

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.

[EDITOR AND PUBLISHER.

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No. 43.

Colonial Legislature.

LEGISLATIVE COUNCIL.

TUESDAY, March 24.

The Bill exempting Bills of Exchange, &c., from the operation of the Usury Laws, and that relating to packets sailing between this Island and the Province of Nova Scotia and New Brunswick, were severally read a third time and passed.

Hon. Attorney General moved the second reading of the Bill to amend the practice of the Supreme Court, and to alter the time for the attendance of Petit Jurors in Queen's County, and for other purposes therein mentioned.

Bill read second time and committed.

Hon. the PRESIDENT, on the clause defining the number of days for jury trials being read, suggested that the number of additional days after ten should be four, instead of two. As the object of the Bill was to effect the clearance of the docket, at times when the number of cases should be unusually great, he would move that the days be substituted for two as in the Bill. His Honor would like to know if the Judges had been consulted on the subject of the Bill.

Hon. ATTORNEY GENERAL stated, that they had not, and without meaning the slightest disrespect to them, he must say that he did not consider it expedient that it should be referred to them, as in case it were, and they dissented from its provisions, it might appear uncourteous to them to pass it.

Hon. the PRESIDENT did not mean to intimate that the Judges had a legal right to be consulted; but regarded a reference to them on a matter of this nature as merely a matter of courtesy.

Hon. ATTORNEY GENERAL stated, that the Bill had been put into his hands by some members of the legal profession, who would doubtless have consulted with the Judges, if it trenches in any way upon their privileges.

Hon. Mr. Forgan seconded the amendment, which was agreed to.

The several clauses of the Bill were then agreed to. The Hon. Col. Secretary brought up a Bill from the House of Assembly, entitled "An Act to continue and amend the Free Education Law," which was read a first time.

One or two petitions were presented and referred to the proper committees.

WEDNESDAY, March 25.

The Bill to prevent frauds by secret Bills of Sale of personal property, was committed to a committee of the whole House and agreed to without amendment.

Several petitions were received and referred to the different committees.

THURSDAY, 26th.

The Hon. Col. Secretary brought up from the House of Assembly "a Bill for the naturalization of Lawrence Warren," which was read a first time.

The Act amending the practice of the Supreme Court was read a third time and passed.

The Bill introduced by the Hon. Attorney General, to enable the Supreme Court of Judicature to give relief against adverse claims made upon persons having no interest in the subject of such claims, having been read a second time—

The Hon. ATTORNEY GENERAL, in moving that it be referred to a committee of the whole House, explained that the Bill was a transcript of the Imperial Act 3 Will. 4, by which it was provided that parties in possession of property, in a ministerial or representative character, to which adverse claims were made, should be protected from the consequences of those claims, the justice or validity of which they had no means of ascertaining. As an instance of the evils which the Bill was intended to obviate, let their honors take the case of a Sheriff, whose duty, under a writ of *Fieri Facias*, might render it incumbent on him to levy on certain property presumed to be owned by, and notoriously in the actual possession of, the party against whom the writ issued. He levies on a ship, generally, supposed to be the property of the defendant, when a Bill of Sale from the defendant is produced, purporting to have conveyed his interest in the property levied on to some third party. In such a case, under the present state of the law, the Sheriff has to decide, on his own judgment, on one of two courses, either to retain the property on which he has levied, or to abandon it, in which latter case, he virtually admits the validity of the document of transfer. In either case he becomes personally responsible for the result, a state of affairs of which he had no means of judging. Does he abandon his levy on production of the document purporting to transfer the property? The plaintiff brings his action against him. Does he refuse to act on the assumption that the Bill of Sale is genuine and *bona fide*, and consequently retain possession and proceed to the disposal of the property seized, straightway the holder of the Bill of Sale or other transfer of the property drags the Sheriff into Court, for illegally taking and disposing of his property. Under circumstances such as these, what course could a Sheriff pursue? He had no means of forming any judgment, as to the right of either party to the property, but was liable to the consequences of his action whichever course he adopted, accordingly as a Jury might find the property in the defendant to the original suit or the party subsequently claiming it. In this county, last summer, a very strong case, as illustrating the necessity which existed for the enactment of a law similar in principle to the one now before the House, came before the Supreme Court. In the instance to which he referred the Sheriff had levied on some household furniture. A Bill of Sale of that furniture was produced and the Sheriff having no judicial means at his disposal whereby to test the validity of this instrument, proceeded to sell the property. An action was subsequently brought against the Sheriff by the holder of the Bill of Sale, the *bona fide* character of which having been found by a jury, the Sheriff was thus rendered liable for the consequences of his proceeding according to the best of his judgment. Hon. Attorney General had reason to believe that, in the instance he had cited, the officer had been indemnified, but that circumstances had not nor ought to have any reference to the principle on which the present measure was based, viz., the protection of disinterested parties from the consequences of compelled official action.

