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EDWARD WHELAN

This is true Liberty, when Free-born Men, having to advise the Public, may speak free.—EURIPIDES.

[EDITOR AND PUBLISHER

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No. 51.

Provincial Parliament.

LEGISLATIVE COUNCIL.

ADDRESS TO HER MAJESTY, praying that Her Royal Instructions may be given for the formation of an Administration in this Colony, to preside over its affairs in consonance with the principles recognised and established by the Civil List Act of 1851.

MONDAY, May 2, 1859.

The subjoined Address to Her Majesty, moved by the Hon. Col. SWABEY, was, this day, submitted to a Committee of the whole House, agreed to therein, reported accordingly, and adopted on the following division:

CONSENT—His Honor the President, Hon. Col. Swabey, Hon. Mr. Craswell, Hon. Mr. Walker, Hon. Mr. Dingwell, Hon. Mr. Wright, Hon. Mr. McIntyre.

NON-CONTENT—Hon. Mr. Forgan, Hon. Mr. Johnson.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

We, Your Majesty's faithful subjects, the Members of Your Majesty's Legislative Council of Prince Edward Island, in Colonial Parliament now assembled, humbly approach your Throne with sentiments of loyalty and attachment to your august person and Government.

Your Majesty was graciously pleased, in the year 1851, to concede to your faithful subjects in Prince Edward Island the benefits of Constitutional or Responsible Government.

To this end Your Majesty was pleased to give your royal assent to a Bill transmitted from this Legislature, and passed on the 23rd April, 1851.

This Act conceded to this Island a system of Responsible Government similar to that which is in force in Your Majesty's neighbouring Provinces of Canada, Nova Scotia, and New Brunswick, together with Your Majesty's real and personal property, in exchange for the assumption by this Colonial Legislature of the payments necessary for the future support of the Civil Charges of Your Majesty's Government, as likewise of sundry Pensions to persons indicated by Your Majesty who had been long official servants of the Crown in this Island.

The conditions of this arrangement have been faithfully carried out on the part of your faithful subjects, and Your Majesty need not be reminded that Responsible Government consists in the members of a Government being respectively members of one or other branch of a Legislature, which is the practice now in force in the before named neighbouring Provinces.

At a recent Election, with the details of which it is not necessary to trouble Your Majesty, a small majority was obtained in the House of Assembly of parties who endeavour to do away with the constitutional form of Government.

A majority, however, having been declared, it became the duty of the former administration to place their offices at the disposal of Your Majesty's Representative.

Their successors have insisted on appointing to all the Departmental and most important offices in the Colony persons who have no seats in the Legislature, and who are consequently in no way responsible to the people, and the Statute whereby all persons accepting office under the Crown are, when members of the Assembly, compelled to present themselves to their constituents for re-election, is thus evaded, and no parliamentary responsibility exists.

In the year 1854, when Your Majesty's affairs and the interests of your subjects were watched over by Sir Alexander Bannerman, now Lieut. Governor of Newfoundland, a similar attempt to abrogate the Constitution was made by the same parties. On that occasion Your Majesty's Legislative Council deemed it a duty they owed to Your Majesty and the country to present to His Excellency the following Address:

"To His Excellency Sir Alexander Bannerman, Knight, Lieutenant Governor and Commander-in-Chief in and over Her Majesty's Island, Prince Edward, &c. &c. &c.

"MAY IT PLEASE YOUR EXCELLENCY.

"We, the Members of Her Majesty's Legislative Council of Prince Edward Island, are desirous of calling Your Excellency's attention to the recent appointments to offices in the Government of this Island, made, as it appears to us, in violation of the compact entered into on Your Excellency's arrival in the Colony, and calculated to deprive Her Majesty's subjects of the form of Government at that time graciously conceded to their representations and wishes by Her Majesty's command.

"We consider ourselves justified in believing that the form of Government was understood to be Responsible Departmental Government, as in our estimation will be made evident in reference to Your Excellency's Speech on your first meeting the Colonial Legislature, as well as to the Act of 16th Victoria, Cap. 3, in both of which documents the nature of the Responsible Government granted was explained and described to be similar to that then in force in the Provinces of Canada, Nova Scotia, and New Brunswick—a construction which has received its confirmation from its being so practised under Your Excellency's auspices up to the time of the recent change of Government.

"The conditions imposed on this Colony as their part of the compact, have been faithfully performed, whilst the proceedings of Your Excellency's present advisers give us just cause to apprehend the departure from that compact which in our opinion was entered into on the part of the Crown.

