

JOURNAL

AND

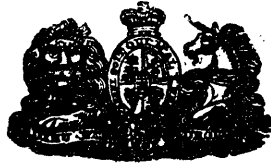
PROCEEDINGS

OF THE

HOUSE OF ASSEMBLY,

SECOND SESSION.

1844.



PROCLAMATION.

BY HIS EXCELLENCY THE RIGHT HONORABLE

LUCIUS BENTINCK,

VISCOUNT FALKLAND,

Knight Grand Cross of the Guelphic Order, and Member of Her Majesty's Most Honorable Privy Council, Lieutenant-Governor and Commander in Chief in and over Her Majesty's Province of Nova-Scotia, and its Dependancies. &c. &c. &c.

Falkland.

WHEREAS, the General Assembly of this Province stands prorogued until Thursday, the 20th day of June, inst. :

I have thought fit further to prorogue the said General Assembly until Saturday, the 20th day of July next, *then to meet for the Despatch of Business*—of which all persons concerned are to take notice and govern themselves accordingly.

Given under my Hand and Seal at Arms, at Halifax, this 18th day of June, in the seventh year of Her Majesty's Reign, and in the year of our Lord, 1844.

By His Excellency's Command,

RUPERT D. GEORGE.

GOD SAVE THE QUEEN.

JOURNAL AND PROCEEDINGS
 OF
THE HOUSE OF ASSEMBLY
 OF
THE PROVINCE OF NOVA SCOTIA,
SECOND SESSION, 1844,

Saturday, 20th July, 1844.

The House having been by Proclamation prorogued until this day, then to meet for the Despatch of Business ; and being met— House meets

A Message was delivered by John James Sawyer, Esquire, the Gentleman Usher of the Black Rod.

Mr. Speaker—

His Excellency the Lieutenant-Governor commands the immediate attendance of this Honorable House in the Council Chamber. Lt. Gov. commands attendance of House

Accordingly the House went up to attend His Excellency in the Council Chamber, And being returned, House attend Gov.

Mr. Speaker reported that the House had attended His Excellency in the Council Chamber, and that His Excellency had been pleased to make a Speech to both Houses of the Provincial Parliament, of which Mr. Speaker said he had, for greater accuracy, obtained a copy.

The Hon. Mr. Dodd, pursuant to leave given, presented a Bill relating to certain proceedings had and pending in the Supreme Court at Sydney, in the County of Cape Breton—and the same was read a first time, and ordered to be read a second time. Bill presented relating to Supreme Court, Sydney, C. B. Read 1st time

Mr. Speaker then read to the House the copy of the Speech of His Excellency the Lieutenant-Governor, as followeth : Speech of Lieut. Gov.

*Mr. President, and Honorable Gentlemen of the Legislative Council ;
 Mr. Speaker, and Gentlemen of the House of Assembly ;*

I have called you together, in obedience to the instructions of Her Majesty's Principal Secretary of State for the Colonies, in order to give you an opportunity to determine whether you will appoint an Agent to represent the Legislature of Nova Scotia, at the Bar of the Privy Council, in the case now pending before the Judicial Committee, regarding the legality of the annexation of the Island of Cape Breton to this Province, in 1820.

I will cause the Despatches I have received, having relation to this subject, to be immediately submitted to you.

I regret very much that it should have become necessary to convene you at a season of the year at which it must be inconvenient to many of you to leave your homes ; but it is satisfactory to me to know that the business on which you are summoned to deliberate, is of such a nature as leads me to hope that it may be readily dispatched, and that its early completion will enable me at once to release you from further attendance.

Address moved in
answer to Speech

Mr. Fairbanks then moved the following Address in answer to His Excellency's Speech and that the same do pass :

TO HIS EXCELLENCY THE RIGHT HONORABLE

LUCIUS BENTINCK,

VISCOUNT FALKLAND,

Knight Grand Cross of the Guelphic Order, and Member of Her Majesty's Most Honorable Privy Council, Lieutenant-Governor and Commander in Chief in and over Her Majesty's Province of Nova Scotia, and its Dependencies, &c. &c. &c.

THE HUMBLE ADDRESS OF THE HOUSE OF REPRESENTATIVES IN GENERAL ASSEMBLY.

May it please your Excellency—

We, the Representatives of Her Majesty's loyal subjects, the people of Nova Scotia, thank your Excellency for the Speech with which you have been pleased to open this Session of the General Assembly.

We beg leave to assure your Excellency that we shall give our best consideration to the subject which your Excellency informs us Her Majesty's Principal Secretary of State for the Colonies, has found it proper to submit to the Legislature of this Province, when the Despatches referred to in your Excellency's Speech shall be before us ; and agreeing with your Excellency in regretting that it should be found necessary to call the Legislature together at this season, we shall be happy to find that the subject of our deliberations may be readily dispatched, to which end we shall deem it our duty to direct our attention.

Which, being seconded,

The said Address was read clause by clause.

And the several clauses were respectively agreed to by the House : and thereupon,

Resolved, That the Address do pass.

Ordered, That the Address be engrossed.

Ordered, That the Address be presented to His Excellency by the whole House.

Ordered, That Mr. Fraser, Mr. Creighton, and Mr. Desbarres be a Committee to examine and report on the expiring Laws.

A Petition of Isaac Coaldwell and others, Freeholders of the Township of Horton, in King's County, was presented by Mr. Benjamin and read, setting forth that at the last Election for said Township, three voters were objected to and sworn, that the description of their property was taken down in all the Poll Books, but on the Sheriff's Poll Book there is an omission of the words "objected and sworn," but that those words are found opposite each of the said three voters names, on the Poll Books kept by the Candidates' Clerks ; and that as the Law relating to Elections provides that such votes as are not objected to, cannot be scrutinized, Petitioners pray that this House will take the matter into consideration, and order that the Sheriff now presiding on the Scrutiny, be allowed to amend his Poll Book so far as relates to any omission in regard to the said three voters, that their votes may be scrutinized now, before the Sheriff presiding at the Scrutiny.

Ordered, That the Petition do lie on the Table.

Then the House adjourned until Monday next, at twelve of the clock.

Monday,

Address read clause
by clause

Address passed

To be presented by
whole House

Com. on expiring
Laws

Petition from Free-
holders of Horton
relating to omission
of objection to votes
on Sheriffs' Poll
Book

Monday, 22d July, 1844.

PRAYERS.

The Hon. Mr. Dodd, by command of His Excellency the Lieutenant-Governor, informed the House that His Excellency had been pleased to appoint this day, at half-past twelve o'clock, at Government House, to receive the House with their Address in answer to the Speech at the opening of the Session.

Time for House to wait on Lt. Gov. with Address

At half-past twelve of the clock, Mr. Speaker and the House, pursuant to order, attended His Excellency the Lieutenant-Governor, at Government House, with their Address in answer to the Speech of His Excellency, at the opening of the Session.

House attend Gov. with Address

And being returned,

Mr. Speaker reported that His Excellency was pleased to give this answer to the Address of the House,

Mr. Speaker and Gentlemen of the House of Assembly;

Answer of Gov. to Address

I beg to render you my acknowledgments for your Address.

A Bill relating to certain proceedings had and pending in the Supreme Court at Sydney, in the County of Cape Breton, was read a second time.

Sydney Court Bill read 2d time and committed

Ordered, That the Bill be committed to a Committee of the whole House.

