

THE RAILWAY.

Unjust Administration.

SHOULD Mr. Schreiber continue in the course he has begun, the Government (which is responsible for his acts) will very soon find that his usefulness is gone. In carrying out the highly commendable economical policy of the Government, Mr. Schreiber has acted most unjustly to many persons. In fact, he does not seem to have exercised either discrimination or reason in the changes he has wrought. For instance: Mr. M. M. McLeod entered the Railway employ in 1874. On account of the diligence and ability he displayed his position and wages were raised three several times till he found himself in the office of freight clerk. He took no part in politics. He is a poor man, having a family dependent upon him for support. Not the slightest suspicion had been cast upon his character. Of his fitness there was no doubt. Yet Mr. McLeod was recently turned out, and Mr. Alfred Beer—who has not been in the Railway nearly so long, whose parents and friends are among the wealthy of the Province, who has no family dependent upon him, who is intimately connected with and owes his position on the staff to the most active and powerful Grits on the Island—is transferred from the Superintendent's office and put into Mr. McLeod's place! This is only one instance of Mr. Schreiber's indiscriminate injustice. Is it any wonder that Mr. McLeod's friends—many of whom have been strong friends of the Government—are indignant? Or that acts like this—in which fairplay is entirely ignored—are damaging the Government?

A Liberal-Conservative correspondent of the St. John Sun says:—

All who know Mr. Schreiber know him as a most heartless man. They know that those who appeal to him on the grounds of humanity might as well appeal to a stone wall.

I object to Mr. Schreiber having all to say in the management of this great public work.

I think the practical business men of the business centres of the Maritime Provinces might be consulted before Mr. Schreiber turns everything topsy-turvy.

I think the members of Parliament, who are held responsible by their constituents for the management of the railway, might have been advised with before Mr. Schreiber undertook to deprive several constituencies of station accommodation, as he has done, and reduce the income of a large number of their constituents.

But, no! Mr. Schreiber has been permitted to work his own sweet will, uncontrolled and unchecked.

No member of Parliament has been consulted in regard to changes in his constituencies—not even one; not even Dr. Tupper himself.

No commercial man has been consulted in regard to the Railway Tariff.

No person outside of Mr. Schreiber (who spent only two or three weeks in a hurried visit to the road in mid-winter) has had anything to say in reference to recent changes, or appears to have any voice in undoing acts of grossest injustice.

What have we witnessed after a few months of Mr. Schreiber's rule?

The traffic receipts have fallen off enormously, so that the deficit for this year threatened to be the greatest of all.

The Intercolonial Railway has lost most of the flour traffic between St. John and the Upper Provinces. The Intercolonial will not reduce its flour rate, and our importers can bring flour via the Hoosac Tunnel road, and by water from Boston, at five to eight cents per barrel cheaper than the Intercolonial charges.

Freight on flour has been increased at all points between Campbellton and St. John.

The staff of the road, from end to end, is practically demoralized, the great majority of officials—both at the Stations, on the Trains and on the Track—believing they have been unfairly treated.

The accommodation in several rural districts has been ruthlessly cut off, as, for instance, at Passakeag, in King's Co., N. B., and at Westchester and Greenville, in Cumberland Co., and other parts of the country; and this has been done by Mr. Schreiber without consulting a living soul.

It is not surprising, under these circumstances, that a storm of popular indignation has arisen which is most damaging to the Government, but has been brought about solely by Mr. Schreiber.

In conclusion, I beg to state that, not in my judgment only, but in that of persons who are well acquainted with Mr. Schreiber, he is a most unsuitable person to have control of the Intercolonial Railway.

He is represented as a person given to cheese-paring and infinitesimal economies, and wholly destitute of that breadth of view which is needed in the manager of so great a public work, involving such varied and extensive interests.

He is believed to be destitute of those humane sympathies which should be possessed by one called upon to manage a thousand subordinates, and who should at least seek to win the respect of those under him.

