

PROVINCIAL LEGISLATURE

FOURTEENTH DAY.

Thursday, Feb. 13th, 1896. Mr. Booth, speaker pro tem, took the chair shortly after 2 o'clock. Prayers were read by Rev. W. Leslie Clay.

QUESTIONS OF PRIVILEGE.

Mr. Rittler rose to a question of privilege in connection with the reply of the hon. the minister of finance yesterday to Mr. Sword's question in reference to the loan of \$120,000. In the answer to this question it is stated, after stating that the offer was 1 1/2 per cent., with a tax of 1/2 per cent., to be made of 3/4 per cent. brokerage and 1/4 per cent. bank commission.

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Mr. Sword—What precautions have the departments taken to secure that the Big Bend of the river is not a source of infection? Mr. Dadd—The Big Bend of the river is not a source of infection.

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FIFTEENTH DAY.

Friday, February 14th, 1896. Mr. Booth, speaker pro tem, took the chair at two o'clock. Prayers were read by Rev. W. Leslie Clay.

QUARANTINE MEASURES.

Mr. Kennedy moved his resolution with reference to quarantine regulations, as follows: Whereas in the year 1895, from June to November the city of Victoria, Vancouver, and other portions of the province of British Columbia, including certain sections of the Mainland upon both sides of the International boundary line, were visited by small pox and cholera.

EDUCATIONAL LANDS.

Hon. Mr. Martin moved the second reading of this bill, the provisions of which he proceeded to explain, prefacing his remarks with a short explanation of his position now and when he voted to stop the sale of public lands in 1892.

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QUESTIONS BY MEMBERS.

Mr. Semlin asked the hon. the minister of finance: How much money has been received during 1895 for surveyed land, according to the Land Amendment Act of last session? Also, how much has been received for unsurveyed land during said year, under same law?

QUESTIONS BY MEMBERS.

Hon. Mr. Turner replied: Of arrears upon pre-emptions and purchases outstanding on the 21st February, 1895, and collected under the authority of the "Land Act Amendment Act, 1895," there was paid between that date and the 31st of December last, on surveyed lands, \$25,732.13; on unsurveyed lands, \$2,416.78; amount received for land acquired under authority of clause 9 of said act, \$2,674.50.

QUESTIONS BY MEMBERS.

Hon. Mr. Martin replied: \$88,932. Mr. Helmecken asked the attorney-general: 1. Has the government succeeded in bringing the conflicting judgments as to the constitutionality of the Small Debt Court before the latter Court? 2. To so, when was the matter argued? 3. How many judgments have been rendered on the act submitted to the house? 4. Is it the intention of the government at the present session to amend the said act as to eliminate section 62 and the schedule passed in pursuance thereof?

QUESTIONS BY MEMBERS.

Hon. Mr. Eberts replied: 1. Not yet. 2. The government is awaiting full returns from the magistrates exercising jurisdiction under the said act before submitting any amendments. 4. When returns are received the government will deal with the matter.

NOTICES OF MOTION.

Mr. Hume—(1) For a return showing how many farms have been granted in Kootenay under the mineral act up to 31st December, 1895. (2) Hon. the crown granted claims that have paid taxes thereon, the amount so paid, and name of owners. (3) Hon. the crown granted claims that have not paid taxes thereon, the amount so paid, and name of owners.

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Capt. Irving—What action has the government taken relative to the petition of James P. Jones, presented at the session of this house? If none, what action, if any, do they propose to take?

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Mr. Helmecken provides as follows: The bill on this subject introduced by Mr. Helmecken provides as follows: To amend the law relating to the distraint for rent owing to him by his tenant on goods in possession of the tenant, and to give the landlord the right to distrain on a duly filed agreement for hire, contract or conditional sale, or to any other goods of the tenant, as aforesaid, so much thereof as shall be sufficient to satisfy the debt claimed by the landlord of the said landlors as against the said goods.

CUBANS CLEAR THE WAY.

