

Provincial Legislature.

HOUSE OF ASSEMBLY.

THURSDAY, FEB. 12.

Hon. Mr. JOHNSTON presented a Petition from persons residing near the Grand Lake, praying that an amendment of the Militia Law may be passed during the present session, to prevent their being called out in harvest time.

Mr. STREET thought the application had better be made to another quarter.

Mr. FISHER said the House was the very place where the application should be made; as he considered the drilling of militia in time of peace as at present performed, a perfect nuisance.

Mr. L. A. WILMOT wished to call the attention of the House to the order of the day—the consideration of the College Bill, which stood for Thursday. When he moved that order, he did it for his own personal convenience; and he regretted to learn that improper motives had been attributed to him; he had no objection to its being discussed at any time, as no arguments could be adduced against the measure, but what could be most fully met by the friends of the Bill. Although Monday was a day in which he should be much engaged, he was willing to defer the consideration of it till that time; if that day would suit the House; and if not he would be prepared to bring it in on Saturday; but he did not wish to defer the consideration of it till a later period, lest the same objection should be urged against its passing elsewhere which was made last year.

Mr. END said nothing could be more creditable to the member for York, than the proposal which he had just made; those who knew him would not for a moment attribute to him any improper motive, in making his motion on a former day. The learned gentleman said, he wished some gentleman would move in his place for leave to bring in a Bill, to alter the time of holding the Hilary term of the Supreme Court. It had been said that it was a breach of privilege to distract the mind of a member of the Assembly, by serving him with a notice while the Legislature is in session, in order that gentlemen might be left free to discharge their duty to their constituents. And were the principle carried out, how were it possible that members could attend in the House and elsewhere. Of what importance to the country is the sitting of the court compared with its legislation.

Mr. WILSON viewed the business of the Legislature as paramount to every other; and therefore thought the order of the day should stand for Thursday. He was not disposed to change it, because it happened that a church meeting was to be held on that day.

Hon. Mr. WELDON thought the consideration of the Bill in Committee should proceed agreeably to the order of the day for to-morrow; as notwithstanding the meeting, he did not consider that the entire business of the country should be suspended on that account. The present Bill he said, was similar to that of last year, which passed by a large majority; he considered the principles of it as settled, and that as the subject had been already nearly exhausted, it could not elicit much debate. The remarks to which the learned member for York alluded, as having been made out of doors, were unworthy of notice.

Mr. HILL thought the business of the House should not be neglected, in consequence of proceedings elsewhere.

Hon. SPEAKER said it seemed to be considered a matter of course, when gentlemen were engaged at the other end of the building, that they should leave the House; but when they did so he considered leave should be obtained; as the benches were deserted, because hon. members had other duties to perform. He believed the Act did not require him to take a note of absentees; but when gentlemen absented themselves from the discharge of the most important duties, which British subjects can be called upon to perform, it was incumbent upon them to ask leave.

Hon. Mr. JOHNSTON feared that suits not meet the difficulty, so long as the Court sits at present. The only effectual remedy would be to abolish the present term of the Court. He appreciated the motives of the learned member for York, and was surprised that observations such as had been alluded to should have been made.

Order of the day was then postponed till Monday.

The House resolved itself into a Committee for the consideration of a Bill, authorizing the granting of lands by instalment.

