



COLONIAL LEGISLATURE

House of Assembly, Saturday, April 6, 1853.

NIEL DARRACH'S PETITION

(Continued.)

House in Committee on the Report of the Special Committee appointed to report on the Petition of Niel Darrach—Hon. Mr. Jardine in the Chair.

Mr. MERRICK. The hon. the Treasurer says he has seen Capt. Cumberland's Report, and examined, in it, the statement of Niel Darrach's case; and he should like to know how long it is since he died.

Hon. Mr. FORT. I did not about a week or ten days ago.

Mr. MERRICK. When the Special Committee questioned Capt. Cumberland's Agent concerning the Rent Books, he said they were in England.

It was then explained that although Capt. Cumberland took the original Rent Books with him to England, he left copies of them here with his Agent.

Hon. Mr. FORT. One or two hon. members appear to be extremely anxious to make out a case in favor of Capt. Cumberland; but, the facts are so completely against them, that, with all their ability and ingenuity, great as they are, they must fail in their attempt. I have listened with much patience and attention to the elaborate defence of the proceedings taken against the Petitioner; and he has failed to convince me of their propriety.

To me, it appears, that the object in view, from their commencement, was to dispossess the Petitioner of his farm; and nothing that has been advanced, in defence or in explanation of the proceedings taken against the poor man, has, in any way, tended to convince me that it was necessary to institute two suits against him.

It is not necessary to institute two suits against him, as he was really indebted to Capt. Cumberland, on account of the Rent, due before the granting of the Lease, and which were recoverable by law, why he was not proceeded against, by one action for the whole amount, instead of being harassed—first, by one action for £34, and then by a second for a further sum? Surely a mode of proceeding, even admitting a certain amount of arrears to have been due and recoverable by law, was certainly most oppressive and unjustifiable.

Looking fairly and impartially at the whole case; and particularly considering that the evidence of the Receipts proves that the Petitioner regularly in the payment of his Rents, for some years before the granting of the Lease; and that, under the Lease, he has been punctual and exact in discharging his Rent as it accrued; I am quite at a loss to conceive how any man, on a review of the whole matter, can honestly declare that the proceedings taken against him were otherwise than oppressive and unjustifiable.

In fact, it appears to me that the poor man has been very cruelly and unjustly dealt with. By his own labour, he has converted a wilderness into a fertile and productive farm, and he has formed to dispossess him, for the purpose of having an opportunity to re-let the farm at an advanced Rent, so as to include the interest of the value of his improvements; and, by means of the successful prosecution of the two suits, the Petitioner, at the advanced age of 73 years, and in the possession of a large amount, and deprived of all that he had reaped by a long course of unremitted toil and care. We have been told that there is reason to suspect that the Special Committee have been actuated by personal prejudices which incline them to adopt and sustain the views of the Special Committee, without due regard to the merits of the case.

The Special Committee have done no more than to be insistent upon them; to do they have daily enquired into the facts of the case, and which, in relation to the House concerning them. And, if, since the House has been engaged in deliberating upon that Report, some hon. members have honestly stated their convictions, as arising from the facts of the case which have been brought under their notice, in doing so, they have favorably co-operated with the House, in either respects the lawyers or the landlord—in openly declaring them, without hesitation or disguise, they have merely acquitted themselves of a duty which they owe to their constituents.

