

The Colonial Herald,

AND

PRINCE EDWARD ISLAND ADVERTISER.

Vol. III.]

CHARLOTTETOWN, SATURDAY, APRIL 11, 1840.

[No. 141.]

COLONIAL LEGISLATURE.

TUESDAY, March 17.

The Bill to prevent the running at large of Neat Cattle in the Streets of Charlottetown being read a third time; Mr. Clark moved that the Bill do now pass.

Mr. Palmer moved, in amendment, to leave out the word "now," and at the end of the question to add the words "this day three months."

The House divided on the motion of amendment: YEAS—Messrs. Palmer, Thomson, Beck, Dalziel, Longworth—5.

NAYS—Messrs. Clark, Macfarlane, Montgomery, J. Dingwell, Fraser, W. Dingwell, J. S. Macdonald, Forbes, M'Neil, Macintosh, Rae—11.

So it passed in the negative.

The motion "That the Bill do pass," was then put and carried.

The House then went into Committee of the whole, on the further consideration of the Report of the Special Committee appointed to examine and report on the Public Accounts—Mr. Longworth in the chair.

[For the Report of the Committee of the whole House on the Public Accounts, see the Herald of the 21st ult.]

A Petition of the Officers and Committee of the Charlottetown Temperance Society was presented to the House by Mr. Clark, and the same was received and read—praying that an Act may be passed to prohibit entirely the importation of Ardent Spirits into this Colony, and the distillation of any quantity thereof by means of domestic manufacture; or for the adoption of such other salutary and restrictive measures for the promotion of Temperance as to the House may seem meet.

Resolved, That the said Petition be referred to a Committee of nine Members, to examine the same, and report thereon to the House at its next Session.

Ordered, That Mr. Clark, Mr. Longworth, Mr. Yeo, Mr. Thomson, Mr. Dalziel, Mr. Hudson, Mr. D. Macdonald, Hon. J. S. Macdonald and Mr. Macneill do compose the said Committee.

A Message was received from the Legislative Council, informing the House, that they had passed the Bill for the appointment of Coroners in King's and Prince Counties, with an amendment, suspending the operation of the Act until Her Majesty's pleasure therein shall be known.

Resolved, That the several Petitions praying aid towards the relief and support of Paupers and Lunatics, presented to the House this Session, be referred to a Committee of twelve Members, to examine the same, and report thereon with all convenient speed.

Ordered, That the Hon. J. S. Macdonald, Mr. Clark, Mr. Dalziel, Mr. Thomson, Mr. Yeo, Mr. Pope, Mr. Macneill, Mr. Le Lacheur, Mr. Fraser and Mr. Palmer do compose the said Committee.

WEDNESDAY, March 18.

The House went into Committee on the amendment made by the Council to the Bill to authorize the appointment of Coroners in King's and Prince Counties—Mr. D. Macdonald in the chair.

The Chairman reported, that the Committee had come to a Resolution, as follows:

Resolved, That it is the opinion of this Committee, that this House do concur with the Legislative Council in their amendment to the said Bill.

And the question of concurrence being put on the said Resolution, it was agreed by the House.

Mr. Rae, from the Committee appointed to wait upon His Excellency the Lieut. Governor, with the Address, requesting a copy of Lord John Russell's Despatch of the 16th Oct. 1839, on the subject of the responsibility of Public Officers, reported to the House that he was pleased to say he would comply with the desire of the House.

THURSDAY, March 19.

The Hon. J. S. Macdonald reported from the Committee to whom was referred the several Petitions presented to the House this Session, praying aid towards the relief and support of Paupers and Lunatics;

Your Committee having maturely considered the subject to them referred, are of opinion, that the Petitioners, and others for whom aid is solicited, be relieved to the extent of the sums respectively attached to their names in the following Schedule:

James English - £3 0 0
William and Magdalen Holmes - 10 0 0
Daniel Quigley - 5 0 0
Matthew Flinn - 5 0 0
Mary Hickey - 3 0 0
Peter Macmillan - 5 0 0
Maurice Curran - 3 0 0
William Macneill - 5 0 0