The Hon. the Attorney General, by command of His Excellency the Lieutenant-Governor, presented to the House copies of Despatches and other papers, relative to the annexation of the Island of Cape Breton to this Province, and the measures in progress to procure a repeal thereof; and the same were read, and are designated as followeth, viz:—

Despatches and papers relative to annexation of Cape Breton to Nova Scotia, laid before House

Copy of a Despatch from Lord Stanley to Lord Falkland, dated 3d June, 1844, No. 168, enclosing copies of Correspondence relating to a Petition for separating Cape Breton from the Province of Nova Scotia, viz:

- Lord Wharncliffe to Lord Stanley, 3rd July, 1843.
- Lord Stanley to Lord Wharncliffe, 11th July, 1843.
- Lord Wharncliffe to Lord Stanley, 17th May, 1844.
- Lord Stanley to Lord Wharncliffe, 27th May, 1844.
- Lord Wharncliffe to Lord Stanley, 31st May, 1844.
- The Hon. W. L. Bathurst to Mr. Hardingham, 14th July, 1843.
- Mr. Hardingham to Mr. Bathurst, 18th July, 1843.

Lord Stanley to Lord Wharncliffe, 1st June, 1844. With the following, referred to in Lord Stanley's Despatch, No. 168, viz:

Lord Falkland to Lord John Russell, No. 60, dated 16th April, 1841.

(See Appendix No. 1.)

Also copies of the Petition from certain Inhabitants of Cape Breton to Her Majesty, praying the repeal of the said Annexation, and of the case thereupon laid before the Judicial Committee of the Privy Council, on the part of the Petitioners.

Ordered, That the copies of Despatches and other papers do lie on the Table.

On motion of the Hon. Mr. Dodd, *resolved,* that this House will to-morrow proceed to the consideration of the subject referred to in the foregoing Despatches, and other papers.

Consideration of Cape Breton papers made Order of Day

On motion of Mr. Benjamin, the Petition of Isaac Coaldwell and others, Freeholders of Horton, was read, and considered by the House; and thereupon,

Horton Freeholders Petition considered

On motion of the Hon. Mr. Dodd, *resolved,* that the further consideration of said Petition be deferred until the next Session.

Consideration deferred until next Session

Then the House adjourned until To-morrow, at one of the clock.

Tuesday, 23rd July, 1844.

PRAYERS.

Com. of whole on
Cape Breton Court
Bill

On motion of the Hon. Mr. Dodd, the House resolved itself into a Committee on the Bill relating to certain proceedings had and pending in the Supreme Court at Sydney, in the County of Cape Breton.

Mr. Speaker left the Chair,

Mr. Clements took the Chair of the Committee,

Mr. Speaker resumed the Chair.

Bill reported without
amendment

The Chairman reported from the Committee that they had gone through the Bill referred to them, and had directed him to report the same to the House, without any amendment—and he delivered the Bill in at the Clerk's Table.

To be engrossed

Ordered, That the Bill be engrossed.

Pet. of Capt. Boole
for relief from Jail

A Petition of Thomas Boole, Master Mariner, was, by leave of the House, presented by the Hon. Attorney General and read, setting forth his being confined in the Gaol at Halifax, under a decree of the Court of Vice Admiralty, for damages and costs for an alleged assault upon a sailor, which he is unable to pay, and praying that a Special Act may be passed, to enable Petitioner to take the benefit of the Acts for the relief of Insolvent Debtors, which do not extend to cases in the Vice Admiralty Court.

Refd. to Sel. Com.

Ordered, That the Petition be referred to Mr. Fraser, Mr. Fairbanks, and Mr. Hall, to examine into the merits thereof, with power to send for persons and papers, and to report by Bill or otherwise.

Report from Com. on
Expiring Laws

Mr. Fraser reported from the Committee on the Expiring Laws; and he read the Report in his place, and afterwards delivered it in at the Clerk's Table, where it was again read, and is as followeth:

The Committee appointed to examine into and report on the Expiring Laws—do Report as follows:

That there does not appear to be any Law which will expire at this Session, excepting "the Act to revive and continue the Act to encourage the Seal Fisheries of this Province," which was passed in 1841, to continue for three years, and from thence to the end of the then next Session of the General Assembly, and your Committee beg leave to report a Bill to continue the said Act until the end of the next Session of the General Assembly.

All which is respectfully submitted.

JAMES D. FRASER, Chairman.

23rd July, 1844.

Ordered, That the Report do lie on the Table.

Bill reported to con-
tinue Seal Fishery
Act
Read 1st and 2d time
Committed

Mr. Fraser, also, from the same Committee, presented a Bill to continue the Act to encourage the Seal Fisheries—and the same was read a first and second time.

Ordered, That the Bill be committed to a Committee of the whole House.

Order of Day—
House go into Com.
on Despatches rela-
ting to Cape Breton

The Order of the Day being read,

On motion of the Hon. Attorney General, the House resolved into a Committee on the consideration of the subject matter of the Despatches, and other papers, laid before the House yesterday by command of His Excellency the Lieutenant-Governor, in relation to the annexation of the Island of Cape Breton to this Province.

Mr. Speaker left the Chair,

Mr. Clements took the Chair of the Committee,

Mr. Speaker resumed the Chair.

The Chairman reported from the Committee that they had made some progress in the business referred to them, and had directed him to move for leave to sit again on the same subject—which the House agreed to.

Ordered,

Ordered, That the House do again, to-morrow, resolve itself into a Committee on the further consideration of the subject matter of the Despatches and other papers relating to the Annexation of the Island of Cape Breton to this Province.

Order of Day for to-morrow, same subject

Then the House adjourned until To-morrow, at twelve of the clock.

Wednesday, 24th July, 1844.

PRAYERS.

An engrossed Bill relating to certain proceedings had and pending in the Supreme Court at Sydney, in the County of Cape Breton, was read a third time.

Engrossed Sydney C. B. Court Bill read 3d time Passed

Resolved, That the Bill do pass, and that the title be, An Act relating to certain proceedings had and pending in the Supreme Court at Sydney, in the County of Cape Breton.

Ordered, That the Clerk do carry the Bill to the Council, and desire their concurrence.

Sent to Council

On motion of the Hon. Mr. Dodd, the House resolved itself into a Committee on the consideration of the Bill to continue the Act to encourage the Seal Fisheries of this Province.

Com. of whole on Seal Fishery Bill

Mr. Speaker left the Chair,

Mr. B. Smith took the Chair of the Committee,

Mr. Speaker resumed the Chair.

The Chairman reported from the Committee that they had gone through the Bill referred to them, and had made an amendment thereto, which they had directed him to report to the House with the Bill; and he thereupon delivered the Bill and amendment in at the Clerk's Table.

Bill reported with an amdt.

The said amendment being read a first and second time, was agreed to by the House.

Amdt. agreed to

Ordered, That the Bill, with the amendment, be engrossed, and be read a third time this day.

Bill to be engrossed

An engrossed Bill to continue the Act to encourage the Seal Fisheries of this Province, was read a third time.

Engrossed Seal Fishery Bill read 3d time Passed

Resolved, That the Bill do pass, and that the title be, An Act to continue the Act to encourage the Seal Fisheries of this Province.

Ordered, That the Clerk do carry the Bill to the Council, and desire their concurrence.

Sent to Council

The Order of the Day being read,

On motion, the House again resolved itself into a Committee on the further consideration of the subject matter of the Despatches, and other papers, relating to the Annexation of the Island of Cape Breton to this Province.

Order of Day— Com of whole on Cape Breton Annexation

Mr. Speaker left the Chair,

Mr. Clements took the Chair of the Committee,

Mr. Speaker resumed the Chair.

The Chairman reported from the Committee that they had made some further progress in the business referred to them, and had directed him to move for leave to sit again—which the House agreed to.

Leave to sit again

Ordered, That this House do, to-morrow, again resolve itself into a Committee on the further consideration of the subject matter of the Despatches, and other papers relative to the annexation of Cape Breton to Nova Scotia.

