

The Weekly British Colonist.

Tuesday, February 13, 1866

HOUSE OF ASSEMBLY.

THURSDAY, February 8. House met at 3:15 p.m. Members present—Messrs. DeCosmos, Trimble, McClure, Tolmie, Ash, Dickson, Carswell, Duncan, Dennes.

BILLS OF SALE AMENDMENT ACT.

Resolved, upon motion of Mr. DeCosmos, that the Clerk be instructed to lay on the table of the House a copy of the Act sent up and thrown out by the House above.

EXPENDITURE.

Resolved, upon motion of Mr. Duncan, that a committee of three be appointed to enquire into the Expenditure of 1865. He considered it necessary to appoint this committee as the House had waited for a fortnight, but were still without a statement of the expenditure of last year.

Mr. DeCosmos thought it was the duty and prerogative of the House to enquire into the government expenditure, and the right should not be allowed to rust.

Messrs. Duncan, Tolmie, and Carswell were placed upon the committee.

HARWOOD RAILWAY EXTENSION BILL.

This bill was accepted as amended by the Council on motion of Mr. DeCosmos.

GOVERNOR'S MESSAGE.

The House went into Committee on the Governor's despatch on the Supplies voted by the House, Dr. Trimble in the chair.

Mr. McClure's resolutions of the day previous were then taken up. In moving the first resolution, the introducer said that the series of resolutions which he had framed involved highly important questions to the people of this Colony—questions that were at the very root of Representative Government.

At the present time, when the critical situation of the Colony was well known, it would be advisable to enter upon this discussion in a calm spirit, and for his part he would like to see the subject ventilated to the utmost, though at the same time he desired to see a vigorous expression of sentiment on a matter that so materially affected the interests of the people of this Island (hear, hear).

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respectable and competent men. The honorable member for the District (Dr. Tolmie) had alluded to pensions to discharged officials. No public officer, in his opinion, was entitled to any permanent compensation. He remembered the hon. Speaker, or one of his colleagues, being stoutly opposed on a former occasion to anything like a pension being granted. Gentlemen who accepted public offices knew the terms upon which they held office. He himself told a certain hon. gentleman before he took office that he was unwise to give up a good position in a bank for a Government pittance, when responsible Government might come the next year and leave him to battle for his position. In respect to the offices of Registrar General and Assessor, His Excellency complained of the injustice of these offices being abolished, which had been accepted on condition of permanence, without making compensation. Where was the injustice? Were the provisions of former Assemblies to be regarded, as his hon. colleague had said, like the laws of the Medes and Persians that changed not? All taxes were for the current year only, and not in advance. Offices, therefore, dependent on taxation must be viewed in the same light. He did not know by what right any promises of performance were held out to those officers, there was nothing about it in the acts creating the offices, and what any irresponsible Executive might have promised was quite another thing. Speaking of the Registrar of Deeds, he would remark that the office was made for the officer. He was told that the gentleman inducted had a vested right; but he maintained it was a vested wrong (hear, hear). He did not see that the amalgamations proposed by the House would at all interfere with the efficiency of the service. His Excellency next spoke of the right of the House to raise such an amount of revenue and grant such supplies as they thought necessary to maintain the various public establishments, but said he must "guard himself from concurring in some of the reductions made." The true time he thought for His Excellency to express his concurrence or dissent was when the Supply Bill was sent up, and at no other time (hear). At the same time he did not, and he hoped the Committee did not mean to budge one footstep (hear, hear). He hoped they would pursue the same course followed by the British Legislature for centuries. He looked upon the whole thing as nothing more than intimidation, and he would ask by what authority His Excellency was called upon to "guard against reductions." He might refuse the supplies; but any officer who dared to give one dollar out of the Treasury would be liable to impeachment. It was more than he dared do, and was looked upon by the British House of Commons as a misdemeanor. The Governor might dissolve the House, but after all he must come to the House for supplies, and he might then get something different to what had already been done (hear). He had no fear of the consequences, believing, as he did, that the reductions were made wisely and according to the means of the House. The next assertions were that the House had made "important innovations," and had, "for the first time, usurped the functions of the Executive by originating and increasing items of public expenditure and creating new offices." From which course, His Excellency adds, that "he cannot too distinctly and decidedly express his dissent." Mr. DeCosmos here alluded to the precise and positive language used, and would like to know whether in the thirty-six hours that intervened between the votes and the transmission of the message the records of the House had been searched through to ascertain that these were the first innovations or encroachments, otherwise how could His Excellency tell? Where did he get his authority? He (Mr. DeCosmos) thought if he searched he could find more than one occasion where money votes had been taken up by the House. He contended that it was constitutionally right to initiate money votes in the Assembly, and he had always opposed the ruling of the Speaker that the House had not that right. He would prove that the Parliament of Great Britain had the right to initiate or originate money votes without the recommendation of the Crown. Mr. DeCosmos then dwelt at considerable length upon the authorities that bore upon the question, quoting—