PRINCE COUNTY. £39 0 0

Nancy Macgillivray - 2 10 0
Mary Hore, for expenses of James Hall - 5 0 0
Thomas Devereaux - 4 0 0
Mary Cluny, to pay her passage to Newfoundland - 5 0 0
Angus M'Kellock - 3 0 0
Margaret Campbell - 2 10 0
John Griffin - 7 0 0
Elizabeth Brow - 2 10 0
John Smith - 3 0 0
Christiana Maceachren - 3 0 0
John Rowan - 3 0 0

KING'S COUNTY. £40 10 0

Charles Russell - 5 0 0
Nancy Keilley - 3 0 0
John Ready - 5 0 0
Rosanna Mitchell - 5 0 0
Catharine Hilliard - 5 0 0
Helen Reilly - 4 0 0
James Conway - 5 0 0
Simon Mackinnon - 3 0 0
Catherine Gainer - 5 0 0
Charles Nicholson, Orwell - 5 0 0
Hercules Freeze, New London - 8 0 0
James Maddox - 8 0 0
Joanna Redmond - 5 0 0
Margaret Finlayson - 8 0 0
Christiana Macphee - 3 0 0
Mary Macaulay, towards the support of her son John - 10 0 0
Archibald M'Nevin - 3 0 0
John Macnamara - 10 0 0
William Purcell - 10 0 0
Elizabeth Le Page - 10 0 0

QUEEN'S COUNTY. £148 0 0

Three blind persons of the name of Mackay, at New London - 12 0 0
John Joseph A. Retture, New London - 8 0 0
Robert Winter - 5 0 0
Ann Macdonald, Belfast - 3 0 0

Your Committee are of opinion that it is inexpedient to grant the prayer of the Petitions from or on behalf of the following persons, viz:

Thomas Welsh, Lot 66;
John Egan, Lot 32;
Edward Fehan, Lot 37;
Edward Brennan, Lot 18.

Your Committee respectfully recommend to the House to grant a sum in aid of the Ladies' Benevolent Society, to enable them more effectually to provide for the support of the indigent; and that the case of Thomas Prendergast be referred to their consideration.

Ordered, That the said Report be referred to the Committee of Supply.

The amendment made by the Legislative Council to the Bill to authorize the appointment of Coroners in King's and Prince Counties was read the third time.

A motion being made, that the said amendment do pass; the House divided on the question: YEAS, 12. NAYS, 6.

Mr. Rae presented a Bill to the House, to exempt Lessees and Tenants from being held responsible for Quit Rents and Land Assessments.

FRIDAY, March 20.

Mr. Le Lacheur, from the Committee to whom was referred the Despatch of the Right Hon. Lord John Russell, of the 17th Sept. last, together with a copy of the Bill passed by this House at its last Session, for the settlement of the Inhabitants, to report thereon by Bill, Bills, or otherwise, reported a Bill, as prepared by the Committee, to authorize the Crown to purchase the Lands, and to regulate the settlement of the Inhabitants of this Island, and the same was read the first time.

Mr. Thomson, from the Committee appointed to wait upon His Excellency the Lieut. Governor, with the Message praying for returns of Bonds in the hands of the Attorney and Solicitor Generals, reported the delivery thereof, and that His Excellency was pleased to say, he would cause the returns moved for to be laid before the House.

Mr. Thomson, from the Committee appointed to prepare and bring in a Bill to provide Salaries for certain public Officers, in lieu of fees and other emoluments, presented to the House a Bill to provide a fixed Salary for the Colonial Secretary and Registrar and Clerk of the Executive Council; and the same was read the first time, and ordered to be read a second time to-morrow.

Mr. Palmer presented a Bill to the House, to amend the Act enabling married women to convey Real Estate, &c.

SATURDAY, March 21.

Read a third time, as engrossed, the Bill intitled An Act for opening Roads to Farms from whence there is no access to any public Road.

Mr. Rae moved, that the Bill do now pass.

The Hon. Mr. Pope moved, in amendment, to strike out the word "now," and at the end of the question, to add the words "this day three months."

The House divided on the motion of amendment: YEAS—Hon. Mr. Pope, Mr. Longworth, Mr. Palmer, Mr. Yeo—4.

