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[A. C. & J. A. McLachlan.

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Poetry.

Provincial Legislature.

FREDERICTON, July 23.

Mr. Tibbits arrived this morning. The scrutiny between Messrs. McNaughton and End was discussed. The latter plead for himself. Mr. Hatheway spoke for Mr. McNaughton. They were followed by Messrs. Johnson, Gray, Allen, McPhelim, and others, and Mr. McNaughton's petition was referred to a Scrutiny Committee, to be struck according to law to-morrow (24th).

Mr. Gilmor introduced a Bill to amend the Act relating to the supervision of Great Roads, so far as it related to the salary of Chief Commissioner of Board of Works.

Mr. Fisher asked a question of the Government, as to the course they intended to pursue respecting railways, and when the line from Fredericton to Woodstock was intended to be commenced.

The Attorney General replied that he would answer the question to-morrow morning.

Mr. Lawrence presented a petition from Patrick Mahoney, of St. John, praying relief for loss sustained in consequence of the widening of Canterbury-street.

The Debate on the Address was resumed at 12 o'clock. Mr. Smith asserted the purity of the motives of the late Government, which had acted so as to preserve unimpaired the principles of the Constitution. Loyalty consisted, not in bowing to the will of the great, but in preserving by all necessary means the power of the people inviolate. Power always had its minions and parasites; the special business of the Council therefore was, while preserving the balance of the various branches of the Legislature, to regard the rights of the people. It was said the existence of the prerogative was necessary to save the people from the corruption of the House, and the tyranny of an oligarchy; but was not the Governor human, and as liable to corruption as the House or the Council? If members feared the House or Council would become corrupt, let them shorten the duration of Parliaments, and not concede to the head of the Government power to dissolve when he pleased. Let them keep power in their own hands.

He referred to the conduct, in Canada, of Sir E. B. Head, who usurped power, and used his personal influence at the elections to uphold it. Here the Governor was thrown into the contest in such a way that he must desire to have a majority in the House to sustain him. But the real question involved was not settled or pronounced upon at the elections. The result of the elections in Canada appeared to give the Governor a majority; here the case was apparently the same,—but, as it happened then, the constitutional question had afterwards to be decided. It was unfortunate that the Governor was placed in personal antagonism with a large portion of the people; and he hesitated not

to say that the administration of the Government could not be conducted satisfactorily while the present Governor was in power. The wording of the Address called on the House to pronounce upon the conduct of the Governor; and he called God to witness that it was his undoubted conviction the Governor had other motives in dissolving the House than those for which he claimed credit. (Order! from the Chair.)

Hon. Attorney General wished members to take the widest latitude.

Mr. Smith continued. The conduct of himself and colleagues had been impugned. They had been charged with having set a trap for the Governor. He briefly defended their conduct and proceeded. Where was the information to show that a dissolution was necessary? He did not wish the Governor to be an automaton; but he must move on information, and where was it? In the case of the dissolution in Prince Edward's Island, by Gov. Bannerman, a new election law was about to come into operation, and a majority of the people had petitioned for a dissolution. Where were the petitions here? On the petitions the Government must stand or fall. The petitions of a few could not justify such a proceeding. Petitions had been prepared in Fredericton and sent to Westmorland, but not one freeholder in five had signed them. He believed in the Governor's abstract right to dissolve; but he disputed his right to exercise it without the advice of his Council, or petitions from the majority or a very large minority of the people. The Governor had dissolved against the advice of his Council, and without being properly petitioned; and was this an act to be quietly submitted to? The hon. gentleman then reviewed the history of the prerogative, quoting Macaulay in support of his views. He defended the conduct of the late Government in regard to the Liquor Law. He denied that the late Government was responsible for its consequences. The evils caused by the dissolution and the consequent elections were greater than those caused by allowing the law to remain on the statute book. He asked the Hon. Attorney General himself, whether, under the same circumstances, he, if in power, would advise a dissolution? The Council ought to know more of the state of the country than the Governor, and ought to have some voice in a question of dissolution. He then contested the argument that the Government should enforce the law, and denied that the Prohibitory Law had been inoperative, quoting the case of Thompson's brewery as an example of its operation. The Governor had dissolved on the advice of a fraction of his Council, instead of waiting for the advice of the whole body. Mr. Smith then challenged Dr. Earle to prove, as he had stated, that the late Government were destroying the finances of the country, and had increased the debt from £100,000 to £400,000. He was prepared to account for every dollar of the public money spent during their administration, and to show that they had managed the public funds with the utmost economy, and had incurred no part of this debt. He denied that Mr. Wilnot could have been admitted into the late Government.

