

# 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.—EURIPIDES.

[EDITOR AND PUBLISHER.]

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### Colonial Legislature.

#### LEGISLATIVE COUNCIL.

FRIDAY, 19th March, 1858.

On motion that the Alien Bill be committed—  
The Hon. COL SWABEY spoke as follows:—I consider this Act as the beginning of a system which may have the result of alienating the Colony from Great Britain. Your Honors, I am actuated, in my opposition to this Bill, by a spirit of loyalty; and though I do not for a moment dispute the loyal feelings of his Honor who introduced it (Hon. Mr. Forgan), yet I think he has not fully considered the measure with that deliberation which its importance deserves. A measure introducing a change in our constitution, of a nature so important as this, should not be adopted suddenly; and really I can see no reason why such an alteration should be adopted into our system. In fact, your Honors, the principal difficulty which I experience in dealing with the question, is to discover any reasons for passing the Bill. If it be said that it will have the effect of benefiting the commercial interests of the community, I certainly should like to know in what way it will do so. But I foresee many changes which would result from its adoption. Consider what would be its effects upon the operation of the Land Purchase Bill. That Bill has for its object the conversion of the tenantry into freeholders. But once let this Bill become law, and the operation of that Act may be effectually checked, and the general character of our population totally changed for the worse. Men of the stamp of Walker and his filibusters may come and buy up large tracts of our lands; and the natural effect of extensive tracts being held by citizens of the United States would be to introduce and spread among our people a desire for approximation to the political institutions of the Union, and thus to pave the way for their adoption. I, for one, have no admiration for those institutions. Even American citizens of intelligence readily admit that, under our system, a greater amount of liberty is enjoyed than under theirs. I warn your Honors against the adoption of this measure, by which our soil may become the property of American speculators. The concession of such a privilege can only be compensated by some great positive advantage to ourselves; and I am at a loss to discover what that is. The Reciprocity Treaty gives to American citizens all that they have a right to expect. As a subject of the Crown, I am not willing to let our lands pass into the hands of others than subjects of the Crown. If it can be shown that the Bill under discussion would have a beneficial effect upon our commercial relations, I could see some reason to induce me to support it; but that such is not the case is proved by the fact that citizens of the Republic can, and do, come among us, and transact mercantile business without restraint or distinction from our own people, to the mutual advantage; and all may come and do likewise. My honorable friend who introduced this measure founded an argument for its adoption on the fact that a similar law is on the statute book of Nova Scotia; but, your Honors, there is no analogy between the circumstances of the two Colonies. The great majority of the population of Nova Scotia are not tenants to landlords holding vast tracts, as with us. Besides, this Bill does not contemplate that foreigners holding lands in the Island shall become British subjects; and it may not be long before, under this law, the fee simple of our soil may become the property of aliens. Really, your Honors, I should feel obliged to any one who will inform me what is the object of this Bill, if it be not thecession of the Colony to Americans. While we have been legislating with the view of converting tenants into freeholders, pass this Bill, and some wealthy speculator may find it more profitable to receive the rents than to sell their holdings to the tenants in separate lots; and Americans would not feel that delicacy and consideration, in enforcing their claims against the poor tenants, which a long and intimate acquaintance with their circumstances induces the present landlord and his agents to manifest. It would have been but reasonable if the Government had intimated its action on a measure of this importance. Some resolutions declaratory of its opinion on a matter of this nature should have been before us, if for no other object than to satisfy your Honors that it had received deliberation in the Executive Council. For these reasons, I move, your Honors, that the House go into committee on the Bill this day six months.

Hon. Mr. DINGWELL.—I do not consider that it would be fair to his Honor, Mr. Forgan, to postpone the consideration of this Bill for six months. At the same time, I think it had better be over for a short time, as it has been introduced but a few days since.

Hon. ATTORNEY GENERAL.—I quite agree with the suggestion of his Honor, Mr. Dingwell. I certainly am not prepared to deal so suddenly with a measure involving so great a change in our constitution. With reference to the observation which fell from his Honor, Col. Swabey, I agree with him that the situation of Nova Scotia is widely different from ours. The land there is not held in large tracts as with us, and foreigners would not be so desirous of buying large properties as they might be induced to do here. We could add a clause to the Bill restricting the number of acres to be held by any individual, and thus obviate the objections urged by his Honor. While I throw out this suggestion, I do not say that I may not oppose the Bill; but at all events, I think it had better lie over for a few days, say till this day week.