NAYS—Mr. Le Lacheur, Hon. J. S. Macdonald, Mr. Beck, Mr. Montgomery, Mr. Forbes, Mr. Macneill, Mr. Thomson, Messrs. Clark, Gorman, Dalziel, Macintosh, Macfarlane, Rae, D. Macdonald, Fraser—15.

MONDAY, March 23.

The House resolved itself into a Committee of the whole, on the further consideration of the Bill to exempt Lessees and Tenants from the payment of Quit Rents and Land Assessments—Mr. D. Macdonald in the chair.

The Chairman reported, that the Committee had gone through the Bill, and made several amendments thereto.

Mr. Palmer moved, that the Report of the Committee be received this day three months.—The House divided on the question: YEAS—Hon. J. S. Macdonald, Hon. Mr. Pope, Messrs. Palmer, Dalziel, Gorman, Longworth—6. NAYS—Messrs. Clark, Macintosh, Montgomery, Beck, Macfarlane—11.

The several amendments reported from the Committee were then read by the Clerk, and agreed to by the House.

Mr. D. Macdonald moved, that the said Bill, as amended, be engrossed.

The Hon. Mr. Pope moved, in amendment, that after the word "engrossed," all be struck out, and the following substituted—"and that the Title be 'An Act to abolish the rights of property, and to invalidate all contracts entered into between Landlord and Tenant, for the payment of Quit Rents and Land Assessments;' which being seconded and put, passed in the negative.

The question being then put on the main motion, it was agreed to by the House.

Mr. Gorman presented to the House a Bill to regulate the Herring and Alewives Fisheries.

The Hon. Mr. Haviland, by command of His Excellency, delivered the following Messages:

FIRST MESSAGE.

C. A. FITZ ROY, Lieut. Governor.

The Lieutenant Governor transmits to the House of Assembly, Copy of a Despatch which he has received from the Right Honorable Lord John Russell, Her Majesty's Principal Secretary of State for the Colonies, bearing date the 16th of October last, relative to the responsibility of Public Officers, as requested by the House of Assembly.

Government House, March 23d, 1840.

SECOND MESSAGE.

C. A. FITZ ROY, Lieut. Governor.

The Lieutenant Governor lays before the House of Assembly, Plans and Estimates of a Fire-proof Building, to be erected in Charlottetown, for the safe keeping of the Public Records, and for other purposes enumerated in the Act of the 7th Will. 4, cap. 31.

These Plans also include the accommodation necessary for holding the Supreme Court within the same building; and the Lieutenant Governor strongly recommends to the serious consideration of the House of Assembly, the propriety of making such addition to the appropriation, under the Act in question, as will enable the Commissioners to carry into effect so desirable an object of public convenience.

Government House, 23d March, 1840.

The Order of the Day, for the House in Committee to inquire into and take into consideration the State of the Colony, being read.

The House resolved itself into said Committee. The Hon. J. S. Macdonald, the chairman, reported, that the committee had come to three Resolutions, which they had directed him to report to the House, and which were agreed to.

1. Whereas it has been officially communicated to the House of Assembly, that the Lords Commissioners of Her Majesty's Treasury have no objection to the appropriation of the sum of Fifteen hundred Pounds out of the accruing produce of the Sales of Crown Lands in this Colony, to the erection of a building in Charlottetown, as an Asylum for insane persons and other objects of charity, the House of Assembly making provision for the future maintenance thereof: Therefore, Resolved, That it is the opinion of this Committee, that a Bill be brought in to provide for the erection and future maintenance of an Asylum for insane persons, and other objects of charity.

2. Whereas the Plans sent down by His Excellency the Lieutenant Governor, by Message, on the 1st February last, accompanied with a Despatch from the Right Honorable the Marquis of Normanby, transmitting the same, are not the Plans prayed for by the Address of this House to His Excellency the Lieutenant Governor, on the 14th April, 1839, nor those to which the Tabular explanation which accompanied the same refers: Resolved, therefore, that an Address be presented to His Excellency the Lieutenant Governor, thanking His Excellency for his attention in forwarding the views of the House in this matter; and respectfully requesting, that he will be pleased to renew the application for the Plans required; and further praying His Excellency, to use his influence to obtain a copy of any Plan or Plans of Georgetown and Royalty, which may have been sanctioned by the Imperial Government, prior to the year 1835.