Mr. Johnson said, if he had been, four members of the late Government would have resigned.

Mr. Wilnot explained that he did not mean that any proposition came direct from the government.

Mr. Smith said such impressions had been made by what Mr. Wilnot had said. He then referred to the last interview of the late Government with the Governor, and declared that he felt they had been insulted, and that he would support any other men who had been similarly treated.

Dr. Earle referred to the report of the Finance Committee of last session, to show the correctness of his statements.

Hon. J. H. Gray said: He would not consent to any alteration of the address. The true questions before the House, were, whether the act of the Governor was constitutional, and whether he had exercised his power judiciously. It was not said, although it was perfectly constitutional, that the ministry assumed the responsibility of the act which they never advised—an assumption of responsibility frequently undertaken by ministers in England—though this assertion would have met the extreme views of the opposition; he was prepared to show that the dissolution was not done without advice, and at what time it was done; but he now stated that the cabinet could have assumed responsibility, after the act was done, although they had never advised it. He quoted the speech of Lord Brougham, who, when in opposition to the government, after the elevation of Lord Althorpe

to the Lords, and the ministry was broken up, distinctly laid down this doctrine. At that time, Wellington, not wishing himself to form a ministry, held several important offices until Sir R. Peel returned from Italy. The language of the King's Speech, at the opening of Parliament at that time, was almost in the very same words as the speech of the Governor, and he remarked this in order to show how nearly the government had adhered to constitutional principles. Then Lord Melbourne objected to the dissolution, and said that former dissolutions, although bold and desperate acts, were not to be compared with this, and asserted that the only justification of this dissolution was constant success. Such was the opinion of the great Liberal party in one of the first debates in the Lords—not in an antiquated period, but in a time within the memory of every member—and, therefore, it was evident that success in this case, as in that, would be a justification of the conduct of the Governor. The Duke of Wellington said he was no further aware of the impending break-up of the ministry, than any others who knew of the death of Earl Spencer. So in the same way it was known and felt in this House and country, that a dissolution must take place if the Prohibitory Law remained on the Statute Book. It was a spontaneous outburst of the feeling of the country. No one advised the Governor, or had any communication with him on the subject, or gave him any suggestions, or knew anything from him, although all felt a dissolution was at hand. It was the prompting of a guilty conscience which now led the opposition to assert that the Governor was subject to outside influences.

He read from a speech of Lord Brougham, to show that Wellington, in the case before referred to, was responsible, although he had not given advice, and that a minister may assume responsibility for an act of which he was positively ignorant.—The case would be analogous to the present, even admitting the truth of the extreme case put by many of the late Government. He asserted that it would have been wrong of the Governor to have interfered with the business of the country by dissolving before the House prorogued; and said he lost no time in dissolving after the prorogation.—Lord Brougham, in condemning the ministry for dissolving in vacation, said, that if ministers resign, that was sufficient reason for so dissolving.—If the ministers were torn by endless dissensions or differed from the sovereign, if they differed from the country at large, if their measures were ruinous abroad and at home, and if, above all things, there was a feeling of distrust throughout the country, there were sufficient grounds for the dismissal of the ministry and a dissolution; and he argued that the late ministry were divided on the Liquor Law, that they differed with the Governor, that they differed with the country, as was proved by the result of the elections, at which only two men who declared themselves opposed to the Prohibitory Law were defeated, and not one man elected opposed to the repeal. (Mr. Gilmor explained that sink or swim he refused to pledge himself to repeal the Prohibitory law.) Mr. Gray continued.—Mark the sophistry, only one man rose to say he was returned for repeal and he had only said he would not pledge himself for repeal, but he did not say he would vote against it. He then referred to the elections, the circumstances attending some of which plainly indicated the feeling of the country. He cited the dismissal of the Fox and North Ministry, in 1784, when ministry had large majority, and stated that ministers did not complain of dismissal.

Mr. Johnson—That was right.

Attorney General—Then what do you complain of?

Mr. Johnson—We were not dismissed.

