The Weeklh AND CHRONICLE.

Saturday, May 2, 1868

LEGISLATIVE COUNCIL.

Wednesday, April 22nd, 1868. The Council met at 1 p. m. Present-Hons. Pemberton, Stamp, Hamley, Kerr, Elwyn, Decosmos, Helmcken, Wood, Spald-ing, Crease, Cox, Ball, Trutch, Robson, Wal-ken, Smith, O'Rielly, Young (presiding) Hon DeCosinos presented a petition from the members of the legal profession which he moved might be laid on the table; to be taken up again. Laid on the table accordingly.

PATENT SLIP ORDINANCE Hon DeCosmos asked leave to bring in an ordinance to empower the Mayor and Town Council of the City of Victoria to construct

a Patent Slip.

1. By borrowing on the security of the City Revenues the sum of \$35,000, by the issue of bonds to be administered by Mayor, 3 Councillers and 3 prominent Citi-

2 By taking stock in an enterprise having that object in view started by private enter-3 By the guarantee of a certain rate of

interest on the requisite amount of capital invested by private individuals. Leave being granted, the hon DeCosmos moved the first reading, which was done accordingly; The second reading being fixed for Monday next.

Hon Helmcken moved an address the Governor, praying that he will inform this council of the reply of Her Majesty's Government to a resolution passed April 2nd, 1867, in answer to his Excellency's

message No. 32. Hon Helmoken gave notice that he would ask leave to introduce a bill to confirm the titles to land granted by the Hudson Bay

Hon Walkem moved that his Excellency the Governor be requested to appropriate a sum of not less than \$5000 for construction of a trail between William Creek and Mosquito Creek.

Hon DeCosmos moved that a petition be sent to Her Majesty for the immediate Con-federation of this Colony with the Dominion of Canada, embodying the terms upon which such Confederation should be based. Ordered to be printed.

Hon Stamp would ask to-morrow if it is the intention of the Government to grant relief to Saw Mills, by a drawback on exported lumber from this colony equal to the duties paid on goods consumed in the manu-

Hon Stamp would to-morrow ask the Colonial Secretary what steps, if any, have been taken by the Government of this Colony towards the formation of a Dry Dock at Esquimalt or elsewhere.

THE BARRISTER'S BILL Hon DeCosmos said the bill would in no wise conflict with the petition before the House on the same subject. The advantage of passing the present measure would be to place this much desired act of legislation beyond a doubt.

Hon Wood moved that the bill be read that day six months. The hon member had stated that the measure was largely desired by the people of this colony, but this was not the case, his desire was to discuss the question upon its own merits. 'To do this it was necessary to go some little into details in order to make himself understood. He had little doubt if the Solicitors and Barris had little doubt if the Solicitors and Barristers were brought together, the larger proportion would be carried off by the higher branch of the profession. He knew he was making a speech against his own interest but at the same time he wanted to convince them that in taking the course he did, he was not seeking his own interest. He had been told by an officer of high standing in Canada that the two branches were always distinct in the large cities, but the question was, what was best for all? and what effect would the blending of the branches of the profession have in this colony? The scientific education necessary for a barrister fitted him to deal with the scientific department of law. The diversity of studies required a barrister to compress into his brain five or six branches of the profession, and if to these were added the practical department of an attorney, he asked hon members how they could expect the efficient performance of the duties? The barrister lives in comperative retirement, the nature of his studies renders that necessary. Solicitors are not scientific, but so far as their judgment and tact are concerned, they are the soundest friends of their clients. They have plenty to do in the practical details of their duties, and with them there is more need for fidelity. The Bar, by the force of circumstances, was pure, and rarely came in contact with the lower class of litigants, the degradation to meet with whom fell to at-torneys. The Bar, on the other hand, would be exposed to many temptations, and it would always be advisable to preserve the Bar in its present purity, as of the greatest advantage to society. If the two branches were mingled together they could never expect to have educated barristers from England, who would not put up with such degradation; the English Bar he was proud to say was the purest in the world. What was more elevating to the mind of a barrister or more important to the community at large than the hope of one day becoming an honorprofessions once for all. The bill of last ses-sion would provide the means of securing any advantage to be obtained by amalgamation in this colony. If the two branches of the profession were joined in Ithe United States, the Bench in that country was no model for this country. The Bench in Canada was only an approximation to our sta-

tus. (hear, hear.) Hon Walkem expected opposition from that quarter, simply because from the tenor of the hon gentleman's speech at the intro-duction of the bill, he had divined his views on the subject. Some hon gentlemen had a bappy trick of always referring to Canada touching matters of which they knew