3. Resolved, That it be recommended to the House to

appoint a Special Committee to examine the state of the Public Plans and Surveys in the Surveyor General's Office, and any authorized records contained therein, and report thereon to the House.

TUESDAY, March 24th.

The Bill to amend the Act enabling married women to convey Real Estates during their coverture, was read a third time, and passed.

The Bill to repeal the Act for regulating the Herring and Alewives Fisheries, was read a second time, and passed to be engrossed.

The rest of the day was spent in Committee of Supply.

WEDNESDAY, March 25th.

The Bill to prevent Lessees or Tenants being responsible for Quit Rents and Land Assessments, was read a third time.

Mr. Rae moved, that the Bill do now pass.

Mr. Palmer moved, in amendment, to strike out the word "now," and at the end of the question to add the words "this day three months."

The House divided on the motion of amendment: YEAS, 6. NAYS, 12. So it passed in the negative.

The question being then put on the main motion, "That the Bill do pass," the House again divided: YEAS, 11. NAYS, 7. So it was resolved in the affirmative.

Read a third time and passed, the Bill to repeal the Act for regulating the Herring and Alewives Fisheries.

A Message was received from the Legislative Council, acquainting the House, that they had passed the following Bills, to which they desire the concurrence of the House of Assembly, viz:

An Act to prevent the bringing persons convicted of Felonies and Misdemeanours to this Island, from the Island of Newfoundland, or elsewhere in America.

An Act to provide for the maintenance and support of illegitimate children.

This day the Hon. J. S. Macdonald, from the Committee on the consideration of Supply, reported 41 Resolutions of the said Committee.

1. £260 for Salary of Collector of Impost for Charlottetown.

Mr. RAE moved that the Resolution be referred back to the Committee of Supply for re-consideration.

YEAS 8.—NAYS 12.

2. £40 for Salary of Market Clerk.

Mr. RAE moved that the word "Forty" be struck out and the word "Thirty" substituted.

YEAS 6.—NAYS 14.

The third to the 20th Resolution, for usual services, were agreed to without any division.

21. £100 to defray the Chief Justice's travelling charges.

Mr. RAE moved that the said Resolution be referred back to the Committee of Supply, for re-consideration.

YEAS 9.—NAYS 11.

The 22d to the 31st Resolution, granting sums for contingent expenses, Salaries for Sheriff's, Jailers, &c., were agreed to.

32. That £60 be granted the Speaker, and £30 to each member, to indemnify them for their disbursements while attending the sitting of the House of Assembly, with travelling charges.

Mr. PALMER moved that "Sixty" be struck out, and the word "Fifty" substituted; and that the word "Thirty" be struck out and the words "Twenty-five" substituted.

YEAS—Messrs. Palmer, Clark, Hon. Mr. Pope, Longworth, Hon. J. S. Macdonald—5.

NAYS—Messrs. Hudson, Fraser, Montgomery, Macfarlane, W. Dingwell, D. Macdonald, Rae, Gorman, Beck, J. Dingwell, M'Intosh, Dalziel, Macneill, Forbes, Thomson.

33. £20 to John Arbuckle, late a Member of the House.

34. £167 4s. 5d. to defray the balance due for repairs and improvements on Government House during the past year.

35. £300 to defray the expenditure on Government House and premises, for the present year.

36. £3000 for Roads and Bridges.

Mr. THOMSON moved that the sum of £2,500 be substituted, which was negatived.

38. £400, towards completing the Main Western Road.

Mr. FRASER moved, that the following words be added to the said Resolution—"and that Twenty-five Pounds thereof be expended in covering the logs and completing the road at each end of Ellis River Bridge;" which was negatived.

The Hon. Mr. Pope then moved, that the following words be added to the said Resolution—"North of Ellis River Bridge, and thence to Hill's Mills;" which was carried in the affirmative.

The Petition of divers Inhabitants of Bay Fortune, praying an aid to purchase a right of way through the farms of William Dingwell and William Mackenzie, was taken up and again read.

Ordered, That the said Petition be referred to the Committee of Supply.

Ordered, That Mr. Longworth have leave to introduce a Bill to regulate the service of Processes issued out of any of the Superior Courts of this Island.

He accordingly presented the said Bill to the House, and the same was read the first time, and ordered to be read a second time on Friday next.