Further order for consideration of Despatches

The Hon. Mr. Dodd, by command of His Excellency the Lieutenant-Governor, presented an Estimate of expenses of the Legislature in the present Session—and the same was read.

Estimate laid before House

Ordered, That the Estimate do lie on the Table.

On motion of the Hon. Mr. Dodd, *resolved*, that a Supply be granted to Her Majesty.

Supply granted

Ordered, That the House do, to-morrow, resolve itself into a Committee to consider of the Supply granted to Her Majesty.

Ordered,

Estimate refd. to
Com. of Supply

Ordered, That the Estimate of the Expenses of the Legislature in the present Session, be referred to the Committee of Supply.

Then the House adjourned until To-morrow, at twelve of the clock.

Thursday, 25th July, 1844.

PRAYERS.

Pet. relating to Du-
ties on Spirits dis-
tilled in this Pro-
vince

A Petition of James Wilson, a Distiller residing at Dartmouth, was presented by Mr. Dewolf and read, setting forth the loss sustained by the Revenue under the present system of collecting the Duties upon Spirits distilled in this Province, and praying that the entire Duty may be taken off, or that such Laws may be enacted as will enforce the collection thereof.

Ordered, That the Petition do lie on the Table.

Resolution for send-
ing copy of Pet.
to Lt. Gov. with
request

Resolved, That a copy of the foregoing Petition be laid before His Excellency the Lieutenant-Governor, and that His Excellency be respectfully requested to instruct the Commissioners of the Revenue to take such measures as they may judge advisable to remedy the evil therein alleged.

Pet. for aid to com-
plete new Road
between Sackville
and Scott's

A Petition of John Steele and others, was presented by Mr. Doyle and read, praying aid to complete the new Road leading from Sackville to Scott's, in Dartmouth.

Ordered, That the Petition do lie on the Table.

Resolution to request
Lt. Gov. to sus-
pend sale of effects
at suit of the Crown

On motion of Mr. J. B. Uniacke, *resolved*, that His Excellency the Lieutenant-Governor be respectfully requested to direct the proper officers to suspend the sale of Personal Property of Thomas Dickson, Esquire, taken under execution at the suit of the Crown, until the Real Estate also levied upon, be first sold, on satisfactory security being given that all the said Personal Property shall be then forthcoming, and also to pay the appraised value of any article not then forthcoming.

Message from Coun-
cil—

A Message from the Council by Mr. Halliburton :

Mr. Speaker,

Agreeing to Sydney
C. B. Court Bill,
and Seal Fishery
Bill, without
amdt.

The Council have agreed to the Bill, entitled, An Act relating to certain proceedings had and pending in the Supreme Court at Sydney, in the County of Cape Breton; and the Bill, entitled, an Act to continue the Act to encourage the Seal Fisheries of this Province—severally, without any amendment.

And then the Messenger withdrew.

Orders of Day—

The Orders of the Day being read,

Com. of Supply post-
poned
Com. of whole on
Cape Breton ques-
tion

Ordered, That this House do, to-morrow, resolve itself into the Committee of Supply.

On motion, the House resolved itself into a Committee on the further consideration of the subject matter of the Despatches and other papers, relative to the Annexation of Cape Breton to this Province.

Mr. Speaker left the Chair,

Mr. Clements took the Chair of the Committee,

Mr. Speaker resumed the Chair.

The Chairman reported from the Committee that they had made some further progress in the business referred to them, and had directed him to move for leave to sit again on the consideration thereof—which the House agreed to.

Ordered, That this House do again, to-morrow, resolve itself into a Committee on the further consideration of the subject matter of the Despatches, &c., relative to the Annexation of Cape Breton to this Province.

Further order for
consideration of
Cape Breton ques-
tion

Shelburne Highway
Labor Bill pre-
sented

Mr. Spearwater, pursuant to leave given, presented a Bill in relation to the performance of Statute Labor on the Highways, in the County of Shelburne—and the same was read a first time, and ordered to be read a second time.

Then the House adjourned until To-morrow, at eleven of the clock.

Friday,

Friday, 26th July, 1844.

PRAYERS.

A Bill in relation to the performance of Statute Labor on the Highways in the County of Shelburne, was read a second time.

Ordered, That the Bill be committed to a Committee of the whole House.

Shelburne Highway
Labor Bill read
2nd time and com-
mitted

On motion, the House resolved itself into a Committee on the consideration of the Bill in relation to the performance of Statute Labor on the Highways, in the County of Shelburne.

Com. of whole on
Shelburne Statute
Labor Bill

Mr. Speaker left the Chair,

Mr. Clements took the Chair of the Committee,

Mr. Speaker resumed the Chair.

The Chairman reported from the Committee that they had gone through the Bill referred to them, and had directed him to report the same without any amendment—and he delivered the Bill in at the Clerk's Table.

Bill reported without
amdt.

Ordered, That the Bill be engrossed.

Bill to be engrossed

The Orders of the Day being read,

Ordered, That this House do, to-morrow, resolve itself into the Committee of Supply.

Orders of Day—

Then the House again resolved itself into a Committee on the further consideration of the subject matter of the Despatches and other papers, relative to the Annexation of Cape Breton to this Province.

Com. of Supply post-
poned

Com. of whole on
Cape Breton ques-
tion

Mr. Speaker left the Chair,

Mr. Clements took the Chair of the Committee,

Mr. Speaker resumed the Chair.

The Chairman reported from the Committee that they had gone through the business referred to them, and had come to a Resolution thereupon, which they had directed him to report to the House; and he delivered the Resolution in at the Clerk's Table, where the same was read, and is as followeth:

Resolution reported

Resolved, That an humble Address be presented to His Excellency the Lieutenant-Governor, to inform His Excellency that the House of Assembly having taken into its deliberate consideration the Despatches and Documents submitted by his Excellency to the House, relative to the question now pending before the Judicial Committee of the Privy Council, have determined that having full confidence in the learning, knowledge, and ability of the Attorney and Solicitor General of England, and the wisdom and integrity of the eminent tribunal before whom they are to vindicate the legality of the Annexation of Cape Breton to this Province, it is unnecessary to employ an Agent to represent Nova Scotia before said tribunal; and further stating that the re-annexation of the Island of Cape Breton to this Province, by the Proclamation of 1820, and the Act of Assembly passed in pursuance thereof, was a measure very advantageous to the great body of the Inhabitants of that Island, and that it has largely benefitted by the care and protection of the Government, and impartial administration of justice; and praying that His Excellency will be pleased to appoint a Commission of five persons, to collect from the Public Archives of this Province, such records, documents, and information as may have a tendency to aid the said tribunal in coming to a decision upon the said question, and that His Excellency will be pleased to transmit the same to the Right Honorable the Secretary of State for the Colonies:

And the said Resolution being read a second time by the Clerk,

Mr. Wilkins moved that the said Resolution as reported from the Committee, be not received by the House, and that the subject matter of the Despatches, and other papers, relative to the Annexation of Cape Breton to this Province, be again referred to a Committee of the whole House for the purpose of considering of the substitution of the following Resolutions, in place of the one so reported from the Committee, viz:

Motion not to receive
Resolution, and to
refer subject again
to Com. of whole
for purpose of sub-
stituting other Re-
solutions

Resolved,

Resolutions proposed
to be substituted

Resolved, That this House is sensible of the consideration shewn by Her Majesty's Principal Secretary of State for the Colonies, for the interests of this Province, and the opinion of its Legislature, in affording an opportunity to the People of Nova Scotia Proper, and such of the Inhabitants of Cape Breton as may not concur in the prayer of the Petition to Her Majesty in Council, of certain of the Inhabitants of that Island, to take part in the case pending before the Judicial Committee of the Privy Council, relative to the legality of the Annexation of Cape Breton to Nova Scotia, in 1820.

