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NEWFOUNDLAND.

P A P E R S

RELATING TO THE

PROPOSED CHANGES IN THE CONSTITUTION OF

NEWFOUNDLAND.

(Presented to Parliament by Command of Her Majesty.)

Ordered, by The House of Commons, to be Printed,
23 June 1842.

362.

Under 3 oz.

NEWFOUNDLAND.

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RELATING TO

THE PROPOSED CHANGES IN THE CONSTITUTION OF

NEWFOUNDLAND.

(PRESENTED TO PARLIAMENT BY COMMAND OF HER MAJESTY.)

*Ordered, by The House of Commons, to be Printed,
23 June 1842.*

SCHEDULE.

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NEWFOUNDLAND.

(Confidential.)

— No. 1. —

EXTRACT of a DESPATCH from Governor Sir *John Harvey*. K. C. B., to Lord *John Russell*, dated Government House, Newfoundland, 6 October 1841.

No. 1.
Extract Despatch
from Sir J. Harvey
to Lord John Rus-
sell, 6 Oct. 1841.

IN obedience to your Lordship's commands, I proceed to place before you the views and opinions which I have formed upon the actual condition of this colony, from such observations as I have been afforded the opportunities of making, and such information as I have been enabled to acquire since my arrival in the island.

1. The inhabitants of Newfoundland appear to be unfeignedly loyal and firmly attached to British connexion.

No material degree of political excitement appears at present any where to exist, but, on the contrary, an apparent approximation towards a general disposition to bury past occurrences in oblivion. The trade of the colony is flourishing; its revenues ample and increasing; the fisheries of the present year, both of seals and cod-fish, have been highly successful.

2. The apparent suspension of their representative constitution, so recently conferred upon them, upon the ground of their gross abuse of the elective franchise, has evidently created much apprehension in the public mind, and has, I am willing to believe, produced such a moral effect as would exert a salutary influence in repressing any undue violence in future elections, in the event of Her Majesty's Government deciding on authorizing me to convene another Assembly. That there are persons of both intelligence and experience in this community who may entertain doubts on this subject I think very probable; but I cannot allow myself to believe that any intelligent individual in this island would be found favourable to the extinction, or even to the suspension for any lengthened period, of those benefits which a representative constitution can alone confer upon its inhabitants, and this merely because, during the first few years of the experiment, it has not been found to work with that degree of harmony which is so desirable, but which has not always been exhibited in other colonies, after a much longer trial. To some of the causes to which these discordant proceedings may be imputed I may hereafter advert; at present I will merely observe, that all parties are, I hope and believe, convinced that moderation in their measures and proceedings will best accord with their true interests; and all, every individual of every creed, party and denomination who has approached me, and with whom I have held communication, has expressed an anxious desire that its constitution should be restored to the island, with certain modifications.

In submitting to your Lordship, therefore, a proposition that I should be authorized to convene the General Assembly of Newfoundland, I will at the same time suggest the modifications which appear to me to be desirable, if not absolutely indispensable:—

1. That the qualification of the "members" of the Assembly should be so raised as, if possible, to ensure the election of persons above the class of common labourers: the possession of an income of not less than 100*l.* per annum, or of property of any kind of the value of—say 500*l.*, might, perhaps, effect this object.

2. Such a subdivision of the electoral districts, based upon population, as materially to increase the number of members—say to nearly double the present amount.

3. The elections throughout the island to be simultaneous.

With regard to the qualification of "voters," which is at present conferred by a mere residence in the island for one year, although it certainly may be regarded

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as amounting to almost "universal suffrage," yet there are circumstances attaching to the unsettled and migratory character of a certain portion of the population of this island, which may perhaps be regarded as constituting a sufficient cause for not at present interfering with the enlarged privileges granted to them by the Royal Proclamation of July 1832, but which would perhaps rather render it advisable to leave any limitation of these privileges (beyond perhaps extending the qualifying period to two years' residence) to the good sense of the representatives of the people themselves, and to future legislative enactment.

The modifications which I have above suggested are, therefore, the only propositions which I deem it necessary to submit your Lordship at present; but as these, in the event of their receiving your Lordship's concurrence and approbation, can only be effected, I apprehend, by an Act of the Imperial Parliament, there will be sufficient time for me to learn your sentiments on the subject, and to offer such further suggestions as further information or more matured consideration may appear to render advisable.

I respectfully submit, that the members of the Council, as it now exists, should be allowed to retain their legislative character, and that I should be permitted to recommend to Her Majesty such additional members as I may consider fit and proper persons for raising that body, in point of numbers, to the amount which Her Majesty may be pleased to assign to it. The several interests of the colony (and these are not limited to its trade and fisheries) might thus be duly represented in the Legislative Council, and that body would then assume its proper constitutional character, as a separate branch of the Legislature, independent alike of the throne and the people.

I have thus endeavoured to possess your Lordship of the result of my own observations, and of the information derived from other sources, during the brief period of my residence in this island, and in doing this, I have endeavoured to divest that information of all tincture of local prejudice, and while applying to it whatever of practical experience I may have acquired in North American colonial affairs, I have assuredly not sought to bend facts or circumstances to any preconceived theory or previously formed opinions; on the contrary, should further experience induce me to alter any of the views which I have now presented to your Lordship, I shall not hesitate in frankly bringing such changes of opinion, with the grounds upon which they may rest, to your Lordship's early knowledge.