THURSDAY, March 26.

Mr. THOMSON, in his place, presented to the House an extract from the Blue Book, showing the amount paid to the Colonial Secretary, Registrar and Clerk of the Executive Council, for the last six years—received, in compliance with the Message of this House to His Excellency the Lieutenant Governor, of the 21st inst.

The House then went into Committee on the Bill to amend the Merchant Seaman Act.

Mr. MONTGOMERY, the Chairman, reported, that the Committee had gone through the Bill, and made several amendments thereto.

Mr. FRASER moved, that the Report be received this day three months.

The House divided on the question: YEAS—Messrs. Fraser, Rae, Macintosh, Forbes, D. Macdonald, J. Dingwell—6.

NAYS—Messrs. Longworth, Thomson, Beck, Macneill, Dalziel, Hon. Mr. Pope, Gorman, Palmer, Hudson, Clark, Montgomery, W. Dingwell, Hon. J. S. Macdonald—13.

So it passed in the negative.

The amendments reported from the Committee were then read by the Clerk, and on the question put thereon, agreed to by the House.

Ordered, That the said Bill, as amended, be engrossed, and that the Title be "An Act to amend the Act relating to Merchant Seamen."

Mr. PALMER, from the Committee appointed to inquire into the subject of the introduction of Money Penalties into Bills, with a view to the founding of a Rule thereon, for the future governance of the House, presented the Report of the said Committee; which Report was again read at the Clerk's Table, and is as followeth:

Your Committee appointed to examine into the usage and practice of your Honourable House hitherto pursued, where the upper branch of the Legislature originate, or propose to amend, any Bill, or Clause of a Bill, in which a penalty or forfeiture is imposed, with a view of defining, by express rule, the extent to which the House of Assembly should recognize the interference of the Legislative Council in such matters, find that the House of Assembly hath ever claimed to itself the sole right of originating all

Bills, or Clauses of Bills, by which any penalty or forfeiture of a pecuniary nature is intended to be imposed on the subject; but inasmuch as your Committee have grounds to believe that this subject has lately been considered by the House of Commons of Great Britain, and that where the direct object of a Bill is not to tax the subject or to grant aids to the Crown, but for any other principle, and there are penalties in the Bill to effect such purpose, the House of Commons would now appear to admit the right of the House of Lords to amend any penalty clauses in such Bill contained; your Committee would respectfully submit that the House of Assembly should for the present relax the rule it has hitherto so strenuously adhered to, so far as to acknowledge (until reference can be obtained to the Journals of the House of Commons) a co-ordinate right in the Legislative Council to originate Bills containing penalties or forfeitures of a pecuniary nature (it not being a direct object to tax the subject or to grant aids to the Crown,) and to prescribe the mode of recovery thereof; and also the right of amending any Bills sent from this House containing clauses of such a nature.

Ordered, That the said Report be received and adopted by the House.

The Bill to provide a fixed Salary for the Colonial Secretary and Registrar and Clerk of the Executive Council was, according to order, read a second time.

Ordered, That the said Bill be now committed to a Committee of the whole House.

Mr. HUDSON, the Chairman, reported, that the Committee had made some progress, and had directed him to move for leave to sit again.

Ordered, That the said Committee have leave to sit again on Wednesday next.

FRIDAY, March 27.

Mr. THOMSON, from the Committee appointed to wait upon His Excellency the Lieut. Governor, with an Address relative to the procuring a copy of the original Plan of Survey of the Island, made by the late Mr. Holland and others, reported to the House, that their Address had been presented to His Excellency, and that he was pleased to say he would comply with the desire of the House.

Mr. THOMSON, in his place, presented to the House the following papers, received in compliance with the Message of the House to His Excellency the Lieutenant Governor, of the 17th inst. viz:

List of Bonds in the Attorney General's hands, with the Balances due thereon, exclusive of Interest.

List of Bonds recently handed over by the late Solicitor General to the Acting Treasurer, with the Balances due thereon, exclusive of Interest.

Ordered, That the said papers be referred to a Committee of the whole House to-morrow.

The House went into Committee on the consideration of all matters relating to Roads and Bridges—Mr. Thomson in the chair.

