Parish Meeting.

MEETING OF THE CHURCHWARDENS, VESTRY, AND PARISHIONERS OF THE PARISH OF ST. PAUL'S, HELD AT THE NATIONAL SCHOOL, HALIFAX, EASTER MONDAY, 13TH APRIL, 1857.*

(Phonographic Report, by Henry Oldright)

RIGHT OF THE CHAIR AT PARISH MEETINGS.

Mr. Creighton suggested that as differences had arisen as to the right to the chair at these parish meetings, a Committee should be appointed to prepare the draft of a la[illegible] declaring that the Parishioners should appoint their own Chairman.

Mr. Hare acquiesced in the suggestion.

Mr. Chamberlain thought it unadvisable to apply to the Legislature about the matter.

Mr. Creighton then put his suggestion in the form of a Resolution, which he then moved.

Mr. Lynch.—While our business is of comparatively little importance, the question of the right to the Chair is a matter of indifference; but the moment we have really important business before us, and pass a Resolution expressive of our views, our whole proceedings may be negatived by being told that we may pass what we like, that our meeting is illegal, and therefore our proceedings will not be recognized. I beg leave to second Mr. Creighton's resolution.

Dr. Almon.—Mr. Archdeacon, (I beg pardon, Mr. Chairman,—the mistake was quite natural, though, for the Archdeacon should be there), I rise to oppose Mr. Creighton's resolution. The law, as laid down by all the authorities out of St. Paul's, is, that the Rector of the Parish is *ex officio* Chairman of the Parish Meeting. I have heard the highest legal authorities state this. There is one authority from whom I have *heard it, who should be unquestioned. I allude to the* Rev. Mr. Gray, of St. John, New Brunswick. In a letter written in his paper the *Church Witness*, the writer states that the great obj[illegible]tion he had to the proceedings at some meeting was, that the Rector was not in the Chair. Although the Rev. Mr. Gray is misguided in many things, I consider him good authority on this point, as having been a Rector for many years. The opinion of Mr. Fitz. Uniacke is to the same effect. He says that he would as soon give up his Church as his seat at Parish Meetings. The Parish of St. Paul's in Halifax, is arrogating to itself the right to dictate to the Ch[illegible]vince, how they should act at their Parish Meetings.—The proposed law does not ask merely that the Parishioners of St. Paul's shall have the right to elect their own Chairman at their Meetings, but, that such shall be the case throughout the Province. The people in the country do not want this law, and I do not see why we should force it on others. We are told to honor our spiritual Pastors and Masters? I decidedly object to Mr. Creighton's resolution.

Mr. Dunbar.—Has not the Bishop by his Circular given the Clergy permission to vacate the chair at the Parish Meetings?

Dr. Almon.—The Rev. Mr. Gray's opinion should have more weight than the Bishop's with some persons.

Mr. Ritchie.—The Rector has absented himself from this Meeting, on account of the unpleasantness of this controversy. The question before us now, is not whether we *have* the right or not to appoint our own Chairman, but whether we *ought* to have the right.—It is true that there are many legal authorities who think that we have *not* the right, but it is also true that there are many such authorities who agree with me, in thinking that we *have* the right. For my own part I have not the slightest doubt on the matter. In England, usage has in many cases settled the point.—There they have prescriptive rights. In some parishes in England, where this point has been raised, they have been told that they have lost the power of appointing their own Chairman, because, by long usage, the Rector has obtained the prescriptive right to the Chair. But here no such doctrine can be set up, since, as every lawyer knows, no prescriptive right can exist in Nova Scotia, because the time of legal memory is long antecedent to the existence of the Province as a British Colony. It is solely on the ground of prescription that the right of the Rector to the Chair is established in some instances in England. But see how different our position. The Act under which we are now assembled, was passed only in 1851. It is true that previous laws on the subject existed when the Church of England was the Church by law established; but when the Church was placed in the same position as other denor[illegible]tions, this Act was passed, making material alterat[illegible]s in previously existing law. In this Act the Rector is not even named, when speaking of these meetings. It directs that the Churchwardens and Parishioners shall meet to transact their own business; and yet, forsooth, the Rector is to come here and assume to preside as if the Parishioners were not competent to say who should, or who should not be their Chairman. It is very likely that the Rector would have continued to occupy the Chair, year after year, unless occurrences had taken place which induced us to consider whether he had the right. I do not recognize for a moment the right of the Bishop to say who should be Chairman.