I submit that for such a person to have his full swing on the Intercolonial Railway, 750 miles in length—soon to become 900 miles; that he should be the sole custodian of the rights and privileges and comfort of a thousand officials and hundreds of workmen; that the entire traffic of a road traversing eighteen counties of these Provinces and affecting nearly every industry throughout this vast extent of territory, should be helplessly at his mercy, is something for which the supporters of the present Government did not bargain, and a thing to which they will not submit. We did not labor to overturn one autocrat in order to set up another.

CITY TAXES.

The Stipendiary Magistrate's Judgment.

IN THE CITY COURT OF THE CITY OF CHARLOTTETOWN.

WILLIAM SHEPHERD, City Collector, Plaintiff,

vs.

EDWARD SMITH, Defendant.

JUDGEMENT.

This is a suit brought by the City Collector against the defendant, for \$65.52, being the amount of City Taxes due by him for the year 1878, as follows:—

On Shop, \$58 52
On Dwelling House, 7 20

There was no appeal from the Assessors' valuation, and the only questions raised by defendant's counsel were the validity of the By-laws levying the Assessment for that year, and the appointment and acts of the City Assessors.

The objections taken were as follows:—

1. The Statute 39 Vic., Cap. 20 (being the Statute by virtue of which this Assessment was made) does not give the City Council power to make an assessment solely upon real estate. Each yearly Assessment must be upon both real and personal property.

2. Three of the Councillors being, at the time of the passing of these By-laws, contractors with the City, were disqualified; and if so, there By-laws were passed by seven instead of by eight Councillors, as is required by law.

3. The Assessors were irregularly appointed, being twice elected, and made their Assessment under their first, and, admittedly, irregular appointment.

4. The special meetings of the Council at which these By-laws were passed were not regularly called, the notice thereof not having been properly served upon each of the Councillors.

The words of the Statute, 39 Victoria, Cap. 20, are: "Such assessments and levies may be levied upon both real and personal property, or, separately, upon real and also personal property." These words, having in view former legislation relating to the taxing power of the city and the evident purport and intention of this Act, cannot, I think, be construed as contended for by the defendant's counsel. The Act incorporating the city (18 Victoria, Cap. 34) gave the Council power to assess "real or personal property, or both, within the said city," within a certain limited amount. The Act, 24 Vic., Cap. 15, extended this limit. The Acts, 29 Vic., Cap. 30; 31 Vic., Cap. 21, and 35 and 36 Vic., Cap. 24, altered this power, giving the Council authority to assess "the sum of one shilling and six pence in the pound upon the rental of real, leasehold or freehold estates." Then, if we read the preamble of this Act (39 Vic., Cap. 20): "Whereas it is found undesirable, owing to the increased size of the City of Charlottetown, any longer to limit by statute the amount or rate of the assessments which may be levied and collected for city purposes, &c.," as a key to its interpretation, does it not appear to have been the intention of the Legislature to give the city its old power of taxing real or personal property (but now unlimitedly), the tax to be levied on either real or personal property, or on both, giving the Council the power to determine how it shall be levied and upon what species of property. There is nothing in the Act which shows an intention of compelling an assessment to be made on both real and personal property simultaneously. On the contrary, the following words in section 10 evidently shew a different intention: "And the Assessors shall make a special assessment on such person or persons and their property, real or personal, or both, as the case may be." This tenth section refers to the assessing of persons who were omitted in the original assessment. It shews, however, that this previous assessment may have been made upon both or either of such descriptions of property. It was contended that this being a statute as well imposing a tax as conferring a power, it must be construed strictly and only by virtue of clear and unambiguous language can such a delegated authority or discretion be exercised. Admitting this argument, this strictness of construction is not necessary here; for it is a well established rule that the principle of strict construction is not applicable where the powers are conferred on public bodies for entirely public purposes. But it does not appear that giving the Council the optional right to exempt any description of property, in anyway increases their powers. The Act gives them power over both real and personal estate, and to exclude one of these species property cannot be held to be an exercise of increased authority. The word "separately" must be read as meaning a power to assess one description of property to the exclusion of the other, otherwise it has no meaning, because the Assessors in levying must necessarily, from the nature of the different properties, make separate assessments. The object of this Act is evident. A reasonable construction must be given to it. The probabilities are that leaving this discretion in the hands of the Council, a rate will be levied more beneficial to the citizens generally. I cannot but think that to give any other save it more comprehensive interpretation to this section would be contrary to the will of the Legislature.