Received Everywhere With Open Arms—Amunition and Stores Expected. New York, Feb. 17.—The following letter, written by W. W. Wood, of Bayamo, Cuba, and mailed at Kingston, Jamaica, has been received at the headquarters of the Cuba Junta: Bayamo, Cuba, Jan. 28, 1896.

Senor Estrada Palma, President Cuban Junta. My Dear Sir:—Having an opportunity to send you a few lines, I write to inform you of our great success. We are now occupying Bayamo, which we took from the enemy on Jan. 16. We made the attack on the 9th, but finding the enemy outnumbered as two to one, we withdrew and were in order to force our way in, and not with the intention of slaughtering so many. There were 320 killed in the explosion and nearly as many wounded.

We have been received with open arms by all except enemies and we have a way that they could not resist us. I hope that you may never hear of our defeat and that all strife will soon end with victory for Cuba.

EVADING SUCCESSION TAX.

Richmond, Ontario Convey Much Property in Trust. Toronto, Feb. 17.—The members of the Ontario government are endeavoring to frame a bill which will prevent large estates from escaping the succession duties, as they are now doing. The bill would apply to estates over a value of \$100,000, and has provided so far that the estate tax will be levied on the net value of the estate, and has provided so far that the estate tax will be levied on the net value of the estate.

Hon. Col. Baker quoted the school statistics to show the increase in educational expenditure, and he also showed that the practice prevailed in the Northwest, Manitoba and other provinces and countries of setting aside lands for educational purposes. To meet the increasing demands on the public money for school purposes, there were three courses open: Shut up schools; impose a direct tax, or sell some of the public lands. The schools could not be shut up, and the tax could not be levied, so the only alternative is to sell some of the lands.

Hon. Mr. Rittler, chairman of the public accounts committee, presented the following report: "The committee finds that the returns submitted by the C. P. R., lessees of the Shuswap & Okanagan and the Nakusp & Slocan railways, do not furnish details of the quantity of freight or the number of passengers carried, or the rates charged for the freight and passengers carried on the said railways, nor are the detailed particulars of the miles or sundries given. For the quarter ending on the 31st December, 1895, the amount returned by the C. P. R. is \$3,037.04 for the Shuswap & Okanagan railway, and for the Nakusp & Slocan railway \$5,388.74.

"The committee finds that the present rate of interest allowed on deposits by the Bank of British Columbia is 3 per cent."

PRIOR'S POSITION.

Views of the Leader of the Opposition on Col. Prior's Doubtful Position. Our Member's Status in the Government Without a Precedent.

PRIOR'S POSITION.

(From our own correspondent.) Ottawa, Feb. 9.—A very full report of what took place in the house on the motion of Mr. Laurier for correspondence, etc., regarding the appointment of Messrs. Prior and Wood to the privy council of Canada has already been telegraphed the Times, but a further reference to the debate will be of interest in showing the humiliating position that Col. Prior has been driven into on account of the desperate straits of the party to carry the city of Victoria. During the contest Mr. Prior on more than one occasion said that the law was changed or to be changed so that he might become a cabinet minister. There is little doubt but Mr. Prior imagined that such was the case from the character of the telegrams that came from the ministers. On reaching here he discovered that he was badly "fooled" to use a vulgarism. He lost no time in trying to remedy the matter, but has been thwarted by the silly attitude of the Colonist newspaper, as it persists in asserting that he is a full-fledged cabinet minister already, and that therefore the government does not require to carry out its pledge to the province. In other words the Colonist insists that a controller, who is the subordinate of a cabinet minister, is what British Columbia wants, and not a "full-fledged cabinet minister."

My own personal opinion is that the Colonist is to some extent right. As controller Mr. Prior will have less influence on the government than as a cabinet minister, and as the whole influence of the present aggregation is against the best interests of the country the weaker the support they have got the better it is. For instance, it is of far greater importance to British Columbia and the country that Mr. Prior, the cabinet minister, should be defeated than Mr. Prior the controller. The strong attitude taken by the Liberal party in the province is a matter of course, but upon the administration the fact that British Columbia must be represented in the cabinet, and if proper representation has not been obtained, the government has been compelled to acknowledge the principle.