The Chairman reported, that the Committee had come to several Resolutions; which Resolutions being again read, and the question being separately put thereon, were agreed to by the House.

[For the said Resolutions, see the Herald of last week.]

The Hon. J. S. Macdonald, Mr. Hudson, Mr. Palmer, Mr. Clark and Mr. Pope were appointed a Committee, to whom was referred the Petition for a new Bridge over Elliot River, from Angus M'Eachern to Macewen's, to inquire into the expediency and practicability thereof, and the probable expense, to report thereon next Session.

Messrs. Fraser, Yeo, Gorman, Clark and Montgomery were appointed a Committee, to inquire into the expediency and practicability of erecting a new Bridge over Ellis River, between Macdonald's and Shores, the probable expense thereof, and the state of the roads on each side of the proposed site; and to report thereon next Session.

The Bill to prevent persons convicted of felonies and misdemeanors being landed in this Island from Newfoundland or elsewhere in America, was read a second time, and committed to a Committee of the whole House.

On the House resuming, the Chairman (Mr. Longworth) reported that the Committee had gone through the Bill, without making any amendment thereto.

The Bill to regulate the service of Processes was read a second time and committed to a Committee of the whole House.

In the Committee, a clause was added to the Bill, on motion of Mr. Pope, providing that no Writ of Fieri Facias, or other Writ, issued under the authority of the Land Assessment Act, shall hereafter be executed by the Coroner of this Island, or of any County therein, unless in cases when the Sheriff or his Deputy shall be personally interested, or otherwise disqualified.

On the House resuming, the Bill with the amendment was agreed to, and ordered to be engrossed.

Mr. Palmer introduced a Bill to further amend the Act establishing the times and places for holding the Supreme Court in King's and Prince Counties. Second reading on Tuesday.

SATURDAY, March 28.

The Bill to prevent persons convicted of felonies or misdemeanors being landed in this Island from Newfoundland or elsewhere in America, was read the third time and passed.

The Bill to regulate the service of Processes and to prevent Coroners executing any Writ of Fieri Facias under the Land Assessment Act, was read the third.

On motion of Mr. Rae, a clause was added to the Bill, limiting its continuance to ten years.

The Hon. Mr. Pope moved to amend the Bill, in Section I, by adding the following proviso thereto—"Provided always, that nothing herein contained shall be construed to prevent the articles Clerk of any practising Attorney from serving such Processes within the limits of the several Towns and Royalties;" which was carried in the affirmative.

The Bill was then passed, and sent to the Council for concurrence.

Mr. RAE reported from the Committee appointed to examine the state of the Public Plans and Surveys in the Surveyor General's Office, and any authorized records contained therein. The Report was referred to the Committee of the whole House on the state of the Colony.

The Hon. Mr. Pope, by command of the Lieut. Governor presented to the House two Petitions from divers Ship Owner, and others of Richmond Bay and New London, setting forth the necessity of a Light House being established on the North Cape of this Island, and praying His Excellency to urge upon the Legislature of this Island and upon the Governments of the neighbouring Colonies, the urgent necessity of making provision for the erection and future maintenance of so desirable an object—which said Petitions were by His Excellency referred to the consideration of the House of Assembly.

Ordered, That the said Petitions be referred to the Committee on the state of the Colony.

Mr. D. Macdonald, from the Committee to whom was referred the Petition of Thomas Irwin, praying for a grant of money to enable him to print and publish several manuscripts now in his possession, in the native language of the Indians, reported as follows:

Your Committee to whom was referred the Memorial of Thomas Irwin, on behalf of the Aborigines of this Colony, beg to report, that they are of opinion, that it would not answer the expectations of the Memorialist were even a sum of money voted in order that his Manuscripts might be printed in the Indian language, inasmuch as there must be a doubt of the Manuscripts being accurate, from the fact that, however competent the Memorialist may be to execute such a Work, the Committee do not know of any individual skilled in the language of your those Manuscripts. Besides, it is within the knowledge of your Committee, that such books may be had in the neighbouring Colonies. In order, however, to incite the Aborigines to embrace the habits of industry practised by their more favoured white brethren, and to fit them for a civilized life, your Committee recommend that a sum not exceeding £50 be placed at the disposal of the Lieut. Governor, to be expended in the fol-