"May's Constitutional History, p. 485, where an analogous case occurred in the Irish Parliament, which voted a higher sum than was demanded by the Crown. The Lord-Lieutenant rejected the vote, and prorogued the House,—a course that met with strong censure from the British Parliament."

The same book, p. 443, sets forth that no checks existed in the Parliament of Great Britain but what the Commons imposed upon themselves, as precautions necessary to check liberality.

May's Parliamentary Practice, p. 513—In regard to a question of disembodying militia, the Committee of the House of Commons assumed the right to initiate an estimate.

The same right existed in Mr. Labouchere's and the Duke of Newcastle's despatches. It would save the people of the colony \$60,000 in taxation, then it was a most valuable innovation. (hear, hear.) He had shown that the Imperial Parliament possessed the right; the despatches showed the existence of the right here, His Excellency had therefore applied language to them which the House should cause him to take back. The course pursued by His Excellency was most unconstitutional and a concession of money rights on the part of the Assembly would be parting with all they had a right to guard. With all respect for the officer at the head of the Government he had himself used the language of an usurper. He could instance cases when estimates had been initiated in Lower and Upper Canada transmitted to the Governor, sent to the Crown and the action of the popular branch accepted. As to such a course being "unknown to the Constitution of England" he had already proved by May who was the best authority extant, that the House had the right unless it was specially rescinded. The real war, if war there was to be, was on this point. The hon. jr. member for Victoria District, suggested the right of the House to initiate money votes and the House had concurred in that right. He had no desire whatever to interfere with the Executive functions, and attributed the present difficulty to ignorance. His Excellency spoke of this being a time when the "almost harmony of action is required." He quite concurred, but how did His Excellency

promote it? By creating discord instead of harmony. Mr. DeCosmos alluded to a recommendation given by a unanimous resolution to His Excellency, who was known to be a gentleman of education, position, high social standing, to surround himself on his arrival here with two gentlemen from the Lower and one from the Upper branch of the Legislature to keep him advised and prevent discord or want of harmony between the Executive and the people. His Excellency then declared that he would never recognize any party.—He should never have uttered those words.—The course then suggested was the only one by which harmony would be preserved. The speaker (Mr. DeCosmos) next touched upon the position formerly occupied by the Hon. Colonial Secretary in the House and the constitution of the Executive Council, whose members he did not think could always speak according to conscience, and referred briefly to the questions of Police and the Auditorship. The latter office he said the House refused to recognize last year and voted a sum quite sufficient for the purpose of auditing accounts and yet His Excellency who was in favor of Union sought to build up a permanency by persisting in appointing a Court favorite, who was Colonial Secretary, Private Secretary, and half-a-dozen other things (dissent from Dr. Helmecken) and sending the appointment home for the sanction of the Crown. He did not blame the officer for getting any appointment he could, but it was the duty of the House he thought to censure such conduct. He next came to the Coroner and the conduct of the Governor in this case he considered an outrage against Constitutional rights, and a vindictive act; it was nothing more nor less than an attempt to intimidate, to affront, and to make an honorable member feel the weight of Executive authority which every opportunity should be taken to put down and abhor. That officer had not been conditionally removed *de jure*. It was necessary that a certain writ should not rise until ample steps had been taken to prevent the Executive from wreaking vindictive feelings on an hon. member of the House. With regard to the Private Secretary the office should not be required; the fact was the system was too cumbersome, but if necessary the office should be paid out of Crown funds. The refusal of \$755 for the Chief Justice's passage money was called "an unusual course." The Governor should have confined himself to pointing out, if he could, by what right the Chief Justice was entitled to the money. After a few general remarks, Mr. DeCosmos concluded by hoping that whatever resolutions the House agreed to pass, they would be such as would lead to the clear understanding that the House would allow no infringement on its prerogatives.

