

After some desultory debate it was finally decided that Mr. Johnson should be heard on condition that he should be heard on behalf of Mr. McDonald during this investigation.

The learned Counsel, Mr. Johnson, then observed that the vote of Edmund Byrne was not marked on the Poll Book, but that the entry was that he refused to swear. There is evidence, however, said the learned Counsel, to show that he did not refuse to swear because he had not the property qualification required, but because there was no form of oath suited to his circumstances and he presumed that this House would not infranchise him on account of the fact that he was not a freeman. He said the learned Counsel, the Law said that if a man refused to swear his vote should be void, but an referring to the circumstances it would be seen that there was no oath suited to the case, and that the Law did not compel a man to take what was morally impossible.

Mr. McGOWAN.—He knew that his vote was objected, and he had ample time to make it good when the ceremony was held at Georgetown. Having neglected to do so he has a right to be disfranchised; but I am satisfied that he had no vote.

Hon. Mr. BEER.—The learned Counsel at the Bar assumes that the Poll Book does not justify. The entry in the book is that he refused to qualify, not that he refused to do what was impossible for him to do.

Counsel JOHNSON.—I spoke in reference to the evidence. Are you to discard that altogether and go by nothing but the Poll Book?

Hon. ATTORNEY GENERAL.—The Poll Book is evidence, perhaps the best that can be got, and it is conclusive to the point, though other evidence is no doubt admissible. There are two forms of oaths in the Act, one for a freeman, and another for those who do not. In this case it appears that the elector's property is not in the Polling Division in which he resides, but in that in which he acted as agent of the sitting member, and therefore he could not take the oath. I do not see that it would have been any violation of law for the Returning Officer to have insisted that he should take the oath of a freeman; at least it would have been a less violation of law than to take the vote when the person refused to qualify.

Hon. Mr. BEER.—I think the Elector should have stated his reasons for not taking the oath; and these should have been entered in the Poll Book. That being done, I cannot see that we would have anything to do with further objections. It would be easy to appoint persons as agents who had votes in the District in which their services were required.

Hon. Mr. LORD.—There are always a number of special voters at every election but I never saw an agent sworn. I have always seen their votes taken, and the objections, if any entered in the Poll Books. It might be a polling division which a Candidate could not get at, or a polling division which he qualified to get at, and it could be a hard case if he took a man from another polling division that he should lose his vote.

Hon. PRESIDENT.—If I appoint a man who resides in one Polling Division to act as agent for me in another, that man has the privilege of polling his vote in the division where he resides, but it is not to be a polling division which is so called for a Candidate in another District. I cannot see any reason for retaining this vote on the Poll Book when the man refused to swear.

Hon. Mr. ANERSON.—I do not see any hardship in the case as the man had an opportunity to substantiate his vote when the scrutiny was held.

Hon. Mr. WALKER.—There was no objection for doing so because it was not objected.

Hon. Mr. HENDERSON.—It is true that the reason of his refusing is not entered, otherwise we might look upon it in a different light. That might give us the key to the whole matter.

Hon. ATTORNEY GENERAL.—The man was not forced to act as agent. As he refused to qualify, his vote should not have been allowed to remain on the Poll Book. If he tended his vote and the Returning Officer refused to take it, the remedy is prescribed by Law.

It was then moved that, as Edmund F. Byrne had refused to qualify when desired to do so, his vote be struck out, and the question being put thereon it passed in the affirmative. His name remained on the list.

Adjourned till to-morrow at 11 o'clock.

The following Address of the Legislative Council, in answer to His Excellency's Speech at the opening of the Session, was inadvertently omitted by the Reporter last week.—

To His Excellency George Dundas, Esquire, Lieutenant Governor and Commander-in-Chief, &c. &c. &c.

MAY I PLEASE YOUR EXCELLENCY:

We, Her Majesty's loyal subjects, the Legislative Council of Prince Edward Island, beg to offer to your Excellency our thanks for your speech at the opening of the present Session.

It is with unfeigned pleasure we have witnessed the announcement of the approaching Marriage of Her Royal Highness the Princess of Wales to Her Royal Highness the Princess Alexandra of Denmark. This auspicious event affords us much additional pleasure, convinced as we are that it will be a union so conducive to the happiness of our Gracious Queen, Her Royal Family, and the Nation at large.

The recollection of His Majesty's illustrious recent visit to this Colony stimulates us more ardently to unite in the national expressions of satisfaction at the approaching alliance.

We learn with much interest that the Secretary of State for the Colonies has laid before Her Majesty the Petition passed last session praying for privileges, in respect of shipping, identical with those conceded by Great Britain to the Province of Canada, and that the question of extending this privilege to Colonial built vessels is under the consideration of the French Government.