The order of the day was then discharged, and made the order for this day week, for which day a Call of the House was ordered.

The Act confirming the appointments of Constables and Fence Viewers for King's County was read third time, and passed.

Hon. Col. Swabey presented a petition from certain inhabitants of Summerside and vicinity, praying for a law to prevent the running at large, within certain limits, of Swine.

Hon. Attorney General laid upon the table a copy of the Warrant Book for last year.

A message from the House of Assembly by the Hon. Col. Secretary, with a Bill making bonds and other securities to the Crown binding on Real Estate from the date of their execution.

Mr. McGill also brought up a Bill subjecting the Militia to the Mutiny Act and the Articles of War.

Hon. Mr. Beaton, by command, brought down a message from His Excellency the Lieut. Governor, on the subject of the transfer of the Barracks, and recommending an appropriation in aid of the equipment of a volunteer corps.

MONDAY, 22d March, 1858.

Hon. Colonial Secretary brought up from the House of Assembly a Bill to continue the Act establishing the Central Academy.

Mr. McDonald brought up from the House of Assembly the Act confirming the appointments of Constables and Fence Viewers in King's County, agreed to without amendment.

Hon. ATTY GENERAL moved the second reading of the Bill making bonds and other securities to the Crown binding on Real Estate from the date of their execution. In doing so, he explained that the idea formerly prevailed that they were binding in the Colonies as in England; but the decision of the Supreme Court in Nova Scotia had affirmed the opposite opinion, and the question had been so decided incidentally by the Judges here. The Bill would effect two desirable changes in the operation of the present law. It would afford greater security to the Crown, and also save to individuals, in many instances, the expenses attendant upon judgments being entered up against them. The Bill did not affect bonds already given.

Read a second time.  
Hon. Attorney General presented a petition from John Stewart and others, Trustees of Dunstaffnage School, and others. Referred to committee on education.

Hon. COL SWABEY moved the second reading of the Bill putting the Militia under the regulations of the Mutiny Act and Articles of War. The Bill had been prepared with a view to meet the suggestions contained in a despatch from the Secretary of State for the Colonies. It was desirable that the militia should be placed on an efficient footing, under the command of the Lieut. Governor. The Bill, however, it appeared to him, required an amendment. It provided for the calling out of the militia under certain circumstances, such as invasion or imminent danger; but he would suggest that it should be amended by the addition of the words "civil commotion." He instanced the occurrence of the riot at Belfast some years since, which would abundantly justify the presence of militia, and could only be termed a civil commotion.

Hon. Mr. DINGWELL would wish to know how it was proposed to arm the militia?

Hon. COL SWABEY replied that the question had no connection with the subject of the Bill. He hoped, however, that the action of the House of Assembly would enable him to give his Honor the information he desired.

The Bill was then committed, Hon. Col. Swabey in the chair.

On motion of his Honor the President, the words "riot and civil commotion" were inserted. The Bill, as amended, was then agreed to.

The Bill making bonds and other securities to the Crown binding on Real Estate from the time of the execution, was committed, Hon. Mr. Aldous in the chair of the committee.

Hon. ATTY GENERAL thought that bonds already given should come within the operation of the Bill, from the date of its becoming law.

His Honor the PRESIDENT was strongly opposed to the idea of the Hon. Attorney General, on the ground of the great injustice to individuals which would result from it. Suppose a party applied to his friends to become his sureties on a bond, and they consented, knowing that their property could not be affected by the bond until it had become due, would it be right, by retrospective legislation, to alter their position and bind their real estate on account of a bond which they might not have signed had the law been at the time as this Bill contemplated to make it in future?

Hon. COL SWABEY.—Does this Bill require a suspending clause?

Hon. ATTY GENERAL.—No.

Agreed to without amendment.

Hon. ATTY GENERAL introduced a Bill to provide for the attendance of Jurors at Courts of Special Commission and other matters. As the law at present stood, the power to issue Special Commissions was one of the prerogatives of the Crown, and could be exercised by the Lieutenant Governor whenever he might deem it advisable to do so; but it was necessary to provide for the attendance of Jurors at such Special Courts. In former times, sheriffs could summon jurors whenever it was necessary to do so, but now the law prescribes the times and mode of procuring their attendance. The Bill had received the approval of both the Judges to whom he had submitted it. It provided that the jury summoned to serve at a court held under special commission should be taken from the panel struck at the previous court, and should be summoned six days previously to the sitting of that at which their services might be required. Should the number in attendance be insufficient, it was proposed that the sheriff should supply the additional number that might be required. In case of challenge to the array or individual jurors, the party making the objection must do it before pleading, or must shew that he was not aware of the grounds of the objection in time to have availed himself of it sooner. The presiding judge, by the Bill, would have power to amend the jury list, if there were objectionable names on it. Provision was made for granting a *tales de circumstantibus*. In consequence of the recent defects in the Grand Jury list in King's County, a Special Commission had to be issued for the trial of certain parties imprisoned on capital charges.