Bespeaking your utmost indulgence for this early exposition of my impressions in relation to this ancient, loyal and valuable appendage of the British Crown, and soliciting as early an intimation as may consist with your Lordship's convenience, as to how far the principles upon which my suggestions are based have your Lordship's concurrence, or otherwise,

I have, &c.
(signed) *J. Harvey.*

P. S. Although I have forbore to place this report in the series of numbered despatches, in consequence of its being of a somewhat confidential nature, yet I should be happy to receive your Lordship's permission so to record it, should you see no objection.

(signed) *J. H.*

— No. 2. —

(Confidential.)

EXTRACT of a DESPATCH from Lord *Stanley* to Governor Sir *John Harvey*, K.C.B., dated Downing-street, 19 November 1841.

No. 2.
Extract Despatch
from Lord Stanley
to Sir *J. Harvey*,
19 Nov. 1841.

I HAVE had under my consideration your confidential despatch of the 6th of October, addressed to my predecessor, which, in compliance with your expressed wish, I have directed to be recorded in this department among the numbered despatches.

It affords me great satisfaction to learn that, so far as you had been able to form an opinion, the inhabitants of Newfoundland generally appeared unfeignedly loyal and firmly attached to British connexion; that political excitement was subsiding, and the internal prosperity of the colony, in reference to its trade and revenue, steadily upon the increase. In such circumstances, I regret that recent events should have imposed upon Her Majesty's late servants the necessity of directing the suspension of the representative and legislative privileges conferred upon the island in 1832; at the same time that I understand it to be your own

own opinion, as it seems to be that of most persons conversant with the state of affairs in Newfoundland, that it would be a hazardous experiment to call together a new House of Assembly without some modification of the existing constitution. Such modifications, if undertaken at all, can only be so by an Act of the Imperial Parliament; and my present purpose is, to invite your attention to the changes which you may be disposed to recommend, to some of which you advert in the despatch to which I am now replying. The alterations to which you seem disposed to direct the consideration of Her Majesty's Government are,—1. A qualification for members of the Assembly. 2. A subdivision of the electoral districts, with an increase of the number of members. 3. Simultaneous elections. 4. A slight modification in the qualification of electors. 5. A separation of the Legislative and Executive Councils.

So far as my attention has yet been called to the difficulties connected with the administration of the affairs of Newfoundland, they appear to me to arise mainly from three causes:—1st. The interference of the Roman Catholic priesthood with election matters, which has led to feelings of religious animosity previously unknown in the colony, and to scenes of a scandalous character, shocking to religious and well-disposed Roman Catholics. 2d. The undefined and exaggerated notions which the two Houses, and especially the House of Assembly, entertain of their peculiar rights and privileges; and 3dly. The conflicting interests of two great parties in the island, the resident and the mercantile portion of the community.

* * * * *

* With respect to the first of these causes, I much doubt the efficacy of any legislative remedy consistent with the maintenance of those free institutions, the withdrawal of which, unless under circumstances of more urgent necessity than at present exist, I am not prepared to advise. Something may, perhaps, be done towards mitigating the evil by an increase of the qualification of the electors, so as to afford a more really independent constituency; but I am aware that this attempt is surrounded by great difficulties, arising out of the minute subdivision of property, the scattered character of the population (except in the great towns), and the absence of any considerable middle class between the opulent, or, at least, prosperous merchant, and the lowest class of occupiers. It is clear that these difficulties would be rather enhanced than diminished, if your suggestion be acted on, of increasing the numbers and narrowing the limits of the present electoral divisions. I must own I do not precisely understand the object with which this suggestion is made; but it is one upon which I should be glad to be favoured more at large with your views as to the object to be attained, and the details of the arrangement by which you think that it can be effected. From the migratory character of a great part of the population, I do not doubt that requiring two years' residence would increase the respectability of the constituent body; but you will oblige me by furnishing any details which you are able to procure, as to the extent of change which this regulation would produce, and also as to the effect upon the constituency which would result from raising the household franchise in towns to 5*l.*, or even 10*l.* Unless I am misinformed, it would be very difficult to establish an uniform franchise, with any considerable increase on the present amount, as in the country districts a very trifling increase would operate a very large disfranchisement, while the high rate of house-rent in St. John's would there leave the constituency, even at 10*l.*, not materially altered, unless some alteration were made with regard to the state of the law as to separate occupiers under one roof. The subject is one involving so much of detail, that I should be glad to receive from you such calculations as you may be able to give of the effects which would be produced, in different localities, by different alterations of the franchise, giving the present proportions of the constituency to the population, with the proportions which would subsist under the different modifications. You will also have the goodness to send me your scheme for a new division of the electoral districts, with the grounds on which you recommend it. A qualification for members of the Assembly, I think, is right in principle, and would probably have the effect of inducing a superior class of men to offer their services, and thus raise the tone and character of the Assembly.

There is, however, another change, of a more important character, to which you do not advert, and to which I am aware that many plausible objections may be urged, but from which, could it be introduced without creating great dissatisfaction, I conceive that much advantage would result,—I mean, the abandonment of the fancied analogy to the Imperial Parliament, and the union,

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in one chamber, of the representatives of the people, and the nominees of the Crown. I am strongly of opinion, that half the difficulty of governing small colonies arises out of the feuds and jealousies engendered by contests about the privileges of the two Houses, and the necessity in which the Crown finds itself of establishing a certain counterpoise to the democratic spirit in a separate Council, rather than in the body of a single legislative Assembly. I should be glad that you should consider, with reference to past events, the practicability of introducing such an alteration into the constitution of Newfoundland, and the effect of amalgamating the Council and Assembly, the members of the former being to the latter in a proportion of about two to three.