British Country. In travelling up country in 1862, the hon gentleman observed a small branch of popular lying in the road. Pointing it out. he said he supposed that was some of the bungling work of the Sappers. The fact was the branch had been out down by the beavers. This was a good instance of the hon gentleman's colonial experience. The fact was that English barristers came here to starve, for want of that very scientific knowledge that the hon gentleman boasts so much about. The present was not a question of status, but public policy. The bon gentleman spoke of the degradation attending the Bar when forced into the practical details of the profession. He would instance such men as

Henry Clay, Chief Justice Storey, and others who had gone through that degradation, and were none the worse for it. For his part, he could not see degredation in a little manual work, it was better than riding about the streets, gardening, or what not. It is not whether the profession desires the change, but whether the public requires it or not The hon gentleman evidently made a stab at this colony, but he could assure the House that bills of costs in Victoria were treble what they were in Cariboo, although involving property of at least equal value. He might be arguing against himself, but he never felt the degradation of filling up his own write or drawing his own briefs. never saw anything degrading that would save expenses to his client. There was another point the hon gentleman spoke of, lowering the Bar to the level of the attors ney, but he never spoke of elevating the attorney to the level of the Bar. The learned gentleman spoke of the lower orders of attorneys, there were barristers as low as any to be found amongst the most degraded of attorneys, the only blot on the Bar of this colony was caused by an English barrister. Did the hon gentleman mean to say that if the two branches of the profession were amalgamated people would not know the good from the bad lawyers then as now. To show how well the public know how to choose, in Victoria at the present moment there are many most respectable attorneys, and the most respectable of them have so much work to do that they cannot get through it. This wonderful science that the hon gentleman is so wenderfully gifted with is not arbi-

tary in choice of brains; it was doubtlessly necessary for the hon gentleman to study books for it, and he did not see why attorneys should not do the same. The scientific English barristers, when consulted, were obliged to go to their books. The Ordinance would be of great public advantage. and was universally desired; it was a well knowu fact, that at Victoria the greater numbers of cases had been settled by arbitration, the terror of going to law was so great in consequence of the heavy costs. To such cases occur in the upper country, the clients there place more confidence in their legal advisers. He presumed the hop gentleman had never been in the United States except when crossing towards this country, hence he could not know much of the United States Bench. Had this colony prospered as it was first expected, we should bave had fifty of these scientific English barristers and fifty more every year. Rather than see this measure defeated again, he would agree to accept the bill of last session in committee. Because Judge Needham had ruled that the bill was not in force, that was no reason why the principle of the bill

should not be carried out. Hon DeCosmos-After the very able speech of the gentleman who had just sat down, he did not think it was necessary for him to make any remarks. What the bill before them contained the public demanded and must have. The hon and learned mover the amendment had made a statement that he thought was incorrect. It was his own impression and that of the last speaker, hence there were two to one in favor of his being

Hon Crease said he rose to support the amendment of the hon. Wood, who had clearly pointed out the distinction in the profession which ought to be maintained. All the replies to that speech had merely evaded the arguments so decidedly advanc-ed by the hon Selicitor General. The result of the present bill would be to bowl over the barrieters altogether. The bill would amalgamate the two branches of the professions in this colony once and for all future time. The bill of last session had certain resercations that would act as a safeguard in the fature. In spite of all that had been stated by the member for Cariboo, he must maintain that the bench of the United States was unfit for imitation in this colony; he would not advise the Council to amalgamate the two branches of the profession in the manner proposed by this bill.

