

THE EXAMINER:

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EDWARD WHELAN]

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

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Colonial Legislature.

(Continued from our last.)

Hon. Mr. WIGHTMAN could confirm the Hon. Mr. Whelan's statement. Mr. Dixon had told him that he thought, as the House had granted money to Mr. Gurney, he considered he would receive the same treatment. Mr. Dixon had expended some £300 or £700 in the erection of valuable and extensive buildings. He had also introduced from Nova Scotia workmen experienced in the preparation of superior kinds of cloth; and had that not been a benefit to the country? He hoped the House would give a return of the duties paid on the machinery, but was not disposed to go further. It was necessary that a revenue should be raised from some source.

Hon. Mr. MOONEY—It is all very fine, Mr. Speaker, for the hon. member (Mr. Whelan) to go for granting drawbacks on duties on machinery; he will do so until he obtains all he wants on this matter, and then he will oppose any similar application. I hope the hon. member (Mr. Wightman) will not be offended, if I hint that it is just possible he may have some petition of the same kind to present. Mr. Scantlebury had imported a steam engine last year, and there was the great horse machine of Mr. Hissard, that was to tramp out the news at the rate of nine knots an hour; and their petitions were rejected; and it will never do to establish the precedent. It is absurd to think that this House will take the money of the public to pay bounties to persons who import articles for their own benefit and aggrandizement. If Mr. Dixon's mill is the best, he will get the most business, and not need bounties.

Hon. Mr. LONGWORTH stated that Mr. Scantlebury told him he intended to apply for a remission of the duties on his engine, and he stated to him that it would be of no use, that the House had refused to entertain such applications for the last five or six years, and even last Session.

Mr. McINTOSH was inclined to give bounty, but not drawback. A moderate premium to the man who has built a mill, will encourage others to do so, and thus the price of the manufactures will be reduced to the public. There are premiums to agriculture and the fisheries: why not to a fulling mill?

Hon. Mr. WHELAN denied that he advocated the petition by previous arrangement with Hon. Mr. Wightman, as alleged by the hon. member (Mr. Mooney). That hon. member probably judged others by his own conduct. He denied that the House had established the rule of refusing all such applications. True, they had refused a couple last year; but if they had acted in a parsimonious spirit last Session, that was no reason why they should exhibit the same feeling this year.

Hon. Mr. MOONEY was sincere in the statement he had made. I must admit, Mr. Speaker, the hon. member (Mr. Whelan) is not very troublesome to the House. He seldom favors us with his presence. He seems to waste his eloquence on such humble individuals as we are. He allows us to squabble among ourselves.

Hon. Mr. WHELAN.—Mr. Speaker, the hon. member from Fifty Glen seems to be anxious for an opportunity to attack me. This is the second time he has done so in this short discussion, and has made unprovoked insinuations, calculated to damage me with my constituents. I am accused, sir, of being seldom in my place. I believe I am here as regularly as he who prefers the accusation, and am able to perform my duties as well as he does. It is true, my voice is not often heard in this House, and I must say, it would be more creditable to the hon. member himself, honorable to the district he represents, and useful to the country whose business he retards, if he followed my example in this respect. I do not waste the time of the House in endeavoring to exhibit myself as witty, when I am but impertinent, and thus rendering myself ridiculous.

Hon. Mr. MOONEY.—Mr. Speaker, I give notice that if the hon. member is allowed to speak again, I shall claim the right to reply.

Hon. Mr. MONTGOMERY—If the cloth from Mr. Dixon's establishment is of so superior a quality, he will obtain plenty of customers, and do so good a business that he will need no bounty. I do not see on what grounds the House is asked to remit the duties. There are a great number of carding machines in the country, and they find the business for such mills as Mr. Dixon's, yet they have never received any aid from the Legislature.

Hon. Mr. WIGHTMAN repeated his statement, that a large sum of money was annually leaving the country for the very article that Mr. Dixon's establishment was intended to supply, and that it was a benefit to the whole Island to retain the money in the country.

Mr. COOPER would prefer to amend the motion, by a recommendation to Government to remit the amount of duties. When he was formerly in the House, a bounty was given for the first fulling mill. Now, it appeared that Mr. Dixon's was the best, and he had obtained premiums for the superiority of his manufactures. If the House did not sanction his amendment, he would vote for the petition being referred to supply.

Hon. Mr. LONGWORTH.—The business pays Mr. Dixon. I have no doubt, well enough. The reference to the Agricultural Society, has no analogy to this case. That Society is but a trustee for the public; it disburses public funds for the public benefit. But this is an application for granting the public money for the benefit of a private individual.

