

The Examiner.

AND SEMI-WEEKLY INTELLIGENCER.

"THIS IS TRUE LIBERTY WHEN FREE-BORN MEN—HAVING TO ADVISE THE PUBLIC—MAY SPEAK FREE."—MILTON'S EURYPIDES.

NEW SERIES.

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HOUSE OF ASSEMBLY.

FRIDAY, 15th March.

HOUSE IN COMMITTEE ON THE SMALL DEBTS ACT.

(Concluded from our last.)

Mr. WARBURTON was of opinion that the best remedy for the grievance complained of with respect to the Small Debts Courts, would be to reduce the number of their sittings. Indeed, he thought the substitution of Quarterly Sessions for monthly Courts would be a great improvement.

Mr. FRASER pronounced the credit system prevailing in the Island to be injurious to both debtor and creditor; who were both, not unfrequently, ruined by it. He would wish to have the person of a debtor free: no good end was served by his imprisonment; but he would have his property available by attachment for his debts. Such an alteration in the Law would, he thought, greatly diminish the extent of credit. Any alteration in the present Law, short of that, and a reduction of the fees, would, in his opinion, be useless.

Mr. CLARK expressed himself in favor of the suggestion of Mr. Warburton, with respect to Quarter Sessions. If the sittings of Commissioners were only quarterly, the increase or accumulation of business at each sitting would be such, that, even with reduced fees, they would be sufficiently remunerated for their time and trouble.

Mr. POPE said that, should the fees of Constables be reduced, the employment would be sought after by none but the very refuse of Society. It was true that the standard character of these petty officials was sufficiently low then; but should the fees be reduced, it would soon become much worse. If in the Small Debts Courts, as then constituted, there was a fundamental fault, it was that the Judges were not men of sufficient independence. It required much independence to enable a Commissioner to give judgment against an immediate neighbour, an intimate friend, or a near connexion; and such, unhappily, was the extent of litigation in these Courts, that the independence of Commissioners was tried by the occurrence of such difficulties at almost every sitting. In any settlement or district in the Island, the connexion of families, generally speaking, was so close and extended, that its existence was very apt to warp the judgment of those who acknowledged and felt its ties. Many of the individuals who presided in those Courts, were in no way qualified to discharge their duties: they were not possessed either of a sufficient degree of intelligence or a necessary amount of moral courage, to discern and decree aright. A change, with respect to the Small Debts Courts, by which more intellectuality and knowledge and greater independence would be brought to bear upon the business and decisions of those Courts, was indeed greatly to be desired; but experience told him that a reduction in the amount of the fees would be attended by no beneficial result. The honorable member then condemned the extensive credit system of the country, which he pronounced to be a most serious, an almost ruinous social evil; and spoke of the difficulty of distinguishing, under such a system, between a rogue and an honest man, until the discovery had been made at too dear a purchase. The honorable member concluded by saying that, for his part he would rather altogether abolish imprisonment for debt, which would, in a very material degree, diminish the extent and evils of general credit, than he would consent to the reduction in the amount of Commissioners' and Constables' fees, which would, eventually, raise to the position of Judges, men of the very lowest qualifications, and consign the duties of the others to the very dregs of society.

Mr. LALACHUR made some general remarks, and then concluded by expressing himself in favour of Quarterly Courts, and the abolishment of imprisonment for debt, as a means whereby the bounds of credit would be beneficially narrowed.

Mr. DAVIS agreed with Mr. Pope in his opinion that a reduction of fees would increase litigation. Were the fees reduced, he thought the amount of Summonses taken out would be trebled. He believed many creditors who were in the habit of suing monthly, got no more than the amount of the fees. He was favourable to Mr. Warburton's proposal with respect to Quarter Sessions; and he was also desirous to see imprisonment for debt altogether abolished.

Hon. Mr. THORNTON did not think that Quarterly Sessions could be an amendment. The accumulation of business consequent upon such an arrangement would, he thought, bring with it, as an attendant consequence, protracted sittings and increased expense of time and

money. The Act, he said, certainly required amendment, both with respect to the difficulties which, in some peculiar cases, interposed to defeat the ends of justice and to favor the escape of the fraudulent debtor; as also to the trouble and expense attendant upon cases of appeal. On the subject of fees, the observations made by Mr. Pope, were so judicious and so much to the purpose, that he (Hon. Mr. T.) would rest satisfied with saying that he fully assented to them. The fees were certainly not too high; at least none but the highest were so. The moral and other qualifications of the Constables, speaking of them generally, were then far too low to warrant the extent of confidence placed in them: but, were their fees reduced, the only effect, with respect to them, would be that bad would make place for worse.

Mr. SPEAKER was of opinion that any resolution for the amendment of the Act which might be submitted and entertained, ought to embrace a reduction of fees, a reducing of the number of the annual sittings of the Courts, and a mitigation of the penalty of imprisonment. He was satisfied that there was a loud cry throughout the country against the Small Debts Act. That, perhaps, might be traced to the three years successive failures in the crops; as—deprived, in a great measure, of their usual dependence—many had been obliged to contract debts which, otherwise, they would never have incurred; and now, after the last year's good crops, merchants and traders were eagerly pushing to recover their own. It was certain that, within the last two years, a most extraordinary number of Summonses had been issued. It was also certain that there existed generally among the people, a strong objection to the amount of the fees paid under the Act. It was believed by them that in some of the Courts the Commissioners' fees amounted £70, £80, or £90 a year: they were under the impression that a Commissioner frequently received £2 or £3 for one day's sitting, and the Clerk more. With respect to the Constables, he had heard complaints touching the mileage charged by them in many cases: as, for instance, a Constable might have twelve summonses to serve along a certain line of road—one at the end of every mile—and, by charging mileage on each from the place whence he set out with them, instead of from one station to another, he would pocket more than six times as much as he was fairly entitled to. Some Constables, he was told, would serve them all in one day, and, by charging full mileage on each, would make £5 or £6 by their day's travel. For Commissioners to allow Constables to charge in such a manner, was to authorize undue remuneration. He knew that, at one time, it was a distinct rule that a Constable should charge mileage only from one station to another.