The Committee here rose and reported progress.

POSTAL SERVICE BILL. This bill came down from the Legislative Council and was read the first time. The House adjourned till one p.m. Friday.

Friday, Feb. 9th. House met at 3 p.m. Present—Messrs. DeCosmos, Trimble, McClure, Duncan, Carswell, Dennes, Cochrane, and Tolmie.

Mr. DeCosmos rose to a question of privilege. He noticed in a paper called the Daily Chronicle a letter signed "Citizen," in which the following words occurred: "Members had gained access to the Governor's message through misinforming the clerk;" and further, "We all know whose word is most reliable, Mr. Speaker's or that of Mr. DeCosmos." He considered those statements a reflection upon his honor, and he therefore moved that a committee of enquiry be appointed to report to the House the circumstances under which he had gained access to the document referred to, and it would then be seen whether he had the assent of the Speaker or had misinformed the clerk.

The Speaker named Messrs. Trimble, Tolmie, Powell, Ash, and Cochrane.

Mr. DeCosmos thought the committee should be appointed by ballot.

Dr. Trimble suggested as the Speaker had intimated that the difference had arisen through misapprehension, that the hon. gentleman should withdraw his motion. (Hear.)

Mr. DeCosmos would not press for the enquiry if the House would take some action in the premises. He did not ask for the committee on personal grounds.

The Speaker said the motion had passed and the committee appointed. It was according to the rules of order that he should appoint the committee. He looked upon this as a personal matter, and should not appear before the committee.

The subject then dropped.

NEW BILLS. Mr. Dennes obtained leave to introduce the three bills of which he had given notice at last meeting.

THE GOVERNOR'S MESSAGE. House went into committee on the Governor's despatch regarding the estimates, and Mr. McClure's resolution No. 1 was taken into consideration.

Mr. Duncan thought it was incumbent on every member of the House to express his views on a message of such importance as that sent down by the Governor. He wished it to be distinctly understood by his constituents that he had not that sympathy that His Excellency endeavored to enlist for the officials he had discharged as would induce him to grant compensation to them. He thought the idea embodied in the resolution of the hon. junior member for Metchoin, that His Excellency be requested to inform the House what pensions he proposed, was most foolish one, and he should not vote for anything of the kind.

Dr. Tolmie thought that whatever the House might do the people of this colony had too high a spirit and had too high a sense of duty to allow an officer who had given up a lucrative employment to go without compensation, although he believed that they could not demand it.

Mr. Duncan thought the hon. gentleman could not have had much intercourse with the people or he would not be so ignorant of the state of public feeling or the condition of the colony. He could not walk the streets without seeing business establishments closed on every side, and the real estate taxes, which had amounted to \$110,000, were reduced last year to \$50,000, and were estimated to

fall down to \$23,000. He read an extract from the Colonial Regulations to show that officers were not entitled to pensions.

Dr. Tolmie said he had opportunities for knowing as much if not more of the condition of the city than the hon. gentleman. He had made no allusion to pensioning the officers, and although the country could not afford pensions it was due to those who were discharged to make them some compensation.

Mr. Duncan—That is just the question,—the country cannot afford it.

Mr. McClure was entirely opposed, under the condition of the country, to the House going any further than allowing the officer's a month's notice and salary, as had been already done. The hon. member for the District had had considerable experience in a large mercantile house, and he would ask him whether he had ever known compensation granted to those employed when it was found necessary to reduce the expenditure, beyond giving the usual notice.

Dr. Tolmie was astonished at the last speaker comparing the government of a country to a private business establishment.

Dr. Helmecken said he had once before voted against compensation to government officers, but the circumstances of this case were different. He did not see that responsible government was going to affect others than the heads of departments, who should be entitled to remuneration for the loss of service. The hon. senior member for the city had remarked that the officials should put by enough to provide for a rainy day.—Their pay was too small almost to meet their expenses much less to save.

Messrs. DeCosmos and McClure offered a few remarks on the nature of the change that would be brought about by responsible government.

