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[By James S. Segee.

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PROVINCIAL PARLIAMENT.

LEGISLATIVE COUNCIL,

Monday, March 8.

MUNICIPAL BILL—(Continued.)

Hon. Mr. Connell was not opposed to make the day of meeting general all over the Province, and further he would like a general Act, so soon as the people gave enough of consideration to the subject to be able to define all they wanted. The two hon. gentlemen at the head of the table, (hon. Messrs. Botsford and Hatch) who had opposed this bill, were, he feared, opposed to Municipal Corporations altogether. ["No," from several.] Well, he had a right to believe they were, from the manner in which they acted. One hon. member (hon. Mr. Botsford) was averse to taxing the commerce of the country, for the purpose of paying over the revenues thus collected, to be expended by individuals elected by the people, from whom, in the first place, those taxes were raised; but he would ask that hon. member why they were all in that House, if it were not to carry out the will of the people expressed through majorities? The hon. gentleman objected to the election of Commissioners to expend the road money; but he would tell that hon. member, that it was the very principle of the Municipal bill to place the people in such a position as to enable them to do their own business. It never had been anticipated that the bill which gave Municipal Corporations to the Province would go no further than the mere regulation of poor-laws and the expenditure of statute labour. It had often been remarked that the appointment of Road Commissioners by the Government, was a source of great political corruption in the country, and the sooner this cause of complaint was placed beyond the reach of the people, the better. The very best part of the bill was therefore the control and expenditure of the money. He had thought that the great object was to get rid of legislative duties which hung heavily upon all concerned, and tended to embarrass the Government; but if the checks which he had named, on the one side, and the desire to get clear of the duty on the other, were not strong enough, he would content himself with having done all in his power to set the matter right, and content himself with the idea, that having failed to do so, he should at least have no further responsibility. At all events, he would request that progress be reported, in order to give him time to consult with the parties who had called for the bill, and who were so deeply interested.

Hon. Mr. Chandler was not affected by what had just been said; but he must say that he did not like the style of debate adopted by the hon. member, in thus imputing wrong motives to those with whom he happened to differ. He (Hon. Mr. C.) had lived long enough to find, that he had himself been wronged in many instances, and this led him to be exceedingly cautious in using any harsh language with respect to others, especially where a doubt existed that he might possibly be wrong himself. Such observations as those made by the hon. member must be very unpleasant, both to those who make, and those who receive them. He was friendly to the system of Municipal Corporations; and if the people of Carleton, after trying the bill for one year, and finding it defective, applied for any reasonable alteration, none would be more willing to grant it than he; but he would not make experiments with a law which had not yet had a practical application. He was not in favour of giving large grants of money into the hands of Parish officers, not so much on account of the fear of its being ill expended, but because he feared it would create those very political differences which it would appear to prevent. One would say, "you did not give me as much of the money as you gave to my neighbour, and you shall not have my vote." He (Hon. Mr. C.) had the best of feelings to the present law; and he would not therefore encumber it with amendments previous to its first trial.

Hon. Colonel Hatch complained that the hon. member (Hon. Mr. Connell) had used unparliamentary language, in referring to him by name; and besides, he must have a short memory, as he (Hon. Mr. Hatch) had only alluded to the local character of the bill, and had not said a single word inimical to Corporations.—Hon. members should measure their words, and not deal with each other on mere inferences.

Hon. Mr. Botsford could not let the observa-

tions made by the hon. member (Hon. Mr. Connell) escape without censure. Every hon. member had a right to express his views upon such subjects as came before them for discussion; and upon these views that hon. member might express any opinion he pleased; while with him, (Hon. Mr. B.) that opinion would be a matter of perfect indifference. He would not, however, permit that hon. member to pervert his arguments, or misrepresent him as adverse to institutions which he had always supported, without giving him a direct contradiction. He did not believe with the hon. gentleman, that the bye road appropriations were ill laid out in this Province, nor would he join in the popular cry that the Government, by means of those grants, corrupted the people. There were a thousand miles of bye roads in this Province upon which a coach could run with perfect convenience, and which might well compare with the roads of the New England States; and so far from the system which had brought these roads to their present perfection, being mended by handing them over to the care of local Commissioners, it would, in his opinion, be injured. The House of Assembly might be local, but they would be much more so. The hon. member was fond on all occasions to represent himself as the exclusive champion of the people; but he (Hon. Mr. B.) would tell him, that he was as much associated with the people, and regarded their rights as much as he: he had been brought up among the people, he was one of the people, and apart from them he had no political interests. This was one great reason why he was averse to hasty legislation, and why he would not now agree to any of the changes contemplated in the bill, except that in relation to the time of meeting, which he thought should be placed under the control of the Governor and Council, to be fixed as might best suit the respective Counties.

