

tated by motives of this description, and it may, therefore, be necessary that you should advert to difference of Religious opinions amongst the various Candidates for this honor, not as constituting any criterion of eligibility, but as a security against the semblance of undue favor to any particular Church.

If the information on which the House of Assembly proceeded shall prove to be accurate, it is not improbable the necessity may arise, not merely for the introduction of many new Members, but for the exclusion from the list of Councillors of some of the Gentlemen at present holding seats there. I advert to this subject the more readily because as no charge has been preferred against any individuals, such a change, if really essential to the establishment of public confidence in this Body, will be made without the infliction of any reproach or unmerited pain on any of the Gentlemen who may be immediately affected by it. Thus, for example, I do not think it defensible that more than one Member of the same Commercial House should sit at the Council Board; and if it be true that this rule has been violated, the retirement of one or more Members of any such firm will not, I trust, be regarded, as it certainly will not be designed, as a personal slight or degradation.

4thly.—The next in order of the questions raised by the Assembly is, whether the Chief Justice should retain his seat in the Council.

On this question I do not anticipate any serious difficulty. In the event of the separation of the Council into two distinct Chambers it is his Majesty's pleasure that neither the Chief Justice nor any of his Colleagues should sit in the Executive Council. Even if that change be not made, the King thinks it right that neither the Chief Justice nor any other Judge should be present at any of the proceedings of the Council in its Executive capacity. The principle to be steadily borne in mind and practically observed is, that all the Judges including the Chief Justice, should be entirely withdrawn from all political discussions, and from all participation in the measures of the local government, or of any persons who may be acting in opposition to it.

It follows that even in Legislation the Chief Justice and his brother Judges should take no part, whenever, as must often happen, the adoption or rejection of a law may involve some question of party politics. The only motive for retaining the Chief Justice in the Councils, would be that he would probably contribute to the general improvement of the permanent laws of the Province, with a greater extent of experience and knowledge, than any other member of that body; but it may fairly be questioned whether this advantage can be acquired consistently with that security which his Majesty is most anxious should be taken, against any of the Judges being drawn into the political discussions of the Country.

Perhaps the wisest course would be, that which prevails in some of the Colonies, eastward of the Atlantic, where the Judges are excluded from the local Legislature, but are required to revise every Act, before it is finally passed, and to report their opinion, whether it is framed in such a manner as to secure the attainment of the object which the Legislature may have in view.

The benefit of judicial knowledge, and experience is thus obtained without any sacrifice of judicial independence. These, however, are questions on which His Majesty desires to act, in conformity with the deliberate opinion of the People at large and with the benefit of the advice of their Representatives.

5thly.—With regard to the management of the unsettled lands of the crown, you will consider my instructions to Sir A. Campbell as addressed to yourself. I am aware of no reason

why the same system should not be established in both Provinces, subject to such minor modifications as local experience may suggest to the legislature of each respectively.

6thly.—With respect to the financial question, I fear that the disparity which unhappily exists between the financial resources of Nova Scotia and New Brunswick, will render it impossible to pursue a course precisely similar in each. Having, however, in my Despatch to Sir A. Campbell, and to his successor Sir J. Harvey, fully explained the principles on which his Majesty has been pleased to authorize a settlement of the financial administration of New Brunswick, I have his Majesty's commands to authorize you to enter into any arrangement with the Legislature of Nova Scotia, which may be consistent with and sanctioned by those principles. I inclose for your information and guidance, copies of the more recent parts of that correspondence.

Having thus adverted to the opinions and wishes which appear to have been entertained by the Assembly of Nova Scotia, I trust that I am entitled to conclude that they will find in this Despatch a satisfactory proof of his Majesty's earnest solicitude fully to meet their views for the public good of the province. The King has indeed peculiar pleasure in thus expressing his sense of the high claims which the Legislature of Nova Scotia have established to his Majesty's favour, by a long uninterrupted course of loyal and zealous attachment to the British Crown, united with an unvaried care for the well-being of that important part of his Majesty's Dominions which is confided to their protection.

I have the honor to be, &c. &c.

(Signed) GLENELG.

To his Excellency Sir Colin Campbell,

(COPY.)

DOWNING STREET, 6th July, 1737.

Sir,

I have the honor to acknowledge the receipt of your despatch, dated 1st May, 1837, No. 71, with the address to his late Majesty, and to yourself, which it incloses.