After quoting from May and Todd, Mr. Laurier pointed to the anomalous position which the controllers were said to have held. He continued: "They are not responsible to the crown, not responsible to parliament, but responsible to another minister, to one of their own colleagues, as advisers of the crown. This, it seems to me, is a singular anomaly, it is a violation of the principles of responsible government. Suppose, for instance, that the administration of the department of customs were not satisfactory to parliament; at the present time parliament has no means of making the holder of the office, amenable to its action, because the holder of the office is not responsible to parliament, but some body else is responsible for him: the minister of trade and commerce is responsible for the actions of the controller of customs. The minister of trade and commerce is responsible for the administration of the controller of inland revenue. So those hon. gentlemen are not in any proper sense, and they could not be in any proper sense, members of the cabinet; they could not be advisers of the crown, because they have no responsibility to the people, no responsibility to the crown itself, but they are responsible to the hon. gentleman who is responsible both to the crown and to parliament for their administration. And therefore, under the circumstances, it seems to me that it is, to say the least, a very singular anomaly, to see those hon. gentlemen functioning as members of the cabinet, by the nature of their office, they are debarred from being members of the cabinet. Perhaps it may be said they might be members of the privy council. There is no question as to their being members of the privy council need not be members of the two houses of parliament; members of the privy council are at present honorary advisers of the crown, and under our system we have several members of the privy council who are not members of either house of parliament. But I contend that in this case, when an hon. gentleman who holds an office under the administration, but who is at the same time not responsible directly either to the crown or to the people, but is directly responsible to another officer, to a minister, who is himself responsible to the crown and to parliament, is debarred by the very nature of responsible government from holding a position as an adviser of the crown and forming part of the cabinet. He may be part of the administration—I do not contend that he may not; but to be a member of the cabinet and a member of the administration are two different matters."

Mr. Laurier proceeded to show from the Hansard that Sir John Macdonald contemplated the controllers being under secretaries. He also read from the statute appointing the controllers, showing, as I have done on several occasions, that they cannot be controllers and at the same time cabinet ministers, no matter what name we may be pleased to call them. Mr. Laurier is a good constitutional lawyer and that is what he says: "It is a matter of history," said Mr. Laurier, "that this act, which was passed in 1887, was left in abeyance for several years, and was not put into practical effect until two or three years ago; and when it was put into effect it was put into effect in the manner provided by the act, that is to say, those two gentlemen—the controller of customs and the controller of inland revenue, while they were taken into the administration, were not taken into the cabinet. They were not made cabinet ministers, they were not made members of the privy council, they did not hold the rank of advisers of the crown, and for the obvious reason, and for the well known reason that being debarred by their office from having direct responsibility themselves, it was of course felt that they should not hold positions as cabinet ministers. The Liberal leader then went on to show how Mr. Prior was appointed in the same way as his predecessor, but afterwards there came a telegram from Lieut-Governor Dewdney and a reply from Bowen which was to the effect that Prior was to be taken into the cabinet, which was an electoral expediency. In conclusion he said that for the controllers to be in the cabinet was altogether antagonistic, not only to the principles of parliamentary government, but also antagonistic to the letter of the statute, which created both of these offices."