After the Bill had been gone through in committee, clause by clause, the Hon. Attorney General moved that progress be reported, in order that he might have an opportunity to add a clause or two.

The order of the day for to-morrow, viz., the second reading of the Education Bill, was postponed to Tuesday next.

TUESDAY, March 30.

THE BIBLE QUESTION.

Hon. COLONEL SWABEY, in moving the order of the day, that the House go into Committee on the Education Bill, spoke as follows:—In rising to address your honors on this subject, I admit that I do so with some anxiety, arising from the knowledge of the agitation which has been excited, with the view of influencing our conduct as legislators, in dealing with this measure; but I feel no uneasiness as a member of the Government, the conduct of which, with reference to this subject, I feel assured will not be misunderstood by the bulk of the people of the Island. There are too many examples around us of the evil consequences of religious differences in a community. In Nova Scotia a truly deplorable state of affairs has sprung from the evil spirit of religious animosity. It is the duty of this and every other Government to crush the Hydra-headed monster; and when I consider the present peaceful state of the community, the absence of any strife of creeds, I have no hesitation, your honors, in

stating that I consider it my duty, not only as a legislator but as a Christian, to pursue that course which commends itself to my conscience as best calculated to repress uncharitable feelings, and thereby to foster brotherly love. Notwithstanding the strong denunciations which have been made against all those who may be opposed to the views of parties who desire the compulsory introduction of the authorized version of the Scriptures, as a class-book, into our common schools, and thus do violence to the consciences of our Catholic fellow-citizens, I collect from the words of the blessed Saviour himself, that Christian charity and forbearance are our highest duties, and surely toleration—perfect toleration—is one of its most essential parts. The Apostle Paul urged strongly the duty of toleration, when he impressed upon his Asiatic converts the expediency of yielding even to the prejudices of their unconverted fellows, that they might not offend the brotherhood—that they should not, by an obstinate opposition to forms, obstruct the onward progress of Christianity. I repeat, your honors, that in advocating and acting upon the principle of toleration to all, I am acting in compliance with the obligation imposed upon me as a Christian. I will now consider the question in my capacity as a member of the Legislature and of the Government, and I ask, your honors, if it is not the paramount duty of a Legislature and of a Government to preserve the peace and harmony of the community? In order to shew to your honors the unnecessary character of the alarm which had been excited on this subject, I will request your attention to the following extract from the Circular which was issued by the leaders in this movement to the different Protestant Ministers in the Island:—

"The times imperatively demand some decided and vigorous action to be made by the Watchmen on the walls of Zion, and by every friend of Biblical instruction throughout the Island, unless they are willing to see, step by step, every vestige of their liberties as Christians, and of their rights as British subjects, swept away from them.

"You will please direct the attention of your respective congregations to the subject in this letter, and, if possible, bring down with you some efficient, right-minded laymen of your body, to take part in the proceedings at the public meeting."