"We are prepared to admit that under the system conceded to us, a majority of the House of Assembly is constitutionally entitled to the possession of the Government, and readily acknowledge that were it not that Her Majesty's Royal allowance to an Act creating an entire new Franchise not yet acted on, connected with other circumstances, points out that the existing House of Assembly is not a true representation of the people—it would be the duty of this House to give Your Excellency's Government a constitutional support were it sought on terms honourable to the Members of this Council.

"That notwithstanding the efficiency of this branch of the Legislature is sensibly affected by having no adequate share in the Government of the Colony, we entirely repudiate the supposition that to a Government constructed on those principles which we conceive to be constitutional and responsible, any difficulties would be offered by any majority of this Island, which might differ from that Government, on less important political opinions.

"We further beg to refer to Your Excellency's Speech at the opening of the present Session, when you were pleased to state that you had received a requisition from several members of the Assembly, to convene the Legislature on an

early day, they stating that "they considered that no time should be lost in order to exclude by legal enactment departmental officers from occupying seats in the Legislature." Your Excellency was pleased in reply to say that you declined to call the Legislature together at an unusual period, because in so doing you might be deemed to admit that evils had arisen demanding an immediate change, whilst you bore testimony to the prosperity of the Colony under the existing form of Government.

"We agree with Your Excellency that there exists no cause for alteration, nor do we recognize any desire for it on the part of the people.

"That in the mean time the offices of Keeper of Plans and Treasurer, filled heretofore by members of this Council, are given to gentlemen having no seats in the Legislature.

"That, in respect to the Treasurer in particular, the absence of that officer from one or other branch of the Legislature is not only a great inconvenience, when information is required, but withdraws that department from the surveillance of the public, which experience has shown to be so necessary to the maintenance of public confidence.

"Reviewing these circumstances, we beg to draw Your Excellency's attention to the fact that the Government have a majority in the House of Assembly consisting of those who proposed to Your Excellency their intention to pass legal enactments for the purpose of excluding departmental officers from the Legislature, notwithstanding which no step have been taken to carry out their expressed views on this matter; and two of that majority actually hold office and remain in the Legislature, yet they have made use of their official position as members of Your Excellency's Government to introduce changes not warranted nor sought for by the people.

"And thus it is proposed to Your Excellency to introduce ingredients of Government from the United States into the constitution of Her Majesty's Colony, to which Her Majesty's subjects are averse, and which are in imitation of a system probably having its origin, not in any analogous circumstances, but in the fact that in a federal union the pretensions of the representatives of different states are very difficult of adjustment, and which is moreover accompanied by great and acknowledged practical evils, and is known to be disapproved of in the American States themselves, on the just ground that their departmental officers are not the servants of the people, but of the President.

"We, therefore, pray that Your Excellency will be pleased to interfere and avert, in such manner as to your wisdom may appear best suited, these impending evils."

After the ensuing prorogation, this was followed by His Excellency's dissolving the then House of Assembly, and after the election of a new Parliament, the departmental officers were constitutionally appointed from both Houses of the Legislature; and we know that His Excellency Sir Alexander Bannerman's prompt decision in this matter was honored by Your Majesty's Royal approbation. The somewhat adventitious circumstances of two very recent general elections render a similar course inadvisable in the present instance.

But in the year 1854, there existed powerful reasons for so decisive a step, those reasons not only exist at the present time in their full extent, but much has been added to aggravate the injustice then done to this branch of the Legislature; for, at that time, there were in this House two members named to take their part in the Executive Government. At this time, although there are two honorable gentlemen coinciding in political matters with the majority in the House of Assembly, and one of whom is now selected by themselves, the framers of the Government have not condescended to acknowledge the existence of the Legislative Council by placing either of these gentlemen in the Executive Government.

And here we think it proper to assure Your Majesty, that though a decided majority of this Council does not, in general, agree in opinion on public measures with the majority of the new House of Assembly, nothing can be farther from our thoughts than to interrupt by our votes the legitimate proceedings of the House of Assembly. If such an intention should be alleged against us, we can but deny its veracity and appeal to the Journals of our House in the year 1854, when parties and circumstances were relatively the same, for its refutation. The imputation can have no weight until it is borne out by our proceedings.

To sum up the ground-work of our humble representation, we complain of a total exclusion from the Executive Government of the Colony.