Although these documents reached me on the 14th ult., the painful circumstances in which the country was then placed by the melancholy illness of his late Majesty, prevented their being submitted to him; but I am happy to find that on all the principal questions to which these addresses refer, his Majesty's pleasure was signified to you in my despatch of the 30th April, No. 77.

Having had the honor of laying your Despatch, with its inclosures, before the Queen, I have received her Majesty's commands to refer you to my former Despatch of the 30th April, and to signify her Majesty's concurrence in the instructions therein conveyed to you. With reference to some of the demands now preferred in a more specific shape in the Address from the House of Assembly, I am further commanded to return the following answer.

1st.—THE CLAIM OF THE ASSEMBLY TO CONTROL AND APPROPRIATE THE WHOLE OF THE PUBLIC REVENUE ARISING IN THE PROVINCE IS FRANKLY ADMITTED BY THE QUEEN, IN THE COMPREHENSIVE AND SPECIFIC FORM IN WHICH THAT CLAIM IS NOW PRESENTED, subject only to the conditions by which His late Majesty was pleased, in the instructions to the Earl of Gosford, and to Sir Archibald Campbell, of which you possess Copies, to qualify the corresponding concession; as, however, in Nova Scotia a permanent provision has already been made by law, for the support of various Public Officers, the discussion of the terms of the proposed Civil List may be drawn within much narrower limits, than in the adjacent Provinces.

2ndly. The amount of the Salary of the Commissioner of Crown Lands is admitted to be a fit subject for the deliberation of the local Legislature, and every part of the expenditure connected with the land granting Department, will, very properly, be subjected to their scrutiny and revision; the conditions being, however, maintained, for which the Crown has stipulated in New Brunswick, as to the management of Crown Lands being vested exclusively in the Executive Government, subject to their liability to account to the Legislature for all expenses incurred in conducting that Branch of the Public Service.

3dly. Discouraging as the accounts of the receipt and the expenditure of the Land Granting Department since the year 1831, undoubtedly are, they at least prove that her Majesty's Government judged rightly in opposing the advice offered to them at the time, as to the continuance of the old system of gratuitous grants of land. The returns have rather more than balanced the outlay. Whereas, if these counsels had been followed, the outlay would have formed an uncompensated charge on the other branches of the Provincial Revenue.—You are well aware that the expectations of drawing any considerable income from this source were never sanguine, nor does it now seem reasonable to indulge such hopes. It will be highly gratifying to Her Majesty to learn that the local Legislature have been able to devise any scheme for rendering this branch of the Revenue more productive, or for managing and collecting it at a reduced charge.

4thly. The title of the Mining Company to their lease being undisputed, it is superfluous to say that her Majesty's Government have no power to resume the Grant. The introduction of their Capital into the Province, is at least a very material compensation for any prejudice which the inhabitants may have sustained by the creation of their interest in the Mines. Supposing, however, that the Province was injured by that transaction, the error will now be repaired to the utmost possible extent, by placing the rents and royalties at the disposal of the Provincial Legislature, and by the enactment of the proposed law respecting the Territorial Revenue of the Crown, which will render it impossible that this measure should be drawn into a precedent.

5thly. The exclusion of the Collector of the Customs from the Councils, whether Legislative or Executive, is a measure suggested by the Assembly, but as they have not explained the grounds of that suggestion, I can advance no further on this subject than to state, that the strong and obvious motives which appear to recommend this officer's admission into the Council, are opposed by no considerations of equal weight which have occurred to me.

6thly.—The language of the Address would seem to indicate an opinion, which is not yet distinctly propounded, that the Assembly of Nova Scotia ought to exercise over the Public Officers of that Government a control corresponding with that which is exercised over the Ministers of the Crown by the House of Commons.

To any such demand Her Majesty's Government must oppose a respectful, but, at the same time a firm declaration, that it is inconsistent with a due advancement to the essential distinctions between a Metropolitan and a Colonial Government, and is, therefore, inadmissible.

On the other hand, the influence which the Assembly claim to derive from the power of refusing the supplies properly belongs to them; it being always assumed that this power will be exercised only in defence of the Constitution, and of the rights which the Constitution has created; and it being further assumed that this privilege of refusing the supplies shall