Whether with one chamber or with two, the Government will always have to contend with the difficulties arising out of the conflicting interests of two great classes of the community (independently of religious distinctions), the commercial and the resident class ; and although it may be true that, taken broadly, these interests must act and re-act upon each other, yet each will have separate objects to pursue, and separate views to promote, either by expenditure of public money or by imposition of public taxes. The former of these classes, up to a recent period, monopolized the power, as they possessed the whole capital of the island, which it was their avowed object to consider merely in the light of a fishing station. In pursuance of this policy, internal improvements were discouraged, and the island itself was looked upon as subservient to the interest of trade alone. The gradual increase of population has led to the formation of a rival interest, which has now obtained a large share of political power, which it desires, not unnaturally, to direct towards the furtherance of its own objects.

If the power of this resident interest predominate, as with a low qualification I apprehend it may in the House of Assembly, its objects will naturally be the expenditure of large sums of public money on the improvement of internal communications, and the increase of local advantages to be obtained by taxation upon the British merchant and British trade.

I am far from saying, that the object within reasonable bounds is not a legitimate and praiseworthy one ; but it is one which may easily be carried to an extreme, at least, as prejudicial as the opposite policy which has guided the mercantile class. The balance between these interests requires to be held with a steady hand by the executive.

I apprehend that the union of the two Houses would enable the Governor to hold this balance with comparative ease ; but I am certain that with this, among other objects, it will be necessary, in any modification of the constitution, to reserve to the Crown, as in England, and as recently in Canada, the exclusive right of originating all grants of public money. In the interval which must elapse before the Legislature can be again called together (more especially if you are decidedly of opinion that a summer sessions is impracticable), I shall hope to receive from you full information as to the state of the public revenue and expenditure, and of the objects to which you conceive that the former may be most advantageously applied. Your despatch, now before me, gives a more favourable report than I was prepared to receive of the capabilities of the island in point of soil and climate, which I shall rejoice to find that you are able to confirm upon further investigation. I shall receive with interest the further communications which you lead me to expect on these subjects ; and you may rely upon my cordial co-operation, and that of Her Majesty's Government, in any measures which may seem to hold out a reasonable prospect of developing and increasing the resources of the remote, but not unimportant portion of Her Majesty's dominions which is intrusted to your charge. Into these topics, on the present occasion, I shall decline to enter, my object having been to address myself to the subject of the political changes which it may be necessary to introduce into the constitution of the colony, and in which I shall hope to receive, at your earliest convenience, such further and more detailed reports as longer experience and mature consideration may enable you to furnish.

I had almost omitted to say that if the colony will supply materials, I should approve of your proposed separation of the executive and legislative functions, and of the mode which you suggest for the constitution of the executive Council.

—No. 3.—

EXTRACT of a DESPATCH from Governor Sir *John Harvey*, K.C.B., to Lord *Stanley*, dated Government House, Newfoundland, 21 December 1841.

WITH reference to one of the concluding paragraphs of my confidential despatch of the 6th October, I have now the honour to invite your Lordship's attention to the following observations:—

Having since the date of that despatch seen some reason to apprehend that to find at present in this colony a sufficient number of persons of suitable respectability, intelligence and attainments, from which to construct a machinery of government and legislation so extensive as two Councils and an increased Assembly, may not be easy, if it be even practicable, I have turned my attention to the devising of some means of escape from this dilemma, without depriving the people of their elective franchise; in doing this, the suggestion contained in Lord Goderich's despatch, No. 15, of 27th July 1832, has naturally presented itself to my mind; and after having given it mature consideration, I am inclined to the opinion that a modification, or rather a slight extension of the plan therein suggested of uniting the Council and Assembly in one legislative body, might perhaps, with the addition of a Council of advice for the Governor, properly composed, constitute a form of government not unadapted to the present condition of this colony.

* * * * *

I now proceed to Lord Goderich's suggestion, and to the adaptation of it to the actual circumstances of this colony; and in expressing my ideas on this point, I would merely submit that the number of ex-officio members of the General Assembly be somewhat increased, say from three to five. As an experimental measure, and one which might without difficulty or delay be carried into effect, I would propose that the Council thus composed should be united to the same number of representatives of the people to be chosen for the same electoral districts, as sat in the last House of Assembly,—the argument for the extension of the number of that body* being considerably weakened, in my judgment, if not altogether destroyed by the addition which would be made to the numbers of the General Legislative Assembly by the nine members of the Legislative Council; the Assembly would then consist of twenty-four Members, of which fifteen would be chosen by the people,—a number sufficient to try the experiment, particularly as the Assembly would have power to increase its number by legislative enactment, so as to meet the increase of the population of the island.

—No. 4.—

(Confidential.)

EXTRACT of a DESPATCH from Governor Sir *John Harvey*, K.C.B., to Lord *Stanley*, dated Government House, Newfoundland, 23 December 1841.

I DO myself the honour to acknowledge the receipt of your Lordship's despatch of the 19th ultimo, marked "Confidential," the contents of which shall receive my early and serious consideration and alteration. In the meantime, your Lordship will peruse, I trust with satisfaction, the modified suggestion which I have been induced to place before you in a confidential despatch, written a short time previous to the receipt of that from your Lordship, which I have now before me, relative to the union of the Council and Assembly, in one legislative body; to that despatch, therefore, written in anticipation of the arrival of the mail packet, whose almost immediate return leaves no time to do more than acknowledge communications I have the honour to refer.