Dr. Almon.—I did not say that the bishop had the right.

Mr. Ritchie.—I allude to the remark made by Mr. Dunbar. The Bishop, in his circular to the Clergy, said that the Rector might retire from the Chair, and permit the Parishioners to choose their own Chairman. Surely the Bishop cannot alter the law, and confer a right on the Parishioners which the law does not confer. If the Rector can retire, because the Bishop tells him to do so, it shows that he is no[t] *ex officio* Chairman. We passed some time since resolutions opposing the views of the Bishop regarding Synods. I advert to it because we sometimes insist on our rights merely *as rights*, lest they may be infringed at other times, because we have sustained an injury by the infringement of them, as in that case. When the proceedings of the meeting at which those resolutions passed were taken to the Bishop, he intimated that they were not regularly signed. He says, they cannot receive any consideration from me, because they are not signed by the Rector. What would we think of any Chairman who, under these circumstances, would not at once *come forward and say, "It is true my hand is not to* these Minutes, but I will soon make that right: I will affix my signature to them." The question was not, whether they were *signed* or not *at the Meeting*. The object of the chairman's signature is merely to authenticate them. Had our Chairman done this, his Lordship would have been silent. He would, I take it for granted, not have relied on a mere formality as the objection to taking notice of the proceedings. He must have thought that the Resolutions had not passed at all, or had not passed regularly. Ought the Bishop not to have asked the Rector if such Resolutions had [illegible] The Rector heard this statement of the Bishop's, and allowed the proceedings to be thrown aside, because they were not authenticated. Having pursue[d] that course, we want hereafter a Chairman, who wil[l] carry out the resolutions of the Meeting in the *letter* [as] well as in the *spirit*, and whom, if he does not do so, [w]e can remove. It is quite possible that I may be [wro]ng in my opinion on this matter, as I have the mi[sfor]tune to differ from others who are learned in the la[w]. But, at all events, we should have the right, even [if] we have it not now. I shall, therefore, cheerfull[y s]upport the Resolution. I propose that the law to [be] passed shall be a general law, because it is so obvi[ous] that it is a good law. If any member of the Le[gislat]ure choose to restrict it to Halifax, I will accept [it] so amended, but I think it should be introduc[ed as] a general law.

(Mr. Ritchie he[re rea]d the Law from the Revised Statutes, which is [as fo]llows:—"The Churchwardens and Parishioners [of eve]ry Parish shall meet annually, on Monday next [after E]aster-day—notice of the hour and place of me[eting h]aving been first given by the Rector or offici[ating M]inister, at which meeting the Parishioners sha[ll choos]e two Churchwardens," &c.)

The Meeting [illegible] a Meeting of the Churchwardens and Parish[ioners]. We are told that we have not the right becau[se we] have it not in England. Have they a law like [ours in] England? No. The Church there dates ba[ck], that the origin of the laws relative to it are [in ant]iquity. We have a modern statute, origin[ated] some four or five years ago. Even in Eng[land, alth]ough some meetings take place, at which th[e Rector] presides, many take place where he do[es not. I] saw the other day, in a late English pap[er a report] of the proceedings of a parish meeting, wh[ich was pre]sided over by one of the churchwardens.

Mr. Gos[ip.—Was t]he Rector present?