Mr. McDonald could not support the prayer of the petition. There is another mill of the same kind in Prince County, the duties on the machinery of which were paid, and the proprietor would have an equal right with the petitioner, to the return of the duties. If the House granted money to Mr. Dixon on this petition, they might just as well give a bounty to every saw mill in the country.

An amendment that the Hon. Mr. Whelan have leave to withdraw the petition, was carried by a majority of 9 to 4.

Mr. McIntosh, on petition of Hugh McFarish, for remuneration for a house burnt, wished to let it stand over till he could obtain information as to the ownership. He deputed the House deputation, as their judgment might be based on imperfect or erroneous information. He was opposed by several members; and it appeared that five pounds were paid last year at the disposal of the Government, to be paid to the ascertained owner, and that amount was still in their hands. Petition withdrawn.

A petition of Peter M. Connor, for balance of duties paid on goods subsequently ascertained to have been damaged, was withdrawn; the House considering that granting its prayer would probably lead to frauds in other cases.

A petition for aid to Roseneath School was withdrawn.

A petition of John Ross, a teacher of vocal music, praying

aid towards the publication of a book for the instruction of learners.

Hon. Mr. WHELAN eulogised the talent and industry of the petitioner, who, he said, had instructed himself in the art of printing, and he would refer hon. members to the specimen sheets of the forthcoming book, which were laid on the table with the petition; they were executed in a style worthy of a regularly educated printer, and eminently creditable to the petitioner. The hon. member proceeded to say, that he had no personal interest in the matter, he merely wished to encourage laudable enterprise, and a small sum would be of service to the petitioner. In conclusion, he trusted hon. members would not come under the condemnation of the poet, who says—

"The man who hath not music in his soul,
And is not moved by concert of sweet sounds,
Is fit for treason, stratagem and spoil,
Let no such man be trusted." (Laughter.)

Hon. Mr. MOONEY opposed the petition; and, in doing so, expressed his fineness for the art, and his high opinion of the character and labors of the petitioner, whose professional labors had been beneficial to the country. He wished him every success in life, and only opposed his petition on principle.

A petition of John LePage, third master in the Central Academy, for increase of salary, was withdrawn.

A petition of inhabitants of Lots 61 and 62, for compensation to John Gay, courier, for the loss of a horse, which died while carrying the mails, was recommended by Mr. Munro, who knew the petitioner was an industrious but poor man, and as he had lost a valuable horse in the public service, he hoped the House would grant some, even a small amount. The petition was withdrawn, the House declining to sanction the principle.

A petition of inhabitants of Lot 55, for alteration in road, was ordered to stand over.

A petition of the inhabitants of Princetown Royalty and vicinity, for the adoption of measures to prevent hogs running at large, was referred to a special committee, consisting of the Hons. Messrs. Montgomery, Longworth and Wightman, to report by Bill or otherwise.

A petition of the inhabitants of Princetown Royalty and others, complaining of the neglected state of Richmond Bay, and stating that the light house on Fish Island, so far from being a benefit to navigation, was calculated to mislead vessels, and praying for the appointment of a commission of pilots and other competent persons to survey and report. It was considered by the House that the information which could be obtained from Captain Bayfield, of the *Gulnare*, would render the commission unnecessary; and that the Government would turn their attention to an improved method of lighting the house on Fish Island. With this understanding, the petition was laid on the table.

A petition from Jeremiah Simpson, Esquire, formerly a road commissioner, for £2 10s., being balance alleged to be due him as such officer. The petition was supported by the Hon. Mr. Montgomery, Hon. Mr. Longworth, and Mr. McDonald. After some discussion, the petition was, on motion of the Hon. Mr. Mooney, withdrawn. The Hon. Messrs. Montgomery and Longworth, and Mr. McDonald, voting against the motion; and the Hon. Col. Secretary, Col. Treasurer, Mooney, Wightman and Whelan, Messrs. Cooper, Munro, McIntosh and Muirhead, supporting it.

A petition of Langhan McKinnon, praying aid to enable him to procure seed for the ensuing season.

Mr. MUNRO, who had presented the petition, advocated its prayer, and stated that he believed the petitioner was deserving of the favorable consideration of the House; that he was an industrious, hard working man, and although afflicted by having three deaf and dumb children, had never applied to the House for assistance. He moved that it be referred to the committee of supply. The meritorious character of the petitioner, and his claim to the charitable consideration of the House, in the unfortunate circumstances in which he was placed, was universally acknowledged by the House, and the petition was referred to the committee, with the understanding that they were to report merely on that part which referred to the destitute state of the petitioner, the House having previously decided not to grant compensation for loss by fire.

