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Woodstock Journal.

"He is a Freeman whom the Truth makes Free, And all are Slaves beside."

VOLUME 5.

WOODSTOCK, N. B., THURSDAY, APRIL 7, 1859.

NUMBER 40.

OUR PAPER.

The Woodstock Journal is a large eight-page weekly, devoted to the advancement of the industrial, commercial, social and moral interests of New Brunswick.

The objects at which it particularly aims in the present circumstances of the country are the promotion of immigration, the settlement of the wild lands, the opening of the country by means of railroads, &c., an increase of the representation in the Assembly, and Free Education, schools of all grades, from the lowest to the highest being open to all without money and without price, and supported by Direct Taxation.

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House of Assembly.

THURSDAY, March 24.

KING'S COLLEGE DESPATCHES.

At a few minutes past two the House went into committee of the whole upon the despatches and other documents relative to the disallowance of the Bill to suspend the grant to King's College, Mr. McClellan in the chair.

Mr. Steadman moved the following resolution, of which he had given notice yesterday:—

Whereas His Excellency the Lieutenant Governor in his despatch to the Colonial Secretary of the 16th July last, relative to the Act passed at the last session of the Legislature, entitled "An Act to suspend the grant to King's College," urges objections to the said Act which are at variance with the clear and undoubted rights of the Legislature, and the best interests of the people of this Province; and whereas the said despatch was calculated to create an unfavorable impression on the minds of Her Majesty's Ministers, as to the position and policy of the said Act, and thereby to defeat the action of the Legislature; and whereas the responsibility of His Excellency's advisers for the opinions enunciated in despatches emanating from the Executive Government, relative to the local affairs of this Province, as also their duty to take the necessary steps to obtain Her Majesty's assent to the Act of the Legislature has been fully admitted; therefore

Resolved, That the despatch referred to is a reflection upon the Legislature, contrary to the just expectations of the people, and inconsistent with the principles of Responsible Government.

Mr. Steadman said that it was necessary for the House to know what was the constitution of this country, and what were the rights of the Legislature and of the people. It was necessary to know whether they had the right to legislate upon ques-

tions purely local. It was also necessary to know whether the faith of the Crown was pledged in this matter of the grant from the Civil List to King's College, and whether that would prevent legislation upon a matter which concerned us so dearly. It might be that the Legislature had not the right, of its own mere motion, to put an end to the arrangements made under the Civil List; but the question was, whether if we had proceeded upon the Imperial Government any alteration which we thought advisable, their consent could have been obtained. There was an other question; whether our Government had put the matter before the Imperial Government in such a manner as to obtain a carrying out of the wishes of this Legislature. With respect to the first point—what the constitution of this Province was, and what the rights of the Legislature were, he should quote from the report of the debate on the motion of want of confidence at the short session of 1854—a book known as the *Political Primer*. In that volume he found the principle laid down by Mr. Fisher, in the words of Lord Durham's Report, was that "the Crown must submit to the necessary consequence of representative institutions; and if it had to carry on the government in union with a representative body, it must consent to carry it on by means of those in whom that representative body has confidence." The basis laid down in Lord Durham's Report must be recognised as the constitution of this Province. The College Bill had passed the House several times. The Government should have placed the matter in the most favorable light before Her Majesty's Ministers; he thought that they had not done so. (Mr. Steadman here read from the Journals of 1857, page 63, from a despatch of Lord Grey, to show that contacts such as that of the Civil List, were not unalterable.) He read this only to show that where the Legislature could show that any institution had not done its duty, the British Government would not absolutely refuse to abolish it. He was not now going into the merits or demerits of the College; he intended to confine himself to the question whether the despatch of His Excellency was such a one as should have been written. He would take it for granted that the despatch was submitted to the Executive Council.

Hon. Mr. Smith.—"That assumption is contrary to fact."

Mr. Steadman. He did not care about that; he inferred from the principles of the Colonial constitution that they did see it. To show that he was right as to this being a question with which we could deal he would quote from the *Political Primer*, page 22, the opinion of the present Attorney General himself:—

"He (Mr. Fisher) had hesitated some time before he came to the conclusion to interfere with the salaries of incumbents; but upon much consideration he had made up his mind that the Legislature had a clear right to alter, amend, or revise the salary of any subordinate officer in the Province whenever the interests of the public required it, irrespective of the opinion of any Colonial Secretary, and it was simply a question of propriety."

This case of the College was precisely similar in all respects to that which drew from Mr. Fisher these remarks. In the same speech Mr. Fisher had spoken of the Judges Fees Bill, which had passed both branches in 1851, had been sent home for the Royal assent, and had been disallowed, in these terms page 22:—

"Now where the opinion of the Legislature had been so clearly expressed it was the duty of the Government to give it effect. Instead of that, the representations of the judges had been transmitted to the Colonial Office without an observation from the Council. If the Legislature had not authority to legislate upon such a subject they were powerless enough."

