

D. F. Burk to select committee.

Committee on petition of Admiral Vansittart and others, report.

Report.

Ordered—That the Petition of David F. Burk and others, be referred to a Select Committee, consisting of Messrs. Ruttan and Chisholm of *Hallon*, to report thereon by Bill or otherwise.

Mr. Sherwood from the Committee of Privilege to which was referred the Petition of Rear Admiral Van Sittart and others, presented a report which was received and read as follows :—

To the Honorable the Commons House of Assembly :

The Committee of Privilege to whom was referred the Petition of Rear Admiral Henry Van Sittart and others, Freeholders of the County of Oxford, upon the subject of the representation of that County, beg leave to report :—

That by the Provincial Act, 7 William 4, chap. 114, entitled "An act better to secure the independence of the Commons House of Assembly of this Province, and for other purposes therein mentioned," it is provided, "that any Member duly elected to represent any town, county, or place in this province, who shall after such election remove from this Province and make some other country his permanent residence, whereby the constituency whom he was elected to represent may be unrepresented, the seat of every Member so removing, shall be declared vacant, and the Speaker shall order a Writ to issue for the election of another person, to serve in the room and place of the Member so vacating his seat ; *Provided always*, that no Writ shall issue for a new election to fill any vacancy so occurring until the House of Assembly shall be satisfied of its necessity, either by petition of the Freeholders of the county, town or place, to which it relates, praying that a Writ may issue, or by the Member about to vacate his seat, according to the provisions of this Act, stating that fact to the House of Assembly, by a communication to the Speaker."

Your Committee were perfectly satisfied from the statements made in the said petition, that Robert Alway, Esq., one of the Members of the said county of Oxford, had removed from this Province to some place in the United States of America, permanently to reside—but before preparing their Report a letter was shewn to your Committee, by a Member of your Honorable House, purporting to have been written by the said Robert Alway, wherein he states his intention of returning to this Province, and taking his seat as a Member of your Honorable House. This intelligence caused your Committee to make further enquiries into the circumstances set forth in the said petition, and from information which your Committee have subsequently received, they are fully satisfied that the said Robert Alway is now residing in the United States, with the intention of making that country his permanent residence.

Your Committee therefore recommend to your Honorable House to declare the seat of the said Robert Alway to be vacant, and to direct a Writ to issue for the election of another person to serve in his place.

All which is respectfully submitted.

HENRY SHERWOOD,
Chairman.

Committee Room,
25th March, 1839. }

Motion to issue writ for a new election in room of Robert Alway, Esq. Member for Oxford.

Mr. Sherwood, seconded by Mr. Boulton, moves that the Report of Committee of Privilege on the Petition of Rear Admiral Van Sittart and others, be adopted, and that the Speaker do issue his Warrant to the Clerk of the Crown in Chancery, to issue a Writ of Election for a Member for the County of Oxford, in the room of Robert Alway, removed from this Province and settled in the United States of America.

Amendment.

In amendment, Mr. Parke, seconded by Mr. Thorburn, moves that the whole be expunged and the following inserted, that the report be not now adopted, in as much as a member of this House has received a letter from Mr. Alway, dated the 13th instant, stating that he was on his way to this House, when he was taken very sick—and that it is still his intention to take his seat, as soon as his health will permit.

Division on amendment

On which the yeas and nays were taken as follows :

Y E A S.

Yeas—16.

Messrs. Aikman, Armstrong, Duncombe, Lewis, Manahan, Mathewson, McCrae, McMicking, Moore, Morris, Parke, Ruttan, Shade, Thomson, Thorburn, Woodruff,—16.

N A Y S.

Nays—24.

Messrs. Bockus, Boulton, Burwell, Caldwell, Cornwall, Dettlor, Ferrie, Gamble, Gowan, Hotham, Hunter, Kearnes, Malloch, Marks, McKay, McLean, Murney, Powell, Richardson, Rykert, Salmon, Shaver, Sherwood, Solicitor General,—24.

Amendment lost—majority 8.

The question of amendment was decided in the negative, by a majority of eight.