

# JOURNAL

OF

**HER MAJESTY'S COUNCIL**

OF

**NEWFOUNDLAND.**



**SECOND & THIRD SESSIONS, SECOND GENERAL ASSEMBLY.**

**His Excellency HENRY PRESCOTT, Esquire,**

*Companion of the Most Honorable Military Order of the Bath,*

**GOVERNOR.**



*St. John's, Newfoundland.*

*PRINTED BY RYAN & WITHERS, PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.*



**1838.**

1838



UNITED STATES DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY

WATER RESOURCES DIVISION



REPORT

OF THE

UNITED STATES GEOLOGICAL SURVEY

AND



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# JOURNAL.

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## PROCLAMATION.

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(L. S.)  
H. PRESCOTT. By His Excellency HENRY PRESCOTT, Esquire, Companion of the Most Honorable Military Order of the Bath, Governor and Commander-in-Chief in and over the Island of Newfoundland and its Dependencies, &c.

**W**HEREAS the GENERAL ASSEMBLY of this Island stands Prorogued until Monday the Fifth of February next; And Whereas I think fit further to Prorogue the said General Assembly until Monday the Seventh of May next:

I do therefore by these presents Prorogue the said GENERAL ASSEMBLY until Monday the Seventh of May next, of which all Persons concerned are required and commanded to take due notice and govern themselves accordingly.

Given under my Hand and Seal, at the Government-House at St. John's, in the aforesaid Island, the Twenty-second day of December, 1837, in the first year of Her Majesty's Reign.

By His Excellency's Command,  
JAMES CROWDY,  
Secretary.

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## PROCLAMATION.

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(L. S.)  
H. PRESCOTT. By His Excellency HENRY PRESCOTT, Esquire, Companion of the Most Honorable Military Order of the Bath, Governor and Commander-in-Chief in and over the Island of Newfoundland and its Dependencies, &c.

**W**HEREAS the GENERAL ASSEMBLY of this Island stands Prorogued until Monday the Seventh day of May next: And Whereas I think fit further to Prorogue the said General Assembly until Wednesday the Twentieth day of June next:

I do, therefore, by these presents, further Prorogue the said GENERAL ASSEMBLY until Wednesday the Twentieth day of June next, then to meet for the despatch of business; of which all Persons are required and commanded to take due notice and govern themselves accordingly.

Given under my Hand and Seal, at the Government-House, at St. John's, in the aforesaid Island, the Sixteenth day of April, 1838, in the first year of Her Majesty's Reign.

By His Excellency's Command,  
JAMES CROWDY,  
Secretary.



PROCLAMATION

By His Excellency HENRY BRIDGES, Esquire, Companion of the Bath, Governor and Commander-in-Chief in and over the Island of Newfoundland and its Dependencies, &c.

(A. 2.)  
H. BRIDGES

WHEREAS the General Assembly of this Island stands prorogued until Monday the 17th of February next: And Whereas I think it expedient to prorogue the said General Assembly until Monday the 24th of the said month:

I do therefore by these presents prorogue the said General Assembly until Monday the 24th of the said month: And I do command that all persons concerned are required and commanded to take due notice and give due obedience accordingly.

Given under my hand and seal, at the Government House at St. John's, in the aforesaid Island, the Twenty-second day of October, 1837, in the first year of Her Majesty's reign.

By His Excellency's Command,  
JAMES CROWEY,  
Secretary.



PROCLAMATION

By His Excellency HENRY BRIDGES, Esquire, Companion of the Bath, Governor and Commander-in-Chief in and over the Island of Newfoundland and its Dependencies, &c.

(A. 2.)  
H. BRIDGES

WHEREAS the General Assembly of this Island stands prorogued until Monday the 24th of the said month: And Whereas I think it expedient to prorogue the said General Assembly until Wednesday the 27th of the said month:

I do therefore by these presents prorogue the said General Assembly until Wednesday the 27th of the said month: And I do command that all persons concerned are required and commanded to take due notice and give due obedience accordingly.

Given under my hand and seal, at the Government House, at St. John's, in the aforesaid Island, the sixteenth day of April, 1838, in the first year of Her Majesty's reign.

By His Excellency's Command,  
JAMES CROWEY,  
Secretary.

# HER MAJESTY'S COUNCIL.

## NEWFOUNDLAND.

SECOND SESSION, SECOND GENERAL ASSEMBLY,  
2nd VICTORIA.

Wednesday, 20th June, 1838.

This being the day appointed for the meeting of the Colonial Legislature—

At half-past One of the Clock, p. m., the House met—

House meets.

Present,

*The Honorable* ARCHIBALD WALKER, *Commandant.*

Members present.

“ “ JAMES SIMMS, *Attorney-General.*

“ “ JAMES CROWDY, *Colonial Secretary.*

“ “ JOHN DUNSCOMB.

“ “ WILLIAM THOMAS.

“ “ JOHN B. BLAND.

“ “ JOHN SINCLAIR.

At Two of the Clock, p. m., His Excellency the Governor having arrived at the Council Chamber, and being seated on the Throne, the Honorable the President of the Council commanded the Gentleman Usher of the Black Rod to go to the Commons House of Assembly, and inform the Members that it was His Excellency's pleasure that they do forthwith attend at the Bar of this House; and they being come thereto His Excellency was pleased to open the present Session by a Gracious Speech to both Houses, of which the following is a Copy:—

His Excellency the Governor arrives at the Council Chamber.

The Assembly summoned to attend him.

*Mr. President and Honorable Gentlemen of the Council;*

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

It gives me particular pleasure to meet you on this day, the auspicious anniversary of our beloved Sovereign's Accession—may your labours contribute to the fulfilment of Her Majesty's ardent desire for the prosperity and happiness of this important Colony.

His Excellency's Speech.

I shall have the honor of laying before you the Copy of a Despatch from Lord Glenelg by which you will learn that the Queen has been graciously pleased to offer Her Royal Mediation for the settlement of those differences between the Council and the House of Assembly which last year unfortunately prevented the passing of any Appropriation Act.

I feel confident that an adoption of the measures suggested by Her Majesty will obviate similar misunderstandings in future, and afford the best means of securing a satisfactory application of the Public Funds.

My remarks at the opening of the last Session respecting the Acts for the Relief of Disabled Seamen, Fishermen, and other Persons, and for the encouragement of Education, I beg once more to offer to your consideration—I must also renew the recommendation to your favor and protection of the Hospital at River Head, the benefit of that Institution having become more and more apparent.

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

I shall immediately transmit to you Copies of Despatches in answer to your late Addresses to Her Majesty or to Her Majesty's Government.

In consequence of the peculiar and painful incident attendant on the Prorogation, I have found myself compelled during the recess to assume the responsibility of issuing Warrants

20th June, 1838.

SECOND SESSION, SECOND GENERAL ASSEMBLY, 2nd VICTORIA.

for such Sums as were indispensably necessary for the Administration of Justice, for the reception and support of Pauper Patients in the Hospital, and for Relief to the Poor in cases of extreme destitution. The way in which I have done this will, I hope, be found entirely consistent with the respect due to the Legislature and to the undoubted privileges of the House.

The deficiency of Seed Potatoes, owing to a scanty Crop and early Frost in 1837, was placed under my observation in such a manner as rendered it impossible for me to withhold considerable assistance in alleviation of a want so serious and so pressing, and which might otherwise have occasioned results in the highest degree calamitous.

The Estimates for the approaching financial year shall be prepared without delay—Those for the year about to expire are already in your possession.

It is, I am sure, unnecessary to enforce the expediency of my being promptly enabled to pay up the fixed Salaries, and to discharge the various outstanding claims upon the Government.

I am desirous to recall your attention to my former suggestion as to the propriety of making provision for a Stipendiary Magistrate at the Burgeo Islands, and I would propose a like arrangement for La Poile, a place apparently of increasing importance, and where the recent appointment of a Custom House Officer has proved advantageous to the Revenue.

My recommendation for the establishment of a Colonial Vessel I must also earnestly repeat, and I shall lay before you a letter from Her Majesty's Principal Secretary of State bearing upon this in conjunction with other important matter.

The defective state of the Jail and Court House of this Town has been frequently brought to your notice.

It is hardly requisite for me to mention that the Revenue Act, unless extended, will cease on the 18th of November next.

*Mr. President and Honorable Gentlemen of the Council ;*

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

I invite your attention to a Despatch from my Lord Glenelg of the 3rd of January, on the subject of Crown Lands. You will observe under what limitations I am therein permitted to assent to an Act for their future regulation.

Until such an Act be presented for my acceptance, or 'till the end of this Session, I shall adhere to existing Rules; but should no legislative enactment be made, I am directed, as you will perceive, to pursue a new system in the alienation of the Lands of the Crown.

I have to recur to my former proposition for a revision of the 5th Wm. 4, 2nd Session, Cap. 5, and of the 4th Wm. 4, 2nd Session, Cap. 6, with reference to the probable expediency of their consolidation into one Act.

In connexion with this subject the Report of the Commissioners for the regulation of Statute Labor which was last year submitted to you, I again recommend as worthy of particular and favorable attention.

The Act for the more speedy abatement of Nuisances seems likewise capable of improvement, and on this point I shall supply you with transcripts of a communication from the Police Magistrates of Saint John's.

