

PRAYERS.

A Message was brought from the Assembly by the Honorable the Attorney General, with a Bill to authorize the detention, for a limited time, of such persons as shall be suspected of committing acts of hostility against Her Majesty's Person and Government; to which they desire the concurrence of this House.

The said Bill was read a first time.

ORDERED, That the twenty ninth Rule of this House be dispensed with, as regards the said Bill, and that the same be read a second time presently.

The said Bill was read a second time.

ORDERED, That the House be put into Committee of the whole to-morrow to take the said Bill into consideration.

A Message was brought from the Assembly by the Honorable the Attorney General, with the following Resolution:—

“ House of Assembly, Thursday, 21st June, 1866.

“ Resolved, That the Honorable Mr. Fisher, Mr. Kerr, and Mr. Stevens, be a Committee on the part of this House, to unite with the Committee of the Honorable the Legislative Council, in the management of the Legislative Library.

C. P. WETMORE, Clerk.”

ORDERED, That a Committee be appointed to examine and report upon the Contingencies of this House.

ORDERED, That the Honorable Messieurs Botsford, Odell, Steeves, and Seely, be the said Committee.

A Message from His Excellency the Lieutenant Governor was delivered by the Honorable Mr. Mitchell, a Member of Her Majesty's Executive Council.

The Honorable the President read the same; and it was again read by the Clerk, as follows:—

NEW BRUNSWICK.

Message to the Legislative Council, 25th June, 1866.

ARTHUR H. GORDON.

His Excellency the Lieutenant Governor lays before the Legislative Council, copies of further Correspondence concerning the Union of the British North American Provinces.

A. H. G.

The Lieutenant Governor to the Secretary of State for the Colonies.

Fredericton, April 9, 1866.

SIR,—I have the honor to enclose an Address from the Legislative Council of New Brunswick to Her Majesty the Queen, praying that Her Majesty will be pleased to cause a measure to be submitted to the Imperial Parliament for the purpose of thus uniting the Colonies of Canada, Nova Scotia, New Brunswick, Newfoundland, and Prince Edward Island, in one Government.

1. I have to request that you will lay this Address before Her Majesty.

2. I enclose also a copy of the Resolutions agreed to by the Council previous to the passage of the Address, and of the Speech made by me when the President, who was accompanied by the whole House, placed the Address in my hands for transmission to Her Majesty. The terms of that Speech will, I trust, meet your approval.

I have, &c.

(Signed)

ARTHUR H. GORDON.

[Enclosures.]

See Journals of Legislative Council 1866, pp. 76, 77, and 79.

The Secretary of State for the Colonies to the Lieutenant Governor.

Downing Street, April 28, 1866.

SIR,—I have the honor to acknowledge the receipt of your Despatch of the 9th of April, enclosing an Address to the Queen from the Legislative Council of New Brunswick, praying that Her Majesty will be pleased to cause a measure to be submitted to the Imperial Legislature for the purpose of uniting the British North American Colonies under one Government, and of your reply.

I have to request that you will acquaint the Council, that I have laid their Address before the Queen, and that Her Majesty was pleased to receive it very graciously.

I have, &c.

(Signed)

EDWARD CARDWELL.

The Lieutenant Governor to the Governor General of Canada.

Fredericton, April 6, 1866.

MY LORD,—I have the honor to enclose a Resolution of the Legislative Council of this Province, repeating the request contained in their Resolution adopted on the 8th June last, which I forwarded to Your Excellency in my Despatch of June 10th. I have not yet received the information with reference to this subject which was promised in Your Excellency's Despatch of June 12th last.

I have, &c.

(Signed)

ARTHUR H. GORDON.

[Enclosure.]

Resolution adopted by the Legislative Council, March 31, 1866.

RESOLVED, That an humble Address be presented to His Excellency the Lieutenant Governor, praying to be informed whether it was in the power of His Excellency the Lieutenant Governor to procure the information asked for in the Address of eighth June, A. D. 1865.