We beg most dutifully to lay before Your Majesty some further facts, of which it appears to us to be our bounden duty to take care that Your Majesty should not remain uninformed. In a population so mixed as this, it has been a just policy not altogether to exclude from the administration of its affairs the Roman Catholic population, consisting of 32,000 out of 71,000, as appears by the Census taken in 1855.

In the late Executive Council, out of nine members, there were three Roman Catholics. In that just formed there is not one.

As things are, we, Your Majesty's dutiful members of your Legislative Council, and all your faithful Roman Catholic subjects, are excluded from any share in the Government of the Colony.

We need scarcely remark on the daily difficulties thrown in the way of all Legislative business by the absence from this House, not only of all departmental officers, but of any one whomsoever who can answer the smallest practical enquiry either regarding administrative affairs or the proceedings and intentions of the Government.

Under all these circumstances, we, Your Majesty's faithful subjects, members of Your Majesty's Legislative Council, pray that Your Majesty will be graciously pleased to give your Royal instructions, that an administration may be formed to preside over the affairs of Your Majesty's loyal subjects in this Island in consonance with Your Majesty's gracious instructions at the time when your Royal assent was given to the Civil List Bill passed in this Legislature 23rd April, 1851, and the compact then so generously entered into by Your Majesty may not be disturbed.

HON. MR. JOHNSON'S PROPOSED AMENDMENT.

Whereas, by a Despatch bearing date the 31st day of January, 1851, addressed by the Right Honble. Earl Grey, Her Majesty's then Colonial Secretary, to Sir Alexander Bannerman, the late Lieutenant Governor of this Island, His Lordship was pleased to disallow the Act passed in the previous year by the Colonial Legislature of this Colony, to make provision for the Civil List thereof, principally on the grounds that the said Act contained a condition by which "a system of Responsible Government similar to that in force in the Provinces of Canada, New Brunswick, and Nova Scotia, should be granted to and established in this Island."

And whereas by the said Despatch, Her Majesty's said Colonial Minister was pleased to declare that "the grant of Responsible Government had never been embodied, as a condition in similar Acts, and that so much as related to the said subject of Responsible Government should stand, as was the case in the other North American Colonies referred to, in the faith of the Crown: ["Hear" from His Honor the President,]

and also that upon certain provisions being made for certain retiring officers then in the Civil Service of this Colony, His Excellency the then Lieutenant Governor, the said Sir Alexander Bannerman, should be at liberty, without entering into particulars, to reconstruct the Executive Council in such manner as to include those who possessed the confidence of the Assembly."

And whereas the members of Her Majesty's Executive Council, or Government of this Colony, and the principal public officers therein, resigned their seats and their said offices, shortly before the present meeting of the Legislature; and thereupon His Excellency the Lieutenant Governor was pleased to appoint a new Executive Council, with whom His Excellency is now administering the Government of this Colony:

And whereas His Excellency's said new Executive Council enjoy the confidence of the people of this Colony, as indicated by the support of at least eighteen against twelve of the Representatives in the present Colonial Parliament:

And whereas all, but one, of the twelve members composing this honorable House have been appointed under the system of Departmental Government, by the Lieutenant Governor and His Excellency's late Council, and a large majority of said twelve are gentlemen whose political opinions are well and popularly known to be in unison with the principles of Departmental Government, and which principles a large majority of the people have repudiated as totally at variance with their judgment and wishes:

And whereas the people of this Colony have repeatedly and unmistakably declared against being governed by heads of departments, as witnessed and proved at the hustings during the last two years, especially when out of five official gentlemen who have appeared to the people for approval, namely, Commissioner of Public Lands, Attorney General, Treasurer, Colonial Secretary, and Postmaster General, one only has been able to procure his return, namely, the Hon. Col. Secretary.

Resolved, therefore, that in constructing the new Administration of this Island, His Excellency the Lieutenant Governor has acted in accordance with the well understood wishes of its inhabitants, and that there exists no law or constitutional rule, in this Colony, which demands the presence in either branch of the Legislature of any of the principal salaried officers of the Government; and that to require any or either of such officials to be brought into the Legislature against the wishes of the people (who have found from practical experience that the departmental rule is totally inapplicable to a Colony of such limited advantages for carrying on that form or system of Government) would be unwise and a breach of that faith which was established between this Colony and the parent kingdom, when Her Majesty was pleased to concede to it the advantages of Responsible Government.