A review of the present scale of fees is much to be desired—It would perhaps be advisable that certain Public Functionaries should have a sufficient Salary totally independent of fees, which, in such case, might, with a rateable deduction for collection, be carried to the general account; and that every description of Service for which Officers can claim remuneration, as well as the amount of remuneration, should be ascertained by law.

I will only further occupy your time to say that on the topics to which I have adverted, or on others which may be discussed either in the Council or in the House of Assembly, I shall be happy to afford such information as I possess, and to facilitate your operations to the utmost of my power.

The House of Assembly having withdrawn, His Excellency was pleased to retire.

Ordered, that the Honorable Messrs. Simms and Thomas be a Select Committee to draft an Address to the Governor in answer to His Excellency's Speech.

On motion made and seconded, the House adjourned until Friday next.

Committee appointed to draft an Address to the Governor in reply to His Speech.

House adjourns.

22nd June, 1838.

HENRY PRESCOTT, Esquire, Governor.

FRIDAY, 22nd JUNE, 1838.

The House met pursuant to adjournment.

House meets.

Present,

The Honorable ARCHIBALD WALKER, Commandant.

Members present.

“ “ JAMES SIMMS, Attorney General.

“ “ JOHN DUNSCOMB.

“ “ WILLIAM THOMAS.

“ “ JOHN B. BLAND.

The Minutes of Wednesday last were read.

The Honorable the Attorney General, from the Committee appointed to draft an Address to His Excellency the Governor in answer to his Speech at the opening of the Session, reported a draft thereof.

Attorney General reports draft of Address to the Governor in reply to his Speech—

Ordered, that the same be received.

The Address was then read a first time.

Read 1st time.

Ordered, that the 38th Standing Rule of the House, so far as it respects the Address, be dispensed with—

Whereupon the Address was read a second time, and—

Read 2nd time.

Ordered, that the House go into Committee on the same presently.

The House accordingly went into a Committee of the whole.

Committed.

The Honorable Mr. Bland in the Chair.

After some time the House resumed.

The Chairman reported the Address.

Reported.

Ordered, that the Report be received.

The Address was then read a third time and passed, and is in the following words:—

Read 3rd time and passed.

To His Excellency HENRY PRESCOTT, Esquire, Companion of the Most Honorable Military Order of the Bath, Governor and Commander-in-Chief in and over the Island of Newfoundland and its Dependencies.

MAY IT PLEASE YOUR EXCELLENCY,

We, Her Majesty's dutiful and loyal subjects the Council of Newfoundland in General Assembly convened, beg leave to offer our respectful thanks for Your Excellency's Gracious Speech on opening the present Session of the General Assembly.

The Address.

We beg to assure Your Excellency that we sensibly feel and desire gratefully to acknowledge the gracious condescension of Her Majesty the Queen in offering her Royal Mediation for the Settlement of those differences between the Council and the House of Assembly which last year unfortunately prevented the passing of any Appropriation Act; and Your Excellency may rely that when you shall have laid before us the Copy of the Despatch from Lord Glenelg referred to by Your Excellency, we shall carefully address ourselves to the consideration of all the suggestions which it may propose to us with all the calmness that a subject of such deep importance demands; and with a sincere and anxious desire to adopt any measures suggested by Her Majesty in order to obviate similar misunderstandings in future, and to secure a satisfactory application of the Public Revenues.

We beg to assure Your Excellency that we feel earnestly solicitous that the several Acts for the Relief of Disabled Seamen, Fishermen and other Persons, and for the encouragement of Education, should be carried into efficient operation, and that if any emendations of those Acts be required, in order to render them more efficient in the accomplishment of their purposes, we shall gladly co-operate in the means to make them the more perfect.

We are also sensibly alive to the benefits which the public at large have already derived from the Hospital at River-Head, and we feel earnestly desirous to render that institution as efficient as possible.

The subject relative to Crown Lands, to which Your Excellency has invited our attention, shall, when the despatch from Lord Glenelg shall be laid before us, receive our serious and careful consideration.

20<sup>th</sup> June, 1838.

SECOND SESSION, SECOND GENERAL ASSEMBLY, 2nd VICTORIA.

The revision of the Acts to regulate the Making and Repairing of Roads and Highways, passed in the fourth and fifth years of His late Majesty King William the Fourth, is a subject to which we are desirous to lend our aid, with a view to render those Acts more practicable and beneficial, and we shall also gladly co-operate in promoting any amendments required in the Act for the more speedy abatement of Nuisances.

We shall also cheerfully co-operate in the revision of the Scales of Fees to be allowed to public functionaries, with a view to place them on a more suitable and improved footing, calculated to meet the just claims of Public Officers to adequate remuneration and to protect the just rights of the public at large.

A. WALKER,  
*Lieutenant-Colonel, Commanding the Troops,*  
*President.*

Council Chamber,  
22nd June, 1838. }

Ordered, that a Select Committee be appointed to wait on His Excellency the Governor, to know when he will be pleased to receive this House with its Address.

Ordered, that the Honorable Messrs. Dunscomb and Thomas be the Committee for that purpose.

Committee appointed to wait on the Governor to know when he will receive the Address. The Committee.

House adjourns.

On motion, made and seconded, the House adjourned until Monday next.

MONDAY, 25th JUNE, 1838.

House meets.

The House met pursuant to adjournment.

**Present,**

Members present.

*The Honorable* ARCHIBALD WALKER, *Commandant.*

“ “ JAMES SIMMS, *Attorney-General.*

“ “ JAMES CROWDY, *Colonial Secretary.*

“ “ JOHN DUNSCOMB.

“ “ WILLIAM THOMAS.

“ “ JOHN B. BLAND.

“ “ JOHN SINCLAIR.

The Minutes of Friday last were read.

Select Committee report that His Excellency will receive the Address on Wednesday.

The Honorable Mr. Thomas, from the Select Committee appointed to wait on the Governor to know at what time he would receive the Address of the House, reported that His Excellency had been pleased to appoint Wednesday next at noon for that purpose.

House adjourns.

On motion, made and seconded, the House adjourned until Wednesday next at half-past Eleven o'Clock, a. m.

WEDNESDAY, 27th JUNE, 1838.

House meets.

The House met pursuant to adjournment.

**Present,**

Members present.

*The Honorable* ARCHIBALD WALKER, *Commandant.*

“ “ JAMES SIMMS, *Attorney General.*

“ “ JOHN DUNSCOMB.

“ “ WILLIAM THOMAS.

“ “ JOHN B. BLAND.

“ “ JOHN SINCLAIR.

The Minutes of Monday last were read.

House proceeds to Government House with their Address.

At a quarter before Twelve o'Clock, a. m., the House proceeded to the Government-House with their Address in answer to His Excellency's Speech at the opening of the Session.

At a quarter past Twelve of the Clock, the House having returned, the Honorable the President reported that His Excellency had been pleased to receive the said Address and to

27th &amp; 29th June, 1838.

HENRY PRESCOTT, ESQUIRE, *Governor.*

return an answer thereto, of which he had obtained a Copy, and which is in the following words :—

*Mr. President and Honorable Gentlemen of the Council ;*

I thank you for this Address and for the cordial manner in which you promise to consider the subjects which I have recommended for your deliberation. Governor's Reply.

On motion, made and seconded, the House adjourned until Friday next. House adjourns.

FRIDAY, 29th JUNE, 1838.

The House met pursuant to adjournment. House meets.

**Present,**

<p><i>The Honorable</i> ARCHIBALD WALKER, <i>Commandant.</i>          “ “ JAMES SIMMS, <i>Attorney-General.</i>          “ “ JAMES CROWDY, <i>Colonial Secretary.</i>          “ “ JOHN DUNSCOMB.          “ “ WILLIAM THOMAS.          “ “ JOHN B. BLAND.          “ “ JOHN SINCLAIR.</p>	<p>Members present.</p>
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The Minutes of Wednesday last were read.

The Honorable Mr. Secretary Crowdy, by direction of His Excellency the Governor, presented the following documents— Documents presented by Mr. Secretary Crowdy.

Viz.

A Despatch from the Secretary of State, dated 3rd January, 1838, on the subject of Land.

A Despatch from the Secretary of State, dated 11th January, 1838, on the subject of the illicit Trade carried on between Foreign Fishermen and the English Fishing Vessels of Newfoundland, as reported by Captain Bennett of Her Majesty's Ship Rainbow.

A Despatch from the Secretary of State, dated 1st February, 1838, in reply to the Address of the Council on the loss of the Appropriation Bill.

A Despatch from the Secretary of State, dated 6th March, 1838, stating that in the Governor's Instructions, which will accompany his renewed Commission, the name of the Chief Justice will be omitted as a Member of the Council.

A Despatch from the Secretary of State, dated the 10th November, 1837, enclosing an opinion of the Attorney and Solicitor General on the subject of the validity of the Writs.

On motion of the Honorable the Attorney General, seconded by the Honorable Mr. Crowdy, it was— On motion—

Ordered that the three last named Despatches be entered on the Journals of the Council. Three Despatches to be entered on the Journal.

The Despatches are as follow :

DOWNING-STREET, 1st February, 1838.

No. 169.

SIR,

I have had the honor to lay before the Queen the Address from the Council of Newfoundland in their Legislative capacity, which was enclosed in your Despatch No. 61, of the 22nd of November, 1837, on the subject of the questions controverted between that body and the House of General Assembly, during the last Session, and I have received Her Majesty's commands to return the following answer. Despatch from Secretary of State in reply to Council's Address on the loss of the Appropriation Bill.

