

# The Colonial Herald,

AND

## PRINCE EDWARD ISLAND ADVERTISER.

NEW SERIES.]

CHARLOTTETOWN, SATURDAY, APRIL 24, 1841.

[No. 195.

### LAND ASSESSMENT.

Treasurer's Office, Charlottetown,  
Prince Edward Island, January 18th, 1841.

**IN FURTHER PURSUANCE** of the Act of the General Assembly of this Island, made and passed in the Seventh Year of the Reign of His late Majesty King William the Fourth, intituled *An Act for levying an Assessment on all Lands in this Island*—I do hereby give Public Notice, that I have made Proclamation according to the terms of the said Act, of the undermentioned Town Lots, Water Lots and Pasture Lots, and parts of Lots or Townships in this Island, in arrear for non-payment of the several sums due and owing thereon to Her Majesty, under and by virtue of the before-mentioned Act, viz:

#### Town Lots in Charlottetown.

Town Lot Number 75, in the Third Hundred.

PASTURE LOTS Numbers 430 and 460, in the Royalty of Charlottetown.

#### Town Lots in Georgetown.

Number	1st Range	Letter	C.
12	3d do.	"	B.
2	"	"	"
116	4th do.	"	C.

Pasture Lot Number 103, in Georgetown Royalty.

Pasture Lots Numbers 91, 202, 326, 484 and 491, in Prince-town Royalty.

6,545 Acres on Township Number	8
1,000	15
1,475	25
2,332	37
2,073	38
7,400	52
1,000	55
1463	65

And the owners of the said Lots and Tracts of Land, so in arrear and proclaimed as aforesaid, are hereby notified, that in case the sums charged on them by the said Act, together with the costs which have been incurred, shall not be paid within Ten Days before the next Term of the Supreme Court of Judicature, to be held at Charlottetown, application will be made to the said Supreme Court, during the said Term, for Judgment against the said Lots and Tracts of Land respectively.

J. SPENCER SMITH, Treasurer.

**THE** Subscriber, Proprietor of Townships Nos. 9, 16, 22 and 61, in this Island, has, by Deed Poll, bearing date the 24th day of February last, and duly Registered in the Registrar Office for this Colony, revoked and made null and void a certain Letter of Attorney, heretofore granted by him to JOHN LEWELLIN LEWELLIN, Esquire, of Woodley Grove, in this Island, as his Agent, over and for the said Townships.

LAURENCE SULLIVAN.

March 27th, 1841.

### A CARD.

**MR. LEWELLIN** offers his best thanks to those Tenants and Settlers who have shown him kindness and assisted him in the management of Lots 9, 16, 22 and 61; and informs the Tenantry generally that, should any error or omission in Accounts be discovered, he will most readily and cheerfully endeavor to rectify what may be amiss.

Mr. L. hopes that those settled on the above Townships can testify that he has always shown solicitude and jealousy for the interests of the above named Estate, and also for their own welfare and advancement.

April 1, 1841.

### To the Tenants on Township Forty-Three.

**TAKE NOTICE**, that by Indentures of Lease and Release, bearing date respectively, the 24th and 25th days of April, 1815, the Release being made between William Townshend, Esq. deceased, and Flora, his wife, of the one part, and Edmund Waters and Alexander Birnie, both then resident in London, Merchants, of the other part—All Lot or Township Number Forty-three, in Prince Edward Island, were conveyed and assured to them the said Edmund Waters and Alexander Birnie, for securing the payment of £335, lawful money of the said Island, and Interest, by the said William Townshend to the said Edmund Waters and Alexander Birnie, at a certain day, in the said Indenture of Release mentioned, and now past; and a certain portion of the said sum of £335, with a large arrear of Interest thereon, is still due and unpaid—and the said Edmund Waters and Alexander Birnie have both duly assigned to me the said Mortgage, and all their right, title and interest therein:

I do, therefore, hereby give you notice, not to pay any rent, now due, or hereafter to become due, from you for the said land and premises, to any other person except to me, or to such person or persons as I shall duly authorize to receive the same.

GEORGE BIRNIE.