Mr. FISHER said it would be in the remembrance of the Committee, that by the 5th section of the Act to support the Civil Government of the Province, all Crown Lands were required to be sold by auction. Such was the objection to the auction system, that immediately after the enactment of that law, another act was passed to restrain the provisions of the 5th sect. by which among other things it was enacted that the Lieut. Governor with the advice of Council, should have power to sell land fit for agricultural purposes to individuals requiring the same for actual settlement, in lots not exceeding 100 acres by private sale, for immediate payment only; this had been found to bear hard upon the country, and the difficulty of raising money rendered it difficult and often impossible for poor and industrious persons, who would make good settlers, to obtain allotments. The object of the present Bill, was to provide a remedy for that evil, by authorizing the sale of lands to such persons, either for prompt payment or payable by instalments, requiring a portion of the purchase money to be paid on the completion of the survey, and giving the settler a liberal time for the payment of the balance in such portions as the government shall prescribe. He should not have committed the Bill at that hour of the day nor whilst many of the members were absent, had he supposed there would be any difference or diversity of opinion with regard to the payment for lands required for actual settlement by instalment. That question had been before the House in various forms, during every session he had a seat in it, and the principle had always been sustained by large majorities.—He had during the last session moved an address to the Lieut. Governor on the subject, which passed without a dissenting voice; he therefore concluded the principle was settled, and the only real difference of opinion would be with regard to the details, as the House must elect between introducing the instalment system or the increase of squatters. The immediate payment for land had deprived the country of very industrious and useful settlers, who in process of time would grow up into the character of substantial landholders, and it also induced squatting on the vacant lands of the Province to a great extent. There was another advantage in this bill, it contained all the

law relative to the sale of Crown Lands in restraint of the Civil List Bill, that the Legislature had hitherto deemed requisite except such further regulations as the case of squatters may require. It always appeared to him the preferable course to embody in distinct enactments, the various subjects embraced in the Bill restraining the provisions of the 5th section and not jumble together a variety of different subjects.

The Bill under consideration introduced an entirely new system; it provided that so soon as the allotment was laid off and surveyed, and a portion say 20 per cent of purchase money paid, the grant should immediately pass to the purchaser in the same manner as for prompt payment; that such purchaser should give a bond to the Crown for the payment of the balance, and that a docket of such bond should be registered in the office of the Registrar of Deeds of the County where the land lies. He did not like the bonding system generally, but thus guarded he thought it an improvement upon the old instalment system. There appeared to him a great advantage in giving the purchaser an immediate title; it made him a freeholder substantially interested in the soil, his title was beyond dispute, and his property as a valuable commodity more valuable. The bond docketed in the County remained a living incumbrance on the land in the hand of every purchaser, the expense of docketing would be six pence or a shilling, and enabled purchasers and creditors by inspection, to learn the charge and incumbrance of every kind affecting lands, in the proper office, and all sales and contracts relative thereto would be made in good faith. The Bill contained the necessary principal provision for cancelling the land, and discharging the lands from the registered incumbrance very similar to the satisfaction of a judgement. He had little in addition to urge; either the course provided for the present Bill must be adopted, or a greater evil ensue. Such was the scarcity of money that many persons had no alternative but to go without land, or take possession of any part of the ungranted lands. Having thus briefly explained the principles of the Bill and its intended operation, he submitted it for the consideration of the Committee.

Hon. Mr. WELDON said the Bill professes to afford relief to persons who may be desirous of obtaining lands by allowing them to pay for it by instalments, and the first section provides for such payments. For his own part, he thought where a man applied for 100 acres of land, he had better pay the money down, and receive his grant without any incumbrances. If a man went on the land after paying the first instalment, he should like to know what occupation he would pursue, that would enable him to complete his other payments; experience had proved how difficult this was to be accomplished. Then the plan of giving a bond for the remaining ten or eleven pounds, would have an injurious effect; and what would be the result of such incumbrance?—It would bind all the other lands of the party, and give the crown a priority over all other claims; so much machinery was not desirable.—The present mode is more simple, and he saw no necessity for altering it. He considered any system which prescribed the giving bonds for payments as having an injurious tendency and holding out false expectations. He did not expect to hear of squatters in the county of York, when it was stated the other day, that the operations of the Land Company had not left land for settlement; he scarcely believed squatting prevailed to any extent, although isolated cases might doubtless be found. The learned gentleman said, he did not think the Bill under consideration would rectify any evils that might exist; he considered it uncalled for, and was satisfied the Legislature had better adhere to the present system, rather than substitute that which must have injurious results. People settling in a country, find it difficult to earn more than will support their families; and if a man could not pay for his land at first, he could not do so during the three following years, while his family was increasing. If a man could not command sufficient to pay for land at the present rate, let him hire out, until he should be enabled to purchase. And when it was discovered that the paying for land by instalment, had been found to be productive of inconvenience, when sums due were to be called in; the Committee should not pass any enactment which would keep up the system.

