

SUPPLEMENT TO THE KINGSTON HERALD.

KINGSTON, JUNE 22, 1841.

HOUSE OF ASSEMBLY.

WEDNESDAY, June 16.

The House met. The Minutes were read.

Sir ALLAN McNAB moved that a new writ be issued for the county of Middlesex.

Mr. DURAND said he did not rise for the purpose of opposing the motion of the hon. learned gentleman, but before proceeding with the question, he would observe that his intention shortly, to bring in a bill securing the freedom of Elections. He considered it absolutely necessary that such a measure should be passed before any new Election should take place. (Hear, hear, hear.) He would nevertheless support the present motion, with the understanding that no new application of a similar nature should be made previous to the introduction of the measure which he proposed to bring forward.

Mr. PRICE said he was sorry to interrupt the hon. member, but he really thought it altogether out of order to interrupt the bringing of a measure of this description which is so intimately connected with the privileges of the house, and the rights and liberties of the subjects of this Province.

Mr. HINCKS observed that the hon. and learned gentleman was mistaken in supposing his hon. friend was out of order. The House of Assembly had in former instances, refused to secure the freedom of elections, until an application of the kind, until a measure had been passed providing for the securing of the freedom of the contemplated election.

Mr. HINCKS and learned Col. is himself perfectly aware, that there are several motions to be brought into this House at its present session, complaining of undue returns, the ground of violence, and it was his (Mr. HINCKS) firm conviction that there are many more in the Province where it is impossible to hold elections free from riots. He (Mr. HINCKS) had no disposition to offer a factious motion (hear, hear.)

Mr. PRICE said that the observations of the hon. gentleman would be perfectly applicable, had not a law been passed which expressly, that any person upon acceptance of office under the government shall vacate his seat.

Mr. MORIN said he would merely mention that in England the practice was in all cases which it was considered necessary to move the action of the house should be suspended until proper provision were made to meet the exigency of the case. But in this instance (Mr. M.) really thought there was no objection for such a course. He could see no objection whatever to issuing the writ at once. But if those acts of violence which he had spoken of had really occurred, the House would not only be perfectly justified in withholding the issuing of a new writ until such a measure were passed, as the hon. gentleman had spoken of, but it would be their imperative duty so to do.

Mr. HALE said, it appeared to him that the gentleman had overlooked a very material point. As to the necessity of passing such a measure would secure, if possible, the freedom of elections, there seemed to be no question. But he would ask hon. members if they were disposed to allow the county of Middlesex to remain unrepresented during the passage of the law?

Mr. PRICE said he rose not for the purpose of opposing the present motion, but for the purpose of stating that he was determined to oppose every application for the issuing of new writs until proper provision were made for securing the freedom of Elections, as long as he had the honor of a seat in the house.

Mr. BOSWELL said it was not at all surprising that there should be an universal cry for a law which should have for its object the securing to the electors of this Province full protection in the exercise of their elective franchise. A measure of that description was imperatively required.

Mr. BALDWIN concurred in the opinion that the protection of the freedom of elections was a measure which required their earnest attention. That riots of a most disgraceful character had occurred both in the upper and lower portions of the Province was perfectly well known to all. To such an alarming extent had the practice of violence and intimidation been carried that even the members of the administration, in one part of Canada at least, had been parties to them, (hear, hear.) He wished it to be understood, however, that he was far from believing that the representative of a Constitutional Sovereign had taken part in any such proceedings; and he had hoped that His Excellency in his Speech from the throne would have made some recommendation for the prevention of their recurrence. He thought the House would be fully justified in deferring the writs of election in all future cases until a Bill should be passed. But although under the peculiar circumstances by which the seat for Middlesex has become vacant it would appear that the House is bound to issue a new writ immediately, yet it does not necessarily follow that the House is bound to issue a new writ in all cases. Although the county of Middlesex was not on this occasion the scene of these riots, it was not many years ago the scene of a most disgraceful riot, (hear, hear.) By voting for the present motion he did not intend to give any pledge for his vote on future applications for the issuing of new writs of election.

ATTORNEY GENERAL DRAPER said that after the words which had fallen from the hon. and learned gentleman, there could be no doubt of the right of that House to exercise its own discretion. He would not differ from that hon. gentleman upon that point. All that he would say at the present moment was that he did not think it necessary to defer the issuing of a writ merely because there was a bare possibility that a protective measure might be required. His hon. friend had drawn very truly a distinction between cases of violence and the case of a seat having been vacated by the acceptance of office, and he (Mr. Draper) thought that the latter was a case in which the House should take care that the constituency should not be for one moment unrepresented. With reference to the members of the administration having been parties to acts of violence and undue interference in elections, it is quite clear that if the administration is to be made answerable for the riotous proceedings at elections, it will be essentially and in fact a responsible administration, (laughter,) so that the object so earnestly desired by that hon. gentleman (Mr. Baldwin) has been already attained, (hear, hear.) and this might

possibly be the grounds for the hon. gentleman's leaving us, (hear, hear.) He would add one other remark, that the hon. gentleman was better acquainted than himself with all practical questions of legislation. The motion was adopted.

Upon an enquiry of Mr. HINCKS respecting the time for entering upon the trial of contested elections, Col. PRINCE stated that according as the law stood fourteen days were allowed to elapse before any action could be had upon any petition on contested elections.

Mr. BOSWELL having presented a petition praying for an increase of salary for a light house keeper, a discussion followed, by which it appeared that according to the rules of the Legislative Assembly of the late Province of Lower Canada, and which have been temporarily adopted by this House, no petition for a grant of money can be received by the House until it has received the sanction of His Excellency.

Sir ALLAN McNAB said he thought the question with regard to contested elections should be disposed of. He had had the honor of presenting a petition complaining of the return for the county of Kent, and he was prepared to show authorities to prove that the Clerk of the Crown in Chancery might be instructed to order the Returning Officer to amend his return. If that Returning Officer had conducted himself in the manner it had been represented to him, it would be highly improper that he should be allowed to escape punishment, (hear, hear.)

Col. PRINCE said it was not his intention to oppose the motion of the hon. and learned gentleman, but as he (Col. Prince) had a knowledge of the particulars of the case, he could not sit still and allow a prejudice to be created against the Returning Officer, whilst they had nothing before the House upon which to form their judgments except the bare assertion of the petitioners. And upon looking at the petition itself it would be found contradictory in itself, charging the Returning Officer with fraud in not making a return, and in the very next sentence declaring that he returned Mr. Woods by a majority of forty-three. He would protest against any hon. gentleman speaking warmly against the conduct of that officer upon so imperfect information as they were at present in possession of.

Mr. ROELIN suggested that it would be proper to appoint a Select Committee to inquire into the conduct of the Returning Officer.

Mr. HINCKS said he thought it quite competent for the House to order the return to be amended.

Mr. BOSWELL said he thought it of very great importance that in a matter of this kind they should proceed correctly.

Mr. MORRIS presented and read the petition of George C. Komer and Elizabeth his wife, praying for a divorce on the ground of incompatibility of temper.

Sir ALLAN McNAB was of opinion that a petition of that nature should not be entertained by the House. If they were to be called upon to sever the matrimonial bond, merely on account of the ill temper of the parties, they would have enough to do, (laughter.)

Mr. NELSON suggested that it should be allowed to lie upon the table, without taking any immediate action upon the subject of the petition, that members might have an oppor-

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