Resolved, That this House perceiving with great satisfaction that Her Majesty's Attorney and Solicitor General have been commanded to attend, on behalf of the Crown, the hearing of the Petition, to allege their reasons in support of the measure to which the Petitioners object, considering that that measure was the Act of the Imperial Executive Authorities, and was not induced by any Agency of Nova Scotia, and reflecting that it has entire confidence, as well in the wisdom and impartiality of the high tribunal to which the legal question is submitted, as in the skill and abilities of Her Majesty's Attorney and Solicitor General, exercised at the command of the British Government, whose peculiar and important duty this House conceives it to be thus to vindicate the legality of its own act, deems it unnecessary, and therefore respectfully declines, to appoint an Agent to represent the Province before the Judicial Committee of the Privy Council.

Resolved further, That in order to obtain, for the information of the Ministers of the Crown, any important facts essential to the decision of the legal question referred to, and not at their command, but which may possibly be ascertained in Nova Scotia, His Excellency the Lieutenant-Governor be respectfully requested to direct a Commission to be issued, with all possible dispatch, to such and so many persons as he may think proper, for the purpose of instituting inquiries and researches in the Public Archives of Nova Scotia, in order to procure the information referred to, to be transmitted by His Excellency when reported to him, to Her Majesty's Principal Secretary of State for the Colonies.

Resolved further, That this House, in thus confining its deliberations in this present Session, to the sole question which has been submitted to it by the command of the Right Honorable Secretary of State for the Colonies, and refraining from expressing an opinion on the legal question, respectfully declares its confident trust, that, whatever may be the decision on that question by Her Majesty, in Council, indifference on the part of the People of Nova Scotia Proper, to the effect of that decision on their most important interests, as well as on the most important interests of Cape Breton, will not be inferred by Her Majesty's Government, from their present silence on that point, seeing that this House is perfectly convinced that that decision would involve consequences of vital import to every portion of Nova Scotia.

Which motion being seconded and put, and the House dividing thereon, there appeared, for the motion, sixteen; against it, thirty-two.

For the motion—

Mr. Ryder
" McKeagney
" Marshall
" Whitman
" J. B. Uniacke
Hon. Mr. Dodd
Mr. Wilkins
" Dewolf
" Spearwater
" A. M. Uniacke
" Owen
" Turnbull
" Fleming
" Thorne
" Holmes
" Martell

Against the motion—

Mr. Crowell	Mr. Howe
" Logan	" Brennan
" Taylor	" G. R. Young
" DesBarres	" Ross
" Budd	" Fulton
" Heckman	Hon. Attorney General
" Comeau	Mr. Fairbanks
" Bourneuf	" Fraser
" Crowe	" Creighton
" Freeman	" Clements
" Dimock	" G. Smith
" Wilson	" B. Smith
" McLelan	" Beckwith
" Benjamin	" McNab
" Huntington	" Dickey
" Hall	" Power

So it passed in the negative.

Mr. Fraser then moved that the Resolution reported from the Committee, be received and agreed to by the House: which, being seconded and put, and the House dividing thereon, there appeared, for the motion, thirty-five; against it, fourteen.

Resolution received

For the motion—
 Hon. Atty. General Mr. Huntington
 Mr. Power “ Benjamin
 “ Dickey “ Spearwater
 “ Fairbanks “ Dimock
 “ McNab “ McLelan
 “ Clements “ Wilson
 “ Beckwith “ Freeman
 “ B. Smith “ DesBarres
 “ E. Young “ Heckman
 “ G. Smith “ Fleming
 “ Fraser “ Comeau
 “ G. R. Young “ Crowe
 “ Ross “ Crowell
 “ Fulton “ Taylor
 “ Brenan “ Budd
 “ Hall “ Logan
 “ Howe “ Bourneuf

Against the motion—
 Mr. Thorne
 “ Martell X
 “ Holmes
 “ Marshall
 “ A. M. Uniacke
 “ Owen
 “ Wilkins
 “ Turnbull X
 “ Dewolf
 Hon. Mr. Dodd X
 Mr. J. B. Uniacke X
 “ McKeagney X
 “ Whitman
 “ Ryder

7/1 6 out of 49 C.B.

So it passed in the affirmative.

Ordered, That the Hon. Attorney General, Mr. Fraser, and Mr. Howe, be a Committee to prepare and report an Address, pursuant to said Resolution.

Com. to prepare Address

Mr. Fraser reported from the Select Committee on the Petition of Thomas Boole; and he read the Report in his place, and afterwards delivered it in at the Clerk's Table, where it was again read, and is as followeth:

Report from Com. on Pet. of Captain Boole

The Committee to whom was referred the Petition of Thomas Boole, Shipmaster—beg leave to report: That on examination of the Petition, and a consideration of the propriety of granting the relief as prayed, your Committee are of opinion that it would be very desirable, if by any arrangement between the parties, the Petitioner could obtain his discharge without the aid of this Legislature; and your Committee have much pleasure in reporting that the Proctor for the Promovent, and the principal officers of the Court of Vice Admiralty, having kindly offered to relinquish their respective costs, such a compromise has been effected as has resulted in the discharge of the Petitioner from custody. All which is respectfully submitted.

Resolved, That the Report be received and adopted by this House.

Report adopted

Mr. Desbarres, pursuant to leave given, presented a Bill to amend the Act to provide for an additional Sittings of the General Sessions of the Peace at Guysborough, and for other purposes—and the same was read a first and second time.

Guysborough Sessions Bill presented

Ordered, That the Bill be committed to a Committee of the whole House.

Read 1st and 2d time Committed

On motion, the House resolved itself into a Committee of the whole House on the consideration of the Bill to amend the Act to provide for an additional Sittings of the General Sessions of the Peace at Guysborough, and for other purposes.

Com of whole on Guysborough Sessions Bill

Mr. Speaker left the Chair,
 Mr. Clements took the Chair of the Committee,
 Mr. Speaker resumed the Chair.

The Chairman reported from the Committee that they had gone through the Bill referred to them, and had directed him to report the same to the House, without any amendment—and he delivered the Bill in at the Clerk's Table.

Reported without amdt. and ordered to be engrossed

Ordered, That the Bill be engrossed.

Then the House adjourned until To-morrow, at twelve of the clock.

Saturday,

 Saturday, 27th July, 1844.

PRAYERS.

Engrossed Shelburne
Bill read 3d time

An engrossed Bill in relation to the performance of Statute Labor on the Highways, in the County of Shelburne, was read a third time.

Passed

Resolved, That the Bill do pass, and that the title be, An Act in relation to the performance of Statute Labor on the Highways, in the County of Shelburne.

Engrossed Guysboro'
Sessions Bill read 3d
time

An engrossed Bill to amend the Act to provide for an additional Sittings of the General Sessions of the Peace at Guysborough, and for other purposes, was read a third time.

Passed

Resolved, That the Bill do pass, and that the title be, An Act to amend the Act to provide for an additional Sittings of the General Sessions of the Peace at Guysborough.

Sent to Council

Ordered, That the Clerk do carry the Bills to the Council, and desire their concurrence.

Pet. for grant to Re-
venue Boat Pictou
deferred

A Petition of James Purves and others, Merchants and others interested in the Trade of the Port of Pictou, was presented by Mr. G. Smith and read, praying a renewal of the grant for maintaining a Revenue Boat in the Harbor of Pictou; and thereupon,

Mr. J. B. Uniacke moved that the further consideration of the Petition be deferred until the next Session: which, being seconded,

Mr. G. Smith moved in amendment of the question, that all the words thereof except the words "that the," be left out, and that the words "Petition do lie on the Table for further consideration," be inserted in the place of the words so left out: which, being seconded and put, passed in the negative.

