

The Weekly British Colonist.

Tuesday, February 13, 1866

HOUSE OF ASSEMBLY.

House met at 1:15 p.m. Members present—Messrs. DeCosmos, McClure, Tolmie, Trimble, Dickson, Duncan, Dennes, Carswell, Ash.

FINANCE. The Speaker read a communication from His Excellency in reply to the resolution of the House asking for financial returns. His Excellency stated that said returns were in course of preparation and would, when completed, be laid before the House.

STEAMER-SUBSIDY. A message was received from His Excellency requesting the House to appoint a Committee to wait upon him, and confer in regard to the mail steam subsidy.

Mr. DeCosmos moved that the rules of the House be suspended in order to take into consideration His Excellency's message forthwith. The rules were accordingly suspended, and a committee appointed consisting of the Speaker, Messrs. DeCosmos, Trimble, Tolmie and Carswell, to wait upon His Excellency.

On the return of the deputation the House, on motion of Mr. DeCosmos, resolved itself into an Executive session and sat with closed doors.

Dr. Fowell here took his seat. The reply of the House was conveyed to the Executive by the Speaker, when the doors were again thrown open.

GOVERNOR'S MESSAGE. The Speaker read the following message from His Excellency the Governor. VICTORIA, 2nd February, 1866. To the Honorable the Speaker and Members of the Legislative Assembly.

GENTLEMEN—I have the honor to acknowledge the receipt of a Resolution of the Legislative Assembly, dated 29th January, 1866. "That a copy of the sums granted and the Resolutions passed in Committee of Supply respecting the amalgamation of offices named or introduced into the Estimates be prepared and transmitted to the Executive." I have also to acknowledge the subsequent receipt of the document above referred to, by the hands of the Honorable the Speaker, on the 31st January.

As regards those salaries and services which have been estimated for and disallowed by the Legislative Assembly, I have already dispensed with the services of fourteen public officers paid from General Revenue, including two stipendiary magistrates, and it will be a consideration for the Legislative Assembly to fix the amount of compensation payable to those officers who have been hitherto borne on the fixed establishments of the Colony.

While I fully concur in the propriety of economy, both in the number and salaries of public officers, I must point out the serious evils which may be expected to arise from leaving the greater part of the public establishments to be provided for by annual vote. Party spirit is apt to run high in small communities, and questions respecting the remuneration of public servants are occasionally discussed rather with reference to personal feelings, than to a calm consideration of the real interests of the community.

Respectable officers cannot be obtained without some reasonable assurance for the permanence of their official incomes, and the absence of such assurance must materially impair the efficiency and respectability of the public service, and thus injuriously affect the public interests.

I think it highly injudicious to reduce the salary of public officers so as to render it no longer an object of ambition to men of ability and respectable station to hold them, but whatever be the rate of remuneration deemed fitting by the Legislature, I think it absolutely necessary for all purposes of good government that the salaries should be permanently granted.

I observe that the Legislative Assembly propose to abolish the offices of Registrar General and Assessor. The salaries of these officers are secured by Acts of the Legislature passed after full deliberation. Whether the Legislature acted wisely in creating those offices or assigning to them the remuneration which was determined upon, it is not necessary for me to inquire, but it appears to be an obvious injustice to abolish offices accepted on condition of their permanence, without making provision for compensation to the holders of them. Pending a repeal of the Acts before adverted to, I apprehend the salaries fixed by law must continue to be paid.

It is undoubtedly within the province, as it is the duty of the representatives of the inhabitants of the Colony, to raise such an amount of revenue and grant such supplies as may be necessary to maintain the various public establishments they may judge proper for the preservation of order, enforcement of the law, and other services required for the welfare of the community; but I must guard myself from concurring in some of the resolutions which have been made on the estimates, which will I fear prove the reverse of being true economy, if they have not more serious results.

I cannot consistently with my duty to the Crown and the people of this Colony refrain from noticing important innovations on the part of the Legislative Assembly in connection with these estimates. I observe that the Legislative Assembly have added a sum of about \$77,000 and various new offices to the estimates submitted to them, thus (for the first time) usurping the functions of the Executive, by originating and increasing items of public expenditure, and creating new offices.

