

was prepared to move Her Majesty to make a reference to the Judicial Committee at the next Council, with the understanding that the argument which it might be my duty to bring before that Committee in respect of the Petition, would be strictly confined to the legal question raised by the Petitioners, and would not extend to those considerations of public convenience and policy which properly belonged to another Department of the Government.

As I fully appreciate the propriety of the distinction you have been pleased to draw, I readily subscribe to the terms imposed; and I will transmit to you, as requested, some more copies of the Petition forthwith.

I have, &c.

(Signed) G. GATTON HARDINGHAM.

The Hon. W. L. BATHURST, &c. &c. &c.

[Copy.]

*Downing-Street, 1st June, 1844.*

MY LORD,—

I have the honor to acknowledge the receipt of Your Lordship's Letter of the 31st ultimo, respecting the Petition of certain Inhabitants of Cape-Breton to the Queen, in Council.

It was not my intention, in my Letter of the 27th ultimo, to suggest that the Legislature of Nova-Scotia should be invited to debate at the Bar of the Privy Council any questions of a political nature, or that they should be permitted in their argument there to go beyond those strict limits of legal enquiry to which Your Lordship refers. On the contrary, I contemplated, and still contemplate, a strict adherence of all the parties to the discussion to that single point as indispensable. I referred to the deep interest of Nova-Scotia in the questions in debate, not as suggesting that those interests, whether financial or political, should be debated at the Bar of the Privy Council, but as explanatory of my reasons for thinking that a question of Law, by the decision of which those interests will be so deeply effected, should not be discussed in the absence of the Legislature of that Province.

To Your Lordship's remark, that the question of the right of the Crown to annex Cape-Breton to Nova-Scotia appears to lie between Cape-Breton and the Government of the Mother Country, rather than between that Island and Nova-Scotia, I should subscribe, if the practical results arrived at by the Petitioners did not directly and most deeply affect the whole of the Province, of which, during the last 24 years, Cape-Breton has, in point of fact, formed a part. But such being the inevitable consequence of the success of the Petition, the people of Nova-Scotia are really the only persons whom the decision of this question of Law can materially affect. There is no British, as distinct from Nova-Scotian interest involved in, or dependent on, the controversy.

Of the proceedings of individual opponents of this Petition, the Legislature of Nova-Scotia have probably taken no heed, nor could that Body in any sense be held responsible either for the adoption or for the abandonment of such designs by any such persons.

With regard to the notoriety of the transaction, I apprehend that in no proceeding of a Judicial, or quasi Judicial nature can any such fact be insisted on as an answer to the right of all parties directly interested to an express citation, with a view to the hearing of their objections.

Whatever may be the inconvenience of delay, the inconvenience of proceeding in the absence of the Legislature of Nova-Scotia would, I believe, prove much more considerable. If the decision should be against the Petitioners, the only harm which could result from proceeding, without citation to the Provincial Legislature, would be that the expense and responsibility of sustaining the Act of 1820 must be borne by the British Treasury. But if the Petition should be successful, there cannot be the least