Hon Robson had listened with a great deal

of interest to the very effective speech of the member for Cariboo. He thought; however, that the necessity existing in our small community was a better argument and more likely to bring conviction than fine speeches, The amalgamation of the two branches als ways existed in Canada, and men who would compare favorably with any Judges in the world had attained the bench, after all the drudgery so plaintively dwelt upon by the hon and learned Solicitor General. The barristers who came to this country from Canada were only third o fourth rate men. and yet were able to hold their own with the scientific barristers from England. The first class Canadian lawyers had plenty to do in

Hon Wood would only reply to two points Petitions had been presented to that House from the professional men of Victoria, but never from the public. The whole public of Victoria coincided in preferring the present status of the profession; he did not mean to say that the filling up of writs was

hon gentleman who had last spoken had said, was intended to impress them with the tical question was, shall we pension off one idea that he was very learned. Now learned of the Judges or take the course pointed out gentlemen were expected to be at least fam- by the bill? He thought the latter was the liar with the framework of their profession, but the hon and learned gentleman had shown a lamentable ignorance of an unques- Judges; the bill being intended only to make

tition to the Judge to have the rules of the Court altered. This was not the case. the present bill was thrown out, a measure of a much more radical character would be introduced before long, and the profession would be thrown open to all alike, whether possessed of a legal education or not.

The House then divided, when the hon Wood's amendment was lost. The bill was then read a second time and would be committed to-morrow.

BILL RESPECTING DRAWBACKS

Hon DeCosmos asked leave to bring in bill respecting Drawbacks, in which he was supported by the hon Helmcken. Leave granted. The bill was read the first time; second reading on Friday.

SUPREME COURTS BILL.

The House went into committee of the whole to consider report of the select com-

Strangers were ordered to withdraw. After the doors were re-opened bon Wood would respectfully ask the Colonial Secreary whether or no it would be consistent with the views of the dispatch of the Right Hon the Secretary for the Colonies, so at least to remodel the bill sent down to the Council, as to allow of concurrent jurisdiction given to the present Supreme Court, and an appeal as of right. He could not think that the dispatch in question was intended to force upon the Colony an Ordinance which was offensive to all classes. He thought the dispatch could only be construed as intended to set at rest the doubt hanging over the existence of the Supreme Court at Victoria. It was quite obvious from the context that attention was never drawn to the evils of which the Colony has so great a right to complain, and that if we passed the bill sent from home without amendment as an Ordinance to be accepted without any modification we should be not only doing the Colony a serious injury, but we should also be throwng an odium on the Government at home. for which they would little thank us. He urged that it was of vital importance that no narrow or merely literal construction of that dispatch should be taken; but that we should presume that was intended to be done which we could ourselves constitutionally do, and provide for our own wants in our own way after our understanding had been brought to bear upon it. The idea of the Home Government blindly ruling us from Downing Street, without a possibility of our suggesting any alteration to a mischievous measure was surely an injustice, not only to them but to us. Should contrary opinion prevail and it were deemed by the Government of the Colony imperative upon them to pass this Ordinance in its present offensive form, it is impossible to overrate the intensity of public disapprobation. It is obvious to all that, to use the words of an hon member the Bill provides simply for the professional rank of two individuals at the pense of the due administration of justice It is notoriously opposed to public opinion as expressed by all classes of the community It continues for an indefinite term the obvi ous evil of two local Courts with juris diction and single Judges, an evil aggravated by the small numerical population of the Colony. The continued existence of two district courts with independent jurisdictions. with different rules of practice, and administering different laws tends to keep the former Colonies of British Columbia and Vancouver Island alienated in feeling and isolated one from the other. It provides for no appeal as of right. It provides no regular constitution for the proposed New Supreme Court of British Columbia when it comes there is no due safeguard for life, reputation and property against the possible partiality, prejudice, carelessness, corruptness or incapacity of single Judges, having absolute authority subject only to an expensive and dilatory appeal to England. Tre action of the Home Government in forcing the bill in question upon the Colony is an invasion of its constitution. The bill should, if at all. have been passed through the Parliament of the United Kingdom, and its existence in our Statute Book is an affront of the public spirit and common sense of this Council: and lastly, it will be urged that this bill, so contrary to public feeling and intended to control it should if at all, have been passed through the Parliament of the United Kingdom, and that its existence in our Statute Book where it is supposed to appear as the result of our public spirit and common sense, in reality outrages both. The hon gentleman considered that in the face of these obvious and beavy charges the Government could hardly fail to hesitate before shutting out the possibility of the amendment, sufficient at east to provide for a concurrent jurisdiction in the present Supreme Courts in all parts of of the Colony, and an appeal to all the Judges as of right.

