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The Herald.

VOL. II. CHARLOTTETOWN, P. E. ISLAND, WEDNESDAY, JUNE 6, 1866. NO. 35

THE HERALD
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Last Quarter, 6th day, 3h. 0m., morning, S.E.
New Moon, 12th day, 5h. 54m, evening, W.
First Quarter, 19th day, 7h. 32m., evening, SW.
Full Moon, 27th day, 11h. 23m., evening, S.

DAY MONTH.	DAY WEEK.	SUN rises	SUN sets	High Water	Moon rises.	Days	Length
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E. REILLY.

Herald Office, March 21, 1866.

LEGISLATIVE COUNCIL.

(Continued from our last.)

UNION OF THE PROVINCES.

On motion of the Hon. Mr. Henderson, the House resolved itself into a Committee of the whole, to take into consideration the various public despatches lying on the table, and those relating to the union of the British North American Provinces were read by the chairman, Hon. Mr. Beer.

Hon. Mr. Henderson: Your honors, the man who takes his stand in defence of his country's sacred rights and liberties, at the point where danger is most menacing, whether that point be the battle-field or the Legislative hall, occupies one of the most honorable positions that can be occupied on earth. On the other hand, the man who slumbers at his post when his country is in danger, or is more concerned about his own petty ends and interests than his country's welfare, may be a giant in physical stature, but he must be a stunted dwarf in his moral qualities. The despatch now under the consideration of this Committee, on the subject of Confederation, makes it our imperative duty to deal promptly and vigorously with one of the most vitally important questions ever discussed within these walls. To deal superficially with a question like this, would be a most unjustifiable course to pursue. I for one, intend to canvass it to the very bottom. If I should be told that my dissecting knife is not a well polished one, I must only console myself with the conviction, that though its temper is pretty high, it consists of true steel, and shall be applied with honesty of intention. In speaking of despatches in general, I need scarcely remark that, whatever may be the subject-matter of any despatch sent here by the Colonial Minister, it should be treated with great respect, owing to the source whence it emanates. But a despatch calling for such action on our part as must result in materially affecting our present constitution, favorably or otherwise, demands our most calm and careful consideration. The joint address passed by both branches of the Legislature last year, and duly transmitted and presented to Her Majesty the Queen, contained a very full and clear statement of our views upon Confederation; but still, though it did, that question is again brought to our notice, with unusual pressure. And this necessitates, on our part, renewed resolution and determination proportioned to that pressure and the interests at stake. We have enjoyed self-government in this Colony for upwards of fifteen years, and our constitution confers a degree of freedom on the people which greatly exceeds, in some respects, the freedom enjoyed in the mother country. This constitution was not obtained from the Crown without many a hard struggle, by the best friends of the people; but that fact implies no reflection upon the British Government; for, unless the local Government had, during its persevering efforts, given sufficient proof of its determination to value and use aright the boon asked for, it would have been the duty of the Crown to have withheld it. Now, it is my humble opinion that, when we take the peculiar difficulties, inseparable from our land question, into consideration, this Colony has proved itself, for fifteen years, as worthy of Responsible Government as any of its larger neighbors. It has, at the same time, serious duties to perform,—duty to itself, to the Crown, and to its neighbors. And that it is willing to perform them, is proved, so far, by the fact that its whole revenue is now at the disposal of the Government for defensive purposes. While we are thus preparing to do our duty, in defending our most worthy Sovereign's prerogatives and our own dearest rights and liberties from all foreign enemies, are we, with cowardly tameness, to look on with folded arms while enemies in the camp are ready to sell us at their own price; and Canadian delegates making such personal impressions amongst us, are well calculated to neutralize the force of our written memorials sent to Downing Street? If we are to act thus, all I can say is, that we richly deserve the oppression and beggary to which we are doomed. When we reflect upon the means by which it is attempted to carry Confederation in New Brunswick and Nova Scotia, as it were, over the necks of the people, by the very members who were the pledged defenders of their sacred rights, it is high time that we were looking well to our own securities. We should see that no delegations are sent to England or elsewhere in connection with that