SATURDAY, March 10.

Hon. Mr. LONGWORTH presented a petition from James Anderson, of Charlottetown, praying return duties paid on Canadian flour.

FISHERY RESERVES.

Hon. Mr. WHELAN, in accordance with the notice he had given, would proceed to put certain questions to the Government with reference to the Fishery Reserves. A good deal of agitation on the subject has been got up, and considerable anxiety is felt, particularly among my own constituents. It is right that they should know the position in which the matter stands; and I will, therefore, ask the Hon. Leader of the Government what has been done with the proceedings instituted, two or three years ago, against the proprietors; whether they have been abandoned? If so, for what reasons? If Government has instituted proceedings against an individual living at Morrell? If so, why has that individual been singled out for prosecution; in short, why has Government not proceeded against large as well as small proprietors? I trust that the Government will give full information on the questions I have put. There are, among my own constituents, a great number of small freeholders, and tenants who have small reserves, and they are naturally anxious to know what the Government has done, and what line of action it intends to pursue on the subject, as they fear that the course adopted towards one may be pursued against others. I hope the reply will be satisfactory, not to them alone, but to the people generally, whose attention has been strongly directed to the matter of late.

Hon. COL. SECRETARY.—Really, Mr. Speaker, I wish the hon. member would reduce his questions to writing; he has asked so many, that I may possibly omit to answer some of them. I thought, from the terms in which he gave notice of enquiry, that his questions related only to the Worrel estate. I will endeavor to answer all his queries, however, as fully as I can, consistently with the obligations of my office as Colonial Secretary and a member of the Executive Council. In the first place, I will say that there are two classes of fishery reserves in the original grants: One reserves to the Crown until the land is required for fishing purposes; the other reserves for the use of all Her Majesty's subjects engaged in the prosecution of the fisheries. The first class alone is that with which the Government intend to grapple; and their purpose is to secure to the public at large the benefits of the reserves; and to effect that, they cannot and will not favor one at the expense of all. At the time of the settlement of the Civil List Bill, the control of those reserves was surrendered to the Colony by the Crown, and the Government

