

NEWFOUND-
LAND.

The Canadian Legislative Councils derive their origin from the constitutional Act of 1791. They were bodies formed in avowed imitation of the House of Peers. Their functions were to be exclusively Legislative, and as the seats were to be holden at least for the life of the members, so also provision was made for rendering their seats hereditary, and for connecting them with hereditary titles of honour. On the other hand, the Councils, as they now exist in Jamaica and the other British West India Islands, originated in Royal Commissions, of which that of the Government of Newfoundland is a literal transcript. These Councils were originally designed to fulfil no other function than that of advising the Governor as to the acceptance of laws passed by the House of Assembly, or upon any other question on which, in his administration of the Government, he might have occasion to consult them. The Governor himself was accustomed, until a period of no remote antiquity, to preside at all their deliberations, those connected with the enactment of laws not excepted. The modern though well established practice is, to observe the distinction between the meetings holden for deliberating on Legislative Acts, and those which are holden to advise the Governor when acting in his executive capacity. Still it is one and the same body performing two distinct duties, and not two distinct bodies, each charged with a separate function. The title of "Legislative Council," assumed by the Council of Newfoundland, is a designation to which they have no legitimate claim. They are simply the Board of Council, and, except by His Majesty's express sanction, the Governor cannot recognize them under any other appellation.

The practical importance of the distinctions to which I have been adverting is very considerable. The Canadian Legislative Councils enjoy, as incident to their peculiar character, the right of regulating by their own votes, whatever relates to their internal economy and proceedings. But at the Council Board at Newfoundland, as with the corresponding bodies in other colonies, there are certain internal regulations which it belongs to His Majesty to establish, and to vary at his pleasure. Thus, the King, by his Commission and Instructions to the Governor, has invariably determined what shall be the number of members, how many shall constitute a quorum, by what means seats shall be vacated, and on what member the precedency shall, on every different contingency, devolve. The claim to the title of "Speaker" which Mr. Boulton advances, is altogether inadmissible. By virtue of his office he is, under the King's Commission and Instructions, President of the Council, and nothing more. If it be really true that he claims to act as Speaker under any form of election, such a pretension is not only unfounded, but wholly at variance with the Parliamentary analogy urged in its support. There is no instance of an elected Speaker of the House of Peers. Again, if it be true that the Council have disregarded His Majesty's Instructions respecting the number requisite to form a quorum, and have established a new regulation for their own government in that respect, such a claim is plainly subversive of their own authority, as contradictory to the instrument on which alone that authority rests.

Should it appear desirable to the Council of Newfoundland that any variation should be made in the Royal Instructions which regulate either the proceedings of the Board, or the number of members constituting a quorum, an address to His Majesty praying that the necessary alterations may be made, is the legitimate mode of proceeding. This course you will not fail to recommend to them, and I shall be prepared to lay it at the foot of the Throne, humbly tendering to His Majesty the advice which circumstances may seem to require.

Amongst the duties of the Council, the punctual transmission of their journals through the Governor to His Majesty, is one of the most indisputable. You will, therefore, on the receipt of this despatch, convene a meeting of the Board of Council, and lay before them this communication, and you will intimate to them that His Majesty will expect a due observance of the instructions to which I have last adverted. You will further convey to them the expression of His Majesty's confident hope that those journals, when transmitted, will show that they have steadily adhered to the limits of their constitutional authority, and that the designations assumed in the address of the 18th of September, both for the Council itself, and for their president Mr. Boulton, were not intended as an affirmation of those claims which Sir T. Cochrane attributed to them, claims which it would be the duty of His Majesty to discountenance