Dr. Tolmie observed that although the salaries had been cut down this year it was not to be supposed that the House intended to keep them reduced (hear, hear).

Dr. Helmecken moved an amendment striking out the last words of the resolution, which was lost, and the original motion carried.

Resolution No. 2 was then read.

Dr. Helmecken considered it flippant, and thought it better to state simply that the House considered it had consulted the public interests in adopting the course it had done.

Mr. McClure thought that the resolution was more courteous than flippant. His Excellency had favored the House with a lecture on political economy, and it was no more than polite that the House in return should show a disposition to acknowledge the compliment.

Dr. Helmecken thought that the resolutions had been drawn up at the instigation of the Club, and of course the Club would pass them.

Mr. McClure called the hon. gentleman to order. It was highly derogatory for any member of the House to make use of such expressions and to make such assertions as had just been made, but the offence was aggravated when it came from the Speaker, who should be the last person to contravene the ordinary rules of Parliamentary courtesy.—The resolutions had nothing to do with any Club. They were drawn up by himself, and not a single member had pressed them until they had appeared in that House.

Dr. Helmecken would not assert, then, that they were written at the instigation of the Club. He would say, however, that the Club intended to pass them.

Mr. DeCosmos rose to a question of order. The hon. gentleman had again used the word Club, and was continually applying the term in a nasty manner to what emanated from other hon. members, because he found himself in a minority. The hon. Speaker, instead of preserving order in that House and protecting hon. members, was the first to create disorder by indulging in personalities.

Dr. Tolmie appealed to the chair to preserve order.

Dr. Helmecken continued to say that he used the word "Club" because the hon. gentleman had himself applied the term, and the hon. senior member for the city had the day before rejoiced in there being a party; but to return to the point, he really thought it would be more dignified to pass a short resolution expressing all that need be said.

The resolution was put and carried, Messrs. Tolmie and Helmecken voting contra.

Resolution No. 3. Dr. Helmecken moved that the words "the well understood wishes of the people" be struck out.

Dr. Dickson had no doubt that the Government of this colony was an extravagant one, and the people must have a cheaper one. The House had not gone too far in their scheme of retrenchment, and he (Dr. D.) had no fears that ruin would be the result.

Mr. Duncan said retrenchment was the cry at every corner of the street.

Dr. Helmecken—You don't say so!

Mr. Duncan—Has the hon. Speaker lived so long in this colony, and has yet to learn that the stores were being closed, saw-mills being shut down, and ruin staring us in the face. The Surveyor General's office cost the colony \$8000, and was of no benefit as it did not bring in a single dollar. He was astonished to think that the hon. Speaker was so ignorant of the opinions and wishes of the people.

Dr. Helmecken said the hon. member for Lake had entirely misunderstood him.

Dr. Tolmie moved that the words "public sentiment" be substituted for the "well understood wishes of the people"—Lost.

Yeas—Helmecken, Tolmie.

Nays—DeCosmos, Carswell, Dennes, Duncan, McClure, Dickson, Powell.

The resolution was carried.

Resolution No. 4 was then read.

Mr. McClure, in rising to speak to the resolution, would ask leave of the House to insert the words "which has been asserted and maintained by the Imperial House of Commons," and immediately preceding "which" has been exercised in the North American colonies." He did not intend touching on the grounds which had been so well gone over the previous day by his hon. colleague (Mr. DeCosmos) nor did he intend going minutely into authorities on the subject, because he saw other gentlemen well fortified with documents, but inasmuch as himself exclusively to English authority, he would touch solely on colonial affairs. In doing so he would state that the present action of His Excellency Governor Kennedy seemed simply a repetition of the action of nearly every Governor of a British colony

