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## Provincial Parliament of Upper Canada.

From the Observer, Dec. 1, 1823.

[CONTINUED.]

The Attorney General thought this a matter of grave legislation, and could not be too gravely entered on. He was of opinion that it would be a rash and unnecessary interference on the part of this House, to take up any question of this kind, in consequence of the Editor of a newspaper having taken up an erroneous opinion. The learned member for the county of York, said he had not made up his own opinion on this subject. He (Att. Genl.) thought it was better for him to delay the consideration of this bill until he would make up his opinion. He thought a great deal of what the learned mover said, did not apply to the present case, when it was not doubted that we had adopted the commercial law of England. He thought that the express intention of the statute was to introduce, with the common law of England, the commercial or statute law, the Bankrupt and poor laws excepted; and by our rejecting the Statute law of England, instead of one of the best codes in existence we would have one of the worst. He hoped it was not the opinion of the learned mover that the common law of England could be separated from the statute law, which went back for 700 years, and which, if rejected here, would be an irreparable loss to this colony. He knew of no instance where the Statute law of England was injurious or where it would not apply with equal force here as in England. Altho' he admitted that the general adoption of the English commercial law here, was rather injudicious and might have been done with more caution; yet, he contended that we would be in a worse situation if we rejected it altogether. He would therefore oppose this bill, because he thought it recognized a doubt whether the commercial law of England was in force here.

Mr. Nichol agreed with the Attorney General that laws long established ought not to be hastily altered. He was not prepared to vote for this bill, because he thought the meaning of the statute was different from that taken by the hon. mover. However he was of opinion that the same laws or Marriage Act, was never intended to be in force here.

Mr. Hagerman was anxious that the bill should be read; but in looking over it, he thought the intention of the hon. mover was to do away with the Statute law of England altogether. If so, he would oppose the bill. If the hon. mover objected to any particular statute, he could bring in a particular bill to meet it; but he (Mr. H.) would never consent to a general bill like the present. It was evident that the general practice of the Courts in this Province considered the Statute laws of England in force here, with the exception of the Bankrupt and poor laws.

Mr. J. Jones said, the only question before the house was, whether it was the intention of the Imperial Legislature to make the laws of Lower Canada previous to the division, the law of this Province;—and he was of opinion, that it would be well to pass a law declaring that the Ordinances of Lower Canada previous to the division of the Province of Quebec, are not in force here.

Mr. C. Jones thought that the Provisions of this bill would go to exclude the Statute laws of England altogether from this Province, and that they were in force here, there could be no doubt. He would therefore oppose this bill.

Mr. Baldwin said, he was neither mad nor absurd enough to propose any measure that would disturb the jurisprudence of the Country and leave the Province without law. The bill proposed to explain the 3d clause of the 32d George 3d, introducing the common law of England as exclusive of the Canadian law;—and no more, which necessarily left all that part of the English law, whether Statute or common which reasonably and rationally applied to this Province, undisturbed in force. True, it was we introduced the criminal law of England, as the learned Attorney General had said, which therefore rendered it impossible that this could affect that part of the law. Yet, even here Mr. B. contended that the adoption of the criminal law of England in the general terms of the act did not therefore introduce all the Statutes, notwithstanding its very loose and vague words. For instance, no one would say that the British Statute making it felony to export Wool was the law of this Province, and yet the constructions occasionally put upon the general wording of that law, as well as of the 3d clause of the 32d, might be applied to the introduction of that Statute as well as many other very severe and inapplicable Statutes;—and the object of this bill was to remedy this growing and serious evil; if such constructions are suffered to grow into use; however Mr. B. said he could do no more than endeavour to awaken the attention of the house to the subject, and if the bill failed, he yet felt he did his duty.

The Bill was read a first time, and the motion for a second reading on Monday next, was lost by a large majority.

On motion of Mr. Nichol the Schedules of the Public accounts sent down in a message from the Secretary's office, were ordered to be referred to a select committee on Finance, of seven persons, to be appointed by ballot on tomorrow.