being responsible to the people, will, in dealing with them, be guided by the opinions of their Representatives. The liberal party expressed their views on the matter in an address to Sir Alexander Bannerman, and the Government propose to act in accordance with those views. Several proprietors contest the extent of the reserves. In the original grants, 500 feet from high water mark are reserved to the Crown for fishing purposes; and it has been decided by the Law officers of the Crown in England, that the right to the soil of the land so reserved is in the Government until so required. Several actions have been instituted by the Government to test the points in dispute, which will be tried and determined according to law. With reference to the person alluded to by the hon. member—as I presume he refers to Mr. Cox—I will briefly detail to the House the circumstances of his case. By the first proposal to the Government to purchase the Worrel estate from Messrs. Pope & Co., the Government were to receive it as fully and amply as Pope & Co. had received it from Mr. Worrel's trustees. But before the bargain was concluded, Mr. Cox, who was only a tenant on the estate, stepped in and purchased the most valuable portion of the property, because he could obtain more land from Pope & Co. than any one individual could purchase from the Government under the Land Purchase Bill. When the Government ascertained this, they considered that as Messrs. Pope & Co. were selling the best parts of the property, they should deduct from the sum agreed to be paid for the estate, the amount of Mr. Cox's purchase, which was accordingly done. They had stipulated with Mr. Pope for an allowance of 800 acres, for the fishery reserves, but as there were about 170 acres of reserves on Mr. Cox's property, he would only allow 600, and would leave the Government to deal with Mr. Cox. Now, Mr. Cox's property has a very extended front on St. Peter's Bay, and the Government took the earliest opportunity, after the completion of the purchase from Messrs. Pope & Co., to notify him to attend to them for the reserves. They did so, as soon as possible, in order that Mr. Cox should not have it in his power to say that Government had proceeded to enforce the public claims against him without previous notice of their intention. But I am told that Mr. Cox now says that Government ought not to single him out, and that he ought not to be interfered with any more than the smaller freeholders and tenants; and thus he seeks to excite apprehensions in the minds of those freeholders who have purchased their 50 or 100 acres from the proprietors, that the Government intends to deprive them of the small fronts of their farms. I can state, Mr. Speaker, that there is no occasion for those people to be uneasy on the subject. The Government do not intend to interfere with them, further than as recommended in the address to Sir Alexander Bannerman; but Mr. Cox's case is very different from theirs. His land has a very extensive front on St. Peter's Bay, and the general interests require that the Government should see that the reserves on so large an extent are secured to the public. And what have the Government done to Mr. Cox, that justifies the agitation that has been got up on this matter? Why, sir, they have simply given him notice to attend to them, and had he done so, he could, at a moderate rent, have retained the exclusive possession of the reserves until they should be required for fishing purposes. He has refused to do so, and has thus left Government no alternative but to assert their rights. Mr. Cox knew, when he purchased, that the Government had a right to the reserves, and that Messrs. Pope & Co. could not, and did not sell them to him. I will state also, Mr. Speaker, that it is the intention of the Government to introduce a Bill to prevent proprietors from exacting rent from tenants for reserves. That measure, however, will probably be introduced next Session—as time must be allowed for the settlement, by the courts of law, of the points in dispute, otherwise, the tenants might be subjected to suits at the instance of the Landlords before the rights of the crown were ascertained. It is better for them to go on as at present, until the points in dispute are disposed of, than to subject themselves to the annoyance and expense of going to law. But Mr. Cox says it is unfair for the Government to make any difference between his case and theirs. His case, Mr. Speaker, is very different from that of the small freeholders and tenants, who only occupy four or five acres of reserves. And Government would be doing an injustice to the public, if they allowed him or any other man, to step in and purchase the most valuable reserves, to an extent that he well knew he could not obtain under the Land purchase Bill. He has no right to complain of the Government for instituting proceedings against him. He well knew that the Government would claim the reserves, and that he did not purchase them from Messrs. Pope & Co. And now he is only asked to acknowledge their right, by the payment of a small annual rent, until they may be required for fishery purposes, as specified in the original grants. With reference to the question put by the hon. member, whether Government intended to make any distinction between large and small proprietors, I can only say, that, up to the present time, the Government has not come into contact with any of the large proprietors. When parties have required wilderness lands on the sea-coasts of the Island, for fishing purposes, Government has granted them licences of occupation, and proprietors have not interfered. One individual refused to take a licence from the Government, but took a lease from the proprietor. He will be called upon to attend and pay as other tenants. In one instance, at Casumpec, a very valuable fishing station has been let by the proprietor to an American. He will be called upon to attend to Government, if he declines to do so, he will be treated in the same manner as the proprietor. The Government have nothing to do with him. They only look to the party who is in possession of the reserves. All that can be done will be to make the parties in possession attend till the reserves are required for fishery purposes. I have now, I trust, answered the questions of the hon. member to his satisfaction, and that of his constituents, and the people generally. And I repeat, that there is no necessity for the agitation and excitement which has been raised in the minds of the holders of the smaller lots. Government do not intend to deprive them of the water fronts of their properties, but will merely ask a small rent till they are required, as set forth in the address of the House of Assembly to Sir Alexander Bannerman.

Hon. Mr. WHELAN was satisfied with the tenor of the statements of the Hon. Col. Secretary, but regretted that he had not introduced the Bill he spoke of without waiting for the decision of the suits that had been instituted.

Hon. COL. SECRETARY explained that such Bill, if enacted previously to the rights of the Government to the reserves, and their extent were ascertained, might lead to confusion, and place the class to whom it was intended that the Bill should apply, in a state of uncertainty and anxiety, as to their rights. It was better that the disputed questions be

first settled, and Government were anxious to have them set at rest as soon as possible.

The conversation then dropped. An act for the incorporation of the Mechanics' Institute of Charlottetown was read the first time, and referred to committee on private bills to report on.

Hon. COL. SECRETARY presented a petition from Robert Robertson, which was read and referred to the committee on School Teacher's petitions.

Mr. HAVILAND moved to refer to the committee of supply, a petition from the inhabitants of Georgetown, praying aid to purchase a Fire Engine and a grant to open new roads. This was strenuously opposed by the Hon. Mr. Mooney, who contended that it was an application for public money for the benefit of private individuals. That they who owned property in Georgetown should protect it at their own expense. That it was the duty of the House to vote public moneys for public objects. This view was opposed by several members, who instanced the various public buildings and places of worship in Georgetown, which justified the petitioners in applying to the House; that Georgetown was the second Town in the Island, and contributed more to the revenue than any other place, save Charlottetown. It was finally referred to committee of supply.

A petition of Patriek Scully, for compensation for the value of land used as a road, was referred to the members of the district.