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The second objection is taken under the 8th Section of this Act, 18 Vic., Cap. 34. It enacts, "Nor shall any person be qualified to be elected a Councillor who shall have, directly or indirectly, by himself or his partner, any share or interest in any contract or employment with or on behalf of the Council." It appeared in evidence that three of the Councillors were, at the time of the passing of these by-laws, contractors with the city. It did not appear, however, that they were such contractors

at the time of their election. This clause contains no prohibition as is usual in such enactments forbidding the disqualified person from sitting and voting while he remains under such disqualification. So that in case the cause of the disqualification arises after his election, the Statute expressly provides no means of ousting him. Indeed, the 22nd Section of this same Act, wherein it is particularly enacted that any person holding the office of Councillor becoming insolvent, bankrupt, or compounding with his creditors, being absent longer than three months, "shall immediately become disqualified, and shall cease to hold the office of Councillor," looks as if it were intended that only for such causes could a Councillor, not being disqualified at his election, be removed. I think it is open to much doubt if there is power, by *quo warranto* or otherwise, to expel a Councillor who contracts with the city after his election. Test the interpretation of this Section in another particular: This Act says a Councillor must have a certain property qualification to be eligible for election. Suppose, for instance, the day after his election he converts this property into cash, would he be disqualified to act? I am inclined to think not. The Act says he will be disqualified if he is a bankrupt, insolvent, &c., but it is silent as to the necessity of his retaining his property qualification. This point was not raised before me, nor do I think it necessary to decide it here. The objection here urged, in short, is: Admitting that these three Councillors were disqualified, can they, being Councillors *de facto*, and not *de jure*, sit, act, and pass legal by-laws? I think there is no doubt of the law applicable to such a case. In *Scadding vs. Loran*, which was tried in the Exchequer chamber (May, 1849), and carried by appeal to the House of Lords, an objection was taken to a rate levied by vestrymen who had not been duly elected. Baron Alderson, in delivering judgment, said: "Several objections were made to the validity of the rate, none of which we think are well founded. One was, that the forty-six vestrymen appointed in May, 1839, were not duly elected, as was the fact, and that no notice of the meeting was given to some of the vestrymen, who, if that election was to be held void, still continued to act like legal vestrymen. The answer to that objection is, that the 46 vestrymen so elected were, *de facto*, vestrymen, a rate made by them, or all of them, having had due notice, is as valid as a rate made by the church-wardens and overseers *de facto*." Upon the hearing of the appeal, the Lord Chancellor put the following question (among others) to the Judges:—"If an authority is given by statute to the majority of a vestry, there being more than seven vestrymen present to make a rate, would such rate be objectionable in respect of its validity, if the seven persons, or any of them, were seven vestrymen *de facto*, but not *de jure*." The unanimous opinion of the seven Judges was: "We think that the vestrymen, *de facto*, were as competent to join in making a rate as the vestrymen *de jure*." In commenting upon this opinion, the Lord Chancellor thus expressed himself: "The opinion of the Judges, as to the vestrymen *de facto* and *de jure*, was of great importance, when it was considered that there were many persons who were charged with very important duties, and whose title to perform these duties, or to exercise the power necessary for their performance, the public could not easily ascertain at the time; and when it was remembered what inconveniences would raise if the validity of their acts depended on the propriety of the election of the persons who had to perform them, the value of the clear enunciation of the principle thus made by the Judges, was very great; and, in the correctness of it, he begged to declare his entire concurrence."

