

on this subject, but should such a case occur you will not fail immediately to report the circumstance to me.

" 3. The Assembly next allude to the composition of the Executive Council.

" They recommend that the Members of the Council should be materially increased ; and His Majesty will take the suggestion into consideration, although he is not yet prepared to declare whether it can be carried into effect, still less what should be the extent of the proposed increase.

" The Assembly further express their cordial concurrence in the views of Mr. Spring Rice, relative to the summoning to that Board of some Members of the popular branch of the Legislature.

" On this topic the Assembly have expressed themselves with a just delicacy ; declaring their approbation of Mr. Spring Rice's Despatch, they yet disclaim any wish to offer any opinion to the King, as to the persons whom His Majesty may be pleased to call to fill seats in the Executive Council. It is obvious indeed that a peremptory rule on the subject would be inadmissible. At present it is open to the Crown, at its own discretion, to select Members for the Executive Council from all descriptions of His Majesty's subjects. The prerogative is unfettered, and it is, in the opinion of His Majesty's advisers, most advantageous for all parties that so it should remain. With respect to the manner in which it shall in this branch of it be exercised, His Majesty can give only the general assurance which he directs me to convey to the House of Assembly, that his selection of persons to sit in the Executive Council will be guided solely by a reference to the permanent interests of the Province, and to the qualifications of those whose names may be submitted to him for that distinction.

" 4. The composition of the Legislative Council is the next subject alluded to by the House. Admitting that no great public evil has yet arisen from this source, they nevertheless express their apprehension, that according to the principles laid down in the Instructions to the Canada Commissioners, those Members of the Council who hold office under the Crown could not be expected to exercise an unbiassed judgment on the questions which might come before them.

" His Majesty's Ministers entirely agree in the importance of securing the independence of the Legislative Council. They are not indeed prepared, especially after the candid admission of the Assembly as to the working of the present system, to recommend to His Majesty the supersession of any of the present Members of the Council, nor do they consider office as of itself a disqualification for a seat in the Council, but they freely admit that the introduction into it of too large a number of persons holding places of emolument under the Executive Government would tend to detract from its weight as an independent branch of Colonial Legislature. Lord Ripon in a Despatch, dated the 1st May, 1832, observes, that the Legislative Council " should principally consist of Gentlemen independent of and unconnected with the Executive Government, and selected from the principal Inhabitants of the Province, and those having the greatest stake in its welfare." To this principle, although it would seem that accidental circumstances have hitherto prevented it from being carried into full effect, His Majesty's Government continue to adhere. Whenever, therefore, it may become your duty to recommend to me, for His Majesty's approbation, the name of any Gentleman to be appointed a Member of the Legislative Council, you will bear in mind the rule laid down by Lord Ripon in the words which I have just quoted.

" It may be proper to advert, in this place, to the impression which has been produced on the minds of the Assembly by those clauses of the Instructions to Sir Francis Head, which (to use their own language) " might be supposed to affect the independence of Members of the Legislature holding any inferior office or appointment under the Government." On this subject it is enough to point out to the observation of the Assembly, that the clauses in question, in so far as they concern persons holding seats in either House, have reference expressly to " Members of the local Government," not to inferior officers, but to those who form an actual portion of the Executive Government, and whose cordial sympathy and co-operation are absolutely indispensable to the existence of any system of administration. With regard to such individuals, I trust the Assembly will admit the justice of the observation which concludes the consideration of this topic in the Instructions to Sir Francis Head, " unless this course be pursued, it would be impossible to rescue the head of the Government from the imputation of insincerity, or to conduct the administration of public affairs with the necessary firmness and decision."

" 5. I now come to the application of the Assembly for the surrender to them of all the Revenues at the disposal of the Crown in the Province, including the payments of the Nova Scotia and New Brunswick Land Company, in return for a Civil List to be granted for a period either of ten years or permanently.

" After a due consideration of the circumstances of the case, I have to inform you, that subject to two qualifications to be subsequently noticed, His Majesty has been graciously pleased to consent to this application of the Assembly. The two qualifications to which I refer are the following :

" *First.* The appropriation of the House of Assembly is to be exercised not over the gross but over the nett amount of the Revenue, to be placed under their control. The proper and moderate charges incident to the collection and management of that Revenue will continue to be defrayed as at present ; but an account of those charges will be included in the statements respecting the Casual and Territorial Revenue which, in a former part of this Despatch, I have directed to be annually submitted to the House of Assembly. I need scarcely add, that His Majesty would at all times be prepared to devote the most attentive consideration to every suggestion from either Branch of the Legislature with respect to the amount of the charges of collection.

" *Secondly.* The second qualification has for its object to preclude questions which might otherwise arise as to the manner in which the right of appropriation is to be exercised by the House of Assembly.

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