entrapping scheme. Governor Gordon, of New Brunswick, has had the hardihood to proclaim to the world that he was directed, by every means in his power, to promote the measure." If we assume that His Excellency's interpretation of his instructions is correct, he is giving clear evidence of faithfulness to his trust; but if the New Brunswick people are better than mice, they will make such determined use of their constitutional privileges, as will convince their Governor that he has at least misinterpreted them, let his instructions be what they may. It may be asked, what right have we to meddle with New Brunswick affairs? We have a perfect right to enquire into any public affair that takes place under our flag; but more especially so since we are liable to similar encroachments on our best rights. Does Governor Gordon presume to affirm that he is instructed to have recourse to high handed measures, or does a Governor what Her Majesty could not do in conformity with the coronation oath? The Queen has sworn most solemnly to govern every portion of her dominions "according to the statutes in Parliament agreed on, and the laws and customs of the same." Does Governor Gordon presume to say that his derived authority is greater or more extensive than the source whence that authority emanates? If he does say so, and acts accordingly, which is evidently his determination, it is not only a contradiction, but also an emphatic proof that he is treating constitutional government as nothing better than a farce in these Colonies. But we are well aware that in days of yore, Governors have greatly disregarded their commissions, and as grossly violated the spirit and letter of the "statutes and laws in Parliament agreed on." Among that number was Warren Hastings, who, for his cruelties as Governor General of India, was impeached by the Parliament of England. A short quotation from that impeachment, as enunciated by the celebrated Edmund Burke, may be of some service at a time like this: "I impeach him in the name of the Commons House of Parliament, whose trust he has betrayed. I impeach him in the name of the English nation, whose ancient honor he has sullied. I impeach him in the name of the people of India, whose rights he has trodden under foot, and whose country he has turned into a desert.—I impeach him as the common enemy of all." Lord Durham, as Governor General of Canada, exceeded his commission, in 1838; but his was an error of the head. Still, it proves that we are safe only in so far as we test the sayings and doings of Governors and others by the constitution. I fancy legislators can be found in the Maritime Provinces who sincerely believe that Confederation would be a general benefit, and are willing to act constitutionally by appealing to the people at the polls. I can respect as many such men as I can meet with; but when I see the confederates among ourselves, to a man, having as their watchword—"Oh, why don't you agree to the principle, and resolve accordingly?" I say, when I find them constantly harping upon these words, it makes me feel very suspicious of their tactics,—it makes me suspect a trap that would pave the way for a delegation being sent to England to help in forging the chains that would forever bind us down as serfs to Canada, and make us a second Ireland. I nauseate the details of the Quebec scheme, and will not re-enter upon it, because it has been discussed with sufficient force of argument in both branches of the Legislature at a previous session; but I must say that, if I should have aitherto had any leanings towards confederation, the base and treacherous-looking means by which it is attempted to have it carried in Nova Scotia and New Brunswick, would now steel me against it to the highest degree. To think of the people's representatives pledging themselves at the hustings against the scheme, and now turning round and proving themselves traitors to the sacred trust reposed in them, is a piece of treachery which is no easy matter to characterise. But as I shall have some more remarks to make when his honor the Attorney General submits the Resolutions now in his hands, I must not detain this committee much longer. I must affirm, however, that, in my opinion, it will become this Legislative Council, as elected and confided in by every Prince Edward Islander who has a firm stake in the Colony, to act with energy and true patriotism, proportionable to the danger which threatens their peoples' most sacred interests, as well as to make their conduct a contrast and a rebuke to Governor Gordon's nominated minions, who basely took the lead in an opposite course. Yes, the man who would give a halting or "uncertain sound" in our circumstances, may be justly pronounced as much more allied to the traitor than to the patriot. Let us never forget the maxim that "when bad men combine, the good must associate, else they will fall, one by one, an unpitied sacrifice in a contemptible struggle;" and that "what is morally wrong, cannot be politically right."