Mr. McClure said the custom of the Assembly in every colony when it was believed the Executive had infringed its rights, was to take the matter into immediate consideration. This was due alike to the people and to the dignity of the House. Remarks were made in the Governor's message that affected the very existence of a free Government, and it would show a sad lack of spirit to postpone so vital a question and dilly-dally over it as was frequently the custom in that House with important questions. Although he desired an immediate discussion of the subject it did not follow that an immediate judgment of the House should be obtained.

Mr. DeCosmos agreed with the motion of his hon. colleague. He had no objection to the document being printed, but there had been an infringement on the constitutional rights of the House, and it was the duty of the House to take the matter into their consideration at once.

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any case where there was an under-estimate for salary or insufficient provision for a service had such been offered to me; but the action taken by the Assembly to increase these without reference to the Governor is altogether nugatory, inasmuch as it is my duty to prohibit public servants from receiving any grants of money or increases of salary not initiated or authorized by the Governor.

With the strongest desire consistent with my duty to meet the views of the Assembly, it is impossible for me to recognize their authority in matters purely administrative. The undivided responsibility of appointing and retaining fit and proper persons to fill the public offices of this colony devolves upon the Governor subject to the approval of Her Majesty, and it will therefore be my duty to make those appointments for which I am wholly and individually responsible without reference to any indication as to those officers who are expected to fill the consolidated offices.

I can see nothing but confusion likely to result from encroachments whether they proceed from the Executive or Legislative branch of the Government. The present is a time when the utmost harmony of action is required, and this can only be attained by a strict observance of the line between the functions of the Legislature and those of the Executive Government.

Police.—The provision made for an Inspector, one Sergeant, and five policemen for the whole of this colony with a mixed European and American population of eight thousand and ten thousand Indians is a virtual abolition of the establishment for all effective purposes. I have induced the Superintendent and Inspector to retain their offices for the present on the insufficient salaries voted for inferior offices, deeming this course absolutely necessary for public safety.

AUDITOR.—It is proposed to abolish the office of Auditor and that the duties be undertaken by the Clerk of the Legislative Assembly. I am unable to accede to this proposition. In doing so I should hand over to the Legislative Assembly who are irresponsible, an important branch of the Executive for which I am responsible. The Auditor holds his office under the Queen's warrant, and however competent it may be to the Assembly to disallow the very inadequate salary attached to this office of high trust, it is alike beyond the province of the Assembly or any other authority to deprive him of that office or transfer it to another, without Her Majesty's concurrence.

UNPAID MAGISTRATES.—The disallowance of the amount for contingent allowances under this head is an apparent economy which cannot be carried out. It cannot be expected that these gentlemen can or will incur an actual outlay in addition to giving their time to the public service. I have now before me legitimate demands for actual outlay under this head, which I have neither means nor authority to liquidate.

CORONER.—Finding it impossible for me to combine the office of magistrate with that of head of the police, I have transferred the duties of Coroner to the paid magistrate of Victoria, without fees; thereby effecting a saving, without impairing the efficiency of the public service. Coroner's fees and medical fees together have increased from the sum of \$210 in the year 1862 to \$946 in the year 1864, being the last year for which the accounts are audited.

INDIAN POLICE.—The reduction of the police force will involve that of the Indian Police, which I contemplated to increase with every prospect of public advantage, and the important settlement of Nanaimo, with a population of 800 exclusive of Indians, will be left without a peace officer of any kind.

PRIVATE SECRETARY.—The performance of the duties devolving upon the Private Secretary are essential to the efficient carrying on of the public business.

CHIEF JUSTICE.—The disallowance of the unimportant sum of \$750, inserted in the Estimates as part payment of passage money to His Honor the Chief Justice, is an unusual course.

I would point out, in conclusion, that much of the saving in the sums originally placed on the Estimates has been effected by reducing many items of indispensable expenditure which neither I nor the Assembly can control. The sums agreed for in such cases were the result of careful calculation based upon the experience of previous years, and there is but little doubt that the expenditure for the year under such heads will be actually what was placed on the Estimates, and that therefore no real saving can be reckoned on.