We deeply regret to perceive that the Colonial Minister has intimated to Your Excellency that the Commissioners appointed by the Queen to inquire into the differences existing between landlords and their tenants have exceeded their powers in the appointment of their members.

We trust that that which is supposed to be the excess of authority referred to may not ultimately prove so material as to endanger the validity of an adjudication on which the prosperity of this Colony so much depends, and toward which vast numbers of its inhabitants have looked forward with intense anxiety.

We will proceed with much interest to examine the papers which will be laid before us on this subject, and we are most earnestly soliciting that the just and reasonable expectations of the people should be realized by a speedy and satisfactory settlement of the difference existing on this important matter.

We will give our best consideration to the system by which money votes are given in the House of Assembly, and we are most anxious to see the responsibility for the financial condition of the Colony being cast into operation, we feel assured that its deliberations, in whatever respect its Constitutional functions may be affected by the Act which renders it elective, will be strengthened by the more active participation of the people.

We concur with your Excellency in deeming it advisable that the qualifications of electors under the present law should be registered, and we will be prepared to take into consideration such measures as, for that purpose, may be brought before us.

To which Address His Excellency was pleased to make the following Reply:—

My President and Honorable Gentlemen of the Legislative Council:

I thank you for your Address, and for the assurance that you will give your careful consideration to the measures which will be brought before you.

I trust that your deliberations may tend to the advancement and well-being of this Colony.

Hon. members of the majority seemed to think that it was not laid aside, and avowed their intention to prosecute the subject further. He would not detain the Committee by discussing this point now. When a despatch came from the Government, he would be glad to enter into the question, and if the proposal of the majority should meet his views, he would give it his support, if not he would bring forward something else. The Government certainly possessed the confidence of a large body of the tenantry, as was shown by the large majority they had in both branches of the Legislature. They ought then to be both in the majority and in the Government. He had been brought to bear on the subject, such as religious prejudices—a circumstance for which he was sorry—still the subject of the Commission had been before the people, and as a majority had been returned in favor of the Government, he was not disposed to give them a factious opposition on this question. The religious question had been dragged in here; it should never be brought up, unless it had a bearing on the subject under consideration, and it had nothing to do with any paragraph in this address. To obtain the operation of the Award, if possible, was unquestionably the great plank in the platform of the Conservative party at the last election, and they were bound to use their utmost endeavors for the attainment of this end. The present aspect of the question appeared to be this: When the celebrated resolutions were passed, which were introduced by the present hon. leader of the Government, their object was to obtain for the tenantry the privilege of converting their leaseholds into freeholds, on reasonable terms, and a large number of the tenantry had accepted of this offer. It was not until the present despatch was received from the Duke of Newcastle objecting, at the suggestion of Sir Samuel Cunard and other proprietors, to a limited enquiry, and insisting that if Commissioners were appointed they should be free and unfettered in their operations, and should be allowed to go into all the questions of dispute. He also stated that the Commission should be appointed in the manner that he had suggested, and that the report of the Commissioners. But a late despatch from His Grace to the Lieutenant Governor contained the following:—

"Your advisers appear to consider that H. M. Government had proposed to the Proprietors of land, and that those Proprietors had consented to place themselves and their interests absolutely in the hands of the Commissioners. This, however, was far from being the case.

"The Proprietors of land, and the Commissioners should be appointed to enter into all the enquiries that might be necessary, and to decide upon the different questions which might be brought before them, giving of course to the parties interested an opportunity of being heard."

"The main questions that to be decided upon were—First, whether the tenantry should be introduced into the freehold at what rate tenants ought to be introduced, and next what amount of arrears of rent should be remitted by the Landlords."