Hon. Mr. McDonald: I must say, your honors, that after the lengthy speech of his honor who has just sat down, I am surprised that he has not concluded by moving a resolution on the subject. In bringing a very important question before any of the Colonial Legislatures, the Government always takes the initiative, and it is their duty to do so. When I hear a member of the Government holding such opinions, and expressing himself so strongly against making any change in the constitution of the Colony, and not coming down with a resolution, I can scarcely conceive that the Government is performing its duty. We know that if the views which his honor has enunciated in opposition to confederation, were embodied in a resolution and brought down here, with the weight of the Government, such a resolution would have an influence which it would not otherwise have. I regret very much that his honor has not taken that course, and I will reserve anything I may have to say on the subject till resolutions are introduced.

Hon. Attorney General: I do not intend, your honors, to address you upon the merits of this great question to-night, for, as my mind has been a good deal distracted with the business of the Supreme Court to-day, as well as with other business outside, I do not feel prepared to go into the question as earnestly and fully as I could wish to do. I deem it proper, however, that some resolutions should be tabled, and I take this opportunity of presenting those which I have prepared, and which, I hope, contain the sentiments of your honors:—

Whereas, The Legislative Council have had under their consideration a copy of a Despatch from the Right Honorable Edward Cardwell, Her Majesty's Principal Secretary of State for the Colonial Department, addressed to His Excellency George Dundas, Esquire, Lieutenant Governor of this Island, and bearing date the twenty-fourth day of June last, accompanied by a Copy of a Correspondence between the Colonial Minister and Viscount Monck, Governor General of Canada, on the affairs of British North America, including the subject of the proposed Union of the British North American Colonies, in which Despatch His Excellency Governor Dundas is directed by the said Colonial Minister to communicate the said Correspondence to the Legislature of this Island at its then next meeting, and at the same time to express the strong and deliberate opinion of Her Majesty's Government that it is an object much to be desired that all the British North American Provinces should agree to unite in one Government; and this Legislative Council having given the said documents that patient consideration to which all communications emanating from so exalted a source, and having reference to a subject of vital importance to the Maritime Colonies, are entitled: Be it therefore—

Resolved, That this Legislative Council regrets its inability to discover in the said Correspondence any sufficient reason to induce it to depart from, or modify the spirit of, the Resolution unanimously adopted by this House on the Third of April, 1865, and of the Joint Address to Her Majesty, also adopted by this House on the same day, on the subject of Confederation.

Resolved, That this Legislative Council does not deem it inconsistent with loyal attachment to Her Most Gracious Majesty's Person and Government to declare its firm conviction that, in deliberating upon a question seriously affecting the liberty, happiness and prosperity of the inhabitants of this Colony, this House ought to be guided mainly by "the well-understood wishes of the people" whom it represents, even should these, unfortunately, conflict with the declared "policy" of the Noblemen and Gentlemen composing Her Majesty's Government for the time being,—the inhabitants of this Colony being, in the opinion of this Legislative Council, fully competent to decide upon so vital a question as the constitution of the country in which their lot has been cast, and the means best adapted to promote and perpetuate the prosperity and stability of that country.

Resolved, That—pregnant as the proposed Union appears to be with advantages to the Province of Canada, and fraught as it may be, under certain modifications, with corresponding benefits to one or more of the Maritime Provinces—this Legislative Council can suggest no modification of the Quebec scheme which could with safety be adapted to the peculiar position and circumstances of this Colony, and which would, at the same time, be acceptable to the people of Canada.

Resolved, That to make suitable provision for the vast public works now contemplated by the Government of Canada, the Tariff of the United Provinces must necesarily be greatly augmented, and the burdens of the people proportionately increased: That this Colony, if included in the proposed Union, would be subject to that Tariff, is certain; but that its people would participate, in an equal ratio with the other Maritime Provinces, in the benefits resulting from the excessive taxation that would thus be imposed upon them, is by no means probable,—believing, as we do, that although the trade, commerce, and manufactures of the Continental Provinces would be greatly stimulated by new and extended railways, new and improved canals, the opening and working of valuable mines, the trade, commerce and manufactures of this Island would not, to any appreciable extent, be beneficially affected thereby.