If, however, members are daily influenced by a sense of what they owe to the people, as the chosen guardians of their rights, they will never allow any considerations of private relations, to bias their minds with respect to any enquiries or questions, their investigations or decisions concerning which may directly and seriously affect any individual member or class of the community. The case now before us is one, which—although we know it to be the only one of the kind which has ever occurred in the Island, would forcibly demand investigation at our hands; and which, when we have reason to believe it to be a mere specimen of the oppressive character of the proceedings which are, too often, had recourse to; for the coercion of tenants in this Colony—impugnably require from us, as we regard our obligations of duty to the people, not only a thorough investigation, but a full and unflinching declaration of our sentiments concerning it, to the end that our exposure and condemnation of the proceedings may, on the one hand, make tenants more wary, and, on the other, deter landlords and agents from the adoption of oppressive measures of an arbitrary and oppressive character, towards any of their tenants who may, unfortunately, be too much in their power. Something has been said by way of an attempt to show that towards the close of the proceedings complained of by the Petitioner, some report was manifested by his interest and those of his family. The fact which has been relied upon for a proof of this regard, is, however, in my opinion, a proof of nothing but the existence of the design, for the accomplishment of which, I conceive the proceedings were at first instituted—I mean the operation of the poor man from his farm, and the obtaining possession of it, for the landlord, that he might have an opportunity of re-letting it, with its improvements, at an enhanced value. The tenant has been raised to the means of two suits at law (instituted on behalf of his landlord), and the judgments thereon obtained against him, first, through the abandonment, by his own Attorney, of the defence which might have been successfully made to the one; and, next, as respects the other, through the manufacturer's ignorance of the law, which kept him completely in the dark concerning the nature of the process served upon him at its commencement; and the harshness of his case was further increased by nine months imprisonment—imprisonment which terminated only by the relinquishment of his Lease, and, although all this is admitted, we are told that more indulgence was extended to him than he deserved; and the proof of such indulgence is that after he had been raised and dispossessed of his farm, the Agent, having said: "You, or at least your son, shall have the farm back at an advance of 50 per cent in the original Rent." I certainly can discover no evidence of indulgence in this offer. It was merely saying to the son, "Now, you shall have the farm which was your father's. If you think proper to purchase the improvements which he has made

thereon, or which will amount to the same thing, to pay an increased rent according to the value of the farm enhanced by those improvements. If the father had not been deprived of his farm and its improvements, by the unjustifiable harshness of the proceedings enforced against him, the farm and the improvements would, most likely, have descended, as a hereditary inheritance, at the original value of the farm. They who sin against leniency or indulgence in this, must surely have very strange conceptions of severity. The case has been very properly brought before the House; and, notwithstanding all that has been advanced to the contrary, by the hon. and learned member for Christchurch and the Hon. the Treasurer, I am of opinion, and maintain, not only that the House has a right to institute the most searching enquiry into the facts of the case, but that it is their positive duty to do so. I hold—and I am not singular in that respect—that not only have the great body of the people a right to bring before this House, with a view to redress, any general grievance which presses upon them; but that it is the privilege of every individual citizen to petition to appeal to us for the rectification of any private wrong, for which no remedy can be obtained by ordinary proceedings in the Courts of Law; and that, with respect to every such case, so brought before us, it is our duty patiently to listen and observe in the way we feel it, for the purpose of rectifying, if possible, what we may find to be wrong in it; or, if we find that we cannot positively remedy the evil, that we may effect something beneficial by remonstrance, or by a manifestation of our determination to oppose whatever is in our power, whether it may affect the people generally, or merely one class, or one individual amongst them—altogether regardless, in our proceedings, of the position in society of those to whom our censure or condemnation may justly apply.

Mr. YAN. Although I was, at first, inclined to think, that the Special Committee had, as respects the proceedings on the part of the Plaintiff in this case, taken a more unfavorable view of the whole affair, than a full and impartial investigation of the facts would justify, I am now satisfied that their Report is fully sustained by undeniable evidence; and, although I am not favourable to our throwing open a door for the admission of a representation of every real or imaginary private grievance—for, if we did, our labors in the way would be endless, I am now, I freely confess, very glad that this case has been brought before us. I think the proceedings altogether are the most tyrannical and unjustifiable of the kind that have ever been brought to light in the Island. Indeed, I do not think that a more harsh and unfeeling thing was ever done by a landlord to a tenant in any country. I myself do not know of Capt. Cumberland personally; but I understand that, although thought to be somewhat eccentric in his ways, he is generally considered as a man of a very generous disposition. The proceedings, however, in this case, taken on his behalf against a poor man upwards of seventy years of age, are such as no man of common humanity or conscience could adopt; and they may serve as a warning to all landlords, that they may expect to receive when, by their own refractory spirit, they drive out of the country landlords who would deal leniently with them, if encouraged to do so by a willing compliance, according to the laws which are in force, with the account of Rent. With respect to the alleged arrears of Rent in this case, admitting that to have been due, it was most cruel to attempt the enforcement of their payment in the way pursued, and, all things considered, as a man of any conscience would have done it. The affair would not have had quite so bad a look if it had been proposed to the poor old man to forego him one half of the arrears, on condition that he would agree to pay the other half, as I believe landlords very often do; but altogether, it shews what some people would do if they had power. (To be continued.)