The main question being then put,

Resolved, That the further consideration of the Petition be deferred until the next Session.

Pet. for repair of
Eastern Road
withdrawn

A Petition of Hiram Hyde, was presented by Mr. G. Smith and read, praying an appropriation of money for the repair of the Main Eastern Road between Halifax and Pictou, to facilitate the carriage of the Mails, and the travelling thereon.

Ordered, That the Petition be withdrawn.

Sydney, C. B. Court
Bill to be printed

On motion of the Hon. Mr. Dodd, *resolved*, that in the event of a Bill entitled, An Act relating to certain proceedings had and pending in the Supreme Court at Sydney, in the County of Cape Breton, which has passed the Legislative Council and House of Assembly during the present Session, passing into a Law, the same be printed for four weeks in the "Cape Breton Spirit of the Times" Newspaper, published at Sydney aforesaid.

Resolution for infor-
mation as to route
of Cunard Steamers

On motion of Mr. J. B. Uniacke, *resolved*, as followeth:

Whereas, information has been obtained that Her Majesty's Government has been solicited to transmit the Mails by the Cunard line of Steamers, direct to Boston or New York, instead of to Halifax, as heretofore, which will be highly prejudicial to this and the adjoining Provinces; *Resolved*, That His Excellency the Lieutenant-Governor be respectfully requested to submit to this House, any information he may possess on this subject, and to direct proper application to be made to Vice Admiral Sir Charles Adam, Commander in Chief of Her Majesty's Royal Navy on this Station, for any information he may feel warranted in laying before this House, for its guidance on this important subject.

Com. on same subject

On motion of Mr. J. B. Uniacke, *further resolved*, that a Select Committee be appointed on the subject of the apprehended change of the route of the Cunard Line of Steamers, to report in relation thereto to this House, by Address or otherwise.

Ordered, That Mr. J. B. Uniacke, Mr. Wilkins. and Mr. McNab, be a Committee for the foregoing purpose.

The

The Order of the Day being read,
 The House resolved itself into a Committee of Supply.
 Mr. Speaker left the Chair,
 Mr. Clements took the Chair of the Committee,
 Mr. Speaker resumed the Chair.

Com. of Supply

The Chairman reported from the Committee that they had gone through the consideration of the supply granted to Her Majesty, and had come to three Resolutions thereupon, which they had directed him to report to the House—and he delivered the same in at the Clerk's Table, where they were read, and are as follow :

1. *Resolved*, That the sum of One Pound per day be granted and paid to each and every Member of the House of Assembly, for their attendance in General Assembly for the present Session, to be paid on the Certificate of the Speaker; also the travelling charges as heretofore,

Vote for Members
pay

2. *Resolved*, That the sum of One Hundred and Thirty Pounds be granted and placed at the disposal of the Clerk of this House, to defray the contingent expenses of this House during the present Session :

Of Contingencies of
House

3. *Resolved*, That the sum of Seventy-one Pounds be granted and paid to defray the contingent expenses of the Legislative Council in the present Session.

And of Council

And the said Resolutions being read a second time by the Clerk were, upon the question severally put thereon, respectively agreed to by the House.

Agreed to

Ordered, That the Clerk do carry the two last foregoing Resolutions to the Council, and desire their concurrence.

A Message from the Council by Mr. Halliburton :

Mr. Speaker,

The Council have agreed to the Bill, entitled, An Act in relation to the performance of Statute Labor on the Highways in the County of Shelburne, and to the Bill, entitled, An Act to amend the Act to provide for an additional Sittings of the General Sessions of the Peace at Guysborough, severally, without any amendment.

Council agree to Shelburne and Guysborough Bills, and to Money votes

The Council have also agreed to the Resolutions of this Honorable House, for granting the sums of £130 and £71 respectively, for the contingencies of the House of Assembly and the Legislative Council during the present Session.

And then the Messenger withdrew.

Ordered, That the Clerk do prepare and present an engrossed Bill, for appropriating the supplies granted in the present Session of the General Assembly,

Clerk to prepare Appropriation Bill

The Hon. the Attorney General, by command of His Excellency the Lieutenant-Governor, acquainted the House in reference to the information sought in regard to the apprehended change of route of the Cunard Line of Steam Packets, that His Excellency had no information on the subject—and that Vice Admiral, Sir Charles Adam, was not at present in Halifax.

Communication from Lt. Gov. as to Cunard Steamers

The Clerk, pursuant to order, presented an engrossed Bill for appropriating the supplies granted in the present Session of the General Assembly, and the same was read a first and second time.

Appropriation Bill presented

Resolved, That the Bill do pass, and that the title be, An Act for applying certain monies therein mentioned for the services therein specified.

Passed

Ordered, That the Clerk do carry the Bill to the Council and desire their concurrence.

Sent to Council

The Hon. the Attorney General, from the Select Committee appointed yesterday to prepare an Address in relation to the annexation of Cape Breton to this Province, reported, that the Committee had framed an Address accordingly, which he read in his place, and afterwards delivered it in at the Clerk's Table, where it was again read, and is as followeth :

Report of Address on Cape Breton question

TO HIS EXCELLENCY THE RIGHT HONORABLE

LUCIUS BENTINCK,

VISCOUNT FALKLAND,

Knight Grand Cross of the Guelphic Order, and Member of Her Majesty's Most Honorable Privy Council, Lieutenant-Governor and Commander in Chief in and over Her Majesty's Province of Nova Scotia, and its Dependencies, &c. &c. &c.

THE HUMBLE ADDRESS OF THE HOUSE OF ASSEMBLY OF THE PROVINCE OF NOVA SCOTIA.

May it please your Excellency—

We, the House of Representatives of the people of Nova Scotia, in General Assembly convened, having taken into our deliberate consideration the Despatches and Documents submitted by your Excellency to the House, relative to the question now pending before the Judicial Committee of the Privy Council, have determined, that having full confidence in the knowledge, learning and ability of the Attorney and Solicitor General of England, and the wisdom and integrity of the eminent tribunal before whom they are to vindicate the legality of the annexation of Cape Breton to this Province, it is unnecessary to employ an Agent to represent Nova Scotia before the said tribunal; and we are further of opinion that the re-annexation of the Island of Cape Breton to this Province, by the Proclamation of 1820, and the Act of Assembly passed in pursuance thereof, was a measure very advantageous to the great body of the Inhabitants of that Island, and that it has largely benefitted by the care and protection of the Government, and impartial administration of justice. We also pray that your Excellency will be pleased to appoint a Commission of five persons, to collect from the Public Archives of this Province such records, documents, and information as may have a tendency to aid the said tribunal in coming to a decision upon the said question, and that your Excellency will be pleased to transmit the same to the Right Honorable the Secretary of State for the Colonies.

Motion not to receive
Address

Whereupon, Mr. Wilkins moved, that from the diversity of opinion existing even amongst the Members of this Legislature, representing the various constituencies in Cape Breton, as to the advantage or disadvantage of its connexion with Nova Scotia Proper; from the fact that, at this moment, a legal question upon a matter of right, is depending before a Judicial tribunal in which the conflicting rights and interests of a portion of Her Majesty's subjects in Cape Breton and Nova Scotia Proper, are involved; from the circumstances that the Representatives in this House of the constituencies in Nova Scotia Proper, greatly outnumber those who are elected by the constituencies of Cape Breton; and from the consideration, also, that the House of Assembly of Nova Scotia are competent to speak the sentiments of the Inhabitants of Cape Breton, as to the benefits or disadvantages attending the connexion with Nova Scotia Proper, only on the supposition that that Island is in point of Law, an integral portion of Nova Scotia, a question now actually in litigation before Her Majesty in Council—the said Address should not be received, as having a manifest tendency to prejudice the minds of the Executive Authorities of the Imperial State, in a matter involving the rights and interests of a large number of our fellow subjects; and because in this present Session, five of the six Members from the Island of Cape Breton, have negatived a Resolution declaring that the union of Cape Breton with Nova Scotia has been advantageous to the former; and because it would require grave and deep deliberation upon an extensive and varied field of inquiry, even on the part of those competent to enquire and decide, before it could be safely determined whether the growth and advancement of the Island of Cape Breton since the year 1820, is attributable to its connexion with Nova Scotia, or to causes and circumstances operating and existing independently of that connexion.