Resolved, That since the year 1851, when Her Majesty was most graciously pleased to concede to the people of this Colony the rights and privileges of self-government, P. E. Island has made—and is still making—steady advances in population and material prosperity, and its inhabitants are now perfectly satisfied with the free and liberal Constitution under which it is their happiness to live,—the number of those who are willing to incur the risks and dangers inseparable from a Union with the larger and more powerful Provinces of British North America, being, in the opinion of this Legislative Council, extremely insignificant and unimportant.

Resolved, That this House is not insensible to the obligation which rests upon this Colony to contribute its fair share towards defraying the expense of resisting foreign invasion or aggression; and this Legislative Council is most anxious that a liberal provision should be made, during the present Session, both as respects men and means, for the purpose of defence, and will cheerfully sanction the placing of the entire resources of the Colony at the disposal of the Government for the attainment of so desirable an object.

Resolved, That this Legislative Council relies with the utmost confidence on the wisdom and justice of Her Most Gracious Majesty in the present crisis, believing, as it does, that the necessities of Canada and the importunities of its Government will not be deemed by Her Majesty of sufficient importance to warrant a change in the Constitution and form of Government of this Colony opposed to the wishes and hostile to the feelings of its inhabitants—a change which, it is believed, must prove subversive of their liberties and highly detrimental to their best interests.

Resolved, That the consideration of the various other subjects embraced in the Despatches and other documents referred to this Committee, and not heretofore disposed of by the legislative proceedings of this Session, be deferred until the next Session of the Legislature.

Resolved, That an humble Address, based on the foregoing Resolutions, be prepared and forwarded to Her Majesty the Queen, praying that Her Majesty may be graciously pleased to withhold her sanction from any measure calculated to deprive Prince Edward Island of the Constitution which it now happily enjoys, and more especially from any measure intended to affect a Union of Prince Edward Island with Canada and the other Provinces of British North America.

Hon. Mr. Dingwell: I do not intend, your honors, to make any remarks to-night, upon the resolutions just presented; but his honor from Georgetown (Mr. McDonald) wishes to have this subject introduced as a Government measure. Now, it must be well known to your honors that this House is nearly, if not quite, unanimous in opposition to Confederation, and I believe the country is so also; but the Executive Council, I understand, is nearly half in favor of it. Now, if the Executive Council is a fair representation of the country, as it should be, it would be inferred that we are upon the verge of Confederation. His honor (Mr. Henderson) has spoken very warmly, and, I think, very properly, as a British subject ought to speak; but he may be laboring under some disadvantage which we are not aware of.

Hon. Mr. Henderson: There is nothing new in respect to the relation in which the Government stands to the Confederation question. It was not a Government question last year. Resolutions were produced against it by one member of the Government, and in favor of it by another. I regret the position in which the Government stands with regard to this question; but I cannot reconstruct the Executive Council. It is for the ruling party to do that, and it is their fault, not mine, if any member of the Government does not fairly and honorably represent the views of his constituency. However, I can promise this much, that the subject of Confederation will not receive any smoother treatment or toleration in the Council, or any place where I have a voice, than it gets on the floor of this House, and that is no toleration at all.

House resumed.—Adjourned till eleven o'clock tomorrow.

THURSDAY, May 3.

A message was brought from the House of Assembly by the Hon. J. C. Pope, with a bill to amend the Act relating to the Oyster Fisheries in this Island, and to make other provisions in lieu thereof.

Also, by Mr. Yeo, with a Bill to authorise the establishment of an additional Small Debt Court in Prince County.

A bill to authorize the Commissioner of Highways for District Number Four, in Queen's County, to place a gate at the northern extremity of certain roads therein mentioned; a bill in addition to and in further amendment of the Land Purchase Bill; a bill to prevent the running at large of swine within the Town and Royalty of Princetown; and a bill to amend the law of real property, were severally read the third time and passed.

Hon. Mr. McDonald moved that a bill "further to amend the Act for the establishment of a Bank of Savings in Prince Edward Island," be now read a second time, and, in doing so, remarked, that the bill was merely for the purpose of increasing the aggregate amount of deposits to be held by the bank. It also increased the amount which each individual was allowed to deposit in the bank, from £75 to £100. The institution, he believed, was a good one, and afforded facilities to persons to save, and receive interest for, their small means. He, therefore, saw no objection to extending the provisions of the Act for its establishment.