Sir Adolphe Caron did not see why the government should not have done as they did. That is all the information he could give on the subject. Hon. David Mills pointed out that in England no such thing was ever heard of as a subordinate of another minister being made a cabinet minister. After reading the statute appointing the controllers, Mr. Mills said: "Now, Sir, is perfectly clear on the provisions of this statute that these two offices were to be ministers, but not cabinet ministers. They were to stand outside of the cabinet. They were to be responsible for the actual discharge of the duties of their departments; but in the public policy of the cabinet, in its general direction, in anything that concerned the policy of the various departments, the one minister who was responsible both for the acts of the controller of customs and for those of the controller of inland revenue, was either the minister of trade and commerce or the minister of finance, as the government pleased to subject under the one or under the other. That position is one altogether out of keeping with seats in the cabinet." And again Mr. Mills said: "Now, Sir, there is but one way known to the law of the constitution of making an officer a member of the privy council—I am not now speaking of the cabinet; that is, by his appearing personally before the representative of the crown and being sworn in by the privy council—being sworn to keep the secrets of Her Majesty and to advise her truly, and subscribing to the privy council roll. Now, what do these hon. gentlemen say? The controller of customs, in communication by telegraph to the present controller of inland revenue, said this: 'His Excellency informed me, last night, that is, on the 27th December, that he had signed the minute of the approving of your appointment as a member of the cabinet and of the privy council.' Now, I would like to know what authority an appointment was made in that way. I would like to know how Mr. Prior became a member of the privy council, without taking the oath or subscribing to the roll. It is a novel proceeding, one which is wholly unknown to the law, and that is the way in which Mr. Prior has been made a member of the privy council. I will venture to say that in law he is not a member yet." Further Mr. Mills said: "I admit that the crown may make any member of its house, or even Mr. Audette down stairs, if it thinks proper, a member of the privy council. There is no doubt about that. But to make him a member of the cabinet in virtue of his holding the office of controller of customs, or that of controller of inland revenue, when the law intends that he shall not be such, is a most extraordinary proceeding. Now, Sir, I venture to say that you will not find in the whole history of Victoria an instance in which any one holding an office of under-secretary or any one of the subordinate offices as an assistant to a minister, has been raised to the position of a cabinet minister."

Mr. Dickey admitted the anomalous position of the controllers. He said: "The presence of the controllers in the cabinet, or their absence from the cabinet, does not affect in any way the responsibility of the minister to the house. The responsibility for the policy and the administration of that department is exactly as it was before these gentlemen became sworn of the privy council."

Mr. Davies—"These officers were appointed merely as administrative officers, to take their orders from the minister of trade and commerce who was to have the forming of the policy which it was to be their duty to carry out." Those parasites of the government who have been abusing myself personally for what I telegraphed during the recent election as to the position of Mr. Prior will find interesting reading in the above. If they want Mr. Prior to be made a "fall-fledged minister" they should rather assist him in his efforts to obtain that position with his higher honors, greater responsibilities, and better pay in preference to insisting that he has not all these things now when he really has not. SLABTOWN.

WE HAVE MOSQUITOS HERE.

While Easterners Are Having Frost and Snow. Watertown, N.Y., Feb. 17.—The coldest weather of the winter was experienced last night, when the thermometer registered from 35 to 38 below zero in this city.

ROYAL Baking Powder.

Highest of all in leavening strength.—U.S. Government Report.

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After quoting from May and Todd, Mr. Laurier pointed to the anomalous position which the controllers were said to have held. He continued: "They are not responsible to the crown, not responsible to parliament, but responsible to another minister, to one of their own colleagues, as advisers of the crown. This, it seems to me, is a singular anomaly, it is a violation of the principles of responsible government. Suppose, for instance, that the administration of the department of customs were not satisfactory to parliament; at the present time parliament has no means of making the holder of the office, amenable to its action, because the holder of the office is not responsible to parliament, but some body else is responsible for him: the minister of trade and commerce is responsible for the actions of the controller of customs. The minister of trade and commerce is responsible for the administration of the controller of inland revenue. So those hon. gentlemen are not in any proper sense, and they could not be in any proper sense, members of the cabinet; they could not be advisers of the crown, because they have no responsibility to the people, no responsibility to the crown itself, but they are responsible to the hon. gentleman who is responsible both to the crown and to parliament for their administration. And therefore, under the circumstances, it seems to me that it is, to say the least, a very singular anomaly, to see those hon. gentlemen functioning as members of the cabinet, by the nature of their office, they are debarred from being members of the cabinet. Perhaps it may be said they might be members of the privy council. There is no question as to their being members of the privy council need not be members of the two houses of parliament; members of the privy council are at present honorary advisers of the crown, and under our system we have several members of the privy council who are not members of either house of parliament. But I contend that in this case, when an hon. gentleman who holds an office under the administration, but who is at the same time not responsible directly either to the crown or to the people, but is directly responsible to another officer, to a minister, who is himself responsible to the crown and to parliament, is debarred by the very nature of responsible government from holding a position as an adviser of the crown and forming part of the cabinet. He may be part of the administration—I do not contend that he may not; but to be a member of the cabinet and a member of the administration are two different matters."