Now, I ask, your honors, what foundation exists for such statements? What facts can be referred in justification of them? I trust that if Protestant rights were invaded, I should not be found more backward than others in resenting the aggression, and I feel assured that I express the feelings of your honors, when I emphatically characterize the extract as a baseless misrepresentation. As a member of the Board of Education, I am anxious that the real state of the case should go forth to the public. The facts are briefly these:—The Roman Catholic Bishop, impressed by some imaginary prospects of evil, writes a letter to the Secretary of the Board of Education, who acknowledged its receipt and laid it before the Board at its next usual meeting. The Board directed investigation, and an answer was returned to the Bishop, which showed that the allegations in his letter were based on a misrepresentation of facts, and there the correspondence terminated. What, I ask your honors, is there in all this to justify the idea that the rights of the Protestant population in the Colony were sought to be invaded? or that they were not safe in the keeping of the culminated Board of Education? In furtherance of the views of those who have excited this clamor, a press has been established—this, your honors, is to me a subject of regret; for however sincere and well-intentioned some of the parties controlling it may be, I cannot but consider a journal of a sectarian character, as an instrument neverless for good, but strong indeed for evil. In this Island, I am happy to believe, that the good sense of the majority of the people will, to a great extent, neutralize the evil effects of religious rancor, and to a great extent the excitement and agitation on this subject has already subsided. But such is not the case elsewhere; and I regret that, notwithstanding the assertion that this agitation was unconnected with politics, I read a few days since a purely political attack upon Departmental Government; and in the very last issue, I find a gross attack upon the Legislature in connection with this very subject. And to shew how transparent is the veil which covers, but conceals not, the political element which is the main-spring of the movement, I will read to your honors the following extract:—

"And we much mistake the Protestant feeling of the majority of the inhabitants of this Island, if the disregard shown to their 'well understood wishes' by their Representatives, be allowed to pass with impunity. We believe that the Protestant constituency of this Island will not fail to mark with indignation, and to remember until the next reckoning day at the polls, the recent action of those truckling politicians, who, receding to the high principles of Protestantism, have been controlled by motives of political partisanship, manifestly treating this great question as being secondary to party considerations; or who in their neediness, would sell their own and their country's highest birthright for a mess of pottage."

Now, your honors, I would ask, what can be more imbued with the spirit of party politics than this? What can be more gross than such an attack on the character of the Legislature? The petitions on the subject are numerous, signed, and I do not doubt for one moment the sincerity of the petitioners, whose applications I would treat with all respect; but I have no hesitation in declaring, that they have been misled—that their feelings have been excited by a misstatement of the fact. As to the Board of Education, it decided to leave the present system, against which, until the recent agitation, no objections had been urged, unchanged, in a matter so important. There is one point connected with this question, to which I wish to direct your honors' attention, it is the apparent disclaimer of any wish to render the reading of the Scriptures in the common schools compulsory. This may be an after thought on the part of some of the petitioners; but I can assure your honors, that at the Board of Education the avowed object of the advocates for their introduction was, that the Scriptures should be made a class-book, which necessarily meant, that there should be no option as to the user or non-user of the sacred volume; but that it would be equally obligatory on the teacher to impart lessons in the sacred volume, as in any other which the order of the Board had brought or might bring under the designation of a class-book. And, I was told at that Board, that inasmuch as Protestants were in a numerical majority, they should force the use of the Scriptures as a class-book. Now, I trust your honors, that there is among the Protestants of this Island too generous a spirit, to allow the fact of what may be only a temporary superiority in numbers, to so influence their judgments as to induce them to do violence to the religious feelings of the minority. Such conduct is not consonant to my feelings; and, I feel assured that it will meet but small approval from your honors. Such arguments should have no weight in any Christian community, the paramount duty of the rulers of which should be to render the people happy, and to see that the religious opinions and feelings of all classes are respected. Let your honors consider for a moment the consequences of a deviation from this principle, in the case of the Huguenots in France, what shocking scenes of blood and extirpation followed in the wake of a majority tyrannising over the religious convictions of a minority. The answers to the questions relative to the use of the Scriptures in the schools of the Island, which were received from the various teachers to whom the Circulars had been addressed by the Board of Education, which answers I laid before your honors a few days ago, I have read with attention, and the result to my mind is a decided conviction, that it is impossible in view of the continuance of any system of common school education in this Island to adopt the change sought for by the petitioners, and that it is imperatively necessary to leave the action on the subject of the Scriptures in the schools to the voluntary option of

