

THE EARLY NEWS

A Weekly Journal of Politics, Literature, and News.

"This is true Liberty, when Freeborn Men, having to advise the Public, may speak free."—Euripides.

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Provincial Parliament.

LEGISLATIVE COUNCIL.

REPORT OF THE DEBATE ON THE HON. COL. SWABEY'S PROPOSED ADDITION TO THE ADDRESS.

TUESDAY, FEBRUARY 21, 1860.

Hon. Mr. WALKER in the Chair.

Hon. Col. SWABEY rose and said, that, agreeably to the notice which, that none of their Honors might be taken by surprise, he had yesterday given, he was on his legs for the purpose of moving an amendment to the Address. He was persuaded that many of their Honors, as well as himself, were painfully sensible of the unenviable, nay, the humiliating position in which they were placed before the public, not only in consequence of the vituperative harangues which, during the last Session of the Legislature, were elsewhere directed against them; but also through the almost weekly, abusive and detraitive articles, levelled against them, in the columns of that newspaper, which the whole public understand to be the organ of the existing Government, and which, moreover, it is generally understood, if not positively known, is edited by one of the chief officers of the Government; and, more than all, must they feel themselves humiliated by the fact that, although months have elapsed since the Address to Her Majesty, to which they agreed at the close of the last Session, was sent Home, no answer, so far as was known to their Honors and the public, had been made to that Address; no not even so much as the usual courteous intimation, that "Her Majesty had been pleased to receive it graciously." Had it not been for the fact that the Address had been presented to Her Majesty, and that she had been pleased to receive it graciously, so much at least would have been justly expected. How much more then when a body of gentlemen, like their Honors holding Her Majesty's Commissions, had unitedly forwarded an Address, setting forth the anomalous and degrading position in which they were placed through the want of a manifestation of the Colony, should such an acknowledgment, if nothing more, have been made on behalf of Her Majesty; and if made, and received by His Excellency, been made public at once? These facts, were, by himself, and by the majority of their Honors, he believed, felt to be a very embarrassing character, demanding an explanation or elucidation which could be derived from one quarter only; and, as the occasion of presenting an Address to His Excellency, in answer to his Speech, was the first opportunity which had presented itself, it behooved their Honors to avail themselves of it, for the purpose of respectfully requesting such explanation or elucidation at the hands of His Excellency. By the disparaging comments upon their public characters, and insulting want of courtesy with which they had been treated, they had, he would not say been degraded—for by nothing but unprincipled and ungentlemanly conduct could they be degraded in their public position—but, if not thereby degraded in the public estimation, as it was certainly intended they should be, there could not but be excited in the breasts of their Honors a very painful feeling of just indignation. What! were they calmly to submit to be excoriated abroad in the Government print and distinctly and publicly set forth, by the President of the Executive Council, as he lately did, in his Address to the constituency of Charlottetown, the threat, that they must either submit to be controlled and directed, in all their legislative deliberations and resolves, by the Government, or the Government majority in the Lower House, forfeiting every trait and characteristic of independent gentlemen; or be overwhelmed, or annihilated! Should the intentions of the existing local Government, with respect to them, be carried into effect, in what they, doubtless would esteem their mildest and most indulgent character, Her Majesty's Legislative Council of Prince Edward Island would be reduced to a mere Office of Record, and be shorn of every particle of independent power of legislative deliberation or action. To such humiliation, to such degradation, he would never consent to submit; and, with him, in such determination, he thought, the great majority, if not the whole body, of their Honors, would concur. In the Journal of the House of Assembly of the last Session, they were spoken of in language as derogatory as could be, by the most severe and tyrannical pologogue, he addressed to a parcel of refractory school boys; and every thing discreditable to their public character was ascribed to them. In evidence of the truthfulness of the latter statement, he would, he said, read a portion of the Address of the House of Assembly, last Session, to Her Majesty the Queen, which Address was said to be in answer to the Address of the Legislative Council, to Her Majesty. His Honor then read as follows:—