I have the honor to be, Gentlemen, Your most obt. servant, A. E. KENNEDY, Governor.

The Speaker asked if the message should be printed. Mr. McClure said he would move that the House go into committee at once on the message.

The Speaker—Oh no! it is out of order.—Take time over it. Mr. McClure moved that the rules be suspended, and the House go into committee on the message at once.

Mr. Duncan thought when a message of such importance came down, an innovation on the actions of this House, it was a duty the members owed to their constituents that it should be taken into consideration at once.

Mr. Cochrane thought the reasoning of the hon. gentleman was most extraordinary, that because an important message had been received involving, as he said, an innovation on the actions of this House, they must therefore rush into it without consideration.

Dr. Ash moved that the message be printed and come up at a future day for consideration.

Mr. DeCosmos agreed with the motion of his hon. colleague. He had no objection to the document being printed, but there had been an infringement on the constitutional rights of the House, and it was the duty of the House to take the matter into their consideration at once.

Mr. McClure said the custom of the Assembly in every colony when it was believed the Executive had infringed its rights, was to take the matter into immediate consideration. This was due alike to the people and to the dignity of the House. Remarks were made in the Governor's message that affected the very existence of a free Government, and it would show a sad lack of spirit to postpone so vital a question and dilly-dally over it as was frequently the custom in that House with important questions. Although he desired an immediate discussion of the subject it did not follow that an immediate judgment of the House should be obtained.

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Dr. Tolmie advocated in reference of the message of the Governor to a select committee. He twitted hon. gentlemen about the duty they owed their constituents, and thought it was more their duty in a matter of such importance to allow time for calm deliberation.

After a few words from Mr. DeCosmos and Mr. McClure in reply to the objections raised, Mr. Dennes seconded Mr. McClure's motion, which was put and carried.

Ayes—Dickson, McClure, Trimble, DeCosmos, Duncan, Carswell, Tolmie, Ash, Noes—Cochrane, Powell, Dr. Tolmie, Dr. Tolmie and Dr. Ash here left the House.

NANAIMO PETITION. The Speaker read a communication from the Hon. Colonial Secretary enclosing a petition received from Nanaimo, containing about 60 signatures, praying the House to reconsider its vote on the estimates in dispensing with the stipendiary magistrate and other offices and amounts asked for. The petition pointed out the importance of the town and the duties the magistrate was called upon to fulfil. The petition was laid on the table.

BILLS OF SALE AMENDMENT ACT. The Speaker read a communication from the Legislative Council informing the House that this bill was ordered to be read "this day six months" (laughter).

Mr. DeCosmos gave notice that he should move that the clerk supply the House with an exact copy of the bill sent up, so that it might be tacked on to the bill of supply.

HARBOR ENCROACHMENTS. Mr. Duncan introduced his motion, of which he had given notice, that an address be sent to His Excellency desiring to be informed by what authority encroachments were permitted to be made by owners of water frontage in this city. He said this was a most important matter, as in some cases encroachments had been made to the extent of 100 feet.

Mr. Dennes rose to correct a statement made in Saturday's Chronicle. In the matter of the Church Reserve Committee that paper had made it appear that he asked to be relieved on account of being professionally engaged. He did not say so, it was for professional considerations that he declined to serve.

FINANCE. Mr. Duncan gave notice of motion for the appointment of a committee of three to enquire into the Expenditure of 1865.

UNION PETITION. Mr. DeCosmos read and laid on the table of the House a monster petition that he had been requested to present praying the House to take steps to bring about an immediate Union of the Colonies. It contained about 1,000 signatures, including the names of merchants, traders and the principal inhabitants of the city. The petition was unfolded to enable the House to form some idea of its length.

NEW BILLS. Mr. Dennes gave notice that he would on Friday ask leave to introduce the following bills: "An act to facilitate the recovery of possession of tenements after the termination of the tenancy." "For the better protection of parties dealing with persons liable to the Bankruptcy Laws" and an act "As to prisoners in contempt."