The Lieutenant Governor to the Governor General of Canada.

Fredericton, May 14, 1866.

MY LORD,—I have the honor to call Your Excellency's attention to the fact that no reply has been received to my Despatch addressed to Your Excellency on the 6th ultimo.

I have, &c.

(Signed)

ARTHUR H. GORDON.

A Message from His Excellency the Lieutenant Governor was delivered by the Honorable Mr. Mitchell, a Member of Her Majesty's Executive Council.

The Honorable the President read the same; and it was again read by the Clerk, as follows:—

NEW BRUNSWICK.

Message to the Legislative Council, 25th June, 1866.

ARTHUR H. GORDON.

His Excellency the Lieutenant Governor lays before the Legislative Council, copies of further Correspondence relating to the Inter-Colonial Railway.

A. H. G.

The Secretary of State for the Colonies to the Administrator of the Government of New Brunswick.

Downing Street, August 31, 1865.

SIR,—I have the honor to transmit to you herewith a copy of a Despatch which I addressed to the Governor of Canada, together with a copy of the answer which I have received from His Lordship, on the subject of the construction of the Inter-Colonial Railway.

I have, &c.

(Signed)

EDWARD CARDWELL.

[Enclosure.]

*Mr. Secretary Cardwell to Viscount Monck.**Downing Street, July 22, 1865.*

MY LORD,—I think it right to apprise Your Lordship, that I receive communications which lead to the conclusion that more positive assurances from Canada than have yet been given to the Maritime Provinces on the subject of the readiness of Canada to ensure the prompt completion of the Inter-Colonial Railway, in the event of Confederation being adopted, would be very satisfactory to the friends of the measure in those Provinces, and encourage their efforts to recommend the Scheme of Confederation to those of their countrymen by whom it has not hitherto been supported.

I have, &c. (Signed) E. CARDWELL.

[Enclosure.]

*Viscount Monck to Mr. Secretary Cardwell.**Quebec, August 14, 1865.*

SIR,—Referring to your Despatch of July 22nd, I have the honor to transmit a copy of an approved Minute of the Executive Council of this Province, on the subject to which your Despatch refers.

I may add the expression of my personal conviction, that there exists amongst the Ministers and Members of the Legislature of this Province, not only the determination to construct the Inter-Colonial Railway, as soon as the Union of the British North American Provinces shall have taken place, but the strongest desire for the early completion of that most important work.

I have, &c. (Signed) MONCK.

[Sub-Enclosure.]

Copy of a Report of a Committee of the Honorable the Executive Council, approved by His Excellency the Governor General in Council on the 14th August 1865.

The Committee of Council have had under consideration the Despatch of Her Majesty's Secretary of State for the Colonies, dated 22nd July 1865, suggesting the propriety of some more positive assurance being given by the Government of Canada, to ensure the prompt completion of the Inter-Colonial Railway, in the event of Confederation of all the British North American Provinces being accomplished.

The Committee can only reiterate the declarations of the Government and Parliament of Canada, that they regard the construction of the Inter-Colonial Railway as a necessary accompaniment and condition of Confederation, and that not a day will be unnecessarily lost, after the accomplishment of Confederation, in commencing the work and prosecuting it to completion.

Certified.

(Signed) W. A. HIMSWORTH, *A'g. C. E. C.*

A Message from His Excellency the Lieutenant Governor was delivered by the Honorable Mr. Mitchell, a Member of Her Majesty's Executive Council.

The Honorable the President read the same; and it was again read by the Clerk, as follows:—

NEW BRUNSWICK.

Message to the Legislative Council, 25th June, 1866.

ARTHUR H. GORDON.

His Excellency the Lieutenant Governor lays before the Legislative Council, the copy of a Despatch, with Enclosure, from the Secretary of State for the Colonies, with reference to an Act passed in the Session of 1865, entitled "An Act to incorporate the Woodstock Bank."

A. H. G.

The Secretary of State for the Colonies to the Lieutenant Governor.

