

His Excellency was pleased to open the Session with the following

SPEECH:

Mr. President, and Honorable Gentlemen of the Legislative Council;

Mr. Speaker, and Gentlemen of the House of Assembly;

Our Gracious Sovereign having been pleased to appoint me to the Government of this Island, I have much satisfaction in meeting you in your Legislative capacity, at this early period after my arrival, and I avail myself of the first opportunity of communicating to you my earnest desire to administer the Government upon those just and impartial principles, which, whilst they will give me a claim to public confidence, will enable me, with your assistance, to contribute to the happiness and prosperity of this interesting and thriving Colony.

It devolves upon me now to submit for your consideration, several matters of much importance to the present and future welfare of the Colony. Among the most pressing of these, is the state of the Island Currency, a wholesome reform of which is urgently required. To assist your deliberations in effecting this desirable object, I shall direct to be laid before you the views entertained by Her Majesty's Principal Secretary of State for the Colonies, both as to the cause of the present state of the Currency, and its proposed remedy. To these views I must claim your serious and earnest attention.

The future management of the Post Office in the British North American Provinces, will also occupy a prominent position in your deliberations; Her Majesty's Post Master General being prepared to surrender to the Provincial Authorities the control of this department, so soon as by concert between the several Legislatures arrangements shall be matured for securing the advantages of an efficient and uniform system. The several communications upon this important question, together with the able Report of the Commissioners, appointed by the Provinces of Canada, Nova Scotia and New Brunswick, shall be laid before you.

The unfortunate sickness and distress which prevailed among the Emigrants from Ireland last year, has induced Her Majesty's Government to propose to the several Provincial Legislatures the enactment of a law to afford additional security against the recurrences of similar misfortunes. The views of Her Majesty's Government, as communicated to the Right Honorable the Earl of Elgin, will be submitted for your information and guidance.

A revision of the laws regulating Election, is also a matter well deserving your attention, and I recommend to your consideration whether a law upon the same principle as that which was lately passed in the Province of Nova Scotia, and which is also in force in the Province of New Brunswick, might not be adopted with advantage in this Colony.

I will communicate to you by Message, such other matters affecting the general interests of the Island, as it may be deemed necessary to bring under your consideration during the Session.

It will be gratifying to you to learn the prosperous state of the Revenue for the past year. Although burdened with an unforeseen and extraordinary expenditure, exceeding 3000, in providing seed grain for the necessitous settlers at the commencement of the season, and in supporting the sick and destitute Emigrants, it will still be found to exhibit a considerable surplus beyond the charges of the year. Encouraging as this favourable state of the Revenue appears, I must press upon you the necessity of exercising the strictest economy in its disposition, by a systematic perseverance in which, we may hope to relieve the Colony from its existing liabilities.

Mr. Speaker, and Gentlemen of the House of Assembly:

I shall order the Public Accounts to be submitted to you without delay. The classification which has been made by the Auditors, as suggested by the House of Assembly in the last Session, will prove a saving of time and labour, by affording facilities for their examination.

The estimates for the Supplies of the current year will also be laid before you, and I have every confidence that you will grant the necessary provision for the Public Service.

As the Act for levying an assessment on all Lands in the Island, will shortly expire, it will be for you to consider whether, in the present circumstances of the Island, it will not be advisable to continue this Act, or even to raise a large proportion of the Colonial Revenue from this source, so as to enable you to reduce other duties, with a view to the encouragement of the Trade of the Colony.

I would, however, suggest, for your consideration, whether it will be expedient to continue the distinction between improved and unimproved lands.

Mr. President, and Honorable Gentlemen of the Legislative Council;

Mr. Speaker, and Gentlemen of the House of Assembly:

Being sensibly impressed with the conviction, that our co-operation is essential to the advancement of the public interests, I invite you to an unreserved communication upon all occasions, and you may rely upon my ready concurrence, in such measures as are calculated to develop the resources of the Colony, and to promote peace, good order, and the welfare of the people.