1865, estimated at not less than \$10,000, it would make the total receipts of the year under those heads, \$163,785. By borrowing \$100,000 to meet the balance for the construction of roads, buildings, and the Governor's residence, it would make \$263,785 more than balances the estimates. Mr. DeCosmos subsequently added that the reduction of taxation under the scheme proposed would amount this year to about \$55,000 or \$60,000. (Hear, hear.)

The following notice of motion was then given by Mr. DeCosmos and laid on the table: Resolved—1. That the "Real Estate Act, 1862" be repealed, save as to all taxes due previous to December 31, 1865, under the said act; and that a bill be recommended to be brought in for the said purpose.

2. That the Annual Trades' License of \$10 be reduced to \$5 per annum. 3. That the "Salaries Tax Act, 1865," be repealed, save as to all taxes due previous to December 31, 1865, and that a bill be recommended to be brought in for the said purpose.

4. That country retail liquor licenses between the boundaries of Victoria City and Esquimalt Town be reduced to \$50 per annum; and that a bill be recommended to be brought in for the said purpose.

5. That the sum of \$100,000 be borrowed, not more than 12 per cent. per annum; that the said loans be expended in meeting the outlay for the purchase and improvement of the Governor's Residence, and for the construction of roads, bridges, and public buildings named in the Estimates passed by this House; and that a bill be recommended to be brought in for the said purpose.

6. That it is expedient to contract a loan of £50,000 at 6 per cent. interest, with 4 per cent. sinking fund, payable in 20 years, chargeable on the general revenue; that the said loan be expended in paying off the \$100,000 loan, and the balance be appropriated for the construction of roads, and other public works as the Legislature may determine; and that a bill be recommended to be brought in for the said purpose.

Mr. Duncan after expressing pleasure in listening to the scheme for raising the revenue for the current year laid down by the hon. senior member for the city, said he had a proposition of his own for raising revenue, and for that purpose he had prepared a bill, the object of which was to levy a tax on imported packages. He had done this at the urgent request of his constituents and he might say the community. The majority of the House he considered were pledged to the theory of the bill [No. 10]. The machinery would be simple, for if 25 cents were levied on packages the officer in charge of permits could collect the tax without charge. It would relieve the people from the undue pressure of real estate tax, trades licenses, salary tax, and half of the liquor licenses. It was a broad principle that had been universally discussed for years, and he believed it to be a right one. His second reason was that it would give an impulse to our productive capabilities and render us to some extent independent of foreign producers.

Mr. Duncan then furnished the House with statistics carefully compiled, showing the total number of packages imported from various countries, the aggregate of which, we understood him to say, for the past year was 286,350, equivalent, at 25 cents per package, to the sum of \$71,587, which added to the revenue from port and harbor dues and other sources, would meet the requirements of the country.

The bill was placed upon the table. Mr. DeCosmos moved that a request be forwarded direct to the Treasurer asking for returns of arrears of Real Estate Tax, 1862. He contended that the House had the authority to do so, and read an extract from May's Parliamentary Practice in support of his motion.

Mr. Dickson concurred, and also referred to May in proof of the power possessed by the House.

Dr. Powell thought the case was similar to one that previously occurred, when the Surveyor General was asked for information and it was declined on the ground of his being a member of the Upper House.

On motion of Mr. DeCosmos, the committee rose and reported progress, and on the Speaker assuming the chair he ruled that the motion was out of order, the proper way being to send an address to the Governor.

GOVERNOR'S MESSAGE. The House went into committee on the message from the Governor, Dr. Trimble in the chair.

Mr. McClure said he would introduce a series of resolutions in order to open the discussion, but he did not expect they would all pass. It was impossible just then to produce all authorities that could be brought to bear on this subject, but if the discussion were postponed they might be produced. The right to originate money votes had been maintained by the Assembly in every other colony which had a representative and not a responsible government. The House had now for the first time insisted on certain officers being amalgamated, and he was very sorry they did not do so in 1860. He would read the following resolutions.