Hon. Mr. Saunders said, he would be much better pleased if Carleton would consent to have patience, and try the old bill, before attempting to amend it, but at the same time he must look at the nature of the alterations sought for in this bill, and judge them upon their own merits.—The people of Carleton sought three alterations, the first of which was in relation to the time of holding the general meeting—its change in the present year from July to May, and afterwards to December. This change he thought would well suit a general bill; and as Carleton was the only County which at present could make such a demand, he thought it should be conceded. He would not, however, make it the duty of the Government to name the day of meeting, making it at the same time liable to alteration from time to time, for in back settlements those alterations would lead to mistakes which might cause much inconvenience. With respect to the election of an individual to expend the bye road money, he thought such a measure was perfectly consonant with the very spirit of Municipal Institutions, and was well calculated to give life and energy to its operations. If there was anything at all in the elective principle, it was this, that the people having got the control of their own business, would keep a strict watch over those whom they placed in places of responsibility, and dismiss them whenever they found that they neglected their duty. If the municipal mode were adopted at all, this should be recognized as its principal feature. With regard to the third point—the double office of Secretary and Treasurer, he thought that the former had a duty to perform incompatible with that of the latter, and it would be exceedingly wrong, if an occurrence of any peculiar nature took place, that the Treasurer should be able to shield his own special office behind that of the Secretary. He would rather, as he said at the beginning, let this bill stand over till a general bill could be framed with all requisite alterations for the whole Province; but as Carleton alone had put itself in a position to make this request, he could not meet it with a refusal.

Hon. Mr. Harrison briefly stated that he had always been afraid that those corporations would induce heavy taxes, and he was not yet convinced to the contrary. He would make the alteration required in point of time, but no other. Progress was then reported.

Wednesday, March 3.

DEBATE ON JUDGES' FEES.—(Concluded.)

Hon. Col. Hatch viewed the subject before their Honors as one of vast importance, for if the principle of the present bill were carried, it

would move the whole foundations of society, and represent the officeholders of this Province from the very earliest stages of society here, as a set of swindlers and robbers; it would at one stroke, destroy all the ordinances which had hitherto been adhered to. It was not like the bill of last year, for in its very preamble it opened up the way to contention and agitation, by representing evils which never had an existence. But who are the Judges whom it is intended to affect by this bill? Are they not the men upon whose independence of character rests the greatest interest of the people? In England, the Judges of the land have for ages been fostered by Legislative enactments, and ministerial influence; and instead of seeking to reduce their salaries as the design is here, they have been from time to time elevated more and more beyond the reach of dependence on the people. They first held their tenure of office during pleasure, next they were appointed during good behaviour, and lastly, to show the great importance attached to their office, George the Third signified his wish that they should be created for life, with such a pecuniary provision as would place them beyond the reach of being even suspected. Who, he would ask, would wish to remain or hold property in a country where the Judges would be suspected of being subject to bribery? This question should never be made one of mere pounds shillings and pence. It was not a matter of a road or a bridge grant, which might be given or withheld with impunity; for by placing the Judges on such a low salary (£500) as that named by an hon. member, men of known talents and integrity would never seek the Judges' seat, and it was easy to foresee what must follow. The present fees of the Judges had been established by usages upwards of seventy years old—even before the Province had a legislature; and what, he would ask, was the foundation of our laws? Was it not those very usages, as would be seen by their frequent confirmation by later legislative enactments? By these both Judges and Juries were authorized to recover fees, but the present bill by one fell swoop abolishes the fee table for ever. But would any one say that the sum of 6s. 8d. was too much for reading a long record, with that attention to which it was entitled? Was such a species of legislation calculated to promote the general interests? Or rather was it not calculated to destroy the whole ordinances of the Province, and throw the people loose and afloat upon the open sea of agitation and confusion? He could not go with such a bill. It was unjust as well as undignified; and he would rather add £100 to the salaries of the Judges, than diminish them a single shilling. He would not increase the feverish desire to destroy the independence of the Judges; he would rather inculcate a quiet obedience to the laws, and thankfulness that those laws are the best in existence, for insuring true liberty, wherever they are independently administered.