Mr. L. A. WILMOT agreed with the hon. and learned member for Kent in the sentiments he had just expressed. There were two things to keep in view when considering the question—the obtaining an available revenue, and to do what was practicable towards the settlement of the country, consistent with maintaining that revenue. He was decidedly opposed to the Bill, and would not agree to sell lands upon any credit whatever; and if an individual could not pay the balance of £12, let him labour to obtain it.—Suppose gentlemen were to carry out the principles of the Bill into practice, and fancy a person having paid the first instalment of £3 who gave a bond for the other £12, and obtained a grant.—Would they prosecute that individual and put him to expense, or would they forgive him the debt if it appeared he were unable to pay the balance. It was only necessary to look at the practice of granting lands in this way, to see what would be the result of the proposed plan. The Executive did not like to adopt severe measures, and the Attorney General with the sanction of the Assembly had been instructed to stay proceedings. He would not agree to bonds being given, because it would expose individuals to more inconvenience, than they would be put to, where they called upon at first to pay for their lands. He thought his learned colleague's intentions were good, and that he was desirous of assisting poor settlers, but he had mistaken the means. If a man wants means, let him go to the city of St. John, and he will get a quarter of a dollar an hour for piling deals. There was also too much machinery about the Bill. Suppose a man had paid every instalment but one, how was it possible to find out what was due; a party wishing to purchase must communicate with the Crown Land Office, before he could do so. And if payments were due and it was determined to prosecute a defaulter, the expenses would be the same for £15 as for £1500; and as the learned member for Kent had said, the claims of the Crown would apply to the lands of the delinquent wherever situated.—They would bind all.—In every view of the case therefore he was opposed to the Bill.

Mr. WILSON thought something should be done to make it easier for poor settlers and emigrants. It might be said that £15 was a small sum to pay, and probably so it was to legal gentlemen; but the payment of it was a serious difficulty in the settlement of the country; and the object of the Legislature should be to encourage that by per-

mitting the payment of purchase money by instalments. He thought the difficulty would be remedied by adopting the principle of instalment, which would give a man four years to pay for his land; he could then go out to labour, and be improving it during that time. The province could very well afford to exercise leniency; they were not in distress for money, they had ample means for opening roads, supporting schools, and other services; and although large sums may be due, still there was sufficient to carry on the business of the country. He should be sorry if any other feeling prevailed at present than that which induced the House to address the Executive during a former session. There was however too much machinery about the Bill; and he thought that grants should only pass when the sum due was paid. The principles of the Bill being admitted, the details could be altered. With this view of the subject he should support the Bill, as he considered its provisions might be made favourable to the settlement of the Province, and the adoption of a system that would be in accordance with the feelings of the country; and which notwithstanding it would not render the revenue immediately and directly productive, yet would have a beneficial tendency.

Hon. Mr. JOHNSTON did not consider that any change had taken place in the sentiments of members, and tho' as formerly there was a decided majority in favour of paying for the lands by instalments. And if that were the case, the provisions of the Bill should contain the necessary guards. It also contemplated a departure from the present system, and that whenever the first payment should have been made, the grant should pass, upon a bond being given for the remainder; he thought that was an improvement. He was of opinion however, after everything had been done to secure the payment of the sums due in this way, that in case of an actual sale, the crown would lose its lien on the land. This gentlemen around him stated would not be the case, although he had heard so from high authority. As to registering the bond in the manner proposed, he did not see that it would be attended with any serious difficulty or labour. He had therefore come to the conclusion, that if the same feeling still existed in favour of the instalment system, the course proposed was a proper one.