Hon DeCosmos-Were we in the position of obeying a despotic master? did we hold allegiance to a satrapy? would either official or representative men be right in accepting such an Ordinance? For his part he would send a protest to Her Majesty's Government in which he would be jained by every one of his constituents. The Imperial Government might have the power, but he would convince them that we were not slaves in spirit, at least. The Governor should have taken the responsibility on himself to show Her Majes, ty's Government how they were degrading jesty the Queen. Had such an Ordinance Hon Wood would only reply to two points been proposed to the Government of the in the arguments of the preceding speaker. Dominion it would have been received with a well of indignation that would reach from Lake Superior to Newfoundland. The men who would vote for such an Ordinance were

unworthy a free nation. Hon Robson The fine speeches of hon degrading, except intellectually. He occasionally brushed his ewn boots, that was
not degrading, but it was decidedly not improving or instructive.

He ocdesired change. He deprecated the strong
language applied to the Queen's representative. They might tear up the bill and throw
it in the face of the Imperial Minister, but members were not likely to bring about the proving or instructive.

Hon DeCosmos said the purport of all the that would be more likely to embarrass than solve the question at issue. The real pracproper one. Her Majesty's Government would find a place very soon for one of the ada touching matters of which they knew nothing. He would relate a little anecdote shewing the experience of the hon member who spoke last, in matters relating to a new could send in a pe doubt. He thought it was a piece of sucless

bravado to fly in the face of the Colonial Office. The bill might not be very acceptable, but it was better than none.

Hop Walkem-The bill from England merely places the status of two gentlemen beyond a doubt. The Colony desired the amalgamation of the Courts, and it was degrading to think that we had come to be obliged to do the bidding of the Colonial Office, and that office had displayed an amount of ignorance in relation to what was required by the Colony almost incredible in comparing the two Courts here to the Court of Common Pleas, and the Court of Queen Bench in England. What we wanted was to make the two Courts concurrent. The present system had only the effect of making endless confusion and harassing suitors. He thought the official members should not be blamed for giving their votes for Government, but he hoped they would look upon the pre-sent bill as pointed out by the hon member for Victoria. Let us convince them in Eng-land that we know something.

Hon Helmcken would ask official members not to vote for the bill. He hoped they would remain steadfast in their allegiance to the people; but act conscientiously. The bill had nothing in common with the interests of the people and should be rejected.

Hon Crease—The present bill was of con-

siderable importance to the country at this time, and it was disirable that every member of this House should express his views and wishes on the subject in order that a practicable and satisfactory solution may be arrived at as a cure for the difficulty we are here to overcome; we must judge which is the best alternative instead of pulling different ways, we must endeavour to get at the same result. The only course to his mind was to carry the bill through as it stood, and then accompany it by as strong and clear a resolution or draft bill, expressive of the Council's opinion as to what was best for the country, as they could frame. If they adopted any other course they would not recah the result desired by the House so quickly or so effectually as by that mode. If they framed any other measure, which would be most unwise, it might not possibly be assented to or if it was it would only be shifting from the Home Government on to the shoulders of the Colony the resposibility of arranging with the Judges, which was not to be desired. They must look upon this bill as one of practical expediency

Hon DeCosmos thought it had been a very madvisable proceeding to have brought forward that dispatch at all. They might have been asked to note as a matter of expediency. but with that dispatch before them there was