The said bill was then read the second time, committed, and reported agreed to without any amendment.

On motion of the Hon. Mr. McDonald, the above named bill was read a third time and passed.

On motion of the Hon. Mr. Beer, a bill "for the regulation of benefit building societies," was read the second time.

House adjourned.

FRIDAY, May 4.

On motion of the Hon. Mr. Beer, a bill "to authorise the establishment of an additional Small Debt Court in Prince County," was read the second time, committed, reported agreed to, read a third time and passed.

Hon. Mr. Henderson moved for leave to present a petition of six Indian families, complaining that they had suffered an injury in consequence of having been deprived of a piece of land by the erection of a fever hospital thereon, which they had held for a number of years as a camping ground, and in later years had used for agricultural purposes, praying that the circumstances may be enquired into, and other land granted to them in lieu of that of which they had been deprived.

Petition laid on the table.

OYSTER FISHERY BILL.

Hon. Mr. McDonald, on rising to move for the second reading of a bill to amend an Act to repeal the Act relating to the oyster fisheries in this Island, and to make other provisions in lieu thereof, said, it appeared that some parts of the Act passed last year were contemplated to be repealed, and that parties who had obtained grants of ground for the cultivation of oysters should receive compensation for any expenses they might have incurred, upon their giving up their grants. Some thought the grants interfered with the privileges of persons taking up mud for manure, but the 22d clause of the Act passed last year specified that farmers should not be prohibited from taking up mud. However, though he thought there was not much necessity for the bill, yet he was willing that it should be read a second time and committed, and then the House would be in a better position to judge whether it was required or not.

The Bill was then read the second time and committed—Hon. Mr. McDonald in the chair.

Hon. Mr. Anderson: It appears from this Act that a person may take up mud for manure where parties have taken ground and planted oysters. Now, if there should be any bad feeling between neighbors, a man might go and destroy an oyster-bed by taking up mud merely from feelings of animosity to the person who planted them.

Hon. the President: It was the intention of the Legislature, when the Act was passed last year, that no obstruction should be placed in the way of farmers taking up mud for manure; but I understand that there is a doubt in the minds of some persons whether the intention of the Legislature is carried out by the Act; and persons who have taken grants of ground have signified their intention of prosecuting any person who may interfere with their claims, by taking up mud or otherwise. The intention of this bill is to make the matter clear, so as to leave no grounds for litigation.

Hon. Mr. Dingwell: When the bill was before this House last year, I believe it was the intention of all your honors not to interfere with the privileges of farmers in taking up mud for manure. And now, when the Act is scarcely a year in operation, there is another bill brought forward to give compensation to parties who have taken grants, for any injury they may sustain. The Act was plain, and they must have understood the nature of their grants; therefore, I consider it unreasonable to ask for compensation. It may lead to litigation and put the country to great expense. If the Act were in operation for a number of years and found to be oppressive, I would not object to giving some remuneration to the grantees to relinquish their claims, but I cannot see that there are any grounds for complaint. I have not seen any petition for this bill; and if we crowd our statute book by passing such Acts every year, the people in the country will not understand them. Indeed, we can hardly understand them ourselves.

Hon. the President: Parties in Bedeque Bay, who have taken grants, have threatened to prosecute any person who would interfere with them, and it is thought they will have some ground for an action under the law as it now stands. This bill is intended to render the Act more explicit. It also gives liberty to the parties to revoke their grants upon the Government paying the expenses which they may have incurred in planting oysters; the amount of which is to be ascertained by a commission to be appointed for that purpose.

Hon. Mr. Ramsay: When the bill was before the House last year, I opposed granting the old oyster-beds, and if they had not been granted there would be no necessity for this bill now. There is plenty of ground without taking the old beds. I know very little about the locality of Bedeque Bay, but I think it was wrong to grant the whole plot to one individual. I believe the ground proposed to be let in Schemedie River has not yet been applied for, and I hope it never will be, for since last session I have been told that the whole of it is an oyster bed, and I consider that we should not grant away a public right to private individuals.