Mr. STREET was favourable to the paying by instalments, as he thought it would afford facilities for the settlement of the Province, which did not now exist; and he considered the country indebted to the learned member for York, for having brought the subject under the notice of the Legislature. In the part of the Province which he represented, he had known poor persons who applied for lands, and who if it could be paid for by instalments, by planting potatoes and working out, would be enabled to pay for it within a limited time; and where a contrary course had been pursued, many industrious men were prevented from sitting down and becoming good settlers, and had gone off and settled elsewhere. That was the practical operation of the present system. As the remote parts of the country are generally settled by poor people, he thought the Legislature should relieve them; and he was satisfied that if the principles of the Bill were adopted, it would promote the settlement of the country, just in proportion as the present method amounts to a prohibition. So far with reference to instalments. Then the party upon giving a bond for the payment of what might be due, would receive a grant, and could then go to work with a good heart; while government would run no risk in granting lands in this way, as the improvements would always be equal to the expenses that might be incurred. But even these could be reduced, and the costs could be made not to amount to much; while the party might get a sum advanced him, and in that way obtain relief, when ultimately called upon for the amount due to the government.

The Bill therefore would simplify proceedings, and would relieve the poor man; as far as he could judge, the guards that were proposed were necessary, and much of the difficulty that might be apprehended would be removed, because the docket of bonds would be registered in the country where the land should lie; which would operate as a warning to parties who might wish to purchase, and would afford sufficient information to the public, under all the circumstances he was favourable to the general principles of the Bill, and felt satisfied that its provisions would have a salutary effect, particularly in the northern section of the Province. The learned gentleman concluded by alluding to the settlement at Barney's river, where the land had been obtained by instalments, and where it was delightful to see the progress which had been made in the settlement of the country, by industrious people, who had thus been encouraged to undertake it; which was a practical proof of the advantage of the system.

Mr. BARBARIE considered the present system a bad one, and hoped a law would pass to rectify it. The Bill before the Committee provides for the payments for lands by instalments, and that when the party shall have given a bond he should obtain his grant. He was not favourable to the bonded system, and did not consider it would be attended with good effects. There was too much machinery about the Bill, the applicant must come to Fredericton, and thus incur more expense than the amount of payment required. He was favourable to the principle of paying by instalment, and would not obstruct the operation of such a system by the introduction of machinery which would defeat its object.

Hon. SPEAKER agreed most fully in all that had been urged by members who were opposed to the Bill; and should not go over the arguments they had used. There was another difficulty however attending this Bill, which professes to have for its object the settlement of wilderness lands.—It might encourage persons to look out for lands merely for the purpose of cutting timber, and who would apply for 100 acre lots. He had understood that from ten to forty tons may be cut per acre, which would reduce the amount that Government would receive to about three farthings per ton. This would be a great incitement to lumbering men, who instead of having to pay £100 for stumpage, would accomplish their object by paying £3 2s 6d, and would then abandon the land, after rendering it unfit for settlement. If this could be done separately, then individuals might combine, and obtain 1000 acres, and thus more to retard the settlement of the country than could be imagined; as lands that had been used for the purpose of lumbering, sustained more injury as respects agricultural pursuits, than those into which an axe had never been introduced. The Bill therefore if it went into operation would be productive of bad consequences, and the revenue to be obtained from timber would amount to almost nothing.

He believed at present there were applications for lands where there was no intention to settle, merely for the purpose of cutting timber, as lumberers were not much inclined to settle lands.—The proposed system would therefore offer great temptations, and would have injurious effects upon the settlement of the country.

Mr. FISHER said the remarks of the hon. Speaker were so extraordinary, that they could not be intended as arguments. The evil to which the Speaker alluded, already flows from the 6th section of the Civil List Bill, which authorises the granting of large tracts of land to half-pay officers, which it is known at the time of their getting it, is for the purpose of making sale of the timber. The learned gentleman said, when he brought in the Bill he did not expect the opposition it had experienced; and he did so because he thought there was a strong feeling in favour of its principles, and because he considered the settlement of the country as at present retarded. It was immaterial whether bonds were given or not, if the system of bonds were to be established, it was his intention to follow the present Bill by another, which would reduce the expense, and make the measure operate as a bonus to the poor man, who would thus be enabled to bring up his family. He was not however wedded to the provisions of the Bill, altho' he thought the taking of bonds was necessary, as when a man obtains a grant it gave him a right to vote; and if he were disposed to sell, he might give a better title, altho' it would be subject to a claim on the part of government. If the Bill should pass, he would be prepared to bring in a Bill to facilitate the collection of bonds, which he proposed should be collected in the same manner as rent, and the only costs that would be incurred would be the expenses of the Sheriff.