On motion of Mr. Nichol a resolution was adopted authorizing the Speaker to direct the necessary process to issue in order to compel the attendance of witnesses, and the introduction of such papers as may be necessary for the trial of the contested election for the Counties of Lenox and Addington.

Mr. Rutten brought up the Petition of Joseph Tuttle confined in the New Castle District for debt.

Mr. Morris brought up the petition of the Prisoners confined in the Gaol of the District of Johnstown.

Mr. Walsh brought up the petition of James Carrol of the Town of York.

Upon motion of Mr. Rutten, the Boundary line bill was read a first time, and ordered to be read a second time on Tuesday next.

The report of the Commissioners appointed to settle the affairs of the Pretended Bank of Upper Canada, was brought down by Major Bligher and read.

Upon motion of Mr. Morris, it was referred to the Attorney General, Messrs. Nichol, and Jones Jones to report thereon by bill or otherwise.

Mr. Jones Jones moved that 100 copies of the Report be printed for use of members.

Several members opposed this motion on the ground, that it would be more satisfactory to the public to have it inserted in the Newspapers, when a division took place and there appeared

a majority of 9 in favor of Mr. Jones' motion. Mr. Jones stated, that it was his wish to have the few documents which were necessary to be printed this Session contracted for and given to the person that would do them the best and the cheapest. He therefore moved that the printing to be done during the present Session by order of the house, be under the control of Messrs. Wilson and Morris.

The Qualification bill was read a 3d time and on motion of Mr. Jones Jones the house was to go into Committee on Monday next to take the same into consideration.

Mr. Jones moved that the account of Debentures sent down by his Excellency be referred to the Committee on Public Accounts.

From the Observer, Dec. 8.

On motion of Mr. Crooks, the Highway Amendment bill was read, and ordered to be read a second time on Thursday next.

The house went into committee on the District Court bill.

Mr. J. Jones said the principal difficulty thrown in the way of this bill yesterday was, that it was not proper to pass an act similar to the one which passed last session, and which has been reserved for his Majesty's consent. He felt some impropriety on this head, himself, but thought that the committee would do right in adopting the first and second clauses of this bill, which merely went to alter the time of holding this Court, to the great convenience of the people of the country at large.

The committee were opposed to this bill, as it contained the provisions of the bill of last session, which has been forwarded to England for his Majesty's assent, and in order to await the fate of that bill, they rose without any report.

On motion of Mr. Nichol, an address to his Excellency requesting him to procure returns of the amount of duties collected at the Port of Quebec from October 1822 to October 1823, passed through the house, the fifth rule being dispensed with.

The Attorney General reported a bill to amend the law respecting the Jail and Court House in the House district. Ordered to be read a second time tomorrow.

On motion of Mr. Hagerman the house went into committee on our commercial intercourse with the United States.

Mr. Hagerman said that the proper regulation of our commercial intercourse with the United States, was an object of the greatest importance to this colony. He was satisfied that this was a question for which the country at large, and particularly the agricultural interest, felt the greatest anxiety, and he was also convinced that the committee would admit the necessity of putting it on a proper footing. As the British and other articles for exportation, it was not his intention to lay any thing additional on them;—he wished all such articles to go as little encumbered as possible, as he was satisfied that much of the carrying trade was thrown out of our hands, and many articles took an other course in consequence of our restrictions. It will be said that in proportion as we keep out the foreign produce, the domestic will rise in price; but in viewing this subject, the house ought not only to consider the agricultural interests, but also the interests of the labouring, mechanical, and other classes. He wished to raise the duty on a few articles, particularly on salt; he was aware that this would be opposed, as it was an article of prime necessity; but he wished the committee to recollect, that we had a number of infant establishments, which would come to something, if encouraged. It was proposed last session to give a bounty on this article; but he thought the better way would be to lay on a reasonable duty on the American salt. He intended also to put an additional duty on woolen and cotton manufactures, and a duty on tobacco. Before he submitted his resolutions to the committee, he would suggest the propriety of passing certain resolutions respecting East India goods. The article of Tea particularly was now smuggled into this Province from the United States. This was a subject on which this house could not legislate; but he would suggest the propriety of forwarding a joint address to his Majesty in order that this Province might be permitted to import Tea either direct from Canton by Quebec, or through the United States, on paying a reasonable duty. He intended to move for a conference with the Upper House, in order that a joint address might be forwarded on this subject.