Whether this despatch was written by the Duke himself or by some of the clerks in his office, he (Mr. B.) was not prepared to say, but it was in almost direct opposition to the other. In one His Grace said the Commissioners should be free and unfettered, and in the other they ought to have confined their investigation to the two questions here mentioned, for this was the path of the objection in his late despatch. He was not prepared to say that the Duke was asked for in the resolutions agreed to by this House; but the Duke of Newcastle and the Proprietors were not satisfied with this, they desired the Commissioners to be less fettered. The despatches being so contradictory, he (Mr. Brockton) thought this House should not relinquish the Award without further enquiry. He carried out effect—The main question of the Award, was one of self-interest considered of small importance to be referred to the law officers of the Crown, surely it would be no trifling matter, and nothing more than justice to the people of this Colony, that the whole report of the Commissioners should be submitted to them for investigation, before it was finally set aside. The hon. member for the third District, Mr. Brockton, said (Mr. B.) believed that if the proprietors were only relieved from their engagement in this matter it would be a long time, before they would append their names to another document of the kind. They had found themselves in a disadvantageous position. The Imperial Government seemed determined to uphold the proprietors in their claims to the land. The hon. member for the second District, Mr. Brockton, said that the Duke of Newcastle was a fruitless and mischievous agitator; and he was right when he said, "If this House then gave up the Award, what else could they expect from the Proprietors? The only course apparently which could be pursued was to test the legality of the Commissioners' report. He (Mr. B.) did not mean to say that any agitation which this Colony could raise would be of any use; but he would say, that he thought if the Legislature here made proper application regarding the Award, to the British Parliament, justice would be done to them. He had no doubt, however, that if a respectful remonstrance was sent to His Grace he would not refuse to hear it. Great credit was due to the hon. member for the Government for his question, which he had introduced in a former session; and he (Mr. B.) was glad that he had heard nothing to-day from hon. members of the Opposition respecting the famous "Spy." and that there were no taunts about the insincerity of the Government. He could not exactly understand what object the hon. leader of the Opposition had in view in proposing the amendment which he had introduced in the paragraph and amendment were nearly similar—it was a distinction without a difference. The hon. member since he had gone so far, ought to have extended his liberality a little further, and given his support to the paragraph.

Hon. Mr. HENSLY did not take the same view of the amendment as the hon. member who introduced it. He had no objection to the Duke of Newcastle's proposed to the Acts passed last session relating to the Award, and therefore how could he express regret that they had not received the Royal assent? He should rather rejoice at the fact. The amendment expressed regret that the Commission had been followed by no beneficial result. There had been some discussion as to whether the words "and to be introduced into the freehold" should be inserted in the present time only, as he explained this to be a meaning. The subject under consideration was an old question, but a very important one. He (Mr. H.) thought that the resolutions first passed by the House, asking for an investigation, were too stringent. Intimation came from the Colonial Office that the Commissioners should be unfettered. This was not in the least an objection to the Bill, but it differed from other arbitrators; they could not give a report differently—it must be final and decisive. He was not prepared to say at present whether the Award was legal or illegal; but he could not go for the paragraph, though he had voted for the bills of last Session. Since the Award was made public he never thought it could be any longer a subject of public discussion. He had heard parties swear that a certain property was worth so much, and others shortly after on their own oath, state it was not worth half the amount. With this additional experience he could not join in expressing regret that the Acts had not received the Royal assent. He did not mean to say that the House last session did right in passing these Bills, as by so doing they had established a strong case in their favour, by showing their readiness to conform to the decision of the Commissioners in every shape and form. Their conduct in the matter would probably be the means of obtaining for the tenantry more favourable terms than they otherwise would have obtained from the Hon. member for the second District, Mr. Brockton, who had been so conclusive on the subject. He saw nothing to prevent the Imperial Government saying to the Commissioners, if they had exceeded their authority, "you should go again and report within the scope of your powers." He had never accused any of the members on the other side of the House of insincerity, but he would say that to some extent he was insincere. He would be pleased to hear some of the legal members on the Government side discuss the legal bearings of the different paragraphs of the Award. He did not think this subject was set altogether at rest, by the Duke's decision, and was glad to find that the Government intended to prosecute it further.

Hon. J. C. POPE was glad to hear the hon. member for East Point speak of the sincerity of the Government, but did not understand why he should have suggested the Bill of last Session, if he had assisted in perfecting it, and could not now vote for a paragraph which merely expressed regret that those measures had not received Her Majesty's approval. He (Mr. P.) was sorry, after what had fallen from the hon. member, that he could not return him the compliment for sincerity. All the excuses that he had for not supporting the paragraph was, that he had ascertained some papers were not to be trusted in regard to the valuation of land. It was unnecessary to say much on this question, as most of the hon. members present were here last session. The time of the Committee should not be further delayed, unless the hon. member of the Third District of Prince County intended to go into the subject of quit rents, which he had not done. He adapted to the altered circumstances of Scotland by that event, although he did not rest them on what is called the voluntary principle. With these views I with others entered the Union, on the express understanding that he should be allowed to entertain and advocate them. The Presbyterian Church of the Lower Provinces, subsequently, individual members of the Union, have been changed his sentiments, cannot pronounce them to be wrong, without dissolution first and reconstruction on a different basis. If it does it violate the "contract," a phrase now come to it does it violate the meaning, and might be made answerable at the civil law for civil consequences that might arise. He had been expressed, said in the Presbyterian, that the Presbyterian or the Protester newspaper had an existence. They are based on a principle held to be of importance in the church in which I was educated, inferior only to the doctrine of Christ crucified, as I shall presently show you. 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