* To obtain a sufficient quorum, and thus to guard against (what has already occurred) the control of the public purse, and, in some respects, the management of public affairs falling into the hands of a few members of the Assembly at the close of a session.

No. 3.

Extract Despatch from Sir J. Harvey to Lord Stanley, 21 Dec. 1841.

For Lord Goderich's Despatch, 27 July 1832, vide Papers ordered by the House of Commons to be printed, 7 August 1832, No. 704.

No. 4.

Extract Despatch from Sir J. Harvey to Lord Stanley, 23 Dec. 1841.

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—No. 5.—

(Confidential.)

EXTRACT of a DESPATCH from Governor Sir *John Harvey*, K.C.B., to Lord *Stanley*, dated Government House, St. John's, Newfoundland, 10 January 1842.

No. 5.
Extract Despatch
from Sir J. Harvey
to Lord Stanley.
10 Jan. 1842.

WITH reference to your Lordship's despatch of the 19th November, marked "Confidential," I now proceed to place before your Lordship some further observations and information explanatory of the views which I had the honour to present to you in my confidential report of the 6th October 1841.

Qualification of Voters.

I am of opinion that to require any rent qualification whatever, or any property one, beyond perhaps the lowest value of a log hut (say 40s.), and that, in fact, can scarcely be regarded as the property of the squatter, from being erected on ground to which he can have acquired no other title than such as an unauthorized occupancy may be considered conferring upon him, would operate a very extensive disfranchisement in the country districts, without at all improving, or indeed materially changing, the description of voters; and with regard to the towns, the qualifications being already restricted by an Act of the local legislature to one person in each house, viz., him by whom the rent is paid, no further provision would appear to be required upon this subject. At the same time I would observe, that if a rent qualification of, say 5*l.*, in towns, be considered desirable, and could be confined to the towns, I do not think, for the reason which I have just assigned, that it would produce any material diminution in the number of voters, although it certainly would, if extended to the district in which those towns are situated; this effect, however, might be guarded against by an alteration in the electoral divisions.

The class of emigrants which I understand is in the habit of resorting to this island may be described as being of a transitory, unsettled, experimental character, a considerable proportion of it passing onwards into some of the other colonies of British America, or into the United States, after having tried the fisheries as servants or labourers for a single season, and not relishing the pursuit, which is one of considerable hardship, but having through it acquired the means of proceeding onwards. This class, having no settled interest in the colony, should be excluded from the constituency; but after a residence in the island of full two years, by which a pledge is in some measure afforded of a disposition to adopt the island as a future abode, the object of the government and of the legislature should then, I conceive, be to encourage and confirm that disposition, by conferring upon such persons the elective franchise. Again, with reference to a rent or property qualification as regards the inhabitants of the country districts, I am inclined to think that considerable difficulty might be found to exist (even if the government was ready in all cases to confirm the squatters in the occupation of their lots) from the circumstance of their not having been regularly surveyed. Perhaps the quickest and simplest mode of escape from this difficulty might be, to institute a scrutiny into the fact of the continued occupation of their lots for two complete years, and then to allow the establishment of that fact not only to confer upon the occupant a claim to the elective franchise, but also a title to the ground in his actual occupation, and consequently to the improvements which he may have made upon it. Such an arrangement would not be attended with any material difficulties.

From the constituency, both in towns and the country, should certainly be excluded, if practicable, paupers, individuals receiving public charity for themselves or their families, and persons of notorious bad character, or such as may have been convicted of any offence of a deeply criminal character.

With these observations and explanations, I beg to renew my recommendation that the qualifications for voters for members of the popular branch of the legislature in Newfoundland be not for the present raised beyond two years' continued residence in the island. This recommendation refers, of course, only to British subjects.

Qualification of Members.

With regard to the qualification of the members of the Assembly, I have found no reason to alter, but many to induce me to adhere to, my former suggestions on
this

this subject; I allude to the concurrent opinions of individuals, considered as among the best-informed and most moderate of every creed and party, in favour of the sufficiency of the qualification suggested in my despatch of 6 October; viz., the possession of 500*l.* clear of all debts, or 100*l.* per annum. NEWFOUNDLAND.

Money Grants.

Whether derived from that fiction of the constitution by which the Sovereign is supposed to be vested with all the property of the realm, or merely from parliamentary usage, the rights of the Crown to originate all money grants must surely be regarded as still less equivocal in the colonies than even in the parent state, inasmuch as that the former can possess no other revenues than such as are derived from a voluntary surrender by the Crown, on certain conditions, for the benefit of Her Majesty's loyal subjects, either of the Crown estates, or of imposts levied on Her Majesty's subjects in Her Majesty's name, by Her authority, and for Her service. In graciously conferring upon these colonies a form of constitution as nearly analagous to that of the parent state as their actual condition will admit of, Her Majesty has not, I conceive, intended to divest Herself of Her undoubted right to prescribe in what mode the privilege of appropriating the public monies which is thus conferred upon them shall be exercised; and it has accordingly become the established usage, sanctioned by the Crown, that each branch of the General Assembly of each province shall be enabled freely to exercise its separate and independent judgment, not only upon the expediency and amount of every vote of supply in aid of the public service, but on every item of which such vote may consist. This is effected either by the introduction in the Assembly of separate Bills for each separate branch of the public service, or by a series of separate resolutions (ultimately embodied in any appropriation or supply Bill), to all of which the concurrence of the Legislative Council is essential. No private money bills or petitions for relief are ever entertained by the Speaker of the House, or the chairman of any committee of supply, without the permission of The Queen's representative having been previously obtained.