would absolutely establish for them a directly reverse position. If any of their Honors doubted the assertion, he would refer them to the catalogue of the Bills, sent up by the other House, last Session, which met with the concurrence of the Legislative Council. The first was a Bill for raising a Revenue. Did they impede, or manifest any disposition to impede it? No. Neither did they impede the second, which was a Bill for appropriating certain moneys therein mentioned. As for the third, a Bill to extend the Criminal Jurisdiction of the Police Court, so far from offering any obstruction to its progress, they cheerfully lent their aid to secure the measure from imperfection, and to render it as beneficial as possible to the public interests. The fourth was an Act to enable Aliens to hold Real Estate. That was not an every day occurrence; but an Act of the highest importance, and one which, in consequence of the proprietary and other changes which might result from its enactment, it behooved the Legislature most carefully to consider and weigh with respect to what might be its future effects upon either the private interests of individuals, or the general interests of the Colony. They gave this Bill their best consideration, and agreed to it. No objection again there, although it is true he voted against the same Bill, the previous Session. Then there was a Bill to provide for and enforce the prepayment of postage. That was a Bill which had its origin in a correspondence with the Colonial Office. When he was a member of the Executive Council, it was true that it was agreed to adopt a system of prepayment, but the measure which they contemplated passing for the establishment of the system was nothing like the measure for the same purpose last year, which repealed the Section of the Post Office Act, by which the Government is forbidden to order prepayment; and so left it open to any Government to fine parties who did not follow their orders, in that respect, to the amount of £500. What he was a party to was a system by which a preference would be given to those who pre-paid, as recommended by the Postmaster General in New Brunswick, of whose plan he was in possession. So far it would be seen, that with the exception of this proposed measure, with respect to which, as well as all other measures, they were, when no longer a Government, at liberty to act according to the dictates of their own private judgment, that section of the Council with which he, in general, acted and himself had offered no obstruction to the progress of the Bills sent up to them by the House of Assembly. But he was doing wrong in seeking by any explanation, to exculpate their Honors from the calumnies and aspersions which their opponents had cast upon them; for so to enter upon their defence would be to acknowledge an accountability on their part, to others, for their public actions. Such an accountability was by no means due from them and were they, as if in dread of the whip with which they were threatened, to volunteer explanations of and reasons for their public acts, such a course would be voluntary degradation and positive abdication of their independent legislative powers. He would, therefore, pursue such a course no longer; but he would, with due moderation, be trusted, and with such a delicate regard for the feelings of others as he believed, he was generally influenced by in debate, even when it ran the highest, advert to what had, with respect to the reconstruction or annihilation of the Legislative Council, proceeded from a more reliable source and a higher authority than that of a newspaper editor; he alluded to the Address of the Hon. Leader of the Government to the constituency of Charlottetown. That Address rendered it impossible to regard the threat, publicly held out, on the independence of this Council, as mere newspaper reports; for they derived an authority from their simultaneous publication, in the same number, of the Address to his late constituents of the Leader of the Government—now a member of this House—in which, if indeed no threat is directly held out, yet it is made known that His Excellency has power to reconstruct this Council. The *Islander* newspaper, in which he (Hon. Col. Swabey) had had so frequently the honor to be well abused, was cited, and was generally understood, by one of the chief officers of the Government. For the abuse therein lavished upon himself, (Hon. Col. Swabey,) he, in one view, could only feel profound contempt; but when he reflected that that abuse had caused a certain pamphlet of his to be eagerly sought after, and read by the people, he felt that he lay under great obligations to the editor, whoever he might be, for having bestowed it upon him. His Honor then took up a number of the *Islander* and read from it a part of the Address of the Hon. Edward Palmer, to the Electors of Charlottetown and Royals, commenting thereon as he proceeded. The hon. gentleman, said his Honor, commenced his Address by giving his reasons for having resigned his seat in the House of Assembly.

"His Excellency the Lieut. Governor," he said, "has lately been invested with power from the Imperial Government to make an essential alteration in the constitution of the Legislative Council. This will necessarily be followed by the appointment of several new members; and the difficulty, and, at the same time, the necessity, of obtaining one or more gentlemen of legislative experience, in fitting situations, has induced His Excellency to intimate his intention of offering me a seat there."