He then proposed the following resolutions:—

[For Resolutions see Herald Dec. 2.]

Mr. Nichol said there could be no objection from any hon. member of the committee to these Resolutions. It was their duty to address the Imperial Government on this subject, and particularly with regard to the article of Tea. He wrote to a merchant of the first respectability in Montreal on this subject, and expected through his medium, to be shortly able to lay some general information before the house on this head.

Mr. C. Jones would not oppose the Resolutions, because he thought them founded on fact; but he wished the house to be in possession of the object of the hon. mover.

Mr. Baldwin had no doubt the system of smuggling so generally pursued in the morals of the people.—He lamented that an application on the subject of Tea was not long since forwarded home. He thought, however, that it was impossible that Tea could be imported as cheap here from England, as by the United States. The East India Company were at a heavy expense, and their Tea was generally of a better quality—yet so long as the people could get Tea cheaper from the United States, although not even so good, they would smuggle it, and the people of the United States obtained a large revenue by it.

Mr. C. Jones said the object of the resolutions was to gain relief for the inhabitants of this colony, with respect to the article of Tea, and to prevent the smuggling of that article from the United States. If the relief was not of such a nature as to put the people of this Province on a footing with the United States, on this point it would be no relief at all, and smuggling would be continued.—He was of opinion that they would never obtain the necessary relief from the East India Company, who could not in their present way of sending one small ship year-

ly to the port of Quebec come in competition with the United States, nor would the mother country ever consent to the importation of Tea through the territory of the United States. Therefore, nothing but a free trade from Canton to Quebec, could give this country effectual relief.

Mr. Nichol thought the necessary relief could be afforded by the East India Company, who purchased their Tea on better terms than the Americans, and had it in their power to charter as many ships as they pleased; consequently they could supply any quantity as cheap and even cheaper than the Americans. He was well aware that the government of the mother country always guarded the monopoly of the Tea trade with a jealous eye, and the people of this small colony could not expect privileges which have been refused to twenty millions of subjects, who are paying heavy taxes at home.

The great thing in favour of any application from this, however, was the facilities afforded to smuggling from the great extent of coast on the frontier of the United States.—He was of opinion that this fact strongly urged would induce the East India Company to come to any reasonable measure, and with this view, he would move the following amendment:—“Or, that if either of these measures be deemed inexpedient, some arrangements may be made with the hon. East India Company, for the annual supply of Tea to the Provinces of Canada, by direct importation through the agency of that Company.”

Mr. J. Jones saw no objection to this amendment—and thought they ought to make the application in such a way as would be considered most feasible and best calculated to obtain the necessary relief.

Mr. C. Jones would oppose this amendment as it would have a most injurious effect—and when so many alternatives were proposed to his Majesty's Government, they would most likely adopt the last, which would not give the relief desired, and if granted would be a means of preventing further application for effectual relief.

The Attorney General thought this a most important question, and no harm could arise from any application of this sort.—It was a subject to which the government at home had their attention directed a few months ago by a number of the most respectable Merchants in Lower Canada, by whom an application was made to the East India Company to establish a central Mart, to supply these Colonies with Teas, &c. on rational terms.

