him as a parent embraces his offspring, bestowing upon him acts of love and kindness. The lords are not all hereditary in the British empire. The British branch proper are so, not so with the rest. Look at the case of Ireland and Scotland, where many of them are elective—in Ireland for life, in Scotland for a term of years. But it would be too tedious to enter at present into the various details, in illustration of the mode and difference of the elective principle in both countries; suffice to say, that many of the House of Lords in England are elective, which overturns every argument advanced to show that the adoption of the elective principle in the Colonies is in the slightest degree derogatory to the House of Lords. But it is above all things necessary, that both branches of the Legislature here should work harmoniously together; and is this to be expected, constituted as the other end of the building is at present?—it is impossible, it is absurd, to suppose that such can be the case. Yet the interests of the people must be protected, and as all are equally affected in the adversity or prosperity of the state, the people should have a voice in the appointment of those who make the laws to which they are bound to submit. Responsible Government will never succeed in blessing the Colony while there is such diversity in the Councils—while the majority in the Council act in concert with the minority of this House; and being convinced of the evil of such a system, he could not sanction the existence any longer of the Legislative Council, as it is constituted at present; and when the right has been conceded to us of ruling ourselves, shall we not be a compact, a united body, and not submit to the degradation of being torn into shreds and patches,—shall we have no more coherence than sand? And shall we submit any longer to the nominative system?

Hon. Mr. COLES—The gentleman who had just sat down treated them to much valuable information, in his own mind, respecting the British constitution, and had been after enjoying one of those good old English Christmas dinners—like the princes of yore with Rufus—with abundance of wine, he would, no doubt, be in a better mood still to descend upon the constitution in discussing the bill. The House of Lords have often differed with the Commons, but in the end they had agreed. Just so here. Look at the Reform Bill, and also the bill to emancipate the Jews, by allowing them to serve in Parliament. He was in favor of the elective principle, and although he felt that if the Council were elective, and that they were returned as the members here to represent the people—in expressing their opinions—there would be no protection against the power of the Crown; still he would support the principle of election, but not as contained in the bill now before them. He should not wish, however, to see men placed in a position where they would feel it their duty to oppose the wishes of the people or their representatives; and this is what is contemplated by the present bill. You want the Council elective. How can you obtain it? After the passing of the bill in this House, is it to be supposed—can it be expected for a moment, that it will receive the sanction of the other branch of the Legislature? The House of Lords in England, as stated by the Hon. Mr. McAulay, are partly elective, and such should be the case here too. If the introducer of the measure be sincere, he should carry it out as in Canada, and then he may expect the co-operation of the Legislative Council; but to

proceed, as is proposed, in dissolving the entire Council, will only create division, and end in failure. Is it to be supposed that in such a small country as this is, men totally unacquainted with the principles of legislation, who might be elected—never in the House before—without experience as legislators, could manage the affairs of the country better than those who are now in the House? Surely it were much better that they should retire gradually, as was proposed by the bill of last session. This course would receive the support of the present minority, as they are confirmed in the justice of the gradual introduction of the elective principle into the Council. The minority have no desire to preserve it in its present state. What have we seen the other day?—the sale of a Legislative Councillor; appointed to an office he had resigned to make way for a nominee of the present Government. But they are called an obstructive body, because they had passed an address to Her Majesty, declaring their want of confidence in the present Government. Look at the absurdity of the present system in which they had declared a want of confidence: a private individual, without any departmental office, lays a communication before His Excellency—a system of Government as yet unheard of in any part of the world. We have heard of pledges, but see no acts; this, perhaps, is the easiest of all, to send up a bill to the Council which they know will be thrown out. And can they expect otherwise, when they promise to give 6 members to Queen's County, and only 3 each to Prince and King's Counties? The late Government had intended to give a fair and equitable portion to King's and Prince Counties, as vacancies occurred. But if the members for these counties felt satisfied with the distribution he would not object to that part of the bill. He opposed it in its present shape, while he approved the principle of election.