no excuse. Hon Young-The hon member for Victoria says that it was unadvisable to bring forward the dispatch, but he trusted the House was not of that opinion. It had always been his desire to furnish the House with the fullest information on every subject of interest to the Colony at large. In the present instance it was necessary to show how the measure Before it was brought before the House it had the careful consideration of the Executive Government, and if any other course had been found practicable it would have been pointed out, There was no attempt to thrust the measure down on this Council, it was only pointed out as the most expedient way of getting over the present difficulty. It was simply a suggestion as to the best mode of disposing of the question by practically supporting the bill. In cons dering questions of such importance all temper, all abuse of Government should be cast to one side. It was improper to say that the officers of Government were in opposition to the people, he was sure there was into existence. Without appeal as of right no one there present who took a war interest in the welfare of the people of this Colony than he did. He was in fact one of the people, he had cast his lot in the country, and no one could feel more interest in its well being than he did. It was not the way to act toward the public servants, imputing by personalities a disire on their to oppose the wishes of the people; when on the con-trary, it was their earnest desire to serve them to the best of their abilities. Had there been any other practical alternative Government would not have brought he present measure forward, it had been carefully considered by the Executive before it was laid before the House. The only alterative that he could see was to pension off one of the Judges, and he as a tax-payer decidedly objected to that course. There could be no doubt that Her Majesty's Government was alive to the difficulty land would relieve the Colony of one of the Judges at the earliest possible moment. By supporting the meass ure before the House they would be advancing the interests of the country at large, and at the same time take the speediest mode of removing the present inconvenience and diffi-

Several clauses of the bill were then pass ed, when the Committee rose, reported progress, and asked leave to sit again.

Fire Inquest Bill read first time, second reading for Friday:
The Trustees Relief Bill was read a third time and passed.

The locorporation of the Sisters of Saint Ann Bill read a third time and passed. The House then adjourned till one p. m to-morrow.

THURSDAY, April 23rd. Council met at 1 p. m. Present—Hons Pemberton, Wood, Helmcken, DeCosmos, Elwis, Spalding, Ker, Crease, Walkem, Hamley, Cox, O'Reilly, Trutch, Ball, Rob-son, Smith, Stamp, Young. (Presiding).

MESSAGES. Hon Colonial Secretary presented mes-sage Nos. 7, 8, 9, 10, 11 from His Excellency the Governor, Assent given to Weights and Measures Ordinance, and another of similar importance. No. 9 was in reply to petition from citizens of New Westminster, claiming compensation for depreciation in value of land in consequence of the removal of Seat of Government. His Excellency expresses sympathy. No. 10 was in reply to the question from the Council of March 27th, and furnished a return of all lands in the Colony presempted, sold or leased.

og PETITIONS. Hon Walkem presented a petition from Cherry Creek Silver Micing Company, praying for certain modifications in lease.

NOTICE OF MOTION. Hon Pemberton would ask for reply

encury of Council of 2d April 1867; also, for return of expenditure and income Assay Office.

After a few remarks from the hon Helmokes the House went into Committee of the Whole on Supplies, Hon O'Reilly in the

A prolonged and amusing discussion arose as to the propriety of recognising the title of Assistant Colonial Secretary now borne by Colonial Secretary's Chief Clerk.

Hons Walkem, Helmcken, DeCosmos and Pemberton, held that the title implied another addition to the official troupe, whereas it was shown by hon Colonial Secretary that the title was only a mode of appreceiation of meritorious services, and did not ins flict a single dollar additional expense on the Colony. The item was ultimately passed. In the course of the foregoing discussion, the hon Colonial Secretary stated that hon Birch never had nor would draw one single dollar from the Colony in respect of any position formerly held by him in this country. He also stated that alterations would take place in the official ranks as vacancies occur. That the strictest economy would in future be observed consistent with efficiency.

Hon Helmcken objected to insertion of the auditor's clerk as if permanent. In last years Estimates the same clerk was set down as temperary. The hon Colonial Secretary explained that the clerk when hired was only supposed necessars for a short time, but a multiplisity of business had made his continuance necessary; his position, however, as to tenure of office was the same now as at

Hon Helmoken suggested that Custom House officers should be incorporated with the Police.

Hon DeCosmos suggested that as titles were the fashion, the hon Collector should be then called "Policeman General." Hon Hamley explained that the change

had been thought of, but Customs officers were so fully employed that incorporation with the Police would serve no useful end. Hon DeCosmos proposed that the duties of Registrar General and Stipendiary Magis-

trate should be amalgamated at New Westminster. Hon Young would add "as soon as may

With the addition of these words, the resolution was carried. Hon DeCosmos, in relation to the Regis-

trar of Titles at Victoria, stated that the duties could be performed in one hour each day, and moved that a bill be brought in allowing the Registrar to practice law, and reducing the salary to \$1000 a year. The motion was opposed by hons Walkem, Wood Crease and others, who contended that the principle of practicing before the Courts was ncompatible with the due performance of the duties of Registrar. On division the motion was lost and the item passed. Hon DeCosmos would now follow the

House in its humor. If he could not induce them to curtail the expenditure he would assist them to add to it. He moved that the salary of the present Postmaster in Vice toria be raised from \$1250 to \$2000. After addresses from hons Young, Pemberton, and others in support of the measure, the recommendation was agreed to.