Instead, said his Honor, of being annoyed by His Excellency's having placed the hon. gentleman in the Legislative Council, I, on the contrary, feel highly obliged to His Excellency for having done so. We shall now no longer be doomed to embarrassing conjectures, as to whether the measures sent up to us, are, or are not, Government measures, and uncertain as to whether in our legislative action thereon we are opposing or sustaining the views of the Administration; for now having, in the Council, a member of the Government, we can, at all times, through him, ascertain which are, and which are not, ministerial measures; and this knowledge, on our part, may, sometimes, operate in favour of the Government, since, as for myself (and others may be similarly constituted) my bias of mind is such that I would rather vote for a Government measure, than oppose it. But to return to the Hon. Mr. Palmer's Address, let us consider with what we are therein threatened. What is it? With "an essential alteration in the constitution of this Council." That is, unless we shall, like a parcel of school boys who are in every thing controlled and directed by their master, submit to be controlled and directed by the Government, or the Government majority in the House of Assembly, we shall not be allowed to continue members of this House. I wish to awaken your Honors to a due sense of the imposts which, by such threats, are given to you. In calmly and unresistingly submitting to them, are we placing ourselves in such a position, as it becomes the Second Branch of the Legislature of the Colony to occupy? No indeed! On the contrary, our duty to the Crown, our duty to ourselves, and our duty to the people, demand that we should claim, for ourselves and our legislative labours that respect and consideration, to which, as our public acts have ever tended to the promotion of the best interests of the people we and our labours are so justly entitled. For my own part rather than remain a member of this Council under the threats which are directed against us, I would leave it at once. It may, perhaps, say I suppose, it will, soon be said that such a remonstrance as that contained in the amendment or addition to the Address which I am about to propose, cannot, consistently with parliamentary usage, form any part thereof; but I maintain that, in the painfully embarrassing position in which, by the threats held out against us, we are placed, we ought not to be restrained, by an over regard, on this occasion, for a restrictive parliamentary usage. It is not usual to send down despatches to either House of the Legislature until after Addresses have been presented by them in answer to the opening Speech; and therefore, for the present, from such a source we cannot expect to derive any information concerning the determination with which we are so anxious to become acquainted. The only course, it appears to me, which is open for us to pursue, is to lay a remonstrance, as I am now about to propose, before His Excellency the Lieut. Governor, who, in course of his official correspondence, will forward it to the Colonial Office; and thus we may be afforded an opportunity to free ourselves from the aspersions which have most unjustly been cast upon us. We have indeed most serious grounds of complaint on account of the threats and calumnies which have been directed against us; but these are not all. With regard to financial matters, we certainly have not been well used. The members of the other House received indemnification for their outlay and loss of time, occasioned by their attendance in Parliament during the last Session; and they are justly entitled to it. Not more so, however, than the members of this Council. We all require it, and should all receive it. I cannot see that any difference exists, or should be made, on that score between the two Houses of Legislature. It is true I see, at various times opposed this proposition; but when I have, in the three other North American Dependencies of the Crown, the members of the Legislative Councils have compensation made to them for their travelling and attendance on their several Parliaments, and when I reflect that the same thing was once done here, I cannot see that such remuneration is withheld from us for any other than personal feelings of dislike and the asperity with which the majority of the House of Assembly regard the major part of us. My wish is that we should, with proper spirit, vindicate our public character and assert our legislative independence; for if we do not so protect and defend ourselves, no one will do it for us.

His Honor then read, and submitted his proposed amendment, or addition to the Address, as follows:—

"Whilst the Legislative Council will use all diligence in the faithful discharge of their constitutional duties, they owe, not only to themselves but your Excellency and to the country, to report respectfully that the tone of disparagement to which they were constantly spoken of in the House of Assembly during the last Session of the Legislature, has rendered their position one of extreme difficulty; and when, in addition, the recognition in the public Journals, written in support of the Government, not only constant attacks upon their public character, but a representation to the effect that your Excellency is in possession of instruments of a nature which will prevent the reconstruction of the public business which representation has derived a degree of authenticity from the simultaneous address of the President of your Excellency's Executive Council to his late constituents, they cannot enter on their legislative duties without expressing their conviction that their conduct has been misrepresented to Her Majesty's Colonial Minister, and that they lie under a threat highly injurious to the constitutional and independent exercise of those powers with which they have been entrusted by their most gracious Sovereign."

They farther deem it to be their duty to observe, that, whilst the members of the Legislative Councils in the three other North American Dependencies of the Crown receive, every Session, remuneration for their travelling and attendance on the Legislature, the House of Assembly of this Island has failed to renew the Act by which this practice was extended to them; notwithstanding that, they have not failed to appropriate for their own services, and in addition to their disbursement and contingent account, the sum of £1382 4s. 6d. out of a revenue of only £33,292.

"Notwithstanding, however, these palpable attempts, totally unapproved of the part to injure the independence and efficiency of their body, Her Majesty's Legislative Council will continue to perform their constitutional duties with undiminished zeal and to the best of their abilities, and so to conduct themselves that your Excellency shall neither find them deficient in their performance, or careless in the maintenance of the constitutional position which it is their high privilege to have been called on to fill by the favor of their most gracious Sovereign."

Hon. Mr. PALMER.—I am, perhaps, not thoroughly posted in the forms and proceedings of this House as I am in those of the other; but I will do my best to explain to you the nature of the Resolution proposed in addition to the Address, which has just been submitted by His Honor, Col. Swabey, may be considered out of place. That proposed amendment or addition calls not in question a single sentence either of the Speech or of the Address. It seems to be merely a paragraph or proposition, embodying the sentiments of the Hon. Col. Swabey respecting a certain Address to Her Majesty the Queen, and which he has just read to you. I have no objection to your proceeding to give your opinion on it, but having sent down the Despatch which he presumes has been received by His Excellency relative to that Address, without knowing whether or not any such Despatch has been received by His Excellency, and although he well knows that the time is not yet arrived when, according to parliamentary usage, Despatches are laid before either of the Houses of the Legislature, and although he has no objection to your proceeding to give your opinion on it, he has not been prepared to do so, until he has had the opportunity of seeing the Despatch which he presumes has been received by His Excellency relative to that Address, without knowing whether or not any such Despatch has been received by His Excellency, and although he well knows that the time is not yet arrived when, according to parliamentary usage, Despatches are laid before either of the Houses of the Legislature, and although he has no objection to your proceeding to give 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