Mr. Laurier proceeded to show from the Hansard that Sir John Macdonald contemplated the controllers being under secretaries. He also read from the statute appointing the controllers, showing, as I have done on several occasions, that they cannot be controllers and at the same time cabinet ministers, no matter what name we may be pleased to call them. Mr. Laurier is a good constitutional lawyer and that is what he says: "It is a matter of history," said Mr. Laurier, "that this act, which was passed in 1887, was left in abeyance for several years, and was not put into practical effect until two or three years ago; and when it was put into effect it was put into effect in the manner provided by the act, that is to say, those two gentlemen—the controller of customs and the controller of inland revenue, while they were taken into the administration, were not taken into the cabinet. They were not made cabinet ministers, they were not made members of the privy council, they did not hold the rank of advisers of the crown, and for the obvious reason, and for the well known reason that being debarred by their office from having direct responsibility themselves, it was of course felt that they should not hold positions as cabinet ministers. The Liberal leader then went on to show how Mr. Prior was appointed in the same way as his predecessor, but afterwards there came a telegram from Lieut-Governor Dewdney and a reply from Bowen which was to the effect that Prior was to be taken into the cabinet, which was an electoral expediency. In conclusion he said that for the controllers to be in the cabinet was altogether antagonistic, not only to the principles of parliamentary government, but also antagonistic to the letter of the statute, which created both of these offices."

Sir Adolphe Caron did not see why the government should not have done as they did. That is all the information he could give on the subject. Hon. David Mills pointed out that in England no such thing was ever heard of as a subordinate of another minister being made a cabinet minister. After reading the statute appointing the controllers, Mr. Mills said: "Now, Sir, is perfectly clear on the provisions of this statute that these two offices were to be ministers, but not cabinet ministers. They were to stand outside of the cabinet. They were to be responsible for the actual discharge of the duties of their departments; but in the public policy of the cabinet, in its general direction, in anything that concerned the policy of the various departments, the one minister who was responsible both for the acts of the controller of customs and for those of the controller of inland revenue, was either the minister of trade and commerce or the minister of finance, as the government pleased to subject under the one or under the other. That position is one altogether out of keeping with seats in the cabinet." And again Mr. Mills said: "Now, Sir, there is but one way known to the law of the constitution of making an officer a member of the privy council—I am not now speaking of the cabinet; that is, by his appearing personally before the representative of the crown and being sworn in by the privy council—being sworn to keep the secrets of Her Majesty and to advise her truly, and subscribing to the privy council roll. Now, what do these hon. gentlemen say? The controller of customs, in communication by telegraph to the present controller of inland revenue, said this: 'His Excellency informed me, last night, that is, on the 27th December, that he had signed the minute of the approving of your appointment as a member of the cabinet and of the privy council.' Now, I would like to know what authority an appointment was made in that way. I would like to know how Mr. Prior became a member of the privy council, without taking the oath or subscribing to the roll. It is a novel proceeding, one which is wholly unknown to the law, and that is the way in which Mr. Prior has been made a member of the privy council. I will venture to say that in law he is not a member yet." Further Mr. Mills said: "I admit that the crown may make any member of its house, or even Mr. Audette down stairs, if it thinks proper, a member of the privy council. There is no doubt about that. But to make him a member of the cabinet in virtue of his holding the office of controller of customs, or that of controller of inland revenue, when the law intends that he shall not be such, is a most extraordinary proceeding. Now, Sir, I venture to say that you will not find in the whole history of Victoria an instance in which any one holding an office of under-secretary or any one of the subordinate offices as