The Queen deeply regrets the inconvenience to which Her faithful subjects in Newfoundland will be exposed by the loss of the Bill of Supply for the current year ; and regards with lively concern the jealousies between the two Branches of the Local Legislature which led to that unfortunate result. The Queen, however, indulges the hope that her mediation will be accepted by both the parties to this discussion, and that it will be effectual for re-establishing a good understanding between them, especially as their conflicting claims appear to originate rather in a mutual misapprehension than in any deeper and more settled cause.

29th June, 1838.

SECOND SESSION, SECOND GENERAL ASSEMBLY, 2nd VICTORIA.

The Constitution of the Legislature of Newfoundland is avowedly modelled on that of the Imperial Legislature,—with regard to money grants, however, a distinction prevails. In the House of Commons no grant of money can be initiated except by the Crown. This rule, practically, does not exist in the House of Assembly, nor indeed in the Houses of Assembly of the British Provinces on the Continent of North America. In the latter a substitute has been devised, not less effectual in its operation, and more consonant with the general spirit of the Provincial constitution. It consists in the practice of either granting the Supplies for the Year by a series of Bills, each of which is in turn sent up to the Council for acceptance, or in granting the Supplies by separate Resolutions, in each of which successively the concurrence of the Council is obtained before it is included in the general Appropriation Act. In this respect the Assemblies are subject to a restriction from which the House of Commons is exempt—a restriction which has still in view the same object, that of affording to the people a security against the misuse of that high trust which the constitution commits to their representatives.

If the Assembly should establish and exercise the double right of deciding without the intervention of the House, first on the amount of the public expenditure, and secondly, on the specific objects to which it should be applied, and if the only practical check on this power should consist in the right to reject all the votes of the Session collectively, it is plain that a system would be introduced unknown either in the mother country or in the British North American Provinces, and it is equally plain that such a system would be attended with very grave inconvenience. Besides other evil consequences it would reduce the Council and the Governor to the dilemma of making, with a view to peace, concessions disapproved by their deliberate judgment, or of acting on that judgment to the derangement for Twelve Months of the whole internal economy of the Local Government.

Her Majesty is therefore of opinion that the House of Assembly would exercise a sound and enlightened judgment in acquiescing either in the Parliamentary Rule which leaves to the Crown the first suggestion of all Money Grants, or in the Rule of the Provincial Legislature which brings every such grant under the separate revision of the Council—otherwise the extreme right on the one side must be encountered by a right equally extreme on the other side, and the contests between the two Houses of the Local Legislature must be pursued at the expense of the people.

But although there can be no doubt that the Council should exercise freely and fearlessly the right of rejecting an Appropriation Act, it does not therefore follow that a judicious use was made of this right on the present occasion. Her Majesty having been appealed to by the Council desires to express, though with every feeling of respect for the Legislative Council, a different opinion.

The Appropriation Bill appears to have been rejected by the Council, because various important services were provided for inadequately—because the Supply was voted in such very minute detail as to bring under the revision of the Assembly the case of each Public Officer, not excepting those who filled the most humble and obscure places—and because the Sums voted for Contingencies were considered as an unjustifiable diversion of the Public Revenue from its proper objects to the personal advantage of the individual Members of the House of Assembly. However much the deficiency of the Supply or the extreme minuteness of the Appropriation might justly be regretted, these circumstances do not seem to afford any valid reason for the rejection of the Bill. The third reason indeed involves so grave an imputation that it is difficult to discuss it without trenching on the deference due to the Representative Assembly of Newfoundland. Such an imputation, it is clear, ought not to be cast without the utmost caution, and on the clearest proof. It is, of course, not to be admitted merely on inference and conjecture, nor does the amount of Money involved in the question warrant such a conclusion. Considering, also, that so unworthy an abuse of the most sacred and honorable public trust could hardly fail to be visited with the censure of society at large, the Council might, it should seem, safely refer the offending parties to the tribunal of public opinion, with a reasonable security that at no distant time it would be expressed in unequivocal terms, even against those who for the moment might appear to enjoy the most unbounded popularity. If it were necessary to believe that such abuses had been really practised, it might well be

29th June, 1838.

HENRY PRESCOTT, Esquire, Governor.

doubted whether the authors of them would not derive impunity and encouragement from the public favour so readily bestowed on those who are engaged in a contest of which popular franchises are at least the invariable pretext. The case, therefore, ought to be exceedingly clear and strong which would justify the rejection of a Bill of Supply on the ground of a selfish misappropriation of the Public Money by the House of Assembly.

During a Session of Four Months continuance, the Sums appropriated under the head of Contingencies amounted to Two Thousand Three Hundred and Ninety-Three Pounds, Six Shillings and Three Pence, a Sum considerable, it is true, when compared with the Expenditure of other Branches of the public service, and probably admitting of some retrenchment in future years, but not so large as to justify the very serious reproach cast on the Assembly of lavishly voting for their own benefit as individuals, money which ought to have been applied for the good of the public collectively. The practice of claiming a remuneration for serving in the Assembly, or at least an indemnity against the expenses of such service, cannot reasonably be condemned: it is sanctioned by many precedents and by many considerations of great weight. In the very delicate office of assessing the amount of their own remuneration there can hardly be a doubt that the Members of the House of Assembly will, on consideration, see the propriety of leaving to the Council a controul of the most unfettered kind, and will admit that this is a branch of the public expenditure over which it is emphatically needful that a constitutional jealousy should be exercised.

Adverting to the whole of this subject, the Queen commands me to signify through you to the Council Her Majesty's opinion, that if a Bill of Supply and Appropriation, substantially corresponding with the present, should again be sent up by the House of Assembly, it ought not to be rejected on the grounds assigned by the Council for the rejection of the present Bill.

I have, &amp;c.

(Signed,)

GLENELG.

Governor PRESCOTT, &amp;c. &amp;c. &amp;c.

DOWNING-STREET, 6th March, 1838.

No. 183.

SIR,

My attention has been strongly directed, by the recent correspondence with respect to the differences between the Council and Assembly of Newfoundland, to the inconvenience and evils resulting from the Chief Justice being a Member of the Council. The opinion which I have formed on this subject is wholly irrespective of the imputations which have been cast on Mr. Boulton, and with regard to which I purposely abstain from offering any observation, as the allegations made against him have been referred for the consideration of a Committee of the Privy Council. But I am convinced that, as a general rule, the Chief Justice of the Colony ought not to be a Member of a Body involved in so many political discussions, and so continually brought into contact with the Representatives of the People. The combination of judicial with political duties, especially in a comparatively small community, unhappily much divided into parties, can scarcely fail to impair the general confidence in the Administration of Justice. In the Instructions, therefore, under the Royal Sign Manual, accompanying your renewed Commission, which the Demise of the Crown has rendered necessary, the Chief Justice will be omitted in the list of Councillors. You will, however, cause it to be understood that the change results on a general principle, and is intended to be permanent in its operation.

Despatch from Secretary of State, stating that in the Governor's Instructions the name of the Chief Justice will be omitted as a Member of the Council.

I have, &amp;c.

(Signed,)

GLENELG.

Governor PRESCOTT, &amp;c. &amp;c. &amp;c.

29th June, 1838.

## SECOND SESSION, SECOND GENERAL ASSEMBLY, 2nd VICTORIA.

Despatch from the Secretary of State relative to validity of Acts of the Legislature.

No 158.

SIR,

I have received your Despatch No. 49, of the 8th ultimo, in which you have enclosed, at the instance of the House of Assembly, a case to be submitted for the opinion of the Law Officers of the Crown, as to the validity of the Acts of the former Legislature of Newfoundland.

Having submitted this case for the consideration of the Attorney and Solicitor-General, they have reported to me their opinion that no informality in the issuing of the Writs for the Election of the Members of the Assembly can affect the Acts done by the Legislative Body.

I enclose you for your information a Copy of their Report.

I have, &amp;c.

(Signed,)

GLENELG.

GOVERNOR PRESCOTT, &amp;c. &amp;c. &amp;c.

TEMPLE, 17th October, 1837.

Opinion of Her Majesty's Attorney and Solicitor General on the same subject.

MY LORD,

We have to acknowledge the receipt of your Lordship's Letter of the 14th instant, together with a case prepared by the Attorney-General of the Island of Newfoundland, for the purpose of obtaining an opinion on the following points :

1st.—In case it shall be found that all the Writs issued in 1832, under which the Members of the House of Assembly in the Island were elected and sate during all the Sessions of the first General Assembly, was issued without Seals, whether the Acts of the Legislature are to be deemed consequently void.

2nd.—In case it should be found that Two only of the Fifteen Members of Assembly were Elected under Writs issued without Seals, whether such defect renders the Legislative Acts of the Governor and Assembly invalid.

We beg leave to state to your Lordship that we have fully considered the case submitted to us, together with the accompanying Papers, and we are clearly of opinion that no informality in the issuing of the Writs can affect the validity of the Acts done by the Legislative Body.—The absence of the Seal might perhaps have justified the Sheriff, or other Officer to whom it was directed, in treating the instrument as a nullity, and consequently refusing to proceed to an Election : But the Elections were in fact made, and we are of opinion that no objection could afterwards be raised to the form of the instruments under which the Returning Officers acted, so as to affect the Legislative powers of the persons returned.