Charlottetown, February 9, 1841.

### CAUTION.

**ALL** Persons are hereby cautioned against cutting or carrying away Timber, or Wood of any description, from that part of Township No. 43, belonging to the Estate of the late Honorable William Townshend, deceased, if they wish to avoid law and law costs.

CHARLES WORRELL,  
Mortgagee in possession.

### CAUTION TO LUMBERERS.

**ALL** Persons found trespassing upon any of the Estates of the Right Honorable the Earl of Selkirk, in this Island, by cutting timber, or otherwise, will be prosecuted with the utmost rigour of the Law. Tenants requiring Timber for Farm Buildings, &c. must apply to the subscriber.

W. DOUSE, Land Agent.

### REMOVAL.

**THE** Subscriber begs leave to inform his numerous friends, and the public generally, that he has removed to that House in Queen Street, known by the name of the Old Court House (up stairs), opposite Messrs. R. & F. Longworth's Store; and hopes by assiduity and attention to business, to merit a continuation of that patronage which has hitherto been so liberally extended towards him.

ARCHIBALD MACLEOD, Tailor.  
Charlottetown, April 16, 1841.

### PAINTING.

**CARRIAGE**, House, Ship, Sign and Ornamental Painting and Gilding—imitation of Woods, Marbles, &c.—and Rooms papered, by

GEO. A. THRESHER.

Charlottetown, April 8, 1841.

**CAPTAIN WILLIAM HUBBARD** begs to inform his friends, and the public in general, that he has taken the Ferry House, and intends to keep good entertainment for man and horse, on Temperance principles, and hopes by strict attention, to merit the favour of a generous public.

Charlottetown, 26th March, 1841.

### APPRENTICES WANTED.

**FROM** 10 to 12 steady active young Men, from 15 to 16 years of age, who are desirous of becoming Apprentices to the Shipbuilding Business, will hear of good and liberal terms, in a first rate establishment, on application to the subscriber.

JOHN DAVIS, jun.  
Charlottetown, 18th February, 1841.

**ONE** or Two APPRENTICES WANTED to the Pump and Blockmaking business. Apply to

WATSON DUCHEMIN.

February 19th, 1841.

### HOUSE OF ASSEMBLY.

MONDAY, April 12.

Several sums were reported from the Committee of Supply, among which were the following:

£120 for a Market-house in Georgetown.—Yeas, 16. Nays, Messrs. Clark, Rae and Montgomery.

£12 for the lower School in Princetown Royalty.—Yeas, 13. Nays, 4.

£350 as a first instalment towards the new Ferry Wharf, opposite Charlottetown.

Yeas—Messrs. Le Lacheur, Macfarlane, Hudson, Hon. J. S. Macdonald, Beck, Longworth, Dalziel, Palmer, Forbes, Thomson, Maclean—11.

Nays—Messrs. Montgomery, Fraser, Clark, Rae, Macneill, J. Dingwell, Macintosh, D. Macdonald, Gorman—9.

So it was carried in the affirmative.

£60 to defray the Salaries of the Sheriffs of the different Counties, provided they had not served the previous year.

Mr. Palmer moved, to strike out the proviso attached to this grant.

Yeas—Messrs. Palmer, Maclean, Montgomery, Longworth, Dalziel, Hon. J. S. Macdonald—6.

Nays—Messrs. Beck, Rae, Forbes, Le Lacheur, Clark, D. Macdonald, Macintosh, Thomson, Macneill, Macfarlane, Gorman, Hudson, Fraser, J. Dingwell—14.

So the amendment was lost.

TUESDAY, April 13th.

The House resolved itself into a Committee of the whole House, to resume the consideration of the Report of the Special Committee to whom was referred the petition of James Howlett.