the people as at present, otherwise the Education Act will be utterly nugatory. I recollect, your honor, when the Hon. Mr. Holl, formerly a member of this House and of the Government of the day, a gentleman for whom personally I entertained a high respect, differed with me on this question. His opinion was, that the reading of the Scriptures in the schools of the Island should be rendered obligatory, and he introduced resolutions to that effect. He requested the visitor of schools to give him statistics, shewing the extent to which they were used. The result of the whole matter was, the conviction in Mr. Holl's mind, that the Bible was more used when its use was not the subject of legislation. I trust, your honors, that the spirit of the resolution, agreed to by the Board of Education, will be endorsed by this House. This is not the first time, when a temporary ebullition of feeling has been elicited, in order to influence the action of the Legislature. Some of the parties to those petitions are, no doubt, sincere in urging the adoption of their views, others are influenced by political motives; but, your honors, the impressions which gave rise to this agitation are rapidly dying out, because they were based upon misrepresentation. Why then, I ask, your honors, should the peace of the community be needlessly disturbed? Why should we be asked to call into existence, and to perpetuate bad feelings in our midst? As to all the scriptural education which would be imparted amid the distractions of the common schools, would not, I consider, be of much practical value; but the connections formed between those who are fellow-pupils, who daily meet for instruction in the same class or under the same roof, influence the whole after life, and elevate the social and moral character of society, by carrying into manhood and old age the kindly associations of childhood. I cannot, your honors, while I entertain those opinions, sanction a measure calculated so pre-eminently to cause a sundering of such ties, and thus introduce the apple of discord into this Colony. I would ask, your honors, if you should propose any alteration in the Bill, what you would have to enact? First, we have been requested to make the Bible a class-book. If that be sanctioned, how is it to be used? Would the children of Catholic parents be allowed to hear a Protestant expound it? And, on the other side, I ask, would Protestants suffer a Catholic to be the impartor of religious instruction to their children? In my opinion, your honors, the real place at which a child is most likely to derive spiritual benefit from the Scriptures, is at the hearthstone of a pious father and the knee of a pious mother, whose examples illustrating the divine precepts which fall from their lips, are the potent means of "training up a child in the way it should go." As a Protestant parent, I have no hesitation in saying, that I would not confide to every Protestant teacher the authority to impart scriptural information to my children, so wide are the differences between the various denominations of Protestants. In concluding these observations, I wish to repeat, that my objection is to the compulsory element sought to be introduced into the Bill; and on this point, I think, that the resolution of the Board of Education will satisfy the public mind—that our duties as legislators and our obligations as Christians, indicate plainly the course we ought to pursue in this matter; and, in moving the second reading of the Bill, I shall detain your honors no longer than by saying, that the differences between the present and the last Bill are merely regulations as to minor details.