Downing Street, November 13, 1865.

SIR,—I have referred, for the consideration of the Lords Commissioners of the Treasury, the Act passed by the Legislature of New Brunswick in 1865, entitled Cap. 23, "An Act to incorporate the Woodstock Bank."

I have the honor to transmit to you the copy of a letter from the Board of Treasury, on the subject of this Act, and to request that you will furnish me with a Report upon the objections pointed out by their Lordships.

With respect to the other two Bank Acts referred to in this letter, I shall be prepared to submit them for Her Majesty's approval.

I have, &c. (Signed) EDWARD CARDWELL.

[Enclosure.]

Mr. Childers to Sir F. Rogers.

Treasury Chambers, November 4, 1865.

SIR,—I have laid before the Lords Commissioners of Her Majesty's Treasury your letter of the 19th ultimo, submitting a transcript of three Acts passed by the Legislature of New Brunswick, entitled respectively—

An Act to incorporate the Woodstock Bank ;

An Act to amend the Charter of the Commercial Bank of New Brunswick ; and

An Act relating to the Charlotte County Bank.

I am desired by their Lordships to state, for the information of Mr. Secretary Cardwell, that the Act to incorporate the Woodstock Bank is open to the same objections as were made in their Lordships' letter of the 20th October 1864, to the Act to incorporate the People's Bank, namely, the absence of any restriction upon the issue of promissory notes as distinguished from other liabilities, and of any special security for their convertibility, while the liability of the shareholders is limited to the amount of their shares.

Under these circumstances, their Lordships cannot express approval of this Act in its present form, although, having pointed out these defects, they are not inclined to interfere further with the discretion of the local government in the matter, should Mr. Gordon not see reason to concur with them in this objection.

My Lords will not object to the Act to amend the Charter of the Commercial Bank of New Brunswick, or to the Act relating to the Charlotte County Bank.

I am, &c. (Signed) HUGH C. E. CHILDERS.

A Message from His Excellency the Lieutenant Governor was delivered by the Honorable Mr. Mitchell, a Member of Her Majesty's Executive Council.

The Honorable the President read the same ; and it was again read by the Clerk, as follows :—

NEW BRUNSWICK.

Message to the Legislative Council, 25th June, 1866.

ARTHUR H. GORDON.

His Excellency the Lieutenant Governor lays before the Legislative Council, the copy of a Despatch, with Enclosure, from the Secretary of State for the Colonies, dated 7th November 1865, relating to "An Act relating to Steam Navigation in this Province," which was passed by the Legislature of New Brunswick last year.

A. H. G.

The Secretary of State for the Colonies to the Lieutenant Governor.

Downing Street, November 7, 1865.

SIR,—I have the honor to transmit to you, for your information, a copy of a letter from the Board of Trade, on the subject of an Act passed by the Legislature of New

Brunswick on the 8th June last, entitled Cap. 4, No. 3048, "An Act relating to Steam Navigation in this Province," which was enclosed in your Despatch, No. 73, of the 6th September.

I feel confident that the Legislature of New Brunswick will see the importance of so amending this Act as to remove the objection to the 18th Section, which is pointed out by their Lordships.

I have, &c. (Signed) EDWARD CARDWELL.

[Enclosure.]

Sir J. E. Tennent to the Under Secretary of State for the Colonies.

Board of Trade, Whitehall, 1st November, 1865.

SIR,—I am directed by the Board of Trade to acknowledge the receipt of your letter of the 19th of October, forwarding for this Board's observations, an Act of the Legislature of New Brunswick relating to Steam Navigation.

In returning the Act, I am to call attention to the 18th Section of the Act, which requires certain Lights, &c., to be carried by Colonial Steamers within the Harbours, Bays, and Waters of the Colony. These provisions are not consistent with the regulations for preventing collisions at sea, issued in accordance with the Merchant Shipping Amendment Act 1862, and adopted by all Maritime Nations, a copy of which is enclosed. If the Section were confined to craft which only navigate inland Rivers, the case would be different; but it applies to sea-going Colonial Steamers when within the Harbours, Bays, and Waters of the Colony. Serious evil might ensue if Colonial Vessels in those waters were to carry a set of lights prohibited by the Imperial Law and by the consent of Nations.