Mr. D. Macdonald, chairman of the committee, reported that they had adopted the following Report, which he was directed to submit to the House:

Your Committee to whom was referred the Petition of James Howlett, of Bay Fortune, complaining of the conduct of Peter McCallum, Esq., Sheriff of King's County, beg leave to report, that they have had before them the said James Howlett, and several others, from whose testimony they are convinced that the conduct of the said Peter McCallum, Esq., at the Sale of the property of James Douglas, in January, 1840, was, under all circumstances, overbearing, and also that His conduct, in other instances, is well known to have been unwarranted and highly censurable. Such conduct, in such an officer makes him ill calculated to perform the onerous and responsible duties of the office of Sheriff, which duties should be performed with calm firmness, free from irritable excitement. Your Committee, therefore, humbly recommend the House to address His Excellency the Lieut. Governor, praying him not to re-appoint the said Peter McCallum, Esq., to the office of Sheriff.

A motion being made, that the said Report be agreed to:

Mr. Fraser moved, as an amendment, that the following be the Report of the Committee:

The Committee to whom was referred the Petition of Mr. James Howlett, of Bay Fortune, submit that as to the allegations contained in said Petition, they have examined the said James Howlett, and other witnesses; and, in addition thereto, have referred to the examination of last year, and other documents; and find that Peter McCallum, Esq. acted in a very arbitrary manner, and with the evident intention of irritating the people so as to provoke them to commit a Riot, at the Sale of Mr. James Douglas's Property, at Bay Fortune, and that if a riot had taken place, he would have been the main cause; and they have to report, that the said Peter McCallum, Esq., on examination before a special Committee of this House, admitted that he struck an individual with the butt-end of his whip, at the said sale, without being sure of having received any provocation from that individual. They have further to report, that the said Peter McCallum, Esq. indicted several individuals, who were present at the said sale, for riot and assault on himself, and by his selecting a Jury in his own case, and also one particular evidence, the said individuals were brought in guilty, and suffered the punishment of the Law; while, from the evidence that have been adduced before your Committee, it would appear that there was no evidence sufficient to warrant such conviction.

Your Committee have further to state, that the said Peter McCallum, Esq. made an affidavit to swear that an individual named T. H. Wallis was guilty of an assault on him, the said Peter McCallum, Esq., and consequently, the said T. H. Wallis was apprehended and incarcerated in Georgetown Jail, until the Term of the Supreme Court held there last March; and while the said T. H. Wallis was anxious to stand a trial, the Court thought proper to release him from further confinement without trial, whereby the country in that case was put to a great expense in subpoenaing witnesses without any cause whatever.

Your Committee beg to remark, that it would take up more time than can well be spared, to recapitulate, in detail, the malicious and arbitrary conduct of the said Peter McCallum, Esq., while acting as High Sheriff of King's County—they therefore forbear making any further comments.

But as your Committee are fully of opinion that it would tend greatly to the peace of that County, that the said Peter McCallum, Esq. should not be re-appointed High Sheriff, they would therefore recommend that an Address be presented to His Excellency the Lieutenant Governor, praying that he would be pleased to dispense with the services of the said Peter McCallum, Esq. as High Sheriff for King's County, for the time to come.

The amendment was negatived on the following division:

Yeas—Messrs. Fraser, Rae, D. Macdonald, Le Lacheur, Macneill, J. Dingwell, Forbes, Macintosh—8.

Nays—Messrs. Thomson, Gorman, Montgomery, Palmer, Longworth, J. S. Macdonald, Clark, Dalziel, Beck—9.

Mr. Palmer then moved, as an amendment, that the following be adopted as the Report of the Committee:

Whereas the grievances represented to the House of Assembly by the Petitioner, James Howlett, have been already investigated, when he was tried in the Supreme Court of Judicature, and found guilty by a Jury of his County of a riot and assault on Peter McCallum, Esq. High Sheriff of King's County, in the execution of his office, and the imprisonment of which he complains is: by virtue of the sentence of the law, duly passed for such offence, and whereas it would be highly unconstitutional in principle for the House of Assembly to inquire into, with a view of disputing or disturbing the Judgment of a Court of law, judicially given by the constituted authorities; and whereas there is no charge preferred in this House against the said Peter McCallum, Esq., other than what is contained in the Petition of the said James Howlett, supported by his own *ex-parte* statements before a Committee of the House, and having relation only to the aforesaid matters already tried and determined; and whereas the said Peter McCallum hath not been called upon to answer to the said complaint, nor to produce any evidence on his behalf therein, nor hath the House of Assembly ever acquainted the said Peter McCallum that such complaint was even preferred against him; and whereas there has never been, at any session or time, any charge against the said Peter McCallum, in relation to his Sheriffalty or otherwise, preferred to the House of Assembly by any person whatever; nor has his conduct been complained of in any proceeding taken before or by the order of the said House, wherein the said Peter McCallum has been called upon to answer, to the same, and permitted to adduce evidence on his behalf:

Resolved, therefore, That it is inexpedient for the House of Assembly to proceed any further upon the allegations contained in the Petition of the said James Howlett.

Yeas—Messrs. Palmer, Hon. J. S. Macdonald, Montgomery, Longworth, Hudson, Maclean—6.

Nays—Messrs. Dalziel, Le Lacheur, Fraser, Macneill, Forbes, Thomson, J. Dingwell, Rae, Macintosh, Macfarlane, Beck, Clark, D. Macdonald—13.

So it passed in the negative.

Mr. Palmer then moved a further amendment to the said Report—that after the words, "to address His Excellency the Lieutenant Governor," all be struck out, and the following substituted—"to cause a constitutional investigation to be made into the conduct of the said Peter McCallum, Esq."

Yeas—6. Nays—13.

So it passed in the negative.

The question for agreeing to the original report was then put and carried.

WEDNESDAY, April 14.

The Revenue Bill, the Fish Bounty Bill and the Hard Labour Bill, were severally read the third time, passed, and sent to the Council.

Mr. Thomson, from the Committee appointed to prepare an Address to His Excellency the Lieutenant Governor, relative to the re-appointment of Peter McCallum, Esq. to the office of Sheriff of King's County, presented to the House the draught of an Address, as prepared by the Committee, and the said draught Address was again read at the Clerk's Table.

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

Mr. Rae moved, that it be an instruction to the said Committee, to inquire into the mode in which Sheriffs have formerly been and are now appointed in this Colony.

Which was ordered.

And then the House resolved itself into the said Committee (Mr. Thomson in the Chair)

After some time spent therein, Mr. Thomson reported, that the Committee had come to two Resolutions; which Resolutions were again read at the Clerk's Table, and are as follow:

1. Resolved, as the opinion of this Committee, that the mode of appointing Sheriffs in this Colony has been to appoint them annually, and not to reappoint the same individuals; and that this mode is sanctioned by the Act, 26th Geo. 3, cap. 15, and has not in any instance been departed from, so far as appears to your Committee, until 1840, when the same individuals were re-appointed as Sheriffs for King's and Prince Counties.

2. Resolved, That it be recommended to the House to refer the draught Address as to Peter McCallum, Esq. to a special Committee, for the purpose of amending the same.

The First of the said Resolutions being again read:

Mr. Thomson moved, in amendment thereto, that after the word "Resolved," all be struck out, and the following substituted:—

"That as the law requires an annual appointment of Sheriffs to take place it is a sufficient safeguard to the public that, should such an officer commit mal-practices, his re-appointment will not take place."

The House divided on the motion of amendment.

Yeas—Messrs. Thomson, Palmer, Montgomery, Longworth—4.

Nays—Messrs. Dalziel, Maclean, J. Dingwell, Le Lacheur, Fraser, Forbes, J. S. Macdonald, Clark, D. Macdonald, Rae, Gorman, Macneill, Macfarlane, Beck, Hudson, Macintosh—16.

So it passed in the negative.

Mr. Palmer then moved, in amendment to the said Resolution, that after the word "Resolved," all be struck out, and the following substituted:—

"That the mode of appointing Sheriffs is now the same as that prescribed by the Act of 26th Geo. 3, cap. 15, and that such mode of appointment hath been uniformly pursued in all appointments of Sheriffs in this Island up to the present day."

Mr. Gorman moved, as an amendment to the said amendment, that the following words be added thereto:—

"and that the reappointment of the same was unprecedented until 1840."

The House divided on the last motion of amendment.