Mr. WILMOT thought the plan of his learned colleague offered a very extraordinary sort of bonus to a poor man. Then the Committee were told it would facilitate the sale of lands; but if parties were going to sell lands, it would defeat the object the mover of the Bill professes to have in view—the settlement of the country. If inducements were held out such as were proposed evils would result to the poor settler, against which it should be the business of the Legislature to guard; they would be induced to embark in undertakings, and afterwards must sell the lands to get rid of the incumbrances. Every person knew that the man who went into the wilderness had great difficulties to contend against, and if he could not pay for his land at first, he could not do so during the next three or four years by instalments; and he had yet to learn how these could be paid. Then it should be recollected that there was the sum of £14,500 for the payment of the Civil List which must be secured, and if the principle proposed is adopted, no revenue will be obtained from the sale of Lands. Then as to the boon which had been alluded to, the poor man would be haunted by the Sheriff, for expenses which would be as much as if the sum were much larger; and the money must be recovered in this way, or the Province must be content to lose it. But he was not disposed to pursue that course, and set the people at variance with the government. He would go as far as any man, in the adoption of measures that would promote the settlement of the country, and which would not impair its revenues; and however desirous he might be to advance individual welfare, yet the interests of the public were to be consulted; and at present there is a long list of defaulters, who had been indulged in the payment by instalments. What had fallen from his honor the Speaker was entitled to much weight; and the Committee should bear in mind that hemlock is becoming very valuable, it being much used in the paving of streets in large towns. He felt it his duty to oppose the Bill, as under its operation he considered a large portion of the revenues of the country would be insecure.

Mr. END was sorry to hear the £14,500 adduced in opposition to a measure, which had for its object the settlement of the country. He always thought it would be a dead weight upon the Province, and hoped his prophecy would not turn out to be true.—He was favourable to the granting of lands, and receiving payments by instalments; and knew many good farms, whose owners had obtained them in this way, and who had made them such by their industrious and sober habits. He would support the Bill thus far and no farther. He coincided in all that had been urged against the bonding system; it must be productive of distress, and would cause the Executive branch of the government to be regarded with aversion; the people instead of regarding the Sovereign with veneration, would have other feelings created, by the exercise of an authority which would involve them in distress, and the minds of the Queen's subjects would become unsettled. The bond would operate as a mortgage, and would enable the rich man to interpose his authority; and general ruin would be the consequence, were the system introduced. He trusted the decision of the Committee would be in favour of paying by instalments; and by the operation of which no poor man had yet been distressed.

Mr. BROWN said he had made three or four ineffectual attempts to rise, for the purpose of moving an adjournment. The Bill was of too much importance to be fully considered at that late hour of the day. He therefore moved that the Committee report progress; which being agreed to the House resumed.

FRIDAY, FEB. 14.

Mr. WOODWARD called the attention of the House to the salaries to be borne on the Civil List with a view to their reduction prospectively; last year he moved for a select Committee, and they reported, and the House then decided it was inexpedient to make any representation on the subject.—He then moved a resolution that the subject should be taken up next session, which was negatived by a large majority. He did not recollect what were the reasons that induced the House to come to such a con-

clusion, but so it appeared on the Journals, and it was with some diffidence he moved his resolution in the face of such a decision; but it was one of importance and should be kept in view, and that any future incumbents might see before accepting office what they had to expect. He was of opinion, as the resolution that he now intended to move stated, that large salaries are injurious to the general interests, and often ruinous to the incumbent. A change had taken place in the Crown Land Office, and he hoped the present incumbent would not expect the large salary that had been paid to the former head of that department. There is one enigma in that department, that is the office of Commissioner of Crown Lands is abolished and vested in the Governor and Council, and yet there is a deputy commissioner with a salary of £300 sterling a year, and no principal; it is a paradox. And what are the duties, and what the use of the office or officer he was at a loss to know.—With those remarks he would offer this Resolution:—