in years long gone by. There was the same little attempt at despotic rule. The analogy went even farther. If they looked at the early history of nearly all the North American colonies they would perceive that nearly all the beneficial measures passed by the Lower House were thrown out by the Council until the Assembly at last took up arms and refused the supplies. They would see every conceivable scheme brought forward by the Executive to trench upon the rights of the people through the House, but they would also see all those schemes recoiling upon the Executive. In fact colonial history showed them that in nearly every instance where the Governor and people came into collision the Governor was obliged to back down. As far as authority on the part of the various Assemblies to originate money votes was concerned he would merely refer hon. members to the political state of Canada, and the adjoining maritime provinces prior to the era of responsible government. In Lord Durham's report on Canada which is one of the most valuable of colonial documents, the custom of the Assembly to initiate money notes is distinctly alluded to. In New Brunswick and Nova Scotia histories hon. members will see the same practice recognized. In some of the colonies there were of course struggles to maintain it, but in every instance the inhabitants were ultimately sustained by the Imperial authorities. He defied any hon. gentleman who held opinions contrary to the resolution to show him an instance where representative government existed in the colonies without the full control of the money votes resting with the Assembly unless there was a special enactment to the contrary. He would urge every member to use his utmost efforts to prevent Executive interference with the public money. If matters had ultimately to be decided by the Imperial authorities no one could doubt the issue; the day was gone when Her Majesty's Government turned a deaf ear to colonial complaints. The rebellion of Canada was a lesson not to be thrown away. The colonies now were treated with justice, if their demands were only placed in a proper light before the Imperial authorities. So far as the resolution before the Committee was concerned it contained no innovation—it simply asserted a right which was claimed and enjoyed by every other colony with the same description of government as that of Vancouver Island. Outside of the constitutional question, he would ask hon. members if it was reasonable that a Governor over whom the people had no control should exercise a greater right over the public money than the representatives of the people who are responsible? If the former did wrong the inhabitants could only at great trouble appeal to the Home Government. If the Assembly did wrong they could be sent to the people to-morrow.

Dr. Helmecken said as Speaker of the House he had always been governed by "May's Parliamentary Practice," which did not admit the right of the House of Commons to initiate or alter a money bill, except after having been surrendered to the Executive some 200 years ago; and that being a standing rule, he was compelled to be governed by it. He (Dr. H.) would not say what he thought the constitutional rights of this House were, nor had hon. members shown him any evidence of what were the rights of the House; but if the House wanted to acquire a power, he would not stand in the way by offering his opposition.

Mr. Duncan said that hitherto he had always looked upon this matter on one side, receiving the rules as laid down by May to be correct and a guide; but when he saw such misappropriation of the public revenue, he thought it high time for the House to take the initiative. When the Executive proposed to expend but \$4000 on the roads, and \$93,000 on officials, he thought it was time that the House took things in hand.

Dr. Helmecken said the Governor in his message before the House distinctly denied the constitutional right of the House to initiate money grants, and he (Dr. H.) would be sorry to see the power placed in the House, as it would lead to a system of jobbing and endless strife.

Mr. McClure would call attention to a portion of the Governor's message, which would lead the public to form a false conception of the action of the House in regard to increasing the Estimates. The only cases in which the House had increased salaries were the raising of the salaries of two or three school teachers, amounting to about \$500 or \$700, and even this had only been done when it was found that the Board of Education had recommended it (hear, hear). So much for the dangers of allowing the House to increase salaries.

A message from the Governor was handed to the Speaker, upon which the Committee rose, and the Speaker on resuming the chair read the following despatch submitted by His Excellency from Mr. Cardwell relating to light-houses and the reimbursement of official salaries.

DOWNING STREET, 12th October, 1865.

SIR—I have received your despatch of the 15th of July, No. 57, transmitting the Estimates of Revenue and Expenditure of Vancouver Island for the present year, together with numerous documents in elucidation of the same, and I have to express my thanks for the very clear exposition which, with the assistance of your late Colonial Secretary, Mr. Wakeford, you have laid before me upon this subject.

It is beyond the scope of my authority to comment upon the discretion of the House of Assembly in not providing sufficient means to meet the expenditure of the year; but I am at liberty to express my fear that a policy of this nature will, in the end, be detrimental to the interests and credit of the Colony.

What I have chiefly to deal with in the despatch under consideration is the refusal of the Assembly to repay the share due from Vancouver Island for the erection of the light-houses, and to replace the sum which was advanced last year from the Crown Revenue for the payment of certain salaries which the local Treasury had not at that time the means of discharging.