This practice has been cheerfully acquiesced in by the Assemblies of the provinces with which I have been connected, and has, as respects these provinces, been productive of legislative harmony and general satisfaction; and I shall accordingly deem it to consist with my duty to urge upon the Assembly of this island the necessity of assenting to a similar course of proceeding, or of leaving to the local government the originating of all money grants, to be separately discussed and concurred in by both branches of the legislature.

MEMORANDUM of Acts which have expired, or will expire, before 1 July 1842, and of Services requiring to be provided for.

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Revenue Bill; will expire 30 June 1842. 2. Education Act. 3. Road ditto. 4. Relief of Pauper. 5. Contingent Expenses. 6. Bounty on Whale Fishing. | } No provision existing for any of these important services. |
|---|--|

NEWFOUNDLAND.

— No. 6. —

(Confidential.)

EXTRACT of a DESPATCH from Governor Sir *John Harvey*, K.C.B., to Lord *Stanley*, dated Government House, St. John's, Newfoundland, 11 February 1842.

No. 6.

THE documents which I have the honour herewith to transmit have been placed before me by the provincial secretary, since the transmission of my despatches by the "Gazelle," on the 7th instant. They embody the opinions, deliberately and advisedly given, of five highly respectable individuals, in the form of answers to a few queries, which were sent to them by my directions, upon the subject of the modifications which it may be deemed advisable to introduce into the representative constitution of this island; and I invite your Lordship's attention to them with the greater satisfaction from the consideration that, proceeding as they do from parties of diametrically opposite political opinions, they will, nevertheless, I think, be found to be substantially in accordance with the views and suggestions which I have considered it to consist with my duty to submit to your Lordship in former communications.

Nos. 1 to 5.

Enclosures in No. 6.

Encl. in No. 6.

ABSTRACT of the Contents of the Enclosures of Sir *John Harvey's* Despatch of 11 February 1842.

Opinions as to a rent or property qualification for voters;

_____, _____, and _____, for a household qualification, with a system of rigid registration.
_____, rental of 10*l.*, in St. John's, and 5*l.* in the out-ports, or a 40*s.* freehold, and in either case two years' residence.

as to the qualifications for members;

_____, 5*l.* rental, 12 months' occupancy of a house, and two years' residence in district.

as to the increase of districts and members.

_____, freehold of 25*l.*, or rental of 50*l.* per annum, or 400*l.* in property of any description.

_____, qualification of Canada (500*l.* real property).

_____, does not consider further qualification necessary, but, if any, suggests 1,000*l.* sterling, free of incumbrances.

_____, income of 100*l.* per annum, or 2,000*l.* over and above debts.

_____, 100*l.* per annum from property or office.

_____, no increase of districts, but double the number of members for each district.

_____, towns possessing 2,000 inhabitants to return one member, 5,000 and upwards, two members, in addition to the present members.

_____, recommends that Conception Bay be divided into four districts, and every district whose population shall exceed 5,000, now returning one member, to return two.

_____, recommends 25 members, and sub-division of electoral districts.

_____, sub-division of electoral districts and increase of members, but no number named.

QUESTIONS proposed by his Excellency the Governor.

VOTERS.

1. WHAT would be the effect, in your opinion, of a rent or a property qualification for voters; what its advantages, and what its objections; and to what extent would it operate disfranchisement in the towns and in the country districts respectively; and if you are favourable to it, at what rate would you fix it?

Calculations as to the probable numbers who would be disfranchised by a qualification of, say 5*l.* to 10*l.* rent in St. John's, and 40*s.* in the country districts, would be acceptable.

2. What are the qualifications for voters which you would suggest, upon the most moderate scale which may accord with your ideas?

3. Do you recommend any increase in the number of electoral districts and of members; and, if so, upon what grounds; and by what means would you propose to effect such increase?

4. What is the minimum amount of qualification which you would recommend for a member of the Assembly?

ANSWERS

ANSWERS to the QUESTIONS proposed by his Excellency the Governor.

NEWFOUNDLAND.

No. 1.

St. John's, 29 January 1842.

Sir,

I HAVE the honour to acknowledge the receipt of your letter of the 24th instant, accompanied by certain heads of inquiries, conveying at the same time his Excellency the Governor's wish that I should answer the questions therein contained.

After giving the subject all the consideration in my power, I beg respectfully to say, first, with regard to voters, that it may be laid down as a general proposition, that a household franchise is most suitable to the peculiar circumstances of the inhabitants of this colony.

Under this circumstance, it is my opinion, that a rent or property qualification, to supersede the present unlimited system of household suffrage, would, in effect, 'disfranchise a large portion of the inhabitants.

In framing a ground-work for a Representative Assembly in Newfoundland, it should always be kept in view that a great portion of the inhabitants are employed in the fisheries, many of whom, in the possession of property in boats, craft and tackle to a considerable amount, occupy such a description of houses as would be difficult to place a value upon in the form of rent or otherwise. Many of these persons move, in the summer or fishing season, to the Labrador and other distant parts of the colony, for the convenience of carrying on the fisheries, leaving their houses vacant until they return in the fall; others reside in small houses adjoining their fishing stages; for these fishermen's houses the occupiers pay no rent.

A rental qualification of 10 *l.* in St. John's, would have the effect of preventing a large portion of the householders from voting, particularly fishermen, who occupy tenements, paying a rent of from 5 *l.* to 8 *l.* per annum, in the back streets of the town. A rent of 5 *l.* and upwards would, in my opinion, comprehend the whole of the householders, with very few exceptions; under a rental of 5 *l.* per annum, few, if any, of the householders of St. John's would be debarred from voting.