WEDNESDAY, May 18, 1859.

Hon. Col. SWABEY called the attention of His Honors to an Address to Her Majesty agreed to elsewhere, having reference to the Address to Her Majesty agreed to by the Legislative Council, on the 2nd instant, which said Address agreed to elsewhere, went, in one paragraph, as he had been credibly informed, to impugn the correctness of a statement made in that of the Legislative Council respecting the influence which an Address of the Legislative Council to His Excellency Sir Alexander Bannerman had had upon his mind; and moved the appointment of a Committee to prepare an Address to His Excellency Sir Dominick, by means of which their Honors might be enabled to free themselves from the imputation of misrepresenting a fact in their Address to Her Majesty, which he understood had been cast upon them. The motion, having been seconded by the Hon. Mr. WALKER, was agreed to, and the Hon. Col. Swabey, Hon. Mr. Hutchinson, and Hon. Mr. Bagnall, were appointed a Committee accordingly.

R. B. IRVING, Reporter.

HOUSE OF ASSEMBLY.

SUMMARY OF PROCEEDINGS.

ELECTIVE LEGISLATIVE COUNCIL.

(Continued.)

Hon. Mr. PALMER was long opposed to an elective Council. It was mooted a long time back, and he had given his opinion. The hon. member, Mr. Cooper, has had a variety of changes in his political life. He had changed in all things except eschat. A Council elected by the people would not please him, and it was some time before he agreed to it. He had thought the more independent the Council was in its construction, it more nearly approached that of the mother country, which we were supposed to copy. He had opposed it, because he thought it would contain too much of the democratic element, and believed that the nomination by the Crown would keep us nearer the system of the home Government. He saw, however, that was unfit for this Colony. He was rather slow in arriving at this conclusion, and not so fast, as many of his friends desire, in changing his opinions—in pursuing a different course. But looking at the practical results of the nominee system, and particularly under Responsible Government, he was convinced that it should no longer exist. In Great Britain, the second branch is an independent body, derived partly from the Crown, and partly from property, rendering them free to act independent of each other. Not so here, for years ago—since party Government had become the rule of the Colony—they had surrendered their consciences, and were considered as not discharging their duties, or exercising their functions properly, unless they became the nominees of the House of Assembly. The principle of nomination by the Crown had become quite useless, for unless they harmonized with the popular branch, they soon ceased to be. This was the proper view of the principle, and when this was the case, there could not be any independence—it was gone—their utility had ceased—they only became an echo to the voice of the House of Assembly. So soon as you oppose the popular branch, you oppose the other branch also; and of what earthly use is it while kept in this manner? It should not exist in that way. It should be free and independent, to exercise a check upon this branch of the Legislature in times of excitement. If the members were even the nominees of the British Parliament, they would require a re-organization; the time for change had arrived, to terminate the abuses of the system. This could only be effected by popular election, which would ensure gentlemen of ability and independence to co-operate with the House of Assembly, in carrying out measures of public advantage for the benefit of the people. It was to be hoped, that these advantages may be obtained by appealing to the country, and that men may be found, possessing the requisite qualification, to assist in ushering in a better state of things than has hitherto existed. The proposition is, that when the bill would pass, the Council will be dissolved, and re-elected at given periods. If the principle were admitted, the details would follow. It had been said that they would not assent to the bill; he did not expect they would, as they would find very great difficulty in getting a constituency to retain them. But it was the duty of the majority to pass it in such a way as should please the country. Some think it would be better to begin part nominative and part elective—to send it in such a

shape as would ensure its reception in the Council. He did not know what his hon. and learned friend, Mr. Haviland, thought of this suggestion, but he knew it was their duty to pass it here, and then they will have done their duty and fulfilled their promises to the people. And if passed here, it must not be in a distorted shape, to please the minority. If they did, they would be looked upon as hopeless—having a large majority, and shaping the bill to meet the views of the Council, who act in concert with the minority in this House. It was the duty of the House to pass it, and if in its present shape they should not send it to the Council to be mocked—he would take another method of dealing with it when necessary, and one which he hoped would prove effectual in bringing it to a successful issue. The Hon. Mr. Coles consented to the principle, and was willing to conquette a little. His reasons were, that it was subject to abuse—made the vehicle of unfair traffic; sold seats were bought and sold—alluding to a gentleman who had retired the other day—which only illustrates the evil of the system, and proves that men of talent and ability would not trifle away their time by remaining there, and those who remain are but little worth to the country. He felt it to be expedient to pass the bill. It was not necessary to go over the grounds which sanction its principle, or to add anything in support of the very excellent and convincing arguments advanced by the Hon. Mr. Haviland, in introducing it to their consideration. It had his hearty approval, and if passed in its present shape, it would not be necessary to send it to the Council, but wait another session, with better hopes of success.