In *Dillon, on Municipal Corporations*, page 330, vol. 1, we find: "In this country the doctrine is everywhere declared that the acts of *de facto* officers "as distinguished from the Acts of mere usurpers are valid, and the principle extends not only to municipal officers generally, but also to those composing the Council or Legislature or governing body of a municipal corporation." In *De Grave and another vs. The Mayor and Corporation of Monmouth*, an objection was raised that the Mayor, by whom a certain order was made, was afterwards displaced from his office by a judgment of the Court of King's Bench. Lord Tenterden expressly decided that his being Mayor *de facto* was sufficient to authorize him to make the order.

These decisions are directly in point, and must be held to determine the law.

The third objection raised by the defendant's counsel I think is groundless. The dual appointment of the assessors, being the same persons, cannot possibly affect the assessment. That they were properly appointed once, at least, it may be necessary to show; but in this case where a proper appointment was made before they returned the assessment books required by law, any previous irregular appointment can surely not be held to disqualify them. As to the latter part of the same objection, the evidence was against the defendant. It appeared that the Assessors had in part finished valuing when they were notified of their fresh appointment, and desired to proceed *de novo* with their work. This they did; in fact, making and sending in entirely new assessment books. I do not deem it necessary to enter fully into the last objection. I am clearly of opinion that the meetings were regularly called, and that all the necessary notices were properly served. These notices were carefully drawn, and the Minutes of the Council appear to contain all that is necessary, and are evidently framed with a view of meeting every requirement of the Provincial statute.

I therefore order judgment to be entered for the plaintiff for \$65.52.

THE Local Elections of Ontario come off today. Mr. Mowatt is, perhaps, the most respectable Grit in the Dominion. Yet the extravagance of his Government will likely cause its defeat. We do not anticipate a very large majority for the Conservatives.

J. B. MacDonald's SPRING STOCK!

NOW COMPLETE.

Buyers in Town and from the Country will find this Stock unexcelled in Variety, Styles, Quality and Low Prices by any House in this City. We will quote a few articles to show the correctness of our remarks.

YOU CAN BUY 20 YARDS GOOD GREY COTTONS FOR \$1.00
YOU CAN BUY 10 YARDS PRINT COTTONS FOR 70c.
YOU CAN BUY 10 YARDS DRESS GOODS FOR \$1.20
YOU CAN BUY LADIES' UMBRELLAS FOR 22c. EACH.

OUR LADIES' TRIMMED HATS

ARE CERTAINLY THE CHEAPEST.

Flowers, Feathers, Ribbons, Gloves, Hosiery, Fringes, Laces, Collars, Ties, Frillings, at Bottom Prices.

In Gentlemen's Out-fitting Department, we have a full Stock

READY-MADE CLOTHING

Mens' and Boys' in Great Variety, Very Cheap.

150 PIECES TWEEDS, } Made to Order. Good Fits Guaranteed.
50 PIECES WORSTEDS, }

INSPECTION SOLICITED.

J. B. MACDONALD.

Queen Street, Charlottetown, May 15, 1879—her

SALE OF Very Valuable Stock, —AND— HANDSOME BUILDING LOTS.

THE undersigned is instructed by the Hon. J. C. POPE, to sell, by Public Auction, on WEDNESDAY, the 25th DAY OF JUNE NEXT, AT 11 O'CLOCK, —AT HIS—

Brewery Premises, St. Peter's Road, (near the City) all his

Valuable Herd of Cattle,

—CONSISTING OF—

24 head of pure-bred Short-horn Cows and Heifers,
48 head of Grade Cows and Heifers,
1 pure-bred Durham Bull (5 years old),
1 do do (2 years old),
1 do do (1 year old),
bred from the celebrated stock of the Hon. Senator Cochrane.

—ALSO—

1 Imported Thorough-bred Stallion (7 years old),
1 Superior Cart Horse, weighs 1,550 lbs. (8 years old),
1 Superior Cart Horse, weighs about 1,500 lbs., (5 years old),
1 White Driving Mare, from old Messenger, (7 years old),
1 Valuable Driving Mare, do (5 years old),
1 Good Travelling Horse, do (8 years old),
50 pure bred Leicester Ewes and about 40 Lambs.

The pedigree of all the pure-bred Stock will be furnished on the day of Sale.