Yeas—Messrs. Gorman, J. S. Macdonald, Longworth, Palmer, Montgomery, Maclean—6.

Nays—14.

So it passed in the negative.

The question being then put on the amendment first proposed to be made to the said Resolution,

The House again divided;

Yeas, 6—Nays, 14.

And the names being called for, they were taken down, as in the last preceding division.

So it passed in the negative.

The question of concurrence being then put on the said Resolution,

The House divided;

Yeas—16. Nays—Messrs. Palmer, Montgomery, Longworth, Hudson—4.

So it was carried in the affirmative.

The Second of the said Resolutions being again read, and the question put thereon, it was agreed to by the House.

Ordered, That Mr. Rae, Mr. Clark, Mr. Le Lacheur, Mr. Fraser, and Mr. Macneill, be a Committee, for the purpose mentioned in the Second of the above reported Resolutions.

A Conference was then held with the Legislative Council on the subject of the School Bill.

After which the House adjourned for one hour.

And being met;

Mr. Rae, from the Committee to whom was referred the draught Address relative to Peter McCallum, Esq., and the mode of appointing Sheriffs, reported, that they had made amendments thereto; and the Address, as amended, was again read at the Clerk's Table, and is as followeth:—

To His Excellency Sir CHARLES AUGUSTUS FITZ ROY, K. H., Lieutenant Governor, &c. &c. &c.

May it please your Excellency;

The House of Assembly most respectfully beg your Excellency not to reappoint Peter McCallum, Esq. to the office of Sheriff, as, from his overbearing conduct, and still more from sundry illegal acts done by him in that capacity, manifestly proved before this House, the re-appointing the said Peter McCallum would, in their opinion, not only be inexpedient but dangerous to the peace of the Colony. In offering this suggestion to your Excellency, the House have not the slightest intention to interfere with your Excellency's power as to the appointment of Public officers—they are solely actuated by a desire to conciliate all classes of Her Majesty's subjects in this Island to the proper administration of justice under your Excellency's authority.

The House of Assembly would further, with all deference, beg to state, that the continuing the same individuals in the office of High Sheriff for more than one year at a time, has not been the practice of this Colony, and at a time, has not been the practice of this Colony, and in that respect, seems neither in unison with the custom of this Colony since it received a constitution, nor with the law and practice of England, and is in direct contradiction to the evident meaning of a Statute of this Island, (26 Geo. III, Cap. 15.) and therefore the House of Assembly would, with all deference, submit to your Excellency, as their opinion, that it would be conducive to the impartial administration of justice, that the same individual should not be continued in the office of High Sheriff for more than one year at one time.

The Hon. J. S. Macdonald moved to amend the said Report, by leaving out the words, "and is in direct contradiction to the evident meaning of a Statute of this Island (26th Geo. 3, cap. 15)."

The House divided on the motion of amendment.

Yeas—Hon. J. S. Macdonald, Messrs. Thomson, Montgomery, Longworth, Maclean, Hudson, Gorman, Dalziel, Beck—9.

Nays—Messrs. Rae, D. Macdonald, Le Lacheur, Forbes, Macfarlane, Fraser, Macintosh, Macneill, J. Dingwell, Clark—10.

So it passed in the negative.

Mr. Thomson then moved to amend the said Report, by leaving out the words "and still more from sundry illegal acts done by him in that capacity, manifestly proved before this House."

The House divided on the motion of amendment.

Yeas—Messrs. Thomson, Maclean, J. S. Macdonald, Longworth, Palmer, Montgomery, Beck, Dalziel, Gorman, Hudson—10.

Nays—Messrs. Le Lacheur, Forbes, Rae, Clark, Macfarlane, Macintosh, D. Macdonald, Fraser, Macneill, J. Dingwell—10.

The numbers being equal, the Speaker gave his casting vote in favor of the amendment.

So it was carried in the affirmative.

A motion being made, that the Address reported from the Committee, as amended, be received and adopted by the House;

The House again divided,

Yeas—Messrs. Fraser, J. Dingwell, Beck, Forbes, Macneill, Rae, Le Lacheur, Clark, Macfarlane, Macintosh, D. Macdonald—11.