Hon. Mr. Smith.—"Do you quote the Attorney General's speech as only his speech, or as a part of the Constitution?"

Mr. Steadman. Only as his speech. The opinion of the hon. Mr. Smith himself was given on page 63 and 64:—

"He believed the Home Government did not wish to interfere with the local affairs of this Province." (Laughter.)

And a few lines below:—

"The Attorney General said he did not see the Judges' letters; but he ought to have seen them, and ought to have remonstrated against them. If he did not see them he knew their import, and the Government should have sent a despatch to counteract their effects."

These were the opinions of the hon. Mr. Smith in 1854. (Continued laughter.) He would also quote the opinion of Mr. Johnson. On page 83 he said, quoting from a speech of Mr. Gray's in 1851:—

"The Attorney General (Street) sheltered himself and his Government under the plea that they were not responsible for despatches written by Her Majesty's Secretary of State for the Colonies. This plea would not, however, avail the Government, for he did not attempt to make the Government responsible for the doctrine enumerated in these despatches, but for their adoption of that doctrine. If the local Government were permitted to escape on a plea of this kind, the effect would be that so long as they conform to despatches received from the Colonial Office, so long were they entitled to remain in power, as they were in no wise responsible for such despatches, no matter what the effect to the country might be."

And on page 83 the same gentleman said of the Government:—

"They were not only responsible for the acts of the Governor, unless they repudiated these acts by immediate resignation."

All these were sufficient affirmations of the principles of our constitution, and these doctrines should be carried out to the letter. Judging by these doctrines he (Mr. S.) contended that the Government ought to have seen this despatch, and if they did see they should have remonstrated with the Governor, and have told him that if forwarded to the Colonial Secretary they would resign. If they saw this despatch, and did not take this course, they were guilty of a gross breach of duty. If they did not see the despatch, he was at a loss to know how the Governor obtained the information which it contained. The despatch stated that the Governor "viewed with deep regret the closing of the only existing Provincial Academic Institution, more especially as I believe myself that steps hitherto untried might be taken for still further adapting it to the wants and wishes of the community, and for thus extending the sphere of its utility. This, Sir, is my own opinion, and that this opinion is shared by very many, both in and out of the Legislature, is clear from the grant to King's College was, during the last session, under the consideration of the House of Assembly, an amendment was moved to substitute for that Bill another measure, having for its object certain alterations in the constitution of the College; which amendment (all the members of the House being present) was only lost by the vote of the chairman."

He (Mr. Steadman) held that the Lieutenant Governor could gather information only from the Legislature itself; the expression of the Legislature must be taken for the opinion of the country; or if the Governor, as advised by his Executive Council, does not think that the Legislature expresses the opinion of the country, he can dissolve, and by trying the particular question at issue at the polls, get, through the newly-elected Legislature, a true expression of the popular feeling. But he held that after the Executive had given their assent to the enactment of any Bill which had passed both Houses, it was a violation of our constitution to say that a large portion of the people outside the Assembly was opposed to it, and to make that an obstacle to its final allowance by the Imperial Government. The next point in the despatch to which he should direct attention was in the seventh clause. The Governor says:—

"Each of the three existing Professors came out from the mother country at the instance of the representative of the Crown

for the time being in this Province, and each, as you are aware, was appointed under the Royal Charter of 1828 to his Professorship by the Representative of the Crown, not as the head of the Provincial Government, but as Chancellor of the College, on behalf of the Crown; and there can, I think, be no question that each of them was, when the Professorship was offered to him, led to believe, what I believe was at the time true both in theory and in fact, namely, that the Professorships in King's College were held on a tenure similar to that on which similar offices were and are held in the Royal Academic Institutions of Great Britain and Ireland."

Now, if that was the constitution of this country, he (Mr. S.) would like to know it. If His Excellency was to represent the College as its Chancellor, and not as Governor of the Province, he should like to know it. With respect to a provision for the Professors, he had no doubt but that the people of this Province would do towards them what was right and liberal, though he held that they had no right to be called upon to do anything for them, as they had not carried out that which they had been put in their places to do. He had no doubt but that some of the Professors were men in every way qualified for their positions, and had the institution been started upon a proper basis they would probably have made it universally satisfactory to the people of the Province; but unfortunately a proper commencement was not made, and unfortunately every endeavor which was made to suit the College to the wants of the country was resisted by the College Council. ("No! no!" from the Provincial Secretary.) He believed that every Bill for the reform of the College ever brought before the House had met with the determined opposition of the College Council. His own opinion was that in obtaining a Provincial University they had better commence anew; that the present College would never do any good. In that view of the matter—which was the view taken by the Legislature itself—he could not understand how His Excellency's advisers could allow such a paragraph to be put into the despatch.