Hon. Mr. THORNTON said it was so in the new Act, in which also the mileage had been reduced to one half of its former amount.

Mr. COLES observed that the amendment in the Small Debts Act, to which the House stood pledged by their reply to His Excellency's Speech, was to remedy the defect by which its operation pressed heavily on the public funds, which, in many cases, are burthened with the maintenance of debtors confined in the jails. To this end he would recommend that in every instance in which the imprisoned debtor was destitute of means for his support in jail, his creditor who had thrown him into it should be compelled by law to make him a sufficient weekly alimentary allowance during the period of imprisonment. There was also another defect in the law which ought to be remedied. He meant the commission fee or poundage charged under an Execution by a Constable, even when all that he had to do was to receive and count the money. In such a case, no commission ought to be allowed. It was different, however, when a levy was made upon the goods and chattels of the debtor: then the Constable, being obliged to make a sale, was entitled to a just remuneration for his trouble in conducting it.

Hon. Mr. PALMER thought the number of Small Debts Courts too great; and that litigation was encouraged by their excess. If a reduction were made in the number of the Courts, he thought they might go further and make a reduction in the fees also; for a diminution in the number of the Courts would cause an increase of business in the remaining Courts, to the Commissioners, Clerks, and Constables belonging thereto; and, consequently, although there should be a diminution of individual fees, yet the whole amount received would sufficiently remunerate all entitled to share therein for their trouble.

Mr. SPEAKER said that should they make a reasonable reduction of the fees, both plaintiffs and defendants would be benefitted by the change. When the fees

were lower than they were then, men quite as competent to discharge the duties of commissioners, as those acting under the existing Act, were found to fill the office, quite satisfied with the amount of their fees. Of his own individual knowledge, he was not aware that the people generally complained that the Courts were too numerous. He would not pledge himself to go for a reduction in the number of the Courts; but was quite willing to lend his assistance to amend the Act to the extent he had already indicated.

Mr. LONGWORTH said an increase of business caused by a reduction in the number of the courts, would make it necessary for commissioners to hold their sittings for three, or, perhaps, sometimes ten days, instead of one; and such prolonged sittings would greatly increase the expenses of witnesses and the fees of constables kept in attendance on the court.

SATURDAY, March 16.

HOUSE IN COMMITTEE OF THE WHOLE ON ROAD COMPENSATION ACT.

Mr. SPEAKER rose and said that in opening new lines of road under the Road Assessment Act, it has happened that a new line has frequently passed diagonally through blocks of land which were heavily assessed as being likely to be much benefitted by such roads, and at the same time it passed within that distance of similar blocks; but as it did not touch these last, they escaped Assessment, though no doubt they really were made more valuable, because, when a public road is made to pass within a quarter of a mile of a block which previously was three or four miles or more from any public road, the proprietor of such block of land must be held to have received a benefit, and should be made liable to pay something like an equivalent. With a view to enable the public to receive some equitable compensation from such properties, he wished an amendment to be made to the present Act.

This Bill, a literal copy of the old Act, was on Monday, 18th March, reported agreed to, without any amendment, in a Committee of the whole House; and ordered to be engrossed.

AFTERNOON SITTING.

House in Committee of the whole upon the IMMIGRANT BILL.

Mr. LORD introduced this Bill, and his views with respect to it, as also the changes in the law agreed to by a majority of the House, are briefly set forth in the Reporter's Summary published in the EXAMINER. The views of other members who spoke upon the subject whilst the Bill was before the Committee are here given in a greatly condemned form.

Mr. POPE thought it would yet be premature to reduce the amount of head-money levied upon Immigrants. It was well known that the tax was imposed with no other view than to provide a fund for the relief or support of such immigrants, as, destitute of both friends and means, would otherwise, in case of sickness, or in health whilst unable to procure employment, be wholly dependent for their support upon private charity or public bounty. There was not as yet, however, established a surplus fund, from that source, for such a purpose; and a reduction in the amount of head-money would tend to a material increase in the pauper population of the Colony. He would consent to an assimilation of the scale of head-money to that of Nova Scotia; but any further reduction he would oppose, on the ground that the consequences would be highly injurious to the Country. The influx of immigrants from the Highlands of Scotland; many of them old or middle-aged persons; half farmers, half fishermen; nearly all in most indigent circumstances, and, otherwise, in almost every respect, unfitted to become thriving or even useful settlers in the Colony; had, within the last three or four years, caused a very heavy expenditure of public money. With a view to provide for the support of such persons, £10,000 of the public money had been expended in the purchasing of seed grain. The hon. member concluded by again observing that he would be satisfied with the establishment of the same rates or scale of head-money here that exists in Nova Scotia.

Mr. SPEAKER observed that it was known, that Great Britain looked to her Colonies, to afford her a relief from the burthen of her pauper population; and that the parish authorities in England provided for the transport of pauperized families to these Colonies, without supplying them with any means, either for their establishment as settlers, or for their temporary support after landing on these shores; satisfied to save their several parishes from the burthen of their support, and apparent-