It may be said that a rental qualification of 40*s.* in the towns of Harbour Grace, Carbonear, Brigus, Trinity, Bonavista, Burin, Bay Bulls, Placentia, Trepassey, and other outports, would have the effect of disfranchising the principal part of the householders in these places who are exclusively engaged in the fisheries.

The residents in the country districts, both in the neighbourhood of St. John's and in all other outports of the island, who have cleared land and turned their attention to agricultural pursuits, would be entitled to be classed as freeholders of from 40*s.* to 50 *l.*, provided their present title, that of occupancy, be confirmed by the Crown.

Persons coming under this description are rapidly increasing, and in a few years will form a decided majority of the householders and freeholders throughout the island.

Under these circumstances, it is that most valuable portion of the inhabitants who are exclusively engaged in the fisheries that would be affected by rent or property qualifications; and it is merely to secure to them their just portion of political rights that I am decidedly averse to any but a simple household franchise. There could be no reasonable objection to the term of occupancy being extended to two years instead of one, the present limit.

To a rental or property qualification for voters may also be objected the difficulty of establishing under it a suitable system of registration; the town would have to be separated from the country districts; there would be various classes of voters; the legal machinery to put the system into operation would be both complex and expensive, and quite unsuited to the present circumstances of the country.

In reply to the second head of inquiries, I cannot, for the reasons already stated, suggest any amount for a rent or property qualification for voters.

In reply to the third head, I have to say, that I would not recommend any increase in the number of electoral districts. I do think the divisions made on the promulgation of the royal charter, and under the proclamation of his Excellency Sir Thomas Cochrane, are the best that can be made. A subdivision almost in any way that could be contemplated, giving certain portions of the various districts the right of electing members, would be open to the objection made against the old small borough system. The objections to the present extent of electoral districts would have been effectually remedied by the Election Bill of last session, had it passed into a law. By that Act polling places were to be established in the most convenient positions; the voting was to be simultaneous; every voter would have an opportunity of exercising his franchise in his own immediate neighbourhood.

Instead of increasing the number of districts, I would recommend an election law in principle similar to the Bill that passed the House of Assembly in the last session.

As respects an increase in the number of representatives, I strongly recommend it. The present number of 15 are not adequate to the discharge of the public business. Under the present system, the Speaker and five other members form a quorum; notwithstanding, they had frequently to adjourn for want of a sufficient number. I could, from my own experience in the House, adduce many other reasons for an increase; the necessity of it is so obvious, and so universally admitted, that I consider it unnecessary to urge further arguments in support of an increase. The mode I would recommend would be, to double the number in each of the electoral districts. Thirty members would, in my opinion, give a fair proportion of representatives to all parts of the island.

On the subject of the fourth and last head of inquiry, the *minimum* amount of qualification for a member of the House of Assembly, if it should be decided that a property qualification be necessary, I must say that it should not exceed a freehold of 25 *l.*, a rental of 50 *l.*, or the possession of chattel property to the amount of 400 *l.*; a qualification somewhat similar to

NEWFOUNDLAND. that adopted in the corporations of the provincial towns in England and Ireland under the new Corporation Acts.

In proposing a property qualification, I am influenced more out of deference to certain respectable and influential classes of the community than from any opinion of my own of the necessity of such a test. If the number of the House of Assembly were increased, and some defined and constitutional control adopted over the initiation of all money votes, I do think that the selection of fit and proper persons to represent the various interests of the colony might safely be left to the householders throughout the island, and without any other limitation than is contained in the present charter.

I hope it may not be considered presumptuous in me to state, in conclusion, my humble opinion, that if the present constitution, so generously and liberally granted by his late Majesty, has not been found to answer the expectations formed at the commencement, the fault does not lie in the constitution.

The framers of it displayed great knowledge of the peculiar state of the colony, and, under all the circumstances, it was well calculated to promote the object contemplated.

The difficulties which it would have to encounter in its working were clearly pointed out in the profound and eloquent despatch of Lord Viscount Goderich, transmitting his Majesty's royal authority to Sir Thomas Cochrane to convene a General Assembly in Newfoundland.

I have, &c.

* * *

VOTERS.

No. 2.

1. I CONSIDER, in the present state of Newfoundland, a property qualification impracticable and unjust; it would have the effect to disfranchise the greatest and best part of the population. In a moral and political point of view, I consider household suffrage the best that has yet been discovered. A householder is, for the most part, a husband and a father, having a fixed locality; the peace of his community, the prosperity of his country, must be dear to him. The valuable boon bestowed by King William IV. of happy memory would be looked upon by the people as an unusual, an unmerited and unconstitutional withdrawal of a royal act of grace. The character of a householder ought to be clearly defined, and a rigid registration obtained.

2 & 3. A considerable addition to the number of members to the House of Assembly is necessary for the due performance of the increasing business of the colony; especial care, however, should be taken in the division of the electoral districts, that they do not lapse into close districts. The more diffused an electoral body, the candidate must calculate more for success on his fame and character than upon the force of his purse or the influence of family connexions. The towns ought to be incorporated, and the right to return members to the Assembly conceded to them; to a town possessing a population of 2,000 and upwards, one member; to a town possessing a population of 5,000 and upwards, two members.

4. The qualification as required by law for a member to the Canadian Parliament would be ample for a member to the Assembly of Newfoundland; the character and the independence of the Assembly would be enhanced by a similar law.