Motion negatived

Which, being seconded and put, and the House dividing thereon, there appeared, for the motion, thirteen; against it, thirty-four.

For

For the motion—

Mr. Holmes
 “ Turnbull
 “ Ryder
 Hon. Mr. Dodd
 Mr. Owen
 “ J. B. Uniacke
 “ Dewolf
 “ Wilkins
 “ Whitman
 “ Thorne
 “ A. M. Uniacke
 “ McKeagney
 “ Martell

Against the motion—

Mr. B. Smith
 “ Beckwith
 “ Heckman
 “ Budd
 “ Clements
 “ E. Young
 “ Fleming
 “ Taylor
 “ Spearwater
 “ Bourneuf
 “ Crowe
 “ Wilson
 “ Huntington
 “ McNab
 “ Creighton
 “ Fulton
 “ Fraser
 Mr. Benjamin
 “ Dimock
 “ Crowell
 “ McLelan
 “ Hall
 “ Fairbanks
 “ DesBarres
 “ Howe
 “ G. R. Young
 “ Logan
 “ Ross
 “ Brenan
 “ G. Smith
 “ Dickey
 “ Power
 “ Comeau
 Hon. Attorney General

So it passed in the negative.

Mr. Fraser then moved that the Address be received and adopted by this House: which being seconded and put, and the House dividing thereon, there appeared, for the motion, thirty-four; against it, thirteen. Address passed

For the motion—

Mr. B. Smith
 “ Beckwith
 “ Heckman
 “ Budd
 “ Clements
 “ E. Young
 “ Fleming
 “ Taylor
 “ Spearwater
 “ Bourneuf
 “ Crowe
 “ Wilson
 “ Huntington
 “ McNab
 “ Creighton
 “ Fulton
 “ Fraser
 Mr. Benjamin
 “ Dimock
 “ Crowell
 “ McLelan
 “ Hall
 “ Fairbanks
 “ DesBarres
 “ Howe
 “ G. R. Young
 “ Logan
 “ Ross
 “ Brenan
 “ G. Smith
 “ Dickey
 “ Power
 “ Comeau
 Hon. Atty. General

Against the motion—

Mr. Holmes
 “ Turnbull
 “ Ryder
 Hon. Mr. Dodd
 Mr. Owen
 “ J. B. Uniacke
 “ Dewolf
 “ Wilkins
 “ Whitman
 “ Thorne
 “ A. M. Uniacke
 “ McKeagney
 “ Martell

So it passed in the affirmative.

Resolved, That the Address do pass.

Ordered, That the same Committee who prepared said Address, be a Committee to wait upon his Excellency the Lieutenant-Governor and present the same to His Excellency. Same Com. to present Address

On motion of Mr. Howe, resolved, that His Excellency the Lieutenant-Governor be respectfully requested to direct the proper Officers to furnish, for the information of this House, Copies of the Lists of the Grand Jurors drawn in the several Counties respectively, for the last three years—and also Copies of the Lists from which Grand Jurors have been drawn, verified by the Affidavits of the Prothonotaries in the different Counties. Res. for Returns of Grand Jurors

Then the House adjourned until Monday next, at twelve of the clock.

Monday, 29th July, 1844.

PRAYERS.

Mr. J. B. Uniacke reported from the Committee appointed on the subject of the apprehended change of Route of the Cunard Line of Steam Packets, and thereupon presented Report from Com. of Address to Her Majesty on change of route of Mail Steamers

sented an Address to Her Majesty, which the Committee had prepared in relation thereto, and recommend to be adopted by the House, and he read the same in his place, and afterwards delivered it in at the Clerk's Table, where it was again read, and is as followeth :

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

THE HUMBLE ADDRESS OF THE HOUSE OF ASSEMBLY OF THE PROVINCE OF NOVA SCOTIA.

May it please your Majesty—

The House of Assembly of your loyal Province of Nova Scotia most humbly approach your Majesty, to represent the excitement created in this portion of your Majesty's Dominions, by the information that the British North American Steam Boat Company are endeavouring to induce your Majesty to sanction a change in the transmission of the Royal Mails, by sending them direct to a Port in Republican America, instead of British America, as heretofore.

Fully aware of your Majesty's solicitude for the welfare and happiness of your subjects throughout your extensive Realm, your faithful Commons of Nova Scotia are reluctant to believe that a change of such importance has been approved of by your Majesty's Government, and they indulge hopes that deliberate consideration will be given before a measure so prejudicial to the various interests of the Atlantic Colonies will be adopted.

Your Majesty's People of Nova Scotia noticed with delight the wise policy which connected the Maternal State with her extensive Transatlantic Territories, and felt assured that the rapid and frequent transmission of intelligence would keep alive the British feeling which exists in this Province, and cements more closely the union so dear to Nova-Scotians.

That your Majesty's loyal subjects have no desire to advance their local interests, to the detriment of those of the Empire in general ; but humbly conceive that in the present instance it is the general interest that a Naval and Military station of such importance as the lower Provinces, with a growing commerce and rapidly increasing population should not be deprived of the advantages which the wisdom of the Government conferred, and the beneficial effects of which were felt throughout society.

The Inhabitants of Nova Scotia feel with exultation, that they are the subjects of a Sovereign whose dominions extend to every quarter of the Globe, and they know that an interchange of intelligence alone, will enable your Majesty to elevate them in National and Commercial advancement, and regret that such an attempt should be made to interrupt the intercourse so beneficial to this Colony.

Your Majesty's faithful Commons admit that the Mails for Canada may be transported from New York or Boston with greater facility, but the increased length of the Sea voyage will counteract such advantage, and it is insignificant compared with the loss and inconvenience which will result to your Majesty's Lower Provinces in British North America.

Your Majesty's Assembly of Nova Scotia, therefore, humbly trust that your Majesty will be graciously pleased to adhere to the wise and enlightened policy of continuing the direct communication with the British North American Colonies, whereby a continued intercourse of your Majesty's subjects is kept up—with that interchange of sentiments and intelligence so essential to the prosperity of a free people, and the preservation of British Institutions.

Resolved, That the Address be received and adopted by this House.

On motion of Mr. J. B. Uniacke, *resolved*, that His Excellency the Lieutenant-Governor be respectfully requested to transmit the foregoing Address to Her Majesty's Principal Secretary of State for the Colonies, to be laid at the foot of the Throne.

A Message from the Council by Mr. Halliburton,

Mr. Speaker,

The Council have agreed to the Bill, entitled, An Act to appropriate certain monies therein mentioned for the services therein specified.

And then the Messenger withdrew.

Mr.

Address adopted

Lt. Gov. to be requested to transmit same

Council agree to Bill of Appropriation

Mr. Howe moved that the House do come to a Resolution as followeth :

Whereas, the Executive Council has been, during two entire Legislative Sessions, imperfect and incomplete—and whereas, an important Legal Office has been vacant for six months, to the great detriment of the public service—therefore

Res. moved in relation to Executive Council

Resolved, That the people of Nova Scotia are entitled to have a full Council, responsible to this Assembly, surrounding the Queen's Representative, that he may have the benefit of their advice in the exercise of the Royal Prerogatives—and this House deem it their duty to declare, that the Council as at present constituted, does not enjoy the confidence of this Assembly—

Which, being seconded, and a debate arising thereon,

A Message from His Excellency the Lieutenant-Governor by the Gentleman Usher of the Black Rod :

Lt. Gov. commands attendance of House

Mr. Speaker,

His Excellency the Lieutenant-Governor commands this Honorable House to attend His Excellency immediately in the Council Chamber.