Mr. John Wilson agreed with the opinion of the hon. member for Leeds, that when they ask a favour it should be such as would serve their purpose and no other. If the people of this country were allowed a direct trade to India on the same terms with the U. States, they would be benefited, and smuggling would be done away; but obtaining tea through the U. States, on payment of a duty, or other unequal grounds, would never remedy the evil complained of. He thought it not at all unlikely that the Government of the Mother Country would grant this colony what they had refused others; because from our local situation, and the vast extent of our coast on the boundaries of the U. States it was utterly impossible to prevent smuggling, and the East India Company could sustain no loss by any relaxation in our favour, as very little of their goods came to this Colony through that channel. He would therefore oppose the amendment.

Mr. Rutten thought that the important article of Tea might be allowed to come through the United States on payment of a small duty.

Mr. Morris could not see the grounds of objection to this amendment, nor could he think that this application, if granted would be of no benefit. He was decidedly of opinion that if a ship were despatched from India to Quebec, we would have our Teas as cheap as the people of the United States. He would not approve of bringing our tea through the United States, because it would give the encouragement to American Sea men which was to our own people.

Mr. Baldwin would oppose the amendment because it would not procure for us the relief we required and consequently smuggling would be continued.

Mr. Geo. Hamilton thought hon. members opposed this amendment without any reason. He could not see why the East India Company could not sell their tea as cheap as any other people, and on this consideration, he would support the amendment.

The Atty. General was of opinion that effectual relief could be afforded through the medium of the East India Company by a direct communication from Canton to Quebec—by that means they would save the expense of a circuitous navigation and of a second shipment from England—and he could not see any thing to prevent the company, in that way, from affording Teas as cheap as the U. States. Mr. Nichol was of the same opinion. At present, the East India Company had no port open to them but London and they were bound by their charter to keep two years' supply of Tea sufficient for the British dominions in their Warehouses under the King's Lock. They also paid the immense sum to the government of £500,000 yearly for their monopoly. Therefore, to meet all these heavy expenses, and pay them for the great Capital sunk in the two years' supply lying in the Warehouses, they have been obliged to sell their Teas higher than the United States; but in the event of a direct trade all these difficulties and additional expenses would be avoided—there would be no necessity for keeping a large capital sunk in two years' supply here, and three or four ships could be sent yearly to Quebec, and deliver Teas on as good terms, and better terms than it is now smuggled from the United States.

Mr. John Wilson thought that nothing but a direct free trade with the East Indies could supply us with Tea as cheap as the prices of the U. States. The East India Company, no doubt, conducted their business in a very proper manner, but they were subject to a very enormous expense, and also subject to a heavy plunder from their servants, who were sent out rather to accumulate large fortunes than to perform simple mercantile business like the usual mode pursued in the U. States, which was by their citizens simplified, and performed at one half the expense. He thought it highly impor-

tant for them to call the attention of the Imperial government to this subject as soon as possible, as the charter of the India Company would expire in about ten years, and His Majesty's ministers might think proper to make such necessary arrangements as would have the effect of supplying these colonies with the important article of Tea as cheap as our neighbours, and thereby put a stop to smuggling.

Mr. Nichol thought the active vigilance of the chief officers of the company guarded them from all such plunder as alluded to by the hon. member for Wentworth.

Mr. Gordon thought when we seek for relief that it ought to be effectual. The relief suggested by the amendment, in his opinion, would place this country in an awkward situation, and if granted, would still leave the Province in as bad a situation as before.

Mr. Nichol's amendment was then put and carried.

Mr. Hagerman, on the principle before stated to raise a revenue and encourage home manufacture, proposed an additional duty of 9d per bushel on Salt.—This motion was negatived after a long discussion, and the former duty of 6d per bushel was adopted.

A resolution imposing a duty of 15 per cent on Saddletry of every description, passed the Committee.