Nays—Messrs. Hudson, Montgomery, Dalziel, J. S. Macdonald, Palmer, Longworth, Gorman, Maclean, Thomson—9.

So it was carried in the affirmative.

Ordered, That the said Address be engrossed.

Ordered, That Messrs. Rae, Clark, Le Lacheur, Fraser and Macneill be a Committee to wait upon His Excellency with the said Address, who, returning, reported the delivery thereof, and that His Excellency was pleased to say, that he would send an answer by Message.

THURSDAY, April 15.

The House went into Committee on the State of the Colony, relative to the appointment of a professional Assistant Judge, when the following Resolution was reported as agreed to:

Resolved, That it be recommended to the House to appoint a Committee to inquire into the average number of days in the year, during which the Supreme Court has been sitting for the last three years—the number of cases on the roll, and the number decided; and also, as to any other facts which may appear to such Committee likely to throw additional light on the matter brought before the House by his Excellency's Message as to the Chief Justice, with power to send for persons, papers and records, and to report from time to time—and that the Message of his Excellency, the accompanying documents, also the Resolution referred back to this Committee, be all referred to said Special Committee.

Ordered, that Messrs. Rae, Hon. J. S. Macdonald, Fraser, Palmer and Clark be a Committee for the purpose mentioned in the above reported Resolution.

A Message from the Legislative Council.

Mr. Speaker:—The Legislative Council have passed the following Bills, to which they desire the concurrence of the House of Assembly, viz:—

An Act to regulate and declare the qualifications of Jurors. The rest of this day was chiefly spent in Committee of supply.

FRIDAY, April 16.

Mr. RAE moved, that the different Newspapers printed in this Colony; also, a copy of the printed Journals of the House, be regularly transmitted to Joseph Hume, Esq., M. P.—which was ordered.

The Bill sent down from the Council against Foresters and Regraters; and the Bill passed by that House for declaring and regulating the qualifications of Jurors, were severally read a second time, and committed. The Committee rose without reporting, so both Bills were lost.

Mr. Secretary Haviland delivered the following Message from His Excellency the Lieutenant Governor:

C. A. FITZ ROY, Lieut. Governor.

In answer to the Address of the House of Assembly, praying that Peter McCallum, Esq. may not be re-appointed to the office of Sheriff—and that "the same individuals may not be continued in the office of High Sheriff for more than one year, at one time—"

The Lieut. Governor regrets that the House of Assembly should have thought it necessary to remonstrate against the reappointment of Mr. McCallum, upon so vague and indefinite an accusation as that of "overbearing conduct."

With regard to the continuance in office of the High Sheriffs from year to year—while the Lieutenant Governor cannot concur with the House of Assembly in their construction of the Statute of the 26th Geo. 3, cap. 15—he deems it inexpedient to explain to the House of Assembly his reasons for adopting the course pursued in the neighbouring Colonies of Nova Scotia and New Brunswick, in the appointment of Sheriffs; and he must continue to exercise his own discretion in a matter which concerns the Precise of the Crown; and for which he alone is responsible.

Government House, 16th April, 1841.

The following Sums were voted in Supply:—

£40 to Ladies' Benevolent Society, to be by them expended in the following manner, viz:

John Macnamara, £10. Matthew Flinn, £5. Catherine Hilliard, £5. Helen Reilly, £4. James Conway, £5. William Purcell, £10. Joanna Redmond, £5.

£200 for Ellis River Bridge.

£50 to James Vee, Esq. for the importation of Live Stock, under the direction of the several Agricultural Societies in Prince County, to be sold at Auction on their arrival.

£100 to the Central Agricultural Society, for the importation of Live Stock, for Queen's and King's Counties.

£10 to pay Assessment on Pews in St. Paul's Church.

£100 in aid of the funds of the Ladies' Benevolent Society.

£300 for Bounties to Vessels engaged in the Fisheries.

£5 to pay Robert McNaughton's passage to Britain.

£3 to Mrs. Quinn, Lot 56, in indigent circumstances.

£3 for the relief of Donald McLean, Lot 22.