Being of opinion that the Legislative competency of the Assembly would not be affected by the circumstance of *all* the Writs having been unsealed, we feel it hardly necessary to add that it could not be affected by the fact that *two* of the Writs issued without a Seal, supposing the rest to have been duly sealed.

We beg leave to add that it will be expedient for the future that all Writs for the Election of Members of Assembly should issue under the Seal of the Colony—all Writs being in strictness instruments under Seal.

(Signed,)

T. CAMPBELL.  
R. W. ROLFE.

2nd, 4th &amp; 9th July, 1838.

HENRY PRESCOTT, Esquire, Governor.

MONDAY, 2nd JULY, 1838.

The House met pursuant to adjournment.

House meets.

Present,

*The Honorable* ARCHIBALD WALKER, *Commandant.*

Members present.

" " JAMES SIMMS, *Attorney-General.*" " JAMES CROWDY, *Colonial Secretary.*

" " JOHN DUNSCOMB.

" " WILLIAM THOMAS.

" " JOHN SINCLAIR.

The Minutes of Friday last were read.

The Honorable Mr. Bland enters.

Member enters.

The Honorable Mr. Crowdy, by direction of His Excellency the Governor, presented an Estimate of the charge of defraying the Public Expenditure of the Colony for the year ending the 30th June, 1839.

Estimate of Expenditure for 1839, presented by Mr. Secretary Crowdy.

A Deputation from the House of Assembly brought up a Bill for the concurrence of this House, entitled "An Act for Granting to Her Majesty a Sum of Money for defraying the Expense of the Civil Government of this Colony, for the Year ending the Thirtieth day of June, in the Year of Our Lord One Thousand Eight Hundred and Thirty-Eight, and for other purposes;" which was read a first time, and—

Supply Bill brought up

and

read 1st time.

Ordered, to be read a second time on this day week.

On Motion made and seconded, the House adjourned until Wednesday next.

House adjourns.

WEDNESDAY, 4th JULY, 1838.

The House met pursuant to adjournment.

House meets.

Present,

*The Honorable* ARCHIBALD WALKER, *Commandant.*

Members presents.

" " JAMES SIMMS, *Attorney General.*" " JAMES CROWDY, *Colonial Secretary.*

" " JOHN DUNSCOMB.

" " WILLIAM THOMAS.

" " JOHN B. BLAND.

" " JOHN SINCLAIR.

The Minutes of Monday last were read.

On Motion made and seconded, the House adjourned until Monday next.

House adjourns.

MONDAY, 9th JULY, 1838.

The House met pursuant to adjournment.

House meets.

Present,

*The Honorable* ARCHIBALD WALKER, *Commandant.*

Members present.

" " JAMES SIMMS, *Attorney General.*" " JAMES CROWDY, *Colonial Secretary.*

" " JOHN DUNSCOMB.

" " WILLIAM THOMAS.

" " JOHN B. BLAND.

" " JOHN SINCLAIR.

The Minutes of Wednesday last were read.

The Honorable Mr. Bland moved, seconded by the Honorable Mr. Sinclair, that the order of the day for the second reading of the Supply Bill be discharged and that a Conference be requested with the Assembly—which, on a division, was lost.

Motion, that the order of the day for the 2nd reading of the Supply Bill be discharged—lost.

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## SECOND SESSION, SECOND GENERAL ASSEMBLY, 2nd VICTORIA.

Motion, that the order of the day for the 2nd reading of the Supply Bill be discharged—and that a resolution be sent to the Assembly.

The Honorable Mr. Sinclair moved, seconded by the Honorable Mr. Bland, that the order of the day for the second reading of the Bill entitled "An Act for Granting to Her Majesty a Sum of Money for defraying the Expense of the Civil Government of this Colony for the Year ending the Thirtieth day of June in the Year of Our Lord One Thousand Eight Hundred and Thirty-Eight, and for other purposes"—be discharged, and that the following Resolution be sent to the Assembly.

Resolved—That Her Majesty's Council regret that the Bill sent up from the Assembly, entitled "An Act for Granting to Her Majesty a Sum of Money for defraying the Expense of the Civil Government of this Colony for the Year ending the 30th day of June, One Thousand Eight Hundred and Thirty-Eight, and for other purposes"—should contain multifarious grants of Money for totally different and independent objects, and which should be made either the subject of divers Bills or separate Resolutions.

The Council observe that in the present Bill are embraced not merely the ordinary Supplies necessary for defraying the charges of Administering the Government, but also Grants for discharging the Incidental Expenses of the Legislature, as well as occasional Grants of Money for objects totally different from, and independent of, other parts of the Bill.

The Assembly claim the right of solely originating all Money Bills, and deny to the Council the right of altering or amending them. On the present occasion it may not perhaps be necessary for the Council to admit or refute this pretension; but it is necessary that the Council should take care that no alleged privileges of the Assembly should prevent them from preserving inviolate the powers delegated to them by the Crown, and from exercising them fearlessly, as the Public Service may require.

The right of unfettered discussion upon, and of assenting to, rejecting, or modifying, all measures which come before the Council, seem indispensable ingredients to the efficiency of a deliberative and co-ordinate Branch of the Legislature.

It would be unreasonable and repugnant to justice to impose upon any body of men a grave and weighty responsibility, without, at the same time, investing them with ample powers of regulating their conduct by their ideas of what is right.

By the constitution of our Legislature, each of the Three Branches composing it, are responsible for every Act that is passed, and are clothed with the authority they possess for the express purpose of being a check and balance,—the one on the other.

If the appropriation of Money for defraying all the charges for the general Government of the Island—the Contingent Expenses of the Legislature—and every Incidental and occasional service—be embraced in one Bill; and that the first and only opportunity the Council are to have of enquiring into the justice, propriety and suitableness of these multifarious Grants is to be when that Bill is sent to them for their adoption or rejection as a whole, it is manifest it becomes a matter of moral certainty that, either the alleged privileges of the Assembly must be infringed, or the Council must, to borrow the words of Lord Glenelg, "with a view to peace make concessions disapproved by their deliberate judgment, or of acting on that judgment to the derangement for twelve months of the whole internal economy of the local Government."

That His late Majesty never contemplated the Council being reduced to such a dilemma, or that concessions of principle and judgment were to be expected from them alone, is apparent from the fact, that wherever the Council is named, either in the Governor's Commission, the Royal Instructions, or the Despatch of the Secretary of State accompanying those Instructions—it is recognized as a co-ordinate Branch of the Legislature, and they are not aware that in any instance the House of Assembly has been invested with an authority in which the Council are not—to say the least—participants in an equal degree.

Her Majesty's Council feel that, whatever might be their wishes—they would not be justified in resigning to the House of Assembly a responsible and important duty which has been intrusted to them for useful purposes; and they certainly will not slight the authority under which they were created by voluntarily assuming a position inferior to that which their Gracious Sovereign assigned to them.

9th July, 1838.

HENRY PRESCOTT, Esquire, Governor.

The Council are not now for the first time called upon to assert and support their opinion upon the subject at present under consideration. They have now nothing to do but to govern themselves by precedents of their own proceedings which were unanimously adopted after mature deliberation and debate; and unchangeably and repeatedly acted upon.

In the Session before last—in a Conference had with the House of Assembly on the 29th April, 1835, upon the subject of a Supply Bill, the Council acquainted the Assembly that they were of opinion “that nothing beyond the usual annual Supply for the support of the Civil Government should be embraced in the Bill, and that all occasional Grants should be provided for in as many separate Bills as there may be distinct objects to which they may be intended to be devoted.”

“The Legislative Council also object to the Contingencies of the Legislature forming a part of the annual Supply Bill.”

And pursuant to this principle separate Bills were immediately introduced and passed.

During the last Session the Council did, on the 19th October, 1837, in a Conference upon a subject exactly similar to the one now under consideration—“distinctly acquaint the Assembly that they will not be induced by any considerations of temporary expediency, to deviate from those principles which they deem of such vital importance to the free exercise of an independent judgment upon every question that shall be brought under their deliberation.” “In either House of Parliament it is usual to divide a complicated question to enable those who are in favor of one part of a proposition, but opposed to another, freely to give their vote upon either; and it would be considered as most unfair to frame a complicated question with a view to deprive Members of that method of recording their sentiments; “for these reasons, the Council do insist that the matters embraced in this Bill, which are diverse in their nature, shall be separated; and they will not concur in establishing a precedent that objects so dissimilar may be put together in one Bill.”

On the 26th October following, the Council again acquainted the Assembly, on the occasion of that House praying the concurrence of the Council to a Bill having the very same title as the Bill now before the Council has, “that the Council cannot depart from the Constitutional principles laid down by them at the late Conference, and that they will not be induced, by any considerations of temporary expediency, to deviate therefrom; the Council does therefore insist that this Bill be limited to granting to Her Majesty a Supply of Money for defraying the Expense of the Civil Government of this Colony, for the Year ending the 30th June, 1838; and that the Grants for other purposes be excluded—that the Grants for defraying the Contingent and other Expenses of the Legislature be confined to another Bill—and that occasional Grants be not inserted in the same Bill with either. These being the principles upon which alone the Council will proceed.”