Resolved, That a humble Address be presented to His Excellency the Lieutenant Governor, praying that His Excellency will be pleased to direct to be laid before the House, a detailed account of the expenditure during the year 1839, of £14,500 granted for the Civil List of this Province, and the particular salaries charged thereon; and also whether any reduction or alteration of salaries to the Public Officers have taken place during the past year.

Mr. PARLOW should not object to the Resolution, although he considered this constant agitation as doing more harm than good. The House had determined in 1837 upon a scale of salaries for the present incumbents; and when the subject had come under consideration last year, it had been decided that it was inexpedient to depart from what had been the solemn decision of the Assembly. If any fresh occurrence had taken place which would justify inquiry, there could be no objection to the motion of his hon. colleague. If it was deemed proper to discontinue the office of Deputy Commissioner of Crown Lands, then let the House address His Excellency to that effect. But with respect to the other officers he did not see the propriety of keeping up a constant agitation.

Mr. WILMOT thought the hon. mover had better withdraw the Resolution and substitute another, with a view of ascertaining what had been done with reference to the scale of 1836 which had been transmitted to England for the approval of the home government; and the house would then be in possession of sufficient data. As yet he believed no answer had been received. He would be in favor of any Resolution for reducing the salaries of incumbents after their removal; but where no such alteration had taken place, he would not alter the scale that had been agreed upon. Two reports had gone home, one from the Assembly and the other from the Legislative Council; and he was at a loss to know what had been done. The best course would be to proceed by address.

Mr. BROWN said a scale of salaries had been proposed in 1837; and he believed the reason why the House took the course it did last year, was because it did not wish to make any innovation upon that, and it were better to preserve consistency. But it must be observed that the circumstances of the Province are different to a certain extent. An Auditor General is not mentioned at all in the scale, and the Commissioner of Crown Lands and Solicitor General were put down at £600 each; one of these offices had been since abolished, having merged in the duties of the Executive Council; although the anomaly of a Deputy still continued. That certainly might be taken up; as the alterations that had taken place, rendered the situation of the Province different from what it was when the scale was first proposed. He therefore thought the Resolution necessary, and considered that it would not conflict with the former determination of the House.

Hon. Mr. JOHNSTON said the scale that had been recommended by the House had been received and acknowledged, as would be seen upon reference to the Journals for 1838, where it would appear from the despatch of Lord Glenelg that he approved of a moderate and improved scale; considering that economical habits were essential in a young country, and particularly among persons holding official stations; and the suggestions and recommendations of the House had been acted upon with reference to the Commissioner of Crown Lands, whose salary had been reduced from £2000 to £1200. Lord Glenelg being of opinion as one of the officers which that gentleman filled had been abolished, that a commutation should be fixed at £1200. It appeared to him that after the receipt of the despatch referred to, the House ought not to take up the entire subject of salaries, particularly as there was a question of difficulty as respects vested rights. But as regarded any new office such as the Deputy Commissioner of Crown Lands, if the House were desirous of bringing it under the notice of Government, there could be no objection.

Mr. END said if the House succeeded in cutting down salaries or in abolishing that of the Dep. Com. of Crown Lands, the effect would be to increase the surplus fund, and place a larger sum at the disposal of the Executive Government, to do with it what might seem proper; as the less they made salaries and the more offices they abolished the greater would be the remaining balance of the £14,500, which had been voted for the payment of the Civil List. He would ask what had been done with the surplus if there were any, or did the House know in what manner it had been applied. They need not trouble themselves therefore whether it was little or much, as it appeared they were not to have it under their control. Instead of benefiting the Province therefore, they had been increasing the power of the government; and pecuniary power is para-