Subject to this observation, I am to state that, in other respects, the Act may, in the opinion of this Board, be submitted for Her Majesty's confirmation.

I have, &c. (Signed) J. EMERSON TENNENT.

A Message from His Excellency the Lieutenant Governor was delivered by the Honorable Mr. Mitchell, a Member of Her Majesty's Executive Council.

The Honorable the President read the same; and it was again read by the Clerk, as follows:—

NEW BRUNSWICK.

Message to the Legislative Council, 25th June, 1866.

ARTHUR H. GORDON.

His Excellency the Lieutenant Governor lays before the Legislative Council, a copy of Correspondence with the Secretary of State for the Colonies, concerning an Act passed in 1864, entitled "An Act further to amend the Law relating to offences against the person." A. H. G.

The Secretary of State for the Colonies to the Lieutenant Governor.

Downing Street, 7th October, 1864.

SIR,—Among the Acts passed by the Legislature of New Brunswick in April last, and transmitted to me in the Despatch noted in the margin, is one entitled No. 2986, Cap. 4, "An Act further to amend the Law relating to offences against the person."

I have to request that you will point out to your Executive Council, that under the 6th Section of this Act a British subject committing bigamy in any part of the world is punishable as a felon in New Brunswick. This is evidently in excess of the jurisdiction of the Provincial Legislature, and therefore the words "or elsewhere," (lines 3 and 4 of Section 6,) should be expunged from the Section, and also the words "to any second marriage contracted out of this Province by any person not being a British subject."

Until these amendments have been made I shall be unable to submit the Act for Her Majesty's sanction.

I have, &c. (Signed) EDWARD CARDWELL.

The Lieutenant Governor to the Secretary of State for the Colonies.

Fredericton, 6th June, 1865.

SIR,—With reference to your Despatch of October 7th, 1864, stating certain objections to an Act passed at the last Session of the Legislature of this Province, "Further to amend the Law relating to offences against the person," I have now the honor to enclose the Report of my Attorney General on the subject.

I have, &c.

(Signed)

ARTHUR H. GORDON.

[Enclosure.]

Report of the Attorney General of New Brunswick.

Fredericton, May 30, 1865.

SIR,—I have the honor to submit, for the information of His Excellency the Lieutenant Governor, the following Report upon the Despatch of Her Majesty's Secretary of State for the Colonies, dated the 7th October last, pointing out certain objections to an Act passed at the last Session of the Legislature of this Province, intituled "An Act further to amend the Law relating to offences against the person."

I find that the same words which are objected to as an excess of jurisdiction in the recent Act are contained in an Act passed in this Province in 1829, to amend the Law relating to offences against the person, 9 and 10 Geo. IV, cap. 21, s. 14; that this Law was re-enacted in 1849 by an Act passed to consolidate and amend the Criminal Law, (12 Vic. c. 29); and again, by the Revised Statutes of the Province in 1854, Volume I, cap. 146, under the head of "Offences against the Law of Marriage."

The desire of our Legislature has been to assimilate our Criminal Law to that of England, as far as possible, and it will be found that our Statute of 9 and 10 Geo. IV, is substantially copied from the Act of the Imperial Parliament 9 Geo. IV, cap. 31, s. 22, (substantially re-enacted by the 24 and 25 Vic., cap. 100, s. 57,) by which a second marriage in England "or elsewhere" during the life of the former husband or wife, was made a felony; with a proviso that the Act should not extend to any second marriage contracted out of England by any other than a subject of His Majesty, the only difference between the two Statutes being the substitution of the words "this Province" in the Provincial Act for "England" in the Act of Parliament.