The Committee rose and reported several resolutions, in order to expunge Mr. Nichol's amendment. This motion was warmly supported by Messrs. Charles Jones, Baldwin, John Wilson, and others, carried; and after an animated debate in the committee, the motion for expunging the amendment was negatived. The committee rose and reported the resolutions. On receiving the report the house divided: For the report and Mr. Nichol's amendment being received, Messrs. Burwell, Nichol, Clark, Rutten, Baby, Horner, R. Hamilton, M'Lean, Jones, McDouell, Hara, Morris, Attorney General and Bostwick.—Against it—Messrs. Baldwin, C. Jones, J. Wilson, Gordon, Wilton, Walsh, White, Pattie, Randal, Casey, and Shaver.—11. Majority 4.

Mr. Hagerman moved that the foregoing resolutions be communicated to the honorable the Legislative Council, and that the hon. body be requested to concur therein.—Ordered.

Mr. Charles Jones reported a bill for the relief of Hiram Spafford to enable him to traverse the Inquisition on a forfeited Estate.—Read first time, and ordered to be read a second time on Wednesday next.

On motion of Mr. Morris the petition of the inhabitants of the District of Bathurst, praying for a division of the County of Carlton was brought up.

Upon the Petition of the prisoners confined in the Gaol of the Johnstown District being read, Mr. Morris said, if the circumstances stated in the Petition were true, it was disgraceful to the country. Nothing could be more infamous than that of confining males and females in the same cell. He moved that the Petition be referred to the committee, to whom was referred the petition of the Grand and Petit Jurors of the same District.

The petition of Joseph Tuttle was read, which stated that he was sued for a debt of \$1, the costs of which amounted to 7s. That he had made various offers of security for payment of the same, which plaintiff refused to accept, stating that he would keep the Petitioner in Gaol till he would rot. The Petitioner also stated that he was 63 years of age, and through the humanity of some person who became security for him, obtained the limits, but was obliged in order to keep from starving, to go into Gaol again.

This petition on motion of Mr. Rutten was referred to the committee to whom was referred the petition of the Grand and Petit Jurors of the Johnstown District.

The Petition of James Carrol on motion of Mr. Walsh seconded by Mr. Horner, was referred to Messrs. Wilson, Wilton and Rutten, to report thereon by bill or otherwise.

The house resolved itself into a committee of the whole upon the division of the Province.

Several resolutions were adopted. One, on motion of Mr. Morris, dividing the County of Carlton in the district of Bathurst, and making two separate counties of it, to be called the county of Carlton and the county of Lanark.—Another, on motion of Mr. Casey, disuniting the counties of Lenox and Addington. Another, on motion of Mr. Rutten, making a new county out of the townships lately surveyed in the district of Newcastle to be called the county of Otonohy. Another, on motion of Mr. Crooks, dividing the county of Halton, in the Gore district, and making two counties thereof, one to be called the county of Halton, and the other the county of Neilson. Another, on motion of Mr. Baldwin, for disuniting the counties of York and Simcoe.

(Debates to be continued.)

## Provincial Parliament of Lower Canada.

LEGISLATIVE COUNCIL. SATURDAY, 29th November, 1823.

This day at twelve o'clock the House went up to the Castle of St. Lewis, and presented the following Address, in answer to His Excellency the Governor in Chief's Speech at the opening of the Session:

TO HIS EXCELLENCY GEORGE EARL OF DALHOUSIE, Knight Grand Cross of the Most Honourable Military Order of the Bath, Captain General and Governor in Chief, in and over the Provinces of Lower-Canada, Nova-Scotia and New-Brunswick, and their several Dependencies, Vice-Admiral of the same, General and Commander of all His Majesty's Forces in the said provinces of Lower-Canada and Upper-Canada, Nova-Scotia and New-Brunswick, and their several dependencies, and in the Island of New-foundland, Prince Edward, Cap Breton, and Bermuda, &c. &c. &c.

May it please your Excellency, We, his Majesty's dutiful and loyal subjects, the Legislative Council of Lower-Canada, in Provincial Parliament assembled, beg leave to return Your Excellency our humble thanks for your Speech from the Throne.

It is with great concern we learn from

your Excellency that difficulties in our financial affairs still exist, and we beg to assure your Excellency that we shall meet the subject with that mature deliberation and reflection which its importance requires.