Upon the 10th November following, a select Committee of the Council, appointed to report on the Supply Bill to which reference has just been made, stated in their report, (which was adopted by the Council without a dissentient voice) that “the Council having, upon various occasions during former Sessions, as well as recently during the present, expressed their decided disapproval of the course adopted in this Bill of tacking to the ordinary Supplies Grants of Money for objects having no relation the one to the other, the Committee have not thought it necessary to pursue a subject which may be regarded as settled by the unanimous decision of the whole Council, more than once expressed.”

The House of Assembly being thus aware of the oft-repeated and unalterable determination of the Council steadily to resist every attempt at tacking occasional Grants to the Supply Bill, and that House being in possession of Her Gracious Majesty’s opinion and recommendation upon the subject, the Council did concur with Her Majesty in the hope that “the Assembly would see the propriety of leaving to the Council a controul of the most unfettered kind;”—they did expect that the Assembly would participate in the opinion of Her Majesty, so emphatically urged on them, “that they would exercise a sound and enlightened judgment in acquiescing, either in the Parliamentary rule, which leaves to the Crown the first suggestion of all Money Grants, or in the rule of the Provincial Legislatures which brings every such Grant under the separate revision of the Council,”—and they did not anticipate that the Assembly

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would, "by the exercise of an extreme right on the one side," compel the Council to do that which Her Majesty admits, under such circumstances, they "must" do,—“encounter it by a right equally extreme on the other side.”

To all the arguments graciously offered by Her Majesty, the Council do respectfully bow, and they fully concur therein ;—they will cheerfully acquiesce in the adoption of any of the three modes of bringing Money Votes before the Council, recommended to the Assembly by Her Majesty. If, therefore, the House of Assembly desire that Money Bills shall pass the Council unaltered, they must avail themselves of the Gracious Mediation of Her Majesty ; and thus enable the Council to exercise, without inconvenience, a controul as unfettered, in this avowedly most important subject, as they have done, and shall continue to do, upon every measure to which their attention may be directed.

Whereupon a division took place, when there appeared—

## Content,

*The Honorable* JOHN DUNSCOMB.

“ “ JOHN B. BLAND.

“ “ JOHN SINCLAIR.

## Non-Content,

*The Honorable* ARCHIBALD WALKER, *Commandant.*

“ “ JAMES SIMMS, *Attorney General.*

“ “ JAMES CROWDY, *Colonial Secretary.*

“ “ WILLIAM THOMAS.

So the Motion passed in the negative.

Motion lost.

Supply Bill read 2nd time.

Pursuant to the order of the day, the Supply Bill was then read a second time.

Motion that Bill and Despatch from Secretary of State be Committed.

The Honorable Mr. Thomas, seconded by the Honorable the Attorney-General, moved, that the 38th Rule of the House, so far as it respects this Bill, be dispensed with, and that the Bill, with the Secretary of State's Despatch of the 1st February, 1838, be committed to a Committee of the whole House.

Motion in Amendment that it be committed in Six Months.

Whereupon, the Honorable John Dunscomb moved in Amendment, seconded by the Honorable Mr. Bland, that the Bill be committed on this day Six Months—the House then divided—

When there appeared—

## Content,

*The Honorable* JOHN DUNSCOMB.

“ “ JOHN B. BLAND.

“ “ JOHN SINCLAIR.

## Non-Content,

*The Honorable* ARCHIBALD WALKER, *Commandant.*

“ “ JAMES SIMMS, *Attorney-General.*

“ “ JAMES CROWDY, *Colonial Secretary.*

“ “ WILLIAM THOMAS.

So the Amendment passed in the negative.

Amendment lost.

Committee on Supply Bill and Secretary of State's Despatch of 1st February, 1838

The House accordingly went into a Committee of the whole on the said Bill, and on the Despatch above referred to.

The Honorable Mr. Bland in the Chair.

After some time the House resumed.

The Chairman reported sundry Resolutions and asked leave to sit again to day.

Ordered, that the Report be received.

The Resolutions are as follow :

Report sundry Resolutions.

Resolved,—That Her Majesty's Council having received a Message from His Excellency the Governor transmitting the Copy of a Despatch from the Right Honorable Lord Glenelg, Her Majesty's Principal Secretary of State for the Colonial Department, conveying the offer

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HENRY PRESCOTT, Esquire, Governor.

of Her Majesty's Royal Mediation for re-establishing a good understanding between the two Branches of the Legislature, accepts the Gracious offer of Her Majesty with sentiments of profound gratitude and respect; and will omit no concession, consistent with their duty to Her Majesty, to render Her Mediation effectual.

Resolved,—That in the discussions from which have unhappily arisen the differences between the two Branches of the Legislature, the principle sought to be established by this House, whatever error may be supposed to have arisen in its application, is precisely that asserted for the Council by Her Majesty's Command in the Despatch referred to—viz. the right of freely exercising their deliberate Judgment on Bills of Supply and Appropriation sent up by the Assembly.

Resolved,—That it does not appear to the Council that the right can be any otherwise maintained than by one or other of the methods recognised by Her Majesty in the Despatch, namely, either by initiating no grant of Money except at the instance of the Crown, as in the Imperial Parliament, or as in the British Provinces on the Continent of North America, by granting the Supplies in separate Bills, sending each of them in turn to the Council for acceptance, or by sending up separate Resolutions, to each of which successively the concurrence of the Council should be obtained before its inclusion in the general Appropriation Act.

Resolved,—That the Bill now sent up to Her Majesty's Council by the House of Assembly, being similar to that sent up last Session, the opinion of the Council has already been pronounced upon it, and their objections remain for the most part unaltered—but in deference to Her Majesty's Royal Mediation, and assuming that the Assembly will in the like spirit of conciliation accept the Gracious offer of Her Majesty, the Council will not refuse to pass the present Bill, in the assurance that all future Bills of Supply and Appropriation will be presented for the consideration of the Council in one or other of the modes pointed out in the Despatch; although in making this concession, even for the purpose of giving effect to Her Majesty's Mediation, the Council cannot but be seriously apprehensive of exceeding the intentions of Her Majesty, as collected from the whole tenor of the Despatch.

On Motion of the Honorable Mr. Thomas, the House again went into Committee on the Supply Bill.

The Honorable Mr. Bland in the Chair.

After some time the House resumed.

The Chairman reported the Bill without Amendment.

Ordered, that the Report be received.

Ordered, that the Bill be read a third time to-morrow.

On Motion of the Honorable Mr. Dunscomb, seconded by the Honorable Mr. Sinclair, it was—

Ordered, that the 42nd Rule of the House be dispensed with, so far as it respects the following Petition, which was brought in by the Honorable Mr. Dunscomb.

To the Honorable the Legislative Council of Newfoundland in General Assembly convened:—

WE, the undersigned Inhabitants of the Town and District of Saint John's, taking into our serious consideration the important matter at issue between Your Honorable House and the other co-ordinate Branch of the Legislature, and being fully sensible of the manifold evils which must result to the public interests by even a temporary departure from those great constitutional principles to which Your Honorable House has hitherto so rigidly adhered, beg leave to express our deep regret that any attempt should again be made to coerce Your Honorable House into the adoption of a Bill of Supply framed by the House of Assembly, and offered for your acceptance under circumstances not warranted either by the practice of the Imperial Parliament, or by the usages of any other of the Colonial Assemblies.

We beg to express our entire concurrence in the reasons set forth by Your Honorable House in the last Sessions of the General Assembly, for the rejection of the same Bill of Appropriation which is now again offered for your adoption. The reasons contained in your Address to Her Most Gracious Majesty, dated in November last, in explanation of the causes

Supply Bill—  
Committed—

Reported.

42nd Rule of the House  
dispensed with.

Petition from certain  
Inhabitants of Saint  
John's, not to pass the  
Supply Bill in the shape  
in which it is sent to  
the Council.

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that led to your rejection of the Supply Bill of last Year, were, in the minds of your Petitioners, so just and constitutional, that we had hoped that the offer of mediation between the two Branches of the Legislature held out by Her Majesty, would be eagerly seized by the Assembly, and that the separate Grants would, in accordance with the views of Her Majesty's Government, be forthwith sent up for your concurrence.

The pertinacity of the House of Assembly in pursuing its former course, thus retarding the public business, and recklessly and unjustly withholding for so long a period that which is due to the public creditor, is, we humbly submit, neither based upon considerations for the welfare of the people, nor has it for its object the promotion of any of the general interests of the Colony.

Were the great public usefulness of, or, indeed, the constitutional necessity for, the existence of a co-ordinate Branch of the Legislature, such as the Legislative Council forms, possessing co-equal jurisdiction upon ALL questions which come before it, a matter of doubt and uncertainty, the present contest would infallibly have the effect of setting that uncertainty at rest.

Your Petitioners, many of whom contribute largely to the Revenues of the Colony, naturally feel a deep interest in the wise and judicious expenditure of the Public Money;—they look, therefore, to your Honorable House for protection from the dangerous consequences to which an acquiescence in the unconstitutional proceedings of the House of Assembly would most certainly give rise.

Your Petitioners pray that your Honorable House will be pleased to withhold your concurrence in the present Bill of Supply, until the same shall have been laid before you in such a shape as will enable you, constitutionally, to exercise your judgment upon it.

And your Petitioners, as in duty bound, will ever pray.

(Signed by,)

WILLIAM RICHARDS,  
RALPH TRIMINGHAM,  
JOHN BOYD,

and 25 other Individuals.