* * * *

I believe that the above regulations would be easily and most constitutionally effected by the local legislature.

* *

No. 3.

Sir,

St. John's, 8 February 1842.

I HAVE the honour to send you herewith my answers to the several interrogatories you transmitted to me by order of his Excellency the Governor. The documents appended, and to which my answers have reference, I have to request may not be made use of further than for the information of his Excellency, and that of Her Majesty's Government.

I have, &c.

* * *

To the Hon. James Crowdy, &c. &c. &c.

1. I do not think that a rent or property qualification would be productive of much, if of any, practical advantage. Household suffrage, guarded by an efficient system of registry, together with simultaneous voting under a new division of the electoral districts, such as I recommended in my communication to the Right honourable Her Majesty's Principal Secretary of State for the Colonies, Lord John Russell, in July last, would, in my humble opinion, go far to render any other qualification unnecessary. Were no more than one person allowed to vote for one and the same house, that highly objectionable class of voters, lodgers and paupers, would be excluded. It is only in the principal towns, *e. g.*, Saint John's, Harbour Grace and Trinity, where property to any extent is held under a rental. In nearly all the other settlements the inhabitants occupy premises which have descended to them from their ancestors, or land which they have themselves redeemed from the wilderness, for which they pay no rent to the Crown, and on which they have built for the

the

the convenience of their families, and the purposes of the fishery. I would further remark, that such property is in a great degree valuable only so long as it be thus occupied, and that the annual rent of an ordinary house in St. John's would be almost equivalent to the full value of these freeholds, and in many instances much more. Thus it will be seen, that the rent-payers of St. John's are an equally respectable class of persons with those who term themselves freeholders in the smaller settlements; in fact, that these are the same class of persons.

A 10*l.* rent qualification at St. John's would exclude nearly all the labouring portion of the inhabitants, whilst a 5*l.* qualification would exclude but few.

2. If any rent qualification be adopted, I think 4*l.* sterling, or 5*l.* currency, would be the most satisfactory to the public; and it might be argued by those who are in favour of some such qualification, that it would in its tendency aid any other measure which might have for its object the exclusion of lodgers and paupers from the right of voting. It might also be desirable to adopt another and a distinct qualification for freehold property of the value of 5*l.* per annum in the district of St. John's, and 40*s.* per annum in the other electoral districts.

3. I do recommend an increase in the members, and also in the numbers of the electoral districts, for the reasons given in my communications to Lord John Russell, a copy of which I have the honour to send herewith.

4. I have strong doubts whether a property qualification would have the effect of securing a more respectable body of representatives. If the electors themselves be placed in a respectable and independent position, then there is but little danger to be apprehended from the choice they may make of their representatives. But if any property qualification be adopted, I think the sum of 1,000*l.* sterling, free of all incumbrances, would be the lowest amount at which it could be advantageously fixed.

No. 4.

Sir,

St. John's, 4 February 1842.

THE questions which you have proposed to me are involved in so much difficulty (particularly as respect the qualifications of voters) that I am quite at a loss how to reply to them, with satisfaction to myself and utility to the public.

Having been one of those who first advocated a local legislature for Newfoundland, and indeed one of its most strenuous advocates, I am naturally led back to consider the terms on which such a boon was sought from the Parent Government, and I find that the petitioners asked for a legislature similar in all respects to that of Nova Scotia, in 1830, which had been found by experience to have worked well, and which I presume would have been satisfactory to all parties, if similar qualifications had been fixed at the commencement of our local government; but his Majesty's Government decided on making an experiment in Newfoundland widely differing from the constitution petitioned for; and this may have thrown a difficulty in the way of now returning to the model of Nova Scotia, which at the time would have been most acceptable, and would, in my opinion, have prevented in a great measure those heart-burnings and differences which have since distracted this once peaceful community.

I enclose my answers to the questions proposed by his Excellency.

The Hon. James Crowdy, &c. &c. &c.

I am &c.
(signed) * * * *

N. B. "The qualifications for a vote or representation in Nova Scotia are either a yearly income of 40*s.* derived from real estate within the particular county or town for which the election is held, or a title in fee-simple of a dwelling-house and the ground on which it stands, or 100 acres of land, five of which must be under cultivation. It is requisite that the title be registered six months before the test of the writ, unless it be by descent or devise."—*Haliburton's History of Nova Scotia*, vol. ii., page 321.

1. A moderate rent or property qualification would, in my opinion, effect no change in the present constituency, as voters are now required to be male housekeepers, occupying a dwelling-house, as landlord or tenant, for one year, and few dwellings in Newfoundland would be valued at less than 5*l.* per year.

I think a 40*s.* freehold would be the best qualification, and the registration of the title-deeds would prevent disputes at the hustings; most persons resident in the outports possess such property; but as land in this colony generally sells for about 10 or 12 years' purchase, persons possessing but slender means might qualify themselves if they felt so inclined; voters should have some permanent holding in the colony.

Five pound to 10*l.* rent in St. John's, and 40*s.* in the country districts, would not, in my opinion, disfranchise any householder, as every tenant agrees, or would agree, for a rent to that extent.

2. Forty shilling freeholders, as in Nova Scotia; or if it be deemed requisite to extend the franchise to tenants, then 10*l.* rent in St. John's, and 5*l.* in the outports, with two years' residence in the district; this would not tend to disfranchise persons long resident, or who may be presumed to have sufficient local knowledge to form a correct judgment of the qualifications of candidates, but would merely throw out strangers and raw youngsters recently imported from England or Ireland.