The Bill was then read a first time, and ordered to be read a second time to-morrow.

TUESDAY, 23d March, 1858.

Hon. Mr. Forgan presented a petition from certain inhabitants in Prince County, praying for the use of the Bible in the Normal School.

Hon. COL SWABEY called attention to the fact that there were no signatures subscribed to the sheet on which the petition was written. Other petitions on the same subject were in a similar condition. This led to the natural inference that the majority of the petitioners had never seen them.

His Honor the PRESIDENT.—The rule is that there must be at least three signatures on the sheet on which the petition is written. It is, however, optional with the House to waive the rule.

The petition was then received and referred to the committee on education, as also were two others on the same subject, presented respectively by the Hon. Attorney General and the Hon. Mr. Bagnall; the latter of whom presented a petition from the inhabitants of New Glasgow and the adjacent settlements, praying a change in the place of holding the Court of Commissioners for the recovery of small debts to the vicinity of New Glasgow Bridge. Referred to the committee on miscellaneous subjects.

Hon. Mr. Dingwell presented a petition from Allan Fraser and others, praying the use of the Bible in schools.

The Bill making bonds and other securities to the Crown binding on real estate from the time of execution, was read a third time and passed.

Hon. ATTY GENERAL introduced the Bill providing for the registry of bills of sale of personal property, which had passed the Council twice before, but had been lost in the

House of Assembly. The experience of every day but confirmed his opinion as to the necessity of such a measure. It formed part of the law in Canada, and a Bill similar in its object was before the Legislature of New Brunswick. The Bill being the same in its provisions as that which had been previously discussed, it was unnecessary for him to explain them.

Read a first time.  
The Bill for subjecting the Militia to the operation of the Mutiny Act and the Articles of War, was then read a third time and passed.

The Bill prescribing the summoning of jurors, &c., was then read a third time, and committed to a Committee of the whole House. Hon. Col. Swabey in the chair.

On the clause empowering the Judge to supply deficiencies in the panel being read—

Hon. Mr. DINGWELL thought that the Judges might not wish such duty devolved upon them. It would be better that the Sheriff should perform it.

Hon. Mr. CRASWELL preferred leaving the authority in the Judges.

Hon. ATTY GENERAL.—The Court has power, under the old Act, to amend the original list when handed in. This clause merely gives the same power when a case is about to be tried.

Hon. Mr. DINGWELL did not, for a moment, mean to cast any reflection upon the Judges; but he considered that the clause would confer a very serious power, which they might not wish delegated to them.

Hon. ATTY GENERAL thought that the Sheriff, as being a resident in the County where the Court sat, might be, in some cases, liable to suspicion of partiality, which would not attach to a Judge.

Hon. Mr. CRASWELL suggested that supplementary names should be drawn from the original list.

Hon. ATTY GENERAL stated that the inconveniences which had rendered the Bill necessary might not be experienced again for many years.

Hon. Mr. DINGWELL would suggest that for every absent Juror three names should be handed by the Sheriff to the Judge, who should select one to serve on the Jury.

The Hon. Attorney General introduced an additional clause, authorising Grand Juries at special Courts to present parties, not in jail, or on bail, or named in the commission, and providing for the issuing of bench warrants and subpoenas in such cases.

The Bill was agreed to with the additional clause.

The Bill continuing the Act constituting the Central Academy was read a second time.

Hon. Mr. Forgan presented a petition of James Clark and others, of Lot 65, praying for a grant to extend the ferry wharf at Rocky Point. Referred to the committee on roads and bridges.

A message from the House of Assembly by the Hon. Col. Secretary, with the Bill for the safe custody of insane persons, agreed to without amendment.

WEDNESDAY, 24th March, 1858.

Hon. Col. Swabey reported the joint Address to the Queen, on the occasion of the marriage of the Princess Royal to Prince Frederick William of Prussia, and on his motion, the same committee which had prepared the Address were appointed to prepare one to the Lieut. Governor, praying His Excellency to transmit it to the foot of the Throne.