Hon Robson moved a recommendation in favor of raising salary of clerk in Attorney General's office from \$500 to \$1000, which was agreed to.

The committee, after passing items up to

High Sheriff, inclusive, rose, reported progress and asked leave to sit again. Hon Helmcken brought in a bill to confirm titles to grants of land from the Hudson Bay Company. Read first time. Second reading for to-morrow.

Hon Walkem's resolution for appropriam tion to be applied in constructing a trail between William and Mosquito Creeks, was deferred till the item of Roads and Bridges

came up for consideration. Message No 11 from His Excellency the Governor was read, with which was sent down the Civil Lists of 1863 and 1867 com-

Hon Stamp's resolutions on saw mills and dry dock altered to addresses to Gover-

Council adjourned till 1 P M: Friday.

The Barristers' Bilf.

EDITOR COLONIST,-In the report of the discussion on the Barristers' Bill, your reporter has unfortunately misconstrued and misreported my language used on that oceasion. The report conveys the impression that I spoke disparagingly of the English Bar generally. This was, and is far from the fact, as I have always entertained the very highest respect for a Bar so honored and estimated in all parts of the globe.

Yours, &c., GEO. A. WALKEM: Victoria, April 27th, 1868.

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F. J. BARNARD.

The Weekly British AND CHRONIC

It is a source of congrati

Saturday, May 2 1

the popular members of cil have entered a gener against the estimates for year as they stand. Their be fully sustained by the pe have already pointed out se more glaring cases of ine pay and labor-cases so i with the actual necessities ernment services the amoun lation, the revenue of the co the public good in genera was only necessary to ment to draw from the Legislatur tention required. We are n ists; nor have we any desi vel beyond the limits of our and raise issues on questions effect would embarrass the ment without conferring on lic any commensurate advan are not tactious : nor have desire to advocate a wholesale of officials, to look upon the rupt and demand their dism ply because they are offic are not oppositionists; nor any desire to attack all which emanate from the Gov and hold then up to opprobr ridicule, irrespective of its nity and the public necessity because they are proposed Government. But we confes utilitarian, so far as the d limited to the principle that t est happiness for the greate ber should be the aim and e social and political institution somewhat extended, and, correct knowledge of our nati colonial history, we have neve a great principle advanced by founded opposition to the Gove wherein the dignity of our n sacredness of our honor, intelligence of our people ar in a contemptible light be world to the prejudice of all. need be, so far as we can see, r sary antagonism between the ment and the people, if the on in their demands, and the otl in their concessions. It is th of justice we would evoke consideration of the present e so far as we maintain the against them. In all cases of i difficulty, private or public, w avoid expediency as we wo leprosy; the one always defalcation, embezzlement. and transportation; the other pression, wrong, injustice as The fault, then, found in the p tion of the estimates is that p has been sacrificed for expe and will only increase the evil political existence. The people ily approve of the reductions s they go but we regret that they at the point where they would become substantially beneficia Government as well as them and thus the motive directing reductions, though perhaps of much defence, really looks as arbitary or vacilating. An sincerity, what occasion re there for the great array of ments and clerks that we fin the country cannot support what are we to do? Is th possibility of amalgamation as ther reduction? It would be no matter to point out at least \$ more that could be saved to the eral revenue without much ha to the private individual, or to the efficiency of Governme the Executive will not initiate able reduction, the Legislature and yet it were better for our pres future welfare that the two show harmoniously together. We must eit algamate a number of departments duce the large staff of employés, or an unwise tariff which cripples foreignerce, and heavy tolls which implemental transmission; permit our publishments. and thoroughfares to go to ruin; our agricultural and mineral lands to unoccupied; our postal arrangemen inefficient; our schools to be emp asylums to be useless and a des steal year by year upon us until it chronic, and obliterates both hope ar A little more life and vigor in meet financial difficulties of the year have avoided all these evils by ening the people to support them