The Speaker and Members having then retired to their own House, the Speech was read from the Chair, after which the Speaker rose, and stated to the House that during the recess, he was informed by two members of the House, Messrs. Rae and Whelan, that a vacancy existed for the First District of Queen's County, by the appointment of Mr. George Coles to a seat in the Executive Council, and that, in conformity to the law, he had intimated the existence of such vacancy to His Excellency the Lieutenant Governor—that a new Writ of Election was issued—that an Election had accordingly taken place, but that no Return had been made to the House. He also stated, that he had been informed by four other members of the House of a vacancy for the representation of the First District of Prince County, by the appointment of Mr. Warburton to a seat in the Executive Council—that he had intimated such vacancy to His Excellency the Lieutenant Governor, as was his duty in accordance with the Law, and that he had received from His Excellency in reply, a copy of the opinion of the Crown Law Officers, to the effect, that no law existed to compel a Member of the House accepting a seat in the Executive Council to go back to his constituents. He then submitted the several Documents, and left to the House to decide whether it should resolve itself into a Committee of Privileges and Elections to settle the question of these vacancies.

Considerable discussion then ensued. Dr. Conroy observed that the question was one which involved not only the privileges of that House, but the rights and privileges of every man in the community. Examples might be given from history to shew the importance of these privileges, and he referred particularly to the contests which arose in the time of Charles the First between the Crown and the Commons. Were it not for the stand which was made by the men of those days against the encroachments of the Crown, we should have little to boast of in the British Constitution. The hon. member concluded by moving for a Committee of the whole House on Privileges and Elections.

Mr. Palmer, in seconding the motion, agreed, that going into Committee was the only feasible course of disposing of the question, as it would, no doubt, call for much discussion, and much time be spent in searching for precedents.

Mr. Rae stated that he was one of those who addressed the letter to the Speaker, informing him of a vacancy having occurred for the First District of Queen's County, not, as his letter would shew, in accordance with the law of the land, but in accordance with the views of a majority of the Assembly, as expressed in their resolution. He differed with those who made that resolution an interpretation of the law, and maintained, that both by law and precedent Mr. Coles had a right to hold his seat in that House: And there was the published opinion of the Law Officers of the Crown, which declared, that no law existed to compel a member of the House to vacate his seat on going into the Council, and he considered that expression of opinion entitled to regard. The hon. member cited the case of the Hon. J. S. McDonald, Messrs. Pope and Palmer, who had taken seats in the Council, without going back to their constituents, and he did not suppose that either of these gentlemen would plead an ignorance of the law—he also adverted to the Practice of England, which did not require a member of the House of Commons to vacate his place unless he accepted of an office of emolument, and referred to a Despatch from Lord Stanley, while Colonial Secretary, to the Governor of New Brunswick, in which he disclaimed the principle, as a part of the constitution of the Mother Country, contended for by members of this House, namely, that a member, on becoming an Executive Councillor, vacate his place in the Assembly. The hon. member concluded by moving a resolution, confirming Mr. Coles in his seat, and against going into Committee.

Mr. Palmer contended that it was impossible to dispose of the matter without going into Committee.

The hon. Speaker said the Resolution of the hon. member for Prince County (Mr. Rae) was irregular, and could not receive it.

Dr. Conroy spoke in favor of going into Committee. He said that House were called upon to guard their own privileges, and should not bow down to the opinions of the Crown Officers. These opinions possessed little weight with him; for if Mr. McCallum had been returned at the last Election no power could have prevented him from taking his seat, and hold it constitutionally and honourably.

Mr. Haviland urged the propriety of going into Committee—the present proceeding was only taking up the time of the House uselessly, and not in accordance with its rules.

The hon. Speaker said it appeared to him that declining to go into Committee was as tantamount to abrogating a resolution of that House; it would in substance have the effect of rescinding one, and consequently in an irregular proceeding.

Mr. Macintosh thought there were some gentlemen in that House who, notwithstanding their frequent boast of being the guardians of the people's rights, desire to make them subservient to narrow views. Of what use was the attempt to introduce a practice in this Colony which the Secretary of State has discountenanced in a Colony so near to us as New Brunswick. When the matter was brought under the notice of the House last year, he expressed his opinion upon it, and instead of the principle contended for by gentlemen on the opposite

side being a part of the privileges of the House and the people, he thought then as now, that it was an attempt to trample on them.