Hon. Attorney General—Was that all? Why then, did they not send in their resignation and prevent being dismissed? He denied the authority of despatches as exponents of the constitution.—There was no ministry on record in which the ministry has presented a bill to the king as a divided ministry. When circumstances cause a division individuals retired, and the minority remains and recruits its ranks from the men who give it strength. He stated distinctly that the House was dissolved with the advice of council and not by the proclamation signed by Mr. Tilley. The present council did advise a dissolution, and neither the Governor nor they would descend to any quibble or subterfuge to protect them in any position, and surely they would not, if the first proclamation had been valid, and the House had in their opinion been dissolved, have again issued a proclamation dis-

solving the House. Had the great seal been put to the proclamation, there might have been some question about its validity. But to this proclamation (which he produced) the Governor's seal, not the great seal, was attached, and without the Governor's signature the document was invalid. Accompanying that document, in that state, the resignation of the ministers was sent up. The Governor told them if they remained in office they would be responsible. Before the act was complete they sent in their resignations, leaving him without advisers. If he had after this signed the proclamation and sent it to the Gazette, he would have acted without advisers. He would not say they had laid a trap for the Governor but they had acted either through ignorance or from oversight.

He defended the Governor from the charge of insulting conduct and asked if any who knew the Governor would believe that he would insult any man. He then asserted the expediency of the dissolution, and that the law was carried out unfairly and men were condemned before they were tried. He said if the law had continued in force, in six months the trade with the United States would be destroyed. Every week vessels were seized where no blame could reasonably attach to the owners or masters, and he spoke of the case of the "Adelaide." Cases had occurred of vessels coming from abroad the captains of which were wholly ignorant of the law and yet their vessels were instantly seized. He did not base the act of the Governor on the petitions at all as the Governor could dissolve on the advice of his Council without petitions; but the Governor needed no petitions to tell him of the cries of orphans in St. John, when their mothers were dragged away. He could read the fact in the discussions of his own council and in the speeches of Messrs. Johnston, Smith and Watters in the House. The Government assumed the full responsibility of the dissolution, and he believed the majority of the House would give them honorable support and a fair trial, and he would resign when a majority of the representatives declared they had no confidence in him. He concluded by calling upon the House to support the address by a handsome majority, because it embodied the sentiments of the people as plainly expressed by the late elections.

It being six o'clock, the House adjourned.

FREDERICTON, 24th July.

After ten o'clock the House met. After some delay the Scrutiny Committee in the Gloucester case was struck. The Committee are—Smith, Harding, McAdam, Ferris and Charles Perley.—Hatheway nominated for McNaughton, and Botsford for End. Watters, Sutton, Smith, Lewis, Desbrisay, Barberie and Street, were struck off.—Ludlow Robinson is agent for McNaughton, and J. A. Street for End. Committee meet to-day.—The only question before them is, whether the Deputy Sheriff appointed by the Sheriff was competent to hold the scrutiny.

Several questions were put to the Government—What have they done in Railway affairs, or mean to do? &c. Sutton asked—what had been done with the Miramichi branch? Mitchell wanted to know if any change had been made in the 2½ per cent.

The debate on the fifth paragraph of the Address was resumed by Mr. McLellan, in opposition, followed by Mr. Landry in favor.

Afterwards a discussion arose as to the right of members to speak again who had already spoken. Johnston, Fisher, Smith and others asserting that each paragraph was a distinct proposition, and members could speak on each. Montgomery, Hatheway and Boyd asserted that members should make only one speech. Sutton urged the necessity of doing the business and getting home. The Speaker thought there should only be one speech by each member on the whole Address, there being no amendment. There were no further speeches made, and the division was accordingly taken.—Gilbert voted with the majority. Tibbits got leave to withdraw and not vote.

Division on the fifth paragraph: Yeas.—Gray, Wilnot, Allen, McPhelim, Kerr, Barberie, Read, Landry, Harding, Botsford, Macpherson, Montgomery, End, Desbrisay, Lawrence, S. Z. Earle, Godard, Hatheway, Street, Boyd, J. Earle, McMonagle, Scovil, Gilbert.—24. Nays.—Fisher, Smith, McLellan, Watters, Johnson, Mitchell, Sutton, Lewis, W. E. Perley, Tapley, Connell, C. Perley, Ferris, McAdam, Gilmor.—15.

After further debate on the right to debate each paragraph, &c., the Address finally passed, without further division, and without any amendments.