The Act continuing the Central Academy Act was then committed, agreed to, read a third time, and passed.

Hon. ATTY GENERAL moved the second reading of the Bill to prevent frauds by secret bills of sale of personal property. The Bill was the same as that which passed the Council last year, but was rejected by the other branch. It was not necessary to occupy the time of their Honors in lengthy repetitions of what they had heard before, when this Bill was debated. He might, however, state that it did not render the registry of bills of sale in any way compulsory—that was optional with the holder; but it gave priority to registered over unregistered bills. The place of registry would be in the County wherein the grantor resides. If he should not be a resident of the Island, the bill would be registered in Charlottetown. A certified copy of any registered bill could be given in evidence. Any party bringing a bill to be registered could make a copy, and the Prothonotary could certify its correctness. The expenses attendant upon registering and getting certificate need not exceed three or four shillings; the registry fee would be only a shilling. One very strong argument in favour of the measure was the undoubted effect it would have in raising the value of personal property, as a means of borrowing money, by the security it would afford to the lender, who, at present, has nothing but the honor of his debtor to rely on. He had good reason to believe that the Bill would receive the sanction of the House of Assembly this session, as the want of it had been experienced during the last year in several instances.

His Honor the PRESIDENT knew of one case where a party had given no less than three bills of sale of the same property. Such conduct was the best argument of the necessity for such a measure.

Hon. Mr. DINGWELL thought that parties would be subjected to great inconvenience in having, in many instances, to travel long distances to have their bills proved and registered. In cases where the property transferred was of small value, it would not pay to travel to the registry.

His Honor the PRESIDENT explained that it was not necessary that a bill of sale should be registered, if the holder did not choose to have it so. The object of the Bill was merely the prevention of fraud.

Hon. Mr. BAGNALL.—Parties can send their bills by mail, and can have them returned with the certificates of the Prothonotary.

Hon. ATTY GENERAL.—His Honor Mr. Dingwell is under a mistaken impression. The Act provides for the proof of bills of sale before the present Commissioners for taking affidavits in the Supreme Court, of whom there are several throughout the different sections of the country.

The Bill was then committed, Hon. Mr. Aldous in the chair. Reported agreed to, with a few unimportant amendments.

Message from the House of Assembly by the Hon. Colonial Secretary, with the Fishery Reserve Bill, which was read a first time, and ordered to be read a second time on Friday.

Hon. Mr. Forgan presented a petition of Rufina Richardson of Summerside, school-mistress, praying remuneration for six months' services in that capacity; also a petition of certain settlers on Old Town Road, Lot 22, praying a grant to continue the services of a teacher; and a petition of Daniel McKinlay, district teacher in Charlottetown, praying that his salary as such be raised to £70. Severally referred to the committee on education.

THURSDAY, 25th March, 1858.

Message from the House of Assembly by the Hon. Colonial Secretary, with the Act for the imposition and collection of the Cape Race Light Toll, and the Act increasing the rate of interest on Treasury Warrants. Read a first time.

The Hon. Colonial Treasurer brought up from the House of Assembly the Act providing for the hearing and determining of causes in the Supreme Court in cases where the Judges may be interested or otherwise, agreed to.

Hon. Mr. Wright presented a petition of Lena H. Stumbles, school teacher, of Lot 56, praying remuneration for 5½ months' services as such. Referred to committee on education.

Hon. Attorney General presented a petition from Ewen McEachern and Hugh Campbell, for a grant towards a wharf at River. Referred to committee on roads and bridges.

His Honor the PRESIDENT introduced a Bill relating to the office of Surrogate. He explained that it was the same as that which had passed the Council last year, but had not been sanctioned by the House of Assembly, that body considering that it came before them at too advanced a period of the session. Their Honors would probably remember what were the objects of the Bill, as they were stated last year. They were two-fold. One was to empower the Surrogate to authorise parties to administer oaths in the country in matters appertaining to the business of his court. Their Honors Messrs. Wright and Craswell might remember some instances, which occurred in Prince County, where great delay and inconvenience had been sustained, and expense incurred, by the necessity which at present existed for parties to come to Charlottetown to be sworn before the Surrogate. One object of the Bill was to render unnecessary a recurrence of such trouble. The other related to the division of estates of deceased persons. At present, if it is desired to invade any such estate, the only course is by a long and expensive process in the Court of Chancery. The Bill provided a more expeditious and much cheaper mode through the Surrogate, on whom it conferred a jurisdiction in such cases, not exclusive of, but concurrent with, that of the Court of Chancery, but at much less cost to the parties. He knew several estates which would have been divided, if it had not been for the expense which an application to Chancery entailed. At present the cost of getting a division of an estate of a deceased person was about £25; by the Bill, it would not exceed £4 or £5.