Hon. ATTORNEY GENERAL.—I am glad of an opportunity to offer a few remarks on the subject of the Bible in the Schools, and to repudiate the charge which has been unjustly cast against the Board of Education, of being indifferent to this important subject. Speaking individually for myself, I can sincerely say that I feel deeply the importance of the question, and the responsibility which would justly rest on any person entrusted with the administration of the Government or the educational department of the country, who should heedlessly or wrongfully exclude the religious element from the system of public education. But when we come to apply the religious element to the education of a people composed of differing denominations and persuasions, great difficulties present themselves. The country is not rich enough to support separate schools, the children of all denominations must necessarily therefore be combined under one system. And here the difficulty is felt. How is the religious element to be applied in such a case? It has been remarked that, under the mixed system, if we attempt to make the religious teaching sufficient, and what it ought to be viewed as religious teaching, we cannot do so without invading the rights of conscience; and if, on the other hand, we wish to respect the rights of conscience, we are compelled to make it scanty and defective. This is the acknowledged evil of a mixed system, that it precludes an efficient system of religious teaching, or rather that which we ourselves would term efficient. But failing what we consider to be an efficient system, we are nevertheless bound to approach as near to it as possible, and under all the circumstances of our situation, I must say, that I consider the system in that respect laid down by the Board of Education in administering the Education Act, is the proper one on the subject of the Bible, and the one likely above any other to promote the religious instruction of all denominations, both Catholic and Protestant. It is that which is commonly termed the permissive system, similar to that adopted some few years ago, and I believe still by the National Board of Education in Ireland, with eminent success. It permits the use of the Bible in the public schools to the children of those parents who desire it, but is opposed to any compulsory regulations on the subject, and every attempt to interfere directly or indirectly with the peculiar tenets of any body of Christians. The difficulty of enunciating any specific rule for the guidance of mixed schools on the subject of religious instruction, is indeed great, but cannot perhaps be fully appreciated except by those in charge of the Educational Department, when called upon to frame them. We have the experience of Ireland and other countries before us to prove, that attempts to enforce specific rules have frequently failed and defeated the objects they were intended to advance. Even in England it seems now to be pretty generally admitted that the permissive system is the only practicable one in a mixed community. Not longer than a month or two ago Sir John Pakington (before then a steady supporter of the party who advocated compulsory religious teaching), publicly, in the House of Commons, acknowledged his mistake, and moved for and obtained leave to bring in a Bill, recognising the permissive system, at the same time adducing numerous instances to prove that a permissive system has proved more successful than a compulsory or any other one in other matters as well as religion. An hon. member (Mr. Aldouse) has just put into my hands a statement, that the permissive system is in force in Canada, and under it two thousand out of three thousand schools make use of the Holy Scriptures. Man will not be forced, but give him leave to use or neglect a privilege at his own free will and pleasure, and he will almost always avail himself of it. I cannot do better than refer your honors to Sir J. Pakington's speech on this subject, delivered on the occasion alluded to, and in doing so I must express my wish, that in discussing such matters on this side of the Atlantic, parties would exhibit a little more of that spirit of moderation and Christian consideration for the feelings of those who differ from them, which characterize the speech of the right honorable baronet. The Board of

Education has been accused of prohibiting the use of the Bible in the public schools, and this idea has been sedulously propagated in the various districts of the Island. I deny the accusation; the returns from the different schools in the Island prove how untrue this is. The Board of Education have declared that they have permitted, and will permit the Bible to be used by those children whose parents desire it, and the returns show that in nearly one hundred out of the schools in the Island, the Bible is daily used. Thus, Catholic and Protestant, by the exercise of mutual concession and forbearance, are educated peaceably together, each enjoying their own religious instruction, without offence to the other, and in harmony and good will; and I trust that this principle may be daily extended, and more schools be daily added to the list of those whose occupants avail themselves of this permissive right. This system, too, is eminently applicable to the Normal School, and will, I trust, be extended to it. Our system will now be, I believe, the same as that in force in Ireland in the year 1854, as I gather from the report of the Irish Educational Commissioners for that year. But then I am told that the Irish National School system has been termed in this Island "the most corrupt on the face of the earth." If this is so, it seems strange to me that it should have received the support, countenance and approval of so many eminent and pious men as it has done. The Lord Bishop of Limerick, (a Protestant), in a speech delivered in the House of Lords on the 7th day of May, 1853, on the subject of the National Education system of Ireland, made use of the following remarks:—"From his experience of that system, he felt justified in saying, and he did so with the utmost integrity of purpose and of feeling, that there was no system of Education so well adapted to the people of Ireland as the National System. He did not mean to say that as a Protestant minister he would, had a choice been in his power, have selected that system for his own people in preference to some others; but he did mean to state that, taking into consideration the circumstances of Ireland—the divisions that prevailed among its inhabitants upon the subject of religion—the various religious sections into which they were separated—no system could have been devised which would have answered the exigencies of that country so well." The Bishop of Norwich, also a Protestant, on the same occasion stated, that the conclusion he had come to was, "That of all the Legislative boons conferred upon Ireland, since her Legislature had been one with that of Great Britain, there had been no boon so great or capable of producing such great results as that of the establishment of the present system of National Education." The Archbishop of Dublin, a Protestant, in a speech delivered in the House of Lords on the subject, also commended the system, being, as he remarked, "convinced that a very large portion of the objections which had been raised to the system of education laid down in the National schools, arose from a misapprehension of many particulars, and from a very incorrect use of language. He believed that many Protestants laboured under the impression that the Scriptures were excluded from these schools. Now, to speak plainly, this was not a fact. The Scriptures were only excluded in this sense, that the teacher was not permitted to force religious instruction upon any adult student, contrary to his religious convictions, or upon any child, contrary to the religious convictions of its parents." The Bishop of Down and Connor, likewise a Protestant, spoke approvingly of the system, and stated that he could not see his way to make any change in it.