Hon. Mr. Gilbert had not been alarmed till he heard an hon. member (Col. Hatch) alluding to fire-brands; but still he felt somewhat comforted with the idea, that unless those fire-brands were, as in the case of Sampson, tied to so many foxes tails, and let loose among the corn, the farmers would not suffer much from their operation. He thought the country had no reason to be frightened at the reduction of fees; for he assured their honors, that between Judges and Lawyers, any poor wretch in the country who got into the law, was worth little when he got out of it. He (Hon. Mr. G.) for one, did not think it unjust to abolish the Judges' Fees, especially when he reflected that twenty shillings now would produce as much of the necessities of life as four pounds would have done several years ago. It was not fair to expect that while almost every one in the Province felt the hard pressure of the times, the Judges alone should live in opulence. Why should not the Judges be subject to the ebb and flow of the times like others? With regard to the Judges deciding a case which affected their own fees in a Law Court, it reminded him of a prisoner who on being instructed by his counsel to say, in answering to the usual question, that he would be tried by God and his country, answered, that he would rather not be tried at all.

Hon. Mr. Hill in reference to the clause of the bill which involves an omission through which all official fees were abolished, said he had prepared an amendment. [Here several hon. members observed that it was a bill which could not be amended, as it related to fees, and

consequently retained the principle of a money bill.] It was not, he thought, a money bill, certainly not directly so; it withheld money, but should not on that account be deemed incapable of amendment. If, however, the House were to reject the bill on that account, all they had to do was to throw it out, and bring in another. [Here the hon. and learned member moved his amendment.]

Hon. Mr. Botsford said that any amendment passed, must destroy the bill. While up, he would make a few observations, although from the present position of the bill he saw little indications of its being agreed to. The general policy of England was worthy of great praise, but in no case was it more to be admired than in its application to the independence of the Judges. Once, he recollected, an effort had been made to reduce the salaries, but even the greatest Radicals in the kingdom did not apply the rule otherwise than prospectively. They did not attempt to affect their present Judges. The Constitution of the United States, which has been pronounced one of the ablest documents that has ever emanated from the pen of man, contains a clause that no Judges salary should be reduced during his incumbency.—Even at that period, the wise author of the American Constitution knew the mischief which must in the case of the Judges, arise from yearly agitation. He alluded here to the general Constitution of the United States, not to those of particular States of the Union, in some of which they elect their Judges; and he esteemed it one of the finest features even in that noble specimen of national policy that the Judges were by its wisdom preserved from being dependent on the people. What good result, he would ask, could arise from throwing the men who held the power of controlling the highest law courts in the Province, upon the mercy of the popular branch of the Legislature for a living? Would the poor man's property be safe, when the salary of the Judge depended upon the favour of a wealthy legislator, who might wish to possess it? It was for this great cause, sustained as it was by the greatest statesmen of the two most enlightened countries in the world, that he would not consent to make the Judges of the land dependent upon the annual enactments, or the caprice of a Colonial Legislature. It might be said that the reduction of a few pounds of his salary could not possibly influence the integrity of a Judge. This might be, but he was forced, whatever high opinion he might entertain of certain men and of their office, to take human nature as he found it; and hence he deemed it the safer way to keep such an important branch of the public service beyond suspicion. With respect to the prospective reduction of those salaries, he (hon. Mr. B.) had never raised an objection; but he begged that hon. members who were bent on immediate reduction would have patience;—in the order of nature the present incumbents would not always hold office, and a few years would work a cure. The hon. member (Mr. Connell) had himself admitted that one of the Judges had claims under the Civil List Bill—["No, but under Earl Grey's Despatch," by Mr. Connell.] Well, there was a solemn compact made with Lord Glenelg, and he (hon. Mr. B.) held, that compacts were binding. The Legislature might now act unjustly, but would that justice be any apology for a breach of faith? There could not be the slightest doubt that Judge Parker did not come within the rule which hon. members had endeavored to apply to the others, and yet, in singular keeping with the whole affair, not even Judge Parker had been excepted in the bill. In '49 a bill was passed in the Assembly, taking £150 per annum from the salary of the Judges, but it had been objected to in the Council, because it was not more general, and because it was thought necessary to reduce the salary of the Clerk of the Pleas to £500. At that time, the leader of the Government distinctly declared that the fees should be reserved, as an addition to the salaries of the Judges. It was said, that although those fees were consequent upon long usages, yet they were an undignified mode of remuneration for the Judges. If so, there yet was an easy remedy, and one which was much safer than the plan of making those fees the subject of annual agitation: the Legislature might pass an Act commuting all such dues, and adding them to their present salaries. The Imperial Government was willing to let such commuted allowance be paid from the surplus Civil List Fund; how that money was disposed of, he did