

PROVINCIAL PARLIAMENT.

HOUSE OF ASSEMBLY.

Thursday, Sept. 29.

The House went into committee on the duty on Foreign wheat and resumed the debate of last night. Mr. Leslie in the chair. The question of duty being on all Foreign wheat was put amidst a Babel of cries of "order," "question," "hear him," &c. during which several members essayed to speak but could not be heard, and was carried in the affirmative.

Mr. Harrison rose to follow up the last resolution by proposing a duty of 3s. ster. per quarter to be imposed on Foreign wheat coming into the Province. This sum he thought was a fair one and such as would meet the views of the Imperial Parliament, as from all the information that he had been able to obtain on the subject the sum of 3s. per quarter was looked on at home as being a safe protection. After a long debate Mr. Harrison's motion was put and carried. Mr. Childe moved that all other agricultural produce be taxed. The motion was amended and re-amended, put and carried, and a scene of clamour, uproar and confusion, that defies description. Yeas 37, Nays 23.

Friday Sept. 30.

On motion being made that the House meet to-morrow, at 10 o'clock, Sir Allan Macnab mentioned that it had been intimated that the House would be prorogued on Tuesday next. Mr. Merritt submitted a motion for instructing the committee of the whole on the Commercial Bank Bill to consider the propriety of repealing the double security clause in the Banking Act. After a little conversation it was withdrawn, to be submitted to-morrow.

Mr. HARRISON laid before the Speaker two messages from his Excellency—the first relative to the loan and the public works, transmitting a despatch from the Colonial Secretary, states that the Government is prepared to fulfil every engagement made by the late government—the loan not to have reference to the existing debt, but to be devoted to carrying out the contemplated public works, to be raised by the province at a rate not exceeding five per cent—a sinking fund to be created of at least five per cent on the principal to be guaranteed by the tolls on the public works. An intimation was given, that beyond the sum of a million and a half, the British Government was not prepared to guarantee a loan. The second message recommended a grant to Dr. Rolph for his services as Emigrant Agent, not exceeding £500 sterling. Dr. Rolph's report was transmitted with the message, and 500 copies in English and French ordered to be printed.

The order of the day for receiving the report of the committee on imposing a duty on foreign wheat being called up, the question of concurrence was put upon the resolutions adopted by the committee, separately. Mr. Black moved as a rider to the first of Mr. Harrison's resolutions, "provided that Canadian wheat be admitted into the ports of Great Britain duty free, or at merely a nominal duty; and that American wheat coming into this country, and exported, be received into

Great Britain upon the same terms as Canadian wheat, which was lost; yeas 18, nays 89. Mr. Viger explained; he regretted that the vote on the journals would apparently place hon. members voting against a proposition to which they were really favourable; but he thought the hon. member from Quebec had taken a wrong course; he should have been satisfied with the declaration of the hon. gentlemen on the Treasury benches, who were responsible for their statements of the intentions of the Imperial Government, with respect to the proposition before the House. The question of concurrence was then put on the first resolution, and carried—yeas 49 nays 13. The second resolution was then concurred in by the same division. On putting the third resolution, that moved by Mr. Childe yesterday, asserting the expediency of taxing all American agricultural produce. Mr. Hamilton moved that the following be added thereto: "that all agricultural produce introduced into the District of Gaspé, for the use of the Fisheries, be exempt from duty," which was rejected by a vote of 18 to 38. The objection was stated by some of the hon. members to be the difficulty which would arise in distinguishing, but it was admitted that produce imported into Gaspé from the United States by sea for the use of the Fisheries should be exempt, as it was desirable to extend every practicable encouragement. The original resolution was then adopted. Yeas 39, Nays 26.

Mr. HARRISON then introduced a bill in accordance with the two first resolutions. It proposes a duty of 3s. sterling, per imperial quarter, such duty to go into operation on the 5th day of July next. The preamble expresses confidence that upon the imposition of a duty here upon American wheat imported into the Province such wheat will be admitted duty free, or rather as Canadian into the ports of Great Britain.

The report of the Committee of the whole on the Freedom of Election was received and concurred in. Bill ordered to be engrossed. Mr. Harrison.

Saturday, Oct. 1.

When we entered, the house was in committee on a proposition of Mr. Christie to amend the act relating to unlocated lands in Lower Canada. It was carried, and a bill for the purpose was brought in.

The house then went into committee on the proposition of Mr. Jones to amend the Registry Ordinance of Lower Canada, by extending the time for registration to the 31st Dec., 1843.

Mr. D. B. Viger said the laws of Lower Canada were favorable to the acquisition of property; but this registry ordinance would entail an expense of £5000 on the Seignory of Montreal alone, and how many tens of thousands throughout the province, he could not tell. On this account alone it was necessary to extend the time, in order to distribute the expense on a longer period.