Mr. COOPER was in favor of an elective Council; but he was not inclined to remove the present members as speedily as was intended by the bill. See other countries—older countries than this, presenting a standard to direct us in this particular. Look at the United States of America, where they have a principle not subject to change. Also, Great Britain, where all is safe through the stability of a principle of administration. But here there is no fixed principle to guide us in our desire to legislate aright. There are 7 members of the Government in this House, and none of them are responsible. The Council might be an elective body, true to the interests of the Crown, but if elected subject to the wishes of the people, and the members would flatter the people and minister to their vanity, they would be returned; if not, they might be certain of being rejected. They ought to have men fit to be called upon to represent the people; the qualification, therefore, should not be too high. £700 was out of all just proportion to the circumstances of the Colony. £300 would be quite enough, and would afford the people a wider range of selection. The bill should be published in a form that might be expected to receive the sanction of the Council, and also the Government at home. It was wrong to send it to the constituencies in a shape which it was not expected to see realized.

(To be continued.)

LEGISLATIVE COUNCIL.

DEBATE ON THE FISHERY RESERVE QUESTION.

(Concluded.)

Monday, April 25.

Hon. Mr. JOHNSON—I do not see that the Government have a claim to the land. As I read and understand the words by which the Reserve is made in the original grants, the reservation is not the land itself, but a privilege to erect upon the five hundred feet from highwater mark, on the coast of the tract of land granted by the original deed, stages and other necessary buildings for carrying on the Fishery; the right to the soil being in the proprietor or tenant. I certainly cannot see how any other construction can be put upon the words by which the reservation is made.

His Honor the PRESIDENT—His Honor then does not hesitate to set up his opinion in opposition to that of the law-officers of the Crown, Sir Frederick Pollock and Sir William Follet, who, in 1843, gave it as their opinion that the fee simple of the land reserved is in the Crown, an opinion which has never before, I believe, been impugned. His Honor set out by professing almost entire ignorance of the question, and modestly requested to have its nature explained to him. Well, now, although a very reasonable share of explanation has been afforded him, and such too as I think would have served to place the question in its true light before almost any other enquirer, his Honor still professes ignorance of it. But might he not, with greater propriety admit that he has allowed his mind to be imbued with so strong a prejudice against the measure, that not even the most indisputable facts and the most convincing arguments would induce him to acknowledge that there is any thing sound, just, or equitable in it.

Hon. Mr. DINGWELL—Proprietors have sold and leased the reserved lands, to which they must have known very well, from the plain and unmistakable meaning of the words by which the reservations are made, that they had no claim whatever as proprietors; and no reasonable person, I think, can honestly stand up in defence of their assumptions in that respect: indeed a few reasonable men among themselves admit the impropriety and injustice of such proprietary assumptions.

Hon. Mr. JOHNSON—Have proprietors ever prevented fishermen from freely carrying on their avocation upon the Reserves?

Hon. Mr. DINGWELL—Proprietors have sold the fee simple of such Reserves, when they must have known the fee simple thereof was retained in the Reserves? or, is the question merely to whom rent for the Reserves ought to be paid? Hon. Colonel SWABEY—I will, once more, endeavor to make his Honor understand what I hope to be pardoned for saying he seems most strangely unwilling to comprehend. There are two classes of Reserves. In the first, 500 feet from highwater mark are reserved for the disposal of the Crown for fishing purposes; and the fee simple of such Reserves has, by the highest legal authorities been declared to be in the Crown. With respect to this class of Reserves, Lord Glenelg in a Despatch dated 8th January, 1838, says, "These lands have been reserved to the Crown, and they must be considered as forming a part of the Territorial Revenue which should be employed in the public service, in whatever manner may be most compatible with a prudent and economical use of them." And,

Hon. Mr. JOHNSON—What I wish to know is—can the fishermen be prevented, either by landlord or tenant from carrying on the business of fishing on the Reserves? or, is the question merely to whom rent for the Reserves ought to be paid?

Hon. Colonel SWABEY—I will, once more, endeavor to make his Honor understand what I hope to be pardoned for saying he seems most strangely unwilling to comprehend. There are two classes of Reserves. In the first, 500 feet from highwater mark are reserved for the disposal of the Crown for fishing purposes; and the fee simple of such Reserves has, by the highest legal authorities been declared to be in the Crown. With respect to this class of Reserves, Lord Glenelg in a Despatch dated 8th January, 1838, says, "These lands have been reserved to the Crown, and they must be considered as forming a part of the Territorial Revenue which should be employed in the public service, in whatever manner may be most compatible with a prudent and economical use of them." And,