Saint John's, 9th July, 1838.

Ordered to lay on the table.

On Motion of the Honorable Mr. Sinclair, seconded by the Honorable Mr. Bland, the Petition was ordered to lay on the Table.

House adjourns.

On Motion made and seconded, the House adjourned until To-morrow.

TUESDAY, 10th JULY, 1838

House meets.

The House met pursuant to adjournment.

Present,

Members present.

*The Honorable* ARCHIBALD WALKER, *Commandant.*  
“ “ JAMES SIMMS, *Attorney General.*  
“ “ JAMES CROWDY, *Colonial Secretary.*  
“ “ JOHN DUNSCOMB.  
“ “ WILLIAM THOMAS.  
“ “ JOHN B. BLAND.  
“ “ JOHN SINCLAIR.

The Minutes of Yesterday were read.

Motion, that the order of the day for the 3rd reading of the Supply Bill be discharged—and that it be read again in three months.

The Honorable Mr. Bland moved, seconded by the Honorable Mr. Sinclair, that the order of the day for the third reading of the Bill, entitled “An Act for Granting to Her Majesty a Sum of Money for defraying the Expense of the Civil Government of this Colony, for the Year ending the Thirtieth day of June, in the Year of Our Lord One Thousand Eight Hundred and Thirty-Eight, and for other purposes,” be discharged, and that the Bill be read again on this day Three Months.

10th July, 1838.

HENRY PRESCOTT, Esquire, Governor.

Whereupon the House divided—when there appeared—

House divides.

## Content,

*The Honorable* JOHN DUNSCOMB.

“ “ JOHN B. BLAND.

“ “ JOHN SINCLAIR.

## Non-Content,

*The Honorable* ARCHIBALD WALKER, *Commandant.*“ “ JAMES SIMMS, *Attorney General.*“ “ JAMES CROWDY, *Colonial Secretary.*

“ “ WILLIAM THOMAS.

Motion lost.

So the Motion passed in the negative.

Pursuant to the order of the day, the Supply Bill was then read a third time.

Supply Bill read 3rd time.

On Motion of the Honorable Mr. Simms, seconded by the Honorable Mr. Thomas, it was—

Ordered, that a Conference be requested with the House of Assembly on the above-named Bill.

Conference ordered thereon.

Ordered, that the Honorable Messrs. Simms and Thomas be the Conferees, and that they be a Committee to draft Instructions.

Conferees appointed who are to draft Instructions.

After some time the Honorable Mr. Simms, from the Committee appointed to draft Instructions to the Conferees on the Supply Bill, presented a Report.

Ordered, that the same be received.

The Report is as follows:—

The Council have desired this Conference with the House of Assembly, in order to preserve that good correspondence with the Assembly which the Council will always endeavour to maintain; and on this occasion, of their evincing the earnestness with which they hold this desire, by agreeing to the Bill sent up by the Assembly, entitled “An Act for Granting to Her Majesty a Sum of Money for defraying the Expense of the Civil Government of this Colony, for the Year ending the Thirtieth day of June, in the Year of Our Lord One Thousand Eight Hundred and Thirty-Eight, and for other purposes;” the Council deem it essentially necessary to lay before the Assembly the grounds and reasons which have influenced them in the adoption of a Bill, in this instance, under a departure from the forms and proceedings which they deem by custom and precedent, no less than by principle, as of the greatest importance to be upholden.

Instructions to the Conferees on the Supply Bill.

The Council, therefore, desire to acquaint the House of Assembly that it is in dutiful accordance with the gracious recommendation of Her Majesty, conveyed in the Despatch of Her Majesty's Principal Secretary of State for the Colonies, that the Council have agreed to pass a Bill of Supply substantially corresponding with that rejected in the last Session of the Legislature; in the earnest expectation, that this adoption, by the Council, of Her Majesty's Gracious Mediation, will be met by correspondent feelings on the part of the House of Assembly; and that future Bills of Supply will be framed conformably to the principles suggested by Her Majesty, in order that the Council may be spared the necessity of exercising the “extreme right” of rejecting them, if framed in opposition to those principles.

Ordered, that the Report be adopted.

Adopted.

A Deputation from the House of Assembly brought up a Message acceding to the Conference requested.

Assembly accede to Conference.

The Conferees went to the Conference, and having returned, reported that they had met the Managers from the Assembly and delivered to them their Instructions.

Report of Conferees.

On Motion of the Honorable Mr. Thomas, seconded by the Honorable the Colonial Secretary, that the Bill do now pass—

On motion, that the Supply Bill do pass.

The Honorable Mr. Dunscomb, seconded by the Honorable Mr. Bland, moved as an Amendment, that the Bill do not pass.

An Amendment was made, on which the—

10th July, 1838.

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House divides.

Whereupon, the House divided on the Amendment—  
When there appeared—

## Content,

*The Honorable* JOHN DUNSCOMB.

“ “ JOHN B. BLAND.

“ “ JOHN SINCLAIR.

## Non-Content,

*The Honorable* ARCHIBALD WALKER, *Commandant.*“ “ JAMES SIMMS, *Attorney-General.*“ “ JAMES CROWDY, *Colonial Secretary.*

“ “ WILLIAM THOMAS.

Amendment lost.

So the Amendment passed in the negative, and it was—

Supply Bill passed.

Ordered, that the Bill do now pass.

Whereupon, the Honorable the President signed the same—

The Honorable Messrs.  
Dunscomb, Bland and  
Sinclair entering their  
Protest against it.

The Honorable Messrs. Dunscomb, Bland and Sinclair, entering their Protest against the Bill for the following reasons:—

1st.—Because the Bill contains multifarious Grants of Money for objects totally different, and having no proper relation the one to the other; and in order to afford to the Council an unfettered control over every item of the Public Expenditure without involving them by the exercise of their duty, in differences and disputes with another Branch of the Legislature upon certain alleged points of privilege claimed by that Branch—these Grants should be the subjects of separate Bills or previous resolutions.

2nd.—Because—if the House of Assembly do possess the privilege they claim of insisting that the Council shall make no alteration in a Bill of Supply, it is unparliamentary and irregular to heap together in one Bill a variety of unconnected and discordant subjects, even though the propositions may not separately be liable to objection in either House;—but where it is known or suspected that some parts of the Bill are not agreeable to the Council, and if sent up alone might not be agreed to, and with a view to secure the concurrence of the Council in these objectionable votes, to tack them to a Bill of Supply which the exigencies of the country demand, is a proceeding wholly destructive of the freedom of debate—subversive of the rights and privileges of the Council, and exceedingly dangerous to the best interests of the Colony.

3rd.—Because intermixing in one and the same Act, such things as have no proper relation to each other, is expressly forbidden by the Royal Instructions, which require that in the passing of all laws each different matter be provided for in different Bills.

4th.—Because the practice of combining diverse subjects in the same Bill, and of “tacking” to a Supply Bill has been repeatedly repudiated by the Council; and during the last Session, on no fewer than three several occasions did the Council, after mature deliberation, arrive at the fixed and unanimous decision, that no considerations of temporary expediency should induce them to consent to such a proceeding; and they insisted that matters diverse in their nature should be separated: for the same Body, after the lapse of only a few Months, without any sufficient reason, to renounce this their solemn decision—to depart from a course which their judgment and consciences decided to be wise and correct, and to establish a precedent which their characters are pledged to resist, is a course we hold unbecoming the dignity and derogatory to the honour of the Council to adopt.

5th.—Because this Bill is in direct opposition to all the arguments and reasonings of Her Gracious Majesty, conveyed to the Council in reply to their Petition upon a similar subject, and repugnant to every recommendation and opinion offered by Her Majesty as to the mode by which Supplies should be granted.

JOHN DUNSCOMB.

JOHN B. BLAND.

JOHN SINCLAIR.

13th &amp; 17th July, 1838.

HENRY PRESCOTT, Esquire, Governor.

On Motion made and seconded, the House adjourned until Friday next.

House adjourns.

FRIDAY, 13th JULY, 1838.

The House met pursuant to adjournment.

House meets.

Present,

*The Honorable* ARCHIBALD WALKER, *Commandant.*

Members present.

“ “ JAMES SIMMS, *Attorney General.*  
 “ “ JAMES CROWDY, *Colonial Secretary.*  
 “ “ JOHN DUNSCOMB.  
 “ “ WILLIAM THOMAS.  
 “ “ JOHN B. BLAND.  
 “ “ JOHN SINCLAIR.

The Minutes of Tuesday last were read.

On Motion of the Honorable the Colonial Secretary, it was—

Ordered, that the Petition presented to the House on the 9th Instant, be referred to a Select Committee to search for precedents in respect to such Petition and to report thereon—  
 and—

Petition received on the 9th inst. referred to a Select Committee.

Ordered, that the Honorable Messrs. Simms and Thomas be the Committee for that purpose.

The Honorable the Colonial Secretary, by direction of His Excellency the Governor, laid before the House the following documents—

Viz.

The Treasurer's General Statement of Annual Expenditure for the Five Quarters ending 30th June, 1838.

Documents laid before the House by Mr. Secretary Crowdy.

Supplement to ditto for the same period.

A List of Temporary Warrants issued in 1837-8.