Hon. Mr. LONGWORTH would not occupy the time of the House at much length, in stating his views of the Bill. They were all agreed on the general principle, argument was, therefore, unnecessary, more especially as the mover had advocated the necessity of the measure in the clearest and most convincing manner. The only objection was to the details. The nominative system by the Crown had been found unsuited to the conditions of the people in all the Colonies, and the British Parliament, with all the most eminent of British Statesmen, had acknowledged the fact, expressed themselves in favor of the elective principle, and recommended its adoption. They had been told that the House of Lords in England was a barrier against the power of the Crown in trampling upon the rights of the people, and that the Upper Chamber here had the like effect. There was not any analogy, however, between the two bodies; the members of the one were, in most cases, hereditary, wealthy and independent; those of the other, without position, wealth or talent, who exercised little influence in the country, and were appointed to serve the purposes of a party, not the interests of the people, or to promote the good of the Colony. What an anomaly! to behold those men with political feelings in accord with the minority of this House, opposing and obstructing the wishes of the majority of the popular branch, who truly represent the wishes and sentiments of the country. The principle of the Bill—elective—was admitted as a necessity; its machinery was highly popular and democratic. The whole Council would go out at the end of nine years, affording the people an opportunity, at intervals, of exercising their political franchise in re-constructing it,—moulding it in accordance with the popular will—a great boon to the people and the country compared with the old system, which had produced only divisions in the social compact, and afforded men the power to rule in opposition to the wishes of the people. The present majority had, however, pledged themselves to abate the evil. They had gone to the country with this as one of their political professions; they had come back again to this House in greater numbers. The people expected they would do their duty, and the people should not be disappointed in their expectations. It was very strange to see with what ease men changed their principles; as long as there was a hope of remaining in office, the elective principle was opposed, the nominative system continuing the tenure; but when the prospect of official station seemed faint and dim, more popular notions were entertained, and when official personages sunk to private station, popular principles are proclaimed. The elective principle was admitted, the only objection was to details. It was objected that Queen's should not have as many members as King's and Prince Counties. But it had been shown by the hon. mover, that she was justly entitled, by her wealth and population, to the proposed number. If the proposed distribution were unjust, why was a system still more unjust suffered to continue beneath the rule of those who now complain? Queen's had 8 members, the other two Counties only 4. The Bill now before the House gave them 6,—an addition of 50 per cent, under the elective principle to what they enjoyed under the nominative system. It had also been suggested to frame the Bill in such a manner as would ensure its success not only in the Council but also with the Home Government. He had no fear for its reception by the British Government; he entertained no hope that it would meet the sanction of the Council. Their duty, however, was to pass it; the Act would satisfy the country in the prospect of terminating a system of government in this Colony which had proved so obnoxious to the people, and had been condemned by the Ministers at home as unsuited to the circumstances of this country. He felt bound to support the Bill, and if passed in its present shape by this House, he had no fears of its final success.

Hon. Mr. COLES—It appeared the hon. gentleman who spoke last had prepared a speech in expectation of receiving opposition from this side of the House, but he was disappointed. The minority had said nothing against the principle of the Bill. It was doing very great injustice to the Legislative Council to say that they would in every case agree with the views of the present minority. Look at its present constitution, and look at the appointments of the late Government. The Hon. Charles Young, and Col. Swabey were appointed by the old Tory Family Compact; Mr. Forgan was a Tory, and appointed by the late Government; Mr. Hutchinson, if not a Tory, was at least a staunch Conservative. Were these improper appointments? Look at the appointment made by the present Government. He was certain that Mr. Johnson had as much thought of being appointed a Legislative Councillor as he had of leaping over the moon. The present Government had 4 to 7 in the Council, 3 of their own nomination, which proved the outcry against the Council is not so rational after all. But men would not be allowed to change their principles,—to adopt different opinions now from those they formerly entertained, but still remain dependent upon the will of the Assembly. Yet Legislative Councils have proved themselves to be independent. See what had occurred in Canada the other day; the Council threw out the Appropriation Bill. Were they sure that they would vote the Appropriation