Considering that your Excellency is the executive medium between the Imperial Treasury and this Provincial Parliament, we rejoice to learn that the course adopted by your Excellency under the financial difficulties existing during the last summer, have received his Majesty's gracious approbation; whenever it may please your Excellency to refer the subject to the Legislative Council we shall give it the most attentive consideration.

We most truly participate in the satisfaction expressed by your Excellency on the state of the Provincial Revenue, and we are highly gratified to learn the favourable sentiments of your Excellency in regard to the prosperity of the Province.

The improvement of roads and the completion of the Canal at Lachine will claim our serious attention, and we shall be happy to concur in any measure for the advancement of those important objects which the pecuniary resources of the Province may enable the Legislature to adopt.

We beg to assure your Excellency that we shall give every consideration to the important subject of the Judiciary Bill, and to that for establishing a Register Office, which is also highly interesting to a large portion of His Majesty's Subjects in this Province.

It will be our anxious desire to close the labours of the last Session of this Provincial Parliament in that harmony and effectual concert which so much promote public prosperity, and we are well assured that we shall have your Excellency's cordial concurrence in that desire.

To which his Excellency the Governor in Chief was pleased to make the following Answer.

Gentlemen of the Legislative Council, I receive with pleasure these assurances of your attention to the public affairs now to be brought under your consideration, and nothing can be more gratifying to me than the sense you express of my desire to co-operate in measures for the well-being of the Province.

## HOUSE OF ASSEMBLY.

STURDAY, Nov. 29th.—At One o'clock. The House went up to the Castle with the following Address.

TO HIS EXCELLENCY GEORGE EARL OF DALHOUSIE, Knight Grand Cross of the Most Honourable Military Order of the Bath, Captain General and Governor in Chief in and over the Provinces of Lower-Canada and Upper-Canada, Nova-Scotia and New-Brunswick, and their several Dependencies, Vice-Admiral of the same, General and Commander of all his Majesty's Forces in the said Provinces of Lower-Canada and Upper-Canada, Nova-Scotia and New-Brunswick, and their several Dependencies, and in the Islands of New-foundland, Prince Edward, Cap Breton, and Bermuda, &c. &c. &c.

May it please your Excellency, We his Majesty's dutiful and loyal subjects, the Assembly of the Province of Lower-Canada, most humbly request your Excellency to accept of our thanks for the speech delivered from the Throne, at the opening of the present Session of this Provincial Parliament.

We beg leave to assure your Excellency that we participate in the painful feelings experienced by your Excellency on meeting us each succeeding year with statements of financial difficulties. We at the same time thank Your Excellency for the determination which you have been pleased to express, of laying them before us in the fullest detail, as well as for convening us at this early period for that purpose.

We shall most respectfully receive the communication of the course which your Excellency has pursued in the difficulties which your Excellency informs us he has experienced this summer, and which your Excellency has the satisfaction to know has been approved by his Majesty's Government. Your excellency may be assured that we will give to this subject our most serious attention, with a view to the adoption of such measures as shall seem best.

We shall not fail to bestow every possible degree of attention on the annual accounts of the Province, which your Excellency is pleased to inform us will be laid before this House by your Excellency's direction. The estimates of the probable Expenses of the Civil Government for the year now commencing, and the making provision for the same, will also receive that mature and respectful consideration, which is due from this House to every call made upon it in his Majesty's name.

The information which your Excellency is pleased to communicate that the revenue continues fully equal to what it has been for several years past, is a matter of sincere satisfaction to this House. We are happy in being assured that your Excellency considers the Province to be prospering in a degree far beyond what is generally imagined.

Although, under existing circumstances, it may be unnecessary for your Excellency to recommend the improvement of Roads, or the Canal now nearly completed, or indeed any works which spring from public pecuniary aid, yet your Excellency may be assured that they will not be omitted in our deliberations, should circumstances permit.

The subjects not dependent on the same description of aid which your Excellency