1.—That no compensation should be given to those officials whose salaries have been abolished by the House; inasmuch as no person accepting office in a new country to which responsible government may at any time be granted, could, from the very nature of things, expect that permanency should be a quality of any official appointment. So far as those offices are concerned which have been created by acts of the Legislature, bills are about to be introduced for their abolition.

2. The House is ready to admit, with His Excellency, that party feeling sometimes runs high in small communities, but it is also of opinion that the same characteristic is to be found in large ones—in fact in all communities where freedom of opinion exists. At the present time, however, in Vancouver Island there is really, in connection with the public expenditure, but one party, and that is the entire population who demand the utmost reduction in the expenses of the Government. With regard to the allusion in His Excellency's despatch to personal feeling entering into matters affecting the public interest, the House has no knowledge of such feeling, in at least its branch of the Government.

3. The fears entertained by His Excellency that the reduction in the public expenditure made by the Assembly will be detrimental to the public interest are, in the opinion of the House, groundless, as such reductions were only made after due and careful consideration, and in accordance with the "well understood wishes of the people."

4. His Excellency characterizes the action of the Assembly in claiming the power to originate and increase money grants as unconstitutional, and usurping the powers of the Executive. The House is at a loss to know by what authority His Excellency disputes a right, and declares it to be unconstitutional which has been exercised in the North American colonies and in various other parts of Her Majesty's colonial possessions. Prior to the granting of responsible government in Canada, Nova Scotia and New Brunswick, the right to originate and increase money grants was maintained and exercised by the respective Assemblies, and was only conceded to the Executive by express enactment when the colonies had received responsible government. In the Bermudas all bills were required to be originated in the Assembly. The House in justice to the people, and to its own self-respect, cannot allow its deliberate votes on money matters to be altered at will by the Executive, and in reviewing the manner in which various votes of last year were applied, contrary to the express stipulations of the Assembly, the House feels called upon to assert its control over the public revenues and to maintain its right to originate and increase items of public expenditure. The House and not the Executive is responsible to the people, and it would be a most dangerous abandonment of public right on its part to relinquish its authority over the public expenditure to an irresponsible branch of the Government.

5. His Excellency states that the House has added to the estimates sent down by the Executive the sum of \$77,000. The estimates transmitted to the House amounted to \$193,895; the total sum voted by the Assembly, including a loan of \$45,500 for roads, is \$209,395, or \$8,158—not \$77,000—added to the Executive's estimates. His Excellency has therefore been unwittingly led into an error. The additions which the Assembly made were confined exclusively to necessary public works, which the Executive had not provided for in the estimates, and were also made necessary on the grounds that the Executive had not applied the appropriations of last session for the important institutions of public hospital and fire department as they were voted by the House, leaving, therefore, a large deficit to be made up by the Assembly.

6. The police estimate voted by the House is considered ample, inasmuch as it is contemplated, as His Excellency will perceive by the resolutions of the House, to make provision for municipal government in various parts of the colony. A sum of \$500 has been voted for constables in outlying districts, and it was deemed that the constable at Nanaimo should be paid out of this amount until the town of Nanaimo shall have been incorporated.

7. With regard to the office of auditor the House cannot see on what grounds application was made to the Crown by His Excellency to have the office a Crown appointment, as the House last session refused to vote the Executive estimate of \$1940 for "auditor," and placed in its stead "\$1200 for auditing the public accounts." The House maintains its resolution of the present session.

8. The House would state in reference to the amalgamation of the office of coroner and Stipendiary Magistrate of Victoria that it has already decided against the amalgamation of such offices on constitutional grounds.

9. The House feels with His Excellency that it is of the utmost importance in the present condition of the colony that the greatest harmony should prevail between the various departments of government, and it sincerely hopes that the reductions in the public expenditure made by the Assembly in the estimates, in accordance with public demands, will meet with his Excellency's sanction.

Dr. Helmecken said the resolutions had been evidently prepared outside the House, and he now understood the desire to go into Committee at once. Some parties must have had access to the despatch without leave, who had no right to read them.

Mr. DeCosmos said he and his colleague had read them with the Speaker's sanction. Dr. Helmecken distinctly denied ever giving the authority. The hon. gentleman was laboring under a misapprehension.