Accordingly Mr. Speaker, with the House, attended His Excellency in the Council Chamber, where His Excellency was pleased to give his assent to the several Bills, entitled as followeth :

House attend His Excellency, who assents to Bills

An Act relating to certain proceedings, had and pending in the Supreme Court, at Sydney, in the County of Cape Breton.

An Act to continue the Act to encourage the Seal Fisheries of this Province.

An Act in relation to the performance of Statute Labor on the Highways in the County of Shelburne.

An Act to amend the Act to provide for an additional Sittings of the General Sessions of the Peace at Guysborough, and for other purposes.

After which Mr. Speaker spake as followeth :

Speaker presents Appropriation Bill

May it please your Excellency,

Your Excellency having been graciously pleased to give your assent to all the Bills passed in this present Session, it becomes my agreeable duty, on behalf of Her Majesty's dutiful and loyal subjects, her faithful Commons of Nova Scotia, to present to your Excellency a Bill for appropriating the monies therein mentioned for the services therein specified, and to request your Excellency's assent to the same

Whereupon His Excellency was pleased to give his assent to the Bill following, viz :

Lt. Gov. assents thereto

An Act for appropriating certain monies therein mentioned for the services therein specified.

His Excellency was then pleased to make the following

S P E E C H,

Mr. President, and Honorable Gentlemen of the Legislative Council ;

Mr. Speaker, and Gentlemen of the House of Assembly ;

Speech of His Excellency at close of Session

I thank you for the expedition with which you have despatched the important business that, in obedience to the instructions of Her Majesty's Government, it became my duty to bring before you, and I have much pleasure in dismissing you to your ordinary avocations.

After which the Honorable the President of the Legislative Council, by His Excellency's command, said—

House prorogued

Gentlemen—

It is His Excellency's will and pleasure that this General Assembly be prorogued to Monday, the twenty-third day of September next, then to be here held.

And this General Assembly is accordingly prorogued to Monday, the twenty-third day of September next.

JOHN WHIDDEN,
Clerk of the House of Assembly. }

APPENDIX

TO THE

JOURNAL

OF

THE HOUSE OF ASSEMBLY,

OF THE

PROVINCE OF NOVA-SCOTIA.

FOR THE SESSION,

Commencing Saturday, July 20th, 1844, and ending Monday, July 29th, 1844.

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APPENDIX.

No. 1.

(See Page 181.)

[COPY.]

No. 168.

Downing Street, 3d June, 1844.

MY LORD—

Referring to my Despatch of this date, No. 167, I have now to transmit to you the accompanying copies of a Correspondence between myself and the Lord President of the Council, on the subject of the Petition, now pending before the Queen in Council, respecting the Annexation, in the year 1820, of the Island of Cape Breton to the Province of Nova Scotia.

Your Lordship will convene, at the earliest period which may be practicable, the Legislature of the Province of Nova Scotia, to take into consideration the question whether they will constitute any Agent in this Country, with power to appear for them by Counsel at the Bar of the Privy Council, to oppose the Petition for restoring Cape Breton to the position of a separate Colony.

In aid of their deliberations I transmit a copy of that Petition, and a printed Copy of the Case lodged in support of it at the Council Office.

On the last occasion, when, as appears from your Lordship's Despatch of the 16th April, 1841, No. 60, this subject was under the consideration of the House of Assembly of Nova Scotia, it does not appear that the House decided or deliberated on the question, whether the defence of the Petition to the Queen in Council, should, or should not be undertaken by them.

I have, &c.

(Signed)

STANLEY.

The VISCOUNT FALKLAND, &c. &c. &c.

[COPY.]

No. 60.

Government House, Halifax, 16th April, 1841.

MY LORD—

I forward herewith, (at the request of a Committee of the House of Assembly) several Resolutions passed by that body, having relation to the re-annexation, in 1820, under Lord Bathurst's Despatch, No. date 15th August, 1820, of the Island of Cape Breton, to the Province of Nova Scotia.

These Resolutions were moved by Mr. William Young, one of the Members for the Island of Cape Breton, and were passed by a large majority of the Assembly, two of the Members for Cape Breton voting *for*, and of the remaining four Members, two being absent, and two voting *against them*.

Their tenor sufficiently indicates the opinion of the House in as far as regards the *beneficial results* of the union of the two Governments; the long agitated question of the legality of which union, will, it is possible, shortly be submitted for decision to the Judicial Committee of the Privy Council, those who are opposed to the measure, having at length raised the funds necessary to enable them to follow the course prescribed by Lord Stanley,

in his Despatch, No. 6, date June 28th, 1833, and Counsel having been retained in order that the subject may be regularly brought forward.

I have, &c.
(Signed) FALKLAND.

The Lord JOHN RUSSELL, &c. &c.

[COPY.]

Lord Wharncliffe presents his compliments to Lord Stanley, and has the honor to enclose, for his Lordship's consideration, a copy of a Petition signed by 2000 inhabitants of Cape Breton, and addressed to Her Majesty in Council, for the repeal of the union between that Colony and the Province of Nova Scotia; and the Lord President begs to be favored with the opinion of the Secretary of State, as to the reference of this Petition to the Judicial Committee of the Privy Council.

Council Office, 3d July, 1843.

[COPY.]

Downing Street, 11th July, 1843.

MY LORD—

I have the honor to acknowledge the receipt of your Lordship's Note of the 3d instant, inclosing for my consideration the copy of a Petition which has been addressed to the Queen in Council, by 2000 inhabitants of the Island of Cape Breton, for the repeal of the union between that Island and the Province of Nova Scotia, and requesting to be favoured with my opinion as to the reference of that Petition to the Judicial Committee of the Privy Council.

I have to acquaint you, in answer, that, so far as Her Majesty's Executive Government are concerned, there is no objection to a reference of this Petition to the Judicial Committee; but that if so referred, I should wish to be apprised of it, in order that Her Majesty's Attorney and Solicitor General may be directed to attend, on behalf of the Crown; the hearing of the Petition, to allege their reasons in support of the measure to which the Petitioners object as an infringement of the Law.

If, however, the question in debate should turn, not upon the abstract legal right, but on consideration of public convenience or policy, I am of opinion that it would not be proper to refer any such enquiry to the Judicial Committee, but that it should be reserved for the consideration of Her Majesty's confidential advisers, as involving many topics which could not be satisfactorily discussed, nor conveniently explained, in a debate at the Bar of the Judicial Committee.

I have, &c.
(Signed) STANLEY.

The Lord President of the Council.

[COPY.]

Council Office, Whitehall, 17th May, 1844.

MY LORD—

With reference to the Petition addressed to Her Majesty in Council, by certain inhabitants of Cape Breton, for the repeal of the union between that Colony and the Province of Nova Scotia, I have now the honor to transmit to your Lordship a copy of the Case which has been lodged in this Department, on behalf of the Petitioners.

The Queen having been pleased, by an Order in Council, of the 15th July, 1843, to refer this Petition to the Judicial Committee of the Privy Council, the matter is now ripe
for

for hearing ; and I have to request that, in conformity with the intimation conveyed to me in your Lordship's Letter of the 11th July last, Her Majesty's Attorney and Solicitor General may be directed to attend on the hearing which will take place soon after the ensuing term, in order to allege their reasons on behalf of the Crown, in support of the measure to which the Petitioners object as an infringement of the Law.