At Two of the Clock, p. m., His Excellency the Governor, having come to the Council-Chamber and being seated on the Throne, the Gentleman Usher of the Black Rod was ordered to direct the immediate attendance of the House of Assembly, at the Bar of this House, and they being come thereto, His Excellency was pleased to assent to the Bill, entitled—

The Governor arrives at the Council Chamber. Assembly summoned to attend him—

“An Act for Granting to Her Majesty a Sum of Money for defraying the Expense of the Civil Government of this Colony, for the Year ending the Thirtieth day of June, in the Year of Our Lord One Thousand Eight Hundred and Thirty-Eight, and for other purposes.”

His Excellency assents to the Supply Bill.

Then the House of Assembly retired, and His Excellency withdrew.

On Motion made and seconded, the House adjourned until Tuesday next.

House adjourns.

TUESDAY, 17th JULY, 1838

The House met pursuant to adjournment.

House meets.

Present,

*The Honorable* ARCHIBALD WALKER, *Commandant.*

Members present.

“ “ JAMES SIMMS, *Attorney General.*  
 “ “ JAMES CROWDY, *Colonial Secretary.*  
 “ “ JOHN DUNSCOMB.  
 “ “ WILLIAM THOMAS.  
 “ “ JOHN B. BLAND.  
 “ “ JOHN SINCLAIR.

The Minutes of Friday last were read.

17th July, 1838.

## SECOND SESSION, SECOND GENERAL ASSEMBLY, 2nd VICTORIA.

Message from the Governor on the subject of Crown Lands.

The Honorable the Colonial Secretary presented a Message from His Excellency the Governor, which was read and is as follows:—

H. PRESCOTT.

The Governor wishes to draw the attention of the Council, to a Despatch from His Excellency the Earl of Durham, on the subject of Crown Lands, which will be found in this day's *Gazette*.

Government-House, }  
July 17, 1838. }

Select Committee appointed to search for precedents respecting a Petition—

The Honorable the Attorney-General, from the Select Committee appointed to search for precedents, in respect to the Petition received on the 9th instant, and to report thereon—presented a Report.

Ordered, that the same be received.

The Report is as follows:—

Report.

The Committee to whom the Petition of certain Inhabitants of the Town and District of Saint John's, relative to the Bill of Appropriation of Supplies, now passed by the Legislature in this present Session, has been referred "to search for precedents in respect to the said Petition, and to report thereon," on perusal and consideration thereof find, that the said Petition relates wholly to the Privileges of the Council and House of Assembly.

That the said Petition contains the following clause—Viz.

"The pertinacity of the House of Assembly in pursuing its former course, thus retarding the public business and recklessly and unjustly withholding for so long a period that which is due to the public creditor, is, we humbly submit, neither based upon considerations for the welfare of the People, nor has it for its object the promotion of any of the general interests of the Colony."

That it appears to the Committee to be an established and indispensable rule in Parliamentary proceedings that a Member, before he offers to present a Petition, should know what it contains; and for that purpose should read it over, in order that he might not implicate himself as accessory to any insult offered to the House, and that he should ascertain that it contained nothing in his judgment intentionally offensive.

That under a Rule established soon after the Revolution, and since invariably acted upon by both Houses of Parliament, Petitions offered against any Bills depending, for imposing Taxes for the service of the current Year, are uniformly rejected; on the principle that it would be a means of obstruction to those aids which the public necessities require; and which, however disagreeable the task may be, it is the duty of the Legislature wisely and prudently to impose. And which rule, the Committee humbly conceive, applies with greater force to an Appropriation Bill for the current year. *Vide 3rd Hatsell, 233 & passim.*

The Committee therefore submit that they are of opinion that the said Petition ought not to be entered upon the Journals of the Council or be suffered to continue on the Council Table, for the following reasons:—

1st.—That the Petition relates to matters of Privilege; and which matters of Privilege have, moreover, relation to a Bill for Appropriation of Supplies, which the Petitioners pray the Council not to pass.

2nd.—And because the above recited clause in the Petition is conceived in terms offensive to propriety and decorum, in reflecting on the motives and conduct of the House of Assembly in respect to the said Bill;—which latter reason alone, the Committee consider, ought to operate as a sufficient ground with the Council to reject the Petition, in order that they may not, by entertaining the Petition, identify themselves with the offensive expressions put forth in the said clause, or be liable to the imputation of countenancing unbecoming reproaches employed towards another Branch of the Legislature.

JAMES SIMMS,  
*Chairman of the Committee.*

Council Committee Room, 17th July, 1838.

Ordered, that the Report be adopted.

17th, 20th, 24th, 27th & 31st July, 1838.

HENRY PRESCOTT, Esquire, Governor.

On Motion of the Honorable the Attorney-General, seconded by the Honorable the Colonial Secretary, it was—

Ordered, that the Petition referred to be removed from the Table, and that it be expunged from the Journal of the Council.

Petition referred to above—to be expunged from the Journal.

A Deputation from the House of Assembly brought up a Bill for the concurrence of this House, entitled “An Act for authorizing His Excellency the Governor to admit Persons to Practise the Profession of the Law in the several Courts of this Colony”—which was read a first time.

Law Courts Practitioners' Bill—brought up and read 1st time.

On Motion, made and seconded, the House adjourned until Friday next.

House adjourns.

FRIDAY, 20th JULY, 1838.

The House met pursuant to adjournment.

House meets.

Present,

*The Honorable* ARCHIBALD WALKER, *Commandant.*  
 “ “ JAMES SIMMS, *Attorney-General.*  
 “ “ JOHN DUNSCOMB.  
 “ “ WILLIAM THOMAS.  
 “ “ JOHN B. BLAND.

Members present.

The Minutes of Tuesday last were read.

On Motion, made and seconded, the House adjourned until Tuesday next.

House adjourns.

TUESDAY, 24th JULY, 1838.

The House met pursuant to adjournment.

House meets.

Present,

*The Honorable* JAMES SIMMS, *Attorney General.*  
 “ “ JAMES CROWDY, *Colonial Secretary.*  
 “ “ JOHN DUNSCOMB.  
 “ “ WILLIAM THOMAS.  
 “ “ JOHN B. BLAND.  
 “ “ JOHN SINCLAIR.

Members present.

The Minutes of Friday last were read.

A Deputation from the House of Assembly brought up a Bill for the concurrence of this House, entitled “An Act to prevent Fraud in the Sale of certain Articles imported into this Colony”—which was read a first time, and—

Butter and Bread Bill—brought up and read 1st time.

Ordered, to be read a second time to-morrow.

On Motion, made and seconded, the House adjourned until Friday next.

House adjourns.

FRIDAY, 27th JULY, 1838.

At half-past One of the Clock, p. m., there were—

Present,

*The Honorable* WILLIAM THOMAS.  
 “ “ JOHN B. BLAND.

The Honorable Mr. Thomas adjourned the House for want of a Quorum, until Tuesday next.

House adjourned for want of a Quorum.

TUESDAY, 31st JULY, 1838.

The House met pursuant to adjournment.

House meets.

Present,

*The Honorable* ARCHIBALD WALKER, *Commandant.*  
 “ “ JAMES SIMMS, *Attorney-General.*  
 “ “ JAMES CROWDY, *Colonial Secretary.*  
 “ “ JOHN DUNSCOMB.  
 “ “ WILLIAM THOMAS.  
 “ “ JOHN SINCLAIR.

Members present.

31st July &amp; 3rd August, 1838.

SECOND SESSION, SECOND GENERAL ASSEMBLY, 2nd VICTORIA.

The Minutes of Tuesday and Friday last were read.

Member enters.

The Honorable Mr. Bland enters.

The Honorable Mr. Secretary Crowdy, by direction of His Excellency the Governor, laid the following Documents before the House—

VIZ.

Documents presented  
by Mr. Secretary  
Crowdy.

A Letter from Captain Polkinghorne, of Her Majesty's Ship Crocodile, enclosing a Correspondence with the Governor of Saint Pierre's, on the subject of the Fisheries.

A Letter, with an Account Current, from the Road Commissioners—Holyrood to Carbonear.

Census of the Population of the Electoral District of Fogo.

Butter and Bread Bill—

The Order of the Day for the second reading of the Bill entitled "An Act to prevent fraud in the Sale of certain Articles imported into this Colony," having been read, it was—

to be read a 2nd time  
in six months.

Ordered, on motion of the Honorable Mr. Thomas, seconded by the Honorable Mr. Bland, that the said Bill be read a second time on this day six months.

Revenue Bill brought  
up and read 1st time.

A Deputation from the House of Assembly brought up a Bill for the concurrence of this House, entitled "An Act for granting to Her Majesty certain Duties on Goods, Wares and Merchandize imported into this Colony and its Dependencies," which was read a first time, and—

Ordered, to be read a second time to-morrow.

House adjourns.

On Motion, made and seconded, the House adjourned until Friday next.

FRIDAY, 3rd AUGUST, 1838.

House meets.

The House met pursuant to adjournment.

Present,

Members present.

*The Honorable* ARCHIBALD WALKER, *Commandant.*" " JAMES CROWDY, *Colonial Secretary.*

" " JOHN DUNSCOMB.

" " WILLIAM THOMAS.

" " JOHN B. BLAND.

" " JOHN SINCLAIR.

The Minutes of Tuesday last were read.

Revenue Bill, read 2nd  
time.

