

(No. 6.)

NEWFOUND-  
LAND.

To His Excellency Sir *Thomas John Cochrane*, Knight, Governor and Commander-in-Chief, &c. &c. &c.

May it please your Excellency,

WE His Majesty's dutiful and loyal subjects, the Legislative Council of Newfoundland, in Parliament assembled, beg leave respectfully to state, in reference to your Excellency's message of Thursday the 4th instant, that under the full impression that your Excellency, in transmitting that message, had no intention of interfering with our privileges, we only deem it proper to acquaint your Excellency that among the necessary privileges incident to this House as a co-ordinate branch of the legislature of Newfoundland, that of freedom from all interrogation as to the reasons or motives which may have led this House to the adoption of any particular course of proceeding is undoubtedly one without which the independence of its character cannot be maintained or its functions efficiently discharged.

Legislative Council, 18 September 1834.

(signed) *H. J. Boulton*, Speaker.

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COPY of a DESPATCH from the Right Hon. *T. Spring Rice* to Governor *Prescott*.

Sir,

Downing-street, 21 October 1834.

I HAVE received Sir T. Cochrane's despatch of the 22d ultimo, No. 47, respecting the pretensions advanced by the Council of Newfoundland acting in their legislative capacity. As the communications which took place between himself and that body were not designed to surmount any practical difficulty which had actually arisen in the administration of the Government, but rather to obviate certain latent and unavowed claims which it was supposed that the Council were about to advance, I am not convinced that the whole discussion might not with more prudence have been avoided. But when I advert to the Address to Sir Thomas Cochrane of the 16th September last, signed by Mr. Boulton, the chief justice of the colony, on behalf of the Council at large, I do not think that it would be possible, with propriety or safety, to pass unnoticed the principles which that Address either asserts or intimates.

The Council decline to answer the inquiries proposed to them by the Governor, on the ground that a freedom from all interrogations as to the motives of their proceedings, is amongst "the necessary privileges incident to this House as a co-ordinate branch of the Legislature." The Address bears the following subscription, "J. H. Boulton, Speaker." It might perhaps seem frivolous to bestow much or any notice on the designations which the Board of Council thus assume for themselves, and for their President, were it not that those expressions are evidently employed in reference to the inquiries which they decline to answer, and as an indirect assertion of the rights of which they refuse, at the Governor's instance, to enter into any explanation. The context thus gives a significancy to the terms they have employed, which might otherwise be altogether wanting.

In the adoption of this language, as connected with the previous messages, may I presume be discerned the purpose of claiming for the Council, in their relations with the Governor of the colony, the privileges which belong to the upper House of Parliament, in the relation borne by their Lordships to His Majesty. Such an analogy, if not urged beyond those limits within which alone it can properly be maintained, may perhaps be admitted; if carried further, the pretension refutes itself by the consequences it involves.

It may not improbably be conjectured that the constant residence of Mr. Boulton in the province of Upper Canada until his transfer to the Bench of Newfoundland, may have induced that gentleman to form, and that his authority may have led others to adopt, views respecting the constitution of the Council, which, however accurate in reference to the Canadian constitution, are inapplicable to the form of civil government which for nearly two centuries has subsisted in the other Transatlantic possessions of the British Crown. The distinction between the office of the Legislative Councils of the Canadas, and that of the Councils of other colonies possessing General Assemblies, is however of too much importance to be overlooked.