I could cite commendatory remarks on this system uttered by other pious and eminent men, both Protestants and Catholics, if I thought it necessary, but with the testimony before me to its excellence of Archbishop Whately, whose firm fidelity to the Protestant faith has never, I believe, been disputed, and of the other Bishops of my own Church, which I have read over, and all acquainted with the practical workings and results of the system, I cannot accept the declaration made in this Island, that it is "the most corrupt on the face of the earth," although made by a gentleman for whom I entertain feelings of the strongest friendship, and whose piety, sincerity and excellent intentions, having long known, I respect and acknowledge. A large number of the Protestant clergy of this Island have expressed themselves strongly on the subject now before us, and I own I have felt much pained by many of the remarks made by them, which tend to fasten unjust blame upon the Board of Education for the course pursued respecting the use of the Scriptures. I have stated to, and I trust satisfied you, that the Board of Education have no wish to prohibit the use of the Bible by those children whose parents desire them to read it. Such a desire has been improperly attributed to them; and, speaking for myself, with the views I entertain of the vast importance of religious instruction, I can conscientiously state that I never had such a wish. But I do not now seek to make any charge against those who have endeavored to cast blame on the Board of Education; I am on the contrary willing to allow (for I should be sorry to think otherwise concerning so many whom I believe to be good men), that they were only acting from conscientious motives, and with a genuine desire to promote what they believed to be pure religious instruction; but I claim from them like consideration. I, as well as they, acknowledge and feel the importance of religious instruction; we only differ as to the means of securing it. They say the Scriptures shall be read daily in the schools where the parents think it to be a necessary part of Education, (for this is the effect of the resolution proposed in the House of Assembly, and negrue enough it is), I say, simply permit them to be read by the children of those parents who desire it as heretofore under the regulations of the Board of Education; and I believe that under the latter system, (which is that now in force), the religious element will prevail to a greater extent in the schools than under the former, and that without doing injustice to the religious views of any party. I think it would be unwise in the present state of aroused feeling in the country to attempt legislation on the subject, for it would certainly be viewed as an attempt at compulsion, put it in what form you please; and I hold that the present position taken by the Board of Education should satisfy all parties except those who really desire to make use of compulsion. I think it would not be a difficult matter to show that the wording of the resolution submitted in the other House would have rendered it, in a majority of cases, imperative, and defeated its avowed object; but I will reserve any further remarks on this subject until the House takes up the consideration of the Report of their own Committee. I view this question totally irrespective of political questions. When discussing it, politics should be forgotten; for the subject of religious education is of too grave importance to be merged with the comparatively insignificant questions which frequently array one party against another.

Hon. COLONEL SWABEY would add, that there had