R. B. IRVING, Reporter.

GLANINGS FROM LATE PAPERS

A TEMPEST IN PARLIAMENT. 'Tis a long time since the ordinary gravity and decorum of the debates in Parliament have been interrupted by any of those heats of temper, explosions of spleen, or violence of personality, with which the progress of the discussion, and most revered demagogue, are occasionally hurried, when they engage in the strife of argument, and the conflict of discussion. For months and months the deliberations of the Legislature have been conducted with unbroken order, and unobscured dignity. Not so much as a joke even has escaped the lips of any Member of either House, to relieve the heavy monotony of the strict propriety which reigned around. A solemn sobriety has governed the language of every speaker, and a steady correctness has marked the progress of the discussion. A few evenings ago, however, all this became suddenly changed, and the House of Commons, from being the temple of all the Gracities and all the Proprietors, was in a moment converted into a scene of riot and confusion, and a scene of confusion and a scene of riot.

It arose in this way. The House was in committee on Ways and Means, and was engaged in discussing the Government proposal for extending the Income-tax to Ireland. Several Irish members had taken part in the debate, and had declared themselves for or against the proposition, according to the estimate which they were led to form of its policy or impolicy. At length Mr. Duffy rose, and after expressing himself warmly and energetically against the extension of the tax to Ireland, he said, in substance, "I don't know how many Irish Members have been persuaded to vote in favour of the measure. Some few of them I dare say voted from conscientious motives; but I will say, on the other hand, without any hesitation, that about as many more voted against it, because they were not so much influenced by the patriotic indignation called upon the Member for New Ross (Mr. Duffy), to name the parties to whom he intended his imputation to apply. It seems to me that the only course would be in the midst of which Mr. Duffy vainly endeavored to make himself heard." At last, when his voice was allowed to become audible, he said: "If the Chairman tells me on the part of the House that it is the wish of the House that I should name the parties to whom he has alluded, I shall do so." Upon this, Mr. Vincent Smith rose to order, and hotly demanded to be informed whether such language as Mr. Duffy had used was to be tolerated. No answer being returned to this interrogation, Mr. J. Ball, the Member for Down, moved in the midst of the

general roar which by this time had extended itself to all parts of the House, that the words used by the Member for New Ross "be taken down." This proposition was at once received with shouts of approbation. Mr. Duffy again essayed to speak, but was instantly assailed with passionate cries of "name, name." "I will name," at length he was heard to say "If the Chairman calls upon me to do so." There was some general cry of "Chair, Chair." The Chairman accordingly rose and inquired of Mr. J. Ball whether he intended to press his motion that Mr. Duffy's words be taken down. "Certainly I do," replied the Irish Member. "What then are the words?" said the Chairman. The apparent simplicity of this question was too much for the gravity of the House, and elicited a shout of laughter. "The words," said Mr. Ball, "were these, I will write them down—'that the worst corruption ever practised in the days of the Walpoles and the Fellows and the other members of the House—those, sir, were the words or the substance of the words used by the Member for New Ross, and having now written them on this slip of paper, I beg to place them in your hands, and to move that they be formally taken down.' The Chairman having read the words from the chair, in the midst of loud and general cheering, inquired of Mr. Duffy whether he admitted that those were the words he had used. Mr. Duffy replied that they were not identically the words he used, but that he did not quarrel with them." The idea of his having any quarrel with the words was again more than the gravity of the House could endure, and roar upon roar of laughter resounded from every quarter.