But another startling paragraph in the despatch was in the same clause:—

"It is clear that if the Act 'to suspend the grant to King's College' should come into operation in its present form, these Professors, all of whom have quitted their Mother Country for that purpose, have expended a large portion, and the most valuable portion of their lives, as Professors in King's College, (one has been a Professor for 28, another for 22, and a third for 18 years), and who are men of great scientific and literary attainments, and whose success, therefore, in their respective lines, if they had remained at home, can scarcely be a matter of doubt, will be at once deprived of their income attached to their Professorships, the permanency of which income alone could have furnished any adequate motive for their quitting the mother country, and relinquishing their prospect of advancement there. The question then arises whether this Act can in the present form be sanctioned by the Crown consistently with the engagements entered into by the Crown with the Corporation of King's College, and with the Professors of the College who had office under the Crown."

He (Mr. S.) wished to know if they were to be told that this institution, without regard to consequences without regard to its effect, without regard to whether it had entirely failed in fulfilling its object, was to be unalterably fixed upon us. He believed that such a thing was entirely inconsistent with our constitution. He believed that we had a perfect right to legislate upon the matter, and that the Imperial Government, if the facts concerning the College were properly represented to them, would not hesitate to sanction the Act of last session. In the eighth clause of the despatch the Governor went on to "observe that it is an indisputable fact that the casual and territorial revenues of the crown were, previously to the surrender of these revenues by the Crown in 1837 to the

Province, under the sole control of the Crown, and in no degree subject to the control of the Provincial Legislature; and the character and purport of the negotiations which preceded the Civil List arrangement, as well as terms of that arrangement, render it an equally indisputable fact that the Civil List annuity of £14,500 currency, which was granted to the Crown by the Province, in exchange for the casual and territorial revenues, was placed by this arrangement on precisely the same footing as that on which the casual and territorial revenues stood previous to that arrangement." But he (Mr. S.) considered that the Crown held the casual and territorial revenues merely as the trustee of the people of this country, and for the advantage and benefit of the people of this country; any engagement which the Crown had made respecting it was on behalf of the Province, and that any change which could be made for our benefit should be made. If this was so he could not see how the Executive Council could consent to the introduction of such a passage into the despatch.

Hon. Mr. Smith.—"We did not consent to it."

Mr. Steadman. That was not the point. If they did not see it they ought to have seen it; that was good doctrine in 1854—why was it not good doctrine in 1859?

Hon. Mr. Smith.—"It is good doctrine."

Mr. Steadman. Then how was the Government to get out of the dilemma? He could not see any difference between the cases of 1854 and 1859. His personal feeling would lead him to support the men now in the Government; but he could not distinguish between their conduct in this matter, and the conduct for which they condemned the Government of 1854.

The last paragraph of the despatch referred to the Report upon the Act by the Attorney General in these words:—

"The Attorney General in his report on the Act has very properly stated that it affects the Civil List arrangement as well as the prerogative of the Crown."

He (Mr. S.) found no fault with this Report of the Attorney General; he made a report such as he should have made as the sworn legal adviser of the Crown. The opinion contained in that report, in connection with this despatch, had defeated the Bill. In making that report the Attorney General had done his duty; but what was the duty of the Executive Council in the matter? They should have made and had forwarded to the Colonial Secretary, a remonstrance, setting forth the reasons for the Bill, and the wishes of the country; and urged that the Civil List compact should be altered. The Attorney General while performing his duty as legal adviser of the Crown should have also performed his duty as political adviser of the Governor, and should have been joined in the performance of this duty by all the members of the Council. If the Attorney General, or any of his colleagues, had thought the Bill wrong, as interfering with the pledged faith of the Crown, they should have opposed it on the floor of this House, upon these grounds. Or, if they were going to say that they did not see the despatch he was only surprised that they should take such a position. The government of this country could sit down and write just such despatches as he pleased. In the case of the Prohibitory Liquor Law the Council, although its members differed in opinion upon the propriety of the law on the floor of the House, made a minute, showing what their opinions were as to the propriety of the final passage of the Law. Had they done so in this case it was just possible that their opinions would have prevailed, and the Act been sanctioned. The Colonial Secretary, no doubt, took it for granted that this despatch represented the opinions of the Council, more especially that he had before him no representation of any kind to show the reverse. The Council should have taken the position that His Excellency had no right to send home a despatch that did not meet their views, or otherwise, they should have resigned.

Hon. Mr. Smith.—"There would have been no fun in that." (Laughter.)

Mr. Steadman. If our Governors were given to understand that when in collision with the people they must give way, they would be cautious not to interfere. The correct version of the constitution was that "the King could do no wrong." That maxim applied equally well to the Governor of this Province: every act which

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