As to the light-houses, I learn from a review of the correspondence that Sir James Douglas earnestly represented to this office the importance of establishing light-houses upon some of the approaches to the harbors and anchorages of Vancouver Island and British Columbia, but that the infant state of the two Colonies precluded them from under-

taking this work themselves. Her Government desirous of promoting the interests of those Colonies and feeling that early stage of their career entitled the Governor, as to their help themselves, was just and consented to send out the necessary apparatus and to contribute from resources one-half of the cost of on condition that the remaining half be paid by the Colonies jointly.

Sir James Douglas expressed highly gratified at this liberality, the Secretary of State that he was the earliest "opportunity of bringing notice of the Legislature the providing for the repayment of the of the advance due from Vancouver Island for the circumstances." Consideration for the circumstances see included Her Majesty's Government insisting on the repayment of the but when at length you very properly the subject under the notice of the Assembly the appeal made to that with a decided refusal to fulfil the on which this important public executed.

I have to express my deep regret "Resolution"; and have only to say, Assembly shall think proper to add decision the charge must be thrown Crown Revenue and be defrayed whenever the state of its funds will 2. Refusal of the Assembly to you for having paid certain salaries the Crown Revenue.

I observe that on the 2d July, Assembly by a resolution of it pledged itself "to indemnify His E. the Governor in case he shall take responsibility of paying the said salaries the half year's salaries to the Chief the Attorney General, the Colonial Revenues, and the Surveyor General) out of the Revenues, while awaiting further directions from Her Majesty's Government."

In consequence of the exigence had arisen as to want of funds in the treasury and acting upon the assurance received from the Legislature, the salaries to these officers out of the Revenue.

Understanding that the Assembly undertaken to replace this money ordinary revenue, if it should be for you under instructions from me quite for you to do so, and having been paid by you that the greatest public nuisance would have resulted if I refused to make the necessary advance approved the course you adopted of the desired assistance.

I do not understand that the Assembly have repudiated this manifest obligation and I do not doubt that they will if it is specifically brought before them. It appears, however, from the passed in Committee of Supply that "Committee do not consider the Revenue liable for the payment of the dollars," which you had set down Estimates of Expenditure as a claim the Assembly; and which I suppose the advances you had made to the officers under pledge of reimbursement Committee support their conclusion bringing to my despatch of 1st August, 1865.

I have likewise referred to that, and I find that it applies exclusively question which you had submitted respecting the auditing of public accounts. I cannot, therefore, regard that, or anything which I have written to authorising the view taken by the Assembly with regard to this claim. It is possible that as no distinct line has been addressed to you for obtaining reimbursement of the advances in question Assembly have viewed the delay as caution that the claim would not be paid. This, however, is not the construction can be put upon the transaction. The delay was occasioned solely hope that an arrangement for a Commission would have been accomplished. I have the honor to be, Sir, Your most obt. humble servant (Signed) EDWARD CARDWELL.

COMMITTEE RESUMED.

Dr. Dickson was glad to find a unanimity in the House upon this question. He had observed the hon. senior member Metchoin taking copious notes, and anticipated powerful opposition from a member, but he was now glad to find Speaker willing to consent to the majority of the House.

Dr. Helmecken—No, no! I'm opposed to the House having the right.

Dr. Dickson had been, to a considerable extent, an actor in the affairs of the Colonies, and would assuredly state a question at issue here was never raised. Those colonies always enjoyed what he put the right to control their own revenue. He quoted from Lord Cardwell's despatch to the Governor of Canada from various other authorities, pro statements. He (Dr. D.) thought it of time to discuss a matter that had clearly and distinctly defined and settled in the Eastern Colonies. Besides he ask any sensible person if it were not to entrust the public money to five or six sensitive who were responsible to the than with one Governor who was fit to be? The hon. Speaker had said small an Assembly as that of Vancouver Island could not be expected to be power of large Assemblies; but it patent to all that a right was a right it was an Assembly of fifteen or five (hear, hear).

Dr. Helmecken said the reason why not oppose in a more strenuous measure of the Committee was that the Speaker did not wish to oppose the House to obtain the power they were for.

Mr. DeCosmos ably supported the motion, showing most clearly the constitutional right of the House, and that the Government of England only enjoyed right of initiating the estimate by the House of Commons, which could varied at any time the practice and rule had only given the Commons power over the operation of that standing order.

Dr. Helmecken said that he had in opinion been guided by May, being the which governs the House, but now he be guided by the resolution of the House would remind hon. members, he