Mr. Ritc[hie.—I am] not sure about that particular case, but I [know that c]ases have occurred in which the churchwa[rdens presided], and the Rector was present: several su[ch cases] were mentioned at a former meeting. [It is rem]arkable that the late statutes in England [abst]ain from sanctioning the right of the re[ctor to the c]hair.

They merely allude to these rights in this way:—"Any right which may have been acquired by any other party to take the chair shall remain as heretofore." Therefore you will perceive that in England, while in certai[n c]ases the Rector has acquired the right by prescription, in other cases he does not seem to have acquired it. My arguments, however, are quite independent of the customs in England, as they are founded upon our own statute. It may be said that the right of the Rector to the Chair was assumed by this Act. I do not find it so. The Act expressly reserves his right to be added to the Vestry, while it unrestrictedly confers on the Churchwardens and parishioners the right to meet and transact their business without restriction.

Mr. Pryor.—I am decidedly opposed to Mr. Creighton's resolution. Let an amicable case be made up and argued before the judges. I think it would be assuming rather too much on the part of the Parish of St. Paul's to ask for an Act for the whole Province.

Mr. Lynch.—I do not think we should let this matter remain undecided until some difficulty arises. Then as to the story of our arrogating so much as a parish, I believe that nothing has done more harm and created more bad feeling in the Province, than the feeling of jealousy which has been fostered by many persons in reference to the position and objects of the Parish. Nothing can be more unjustifiable and unfair, and I trust we shall hear no more of it. If the Bill is introduced into the Legislature, it will not only be brought before gentlemen representing this Parish, but also gentlemen representing the whole Province. If passed it will be passed in the presence of such persons; if uncalled for, they will oppose it. If it is a good measure, let us bring it before the Legislature, and have *it passed. If, on the contrary*, it is a bad measure, let it be rejected. But do not let us have a contest every time that we meet, and which has only been prevented on this occasion by the Rector's absenting himself. We spent as much time in discussing this matter at the last meeting as might have been sufficient to transact the whole business of the Parish. What is to prevent a similar act being committed as was done after a previous meeting in reference to the division of the Parish. We asked the Bishop's ratification of a re[solu]tion. He would have nothing to do with it, becau[se hi]s Lordship disapproved [illegible] of the meeting. In order to prevent such an occurrence again, we must have the right to elect our own Chairman. As regards a case being made up, I am satisfied that the views would be sustained by the Judges which are held by the majority at these meetings. If there were any prescriptive rights, would there have been any need of passing the Act relative to the Church which was passed in 1851?

Mr. W. C. Silver.—No Chairman properly filling his station would refuse to put his name to the proceedings of the meeting. On the other hand, this question has been a sore one *hitherto, and it will* continue to be so till it is definitely settled. Would it not be more reasonable for us to apply to the highest court in the land to state what the law is. I think we will be placed in a false position, by petitioning for an Act giving us the right to appoint our own Chairman, if such [an] Act has already been passed. Would it not be better, first, to obtain the decision of the Supreme Court as to the existing right?

Mr. Ritchie.—Then we should have the cost of litigation. You may call it an amicable suit if you like, but I think it would be found in reality to be rather warmly contested, and to be, in truth, a rather hostile proceeding; and a pretty costly one too. Suppose even that the Supreme Court decided that we have not the right, would that satisfy the majority at these meetings? A few years ago the Grand Jury had not the right to elect their own foreman, and a law was passed conferring that right upon them. There is a class of Acts continually introduced into the Legislature, where doubts arise as to the meaning of former Acts. These are called Declaratory Acts. Applying to the Legislature in the first instance will place us in the same position as if we applied to the Court, with this difference, that we will not have to bear the *expense of a law* suit in the first instance.

Mr. Chamberlain.—I do not see why we should proscribe the clergymen. Who would object to putting a clergyman in the Chair? The House of Assembly is like a *bear garden*, and if you carry on these meetings without the aid of a Clergyman they will soon have the same character. I consider that a Clergyman is a great assistance to a Meeting of this kind.

* Concluded from last week.