A petition of James McLeod, of New London, one of the contractors for building the bridge over Mill River, praying the House to make good the deficiency, on the subscriber's list, of those who refused to pay their respective amounts, and those who had died, or left the Island, was rejected: The majority of the House considering that the petitioner took the list of the subscribers at his own risk, and that he had the power to compel payment from those who had refused, and he had no right to ask the House to make good the deficiency.

A petition of the Inhabitants of Princetown Royalty, against the present system of granting licences, was referred to a special committee, consisting of the Hon. Mr. Montgomery, Hon. Col. Treasurer, Messrs. McDonald, Haviland and Muirhead, to report by Bill or otherwise.

A petition of the Inhabitants of Georgetown for aid to a packet, and for extension of a wharf, was referred to the members of the district.

The House went into committee on the Act consolidating and amending the Act relating to the wharf in Georgetown, and other wharves.

TUESDAY, February 20.

SHERIFF'S BILL.

The Bill was read a third time, and on motion that it pass— Hon. Mr. PALMER.—I rise, Mr. Speaker, for the purpose of declaring my opposition to the passing of the Bill, and as far as I have been able to understand the grounds alleged by the hon. leader of the government for the introduction of this measure, I consider the reasons advanced unfounded and insufficient to justify the change sought to be effected by this Bill, and calculated to produce the very evils it professes to remedy. The great objection urged against the continuance of the present mode is, that it causes the appointment of partial Sheriffs, and that objection conveys a grave and unmerited reproach on the high official personages with whom the appointment has hitherto rested. At present, Sheriffs are appointed by the Lieut. Governor and the Chief Justice, and those functionaries are responsible for their conduct, not to this House, it is true, but to their superiors. The imputation upon those gentlemen, implied by the introduction of this Bill, is so apparent, that it is unnecessary to allude to it more particularly. While the Lieut. Governor and the Chief Justice are under a grave responsibility, and bound by solemn oaths, they cannot, and it is not to be supposed that they will, appoint as Sheriffs partial individuals. But, sir, once transferred the power of appointment to the Government—and that a party Government—and then you will have partial Sheriffs. No longer will impartial and disinterested men be found filling those offices. They must then be partial, appointed by a party, bound to carry out the views and wishes of a party, none but violent political partisans will be appointed, while the Lieut. Governor and the Chief Justice are impartial. The case will be different when the appointments shall be made by the leader of a political party, who cannot, and will not, appoint disinterested men. I regret the change. In other colonies the High Sheriffs are seldom removed. Such is the case in Nova Scotia, unless the system has been recently altered. Hon. members have been induced to form erroneous anticipations of the results that will follow the working of this Bill; and I prophecy, and I am seldom wrong in my predictions, (laughter.) that, as I said before, the Bill will cause the very evils it is professedly intended to remove. I move that the Bill be read a third time this day six months.

Hon. COL. SECRETARY.—I have no objection, Mr. Speaker, to the hon. member for Charlottetown indulging in as many prophecies as he pleases; but I think I could recall to his recollection a good many instances where his predictions have not been quite correct. Why, sir, it is impossible that the Liberal party can be worse off, in the matter of Sheriffs, than they have been hitherto, under Sheriffs appointed by the Chief Justice—a member of the old Tory party. The appointment, in effect, is solely with the Chief Justice—on one occasion he put down on the list three names, but took care to put down the names of two individuals who were not likely to serve. The Governor could do nothing. What did we see at the General Election before the last? There Mr. Sheriff Binns made an illegal return: he did not return the candidate who had the majority of votes; but he returned, as having a majority of votes, the candidate of the minority. The party of the hon. member was then in a majority in the House, and would not allow the return to be laid before them. The Hon. Col. Treasurer, who was at the time Col. Secretary, brought it down, and really, sir, so opposed were the majority to its reception, that I wonder they did not commit the hon. member to custody for breach of privilege. A change in the present system is absolutely necessary. The present mode is not in force in the neighboring colonies. In Nova Scotia, which the hon. member has instanced, the appointments of Sheriffs are made by two Executive Councillors and the Chief Justice. That system might be far more offensive to the Chief Justice than the plan proposed by the Bill; for, in that Province, the Chief Justice can be at once out-voted in the selection. In New Brunswick they took the appointment out of the hands of the Chief Justice, and vested it entirely in the Executive Government of the Province. No Government can exist with Sheriffs hostile to them, and independent of the Government for their appointments. Why, sir, at the last general election, one of the Returning Officers at Wheat-