"The question, then, that I have to put" said the Chairman, "is, that these words be taken down." The position of the member for New Ross was now becoming formidable; because, if his own words were taken down, he would immediately become amenable to the most stringent of those laws by which the House preserves the order and decorum of its proceedings. An attempt was strongly made to effect a restoration of peace by means of concession and conciliation.

Mr. MORREY rose to express his conviction that the offensive words had only escaped the Member for New Ross in the heat of debate, and that they were not deliberately designed to insult any of the Members of the House. He trusted, therefore, that the hon. gentleman would see the propriety of withdrawing them. To this well meant appeal Mr. Duffy turned a deaf ear—he remained silent and inexorable. The confusion of the scene was now probably at its height, and it was in no degree diminished when Lord John Russell, after a brief review of the circumstances, said: "I own it seems to me that the committee in general, and the Irish Members in particular, have a right to consider that the hon. Member for New Ross has introduced into the debate words which are totally unable to prove, and that his object in so introducing them was to affix a stigma upon the representatives of Ireland which they do not deserve." This announcement of opinion was received with uproarious cheering from all the Irish Members sitting on the Ministerial side of the House. "Nevertheless," added Lord John Russell, "as the matter now stands I consider it would be better for the committee to refer the words into the debate which he is totally unable to prove, and that his object in so introducing them was to affix a stigma upon the representatives of Ireland which they do not deserve." This announcement of opinion was received with uproarious cheering from all the Irish Members sitting on the Ministerial side of the House. "Nevertheless," added Lord John Russell, "as the matter now stands I consider it would be better for the committee to refer the words into the debate which he is totally unable to prove, and that his object in so introducing them was to affix a stigma upon the representatives of Ireland which they do not deserve." This announcement of opinion was received with uproarious cheering from all the Irish Members sitting on the Ministerial side of the House.

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which finally terminated in an adjournment of the question to the following day, when Mr. Duffy was ordered to attend in his place.

ITALY AS IT IS. The London Times has the following letter, dated Rome, April 14:—The Court de Chamber has addressed what his friends call a very energetic letter to Pius IX., remonstrating against his Holiness's sanctioning, by officiating at the coronation of Louis Napoleon, a government originating in revolution, and diametrically opposed to the law of divine right. This is not the first attempt to wound the amour propre of Louis Napoleon from the same quarter; the Countess de Chambard is said to have been the principal instigator of the opposition to his marriage with the Princess of Wales; and now, of course, the Cabinet of Vienna has approved this irritating document. Here, in Rome, a proclamation has been issued within the last few days from a secret society, calling on their countrymen to join under the banner of 'Independence.' With the rallying cry of 'Out with the barbarians!' it not only proposes to be aided by and experience of the past, and give up all discussion on minor objects until this most desirable consummation be attained. Though it has avowedly failed in at once giving any thing like the impetus to the young republic which it intended to cement, yet the strenuous efforts made by the government, through their spies, to discover the authors, show how dangerous such a move is considered; and as the appeal is more to the good sense than the passions of the people, there is every chance of its becoming popular by digestion. The same spirit has long prevailed among the most enlightened patriots of Central Italy, and is now fast spreading in all parts, and through all ranks; so that, should an outbreak occur between Austria and another power, it would probably be regarded as a pious duty in Italians to join the ranks of her enemies; and we may expect to see in Italy a guerilla war as sanguinary as the French suffered from, in the Spanish Peninsula. Still Austria continues to oppress and bully, as ever, and every day of reckoning for her could ever possibly arrive; and every post brings reports of strangulations, and confiscations, and forced conversions, inasmuch that no one can feel surprise, except those willfully blind tyrants themselves, if the people despair of all amelioration short of their expulsion from the forest of Compiègne. 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