Pursuant to the order of the day, the Bill entitled "An Act for granting to Her Majesty certain Duties on Goods, Wares and Merchandize imported into this Colony and its Dependencies," was read a second time, and—

Ordered, to be committed to-morrow.

Members of Assembly  
seat vacating Bill—  
brought up and read 1st  
time.

A Deputation from the House of Assembly brought up a Bill for the concurrence of this House, entitled "An Act for vacating the Seats of Members of the Assembly in certain cases, and to provide for the return of others in their stead," which was read a first time, and—

Ordered, to be read a second time to-morrow.

Notice of motion for  
leave to bring in a Bill  
to repeal Statute La-  
bour Laws.

The Honorable Mr. Thomas gave notice that at an early day he will move for leave to bring in a Bill to repeal all existing laws relative to Statute Labour.

Supreme and Circuit  
Court Terms Bill—  
brought up and read 1st  
time—

A Deputation from the House of Assembly brought up a Bill for the concurrence of this House, entitled "An Act to fix the Terms of the Supreme and Circuit Courts of this Island," which was read a first time, and—

Ordered, to be read a second time to-morrow.

—to be printed.

On Motion of the Honorable Mr. Thomas, seconded by the Honorable Mr. Bland, it was—

Ordered, that the Bill be printed.

House adjourns.

On Motion, made and seconded, the House adjourned until Tuesday next.

7th &amp; 10th August, 1838.

HENRY PRESCOTT, Esquire, Governor.

TUESDAY, 7th AUGUST, 1838.

The House met pursuant to adjournment.

House meets.

Present,

*The Honorable* ARCHIBALD WALKER, *Commandant.*

Members present.

" " JAMES SIMMS, *Attorney-General.*" " JAMES CROWDY, *Colonial Secretary.*

" " JOHN DUNSCOMB.

" " WILLIAM THOMAS.

" " JOHN SINCLAIR.

The Minutes of Friday last were read.

Pursuant to the order of the day, the House went into a Committee of the whole on the Bill entitled "An Act for granting to Her Majesty certain Duties on Goods, Wares and Merchandize imported into this Colony and its Dependencies."

Revenue Bill,  
Committed—

The Honorable Mr. Dunscomb in the Chair.

After some time the House resumed.

The Chairman reported the Bill without Amendment.

Ordered, that the Report be received.

Reported.

Ordered, that the Bill be read a third time, to-morrow.

Pursuant to the order of the day, the Bill entitled "An Act for vacating the Seats of Members of the Assembly in certain cases, and to provide for the return of others in their stead," was read a second time, and—

Members of Assembly  
seat vacating Bill, read  
2nd time.

Ordered, to be committed to-morrow.

On the order of the day being read for the second reading of the Bill, entitled "An Act to fix the Terms of the Supreme and Circuit Courts of this Island," it was—

Order of the day dis-  
charged for 2nd read-  
ing of the Supreme and  
Circuit Court Terms  
Bill.

Ordered, on Motion of the Honorable the Attorney General, seconded by the Honorable the Colonial Secretary, that the Bill be read a second time on this day Six Months.

The Honorable the Colonial Secretary, by direction of His Excellency the Governor, laid before the House, the Collector of Customs' consolidated Account Current for the Year ended 5th January, 1838.

Document laid before  
the House by the Co-  
lonial Secretary.

On Motion, made and seconded, the House adjourned until Friday next.

House adjourns.

FRIDAY, 10th AUGUST, 1838.

The House met pursuant to adjournment.

House meets.

Present,

*The Honorable* ARCHIBALD WALKER, *Commandant.*

Members present.

" " JAMES SIMMS, *Attorney-General.*" " JAMES CROWDY, *Colonial Secretary.*

" " WILLIAM THOMAS.

The Minutes of Tuesday last were read.

The Honorable Messrs. Dunscomb, Bland and Sinclair enter.

Members enter.

Pursuant to the order of the day, the Bill, entitled "An Act for granting to Her Majesty certain Duties on Goods, Wares and Merchandize imported into this Colony and its Dependencies," was read a third time and passed.

Revenue Bill, read 3rd  
time and passed.

Whereupon, the Honorable the President signed the same.

A Deputation from the House of Assembly brought up a Bill for the concurrence of this House, entitled "An Act to provide for the Registering the names of Persons entitled to Vote at Elections and to repeal a certain Act heretofore passed for that purpose."

Registration of Voters'  
Act repeal Bill brought  
up.

Pursuant to the order of the day, the House went into a Committee of the whole on the Bill, entitled "An Act for vacating the Seats of Members of the Assembly, in certain cases, and to provide for the return of others in their stead."

Members of Assembly  
seat vacating Bill—  
Committed—

10th & 13th August, 1838.

SECOND SESSION, SECOND GENERAL ASSEMBLY, 2nd VICTORIA.

The Honorable Mr. Crowdy in the Chair.

After some time the House resumed.

The Chairman reported progress and asked leave to sit again to-morrow.

The Bill brought up from the House of Assembly this day, was read a first time, and—  
Ordered, to be read a second time on this day week.

On Motion, made and seconded, the House adjourned until Tuesday next.

MONDAY, 13th AUGUST, 1838.

The House met at noon to day, in consequence of a requisition from the Honorable the President of the Council;—His Excellency the Governor having informed him that it was his intention to give his assent to the Revenue Bill, and to Prorogue the Legislature, at 2 o'Clock, p. m.

Present,

*The Honorable* ARCHIBALD WALKER, *Commandant.*

“ “ WILLIAM THOMAS.

“ “ JOHN B. BLAND.

“ “ JOHN SINCLAIR.

The Minutes of Friday last were read.

The Honorable Messrs. Simms, Crowdy and Dunscomb enter.

At Three of the Clock, p. m., His Excellency the Governor, having come to the Council-Chamber, and being seated on the Throne, the Gentleman Usher of the Black Rod was ordered to direct the immediate attendance of the House of Assembly at the Bar of this House, and they being come thereto, His Excellency was pleased to address the Two Houses of the Legislature in the following words:—

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

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

It having been represented to me that an Assistant Judge of the Supreme Court has been arrested by order of the House of Assembly, in consequence of a decision made by him in his judicial capacity; and that the Sheriff has also been arrested for having obeyed a mandate of his Superior, the said Judge, founded upon that decision—I feel myself compelled to have recourse to a Prorogation, for the purpose of putting a stop to proceedings which, independently of any question as to their legality, seem wholly unsuited to the character and condition of the Colony, and calculated to subvert that respect which is due, and which it is highly expedient that all classes of Society should render to the Administrators of the Law in the exercise of their functions.

Some inconvenience must result from the present measure, but to this it behoves us to submit for the avoidance of greater evil; and I trust that a short recess, by affording opportunity for reflection, may have the effect of producing calmer counsels for the future.

The Honorable the President of the Council then said—

It is His Excellency the Governor's will and pleasure that this General Assembly be Prorogued until Monday the Twentieth day of this present Month of August, and this General Assembly is accordingly Prorogued until Monday next, the Twentieth day of August, then here to be holden for the despatch of Business.

Reported—

Registration of Voters' Act repeal Bill, read 1st time.

House adjourns.

House meets.

Members present.

Members enter.

The Governor arrives at the Council Chamber. Assembly summoned to attend him—

His Excellency's Speech on Proroguing the Legislature.

The General Assembly Prorogued.

HER MAJESTY'S COUNCIL,  
NEWFOUNDLAND.

THIRD SESSION, SECOND GENERAL ASSEMBLY,  
2d VICTORIA.

Monday, 20th August, 1888.

This being the day appointed for the Meeting of the Colonial Legislature—  
At half past One of the Clock, p. m., the House met.

The Hon. Mr. ARTHUR WALKER, Esq., M. P.,  
Speaker of the House,  
The Hon. Mr. JAMES CROWDY, Esq., M. P.,  
The Hon. Mr. WILLIAM THOMAS, Esq., M. P.,  
The Hon. Mr. JOHN B. BLAND, Esq., M. P.,  
The Hon. Mr. JOHN SINCLAIR, Esq., M. P.

At Ten of the Clock, p. m., His Excellency the Governor having arrived in the Council Chamber and being seated in the Throne, the Honourable the President of the Council attended the Gentleman Clerk of the Black Rod to go to the Common House of Assembly and inform the Members that it was His Excellency's pleasure that they do forthwith attend at the Bar of this House; and they being come thither, His Excellency was pleased to open the Session by a gracious speech to both Houses.

The House of Assembly having withdrawn, His Excellency was pleased to retire.  
A Copy of His Excellency's Speech having been left with the House, it was read publicly by the Clerk, and is as follows:

Mr. President, and Members of the Council,  
Mr. Speaker, and Gentlemen of the House of Assembly,  
On the 17th and 18th inst. after a short absence, I returned to this island in which I was at the commencement of the late Session, I was very glad to find you in my opening Address on that occasion, and to recommend to your early consideration the subjects therein mentioned, and the various Documents connected with them which have since been presented.

On Motion made and seconded, the House adjourned until Friday next.

FRIDAY, 22d August, 1888.

The House met pursuant to adjournment.

The Honourable JAMES SIMMS, Attorney General,  
The Honourable JAMES CROWDY, Chief Justice,  
The Honourable JOHN DUNSCOMB,  
The Honourable JOHN B. BLAND,  
The Honourable JOHN SINCLAIR.

The Minutes of Monday last were read.