The Bill was then read a first time.

His Honor the PRESIDENT suggested the propriety of resending the 37th rule, which required petitions for money, in cases wherein petitions had been presented to the House of Assembly, so far as related to applications for aid to roads, bridges and wharfs. The House of Assembly voted the moneys for those services in gross, and the different members subdivided them according to their estimates of the requirements of particular districts. The present system devolved a great deal of unnecessary trouble on the clerk, and occupied useless space on their journals.

Hon. Mr. DINGWELL.—The Council would not know what was required by the various sections of the country, if it were not for the petitions which come before them.

The Jury Bill was then read a third time and passed.

### HOUSE OF ASSEMBLY.

FRIDAY, March 19, 1858.

#### BIBLE QUESTION.

PETITIONS RELATING TO EDUCATION.

(Concluded.)

Hon. COLONIAL SECRETARY.—The observation made by His Lordship, the Catholic Bishop, to the hon. member from Port Hill (Mr. Yeo), was, in my opinion, a perfectly correct one; and I hesitate not to say that the clamour concerning the existing regulations affecting the use of the Bible in our public schools, has been called forth and promoted, in too many instances, by individuals who, in judgment, seem to have little or no religion at all. The clamour, however, if there has been any, has proceeded from those who have been mainly instrumental in the getting up of the petitions and in the procuring of signatures to them; and not from those who desire to maintain unimpaired both in principle and in practice, that national system of education which recognizes the propriety of non-interference with respect to religion, in our public schools; which it, by no means, prohibits or precludes the reading of the Holy Scriptures therein, but leaves it perfectly optional with parents.

Hon. J. WIGHTMAN.—They who have sent in the petitions which are now under our consideration, have, I sincerely believe, been influenced by nothing, with respect to them, but by an overruling veneration for the Word of God, and the simple, yet earnest desire that, in school, as well as at home, children should be taught that it is not only their duty, but the dearest of all their privileges to read and study the Bible. The petitions have, I believe, been, in every instance, got up and signatures added to them, in an open, fair, decorous, and Christian spirit; nothing like clamour having, in any case, proceeded from any parties having any connection with them; and it very ill becomes the Hon. the Colonial Secretary to lay anything like clamour to their charge.

Hon. COLONIAL SECRETARY.—It was the hon. member from Port Hill (Mr. Yeo) not I, who did so.

Mr. POPE.—I have listened with pain to the speech, which on the question now under our consideration, the hon. member from Planty Glen (Hon. R. Mooney) has inflicted upon the committee,—a speech so indecorous, insulting, and irreverent, as ought to draw forth an expression of condemnation from every member of the House. It has been said that the *voluntary or permissive* system, as it respects the use of the Bible, in our District Schools, which is now in operation, is good, and gives satisfaction to all parties having a direct interest in these schools; and this is not denied. But the case is the very reverse with respect to the *Central Academy*; for what is called the *test clause* of the Academy Act, prohibits, it is said, the reading of the Bible in that institution. Whether or not this be the right interpretation of that clause, I will not presume to determine; but, as it is allowed to operate to the exclusion of the Bible from the institution, it ought to be repealed; for certainly every privilege of education, whether classical, scientific, or religious, which either is, or may be, extended to scholars in our district schools, ought to be as much within the reach and option of those who study in the Academy. If the repeal of that clause were effected, all our public schools—the Academy, the district schools, and the Normal School—would all be under the same voluntary or permissive system, with regard to the use of the Bible; for the Hon. the Colonial Secretary and the Hon. the Colonial Treasurer both maintain that there is neither any law in existence, nor rule in force, which prohibits the use of the Bible in the Normal School. This uniformity and universality of freedom, with respect to the use of the Bible in our schools,—which are in fact, all that the petitioners and they who support their petitions in the Legislature desire,—are evidently most easily attainable; and not a single argument, based upon genuine principles of either rational or legal equity, as respects the different religious denominations in the Colony, can be advanced in opposition to their concession and establishment. What the petitioners, and we who support them in the Leg. sla-

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