Hon. Mr. Anderson: It should be clearly stated whether farmers would have the privilege of taking mud from these beds for manure or not; and if this bill is required to make it clear and prevent litigation, I do not see why we should object to passing it.

Hon. Mr. Dingwell: I think the former Act defines it sufficiently, for it says farmers should not be prohibited from taking up mud for manure. If we are to pass every bill that is sent here, we are little use to the country. I believe it is those who have taken the grants that are interested in this bill, not the farmers. It is intended to give the grantees compensation for something, perhaps for very little. I believe it will only be a trouble and expense to the country.

Hon. the President: His honor says it is for the benefit of the grantees, but I say it is not. They are not asking for it. It is merely intended to remove a doubt whether the farmers have a right to take up mud for manure on those beds—a right which it was never contemplated to deprive them of.

Hon. Mr. Beer: If there is any doubt entertained by any whether the farmers will have the privilege of taking mud from those beds for manure, it is our duty to remove it. I would not place the least obstacle in their way, for it is a most invaluable manure; and I think there is a sufficient quantity of it in our bays and rivers to enrich nearly the whole Island. Farmers are only just beginning to find out the valuable properties of it. I believe it will tend to increase the prosperity of the Colony to a great extent. I would like to see it taken up in the summer by some steam power and retailed to farmers residing a distance in the country. If there is any obstacle in the way of taking it up, it should certainly be removed. I thought the bill we passed last year was pretty well guarded, but it appears that there is some defect in it.

Hon. Mr. Henderson: When a question of what is, or is not law, or the construction of an act is raised, the only alternative for us is to refer it to the legal gentlemen connected with the Legislature; and if they are satisfied, upon an examination of the bill of last year that it is defective, no amount of argument will make it perfect. And when they consider that this bill is necessary to prevent any misconstruction of the former act, and nothing standing in the way against it but a very small compensation to the grantees, I think it should weigh as a very light matter in the scale when compared with the interests of the farmers. The grantees will have the right to appeal to the Supreme Court if they are not satisfied with the award of the Commissioners, and it would sound very strange if any class of Her Majesty's subjects should be deprived of that privilege, even though it should entail a small loss to the Colony. I agree with his honor from Bay Fortune (Mr. Dingwell) that we should be careful not to open a door for litigation, not to speak of the demoralizing tendency of law suits in general; and if his honor the Attorney General thinks it is necessary to secure that privilege to the farmers which we intended to secure to them by the bill of last year, I do not think we would be warranted in rejecting this bill on account of any little expense which it may entail.

Hon. the Atty. General: This amendment to the bill of last year, as far as I understand it, is calculated to protect the farming population against any exclusive right which might be exercised by the grantees, as the law now stands. The grants were perhaps rather improvidently given, though in conformity with the letter of the law. It is said that sufficient notice was not given, or there would have been more competition. However, the effect would have been the same, and it is with the effect we have now to deal. Farmers will have the privilege of taking mud *bona fide* for manure, from those places which have been granted, and if the grantees feel themselves aggrieved, they can surrender their grants, and take whatever amount of compensation the commissioners may award them for their outlay. I do not think any amount of capital has yet been invested, and therefore the grantees will not suffer, though it would be better to let them suffer, and make them some reasonable compensation, than to preclude farmers from free access to that valuable manure which is becoming such a vast benefit to the agricultural portion of the community. One objection I have to the bill is the mode by which the Supreme Court is authorised to carry into execution the final award of the commissioners; for, though I am not opposed to placing the power to exercise a reasonable discretion in the highest Court of the Island, yet if it were pointed out a little more specifically it would be more satisfactory to all parties.

Hon. the President: I have understood that only one grant has yet been given, and the reason there were not more was, that the Government considered the act imperfect; therefore, I think it is better to pass this bill to make it more explicit, so that others may have an opportunity to obtain grants.

Hon. Mr. Ramsay: I do not think any person would be so foolish as to take a grant and go to the expense of planting oysters where he would be liable to have them destroyed by parties taking up mud. I think it would be much better to grant places where there are no oyster beds.

House resumed.—Adjourned till 4 o'clock, p. m.