Mr. F. Longworth contended that as the hon. Speaker had fully explained the part he had taken in the question out of the House, and had placed the opinions of the Crown Law Officers on the table, the House ought not to refuse going into Committee to investigate the whole affair. Any doubts respecting the occupancy of seats in that House ought at once to be set at rest.

Mr. Mooney disapproved going into Committee. It would be a waste of time. He thought they should rather turn their attention at once to the real business of the country. The resolution of last Session was of itself useless, as no bill was founded thereon, and the highest legal opinions in the land declare that the seats of Messrs. Coles and Warburton were not vacated by their going into the Council. He thought that with some of the gentlemen on the other side, there was a good deal of the prompting of political spleen, which could not fail to be injurious to the real interests of the country. Dr. Conroy had gone back to the reign of Charles the First, to bolster up his view of the question, although he thinks it perfectly plain and simple. Dr. Conroy would have us to believe that he is always right—never wrong; yet he has found it convenient to deny a vote which he gave last year.

Mr. Montgomery would not wed himself to the opinions of the Attorney or Solicitor General, any more than he would place his constituents in their hands. The privileges of the House ought to be judged of by its members; he would therefore vote for going into Committee, as being the constitutional mode of adjudicating on the question.

Mr. Clark explained, that when he last year voted for the resolution, he had not given that attention to the Act to which it related that he ought to have done; he had voted partly in ignorance upon that occasion. The Legislature of New Brunswick passed a law, making it compulsory on members of the Assembly accepting seats in the Executive, to return to their constituents, but it was not sanctioned by Lord Stanley. How then, he asked, was it probable that what was condemned there would be upheld here? Two wrongs never make one right, and though his opinion was changed, that change was not brought about by the opinions of the Crown Law Officers, but solely by mature consideration. He could not comprehend why Mr. Coles should be compelled to return to his constituents, when the hon. Speaker, the Hon. J. S. McDonald and Mr. Palmer, under precisely similar circumstances, did not do so. He was very much astonished that this law—then in existence—was not construed, as it has been construed to affect the Hon. Messrs. Coles and Warburton, for to impress upon the House the idea that they were ignorant of the existence of the Act, is too great a stretch upon one's credulity; that it had reference only to the Legislative and Executive Council in its double character, he was perfectly convinced, and felt no reluctance to acknowledge that he viewed the whole matter in quite a different light from that in which he considered it last Session.

Mr. Le Lacheur thought it strange that those three gentlemen just alluded to by the hon. member for Princetown (Mr. Clark), should have so long held their seats by usurpation. What they condemn in others, they themselves are guilty of. He wished to know from gentlemen of the law in the House, how it was possible the seat of the Hon. Mr. Warburton could be called in question, he being only provisionally appointed, and his appointment, yet subject to the controul of Her Majesty. Supposing the seats of the two gentlemen in question were declared vacant, and the opinions of His Excellency's legal advisers set at nought, in what a state of embarrassment would it not place him. He did not see how His Excellency could issue new Writs. In his opinion, nothing could be done till His Excellency had received advice from the Home Government; and thus would two constituencies be virtually disfranchised for this Session.

Some discussion ensued as to whether Messrs. Warburton and Coles should take part in the debate; ultimately it was decided that the former should, and that the latter should have an opportunity to reply at the conclusion of the labours of the Committee. Much argument followed on both sides as to whether Messrs. Coles and Warburton should vote on this question, which if allowed to vote, would make the numbers *ten and ten*, the casting vote of the hon. Speaker would decide it in his favor.

Mr. Palmer moved that the names of Messrs. Coles and Warburton be struck out of the division, the House divided, and the same division appearing, the Speaker ordered the two names to be struck out, and the question being put and carried on the original motion, the House went into Committee on Privileges and Elections, Dr. Jardine in the Chair, soon after the House adjourned.

EMBARGO ON POTATOES.

After a short debate last evening, the following Resolution, introduced by Mr. Thornton, was carried in the House:

Resolved, That owing to the failure of the Potato Crop and the consequent scarcity of that article of food, it is expedient that a Bill be introduced to prohibit the exportation of Potatoes till the first day of August next.