As the exportation of cattle and sheep is increasing every year, farmers and stock-raisers should avail themselves of this first-class opportunity to purchase pure and improved bred cattle, the above herd being justly celebrated for their superior qualities. TERMS—Under \$50, cash; over \$50, 4 months' credit on approved joint notes.

ALSO, on the following day,

THURSDAY, 26th inst., at 11 o'clock, on the premises, the most extensive sale of

Valuable Building Lots

ever held on the Island, consisting of

TWO HUNDRED of the finest and most handsomely situated Building Lots in the vicinity of Charlottetown, unsurpassed for beauty of situation, nearness to the city, and general adaptability for building purposes.

1st.—The Estate of ARDGOWAN, on the Mount Edward Road, will be sold in 75 Building Lots of one-half acre each and upwards, thus comprising many of the very finest building lots ever offered at auction.

2nd.—The "ARDGOWAN" RESIDENCE, (one of the most beautifully situated gentlemen's residences in the Royalty), with barns, stables and other outbuildings, will be sold, together with about four acres of land. (See plan.)

3rd.—One Hundred and Twenty-five Building Lots, extending from the Upper St. Peter's Road through to the bank of the Hillsborough River, at Strawberry Point, Forty-five Lots fronting on the Upper and Lower St. Peter's Roads, and the remainder on roads or streets 30 and 40 feet wide, which intersect the property, as per plan, to be seen at my office. The Lots on the River's bank are from one to two acres each, and are easily accessible by roads leading from the Lower St. Peter's Road.

This being by far the most extensive sale of Real Estate ever placed on the market, capitalists and others will find it a rare chance for safe investments.

Terms—Twenty per cent of the purchase money down, the balance in four years, with interest at six per cent per annum. WILLIAM DODD, Auctioneer.

Ch'town, June 5, 1879.

Iron. Iron. Iron.

THIRTY TONS Refined, Assorted Sizes. BEER & SONS.

TO LET.

FOR THE SEASON, a one-acre Lot of excellent PASTURE on the Brighton Road, having a good fence all round. Apply to J. D. MASON. Ch'town, June 5, 1879—3m eod

ICE!

PARTIES wanting ICE FOR THE SEASON, will please leave their orders at the FISH MARKET, Grafton street. I. C. HALL. Ch'town, June 4, 1878—Gi

TURNIP SEED

Fresh From Scotland.

Laing's Purple Top, Champion, Green Top, Skirving, and the Improved Swede. Wholesale and Retail, —AT—

BEER & GOFF'S

Ch'town, June 2—

LIME JUICE.

Rose's Celebrated Lime Juice and Lime Juice Cordial.

BEER & GOFF.

Ch'town, June 2—

GRAND WALKING MATCH

—IN THE— Citizens' Skating Rink, —ON—

WEDNESDAY, 11th JUNE NEXT.

A WALKING MATCH of 12 hours' duration will take place in the Skating Rink, on the above date, when a purse of \$30.00 and a belt will be competed for.

All entrances must be made on or before SATURDAY, 7th June. Entrance fee, \$2.00.

All competitors must be present at half-past nine o'clock in the morning, as the race will be started at ten o'clock, sharp.

The race will be "Heel and Toe," and a copy of the rules governing it will be furnished to each competitor.

The Band will be in attendance. Admission: During daytime and up to six o'clock, 15 cents; after six o'clock, 25 cts. By order, W. C. HOBKIRK, Sec'y. May 27, 1879—3taw

BANK OF P. E. ISLAND.

A DIVIDEND, at the rate of Ten per Cent. per Annum, has this day been declared for the past half year upon the Capital Stock of this Bank, payable at its Banking House, on demand.

J. R. BRECKEN, Cashier. Ch'town, 2nd June, 1879—ar pat her n e 2i

Union Bank of P. E. Island.

NOTICE is hereby given that a dividend at the rate of Ten per cent. per annum has been declared on the capital stock of this Bank for the past six months, payable at its Head Office and branches on and after this date. GEO. MACLEOD, Cashier. Ch'town, 2nd June, 1879.—1w