Mr. Moffatt said, the members of Canada West hardly knew how the East was situated on this matter. The West had great facility for guarding titles to real

estate, but it was not so in the East.—The hon. member for Richelieu had spoken of the facility of acquiring land, but there was no facility for ascertaining the title, and there were many incumbrances on land which it was impossible to know. General mortgages might be known and done away, but other incumbrances could not. There had been 18 months' notice of the ordinance, and it had been in operation since September last for current transactions, but not for past. Had it been only a short delay that was asked, he would not have opposed it; but 12 months was too long. The law may be made more perfect than it is, but it will not take 12 months to do that. Customary dower in Lower Canada gives to the children of a marriage half of the real estate the father had when he married. He would ask the hon. member for Richelieu for some explanation on the subject.

Mr. Viger explained the law of customary dower, giving half the estate to the children. He had been fifty years in practice, and never heard any complaints. The law requires study. If he were to talk of trade, without having been in a merchant's counting house, he would be laughed at. And so it was with the laws of the country. An English gentleman had bought a tract of 120 square miles, in Lower Canada, quite a principality, which showed that he had no fear of titles. He had some property himself, and it was quite as dear to him as any other man's, and he felt quite secure about titles.

Mr. Moffatt interrupted, and said he asked for an explanation, but the hon. gentleman was going into the whole question. Mr. M. then gave instances of the injurious operation of customary dower.—He had himself bought property in Montreal in 1816, which cost 3,500*l.*, and took a Sheriff's title, thinking to cut off all claims, and paid the seller and his children all claims. But 6 or 8 years after, the seller died, and one of his children came and said the father had been married three times, and they had a right of dower in that property. He found it was so. The claim was never enforced, for they got ashamed of it, but the law would have given it to them: yet he had the best legal advice in making his bargain and drawing his deed. How then were emigrants generally to be protected? The house with which he was connected had bought property in 1795; and after having it in possession 20 years, a claim was made against it for dower. The Legislative Council of Lower Canada had collected a body of evidence on this subject, which was on their journals, accessible to members, and would show the necessity of a registration of deeds to discover mortgages, which it was otherwise hard or important to discover. Emigrants asked for a registry law, and ten years ago we were told to wait and a measure should be prepared, but nothing was done. Twelve months more are now asked, and then it would be the same. He appealed to gentlemen opposite, now that they have power to use it with moderation, and grant justice to the English settlers in Lower Canada. Confidence cannot be acquired

at once, but let them set out with this. We ask no favour from them, but to be made secure in the possession of property. Why do the English leave Lower Canada, but in order to invest their money where it will be secure. The difference in prosperity between Upper and Lower Canada is greatly owing to the different laws relating to property, and if you would see Lower Canada prosperous, you must render the title to property secure and its validity easily ascertained. Land brings little there now, because there is no sale, no demand, and therefore the habitants cannot pay. Merchants do not prosecute, because land brings no price. The ordinance was drawn up by Chief Justice Stuart, and could not be so imperfect as some had represented; but he was willing to admit of modifications if they would allow him to preserve the main points of the measure unimpaired. Mr. Moffatt then moved that the time be extended six months only.

Mr. Quesnel explained the law of Lower Canada on the question, saying that marriages were generally made with contracts, but when not so made, the law stepped in, and provided that the children of the marriage should have half of the father's property. He admitted that in some cases mortgages could not be known, or with great difficulty, but the ordinance was defective and oppressive, inasmuch as it required the registration of all deeds, &c. passed by the seignior, whereas these are on record in his office, and full information regarding them can be had for nothing by any intending purchaser. Thus a double registration was imposed, and a vast needless expense incurred. He then moved an amendment, repealing the ordinance so far as it concerned seigniorial rights. This not being in order, was withdrawn for the present.

Mr. D. B. Viger said that he had not been opposed to registration; and the want of prosperity in Lower Canada was blamed, but it was not in fault. He and his wife had been 27 years ago in law for a property that belonged to them, and after being deprived of it for 14 years, judgment was given in their favour, but the man had then failed, and they lost £60,000. Yet he would not therefore impeach the law, although it might have been more speedy in its decisions. He could have guarded the gentlemen opposite from the losses he complained of, had he been applied to. He had proposed 20 years ago to establish bureaus of record on principles of justice to all. Had advised gentlemen how to guard property, and had proposed a law for the purpose; but there was such an outcry against it, that he had to abandon it. The ordinance was said to have been drawn up by a man of talents. He admitted it. Chief Justice Stuart was not his best friend, but he had always admitted his talents. But, as was said in regard to the "Code Civil," Judges are bad legislators. They cannot always generalize their ideas so as to embrace all the diversified matters that a law should comprehend. He would say,—and said it with gratitude for the recent changes,—that if the government had always been administered as it is now, with and for the peo-