I have, &c.

(Signed)

WHARNCLIFFE.

The Right Honorable LORD STANLEY, &c. &c. &c.

[COPY.]

Downing Street, 27th May, 1844.

MY LORD—

I have had the honor to receive your Lordship's Letter of the 17th instant, accompanied by a copy of the Case which has been lodged at the Council Office, in support of the Petition of certain inhabitants of Cape Breton, for the repeal of the union between that Island and the Province of Nova Scotia.

Although I continue to think it necessary that Her Majesty's Attorney and Solicitor General should attend the hearing of the Petition, yet, on a perusal of the Case of the Petitioners, I cannot avoid the conclusion, that it is indispensable that an opportunity should be afforded to the Legislature of Nova Scotia also to attend the hearing, should such be their wish, by their Agents and Counsel. The questions in debate are such as deeply concern that Province in its Revenues, and in all its other more considerable political interests. The vindication of the measure of 1820, would probably not be conducted so completely, or so much to their contentment, by any Advocates as by those who might be employed by their own Agents, and act under their own instructions. Be that as it may, it appears to me to be due to the Provincial Legislature, to call upon them to decide for themselves on the acceptance or rejection of the opportunity of making good the claims, on which, I have reason to conclude, they still insist.

With your Lordship's concurrence, therefore, I propose to instruct the Lieutenant-Governor of Nova Scotia, to take the earliest occasion of intimating to the Legislative Council and Assembly, that the Lords of Her Majesty's Privy Council are prepared to hear any Counsel who may be authorised by them to oppose, on behalf of the Province, the claims of the Petitioners.

If that course be taken, the hearing of the Petition must of course be postponed until the result of that reference shall be known.

I have, &c.

(Signed)

STANLEY.

The Lord President of the Council.

[COPY.]

Council Office, Whitehall, May 31, 1844.

MY LORD—

I have the honor to acknowledge the receipt of your Lordship's Letter of the 27th instant, referring to the Petition of certain Inhabitants of Cape Breton, and suggesting the propriety of calling upon the Legislative Council and Assembly of Nova Scotia, to appear, by their Counsel, in opposition to the prayer of these Petitioners, inasmuch as "the questions in debate are such as deeply concern that Province in its Revenues, and in all its other more considerable political interests."

Before I concur in this suggestion, I wish to remind your Lordship of the precise nature of the question now pending before the Judicial Committee. In conformity with the opinion

opinion expressed in your Lordship's Letter of the 12th July, 1843, I have strictly confined the argument to be brought before the Judicial Committee to the question of Constitutional right, reserving all the questions of policy for the consideration of your Lordship's Department. The correspondence with the Petitioner's Agent, of which I inclose a copy, will show your Lordship that the parties have acceded to these terms.

This being the present state of the case, and the question being solely to ascertain whether, in the opinion of the Judicial Committee, the prerogative of the Crown was, or was not, rightfully exercised in the annexation of the Island to the Province, it appears to me that the intervention of the Legislature of Nova Scotia ought to be strictly limited to legal considerations, without introducing questions of a political nature, which would widen the field of discussion, without bringing any important additional element to assist the decision of the Lords of the Council, for the questions to which your Lordship alludes in your Letter of the 27th instant, as affecting the Revenues, and more considerable political interests of Nova Scotia, are not within the scope or intention of Her Majesty's order of reference to the Judicial Committee. The vindication of the measure of 1820, rests entirely on the right of the Crown to make the annexation in the form in which it was made; and the question thus stated, appears to lie between Cape Breton and the Government of the Mother Country, rather than between that Island and Nova Scotia.

If the opponents of the Petition, either in Cape Breton or Nova Scotia, had thought fit to come forward on the other side, the Judicial Committee would probably not have refused to hear them. But although a counter Petition was got up in the Colony, as long ago as the year 1841, it has never been presented to this Department. The time which has now elapsed, and the notoriety of the transaction, have given the opponents ample opportunities of coming before Her Majesty, in Council, to resist the application of the Petitioners. On the other hand, considerable inconvenience may arise from a further postponement of a decision of this question, which affects some important private interests, as well as the public rights of the Colony. If, however, notwithstanding these considerations, your Lordship should still be of opinion that the interest and public feeling of Nova Scotia have a sufficient claim to be heard in this debate, I am ready to concur in your Lordship's suggestion; and I have only to request that, in calling upon the Legislature of that Colony, to appear by their Agents in this Country, if they should so think fit, your Lordship will inform that body, through the Lieutenant-Governor, that it is the Constitutional right; and not the political expediency, of the annexation of 1820, which is now under the consideration of the Council.

I have, &c.

(Signed)

WHARNCLIFFE.

The Right Honorable the LORD STANLEY.

[COPY.]

Council Office, Whitehall, 14th July, 1843.

SIR—

In answer to your Letter to Mr. Reeve, of the 26th ultimo, requesting to be informed of the present condition of a Petition from certain of Her Majesty's subjects, inhabitants of Cape Breton, in British North America, I am directed by the Lord President of the Council to state, that if the object of the Petitioners is simply to bring the legal question respecting the union of Cape Breton and the Colony of Nova Scotia, before a competent tribunal, there is no objection on the part of His Lordship, or of the Executive Government, to a reference of the same to the Judicial Committee. His Lordship is therefore prepared to move Her Majesty to make such a reference at the next Council, with the understanding that the argument which it may be your duty to bring before that Committee, in support of this Petition, will be strictly confined to the legal question raised by

by the Petitioners, and will not extend to those considerations of convenience and policy which properly belong to another Department.

I am further to apprise you, that whenever the matter of this Petition comes on for hearing, Her Majesty's Attorney and Solicitor General will be directed to attend, on behalf of the Crown, to alledge their reasons in support of the measure to which the Petitioners object as an infringement of the Law. I have to request that you will reply to this Letter at your earliest convenience, and that you will transmit me some more copies of the Petition.

I have, &c.

(Signed)

W. L. BATHURST.

G. GATTON HARDINGHAM, Esq.

[COPY.]

11, Serle Street, Lincoln's Inn, 18th July, 1843.

SIR—

I have the honor to acknowledge the receipt your Letter of the 14th instant, informing me that if the object of certain of Her Majesty's subjects, inhabitants of Cape Breton, Petitioners to Her Majesty in Council, was simply to bring the legal question respecting the union of Cape Breton and the Colony of Nova Scotia, before a competent tribunal, for argument and judgment, the Lord President of the Council 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 inquiry, 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 affected, 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 aimed 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 consequences of 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 the 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 reason to doubt that the Legislature of Nova Scotia would make the most decided opposition to the enforcement of so unwelcome a decision, adopted, as they would then truly say, without any opportunity of opposing it having been afforded to them. They would insist, (nor do I see how it could be disputed) that they possessed means which the Government here did not possess, of illustrating the legal question in debate from the records and history of the Province. They would allege that the question had been discussed between parties, one of whom had the most obvious interest in success, and the other of whom had really no interest at all in the result. They would, therefore, demand the revival of the debate. To that demand it would be scarcely possible to oppose any effectual resistance, and the delay which is now deprecated, would then be incurred to a much greater extent. The present Petitioners would then also have the further disadvantage of having to enter on the renewal of the argument with antagonists to whom the whole strength and weakness of their case had been previously disclosed.

For all those reasons, I am of opinion that it would be inexpedient to proceed to the discussion of the case at the Bar of the Privy Council, until the proposed communication shall have been made to the Legislature of Nova Scotia, through the Lieutenant-Governor of that Province. I shall therefore instruct him to make such communication to them, by the Mail which is to be despatched on Monday, the 3rd instant.

I have, &c.

(Signed)

STANLEY.

The Lord President of the Council, &c. &c. &c.

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