Before the Act of Geo. IV, cap 31, a person could not have been convicted of bigamy unless the second marriage took place in England; but, under the words "or elsewhere," I think there is no doubt that a British subject could now be convicted of the offence even though the second marriage took place in a foreign country; and probably those words were introduced in the Statute to meet such cases.

If uniformity in the Criminal Law of England and of this Province is desirable, the words used in our Statute are necessary to meet cases that may arise; and there does not seem to be any good reason why a person, who has committed an act for which he would be liable to be tried and punished as a felon if he resided in England, should be entirely free from punishment for the same act, because he happened to reside in this Province.

As the Act of this Province does not in any way conflict with the Law of England, I respectfully submit that, upon consideration, the Secretary of State for the Colonies will see no objection to advise Her Majesty to sanction it.

I have, &c.

(Signed)

JOHN C. ALLEN,

Attorney General.

The Secretary of State for the Colonies to the Administrator of the Government of New Brunswick.

Downing Street, August 7, 1865.

SIR,—I have received Mr. Gordon's Despatch of the 6th June 1865, respecting a recent Act, 27 Victoria. cap. 1, relating to offences against the person. Your Attorney General does not appear to have apprehended the nature of the objection to that Act which is adverted to in my Despatch of the 7th October.

The Imperial Parliament has jurisdiction not only over all territories under the dominion of the Queen of England, but also over all persons who owe allegiance to Her Majesty. The Imperial Parliament is therefore competent to make provision for the punishment first, of crimes committed on British territory, though committed by a foreigner, and secondly, of crimes committed on any territory whatever, if committed by a British subject.

On the other hand, the jurisdiction of a Colonial Legislature is, with certain qualifications not now material, purely territorial. Such a Legislature is empowered by Parliament or otherwise to make laws for the peace, order and good government of a particular Colony; but it has no power over the person of a British subject when he is beyond the limits of the Colony. Such a Legislature is therefore legally incompetent to affix a criminal character on acts committed by any person, British subject or otherwise, beyond those limits.

This is no new or uncertain doctrine. It is a fundamental principle of Colonial Law, and has been repeatedly affirmed by Law Officers of the Crown, and acted upon by the Imperial and by Colonial Governments. It has been inadvertently violated in the Act of 1829, to which your Attorney General alludes, and very likely in other cases. But it is not the less necessary to bear it constantly in mind, and not to encumber the Colonial Statute Book with provisions which a Judge would be compelled to pronounce invalid.

I hope, with this explanation, your Government will have no difficulty in submitting to the Legislature the amendment in the Law required by my Despatch of October 7, 1864.

I have, &c.

(Signed)

EDWARD CARDWELL.

Adjourned until To-morrow at 10 o'clock.

TUESDAY, 26th June, 1866.

PRESENT :

THE HON.

Mr. Saunders, President.

Mr. Botsford,
 “ *Robertson,*
 “ *Minchin,*
 “ *Davidson,*
 “ *Ryan,*
 “ *Mitchell,*
 “ *Ferguson.*

Mr. Chandler,
 “ *Kinnear,*
 “ *Harrison,*
 “ *Odell,*
 “ *Rice,*
 “ *Perley,*

PRAYERS.

Pursuant to the Order of the Day, the House was put into Committee of the whole to take into consideration the Bill to authorize the detention, for a limited time, of such persons as shall be suspected of committing acts of hostility against Her Majesty's Person and Government.

The Honorable Mr. Chandler took the Chair.

After some time the House resumed.

The Chairman reported, that the Committee had gone through the said Bill, and recommended the same to the adoption of the House without any amendment.

ORDERED, That the Report be received, and the Bill read a third time presently.

The said Bill was read a third time and passed.

ORDERED, That Mr. Dibblee do go down to the Assembly and acquaint that House that the Legislative Council have agreed to the said Bill without any amendment.

A Message was brought from the Assembly by Mr. Beckwith, with a Bill in addition to and in amendment of an Act to alter and amend an Act inti-