

Newfoundland Legislature.

HOUSE OF ASSEMBLY.

ST. JOHN'S, MONDAY, FEB. 10.

The House met at 11 and adjourned until 1 o'clock, when it resumed.

Dr CARSON:—Mr Speaker, the motion which I am about to make is, "That you issue your writ for a member to represent the District of Conception Bay, in the room of Charles Cozens, who has been a bankrupt for more than twelve months, and who has not, agreeably to the 52 Geo. III., cap. 144, paid twenty shillings in the pound."—On a member of the House of Commons being declared bankrupt, he immediately becomes incapacitated to sit and vote in that House, and if he does not pay twenty shillings in the pound, or have the bankruptcy superseded in twelve months, he is ever afterwards incapacitated to sit as a member of that honorable house; a certificate does not cover this incapacity. In arguing this case I wish to do it in the abstract, without any special reference to Mr Cozens, who I am disposed to believe, is a very worthy man. [The Dr here read a portion of the act on which he grounded his case.] You will observe that the issuing of the writ is not a thing to be judged of by the House of Commons; it is imperative on the Speaker, even in recess, to observe certain forms as specified in the Act. The Speaker is empowered to issue his writ during the recess. It will be argued that the Statute law of England does not extend to the Colonies. I have taken some pains to investigate this subject. I perceive that there has existed a difference of opinion with many lawyers on this question, but I think the greatest authority is in favor, that the Statute law, as well as the Common law of England, extends to all settlements and plantations, until they become colonized and obtain a Legislature of their own. I should therefore draw the conclusion, that the statutes apply, as far as possible, to this country, until the first meeting of our legislature in 1833. The very first act of our legislature presumes this circumstance: the very first words, Mr Speaker, which you uttered in your capacity of Speaker, acknowledges their application. You demand from the representative of your Sovereign, freedom of speech, &c., as founded on the statute 1 of William and Mary, sec. ii, cap. 2. If it was not for the protection of that statute, what might be my condition? I might be thrown into prison for the opinions I now utter, and there suffered to rot; for without the statute of Habeas Corpus I could not be relieved. I know that it has been argued by the Judges in this country, that the English statutes do not apply to this country. I was once told myself, by a judge, that the Habeas Corpus Act did not extend to Newfoundland. The judges in this country have committed great errors on this subject. They aspired to be legislators, nay, even Prætors, as well as Judges. I shall read you what Lord Goderich, in his letter accompanying the Royal Instructions, writes upon this subject. [Here the hon. member read the extract.] Will any man presume to say that the statute 52 Geo. III., cannot possibly ap-

ply to this country. If the House of Commons, which consisted of 652 members, found it necessary, for its dignity, its purity, and its independence, not to suffer a Bankrupt to sit and vote within its walls, how much more necessary will it be for this Assembly, which consists of only 15 members, to exclude any man so dependantly circumstanced; for on the purity and independence of this House will rest its character and its usefulness. The proportion of one in fifteen in our Assembly is equal to more than forty bankrupts in the House of Commons, yet that house would feel itself contaminated with only one. That all [the statute law of England applies to this country, is the opinion of his Majesty's law officers. In the case of Michael Fogarty, tried under a statute for a rape upon a child, found guilty and condemned to die, the judges having an opinion that, as the conviction was under a statute, it was not good, and Fogarty was respited. Recourse was had to the law-officers of the British Government for their opinion. His Majesty's Attorney and Solicitor-Generals considered Fogarty's conviction good, and gave it as their opinion, that since the passing of the 5th Geo. IV., cap. 67, the whole of the English statute law became the law of Newfoundland. We are, therefore, placed in a much better—a much more secure situation than Nova Scotia, New Brunswick, and the Canadas. This was the highest possible authority—Sir Thomas Denman, then Attorney-General, now Lord Chief-Justice of the King's Bench, the highest legal appointment in the kingdom. Who will then presume to say that the statute law of England does not extend to Newfoundland? And did not we, in the first day of this Session, pass a rule, that all the rules, orders, and laws of the House of Commons should be the rules, orders, and laws of this House as far as the same could possibly be rendered applicable. Lord Goderich, in his admirable letter, accompanying the Royal Instructions, and coming from his Majesty's Principal Secretary of State for the Colonies ought to be taken as the Royal will. [The hon. member here quoted that passage in Lord Goderich's letter which directs the Assembly to adopt as nearly as possible, the rules and orders of the House of Commons.] I have now, Sir, to all who will permit themselves to be convinced, shewn from the best authority, that all the statute law of England extends to Newfoundland. I shall now proceed to show that the act of insolvency, by every principle of justice, ought to be considered in the same light of bankruptcy. It is only a different name, its object is the same. It originates from similar causes—the incapacity to pay just debts. It might as well be said, that this house, being a House of Assembly, could have no similitude to the House of Commons, when, in fact, they are the same—invested with the same rights and privileges; and the Assembly possess the same character in this island which the British House of Commons do in the British Isles. It is only a quibble which might suit lawyers, but certainly unworthy of statesmen, when the honor, the purity, the dignity, and the usefulness of a legislative body is involved in the question. The same thing which is called a sequestration in Scot-

land is called a bankruptcy in England, in Newfoundland, insolvency; they are all three disqualifications under British statutes. As I have already said, I have no wish to injure Mr Cozens; I bear to him, whatever he may think, every friendly feeling; his prosperity in life would afford me pleasure. It is only through a strong sense of public duty that I have undertaken the task of purifying this Assembly, from a conviction that unless it be respected out of doors, the people will not be satisfied with the acts of the Legislature. If Mr Cozens is a friend to his country; if he wishes it well; if he possesses any patriotic feelings, he will walk out of that Assembly. I, therefore, move, that the Speaker issue his writ for a member for the District of Conception Bay, in room of Mr Cozens, a bankrupt or insolvent.

Mr HOYLES deeply feeling his own deficiency had always great diffidence in speaking after the learned gentleman who had just sat down. He felt it impossible to compete with him in all his flowery eloquence, but still he trusted that he was in the possession of good common sense. On this day he meant to speak out, and, claiming the same indulgence which had been extended towards others, hoped he should not be called to order unless there were an absolute necessity for it. It was really amusing to see how far some hon. gentlemen could go for the purpose of carrying their points, for as to their patriotism, their love of liberty, and their desire to benefit their country, he did not believe one single syllable about it—quite the contrary. When these brawlers talked so much about patriotism, purity, and the cleansing of the House, he looked with distrust upon them. If these people had the power they seek for, they would be the greatest tyrants in existence. Their wish was to upset the present order of things and to raise themselves upon the ruins. He would digress from the main point, to shew how a certain hon. member had kept faith with him, and how he had kept faith with that hon. member upon an occasion which arose last week. An hon. gentleman had told out what he (Mr H.) had hastily said in the hearing of three of the Committee, who had intended to carry the whole address, respecting the address, and who had hurried over the obnoxious passage lest he (Mr H.) should notice it. But when a few days ago, he with Mr Kent and some other hon. gentlemen waited upon the Governor to know at what time his Excellency would be pleased to receive the address, Mr Kent observed to him (Mr Hoyles) that there was a serious opposition getting up in the community against the Governor, and that his Excellency had better take care of what he was about. He (Mr H.) was astonished at this communication, but what should he as a placeman, a minion, a sycophant, do, but go back and apprise the Governor of what was going on? But he did nothing of the sort; he did not even communicate it to the Secretary, nor had he until now opened his lips upon the subject to any human being. This is how one hon. member could keep a secret, and another break faith. But to return. It was curious to see people boasting of their patriotism, and love of liberty, and at the