Chairman—Order! order! Mr. DeCosmos said that notwithstanding the hon. Speaker's distinct denial, he again asserted that a distinct authority was given, and recalled the circumstances under which he had read the document.

Dr. Helmecken curtly maintained that he did not give any authority to the hon. gentleman to peruse the despatch.

Mr. DeCosmos flatly asserted that leave was given, and thought his word was worth as much as the Speaker's any day of the week.

Dr. Helmecken adhered to what he had said, and insisted that the hon. gentleman had had access to the document without his leave.

Mr. McClure rose to a question of order to enquire by what right the Speaker opened despatches that no other member had not an equal right to inspect before they came before the House? (Hear, hear.)

Dr. Helmecken said the Speaker had always exercised that right. Mr. DeCosmos remarked that the Hon. Speaker when asked by him what the despatch contained said it was of no importance and would keep. He now contended that it was of such importance that no one should have been allowed to see it but himself.

Mr. McClure was surprised at the quibble raised by the hon. senior member for Metuchan. As to the resolutions in question they were nearly all written in the House. Mr. Duncan thought that whether the resolutions were prepared in or out of the House they were very good (hear, hear). The question was whether governments were created for the people or the people for governments. He believed the House possessed the power it had assumed, and if an appeal was made to the people it would be fully sustained. He thought it better to adjourn till the next day.

Mr. Dennes seconded a motion to rise and report progress, and the House adjourned till 3 p.m. today.

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5. His Excellency states that the House has added to the estimates sent down by the Executive the sum of \$77,000. The estimates transmitted to the House amounted to \$193,895; the total sum voted by the Assembly, including a loan of \$45,500 for roads, is \$209,395, or \$8,158—not \$77,000—added to the Executive's estimates. His Excellency has therefore been unwittingly led into an error. The additions which the Assembly made were confined exclusively to necessary public works, which the Executive had not provided for in the estimates, and were also made necessary on the grounds that the Executive had not applied the appropriations of last session for the important institutions of public hospital and fire department as they were voted by the House, leaving, therefore, a large deficit to be made up by the Assembly.

6. The police estimate voted by the House is considered ample, inasmuch as it is contemplated, as His Excellency will perceive by the resolutions of the House, to make provision for municipal government in various parts of the colony. A sum of \$500 has been voted for constables in outlying districts, and it was deemed that the constable at Nanaimo should be paid out of this amount until the town of Nanaimo shall have been incorporated.

7. With regard to the office of auditor the House cannot see on what grounds application was made to the Crown by His Excellency to have the office a Crown appointment, as the House last session refused to vote the Executive estimate of \$1940 for "auditor," and placed in its stead "\$1200 for auditing the public accounts." The House maintains its resolution of the present session.

8. The House would state in reference to the amalgamation of the office of coroner and Stipendiary Magistrate of Victoria that it has already decided against the amalgamation of such offices on constitutional grounds.

9. The House feels with His Excellency that it is of the utmost importance in the present condition of the colony that the greatest harmony should prevail between the various departments of government, and it sincerely hopes that the reductions in the public expenditure made by the Assembly in the estimates, in accordance with public demands, will meet with his Excellency's sanction.

Dr. Helmecken said the resolutions had been evidently prepared outside the House, and he now understood the desire to go into Committee at once. Some parties must have had access to the despatch without leave, who had no right to read them.

Mr. DeCosmos said he and his colleague had read them with the Speaker's sanction. Dr. Helmecken distinctly denied ever giving the authority. The hon. gentleman was laboring under a misapprehension.

Chairman—Order! order! Mr. DeCosmos said that notwithstanding the hon. Speaker's distinct denial, he again asserted that a distinct authority was given, and recalled the circumstances under which he had read the document.

Dr. Helmecken curtly maintained that he did not give any authority to the hon. gentleman to peruse the despatch.

Mr. DeCosmos flatly asserted that leave was given, and thought his word was worth as much as the Speaker's any day of the week.

Dr. Helmecken adhered to what he had said, and insisted that the hon. gentleman had had access to the document without his leave.

Mr.