NEWFOUNDLAND.]

3. I recommend the division of Conception Bay into four districts, in order that every class of Her Majesty's subjects may be fairly represented, which is not the case at present; and also that every other electoral district, whose population by the census of 1836 exceeds 5,000, and which now returns but one member, shall return two members to the General Assembly; and that all the votes be taken in one day, if practicable.

The division of Conception Bay to be as follows :—

- 1st. Bay de Verd to Salmon Cove inclusive.
- 2d. Thence to Spaniard's Bay inclusive.
- 3d. Thence to Cupid's inclusive.
- 4th. Thence to Topsail inclusive.

4. A clear annual income of 100*l.*, or personal property to the amount of 2,000*l.*, over and above the payment of all just debts to which the candidate must qualify by affidavit.

This latter qualification may appear high; but if it should at any time be the intention of Her Majesty's Government to nominate executive councillors from among the members of the Assembly, it must be absolutely requisite that such members should possess some considerable stake in the colony.

No. 5.

Sir,

St. John's, 27 January 1842.

I HAVE the honour to acknowledge the receipt of your note of the 24th instant, which I did not receive until yesterday, enclosing questions relative to voters, and qualification of members for this colony, and now respectfully enclose my answers thereto, which you will be pleased to lay before his Excellency the Governor.

I have, &c.

The Hon. James Crowdy, &c. &c. &c.

* * *

1. I beg respectfully to state that the effect, in my opinion, of a rent or property qualification would be to prevent many persons who have hitherto been received as voters, and have had the occupation of a single room, as under-tenant, from voting at elections, as well as those who have occupied, during the fishing season, huts built for the accommodation of fishermen and shoremen during that period, and the occupation of a room as under-tenant in town, or from residence during the winter in a tilt in the woods, and in fishing-huts for twelve months previous to the time of election.

The advantages that would result from such a regulation or law would be to disfranchise many adventurers arriving from the mother country or the colonies, having no property or stake in this colony, and who have hitherto been allowed to vote from the occupation of a hut of nominal value in the woods, or a room as under-tenant in town.

The rate at which I should fix the qualification for a voter in the country would be 40*s.*, on proof of the voter holding property by grant or occupation previous to the year 1825, when the Imperial Government authorized his Majesty to grant waste lands, and having erected a house thereon, and cleared two acres of land of the same.

The qualification of a voter in this town being limited from 5*l.* to 10*l.* rent would have the effect of depriving many persons who have hitherto been allowed a vote as under-tenants in the dwelling-houses of their landlords, the sum paid by such tenants being from 3*l.* to 4*l.* per annum on an average; there are but few under-tenants in the country districts, and the number of landlords or tenants that would be disqualified in town would be inconsiderable, and but few in the outports or neighbourhood, should the qualification be fixed at 40*s.*

2. I would respectfully suggest that the qualification for a voter should be a residence for two years in the district in which he is to vote, and having occupied a house by himself for twelve months before the time of election, which, in my opinion, would have the effect of shutting out transient visitors; and as respects the rental of property, the payment of 5*l.* a year by a tenant, or the rating upon the dwelling-house of an occupant, owner of the same amount, should be a sufficient qualification; provided sub-tenants and tenants living in the same house with the landlord or tenant be disqualified from voting.

3. I would respectfully recommend an increase of members in the number of electoral districts, for the reason, that at present persons of influence in extensive districts, namely, clergymen, or a merchant supplying largely, may exert that influence in favour of a person of low degree, and entirely destitute of those legal acquirements necessary in a legislator, as was found to be the case in the last return of some members for this colony, which would not be likely to be the case if that district were divided, when the candidates and their qualifications would be better known to the voters generally than they can by possibility be under the present system; also, by increasing the number of electoral districts, and having the polling simultaneous, much of that influence would be lessened, as the votes would be given in the absence of those by whom they would otherwise be controlled.

4. The minimum amount of qualification, which I would respectfully recommend, would be an office of the yearly value of 100*l.* sterling, or property yielding or being valued at the same amount.

Many persons during the last election were allowed to vote in consequence of having lived in a tilt during the winter, in which they had no property (having no grant), and in fishing-huts in Loggy Bay during the summer.

Residence

Residence during the winter months, in a room in town, as sub-tenant, and occupation of a fisherman's hut during the summer, was also held to be a good vote. NEWFOUNDLAND.

The votes of such persons as above described were taken in my presence during the last election.

To enable me to form an opinion of the number of persons that may be disqualified from voting, I have had reference to the state of the poll at the last election for this district, by which it appears, that 239 unregistered votes were taken by the returning officer; and if joint-tenants, occupiers of huts in the woods, and transient persons, be deemed ineligible, I should estimate the reduction of votes, or disqualification of voters, to about 200, or at most 250.

STATE of the POLL at the Election in May 1840, compared with the Registry of Voters deposited in the Government-office, showing the Majority of legally-qualified Voters in favour of Mr. Douglas.

<i>Mr. Douglas.</i>			<i>Mr. O'Brien.</i>	
Registered Votes.	Votes not registered.		Registered Votes.	Votes not registered.
1,379	124		1,148	363
<i>Registered Voters.</i>				
<i>Mr. Douglas</i>	-		-	1,379
<i>Mr. O'Brien</i>	-		-	1,148
<i>Majority for Mr. Douglas</i>				- - - 231
Number of Votes taken				- - - 3,014
Ditto - registered				- - - 2,775
Not registered				- - - 239

By the Register for 1841, there are 114 joint tenants.